

Seattle University School of Law

Seattle University School of Law Digital Commons

I. Core TJRC Related Documents

The Truth, Justice and Reconciliation
Commission of Kenya

2-2-2012

Public Hearing Transcripts - Thematic - Ethnicity - RTJRC02.02 (NHIF Auditorium) (Ethnicity)

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 - Ethnicity - RTJRC02.02 (NHIF Auditorium) (Ethnicity)" (2012). *I. Core TJRC Related Documents*. 146.
<https://digitalcommons.law.seattleu.edu/tjrc-core/146>

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

**ORAL SUBMISSIONS MADE BEFORE THE TRUTH, JUSTICE
AND RECONCILIATION COMMISSION ON THURSDAY, 2ND
FEBRUARY, 2012 AT THE NHIF AUDITORIUM, NAIROBI**

PRESENT

Berhanu Dinka	-	The Presiding Chair, Ethiopia
Tecla Wanjala Namachanja	-	The Acting Chair, Kenya
Gertrude Chawatama	-	Commissioner, Zambia
Ahmed Farah	-	Commissioner, Kenya
Ronald Slye	-	Commissioner, USA
Margaret Wambui Shava	-	Commissioner, Kenya
Tom Ojienda	-	Commissioner, Kenya

(Opening Prayers)

(The Commission commenced at 10.30 a.m.)

The Presiding Chair (Commissioner Dinka): Good morning, ladies and gentlemen. Before we formally open this session, I would like to introduce my colleagues.

(The Presiding Chair introduced himself and other commissioners)

Before I make my brief remarks, I am pleased to recognize the presence in our midst, the friend of the Commission, Betty Murungi. Welcome to our meeting.

I would like to request all of you to switch off your mobile phones so that there is no interruption or disturbances during presentations.

Distinguished guests, members of the media, ladies and gentlemen, all protocols observed, today we are going to discuss one very important issue in the political and social life of this country, which is ethnicity. As you know, in the 1960s riding on the wave of nationalist euphoria which just overcame the struggle with the colonial powers and gained independence for Africa, African leaders embarked very seriously on what they call the exercise of nation building. The optimism knew no bounds as to the prospects of their success. They counted on the solid front that existed during the anti-colonial struggle to continue to exist and drive this nation building effort. Unfortunately that solid front, right after Independence was achieved, began not only to fail on the edges but to actually disintegrate leading to a number of unhappy situations in Africa and mostly *coup d'état* throughout Africa and you know what happened. The rest is history.

The reason why that solid foundation disintegrated was when the African political leaders in post-colonial Africa began to compete amongst themselves since the colonial powers had left for power and resources. Then, for some unknown reason at that time, things started collapsing. It was assumed by some with the most influential leaders like Kwame

Nkrumah that the culprit in this tragedy was ethnicity or tribalism. So certain were they in their belief that their slogan was “kill the tribe” to build the nation. This slogan began a state policy in a number of African countries. Ethnicity was persecuted but it went underground but never disappeared. Fifty years down the line, we see that ethnicity and tribalism has not only survived but has thrived.

Many negative developments today for past and present things that have happened are routinely attributed to ethnicity. Kenya is no exception. This is an entirely universal situation in the African continent. Over the last few decades, especially after the introduction of multiparty politics, Kenya has witnessed a spate of what has come to be described as ethnic clashes. These clashes have almost always coincided with political transition in the country with the effect that ethnic clashes are arguably synonymous with political and all electoral violence. In the Kenyan context, it is now impossible to distinguish between ethnic clashes and political violence. As it has now come to be accepted, ethnic or political violence is often the end result of other underlying tensions and issues that remain without being redressed. Not surprisingly, the Truth, Justice and Reconciliation Commission (TJRC) which was established at the aftermath of 2007/2008 post-election violence was created to *inter alia* inquire into the causes of ethnic tensions and make recommendations on the promotion of healing, reconciliation and co-existence among ethnic communities.

In the last ten months, the Commission has travelled the length and breadth of this country. We have listened to testimonies of victims and witnesses of ethnic clashes and political or electoral violence. The stories are sad and revealing. Today, the thematic hearing seeks to further interrogate the issues of ethnicity and the annexes with violence, governance, political, transition and distribution of resources. Among the questions which we need to openly and candidly explore today are the following:-

- i. Can ethnicity be eliminated and is it desirable even to do so?
- ii. What is the root cause of ethnic tensions and/or clashes?
- iii. Is it true that ethnicity or sub-national identity is the source of conflict *per se* or has it been instrumentalized in the competition for power and resources?
- iv. Is ethnicity an obstacle to the efforts of building a cohesive nation?
- v. Is ethnicity as wide as the impact, therefore purely a security issue and must be addressed accordingly, or is there a possible structural, political, governance and policy aspect that could calm it peacefully?
- vi. Can ethnicity or tribe be used as a positive building block in the process of establishing a democratic constitutional order?
- vii. What is the way forward, particularly given the new dispensation in Kenya and specifically can something be designed in terms of policy framework which could ensure a firewall between politics and ethnicity?

These are some of the issues that we are going to look at. When I look at the curriculum vitae (CV) of our presenters, I have no doubt that we will be doing a terrific job this

morning and afternoon. Thank you very much. I will now call upon Mr. Byegon to call on the first speaker and introduce the same to the audience and to the commissioners.

Mr. Byegon: Thank you, Presiding Chair, for this opportunity. Just to reiterate what the Presiding Chair has said, this thematic hearing is essentially designed as a dialogue between the Commission and experts, organizations, institutions and agencies that have dealt with the issue of ethnic conflict. Most of our thematic hearings are going to take this kind of design where we will have a dialogue between people who have engaged in these issues to be able to provide a global analysis or overview of the issues. In particular, reference to ethnic conflict or tensions, I think these hearings would not have been scheduled to a better day than today. In today's *Daily Nation* newspaper, there is a cartoon caption by Gaddo, if it may just be projected, there is a serpent and the question is, "Is this a hatching season?" The serpent is described as tribalism. This thematic hearing on ethnic conflict has come at a better time. So far, preliminary data that we have received through the hearings, through the statements and memoranda, show that there is some extent of co-relation between political transitions and ethnic conflict or violence. Therefore, our first speaker this morning, Prof. Walter Oyugi, is going to present to us some of these issues from analytical point of view. Prof. Walter Oyugi has been a professor of political science at the University of Nairobi (UoN) for almost 40 years. He first joined UoN in 1969 as a junior research fellow. He rose through the ranks and by the time he retired in 2000, he was a professor. He has published extensively on issues of government, public administration and politics. More specific to the theme of today, he has published extensively on the nexus between political transitions, politics and ethnicity. Some of the issues he is going to about this morning are: What are the historical roots of ethnic conflicts in Kenya? What are the trends and patterns? What defines the politicization of ethnic conflict in Kenya? What are linkages between ethnic conflict and political transitions? Even more importantly, he is going to speak about the ways in which we can be able to address issues of political ethnicity in the country.

At this juncture in time, I would like to invite Prof. Walter Oyugi. Thank you.

Prof. Walter Oyugi: The Presiding Chair, Commissioners, distinguished ladies and gentlemen, this is the first time I am going to make a presentation with the bulk of audience behind me. Perhaps, it was not possible to present from somewhere in the front. I think I will make do with the situation.

What is expected of me was laid down in communication to me. I received a letter which asked me to look at historical roots of the problem of ethnicity in this country, the trends and patterns, the question of politicization of ethnicity, if there is such a thing, the linkage between ethnic conflict and political transitions and then make recommendations on how to address this lingering problem. I thought that the points of departure in my presentation, which will go on until 11.00 a.m., so that we can use the next 30 minutes for discussion as the programme suggests. I want to begin by addressing the platitude and addressing what is by now a common place. I want to ask the question: What is this creature called ethnicity?

I have seen many times when Kenyans are talking about this issue, especially in the last few years. There is something that has cropped up to define this concept: “negative ethnicity”. My understanding of the concept of ethnicity is that it does not require a qualifier. There is no positive or negative ethnicity. There is ethnicity per se. Ethnicity is an ideology which is rooted in the existence of ethnic groups in competition. It is what, until sometime in the 1970s, was commonly referred to as tribalism by European writers. Africans emulated it and adopted it for social analysis. As a concept, ethnicity is a social phenomenon. It is a phenomenon that is associated with interaction among members of different ethnic groups. In this country and elsewhere, we have ethnic groups or social formations which, is distinguished by communal character of their boundaries. Some are more mobile while others are not. Each ethnic group has defining characteristics but there are certain characteristics which are common. It is this common characteristic that defines an ethnic group. These include language and culture. In the African context, language has been the most important differentiator. There is something special about ethnic groups. Ethnic groups are a people who share a belief of common ancestry. That is a conviction that they have common interest. Some of these beliefs are like myths. A major characteristic of any major group is that it is a group that propounds cultural symbolism expressive of their cohesiveness.

As a concept, ethnicity is a social phenomenon that is associated with interaction among members of different ethnic groups. This country and elsewhere, we have ethnic groups or social formations which are distinguished by communal character of their boundaries. Some are mobile while others are not. Each ethnic group has defining characteristics but there are certain characteristics which are common. It is these common characteristics that define all ethnic groups.

In the African context, language has been the most important differentiator. There is something special about ethnic groups. An ethnic group is a group of people who share belief of common ancestry; a conviction that they have common interest and common features. Some of these beliefs are like myths. A major characteristic of any group is a group that propounds cultural symbolism expressive of their copisiveness. One American scholar who has written a lot on this area, Prof. Bitts of California Institute, stressed the following points; ethnic groups have one most important cultural symbolism which they employ, these include the collective myths of origin. The Luos think that they are descendants of Ramogi whether he existed or not. The Kikuyus believe that they descendants from Gikuyu whether this is a myth or a reality; are not here or there. There is always a belief of ties of kinship or blood.

There is a mythology expressive of cultural uniqueness or superiority of the group in some cases. On a conscious elaboration of language and heritage, let me say that from my point of view, ethnicity is not a neutral concept merely depicting and signifying the act of inter-ethnic relations. That is usually expected to take place in a multi-ethnic society. Ethnicity involves inter-group interaction characterized by rivalry, suspicion and occasionally conflict. It is a justifying myth that gives the people the rationale for solidarity. Kenya today is supposed to have 42 ethnic groups but this is just for analytic purpose because ethnic groups today are not what they were 50 or 60 years ago. For

example, for a long time, the Kalenjins were just referred to as the Nandi speaking people of Kenya by foreigners. When the missionaries came and when the education policies that required primary education to be conducted in vernacular and books had to be written for purposes of learning, it became necessary to try to identify sister languages that could be unified and used as one language for purposes of learning.

This happened not only to the Kalenjins but also to the Luhyas. Until the World War II, people knew Bukusu, Samia, Maragoli and so on. Even today, the people in Samia and those in Bungoma do not communicate easily. They have completely different dialects and so on. The missionaries and the Government assisted in unifying language. Since language is a major differentiator in what we are discussing here, we can now talk of the Kalenjins and the Luhyas. Those are powerful sub-groups in this category. Up to 1978, the census in this country never referred to Kalenjins. The Kalenjins emerged in 1979 census. We now had all the ethnic groups combined together into Kalenjin because of the need to demonstrate that Kalenjin is a powerful ethnic group numerically for political purpose. It has served that political purpose very well, just as Luhya has served a political purpose. The integration of the Luhya into one cohesive entity has been characterized by lots of challenges. That is why in any election in this country, you can never have Luhya votes in one box. There was a time when KADU was characterized by people from certain ethnic groups. There were people like James Osogo coming in as KADU. Of all the ethnic groups in Kenya, the most democratic are the Luhyas.

Let me again push you back to the historical roots of this problem, we have in Kenya today, we call ethnicity. Before the British settled in this country, these groups existed. They existed as neighbours and they interacted out of need because there were certain resources which were only available in certain areas. They accessed them through the exchange mechanism. There were also conflictual relationships depending on the culture of the neighbouring groups like cattle rustling especially between the Maasai and the Akamba, the Luo and the Nandis and so on.

There was interaction and, therefore occasional rivalry over land, particularly over pasture and water, was common. Later on, this extended to agricultural activities. What would happen with the emergence of the colonial situation? Towards the end of 19th Century particularly after the consolidation of British authority around the time of World War I, what the British did which contributed to the emergence of consciousness of various ethnic groups was the idea of containment. Before colonialism, people were moving freely depending on their ability to conquer; but with colonialism, they were now confined to a territory. Administrative units were created and there was an association of people with an area. Over the years, a sense of feeling that “this is our area” or “this is our territory” or “this is our land” developed. Hence, the emergence of Nandi district, Kisii district, Kiambu district and so on. So, you are there because of colonial convenience but over the years, a consciousness of ownership of that particular asset called land began to emerge. Therefore, you begin to see the convergence of territory and ethnic groups. The association of certain ethnic groups emerged. For example, Central Province belonged to Kikuyu, Nyanza for the Luos and Kisii, Western for Luhyas, Rift Valley for KAMATUSA; that is, Kalenjin, Maasai, Turkana and Samburu. That was the

understanding. So, their world view of Rift Valley is that this is our territory and anybody coming to Rift Valley is an impostor who must justify how they came around. But something was happening simultaneously with that development. When the British established Kenya as a colony and other colonies all over the world, there was a cardinal principle that governed the relationship between a colony and some other colonies. The doctrine that was propagated was the doctrine of self-sufficiency. That as far as possible, colonies should be self-sufficient or colonial possessions should be self-sufficient as a way of not being too much dependent on the mother country. They realized that Kenya had very high agricultural potential. So, they decided to convince the white settlers to come out. They did not have to go to Britain. There was Boer war in South Africa. So, they were looking for places to go. So, they recruited them to come to Kenya in large boats and moved to Uasin Gishu, Nzoia and other places. Within a very short time, 25 per cent of arable land in Rift Valley had been occupied by the settlers. Central Province was not spared. When you go to Gigiri, you will see those big coffee plantations which were later uprooted by Africans. Going towards Ruiru and Nyeri, Central Province suffered just like the people in the Rift Valley. Within a few years and particularly after World War I, you would find a situation in Central Province where people whose land had been taken become squatters but because the majority of big farms were in Rift Valley, these squatters began to move towards Rift Valley. They would be farmhands but allowed by the settlers to till the land because it was too big for them. One was one cent. They were paying a token price.

The Kikuyu would move into Rift Valley in large numbers. They did not just move after Independence; they were there. At that point, the budding elites in Rift Valley were not necessarily bothered about the black immigrants, labourers, squatters and so on. This is because they thought that this was a passing phenomenon. They were concerned about the settlers, but they continued to stay and Independence came. The problem presented itself in a new dimension. You will recall that Independence was preceded by socio-economic conflict in Central Kenya; the Mau Mau phenomena. What happened with the declaration of emergency in Central Province was the mass detention of the Kikuyu able bodied men. In 1952, the Government decided that land consolidation should be introduced in Central Province. It was later extended to other countries much later. That was the plan which was hatched by the colonial office in collaboration with an Assistant Director of Agriculture called Swinerton. Swinerton produced a report which recommended land consolidation. Land consolidation meant that small purchase of lands which people owned here and there were not to be made viable agricultural units. In the process, many peasants lost their land. On coming out of detention, they could not recognize the land. It had been given to the so-called "loyalists"; the homeguards.

These people began to move into town and Rift Valley at the same time, but while simultaneously bringing a lot of pressure on the eve of Independence to be given land. They formed all kinds of organizations to pressurize the Government which had been installed after the release of Kenyatta or lifting of the emergency. So, as a stop gap measure, a land transfer scheme was devised. Millions of acres were hived off parts of European land which was actually mainly for livestock development. The people who benefited were the squatters. They were called squatter settlement schemes. They benefited, but as they benefited, there were also squatters from the same region who were

working for the same Wazungus who did not benefit. This would lay the ground for the resentment that has over the years surfaced from time to time. People who were living in the Rift Valley as squatters are now claiming to own land and property and, therefore, consider themselves *bona fide* residents of Rift Valley, notwithstanding the resentment of their neighbours but confounded the situation.

