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Public Hearing Transcripts - Thematic - Torture - RTJRC07.03 (Nyayo House) (Torture)

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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON WEDNESDAY, 7TH
MARCH, 2012, AT NYAYO HOUSE, NAIROBI**
(Thematic Hearings on Torture)

PRESENT

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

(The Commission commenced at 10.00 a.m.)

The Presiding Chair (Commissioner Chawatama): Good morning. Please, remain seated for the National Anthem. On behalf of the Truth, Justice and Reconciliation Commission, we welcome you today to these special sittings for the thematic hearings that touch on torture. Before I go any further, I will introduce to you the panel that is sitting in front of you.

I am the Presiding Chair for this session. This is our second day of hearings here at Nyayo House. We have heard from torture victims who have described to us their experiences. We have heard how they were treated by different institutions. We have also heard of the roles of the Special Branch, the police, the Judiciary and how they appeared before court seeking justice and the outcome of those appearances before the courts. We have also heard of the treatment they received in prison at the hands of prison warders. So, there is much that has come out of these hearings that have touched on different institutions and has brought to light how these institutions operated and how the citizens of Kenya were treated. We will continue to hear from the victims. We will continue to hear about the impact that the torture has had on their lives and the lives of their families. What is clear is that whether one person is assassinated or tortured, there is always the bigger picture and that is the family of that person. Sometimes, it could be the wife and children but also the extended family of brothers, sisters and grandmothers. So, an act against one person affects many people. Maybe that is something that is overlooked. As we continue hearing from the victims, we will give them the respect that they deserve. We will keep silent. We will switch off our cell phones and give them an opportunity to speak. Most of the people you will hear from have been traumatized and we will hear them. Please, help them in sharing their experience by maintaining silence. Should they break down, continue to maintain silence as they compose themselves. We thank you very much.

Leader of evidence, are we ready with the first witness?

Ms. Belinda Akello: Yes, we are ready with the first witness.

The Presiding Chair (Commissioner Chawatama): Please, introduce the first witness and proceed.

Ms. Belinda Akello: The first witness is a representative of the Permanent Secretary, Ministry of Public Works. The Permanent Secretary has sent apologies for not being able to come. We will let the witness introduce himself and his rank.

(Sylvester Muli took the oath)

The Presiding Chair (Commissioner Chawatama): The witness will begin by telling us why he is the one here and not the Permanent Secretary and why we did not receive sufficient notice from the Permanent Secretary that he would not be attending this meeting.

Mr. Sylvester Muli: My name is Architect S.K Muli. I work for the Ministry of Public Works and I am here to represent the Permanent Secretary in that Ministry. The Permanent Secretary was engaged in other activities and could not attend these sessions. He has sent his apologies and has asked me to represent him in the hearings.

Ms. Belinda Akello: Thank you very much. Kindly, tell us what you do and your rank.

Mr. Sylvester Muli: I am an architect as I said under the Ministry of Public Works. I am the Principal Superintendent Architect and I am in charge of projects for the Provincial Administration and Internal Security.

Ms. Belinda Akello: We thank you for coming. Welcome to today's thematic hearings on Nyayo House which also falls under the Ministry of State for Provincial Administration and Internal Security. You have been invited today to shed light on the construction of Nyayo House and the reason why it was built. Kindly, tell us whether you are the architect who drew the plans or not and about the electrification of this place in terms of hiring, the use of this house, what it has continued to be used for and the thinking when it was built and any future plans that the Government has.

We welcome you to make your presentation.

Mr. Sylvester Muli: Thank you very much. I must admit that I was asked to come last night. However, I will answer a few questions. This building was done in the early 1980s under the supervision of the Ministry of Public Works. It was done directly under consultants. The lead consultant was Ngotho Architect. Ngotho Architect passed on about three years ago. The building was done solely for the purpose of Provincial Administration for office use of various Government Departments and it continues, to us, as such. The Ministry of Public Works is in the process of getting the original drawings as designed. The lead architect, having passed on, has posed a challenge in getting the drawings. The Ministry is, however, trying to get from the archives. When we get the drawings, we will establish the building as designed. As the building is today, the Ministry has not received any request from the Provincial Administration for any further

modifications or refurbishments as to the use of space. When we get such a request, then we will modify as they require. Thank you.

Ms. Belinda Akello: Thank you. You have informed us who were behind the drawings and the architect. For the infamous use of this house, it has come to our knowledge that there is special electrical wiring that was put in the building. Could you also make available to us the company that was responsible for the electrification or the plumbing of the place?

Mr. Sylvester Muli: As I said, the lead architect was Ngotho Architects. The lead architect had a team of electrical engineers, mechanical engineers and structural engineers. That team was responsible for the design and supervision. Once we get the drawing, we will give details of the entire team including the contractor who did the work.

Ms. Belinda Akello: Thank you. Are you aware of any other buildings that the said company was tasked to build apart from Nyayo House?

Mr. Sylvester Muli: Yes, the same architects did Garissa Teachers College and Voi Teachers College which were access free.

Ms. Belinda Akello: Thank you. From your Ministry, kindly inform us whether with the demise of Ngotho the company is operational. Does the Government still secure services from the company to date?

Mr. Sylvester Muli: The Government has not secured services from Ngotho Architects. We are in the process of establishing what happened to the firm after the demise of Ngotho. The Company was a sole proprietorship.

Ms. Belinda Akello: Thank you very much. In your experience as a senior Government official, when the Government seeks to make a construction, for instance, a prison or any other big construction that it needs, what procedures does it take? Is there a meeting that precedes it or a policy that is given for any major construction for the Government to secure services from the Ministry of Public Works?

Mr. Sylvester Muli: The Ministry of Public Works does not decide on what needs to be constructed. The client Ministries are the ones which come with a brief of exactly what they need to do. They present that to the Ministry of Public Works, either in written brief or in form of discussions in a meeting. The Ministry of Public Works, through the engineers, architects and quantity surveyors translate this brief into a built form. Through preliminary designs, detailed designs and the final results are achieved and that is the building.

Ms. Belinda Akello: Mr. Muli, just confirm to us that in the Ministry of Public Works, we have some records in either written brief or minutes or a minute in which the Ministry was given a brief to construct this building?

Mr. Sylvester Muli: As I said, the building was done in the early 1980s. It may be possible or not possible to get the brief.

Ms. Belinda Akello: For our information, are there instances where the Ministry can decline to proceed with the construction of Government offices? In your constituting Act, are there instances where you are allowed to say no when you have been given a brief by a Ministry?

Mr. Sylvester Muli: The Ministry cannot say no because it is serving the Government. It has a mandate to provide office accommodation for Government Ministries. I am not aware of any case where the Ministry may have declined.

Ms. Belinda Akello: Let me rephrase this. In your capacity as the Principal Superintendent Architect, if today you were called into a briefing session by a client Ministry and you are made aware that they are constructing something like a torture chamber, as a directive from the Government, does your job allow you to either say “Yes” or “No” or the fact that it has come from the Government you proceed without question?

Mr. Sylvester Muli: Once the Ministry gets a brief from other client Ministries, we believe and understand that the Ministry has done enough feasibility to establish what they want. We will only discuss with them the practical use of any space they require. We believe what they give us is, perhaps, part of their mandate.

Ms. Belinda Akello: Thank you very much. Presiding Chair that is all from the Leader of Evidence...

The Presiding Chair (Commissioner Chawatama): Thank you very much. Before we proceed to ask questions, leader of evidence, do you know when the notice was sent to the Ministry for them to appear before this Commission? Is there anybody with that knowledge?