I am belabouring this thing because the epicenter of conflict in Kenya is Rift Valley. It is between the Kalenjin and Kikuyu. It is not about jobs or anything else, but land. What would happen in the post-independence period? The Government would come out with a policy of willing-seller, willing-buyer as a way of acquiring land from the departing Wazungus. This policy of willing-buyer, willing-seller would benefit mainly people who could access financial resources. Somebody advised the people from Central Province that the best thing to do is to form land buying companies. The land buying companies were formed. They included the Ngwataniro, Nyakinyua and Mabati group. The Mabati Group meant a group of women helping one another to roof their houses and so on, but they also became land buying groups. They were assisted by the state and, therefore, the feeling of preferential access and the resentment that accompanied that.

It continued under the leadership of the then Minister for Lands and Settlement, throughout the 1960s into the 1970s. But there would be a change in late 1970s, after Mzee died and Moi came into power. There was a period of lull, during which he was cautious and trying to make sure that he did not drop the boat. He inherited the Kenyatta infrastructure of governance and promised that he would follow his footsteps. He did by and large, but on the issue of land, which actually took place under his watch as the Vice-President, soon after he came into power, he completely disorganized the land buying companies and disbanded them, but I thought that it was too late at that time. Earlier on, his own Kalenjin politicians had condemned him and he ended up also teaching them a lesson, which is what he did with Seroney and Chelagat Mutai. When Seroney issued the Nandi Declaration in 1969, he was a Member of Parliament for Tinderet, which is now represented by Honorable Henry Kosgey. He called a meeting at Nandi Hills to condemn this land acquisition that was taking place. By then, Mr. Moi who was the Vice-President strongly dissociated himself with that and the next thing that happened was to make sure that he was rigged out of elections when they came. Mr. Kosgey who was working as a brewer at Kenya Breweries was identified and became a Member of Parliament and still is.

The next thing was the seven sisters in Parliament who included Chelagat Mutai. They organized a delegation to go and protest against this land issue. She addressed a number of rallies. One of the rallies in Ziwa in her constituency put her into problems. Action was taken against her and she is now languishing somewhere in Nairobi. She was a very courageous lady, but she did not understand the environment within which she was operating.

Let me end by summarizing the key issue which I would rather address when we open the session, that is, the politicization of ethnicity. I think some of the things that I have said, in a way, address that issue too in an indirect manner. But the manifest form in which the

politicization of ethnicity has taken place is during an election year or period. Under the one party system, this was not possible because candidates were screened by the system and only those that the system wanted actually made it. But with the resurrection of multipartism in 1992...The Democratic Party and FORD were licensed in 1991 but they officially started operating in 1992. The 1992 elections were held under multipartism. The President had said that multipartism would cause tension and ethnic conflict and divide Kenyans. When people were pushing for multipartism in 1991, they were characterized as being anti-state. A prominent Cabinet Minister, when the late Odinga and Anyona were trying to start a socialist party and so on, characterized the move as treason. But something happened globally that opened up the political space. That was the collapse of global communism. When global communism collapsed, people who had been seen as partners in the fight against communism became irrelevant as far as their Western backers were concerned. They were no longer useful because the Soviet empire was crumpling in the late 1980s and so on. It sort of opened some kind of openness, not just there, but also in countries hitherto being run as one-party states. Politicians did not have the courage to start this thing in Kenya. It was the church that started the fight. The politicians who started it were outside like Anyona and Odinga. But the mainstream politicians were scared.

In 1986, it was the bishops of the Anglican Church that took the leadership to challenge the one-party system. Bishop Muge, Okullu and Gitari were joined by Bishop Njoya. In the process, they emboldened a number of politicians to come out and begin asking for this thing. A development in 1988 went a long way to embolden some Members of Parliament and that was, queue voting. Queue voting was a very strange electoral voting system. What was stipulated under queue voting was that somebody who got 70 per cent would not go for queue nomination. If you got 70 per cent, you were declared elected straightaway. Otherwise, if nobody got 70 per cent, they went to the elections.

Queue voting was very controversial because the bishops say that they are leaders of their flock and they cannot vote in public, and the politicians joined in. One of the first politicians to join in was Kennedy Matiba and he paid for it through detention. He had a massive heart attack and never recovered from it. That is as bad as the one party system was. When multipartism came, the State under Moi began to mobilize in Kalenjin land using powerful Cabinet Ministers. They went from one town to another, including Eldoret, Nandi Hills and Kapsabet and so on, warning the Kalenjin people of what lies ahead for them and so on. That was negative ethnic mobilization. It was political in the sense that behind the back of the supporters of that movement was an attempt to get rid of non-Kalenjin voters from Rift Valley, so as to deny the Opposition the required 25 per cent votes in the province, which was one of the requirements. So, the ethnic group that supported the Opposition began to be pushed out of Rift Valley. The Luos and Luhyas were pushed out of Nandi where they have land. The Kikuyus were put into lorries and driven up to Kiambu and dumped there. For those who did not move, the killings then began. Many people were killed and I have the figures here, which were also confirmed by the Kiliku Commission Report. Later on, the Akiwumi Report will be talking about this kind of thing without the Government doing anything.

During the 1997 election, we had a repeat of this thing, but not in a large scale this time in Rift Valley, but in Mombasa and Likoni. Mombasa was KANU *damu* under Nassir, but FORD-Kenya had managed to elect a professor called Mzee from Likoni and they thought that there was going to be a domino effect in 1997. These upcountry people who were voting for the Opposition had to be taught a lesson. There were killings and problems that took place in Likoni. I hope you have talked to people in Likoni. That was actually politicizing ethnicity. These upcountry people were Kikuyu, Luhya, Luo and Kamba.

In the run up to 2002, people expected the problem again. But I think that the outgoing President was smart enough. Realizing that he was not going to be elected, he did not want to rock the boat this time around. So, there was no violence of the scale in the previous years. Then, NARC came into power as a united movement but soon after getting into power, ethnic polarization began to develop and split the party into two. We had vicious 2005 Referendum where there was ethnic polarization. This is because political parties in this country are ethnic. But we survived it only to fail to survive in 2007. I will not touch on 2007 because the story about 2007 is ongoing.

Thank you very. I am sorry for taking longer than I had promised.

Mr. Tom Chavangi: Thank you, Prof. Oyugi, for that presentation. I will now hand over to the Presiding Chair for questions in this issue.

The Presiding Chair (Commissioner Dinka): Prof. Oyugi, thank you very much. You have given us a tremendous background for the discussion that will follow. I knew that you were going over your time, but did not have the heart to stop you. This is because we were really learning a lot, particularly, me and other colleagues from outside Kenya. This has been tremendous education and we thank you for it. I hope that the discussion that will follow will also maintain the level of the discussion at where you left it. Before I call on my colleagues to ask their questions or make comments, I would like to recognize the presence of Commissioner Ojienda who has joined us. Welcome, Prof. Ojienda.

I will now open the floor for discussion of this very important issue for the next half-an-hour.

The Acting Chair (Commissioner Namachanja): Thank you, Prof. Oyugi, for helping us journey with you from colonial to Independence period. When you reached the 2007 post-election violence, you said that you will not go there because the story continues. Now, this Commission was set up to deal with what you shared in terms of historical injustices and come up with recommendations on the way forward. We have been to almost all the regions now, apart from Nairobi and the issue of ethnic politicization is key to the stories that we have heard. As you said, it is linked to the issue of land, especially in Rift Valley and Coast provinces. When we were in the Rift Valley, the people that came before us to paint a global picture of historical injustices, most of the issues they shared were around land. They talked with a lot of bitterness that they were displaced

from their land by the colonial government and when it came to correcting the situation, they were disadvantaged. Indeed, many of them are still squatters. What they are calling this Commission to do as a way of redressing the historical injustices is for them to get their land. That is the dilemma that we have. What recommendations do you have to help on dealing, especially with the squatters who were displaced from their land, but remain squatters and are suffering? We cannot chase the people who are currently on their land. We cannot recommend that because where will they go? It is a dilemma.

Professor, please, if you can shed some light on this, it will really assist in our recommendations.

The Presiding Chair (Commissioner Dinka): I guess we will take one or two more, and then the Professor will react.

Commissioner Slye: Thank you, Prof. Oyugi. I want to echo the comments of the Presiding Chair, as one of the international commissioners. Learning about this country for two-and-a-half years, I realize that there is still a lot for me to learn. Your testimony and wisdom has helped to enrich my education here in this country about the historical injustices that this Commission is mandated to examine.

You spoke about the nature of ethnicity as socially constructed. You talked about, for example, the role of the colonial powers in tying ethnicity to land and creating a social reality today, where land is associated with a particular ethnic group, which is not something that had existed prior to the colonial period. You spoke about the evolution of the idea of the Kalenjin in the late 1970s and the Bukusu and idea of Luhya. You also, if I heard you correctly, seem to identify two things as very crucial to creating or persevering ethnic identity; that is, language and culture. Certainly, my inclination and I think that this probably a widely held view in Kenya is not to get rid of ethnicity, but rather try and place ethnicity within a national context, in a positive sense, so that ethnicity is constructive. Ethnicity should become primarily an expression of identity and culture, but not politics or contest of power socially.

How do we get Kenyans to primarily see themselves, first, as Kenyans, secondly, as whatever their particular ethnic group is and maybe, thirdly, as religious identity? But the idea of being Kenyan or sort of identification with the nation is the primary political identification. So, this is a long way for me to ask you to reflect a bit. Given the social constructive ethnicity, what sort of advice or recommendations would you give to a variety of groups in terms of how to move ethnic identity and the notion of ethnicity to a place that is supportive and not destructive of the national identity.

Commissioner Shava: Professor, thank you very much for your fascinating testimony. Although, I am a Kenyan, it is a story which I would wish we could have given more time. Sometimes it is important to reflect on where we have come from in order to know how we are going to get to where we think we should go to. I was interested in your definition of ethnicity as not being a neutral concept because I suppose ethnicity means that if you belong to a particular ethnic community, then those who do not belong to that

community, then automatically become “other.” So, in terms of the way that ethnicity is constructed, it may be neutral in that you cannot choose your ethnicity. But, definitely, you have made the point that there is a “them” and “us” that arises out of the fact of ethnic identity. There were several things that I wanted to ask, but in the interest of time, I will just ask one question. This is around perceptions. You spoke to the fact that perception is a big factor in ethnicity. There is the perception of common ancestry, where we came from and how we came from there. You made the point that whether it is actually true or not in terms of fact, is neither here nor there. The point is that there is a group of people who believe the same thing. So, that perception is a very important factor in terms of ethnicity and perception as opposed to facts. So, for me, as a Kenyan, I have often wondered about the susceptibility of Kenyans to manipulation along the lines of ethnic identity in order to satisfy the agenda of those who seek political supremacy. I wonder whether you have any recommendations to make as to how collectively we can counter this trend. We all borrow salt from one another, but as soon as an election is round the corner, suddenly you see the other person as something else; along the lines of what it is that those seeking political power are telling you. We just behave in the way that they want us to behave in order to achieve the kind of result that you were talking about in the Rift Valley. So, what recommendations would you have to help us to counter this trend and avoid the kinds of the unfortunate scenarios that we have seen in the past?

Prof. Walter Oyugi: Let me begin by addressing the question raised by the Acting Chair, Madam Namachanja. That is the problem of land, especially in Rift Valley. But let me also add that the problem of land is now countrywide. It is a real problem in Coast Province; that is the quest for restoration of coastal land is what informs the ideology of the Mwambao people. They now call themselves Mombasa Republican Council (MRC). Yes, that is the ideology. In the yesteryears, I was in Mwambao and that was a secessionist kind of movement.

There is a lot of resentment at the coast for the upcountry people but the problem at the Coast is not quite different from the problem in the Rift Valley to some extent or to the extent in which some of the big land owners in Coast Province are upcountry people who are either in power or were once in power and are well connected. These people have been smart over the years through the system of incorporation. You have a big land and you want to share it with somebody who is occupying a powerful position as a way of buying protection. So, you will hear our powerful politician talking about land and then the next time you hear them appearing in court as being involved in land acquisition in that area. Who will save Kenya? That is the problem that we have in this country.

In Rift Valley, the perception that we get as we read these things in the newspapers, in interviews and so on, is that whenever there is opportunity by the State to allocate land, the State behaves as if the Kalenjin do not need land, and the land goes to outsiders. You know whatever that means. That is part of the problem; the perception of structural discrimination. Once that perception is there, the only way you can wipe it out is to demonstrate; that as you give “a”, you give “b” too; that if there is a tycoon who acquired land for free and is now getting millions of shillings having invested nothing on that land, give it to “a,” give it to “b,” give it to “c” or give it to “e” on the basis of the criterion of need. But if the criterion of need is the determining factor, then the problems we are

talking about would not be there because the need is not confined to a particular ethnic group. There are landless people all over Kenya; all you need to announce is that we have bought 50,000 acres from “xyz” and you have people to demonstrate that they actually do not have land anywhere. But Kenya being what it is, half of that land will disappear before it reaches the people who need it. In political economy, we refer this to as the problem of accumulation. There is appetite for acquiring wealth regardless of whether actually you need to acquire that wealth. That is where the problem is. Critics would say that it is a class problem but you know the class framework in analyzing social situation has since been abandoned. Perhaps it was very wrong.

That is as I see it myself because, you see, in distribution of land, there is also an attempt to change the demographic characteristic of an area, and this is the business that politicians are engaging in; making sure that you do not bring people from outside who are going to vote against them. They want to bring in their supporters and this is what creates the problem, because some of these politicians are well connected in the Government. Now, who is the Government? Some of these people! That is the problem. We will come back to it later on.

The issue raised by Prof. Slye, whether ethnicity can be viewed in a more positive sense; you know, as we say, ethnicity is an expression of ethnic consciousness in a competitive environment. When people feel that they are being marginalized in the competitive process, their consciousness is heightened. When they think there is exclusion in the structure of access, their consciousness is heightened and mobilization is very easy by the politicians. You know when we gained Independence, there was a notion – very popular in social science – they called it modernization and there were a lot of themes associated with modernization in the post-colonial states. Modernization was considered to be a process which would change the cultural milieu; a process which will change a people’s way of doing things; change the relationship in both social and economic sense. Acquiring a culture which is development oriented will enable people to be able to acquire the technology necessary to do whatever they wanted to do, as a result of which they would then be able to acquire the basic necessities of life, be able to fend for themselves and be able to acquire the achieving culture associated with developed western societies. But it was assumed that modernization would completely shape up this animal called tribalism, ethnicity and whatever and that people would begin to see themselves not as members of a family, members of a community, members of an ethnic group but members of a common centre to which they would pay loyalty. It did happen; if anything, modernization became the transfer of values and things associated with the west. So, it became westernization and people acquired things associated with the west without being able to produce them. And because they could not produce them, they had to buy them; and because they had to buy them, they had to have money; and if you did not have money, then you had a problem.

So, what has happened is that westernization has contributed to the heightening of inequalities in this country and in the third world. So, there is the underclass, who feel that they have been given a raw deal as a result of Independence, and yet they are the majority. They do not even exist on a dollar a day; they do not have that one dollar. This one dollar a day is just a fictive figure, you know; like taking a population’s *per capita*

income where you take the gross national income and divide by the people and they are not getting that. Some of them are getting zero. So, the point then to answer the question is the problem of inequity is what has to be addressed. Equity is central to the establishment of a fair society and equity is about relative greed; those who need more need to be given more. Those who already have need to take it easy. But as I said earlier on, this is not what we are getting in this country. People who are acquiring Government land are not people who do not have land! Some of them do not even have children! I know some of them; powerful people who do not have children and you wonder for whom they are acquiring this, unless it is for speculative purposes.

On the observation by Madam Commissioner Shava, I think she was wondering aloud why Kenyans remain susceptible to manipulation by the politicians and what can be done. You know, politicians over the years have given Kenyans the impression that they are the linkers with the power holders with the centre. So, you go to an election and the first thing you ask yourself is whether this guy is going to link you up with the job providers, the loan providers and so on, and so forth, and whether he will enable you to get what you need from the Constituencies Development Fund (CDF) for your school fees next time and so on. Why it remains to be the case is because of the problem of poverty; the belief that people cannot manage on their own without a godfather and, therefore, you want to be on the good side; you want to be seen to be loyal to your Member of Parliament and to your councilor if you have to benefit from his patronage, because the nature of politics in developing countries and in this country as well, is patronage politics.

In patronage politics, there is the reciprocal relationship between the client and the patron; give me your vote and I will give you some of the basic needs that you lack. You cannot give food every day, but if you can be assured of school fees for your children, it is a great deal, you are tempted. So, we are in a vicious circle and it is a cycle of poverty. How do we get out of it? If we have a formula of getting out of it, some of these problems we are talking about would not be there! Which begs the question how did people – other third world countries – who are supposed to be relatively more developed get there? Vision 2030 is intended to make Kenya a middle income country and there are third world countries which are said to be middle income and so on and so forth. How did they get there?

I was in Ghana in 1960 in a conference organized by African Association of Public Administration and Management and we were talking about the civil service and development. There was the notion which kept on recurring in that conference – the notion of developmental states. How can we be characterized as developmental states and so on in the manner that people talked about Asian Tigers – Singapore, Malaysia, and Taiwan and so on and so forth? Whether you want to go that way in order to get there, I do not know, but they got there not on their own they got there as a result of patronage of America after the Second World War in order to keep the Soviet Union from expanding into that part of the world. So, America put a lot of resources into those States. The British put a lot of effort in Malaysia. At some point, there was a very powerful communist movement in Malaysia which almost overthrew the system. So, you have this kind of situation that you can bring development through authoritarianism. But there are a

number of African countries which are authoritarian, but they have not been able to develop. So, what is the problem?

Take, for example, Zimbabwe. I went there in 1980 for a conference just after a year when those people gained Independence. Harare was one of the cleanest cities I have ever visited anywhere in the world. It reminded me of Los Angeles during my terminal years in America. If you go to Harare today, it is a different world. It has been run down from a food self-sufficient country to a food deficit country. What is the problem? I do not know.

Thank you.

The Presiding Chair (Commissioner Dinka): Thank you very much, Professor. Now let me ask my fellow commissioners to ask questions or clarifications.

Commissioner Ojienda: Thank you, Professor. I am happy to have listened to you submit to us and speak to us on the history of ethnicity and what constitutes ethnicity and why we got where we are. But in Section 6 of our Act, we are required to give recommendations on how we can deal with ethnic tensions in the country or amongst communities. When you were about to get there, you kept quiet because, to me, the height of ethnic tension came after the violence in 2007/2008, and you have deliberately avoided dealing with that period because you said that there are structures to deal with that.

I want to understand a number of things and that stems partly from what has been done on the land question specifically. You remember that after Independence, you said that you were in Harare and America. We had a structure called the Settlement Fund Trustees under the Trust of Lands Act and they basically created multi-ethnic settlement schemes where different communities settled. I do not know what you would recommend in terms of deliberate Government policy that has dealt with the resettlement question of Internally Displaced Persons (IDPs) after the violence and where IDPs initially tended to take refuge in different camps and then settled in different or in their ethnic groups. So, you had IDPs from different communities settled in different places and we recall situations where even some communities have resisted IDPs being settled in what they consider “their land.” Is there a problem with Government policy here? Let us face things head on; let us not avoid them and say they are things we are dealing with. What policy should there be and how should the Government have approached this? Is there a possibility that we are recreating ethnic tensions under the guise of resettlement and there being noise about favouritism or where certain communities are settled and others are not settled?

I want to speak to this because this is a truth Commission and if we do not speak about these things here and we avoid them under the guise of historicity, you know, going into nice things and history and then when you get to the issues, you avoid them, you are not helping us!

Thank you.

The Presiding Chair (Commissioner Dinka): Thank you very much, Professor. For just five seconds, I would like to recognize the presence in our midst of Ms. Mary Onyango, the Deputy Chair and Commissioner of the National Cohesion and Integration Commission (NCIC).

(Loud consultations)

I would allow you if you can give me a little bit of time until the commissioners finish.

Thank you.

Commissioner, please be very brief because we are going to have a presentation on IDPs.

Prof. Walter Oyugi: Prof. Ojienda's intervention suggests that I am deliberately trying to discuss the contemporary situation, which is actually the one which requires even more and immediate attention than the historical one. But there is a problem with the resettlement programme which has come out since it started.

First of all, there are people who think that not everybody that shows up in the camps was a victim of the post-election violence through loss of land. Yes, there may have been. Some of them may have been petty traders who now see the land distribution opportunity as God-sent. How do you identify such imposters? They must be there. That is why this number is never reducing. In fact, I was even told that there are people in those camps who are there in the evening, but during the day, they are hawkers in towns. They go back at night. Those are hearsays. You now have empirical evidence and that will make a difference in the kind of reports that you have. Again, like most exercises in this country, the whole resettlement of IDPs has been politicized. There are people who want to use IDPs as vote-getting victims; to be seen as people who have identified land for them, denying them the right to go where they want to go and, you know, directing them to places where they think they are going to register as voters for the next election. In the process, there is always grumbling going on. Take, for example, Rongai in Nakuru; there is a lot of grumbling between the MP and the people who are pushing the IDPs there. This thing simply heighten ethnic passions and so on because right away, the MP for Rongai who happens to be who he is thinks that somebody wants to create numbers that will certainly not vote for him. This is the sort of thing that is happening.

The other thing is that the Government seems to have forgotten people who were received by relatives, because they are like they do not exist and some of them are beginning to now come out and say we exist. Whether they are going to move into camps to demonstrate their existence, we do not know. But the point I am making is there has not been credible audit of who is a displaced person arising from the 2007 post election violence and who is a landless person who has never had land and, possibly, is using this opportunity to acquire one. The management of the thing has been politicized. There are people who have made a profession out of it and want to hold these people captive as long as they come for whatever reason best known to themselves. It is a situation in which even the Ministers behave as if they are helpless; they cannot do anything and they

are grumbling and complaining, giving the impression that they are helpless. Against this background, you will just leave the things in the hands of the politicians, and the politicians will be in the front line until after the elections and then they will go underground waiting for the next election to come. That is the irony of the whole thing. I do not know. I wish I had the answer on what we can do. The people who are selling land are taking advantage of the situation. Land is reportedly going for the kind of figures that under normal circumstances you cannot even think of. You mention the figure and if you are a buyer, you just turn your back and you say thank you and you go. But the State is put on the spot and because of pressure by their supporters – supporters of the State are the politicians. So, it is a problem. I have no answer!

We are looking forward to reading your report, because we are talking to these people

The Presiding Chair (Commissioner Dinka): Thank you, Professor.

Commissioner Chawatama: I would like to be associated with the questions that my colleagues have asked and I will not ask a question but, maybe, just to make an observation.

I sat here and I kept nodding because your presentation served to corroborate what we have heard from thousands of Kenyans. I say thousands because thousands have been engaged in this process and although we heard a few giving their testimonies, but we received statements and memoranda from thousands.

When you talked about the issue of willing-buyer and willing-seller that was, one of the bitter pills that many Kenyans have had to swallow. They were under the impression that what happened was that there was a large amount of money that was given by the British Government that ended up in the hands of very few people or specific group of people who formed what you referred to as land buying groups. As a known Kenyan, let me wonder whether there were other land buying groups from other communities and how they were treated in this exercise, because I think one of the complaints was the unfair advantage that certain communities had over others. I think what is overwhelming, being a known Kenyan, is what my friend and colleague, Prof. Slye, referred to and because we had it very many times, is how to get Kenyans to see themselves as Kenyans first and foremost. Listening to you, I am now even more overwhelmed and I am sure by the end of the day, listening to other speakers, I will still continue to be overwhelmed.

I come from a very small nation called Zambia and we got our Independence in 1964, and one of the things that I grew up hearing is the slogan of “One Zambia, one nation.” We said it even as children without knowing what we were really saying and what the implications were, but we said it is so often that we actually believed it. So, when I came to Kenya, I thought that the first leaders after Independence were of the same mind as the generation of leaders of Kaunda, Nyerere and others; and that I would really find a “One Kenya, one nation.” So, this is something that we are going to really grapple with because I believe that it is a foundation to solving many problems. If Kenyans see themselves as Kenyans, I think that would be a quarter of our problems solved.

I thank you for your presentation. I enjoyed it tremendously and it makes me understand the challenges that the ordinary people – because most of the people that we listen to are people who have not heard neither a voice nor a platform to speak – and we heard their concerns and, to some extent, I understand their bitterness and their pain.

Thank you for your contribution and our report will be richer because you have spoken to us.

Thank you.

The Presiding Chair (Commissioner Dinka): Professor, I thank you for your deep lecture which has enlightened us a lot. This is a difficult subject. When it comes to ethnicity, the glaring areas that I have, in my experience when going round the country, listened to is four areas. One is in the pastoralist communities where there is the dominance of one community over all the others. All the others have been complaining from that community; the Marakwet have complained, the Elgon Maasai have complained, the Turkanas have complained and the Pokots have also complained. One of the things, of course, that we discovered is that there was a hand in the dominance of the Pokot by the Government due to political reasons.

In the Coast Province, there is that overall feeling that upcountry people must leave our land and go back to where they came from, but one of the issues which they could not respond to when they were told was, you have always elected leaders and with your leaders, land could not be taken away from you without the participation of your leaders. They recoiled back!

One of the things we discovered is that there was a hand or dominance of the Pokot. This is due to political reasons. In the Coast Province, there is the overall feeling that “upcountry people must leave our land and go back to where they came from.” However, when they were asked how come their land was being taken away and yet they had elected leaders, they could not respond to that. They recoiled upon being asked that question and they saw the truth in it. I do not see the solution to that. Poverty is a vicious cycle as you mentioned. We know that poverty is always exploited during electioneering to elect unscrupulous politicians who deal with the centre in Nairobi to alienate land from the people, but after five years they go back to buy the votes from the money they accrue in the sale of the land.

In Maseno I noticed that there is conflict between the Luo and the Luhyas. Again, there is politics in it. The Luhyas feel that the Luos are always favoured. This brings out the issue of politicization of ethnicity.

So, thank you very much because whether historical or contemporary you have really hit the eyeball and you have enlightened us.

Ms. Betty Murungi: Thank you, Professor Walter Oyugi for your exposition of some of the issues that have affected Kenya in terms of ethnic conflict. Could you consider it

prudent for Kenya to institute radical reforms in terms of the land question? I ask this because the models that have been suggested and included in our Constitution are the same models that you have explained based on the colonial project. So, we are not even proposing new models. We are still describing land thus: All land is owned by Kenyans, but it is also owned individually and by communities. You have explained to us that tribe denotes a cultural and language group. Prof. Ojienda has included the other definition which has been captured very well in the writings of Prof. Mahmud in Citizen and Subject and also on the Darfur question which mirrors some of the problems we see in Kenya.

Countries which have utilized radical land reforms like Mexico, Cuba, Taiwan, Korea, Ethiopia etc. talk about redistribution. We are not talking about redistribution in Kenya – not even in our Constitution. I think we are just reproducing the same vulnerabilities of the colonial State, the independent Government and the post-colonial State.

The Presiding Chair (Commissioner Dinka): Prof. Walter, you rightly pointed out that the vicious cycle of poverty is one of the elements that exacerbate the issues we are discussing and it will take quite a while before we break the vicious cycle of poverty. In answering Prof. Slye, you said that the issue of inequity must be addressed. Now, these are very heavy projects and they will take a long time. In the meantime, can you envisage a possible policy framework that the State can undertake within which ethnic communities instead of being terribly competitive and at each others' throat could also co-operate with each other?

Prof. Walter Oyugi: Let me begin responding to the issue raised by Madam Betty Murungi. I do not think I have the answer. I do not know because I have yet to read the document that James Orengo and the MPs have been discussing in Mombasa and Naivasha. The land policy that the Government is contemplating, I still cannot speak about it with a sense of knowledge. I still have to read it. However, it is a policy document. A Bill will be prepared and even after that is done you still cannot meaningfully use it as a basis for making prognostication about the future unless it has become an Act of Parliament.

Land will remain a major thorny issue in the political economy of Kenya for a long time to come. I alluded to this earlier on that people who hold large tracts of land in this country are very powerful people and they are unlikely to let go that land. Nobody is thinking in terms of forceful acquisition of land. The idea of land ceiling which has been mooted remains controversial from the perspective of the land owners. I do not know whether the State will have the stamina to confront the large land owners by saying that the land ceiling is this and that, what you have should revert to the State which shall dispose it in the open market or shall distribute it to the people who deserve to have land in this country. I do not think that kind of approach is in the offing or is a subject of discussion anywhere, but that is just suspicion.

I have to be told of any “powerful” Government functionary who does not have large tracts of land either agricultural or urban and how they are going to be made to let go this. It is a very challenging task for the Government. Persuasion has failed. If they were philanthropic enough – allow me to use the Speaker's words – and came forward and

said, I offer this subject to the following condition one of which is that I make sure that the beneficiaries are the deserving landless, if that happens, it will be a pleasant surprise. However, chances are that it will not happen.

With regard to the need for ethnic co-operation as raised by Ambassador Dinka, we know that he comes from a neighbouring country which has been trying to address the ethnic question through accommodating the interests of ethnic groups by giving them their own states. They called them federal states. The Ethiopian formula was arrived at as a way of easing ethnic tension. So, the regions are ethnic regions, but that is as far as it goes. As ethnic regions, they are supposed to be responsible for all the units below them. Administratively, the two tiers between the central Government and the Waradas have been marginalized and the State has decided to give powers to the Waradas. This is because these people are unable to provide for the Waradas. They depend on the central Government to give them the money to pass on to the Waradas. So, the Government says, “we should pass it directly to ensure that accountability is to us.” That is the situation, but whether it has resolved the nationality question is still a debatable point. There are undercurrents. There are still regions which feel they are not part of the centre. This kind of feeling has made the centre establish mechanisms through which regions may still behave as if they are appendages of the centre notwithstanding the constitutional provision which even on paper allows them the right to secede. I am saying this not to put you on the spot in any way, but just to dramatize the problem that the African States are confronted with. You think you have a solution then you realize it is not what you think.

Uganda came up with a very good thing on paper – decentralization design. As soon as they realized that the counties are still coming to them for over 80 per cent of their financial needs, they decided to disorganize them by transferring the appointment of the Chief Administrator back to the central Government which is now managing them through the Chief Administrative Officer.

So, there have been experiments in a number of African countries on how to bring national re-integration through the centre surrendering some power to the regions as a way of making them feel that they have a say in the manner in which they are governed, but things are still not working. However, that is not to suggest that, perhaps, these things do not need a gestation period. Maybe we are expecting results too soon.

Finally, the question of national integration remains a major challenge throughout Africa. This involves the surrender of parochial loyalties in favor of the common values. Recently I was talking to a Government gathering like this one. I was asked to talk on national integration and something else. They raised precisely the question you have raised – how do we get Kenya as an integrated political community? I started by saying that I am not a student of political integration. I meant that I have not written a paper on national integration and, therefore, I cannot claim an authority. A very senior person, who was attending, on hearing that, packed his papers and left. You see, that is because he had come to get solutions and he did not see that solution likely to come from me the way I had started.

This issue of national integration was a major debate by students of modernization and political development with special interest in Africa. They included the Rosberg, Coleman and so on. Those were the guys in the social sciences. Their view was that national integration would be approached side by side with national economic development. With economic development it was thought that it would be easy for various ethnic communities to begin to work as part of an integrated community. However, economic development has been too slow to be realized and thus we are back to the problem of differential development within the country. This is what creates the perception that there are favoured and less favored areas. By definition favored areas are those which have been able to have one of their own as President. When you harbour those ideas, you are actually living in the years on the eve of independence when there was material divide amongst the Europeans, Indians and Africans.

Increasingly, many Kenyans began to believe that it was difficult to bridge the gap between the downtrodden and the elite at the centre of power. When you look at it as them versus us integration becomes a problem. “Them” becomes the source of frustration while “you” is an instrument used to facilitate the longevity in this structure of inequality. I do not know and I do not have the answer.