(Consultations)

Ms. Belinda Akello: Madam Presiding Chair, we are getting information that the first notification went to the Permanent Secretary in May, 2011 and that the second one went in the second week of February this year as notification to appear before the Commission.

The Presiding Chair (Commissioner Chawatama): With those dates in mind, we will proceed to ask questions. Maj-Gen. Farah, do you have any questions for this witness?

Commissioner Farah: Mr. Muli, could you tell the Commission what your rank is? When I ask about your rank, I am asking what your grade is in the Civil Service structure.

Mr. Sylvester Muli: I am a Principal Superintendent Architect and that is Job Group Q in the Government structure.

Commissioner Farah: How many other architects are above you up to the level of Job Group S?

Mr. Sylvester Muli: There are five architects in all.

Commissioner Farah: You do agree with the Commission that, therefore, you are a very junior architect in the structure?

Mr. Sylvester Muli: Yes.

Commissioner Farah: Why do you think that the Permanent Secretary sent you to this Commission when there are very many senior architects above you in view of the gravity of the matter at hand and in view of the seriousness of the information that the Commission has requested from the Ministry?

Mr. Sylvester Muli: I do not know what information the Commission had requested from the Ministry but perhaps it did not know that there would be a hearing.

Commissioner Farah: You do, therefore, agree that you came unprepared?

Mr. Sylvester Muli: Yes, I came unprepared and I requested that given time, the Ministry could provide more information.

Commissioner Farah: Have you ever seen a copy of the letter that the Commission sent to the Ministry in May, 2011 requesting for information on the Nyayo torture chambers?

Mr. Sylvester Muli: The last one I saw was a request for drawings.

Commissioner Farah: What happened to that request, if I may ask?

Mr. Sylvester Muli: The Ministry responded that it was in the process of looking for the drawings.

Commissioner Farah: You will agree with me, therefore, that the Ministry is reluctant to give out those drawings because May, 2011 is not yesterday.

Mr. Sylvester Muli: The Ministry is not reluctant to provide the drawings. As I said, the lead consultant passed on.

Commissioner Farah: I put it to you that the lead architect was privately contracted by the Ministry to supervise a construction and, therefore, throwing the reason that since he passed on the drawings cannot be found does not hold water.

Mr. Sylvester Muli: I said earlier on that the Ministry is looking for the drawings from the archives because they were done a long time ago.

Commissioner Farah: You said that you got the information to appear before this Commission last night?

Mr. Sylvester Muli: Yes.

Commissioner Farah: Who told you to come and tell the Commission that because the lead architect who was a private architect passed away, therefore, the drawings are not available? Is it your own initiative? Who told you that or was it a brief given by the Permanent Secretary?

Mr. Sylvester Muli: I am the one who had been briefed to look for the drawings. We put people to look for those drawings in all the stores in the Ministry Headquarters. They are still looking for them as we speak.

Commissioner Farah: Mr. Muli, do you realise the gravity of what you are saying? You are saying that the Nyayo House, with 26 stories constructed in the 1980s of which you do not know the year, was built like the houses that have been collapsing within Nairobi City for which there were no architectural plans or drawings? In other words, do you realise the gravity of what you are saying?

Mr. Sylvester Muli: I understand the gravity.

Commissioner Farah: You were instructed to look for the drawings in May, 2011. Here you are telling us that you were told to come for these hearings by the Permanent Secretary last night. Last night was not part of working hours anyway. Therefore, what I am getting from your statement is that ever since you were told to look for the drawings, in May, last year, you never did anything at all.

Mr. Sylvester Muli: I was told to look for the drawings on Monday, last week.

Commissioner Farah: When did you join the service?

Mr. Sylvester Muli: I joined the service in 1986.

Commissioner Farah: Was Nyayo House built in 1986? At the time you joined the service, was Nyayo House standing?

Mr. Sylvester Muli: Yes, it was standing.

Commissioner Farah: When you joined the service at that time, were you straight from the university or you had worked somewhere else?

Mr. Sylvester Muli: I was straight from the university.

Commissioner Farah: How many other buildings of Government have you been involved in their construction during your time at the Ministry of Public Works, from 1986 to today?

Mr. Sylvester Muli: They are many. I can mention a few.

Commissioner Farah: Please, go ahead and list all Government buildings whose constructions you were involved in.

Mr. Sylvester Muli: I was involved in the construction of Ten Engineers Battalion Isiolo, Seventy Eight Tango Battalions Isiolo, and Married quarters for ten engineers, Nanyuki, Cuckoos' Canteen Mtongwe...

Commissioner Farah: Forget about the military buildings outside Nairobi. I am asking you about tall buildings in Nairobi.

Mr. Sylvester Muli: I have not been involved in any tall building in Nairobi.

Commissioner Farah: Were you involved in the renovation of the Prime Minister's Office recently?

Mr. Sylvester Muli: No, I was not involved.

Commissioner Farah: But there were other architects within the Ministry, who are your friends who were involved?

Mr. Sylvester Muli: Yes.

Commissioner Farah: Do you normally have conversations with them either in the Civil Servants Club or somewhere in the evening when you are relaxed and discussing your work?

Mr. Sylvester Muli: Probably in the office when we are discussing general work.

Commissioner Farah: Why do you think you were sent to come and give evidence to the TJRC?

Mr. Sylvester Muli: I do not know. May be I was the only one available.

Commissioner Farah: With the permission of the Presiding Chair, in line with my question, I just have a small advice for the architect that the Commission is on a very serious investigation on the origin of the construction of the Nyayo torture chambers. You do not even know how the Nyayo House was built even though you joined the service in 1986 when you found it standing. You do not know when Nyayo House was built; you do not know who the contractor was although you know the architect. Was

Ngotho Architects privately contracted? You do not even know at what point these cells were built. Therefore, you did not need to appear before this Commission.

Commissioner Dinka: Madam Presiding Chair, I will start answering the last question that Commissioner Farah asked why they sent him here. It is probably because as he says, he has no idea how Nyayo House was built and they do not want us to have any idea about the construction of Nyayo House. They sent somebody who has no idea about the place and even any big building in Nairobi. That is the answer.

I would like to ask you something. In my previous life, I have been responsible for the construction of various Embassies. I have been an Ambassador of various places. So, when you construct embassies abroad, first of all, you must have local engineers and builders. That is in the law in most countries. However, invariably, I had people from the Ministry of Public Works, engineers and architects who designed the place together with the local consultants present for the duration of that period of construction. They will make sure that everything is done according to plan, the best material is used, no cutting corners by the local builders and at the same time, they are responsible for approving the payments in the final analysis at every stage of the building to the local contractors. Unless they approved I could not sign a cheque to the consultants. I am sure that something similar to that is the case in Kenya as well. So, would you agree with me that the Ministry of Public Works had to approve payment at every stage of the building to the local consultant, the guy who passed on and everybody must have had supervising officers and based on that report at the headquarters, they approve payments?

Mr. Sylvester Muli: I agree.

Commissioner Dinka: Therefore, for this building, whether you gave it as a consultant or the lead engineers, to summon from outside the Ministry of Public Works in contract, the engineers of the Ministry of Public Works, first, had to agree on the design and then approve for every single stone that went into this building and the guy got his payment. You have almost said as much when you told us that Government buildings are always built under the supervision of the Ministry of Public Works. If that is the case, how come for the 26-storey building, billions of shillings had been spent and the document disappeared from the Ministry of Public Works? It is very difficult for me to believe that? Do you have any kind of incidence of arson in the Ministry of Public Works? That happens sometimes.

Mr. Sylvester Muli: I have not said that the drawings and records are lost. I said that we are in the process of looking for them. With some little more time, now that I understand what you are looking for, I will look for the drawings. That will outline what you have said about the process of the construction, payments and the rest.