The Presiding Chair (Commissioner Dinka): Thank you very much Prof. Walter Oyugi. Regarding my question and your answer, we can discuss it some other time. I raised two points with you about Ethiopia. It has taken a very risky plunge when it started this idea of regionalization and federalism. Before that we were a completely centralized State. That did not give us peace. Tension was throughout the country. For the first time, in our long history as a State, it is during the last 20 years that we did not experience a civil war. Something has to start from somewhere. You have to correct certain things as you go along.

With regard to the land issue, nobody could have done it except in 1975 when a drastic move was made by the military Government then. The cost that we paid was very high, but that was the only time the land issue was resolved. There is no single case of land in court in Ethiopia and nobody is complaining about land. If an Ethiopian wants to farm according to his capacity, he will have the land. If he wants to build a house, he will be given it free. Land has no value today in Ethiopia. We could discuss the rest over coffee.

The budget that goes from the central Government is budget for every level of Government including even the Waradas. It goes to the regional State which distributes and controls this expenditure. It also audits it. The Auditor-General from the centre only audits the regional States. The culture, language, education... During my time of going to school, we used to be punished if we spoke our mother tongue. We had to speak in Amharic only. I am not from the Amharic speaking people, but it did not give us peace. Instead it gave us war. Today, every young Ethiopian going to primary school learns his lessons in his own mother tongue. All the primary school books are published in different mother tongues. They could be 20 or 30 of them. I do not know if this will continue or it will be corrected somewhere, but corrections have to be made and beginnings have to be made as well. I hope you will meet me and we will discuss this thing. I am not one of the people who sing the praises of this Government; I am not. I do not belong to any party. I have never been to any political party in my life.

Thank you very much professor for the backdrop you have given us. Hopefully, the following speakers can do it now in lesser time. You have given us much more than we can chew for today and we shall be chewing on it for days to come.

Dr. Yegon: Thank you, presiding chair. The last point that Prof. Walter Oyugi spoke about was national integration. We know that one of the permanent commissions that were established under Agenda IV was the National Cohesion and Integration Commission (NCIC) which is duly mandated to deal with issues of integration and cohesion in this country. We have the privilege of having Commissioner Halake Waqo. He will proceed from where Prof. Oyugi left on national cohesion and its nexus with ethnicity. It will be recalled that NCIC has been working on this issue and has done a study on the ethnic composition of the Civil Service.

Mr. Halake Waqo: Presiding Chair, Commissioners, ladies and gentlemen, thank you for giving me the opportunity to highlight a few issues on the topic of ethnicity and national cohesion in Kenya. Some of the elements or the expectations to be fulfilled within national cohesion in Kenya include causes and roots of ethnic conflicts and tensions in Kenya, trends and patterns of ethnic conflicts and tensions, ethnicity and access to opportunities and national resources, challenges in promoting national cohesion and integration in Kenya, and recommendations on how to address ethnic conflicts and tensions.

At the Commission, it is also our understanding that ethnicity as a term is not negative on its own. We do not condemn the existence of ethnicities and various cultural groups but we recognize the fact that if applied in a wrong way, say, in an exploitative and negative sense to our socio-economic and political goings on then we are at the point of negative and dangerous use of ethnicity. When I look at the causes of conflict in relation to ethnicity in Kenya, there are two dimensions. The easier one to mention is the national resource and geographic territory-based problems. As Prof. Walter Oyugi mentioned, there is the issue of colonial rooting and contentment. It is good to understand the history of colonial territorial control mechanisms. They had put people together depending on which region and what kind of looks and cultural relationships existed in order to control also issues of disputes over territorial boundary claims and even movement from one place to another. This is inherently rooted to our current problem related to administrative boundaries.

We also have issues related to scarce resources whether it is water, pasture, and so on mostly used by pastoralists in northern Kenya. There is lack of clear land ownership policies in most of these areas and therefore a lot of issues which we have to grapple with.

There is also the issue of historical rivalries within ethnic groups, and traditional customary practices. We hear of cattle rustling related to seasons, culture, say, circumcision and marriages and so on.

Ethnic identity is also inherent in this. Frequent droughts have also contributed a lot as a source of conflict in this particular dimension. In the 1990s, many parts of Kenya at the border experienced proliferation of illicit arms. There is a new gun culture and power is related to guns and firearms. This particular dimension of roots to conflict has been viewed as those traditional practices particularly in the half north of Kenya. However, there is a difficult dimension related to political power and natural resource access. I identified governance. Bad governance, as we realized in this country, was reflected in power wielding and manipulative political elite at the helm of leadership. We saw manipulation, exclusion and marginalization.

Power and economic exploitation also has a basic interest and self-serving amongst the leaders as opposed to national service. There is also lack of goodwill by leadership to develop adequately and to spread and create avenues for easy access to national resources. This has led to struggles here and there.

Administration has its contribution to our tension and conflict. There have been poor administrative structures and mechanisms; haphazard creation of administrative units based on interests and sectional manipulations.

Security is also another major issue. In many instances, security agencies have been seen as problem making as opposed to being safe havens. In the 1960s this was seen in the kind of response by the Government to the question of NFD secession. In the 1970s and 1980s there were various military and security operations in those same areas as a matter of continuity to contain banditry and insecurity in those regions. In many instances there have been complaints of weak State security and governance structures in many areas. For example if you went to Kibish or parts of North Eastern Province, a lot of this is expressed.

A very important underlying issue to these problems I have raised is policy. There is lack of relevant policies to manage these affairs or weak or malpractice in security and administrative policy. These concerns are raised across board. There is difficulty in identifying proper policies controlling State facilities and politics and also differentiating between the national State and its policies and the infiltration and manipulation which leads to marginalization.

One of the problematic policies is the Sessional Paper No.10 of 1965. I am sure various community groups have raised their concerns related to this. It excludes and marginalizes the areas which were identified to be of little economic potential.

It is common that these complaints, issues or concerns are raised. There is also that difficulty of identifying proper policies controlling State facilities and politics. That is differentiating ethnic infiltration and manipulation, which leads to marginalization and neglect; it was identified as a problem by many communities in this country. One of the State problematic policies which have been mentioned on various occasions is the Sessional Paper No.10 of 1965. I am sure various groups have raised their concerns

relating to this. It has really been marginalizing the areas which were identified as of little economic potential.

Now, talking about trends and patterns of conflicts in this country, when you look at the natural resource based conflicts, there are issues of common interests and collective responses by different community groups without provocation from opponents. Sometimes you cannot differentiate between peace, natural resource based and political interest based conflicts. For example, what is happening in Moyale today is not so easy for anybody to differentiate. A few weeks ago, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Report showed that it was based on water and pasture problems, whereas many others stood up and said that there is nothing to do with pasture and water. After all, they have received the highest rainfall in the last ten years in that region. So, it is not very easy to tell the differences in some of the instances, but we need a lot of reinforcement of security because of illicit arms. In most of the situations, without any provocation or struggle for resources, availability of firearms has also led to or promoted lawlessness, insecurity and violence.

Now, the trends in political dimension in this country have been controlled mostly by issues that relate to power, ethnicity and control of the same and a little bit of identity induced factors. Some of the historical trends tell us--- Immediately after Independence there was the *Shifty* War and various other secessionist ideas like the *Mwambao* at the Coast and the MFT in northern Kenya. At the same time we had ideological competition or problems within the higher hierarchies of the Government. The late Kenyatta led capitalist thinking versus the Oginga led socialist or communist forces, which struggled with each other for a while. In the recent years, we have clearly seen automatic trends or issues that you could predict since the 1992 elections, when we started having multiparty electoral framework. Although the issues started in 1991, as Prof. Oyugi also mentioned, they were also there in 1996 and 1997. There was nothing much in 2002 but a lot in 2007 and 2008 mostly in the areas around Rift Valley and also in some urban areas like Nairobi; also the Coast has not been left behind in this. There was a lot in 1997 and a little bit in 2007 and 2008 but today as things are, the Coast is also ripe for anything. So, these are some of the issues that have determined conflict trends in this country in the recent decades or years.

Now, coming to the ethnicity and access to opportunities and national resources, the reference to the ethnic composition of our public service is as referenced in the report of the National Cohesion and Integration Commission; it paints some sort of a picture that there is a reason sometimes to feel that Kenyans think ethnically in as far as jostling for particular positions in our political lineup is concerned. It paints some sort of a picture though not necessarily holistically but people want to be identified with a particular individual from their ethnic or regional backyard to be at the helm as president, Minister or other senior level positions. They think that something will accrue to them through that office holder, or benefits will come to us if so-and-so is from my ethnic group. If he is a president and a neighbour, I will be able to benefit in one way or the other. So, top level leadership and resource control has been seen as a critical factor; different community groups and regions have to cluster in order to push for one of their own or a neighbour.

Then the ethnic imbalance in public service is also rooted in various issues. It is seen as not only linked with the powerful individuals or top level leadership but also the infrastructural development and educational support that various regions have got. The kind of the numbers that we see in our list of the public servants also reflects a lot which regions have what kind of facilities that have enabled or prepared people to take up roles and responsibilities. For example, we see that quite a large percentage of Kenyan civil servants hail from the Kikuyu Community or Central Province, the Luhya or Western Kenya, the Kalenjin or the Rift Valley, Nairobi and people around here. These areas have very good schools for that matter at primary, secondary and other levels. These are the areas where most of the universities are based. Therefore, the preparation to become somebody within Government or a particular institution is in education or skill development. Therefore, once one gets a position of a public officer, there is that automatic climb to higher positions. So, the issues of appointments, promotion to higher offices is determined even by the initial recruitment pattern where; people say that the number of nurses recruited in a particular county today is determined by how many they sent out for training. It is because the training institutions are in their counties or nearby or because they have even people who can be trained wherever the training institutions will be. So, there is this factor at play, that of preparing who will take over in future through training, education and other related orientation. On the other hand, there is a process of marginalisation.

Let us begin from here. For example, if you are in northern Turkana or northern part of Marsabit, how many schools are there for you to be able to get the skill for you to become a District Officer, teacher, doctor or engineer? It also reflects some sort of regional imbalance in resource allocation in a way, because in the first place the placement of individuals is sometimes seen or perceived to be skewed. Therefore, skewed is influencing or channeling resources to different areas. It may not necessarily be like that but the political perception or the practices that we have experienced over the years or decades have socialized Kenyans into thinking that that is an automatic way of dealing with things.

Now, coming to the challenges in promoting national cohesion and integration, one major challenge is the entrenched negative perceptions among the Kenyans. That is the issue of attitude and building of our thinking over the years into certain ways of perceiving somebody in a particular position or somebody from a particular ethnic or social group. Therefore, there is a lot of stereotype and xenophobic tendencies to all this. There are negative attitudes towards individuals and social groups. For example, for so long there has been a kind of perception about the pastoralists like the Maasai as always being primitive. The same pastoralists, courtesy of the Somalis and their likes in the north, are seen as being warlike. The Kikuyu are thieves because a few people have picked things here and there or love money because they have been industrious or worked hard. The Luhya and the Kamba are at times referred to as liars and at times as very loyal. The Luos think so much about themselves when there is nothing much about them. We hear so many things about all these communities. The coastals are deemed lazy people. So, this has really gone into the minds of many Kenyans to the extent that when they see me or

you, they will definitely know where to place you as long as your name is clearly understood.

The issue of cultural diversity is another critical challenge for integration in this country. Lack of education and value in cultures and the collective image that we really have to display as a people of this country... We have that cultural diversity that is very rich and highly admirable from outside. You see so many people coming to Kenya to see the Maasais or other cultural groups in this country, but we do not see that this is something that we really need to handle; we can condense it into a link with others and promote ourselves both economically, socially and even politically. So, there is a disjoint between different cultural groups and the failure to merge or fuse cultures to come up with a brand that gives us that due premium and promotion of our image.

Political process in this country is a major challenge; it is actually an inhibiting factor in integration. There are historical factors of politics since Independence. Of course the colonial heritage has also not helped us a lot. Kenya has become, especially since the 1990s, a permanent political campaign country. Every weekend is a campaign weekend whether it is five years or five days to the next election. You cannot differentiate between those two seasons. Every weekend, month and year is campaign time. So, Kenyans are always put on that mode – always ready for war. I do not know how far this will take us. It is a major issue and this is what leads to balkanization based on the seasonal or mushrooming of political parties which change interests, identities and names every new month or season; there is balkanization into ethnicities and a sense which group is allied to which, which region has, which candidate and, therefore, what alliance is to strengthen which side.

The political parties have not helped us either and I think we can all remember just before we got the Section 2A of the old Constitution repealed, then President Daniel Moi was always warning us that we were going into ethnic cocoons; in a way he has been vindicated. At that time everybody was finding him negative and bad but in a way we have really contributed to vindication of the same man's voice that political parties have become village resources or ethnic clubs of convenience, which are based on ethnicities to the extent that if a chairman of a particular political party is known by a particular name of an ethnic group, then we know that party belongs to that ethnic group; even the behavior of that chair or that party leader is that first of all, all the members or initial members or constituency of that particular party is his or her ethnic group. There is that critical problem we really have to grow out of if we are to see positive integration.

Then imbalanced development pattern is another issue. It is historical because we have infrastructural problems in many parts of Kenya. There is exclusion from various services. There is marginalisation in education and health, water, roads and other social services. These speak for themselves.

Then there is that problem of lack of adequacy in policy frameworks in as far as addressing the issues of cohesion, integration, peace and reconciliation are concerned. There is need to address these with a very strong lens, determination and commitment. For now, it is a major challenge for us. Political goodwill is always lacking. We have always had parochial and sectional interests, lack of that strong leadership guidance in many instances on many issues. Unless some specific interests are drawn in, we really

have to look at this. I was in Rwanda with a team of teachers from Kenya in the last quarter of 2011; the first thing that really surprised the Kenyan teachers or educational officials was that Kigali was or is very clean. They were looking for garbage or some dirt somewhere and they could not trace any; so they were surprised. It is small but a very good city.

The second thing was security. They could walk anytime of the night. They really liked touring a few places here and there in the evening and they really found things were good. After taking the round trip across the country we had a debriefing session and even after the genocide and even with the problems that hung around the ethnicity and hangovers of genocide and the rest, they still haunt the Kenyan teachers in their lives, that the country was strongly moving forward. I thought that it was only in Addis Ababa where I saw a number of new buildings springing up but Kigali is also growing. It is much more than Nairobi in our region. They asked how they managed all this very clean city after genocide of over a million people; they still sit together as one people and look forward to progressing and becoming a strong economy, albeit the small natural resource base and high land population or concentration. One of the senior officers gave a very short answer and said all these could only be achieved best if you hinge it on leadership. So, our political leadership is an issue for us as a country.

Now, on recommendations on how to address these conflicts, I think the most critical thing and the first step is the policy approach. We really have to take very decisive and brave steps in enacting and developing policies that we also implement with the same strength and commitment. Peace and reconciliation need to really have sound political and policy on which you can hinge them, and the rest of the initiatives. These have to be clear, concise and focused and really strong guidelines supported by firm commitment especially through implementing decisions. If we are faltering weak or *kigegeu*, as many people say around nowadays, we will not reach far. Two, we really need to take a very open, robust and strong reconciliation and integration approach on a long term basis. Our problems are historical and deep rooted. We cannot afford to come up with a wishy washy short term project based one off initiatives. We really have to come up with a robust reconciliation process that is enshrined in cohesion, integration and peace building and other related mechanisms, linking with an institution like the National Cohesion and Integrity Commission, which has a long term mandate in engaging in this area and various other institutions. If possible, create other institutions to support those that are existing or in existence and strengthen them. The education and skill development approach is a very important one. It is actually a lifelong business and we really need to invest in education and skill enhancement for personal and societal growth. We can only achieve most of the changes that we desire through this approach.

On the integration and culture approach, we really need to identify positive cultural aspects that can provide effective linkages and integration and even fusion of culture. In 2009, some civil society organizations conducted an ethnicity and diversity conference and it was an international one; one of the speakers was the chairman of Ghana's peace commission and he said that it was easy for them but he said the national dress was adapted from one ethnic group, the national anthem from another one, the flag symbols from one group to the extent that everything in Ghana was a fusion of those many things

into that national symbol. We need that. We always are very good at emphasizing the 42 tribes plus, and by the way nowadays they are more than 100. So, we cannot hang around 42 tribes. If you taught the Elmolo culture, they are not more than 400 people in total but even that number is after intermarriage and mixing with others. Their exact number as they say may be around 200 to 300 people. If you think their culture is good enough to steer us and maybe even a symbol that you can show on the flag, anthem and the rest, can that be acceptable to me? Why should it not be? If we thought that a bit of Luo, Luhya, Taita, Kamba and Somali, can be dropped into one basket to form one nice symbol for us that should be the way to go. So, we have to really think around the fusion and strengthening of culture in order to develop a common bond even through the language. Kiswahili was feted as our national language but I know a few professors who struggle to speak it today in front of us. They cannot. I do not know how much the ones in this room are versed in it, but I know of a few others who really struggle to speak Kiswahili, yet they speak the Queen's English. It came from far. Kiswahili is just from here within our environment; we really have to be realistic with ourselves and see how much we can achieve in this issue of integration.

Resource allocation and economic development is always the very important thing that we hear from everybody. That is investing in economic and infrastructural development. Most of our industries are in Nairobi, Mombasa and Thika, which is still an extension of Nairobi. There are a few around Nakuru maybe but do you not think it is important to have a fish processing industry along the shores of Lake Turkana? You create employment, money and economic growth. You spur development of small centres into towns and cities. Can you not have the Kenya Meat Commission (KMC) in Mandera for example or in Kapenguria, where you have the highest population of livestock in this country, and which are taken to KMC? So, there is that need to invest in economic and infrastructure in terms for development. We need balanced resource access on regional and social basis, and not only limited to the regions. For now, we know that the counties will ease some of this pressure but how much? We do not know because it is totally an unknown area to us. We are yet to see how much we can achieve through that but there is also that fear of counties becoming ethnic fiefdoms or chiefdoms, especially where there are predominant groups. The minorities within them will really be squeezed even much more than when the larger county was feeling the pressure of the powers in Nairobi. So, there is quite a lot here.

There is access to resources by minorities, specifically deliberate affirmative action or identifying where they are and not limiting them to the Equalisation fund; that goes through developed counties but within those same counties. For example, Marsabit has, as far as I know, one of the highest numbers of minority groups. For example, the Dachnech live 600 kilometers from the north of Marsabit town. It is very difficult for them even to reach their county headquarters. The Elmolo live along the shores of Lake Turkana. The Kolso are not known by many people. The Burji are few. How do you take care of them? There are also the Boni in Lamu, for example, or the Njemps in Baringo. So, there is a need to directly identify these people and give them what can help them; elevate their status.

Then political leadership and enforcement approach. This is where I come to the issue of leadership, which we also heard from the people of that small country called Rwanda. If political leadership does not have the goodwill, interest, focus and the vision, then there is nothing much to struggle with. Honestly, integrity and the rest that is enshrined in chapter 6 of the Constitution will just be rubbished or will not even be understood; therefore, you may not be able to tap from the resource you have created, the people of this country.

Then one important thing in as far as addressing the historical injustices is concerned is the question of reparations, especially at the level of communities and marginalised groups, to whom serious atrocities have been meted, and conflicts have probably depicted a very bad picture, especially through state apparatus like security forces. Take examples from the north and the *Shifita* War period, the post-election violence victims in many parts of Kenya. They are not only limited to the Rift Valley. They are all over. There is real need to come up with a framework of engaging these people in a way that helps them.

My last point is trying to name and shame perpetrators. That is apprehending people. When you talk about conflict, things do not just happen overnight. It is not like the rains where you just receive them from the skies. It is people who plan, scheme and execute and at the end of the day a few reap or benefit from it. There is need to identify these people at the local level, ethnic and cultural level, at national and political level. Whether it is something that affects only a village in a particular county or something that affects all the 40 million people living in this country, there is need to really come out boldly and clearly to confront this situation; we need to, maybe, develop national values that will guide us in implementing all these processes that provide some sort of leadership for us. Thank you very much.

Mr. Yegon: Thank you Commissioner Warko. At this point in time, I will invite the presiding chair to take over.

The Presiding Chair (Commissioner Dinka): Thank you very much Commissioner Waqo for your very pointed presentation, and also for the examples you have given of specific areas of Kenya; I am sure your presentation was very interesting. My colleagues will have a number of questions and comments. So, I would like to give them the floor. Let me start with the Acting Chair.

The Acting Chair (Commissioner Namachanja): Commissioner Waqo, thank you so much for your presentation. My question is in relation to your last input on the county arrangement. We have been going round and minorities in the county arrangement fear that because the voting patterns in Kenya are along ethnic lines they will be marginalised and discriminated against, especially when it comes to sharing top leadership positions. How shall we ensure that we cushion them, yet we know that Kenya is a democratic country and the democratic processes have to be used in terms of electing leaders?

Commissioner Slye: Thank you for a very thorough and detailed presentation about the cause of ethnic conflict and tension in Kenya, and also about some very specific recommendations. I want to focus on one area which came to my mind when you were speaking about the Civil Service issue; I think you have rightly identified it as one of the

problems; this is something we need to change. It is an issue which is about our resources. The dilemma is that you have individuals that are currently in positions. Are they there on merit? There may be some patronage or ethnicity behind. However, there are people who are doing a good job there. We should also have education resources equitably distributed or dispersed throughout the country, but that is long-term as you pointed out. If we find that the people are there because of some national merit, or they are there because of merit, how does one stand to address in a short while the very real perception of marginalization, favouritism and ethnic imbalance, while at the same time focusing on the long time?

Commissioner Shava: Thank you Presiding Chair. Commissioner Waqo, thank you very much for your presentation, which I found very enlightening, particularly in the recommendations. I have no questions for you. I thank you for your presentation.

The Presiding Chair (Commissioner Dinka): Commissioner Waqo, would you like to comment on what has been said so far and then we go to the other side?

Mr. Halake Waqo: Let me begin with where Commissioner Namachanja mentioned the issues of the county. I think on many occasions we as a commission have interacted within ourselves and with other institutions on the arrangements of county and devolution issues. I remember even at one point our vice-chair, who is here, was misquoted by the media in a way that showed that we really oppose devolution. No, we do not but we are only making some cautionary statements on where we need to be conscious of certain facts which we really have to deal with in a decisive and positive way. So, the ethnic voting pattern is a tradition which we all know but the way to get out of it is a major issue. It is a big concern for all of us and maybe how we look at this--- There is some reprieve now because the Constitution defines a few things here and there, and says that there should not be exclusion, marginalisation or letting out of any group; but it is still not very clear which mechanism we will use. This is because people talk about democracy whereas democracy has only been interpreted to mean the highest numbers as opposed to what I read when I was initially introduced to democracy, as the government of the people, for the people and by the people; it is reduced to the number of people you count. At least that is the practice in our politics and, therefore, it may not be democracy.

It may just be bulldozing instead of democracy. I thought democracy also requires some sort of consensus. It does not matter that you all agree. So, there is a problem and we really need to define critical mechanisms – some clear steps in identifying ways of dealing with this; to me minorities in all the counties need to be mapped. We need to have a clear mapping of which minority group is in which part of this country. They may be a blanket of a particular group.

Three months ago I was in training on mediation with a very senior person in this country who served in Government in very senior positions like a parliamentarian and at one time a Minister. We had a chat and at one point when we were closing our training he told me that we people do not look at minorities properly. “You have to really come out very clearly on minorities”. I asked him to give me an example and I would see how much I could say. He told me about the Suba in Nyanza; I told him that I never thought that the Suba were a minority, and that they were just one of the Luo groups; therefore, they were

not a minority. I told him that, in fact, they were in millions, in high positions in the Government and well educated.

The man just told me that I was joking and that is how we were also contributing to the long term marginalization that they have undergone. We were putting them under the same blanket that other people have them under and so, I was to think differently. So, there are those who know clearly that they are minorities but there are many more that we may not know who may be hidden within the bigger groups.

So, without disorganizing the ethnic patterns and creating more disharmonies, there is need to identify and map who those people are when we talk about minorities. We even do not know who the minorities are and so we need to define them and put them on a map in this country. With that, then we can now target them for any kind of reference for economic, social, education empowerment for political support, linkage and related resources.

The issue of allocation of resources; the issue of merit, deserving and patronage as Prof. Sly mentioned, we have identified so many things through some of these statistics that we have. We know a high number is deserving and a few are from minority ethnicities but we have seen that a large bulk is based on political influence. A while ago, the Ministry of Foreign Affairs was up in arms against the Executive for shunning most of their career diplomats for ambassadorial appointments. Many MPs who did not make it back to Parliament through cronyism, friendship and party lineages are outside this country representing Kenya. Those are some of the things that have been raised.

In the short-term, when you have a gap between a particular region in as far as available skills are concerned, what do you do? If you have a trained agricultural officer trained at the Egerton University working for 20 years in any part of the country and 20 of them are from Kiambu, for example, and only one of them can be a District agricultural Officer, then you can spread to many other counties without seeing some sort of balancing, it has caused suspicions and negative reactions. What we are saying is that if, for example, Pokot County does not have somebody with the specific training or background, but some similar training who can also discharge that duty, like a Bachelor of Science in Livestock Management or a diploma in agriculture he could still be given that opportunity to manage. Affirmative action is what I am talking about and not necessarily somebody who has had various degrees. Even somebody who has a diploma can manage affairs. They also have the geographical and social understanding of the area. We should have some sort of bridging the gaps.

We also have the new practices that we have seen when anything comes as regional representation because the Constitution says so. So, already, we are taking some steps. Last year, the Kenya Police Department advertised for recruits and they gave a minimum qualification to be a C grade at Form IV. But, as a commission, we confronted them and told the Office of the President that not many areas in Kenya will give you that caliber of people. We had a very fruitful discussion and, at the end of the day, they relaxed that in many areas especially in the marginalized districts to C- and in some areas even D+. So, these interventions need to be taken as a short term measure.

The Presiding Chair (Commissioner Dinka): Thank you! I will now give the chance to Commissioner Mary Onyango, the Deputy Chair of NCIC.

Ms. Mary Onyango: I just want to make a follow up comment on what was raised by the Acting Chair, Commissioner Namachanja on the issue of minorities especially going forward in the new dispensation and looking at the fact that democracy is about numbers. If you are few, you are few; there is no way you can change that. One of the things we need to look at is civic education as a way of moving us away from what Commissioner Halake raised of “I can only benefit if my person is there” and I think that also came through Prof. Oyugi’s presentation. At the end of the day, we need to move this country to the position where we are concentrating on laws that deliver and not to rely on good will because if we do that, then we will always be in the quagmire that we are finding ourselves in. What we try to do as a Commission when we go out and engage with communities is to move them from the thinking that you can sit down and say that you will give us a senator, a governor or whatever because at the end of the day, that is not a sustainable model. The reality is that when politicians come in, nobody will remember those pacts that have been made that so-and-so will take a particular slot. When the politicians come, they will compete and disregard all the MOUs that you may have made as communities. But if, for example, within the county – the Constitution is very strong on this – people can engage to the point that when the law is being made, you say that taking into account the mapping of minorities in that county, when we have our Equalisation Fund--- I will use the example of Migori where we have engaged a lot with the Kuria. The first place to benefit in infrastructure may be Kuria. That is because the rest of the counties are a little ahead. That is a more sustainable model.

I think that is one of the things that should come out very strongly in recommendations in terms of engaging the populace so that they are empowered to negotiate on sustainable issues rather than look at positions because this is where we are trying to run away from. We are trying to run away from getting only because your person is there.

Thank you!

The Presiding Chair (Commissioner Dinka): Thank you Ms. Onyango. I will now give a chance to my colleagues.

Commissioner Ojienda: Thank you! Mr. Halake, just one point or comment, one of the recommendations that you make - and we must also make - is that of reparation of communities. Unfortunately, in every single corner of this country that we have visited, every community and every person felt marginalized. The formula – this borrows from Prof. Obundho’s presentation on who are the deserving people, how do you identify who needs to be compensated or given reparation and what structure or form of reparation? Do you need an audit or do you just simply give reparations? Those are issues that we are grappling with but we hope that in certain clear cases we may recommend certain specific forms of reparation or design a structure or model for dealing with that.

I do not know what the NCIC have done or recommended on the last recommendation that you seem to make of shaming perpetrators. Often perpetrators are leaders. They are very popular and they attract every person to their rallies and meetings. I do not know how you can turn the psyche of people to start looking at perpetrators as people who ought to be shamed. We need to think of the other side of the coin where we need to encourage reconciliation as a possible model. In Rwanda you have the *Gacaca* system that seems to have tried to reintegrate perpetrators into the community through some service approach where you then get them to give back to the community. I do not know whether you want to comment on the possibility. How do we get those who we perceive as having wronged this country to give back to the country and work towards reconciliation? Unfortunately, unlike the Truth Commission that did its hearing and where we saw many people come forth and confess and speak, in this country, there is a sense in which people defend themselves against accusations. Kenyans are just a different breed of people; I do not understand them. They do not confess or agree to anything and they call lawyers to accompany them. Let me hear you on that.

Commissioner Chawatama: Thank you for your presentation. As we travelled throughout Kenya, people would tell us how they would want their own person in the office of the presidency, vice-presidency, MPs, Ministers and you can imagine how I looked forward to going to Nyeri and Baringo because I wanted to see for myself what the former President Moi and the current President Kibaki have done in their areas where they came from. I was both disappointed and very relieved to find that in both places, there was really no development to talk about. So people's thinking that they have to have one of their own in order for their area to be developed, somehow, was watered down. We kept asking them what they were looking for in terms of the persons to lead them. Many people were very frank and would say that it was not now a question of having their own person, but different values in a leader; the issues of honesty and integrity; someone who is going to be accountable and transparent. I do not know whether that was said then and whether or not in the coming elections, again people will want one of their own. But I am grateful to have met the men and women who make up your Commission and to imagine that I will get on the plane and go home and then you will have to do a lot of work thereafter; I can only wish you the best but thank you.

Commissioner Farah: Thank you, Commissioner Halake but the question of one of our own in Government tends to be with the smaller communities like Ilchamus, for example. They feel that they do not have a PS or Director of Education. But for the larger community, it is not so much. So again, the question of affirmative action has to come up. I think that the NCIC's future job is to ensure that our recommendations are implemented and go beyond that and have your own plan of implementation of action in order to have an integrated society in Kenya.

Kenyans always think of the negative side of things but it is important that we recognize the positive development and take stock of it so that we can see where we stop or how the gradient of the improvement goes down. Thank you because I have been more enlightened by your two presentations.

Commissioner Ojienda: I would like to add one point to what Ms. Betty made and I must comment on the land question. I must confess that there has not been what we call a philosophical shift in land reform and that the closest we got to that shift was Article 68 that said that there would be a designation of minimum and maximum acreage on land holding. I await a landless president and MPs to see that Article enacted into law; to have that framework legislated. I shudder when I see – unfortunately I must confess that at the inception, we were involved. The land Bills and the land registration Bills that have perpetuated the status quo, the framework for the creation of a national land commission is very good and, unfortunately, the counties may get a raw deal of their registration aspects. The registration of private land is not devolved to the counties and if the Central Government or the center maintains or controls that power, we will never solve the land problem in this country. I am sad that land has been used a tool for reparation for communities and unless we have a deliberate approach where we unshackle the gimmicks of the administration of land, just undo it and reassemble it, we will never get it right. We have a good beginning but I do not think that the current Bills allow us to do that.

The Presiding Chair (Commissioner Dinka): Would you like to react to that?

Mr. Halake Waqo: Yes! I think what Judge Chawatama said about one of our own being the president and at the end of the day having nothing much to show for that, is quite common. I agree with you because I have been to Baringo and Othaya and other places. Most of what you see there was from what the people have managed to bring up. I want to remind you that in every food stress season, among the first if not the first, always the second group or the third community to be shown by the media are the people of Baringo Central yet Mr. Moi was an MP for that area for ages, as you know. Even the last food stress season, Baringo was the first to shout.

I have been working around the country and Tana River and the first time I went to Hola Town, there was no electricity. There was a moribund irrigation scheme, dark houses at night and yet, at that particular time, the Head of Public Service was the late Fares Kuindwa who was from there. So, it may not just be our own as such; it may just be any other person after all.

The issue of reparation is very difficult and delicate but we have to look at it from a group point of view as well as individuals. Maybe, it is easier to look at individuals who tell you that in 1982 after the attempted coup, they were arrested, beaten, broken and incarcerated but in a large scale situation where a community is wailing, for example, the NFD question, how would you deal with that? The Maasai and the land question which they always question, how will you discuss it? It is a very delicate matter but it is also a matter that requires bold and courageous steps in addressing because I do not think reparation only means giving me millions or thousands when I asked for it because I was broken here and there. Even a very positive recognition and appreciating that I suffered is part of reparation. We have to come up with innovate processes and probably lists of ways to do that. If the north has been neglected and they have been shouting, what if you went and erected a very good university in Turkana and another one in Marsabit? You will have paid back as they were behind for all these ages. There should be ten good

schools at high school level, two other middle level colleges in Mandera, for example which is thousands of kilometers away and not many people would wish to go there. We really have to think about this issue in an innovative way as opposed to taking a cheque and handing over to somebody who has complained. There is need to look at things in that way; whether at the group, community or individual levels.

The issue of naming and shaming is very delicate and I think it is mentioned within the NCIC Act. It is very difficult to come out and say that Prof. Ojienda is a perpetrator of a particular problem yet it might be otherwise. You have to be careful in handling this and once you speak about somebody in that way, it will have a lifelong ramification effect on that individual. He may be the right person to do that, but you might land on a wrong person. It is delicate but look at that in a situation of what is happening in Moyale. Over 300 people have died whether it is said or not; 500 to 700 houses burnt down and properties worth millions destroyed. Some of those guys cannot do those things again or somebody killed cannot be resurrected. But there are definitely a few people who are in charge of those processes. Can you find a way? You cannot tell me that the intelligence and many other innovative ways of identifying cannot be used, at least, to indicate that something is happening. You may not necessarily declare me as the warlord, dirty and bad using people's blood and resources to elevate my status and myself and, therefore, bar me from contesting in the next elections, but you may just mention my name and warn me. I might, in a way or another, transform or think differently when it comes to the next season in as far as struggle for a particular resource, whether it is water, pasture, political office or any other resources are concerned. In many cases, for example, some of the northern problems arise out of nothing. Like if you go to Moyale today, it might be difficult to know where the objective is. You can only see the damage but the objective may not be easy to understand. All these are delicate issues that we have to struggle with, but in a collective way. I do not think there is one particular institution which can develop a monopoly of knowledge and ideas and laws that support them to engage in this.

The Presiding Chair (Commissioner Dinka): Thank you! I have no question for you but I would like to take this opportunity to thank you for your excellent presentation, recommendations and geographical areas of concern.

Mr. Yegon: The next witness is Mr. Ngunjiri of Change Associates Trust and he has a report that will be presented later to the Commission.

Mr. Ngunjiri Wambugu: Thank you! Our presentation is a bit different in that it was not a process that was developed from an academic perspective. It was more of a reaction after what happened during the PEV where a group of Kenyans from different walks of life decided that it is important for us to find out why tribalism is such an issue. It initially began as a conversation amongst members of the Kikuyu community through an initiative called Kikuyu for Change but within a year, we had realized that it needed to go beyond the Kikuyu community. So, between 2009 and 2011, we held 18 discussions with various members of various communities. These included members of the Maasai, Somali, Luo, Kisii, Teso, Mijikenda, Kalenjin, Luhya, Kamba and the Asian communities. In each of those discussions, we were trying to get answers to four

questions: (i) A definition from within the community of what a member of that community is defined to be. For example, if you are a Kamba, what makes you a Kamba? Are you Kamba because you are born there or because you live there? (ii) How does a typical member of that community engage with people from other communities? (iii) Can you be, for example, Kikuyu or Kamba and Kenyan at the same time? Whether you need to lose one identity to take up the other one? (iv) What is it that a member of that community expects and from where to make them feel Kenyan?

It was a very interesting experience because many of us had never done civic society work before. So, we were doing this for the first time and we were confronting a very difficult conversation head on. We started when emotions were still very raw and so, many of our initial conversations and meetings were very difficult. There was a lot of animosity, frustration and anger but people wanted to have those conversations. We were holding each meeting in a region where a particular community was perceived to come from, and it was focus group kind of discussion involving various leaders. However, we stayed away from active politicians. That is how we began!

There is a phrase I use that I got from the mayor of Garissa who was 29 years old – Mr. Gabow. He said that we must work from the basis that Kenya is a garment of many colours, which is beautiful because each colour is present. We cannot be one colour because we would be dull. Some colours cannot run over others because we would be ugly; we must all stay in place and be bright. That is an ideal situation of where Kenya ought to be. But we are so far from having that ideal. Some of the things that kept coming up were: Whether we understand the things that make us fight because there is belief that Kenya has a problem of inter-ethnic cohesion. But if you look beyond tribal positions, you will realize it is a problem of perceptions, myths and stereotypes of each other. However, nobody has tried to debunk this and so we have people growing in various communities who have been told that other communities behave in a certain way without taking time to find out if it is true. So, we heard conversations that Kikuyus were thieves because a number of members of Government were involved in theft. For example, in Teso, even the small Kikuyu population is perceived as thieves even though there were no direct incidents of any of them stealing anything. We have reached a point in this country where a lot of our conversations are not based on facts, but perceptions that have developed over years.

So, one of the common outcomes is that every community believes they are good; there is no negativity about who they perceive themselves to be. The most interesting were Asians who believe that they are supposed to fight for their space, but they do not have the numbers. They seem to have made up a decision not to be involved in politics because the whole community could suffer. So, they discourage members of their own community who have political inclinations from getting involved in politics because they feel that they do not have the numbers to handle controversy, should they be involved in it. It was interesting because they have been involved in governance for a long time and, except in the Judiciary and the legal fraternity, you tend not to find Asians in most other aspects of public life. They explained that it is nearly taboo for a member of that community to be involved in the public sector.

After we had a nice discussion of how each community is nice, we started having conversations of why tribalism becomes a problem and this became “them”; the other communities. The funniest thing was that out of the 12 discussion fora we captured, the first distinction they made was Kikuyus and those were not political populations. They were ordinary local participants and each of them seemed to have issues with perceptions they had of members of the Kikuyu community from national, regional and local level. Their grievances started from there and the only way to move that conversation forward was to assume that there were no Kikuyus in Kenya. Would we then have a peaceful country? This led to the other communities with grievances specific to other people. So, we said: “Let us assume only your community used to live in this country, would we have peace?” Then it would be inter-clan. So it was interesting that the conversation about ethnicity breaks down to smaller pieces all the way to the point where within the Somali community, you are talking about the clans and sub-clans. So, this conversation about ethnicity needs to be pushed a lot further than where we leave it a lot of the times because we leave it at tribal level. So, we had the discussion about “us being good and them being bad” but once we had dealt with the situation of “just us” and assume that all of us were from the same clan or sub-unit, the next distinction becomes either religion depending on where you are or class. This was most prominent in Mombasa where we were told about *walalahoi*, *walalaheri* and *walalahai*. We were told about the *walalahoi* are the consumables in the Kenyan society. They are the people everybody uses; this is the lowest group in society. Those are the people who do not make news. Unfortunately, majority of Kenyans are in that category.

We were told about the *walalaheri* who are the middle class and we were told it means *heri wao*; they are better off than the *walalahois*. They have met their needs but they are now struggling to meet their wants. The problem is that they have refused to engage on anything beyond their immediate personal interest. So, we have a class that exists that can be defined but that class is driven entirely by individual interest. They will leverage whatever is there. If it is a political situation where somebody they know is going for office, they will take whatever story he is willing to give them as long as they know they will benefit as individuals. So, we have this middle class category that has many people with a lot of influence; the highest people in terms of paying taxes. So, the Government depends on that particular category of people but have completely disengaged from what happens in the society. They really do not get involved. They rarely vote; they rarely come for meetings and I do not know if you noticed that if you are going round the country, you rarely have middle class people coming in for meetings like this. To them, anything that does not immediately affect them at an individual level, they will not participate in it.

Of course, we have the top of the food chain, the *walalahai*.

They really do not get involved. They rarely vote. They rarely come for meetings. I do not know whether you have noticed that as you are going outside the country, you rarely have middle class people coming for meetings like this. To them, anything that does not immediately affect them at an individual level, they will not participate in.

Of course, we have the top of the food chain; the group we are told are called “*Wala hoi*” who are perceived to eat their food and for other people, as you were told in Mombasa. They eat their and for other people. So, this is a small group right at the top who are not affected at all, no matter what happens in the country. That is the perception that exists. Whether the country is in chaos or not; whether we are peaceful or not; whether taxes go up or not; whether fuel and food prices go up or not. This is a group that is so above the fray that they do not think in terms of what is happening to Kenya. They think beyond the boundaries of Kenya. Unfortunately, this is the group that everybody else is looking up to decide the fate of the country. These are the elites in politics and business. Everybody seems to think they are the ones who are supposed to show which direction Kenya is supposed to go without realizing that to them it does not really matter which direction Kenya goes. They are fine. They are going to be safe, whether we go into civil war or not. They will still find a way of making the money they have.

So, those were the lessons we learnt. All of us in every forum we agreed that the process we were following could only lead to mutually assured destruction; what the Americans used to have during the Cold War time where all the parties involved are fighting for something, but to get whatever they are getting will mean that they will have to destroy each other in the process.

A good example was the 2008 post election violence which started as primarily an anti-Kikuyu political protest due to allegations of stealing an election. It expanded to Kisii’s who got into trouble for voting in the Kikuyu. The second wave caught the Kambas who had supposedly joined the Government. Then we had situations of retaliatory attacks before the Government also started coming hard on people. Within a span of a few weeks it had become very clear there were not going to be any winners. Property had been looted, women of all ethnic groups had been raped, hundreds died or maimed. It had stopped being a tribal conflict any more. Even within the tribes people were getting harassed by the militias that had been mobilized. People from that particular tribe were starting to get harassed.

Regionally, Kenya’s neighbours had become jittery about what was happening with the supply lines and the country’s image was completely battered. Whatever economic gains had been made had just turned immediately into huge losses. This national cake that everybody was talking about was quickly coming to an end. By the time we were getting into the power sharing agreement, it was more because really the country was just dwindling into complete failure. Despite whatever animosities and frustrations of each community we engaged with, we heard that that had now become an accepted point that, look if we do not sort out these issues what we saw in 2008, means that if we continue like this we will just destroy our country.

So, you get the point that people are annoyed about the perceptions they have about each other but they want them solved. They just do not know how. They are looking for whatever opportunity will be available for them to solve these problems.

So, when we were looking at what are the ways forward? What are the options that are there? One of them was this Commission. At a point when everybody was having a problem with TJRC we were one of the very few groups which actually insisted that the TJRC needs to go on because the experience we had was that Kenya has too many histories. Everybody has their own history of what happened to them as a community in the formation of the country. Unfortunately, people do not know each other's histories. So, the Somali's have a history of what happened to them. The Kikuyus have a history that goes into the Mau Mau and everything. Every community has a history but the Kikuyus do not know about the history of the Somali's and vice-versa. So, what happens is that when people are fighting; you are all fighting from a point of entitlement because you feel you have suffered more than everybody else without realizing that other people have actually more or less gone through similar experiences. Until the country gets to the point where we can actually harmonize the histories of the various communities we have and create a Kenyan history, we will always fight from the point of we were more harmed than anybody else. For us we believe that the only challenge that could happen would have to be the TJRC process.

In the last four years we have seen a lot of Kenyans in recent history being evicted. We are just looking at the ICC process. It is very interesting to just watch how it is being re-written all over again in terms of who decided we go to the ICC and who did not? Whose benefit is it? If stuff like this is not engaged in publicly, it now becomes the next generation's history and we say that we are in this position because so and so did this to us while in essence that is not what happened. However, because nobody engaged on that issue when it rose up, it became another local community history.

For us, the first thing that came out very clearly which is an observation that we made and we would like to bring to your attention is that this country needs to have a harmonized history of how it has got to the point where it has got. Every community needs to get an opportunity to make their history part of the national history, so that everybody can feel that they are part of the country. We also have a system where we have various communities who have a sense of entitlement because they feel they played a bigger role in the formation of the country than other communities.

In the process, that sense of entitlement allows people to do things that are actually not in the national interest because they feel that we are the ones who paid the price for this country; if it was not for us the country would not exist. If we have a process of having these various histories put together and also challenged because some of them need to get challenged so that we get a final national history of Kenya that also becomes part of what children are taught because that is the other problem.

We realized that the education syllabuses of the country do not actually go into the details or tend to be a bit warped about the history that children actually learn. You will learn about some communities being involved in Mau Mau and you come from a community that was not involved. So, you start wondering, so it means we did not do anything in getting Independence for this country? What does that make you feel as you grow up? What is your attachment to the country? When you are now an adult and people are fighting for political positions and somebody says: You know you guys did not do anything. At what point do you engage?

So, it is going to be very important for the sake of getting this country to move forward to actually have a history of this country that deliberately goes into every community's role because every community played a role. You must have been doing something. If you were in this country at the time when this was happening, you must have done something in your place. So, is it possible for that information to be made publicly available to other communities, so that even you feel what your role was?

The second thing after that history being done is that we actually do need a new structure of politics in this country. We were very excited about the new Constitution. For us, it was because of only one thing based on our experience; the 50 per cent plus 1 rule. We realized that in the old Constitution, the political strategy that existed for you to become president was to divide and rule. All you needed to do was to capture a small group of 40 per cent of the country and then make sure nobody else has a bigger group than yours. So, any time anybody brings a bigger group you just go in there and split it.

The information that exists is that in 1997 we actually got President Moi becoming the President of Kenya with approximately 30 something per cent of the total vote. That was acceptable because that was the political structure that we had then. With the new Constitution we have a structure where you must have 50 percent plus which means it is actually impossible to run on one single community. There is no community in Kenya that gets to that point. So, we have a political structure that is changing to get in politicians to unite people.

Unfortunately, it is not clear in people's minds; that is, what our politics has changed into. Part of what needs to be done is to get Kenyans to understand that our politics has changed from what it was before and to stop fighting as was the case before, because that was a practical way of doing politics. For you to win, you had to divide people. We have all said it was a bad thing, but that is just politics that was there at that time. Now we have a different kind of politics and Kenyans need to understand that the old politics does not work in the new constitutional dispensation.

The third thing is economic empowerment. Something needs to happen in the process of getting basic services to people. What happens is that we have absolute poverty living door to door with substantial wealth. It is said that next to every up market estate in Nairobi is a slum. Once again, we go to the *walala hoi* thing. The slum is the consumables of this particular estate. But what that does is that every time there is a small conflict the first thing you notice is that distinction of; these people have food while we do not have. A national policy needs to be brought to bear on raising the basic services of what we call poor people, so that they are able to access food, healthcare and basic education. The distinction between what a poor person is and what a really rich person is, that gap will be a little less. This gap usually goes a long way in fueling what ends up being called tribal conflict. The perception is that you have that wealth because you come from a particular community.

I participated in a programme that Citizen was running called Face to Five. One of the conversations that we had with one of the ladies from Coast was that the Kikuyus do not allow other people from other communities to come and do business in their region; and that if you come and set up shop, you get robbed. I had to actually explain that you get

robbed, not because you are from another community, but because you have wealth. They will rob you and your neighbour who is a Kikuyu. The perception is that you feel that they have robbed you because you are from another community. You do not internalize that they have robbed you and the Kikuyu neighbour who was next to you. It had nothing to do with tribe. It had everything to do with the fact that you had something that the other person did not have. But since nobody brings that to the fore, you go back to Coast saying: You know those Kikuyus robbed me. That now becomes another conversation. So, issues of economic empowerment will be important.

As I finish, we have seen what is happening in the Coast region. There was a conversation of the Mombasa Republican Party (MRP) where there is a feeling that they should secede. It came up during our discussion forum where they said, everybody says Coast is Kenya while the rest of the country belongs to other people. So, there is the feeling that you are allowed to go and stay in the Coast Province. It does not matter where you come from. It is like nobody was in Coast Province. Other parts of the country are perceived to belong to particular people and you go there as a visitor. That feeling that we come from a place that has certain input into the national cake, but we do not benefit proportionately is making people go back to thinking, we are in an agricultural region, but all of a sudden the people who are actually producing the most are not from here. So, we need to get rid of these people, so that we can actually benefit from that production. So, the issue of common resources and how they will be managed has to be looked into in terms of ensuring that the people who come from the place where we have national resources actually feel that they are benefiting from those national resources even as they go to the central Government.

Finally, we need nationalist politicians. Once again, this connects to what I said about the new Constitution. We need politicians who are able to see beyond the interest of where they come from. It is unfortunate because we agreed in our forums that a lot of communities elect warriors to go and fight other communities. You are campaigning on the basis that I can sort out so and so. If you elect me, I have the capacity and strength; I can fight for our community and ensure that our community does not receive the short end of the stick.

What that has done is that you create antagonistic politicians from day one. You believe you have been sent to parliament to fight everybody else and make sure your county gets the most from the national cake. That is why you get a situation where politicians will not support a part of the country which they know is suffering – as a genuine issue, they will not support it because they feel that I cannot be seen to be saying that money can go to Machakos to dig boreholes and I do not come from there; because when I go to ask for votes people will ask me, did we elect you to represent people of Machakos or to represent us? I think it will just have to be a new generation of politicians who will see Kenya as a whole and realize that if any part of the country is left behind, the whole country actually gets left behind.

Mr. Yegon: Thank you, Mr. Ngunjiri.

The Presiding Chair (Commissioner Dinka): Thank you very much, Mr. Ngunjiri for your concise, but extremely enlightening presentation on a very important issue about

how to reduce tension and eliminate conflict among different communities. This was very helpful. I hope you have a few minutes left for us to ask one or two questions.

Commissioner Namachanja: Thank you. I do not know what motivated you to get engaged into this. But what you did not realize is that you were just moving into conflict transformation. Through your study, you just proved one theory of conflict transformation that states that communities are locked up in vicious cycles of conflicts because of their negative stereotypes, beliefs and attitudes. One way of changing the cycle to positive is by working on these negative stereotypes, beliefs and attitudes. I think when we had our first ethnic clashes in 1991/1992 there were attempts by religious institutions and some community-based organizations to narrow the gap among the groups that were in conflict by working on this relationship and the negative stereotypes, beliefs and attitudes. I wonder, in your view, if you think we have done enough with the 2007 post election violence. Have there been any attempts to bring together the communities to discuss about their negative relationships even as we deal with the root causes, so that they can peacefully co-exist? If not then, what proposal do you have for us?

Commissioner Slye: Thank you both for your presentation, but also for all the incredible work that you and your colleagues are doing in an area that is so important for the future of Kenya. I know you have very little time and so I do not have any specific questions. However, I would ask you, as you move forward in the work that you are doing to think about in what ways this Commission in the limited time that we have left and in our recommendations and findings that we will make in a few months time, how we can help you through those mechanisms in expanding what you are doing and supporting the sort of work that you are doing.

Commissioner Shava: Thank you for coming today. We know you were pressed for time and you were indeed very patient and we have benefited from what you have presented. It was presented very succinctly and in a way that all of us could immediately understand. I think we all followed everything that you were saying. I have one question for you and a couple of comments. Is your study published?

The comments would be that I noted and I would want to commend you and your organization on the engagement with the Kenyan Asian community. What you said is true. There is that reticence that I think even we have noticed in the Commission on the part of the Asian community to engage and there are historical reasons for this which have included various sorts of targeting when there is political violence or upheaval. So, I would just like to really commend your organization on that particular engagement as well as all the other engagements you have made and to encourage you to participate in the forum that we will be having with regard to armed militias because as you said this is something that really affects young people, particularly young men but we saw in the 2007/08 post election violence that we also had young women being drawn into these militias. So, this is a question that we are really going to have to tackle as a country.

We were talking about *Chinkororo* when we were in Kisii. What does it look like? How is it defined? Who are the members? One of the members basically told us that, in his opinion, every member of the community belonged to that militia group. It is a militia

that is raised up when it is needed. When there is a call to arms, everyone will respond. That means that this is a very scary situation because we do not seem to realize how highly militarized our society has become. So, it is really something that needs a lot of care for thought and exploration. So, we would encourage you to participate in that forum as well because you have been engaging with those *walala hoi* for a long time.

The Presiding Chair (Commissioner Dinka): If there are questions we can take more.

Commissioner Farah: I have no question, but just a comment. In 1993/94 when I was attending the Naval War College in Newport Long Island, there was a professor neighbour who asked me whether I could be availing to him all Kenyan newspapers. So, I used to get newspapers from the Embassy, including the Weekly Review. After reading them I used to give them to him. That was in 1993/94 when the Rwandan fiasco occurred. His comments were that your country looks like it is in conflict with itself because of the headlines. He could not even see any moderate newspaper.

Anyway, throughout all the hearings we have held, very few politicians attended our hearings because the subjects that were being discussed were against their way of doing business. Everywhere we went people were saying the problem is our politicians. We have been in a campaign mode every five years, from day one after the elections and the Cabinet is formed to last five years later. So, what you are doing is really a very good exercise and you are targeting the next generation, so that the future leaders of this country can live together in harmony. So, please, I encourage you to go on with the good work. Do not give up. Thank you.

Commissioner Chawatama: Thank you for your presentation. I immensely enjoyed listening to you. Picking up on what Commissioner Farah just ended with on the next generation of leaders which you mentioned; that one of the things that is needed in Kenya is a new generation of leaders. Leaders ought to serve their generation. So, it is people of almost the same age, interests and challenges. I do not know whether or not, you have studied the leadership that we have right now in Kenya in terms of the things that I have mentioned, that is, age, interest, challenges and whether you have looked at the majority of the population and whether you can truly say that the leaders that we have in place now are leaders that are serving their generation.

Commissioner Ojienda: Thank you, Mr. Ngunjiri. I read your articles every so often in the newspapers. You have raised a number of issues. You said in 2002, communities got together. There were no tribal feelings whatsoever. Elections went on. There was a new dispensation. That was also presented by earlier speakers.

In 2007, you then got to do your research and you were told initially the problem was Kikuyus then Luos and so forth. I do not know whether you have done anything beyond the script; whether you have communicated to the leaders in those communities and whether there are tangible things that have to be done or that we can incorporate in our recommendations when we do our report. I really want to hear this because you were right when you said that people elect leaders who can go and fight other communities or fight for them here in Parliament. How do we transform this fighting in Parliament? Do you think that the framework that we have under the new structure, the counties, for

instance, will not be a fertile ground for some of the things you have spoken about? I am noting that certain counties may only have people from one community. I do not know whether you looked at those possibilities. The NCIC has, probably, done a bit of that.

Mr. Ngunjiri Wambugu: Let me start with the last question about whether enough has been heard about 2007. I do not think so. I actually do not think anything has been heard 2007 *vis-a-viz* engaging with the issues that led to post election violence. We have done a lot of political work to bring the politicians together. In my opinion, all the politicians did was to take advantage of underlying issues which they have disengaged with. So, the issues that they actually took advantage of to run their political campaigns still exist. But then pragmatic politics led them to agree to work together as politicians. One of the things I remember, there has always been this conversation about 41 versus 1 and whether it was real or not. What we have discovered is that the 41 versus one was a political slogan. Once you have done the discussions you actually see that there is already an existing underlying perception whether it is real based on reality or it is based on misconceptions. It exists. So, all politicians did was to tap into that underlying issue and convert it into political fodder. Once they had the conversation that they had and agreed to work together and form a coalition government, nobody actually went back to look at the issues that they had tapped into.

So, those issues still exist. If somebody needs to tap into them again, you can always tap into them again. The 41 versus 1 slogan created its own counter within now members of the Kikuyu community and that has not been dealt with either. Once again you see that being tapped into a lot, especially around the ICC issue where people are not reasoning about what exactly is going on. They are dealing with it from the point of one versus 41.

If you ask me, nothing much has been done *vis-a-viz* what led to the events of 2007. I have a feeling that it cannot be done by this particular group of politicians. They are too immersed in what happened. A lot of them owe their positions to what happened and not just at the Executive level even purely at the local councilor and MP level. But to tell them to try and start engaging on that issue is to make them have to eat into the very basis of their political foundation. So, I do not think there is political goodwill. It can only be engaged on from political goodwill because it is going to be a very difficult conversation to have.

There is the question about what the TJRC can do within the time that you still have. I think one part of your recommendations needs to very strongly reinforce the need for a history of Kenya. When you study around every stable country, they have a history that you can tap into. Because if you do not have a history, then you have really nothing that shows that you exist. Kenya does not have a history. We have a Kikuyu history, a Kalenjin history, a Muslim history, a Christian history. We know how Christianity came to Kenya. We know how Islam came to Kenya. We know how Kikuyus or Kalenjin came to Kenya. But nobody tells you how Kenya came into being. We should all agree and sit down and say, this is where we are.

When the ANC was celebrating their 100 years anniversary recently, they went to the field where they began. The ANC did some very bad things in South Africa. That is part of their history. They are able to pick those and the good, bring it together and make

something. We have a tendency in this country of not taking anything to its logic conclusion. If you look at KANU today, we should actually be talking about what it has done in the last 50 years. In essence, what you are seeing is a party that is trying to pretend its history does not exist and re-create a new one. While we need to be able to go into that history, if there was an issue about Mau Mau and how they performed in this country, we need to go into it and find out what was the bad and the good. We are all products of that particular process.

My opinion is that if there is something that the TJRC must do, it is to reinforce the need for this country to actually create a national history as far back as we can go because for some of us, my generation, Kenya starts from when we became aware. That is when you were going to High School. That is the Kenya you know. You do not know the Kenya of Kenyatta; you just hear about it. That needs to get dealt with.

There is the issue of the communities. Communities have their own unwritten constitutions and that is what leads them to generate warriors in the current age or in the past political competition. I think somebody needs to actually think about it. I do not know whether this is your work or for the NCIC to actually think about enabling communities to re-do their constitutions in the context of which we live in. Communities have their own unwritten constitutions of how they operate. For example, within the Kikuyu Community, there is a feeling that you cannot be led by a Luo. That is part of a local unwritten constitution. Somebody needs to go and challenge that constitution and find out where did it come from and at what point did it apply? Does it apply today? There are certain things that exist in communities that need to be looked at. Deliberately, communities need to be taken through the process of re-engaging on how they operate with themselves and with other communities. That is a role that you can play.

On the issue of militias and the youth, it is true. Today, nearly every community has a militia. Whether it is overt or covert, but it exists. In 2007, it played a very big role in getting us to that point. Now everybody feels that we are under threat. So, what we actually have become is a country of 42 plus small nations with our own armies. So, it is not a permanent army. It is called upon whenever it is required. It is reinforced and encouraged to exist. We have communities going around, shoving other communities around, because you feel that your militia is more powerful than theirs. A lot of that is because of that feeling that if you belong to a militia of a particular community then anybody who does not belong to that community is an enemy either current or potential. If you are called to go and harm them, you are not thinking about them as being human beings. It is like Uganda attacking Somalia or Ethiopia today. At that point you are both humans but you wear different colours. That is what is happening within the communities. Youth are being indoctrinated to think like that. Because of that consumable aspect it becomes a place for you to make some money. You get youth organizing and forming militias which become vigilantes during peace time and become active militias during conflict. So, that in my opinion is a complete lack of patriotism. I attended the Kenya Daima Launch that the private sector had on Monday. They played some songs that used to be played during Moi's time. We were making fun with somebody that one of the things Moi tried to do was instill patriotism through various things. He might have done some things differently from what we expected, but he

invested a lot of time in getting people to sing songs that made them think about Kenya as a country.

I think that is one of the things that is lacking. We have a lot of nation-building projects but we have very little nationhood building projects. Nobody is really trying to build the idea of a nation or ingrain it in us and make us feel Kenyan. We always make fun that Kenyans live abroad. We have no Kenyans in Kenya. When you are out of the country everybody says I am a Kenyan. You have a flag in your house. Once you get into the airport, you become a Kikuyu or Kalenjin. That is where you engage from. It is a very sad situation, but it is true. You will find people have an understanding of every other identity they have. What your responsibilities are as a Christian, Muslim, woman, man, youth or old person, but they have no understanding of what it means to be Kenyan. Nobody is engaging on that issue. When a crisis happens and we are expected to respond to it as a Kenyan, nobody does because we have no idea what it means to be a Kenyan. If that is done for this generation as it grows, we will actually be able to tackle the whole issue of militias.

One of the Commissioners made a comment about our politicians saying that there are people who complain about our politicians. One of the things we have noticed and we are trying to explain in a programme we have called Siasa Mpya is that there is absolutely nothing wrong with our politicians. It is our politics that is wrong because Kenya, according to the facts that exist, changes close to 70 per cent of its politicians every general election but their politics do not change. That is what we are trying to get people to understand; that there is absolutely nothing wrong with our politicians because they just go to do what we have sent them to do. It is just that our whole political culture is wrong. We could keep trying to change politicians but until we change the political culture that they operate under, they will not change. This is because even if you are a good person and you have been sent there to do a particular job and you try and do it the best way you can and it is not a nation-building job you have been sent to do; you have been sent to pool resources as much as you can for your community which automatically puts you in conflict with every other politician in that House. So, you are going to fight from day one. That is the only way you are guaranteed to be re-elected. So, even if you do not want to fight, you actually have to keep fighting. So, we have to look at our politics. I hope that the new Constitution will play a role in doing that.

Yes, the leaders we have are not from this generation. It is quite clear. Seventy per cent of them, as per statistics are 35 years and below. The problem we have is that this 70 per cent is still looking at the leaders that exist to show them direction. Somebody commented that these guys cannot even do a five-year plan at this moment in time while actually what this country needs is 10 to 15 year plans. They are already at the point in their lives where they know that, if I am here for the next five years it is purely by God's grace. So, there will be need for processes that actually encourage young people to organize politically. That is another problem that we have; young people are organized by that generation of leaders. They have not thought about the need to organize politically. We hope that some of the processes that we are engaging in with other people in terms of trying to have a discourse about what politics is actually supposed to be, will generate a generation of leaders for this particular generation at least for the next 20 to 30 years. Did

we meet leaders of the community? Yes we did! The meeting with the members of the Maasai community was actually interesting because we were having an average of 120 people coming. The Maasai community group, 80 per cent of them were elders from the chairman. It was a very peculiar meeting because I was the only Kikuyu and they first gave me a complete talk-out about how bad Kikuyus are for two hours; from 1947. I was given a whole history of all the bad things Kikuyus have done to the Maasai. But it was an interesting meeting and the engagement also enabled a situation for us to understand that we also have an inter-generational conversation that is going on internally in a lot of communities. For this country to move forward especially in terms of ethnic cohesion, I think it is going to be nearly a waste of effort to have that conversation with a certain generation and above. They are stuck in what they believe. Fortunately for Kenya, it is a smaller portion of the community and they are really not harmful. As somebody said, we never went into actual active conflict when that generation was the one in complete political authority. From 1992-1997; 2002-2007 it is a generation that has been taking over power that was not that --- But it has been fighting for space and a lot of their fighting has taken advantage of the conflict that the older generation had managed to contain. They had issues with each other but they were able to manage them without them going out of hand. So, that particular generation as they exit in one way or another, we hope that there will be a new generation that is able to think nationally and think beyond what we have.

The issue of newspapers which you commented about is actually something that maybe somebody needs to put pressure on. Kenya thrives on negativity. News does not work if it is not negative. It is like we are addicted to negative news that it is so difficult to actually have a conversation about positive things. Unfortunately, the lack of positive issues means we are never thinking about moving the country forward. We are caught into what we call --- Everybody is only talking about the bad things that are happening to them. Nobody looks at the glass as half full.

Is our work published? We have done the report which will be giving part of what we did. We are hoping to do a book at some point. The issue about the Asians, I think for me it was a personal issue because I went to a primary school where a lot of my classmates were Asians. But by High School, I did not know where they had gone. They all used to finish Standard Eight in our time and probably fly out of the country. Gradually, you start realizing that there is a certain lack of ownership and you try to understand. So, I was really interested as a personal business to understand why that happens.

As I conclude, there is a problem on this issue of lack of a Kenyan identity. It is something that has to be deliberated on or looked at because lack of that identity means that we are not able to stand out and talk about other people's identity.

So, we have a situation where, if a Kikuyu is talking on issues affecting the Kikuyu, it is difficult. Other members of the other communities will call you a traitor because you cannot be talking about those things because you have nowhere to stand to do so. We need a place where you can step out of community identity and step into something higher that takes away from us our communal identity and that can only be the Kenyan identities. Somehow we need to invest in the Kenyan identity so that all of us can belong to Kenya. I can get out of my Kikuyu identity and look at the Kikuyus from outside, and

say: “You know we need to change this and that.” As long as that does not exist, we will never have constructive discussions about our community identities and move forward.

Thank you very much.

The Presiding Chair (Commissioner Dinka): Thank you very much. This has been truly impressive. We thank you very much. Also, like Commissioner Chawatama has said, I would like to encourage you and your colleagues to continue in the same spirit and commitment.

Thank you very much.

Ladies and gentlemen, I think now we will break for a few minutes and then we come back to listen to the remaining presenters.

It is now 3.00 p.m. we will come back at 3.30 p.m. That is a break of 30 minutes.

(The Commission adjourned shortly at 3.00 p.m.)

(The Commission resumed at 3.55 p.m.)

Mr. Yegon: Thank you Presiding Chair.

Let us stand up to welcome the Commissioners. Please switch off your mobile phones or put them on silent modes or vibration so that they do not disrupt the process.

Thank you Presiding Chair, for this opportunity to continue with our discussion on ethnic conflict.

This afternoon we have a single speaker, Ms. Katindi Njonjo, who is the head of features at the Institute of Economic Affairs. The Institute of Economic Affairs has conducted several studies, the latest of which include the studies on funds and scenario mapping. But more importantly for this particular session and theme, the Institute of Economic Affairs has conducted a study on what they refer to as “Kenyan Divides.” One of the Kenyan divides that they deal with is the ethnic divide and we thought it necessary that she speaks to the Commission on some of the findings of this particular study.

She will make her presentation for a brief moment and then have a summarized video show which she will run for approximately 25 minutes. Therefore, she will be within time in her presentation.

Thank you.

Ms. Katindi, you can go ahead.

Ms. Katindi Njonjo: Okay. As you have been told, my name is Katindi Sidi Njonjo. I work at the Institute of Economic Affairs. I am going to talk about the possible scenarios for the future and I am looking at the annexes between ethnicity and the inter-generation divides. So, basically it is on the question of ethnicity and the young people.

Just as he has said, I do features; therefore, I will be talking about scenarios. But the basis of this inter-generational work is the fact that when the 2007 Post-Election Violation (PEV) was analyzed, a few things came to play. The first is that the young people were at the centre of this conflict. A study was done by the Youth Agenda that was saying that seven per cent of the young people were involved in pre-planning of the violence and about 55 per cent were involved in the execution of the violence.

What was interesting about the PEV, as you may have heard from previous speakers, is the fact that young people were organized along ethnic lines. They also did not just react to a stolen election, but they instigated class, gender and inter-generational conflicts. This was manifested in different ways; raping of women, attacks on those who were innocent and perceived to be rich and also on those who were perceived to be older. But it is very interesting because this question of young people is played out around the world in the same way it is in Northern Africa, particularly showing us that young people cannot be relegated to the periphery. I think this is the reason why I had decided just to look at the question of young people and the complexities that it presents.

One of the analyses that we have done is just looking deeper into the young people as the whole question of demographics. If you look at how Kenya is organized and just on the question of population; about 43 per cent of Kenyans are below the age of 14 years and another 35 per cent are at the age of between 15 and 35 years old. So, basically 78 per cent of Kenyans are below 35 years old. What should be happening in the next twenty to thirty years is that the rich population of children is going to be shrinking because people are giving birth to fewer children more and they are giving birth later.

So, Sub-Saharan Africa is yet to experience what we called the youth-march, and that has implications for the future. One of the implications for twenty to thirty years is the fact that most of the population will be at the reproductive age and what that means is that we are going to have a huge population or rather an increased population because Kenyans who are in the production age are going to give birth even if to few children. The other interesting thing is that, because of an increasing number of young people, we are going to have a bigger demand for jobs and for social services like education and health; and of course, an increased migration from rural to urban areas. We are increasing the population, the youth are well educated but unemployed. What does that mean for us in the future? Demographers say that a population structure like ours has a 26 per cent chance of civil conflict. With a bulging youth population, that probability increases by 150 per cent.

When we went around the country and we met about 200 young people in all the provinces, we asked them what that means for them in the future. Part of the messages we were getting is the fact that, young people are feeling relatively deprived. Basically, this means that most of them are feeling that they have been unjustly treated and they are not getting opportunities that are due to them. They also feel that other people in other places have more compared to them.

The other interesting thing is just the whole question of the extent of youth participation in social, economic and political spaces. This has resulted into different things like militarization of the country. Yes, there is space but the fact that space does not present

meaningful opportunities for them to participate; they are forming illegitimate ways of participation. One of the things they do is to organize themselves around what they call crime-control vigilantism, which has been legitimized by our government.

When we tell young people or communities that they can be involved in community policing; what the young people are doing is to come together, join forces and provide security service because there is lack of adequate security for people. What we do not realize is that, the same group of young people move on and begins extorting money from people and levying taxes; but beyond that they are the same young people who are organized by the politicians to be foot soldiers during campaigns. Of course, they are also organized by communities to provide moral vigilantism. At the Coast and even in Kisii, for example, you hear about things like that; they come together and lynch people who are perceived to be witch doctors and the stuff like that.

In Northern Kenya again, there is religious fundamentalism. This presents very interesting perspectives for us in terms of the future because the young people organize themselves along ethnic lines. It is these ethnic lines that perpetrate some of the injustices that we begin to see. So, we as futurists sort of put together a team to ask ourselves what to do with these things to be meaningful for us in the future. This is captured in a video that basically shows us the probabilities of four scenarios for Kenya in 2031; looking at the question of young people, the whole questions of ethnicity and relative deprivation. So, I hope, just by watching the video, we will have a conversation that is meaningful.

(The Commission and the audience were treated to a video show)

The Presiding Chair (Commissioner Dinka): Thank you very much, Ms. Njonjo for your presentation and for the clip, although I cannot say I understood it. But when my colleagues will ask you questions, I might get ideas. So, I thank you very much and I open the floor for questions and discussions.

Commissioner Shava: Thank you very much, Ms. Katindi Njonjo. I do not have a question but just an observation. That was a very dense presentation which I think we will have to observe, and which I have not seen before. I think it is very new, as it is talking about the end of 2011. It requires some time to absorb.

However, I feel it is very subtle, although I was shocked in few places, especially on the boundaries. I know that the scenarios were not developed for the 2002 election, they were taken lightly in this country and what we saw in those scenarios as developed is exactly what happened in 2007 and, which people said could never happen in Kenya. This is the reason why I do not take the document we have just seen lightly.

What I gathered was that, it was the waterfall state, the tsunami, the state stormy and ocean state. I think those are the four new scenarios that we need to consider. I hope you will be giving us copies of that documentary so that we can study them. I think the main thing that comes through for me is that, we will disregard our history at our own risk. If we do not take strong actions now, the issues that we are failing to address will not go

away, but they will just come back and destroy us later. So, I think your presentation to us is, indeed, very timely and we will consider it with the seriousness it deserves.

Thank you very much.

The Presiding Chair (Commissioner Dinka): Thank you. Commissioner Ojienda, you have the floor.

Commissioner Ojienda: Thank you Ms. Katindi Njonjo for your presentation. I have had the advantage of looking at the so-called four scenarios and of course--- I think from the outset, I would say that it is shocking that you came up with these scenarios. As it has been said before, impossibilities usually become probabilities. But I just want to find out, we have seen a sizeable youth population coming together and displaying revolutions of the North. We saw what happened in Tunisia and those other countries.

In Kenya, I can see Peter who has been involved in the Vijana Tugutuke Campaigns, in the room and that is the conscience you seem to present as a possible scenario. I do not know whether there is a youth consciousness that can get together all that exists for that matter, to have formed a basis for you to look at the scenarios as early as 2012 or 2013. You have the youth in leadership then the youth form the Government or part of government, and going forward to 2022.

I do not know whether your scenarios or project failed to take into account the existence of the old population that is not about to go away. And, whether you thought of the really possibilities in terms of how this other group that is there controls politics, would influence what you have referred to as your four scenarios.

I do not know whether you understand where I am coming from because your scenarios are very good and I understand them. But, did you do that in terms of the reality that we have at the moment? How will you shake off that right now? I just want you to comment on that.

Then I do not know what kind of group or youth you reached. I saw one person dreaming over those four scenarios and I presume there are many who are dreaming alike, they are different people. What youth are you talking about? Are you, essentially talking about the urban youth? Did you reach out to the youth in the counties as you mapped out these scenarios? Improbabilities must also be tested with the participants. What methodology did you adopt in your study that you could probably provide us with to help us make certain recommendations? Our report looks into the future and certainly to the youth and not to most of us who are sitting here who have about ten or twenty years to go.

Commissioner Farah: Thank you very much, Ms. Katindi, for your good presentation and the video. I do not know you will answer him. However, the professor here is talking about the kind of youth who are graduating today. However, I believe that the rural youth are controlled by the urban youth, not the other way round. We are talking about the youth that are graduating every day, but they are not being absorbed in the job market. So, I think the youth factor is now clear to us.

You said percentage of the youth population in Coast is below 30. This is a worrying trend. As we continue, those of us, you say are left with ten years or three years to work, but we refused to let the youth take over from us. We leave this forum and go to another forum where we continue with leadership positions. The professor here is a bit younger than me. He wants me to go, but I am not going soon. When you prepared this video, you really went up to 2030 presumably because of the Vision 2030. To me, it makes sense.

The Presiding Chair (Commissioner Dinka): Thank you, Mr. Njonjo. As I said earlier, my understanding of these things is very low to say the least. Scenarios could be built upon frightening or inspiring situation. What I have seen is mostly frightening scenario. So, if this does not happen in 2012, it could happen in 2030. Why did you not choose inspiring scenario, for example, this to happen in 2012 or next year?

We all know that scenarios are not made in a vacuum. There must be very serious research that forms the basis of the scenario. What is the kind of research that your group has conducted throughout the country which formed the basis of this scenario?

Ms. Katindi Njonjo: Thank you for those two questions. I will strive to answer them. As I mentioned before, this study was concentrated on ethnic division. So, I did not see the need to repeat it here. However, my challenge to this team was to show them how ethnicity could not be looked into in an isolation scenario. It has to be looked at in relation to issues of demographics, social, economic and politics factors. The reason we presented them as scenarios is because these things interact on daily basis. Ethnicity does not go on in a line. It interacts with politics. That is why the scenarios' outcomes are the way they are.

Secondly, I think one of the reasons why we decided to anchor the scenarios on the youth is because, again as I mentioned before, they were the main actors in the post election violence. If you listen to the Kenyan debate, a lot of people say that there is an issue which needs to be addressed in order to help our youth. However, many people do not know what ails youth in this country. First, we need to understand them in terms of where they are in the moment. What they are doing? What are their inspirations? We produced a youth fact book which I can give to the researchers to present to you. This book highlights the magnitude of the problem we are confronted with in Kenya with regard to youth. Sometimes it is alleged in some quarters that youth are problem themselves. However, lack of opportunities for them present a very big challenge that must be addressed.

The third thing is what the Commissioner Ojienda has alluded to; this is the fact, that people who are now 15 years to 35 years old, in 2030, they will be between 34 years and 54 years old. In fact, they will be driving the economy of this country. They will be the people to sit in a Commission like this. They will be the ones in leadership and driving business. Therefore, if ethnicity is a problem now, how will it be in future? In my view, I think from the trends that we are seeing if you just look at weddings, every five weddings, three or four of them are inter-cross marriages. This means the future generations will not necessarily be anchored on their ethnic backgrounds. However, I think it will also present different challenges. There are parents like us who are aligned to

our ethnic backgrounds who are not ready to change with times. So, in my view, this will affect how the youth of today think, feel and their psyche. So, I think that is why we decided to anchor on young people, but not because we needed to isolate the other people. The fact of the matter is youth are a critical mass in Kenya. They are refusing to be silenced and are driving the future. Look at what is happening in northern Africa. The youth in that region have defined the future of their countries.

So, we deliberately focused on the youth mainly because of the fact that we see issues that affect them needs to be addressed. We needed to provide solutions to their myriad problems. What kind of youth did we talk to? We travelled throughout the country. So, we had urban teams. But we also had young people. Majority of them were from rural areas. But we made sure that all the counties were represented. There were really youth leaders that we talked to. But one of the interesting things that we saw was the anger. The anger was so intense, especially in Northern Kenya and Coast Province. I started wondering whether in the next few years we will have a country called Kenya. You heard one of the young men in North Eastern saying if Somalia was peacefully, they would not bother being Kenyans. They were angry to an extent they are not proud to be Kenyans. Sometimes they are asked whether they are really Kenyans because of their hair. That stigmatization really makes them angry. One young man told us that you know the reason they are joining *Al-shabaab* and other militia groups is because they do not have alternatives. They are sitting around waiting for opportunities which do not come by easily. So, as a way of creating the identity, as a way of finding meaning into their lives, they are joining those groups to satisfy that need. So, that presents very interesting challenges,

In Coast Province, the issue of land was more prominent than any other issue. In fact, one of the interesting comments that came out was they felt that the drug question in Coast Province was a result of the older people or the politicians incapacitating them, so that they do not question the land issues. They do not question the historical injustice which I thought was a very interesting perspective. But all in all, I think it is an issue that needs to be given a lot more attention because they see themselves as a region, as an ethnic group that has been marginalized. I think that has really got to be taken into account.

The other thing is about scenarios being frightening. As I said, the young people presented them to us. What we decided to do was to take the scenario that was most preferable and do visioning so that using the scenarios, we ask ourselves, what would we like to happen to us and how can get there? We want to turn negatives into positives. We deliberately talk about policy proposals, strategies and programmes that can be put in place to address these issues. But the first place was to show everybody where young people think Kenya would be in 2031 and not a sense bury our head in the sand and say this is not happening.

Yes, we did a lot of research. We have the fact book. We have a youth compendium that I shall give to this team. A youth compendium has papers on health, education, vigilantism and politics. How has Kenya evolved over time in those issues? What does the future hold for them? So, we have a lot of research. Therefore, the scenarios were built on a lot of research.

Commissioner Farah: Just one last one, did you take into account a new dispensation that is mishandled, in other words the devolution, the county government, money trickling from the centre to the county that is mishandled through corruption and through other things? Did that scenario occur to you in that future projection, or were you thinking of the centralized old Government?

Ms. Katindi Njonjo: The County Government evolved in different scenarios in different ways. The first one was that counties could become countries in themselves and then ethnicity plays part in terms of political leadership. By creating those territories and protectionist mechanism, it will impact negatively on those counties. It has implications on to what extent the so considered foreigners in that particular county would live harmoniously with the rest and so on. But then, there was the whole question of counties encouraging other people to invest in their counties for competition purposes. But then, there was also the other issue of the agriculturally productive counties forming what is called the C15. That C15 is almost like saying we are a developed county. The rest of you do not have you acts together. So, again, you in a sense begin to increase the inequalities. But how we carry out devolution , how we implement the Constitution, the role of the judiciary in deciding the cases, and the whole question on the policies we put in place to address unemployment, are going to be very critical on how ethnicity plays a role and the future of the country. That is the basic summary of the discussion. Thank you.

The Presiding Chair (Commissioner Dinka): Thank you very much. I see no question being asked. You have given us a good summary of what you think can happen if certain things do not take place. We will continue to study this presentation properly. We thank you. We have come to the end of today's hearing. Tomorrow at 9.00 a.m. we will come in and listen to other presentation. But for today, that is the end of it. Our meeting stands adjourned until tomorrow morning, at 9.00 a.m.

(The Commission adjourned at 5.00 p.m.)