Commissioner Dinka: As the Leader of evidence has said, the first notice which included all these requests was sent more than ten months ago. How come it has taken more than ten months for the Ministry of Public Works to get it? In ten months they could have gone through every single sheet of paper in the Ministry.

Mr. Sylvester Muli: I do not know.

Commissioner Dinka: It was ten months ago and the last one that was sent was a reminder for the appearance and setting the date for today for the Permanent Secretary to appear and explain to us. However, the actual request for this documentation went out ten months ago in May, 2011. So, there is nobody in their right conscience who can say that the Commission has been tough in its investigations.

I do not want to say much but I would want Mr. Sylvester Muli to go back and tell the PS what kind of place this is. Just look around and you will see this designer made wounds on these guys and their relatives. I hope you will go back with a better comprehensive report and tell the PS that the Commission is not going to relent. We are going to be after him and after anybody that we are looking forward to hear from. That is what I want to say.

Mr. Sylvester Muli: I understand.

The Presiding Chair (Commissioner Chawatama): Witness, I would like to find out from you whether or not you visited the area behind you.

Mr. Sylvester Muli: I have just visited a few minutes ago before I sat down.

The Presiding Chair (Commissioner Chawatama): So, you have a clear picture of what is behind you?

Mr. Sylvester Muli: Yes.

The Presiding Chair (Commissioner Chawatama): I would like to know when you were told last night that you were coming to appear before us, what were the instructions that were given to you or what was the brief that you were given to prepare you to appear before the Commission?

Mr. Sylvester Muli: I was not told that I was coming for a hearing. I was told I was coming for a meeting. I did not know the details. If I knew it was a hearing, perhaps, I may have looked for somebody else or some details on the project.

The Presiding Chair (Commissioner Chawatama): When you look around, you see that there is evidence of breakage as if someone was trying to destroy evidence. Is this something that the Ministry is aware of?

Mr. Sylvester Muli: No. The Ministry is not aware of the destruction.

The Presiding Chair (Commissioner Chawatama): Would the Ministry have had to know whether there are renovations taking place? Anybody who was doing this, would they have had to ask for permission from the Ministry of Works?

Mr. Sylvester Muli: Normally it does not require any professional expertise. The client may decide to do so on their own but in normal situations of any refurbishment or modifications, the client is supposed to ask the Ministry of Public Works to send a team.

The Presiding Chair (Commissioner Chawatama): As an architect, when you look around and see this destruction, what do you think the consequences would have been if this whole place had been destroyed?

Mr. Sylvester Muli: I would not know why they were demolishing the walls. They may have wanted to make use of the space for other purposes which I may not know.

The Presiding Chair (Commissioner Chawatama): You are a trained architect?

Mr. Sylvester Muli: Yes.

The Presiding Chair (Commissioner Chawatama): Is there a law that governs architects in terms of professional conduct and ethics?

Mr. Sylvester Muli: Yes, the Board of Registration of Architects and Surveyors of Kenya, regulates the practice of architects in Kenya.

The Presiding Chair (Commissioner Chawatama): As an architect, if a request comes in for the building of offices and then it is discovered that there are torture chambers that are being built, for all we know, maybe the other 26 floors could have been built to disguise this chamber, we do not know, but as an architect, if instructions or if your client seeks those instructions, is there anything in your Act that would discourage you from receiving such an instruction?

Mr. Sylvester Muli: There is nothing that would stop me from getting those instructions.

The Presiding Chair (Commissioner Chawatama): Is it not important to know what your building is intended for or the purposes for which it is intended?

Mr. Sylvester Muli: Yes, it is good to know what the building is intended for because you have to look at the practicability of space, but the client sometimes can tell you that they want some space which they can use for other purposes. They could be stores which can be converted to other uses.

The Presiding Chair (Commissioner Chawatama): In this case, even if we want to dream that this could have been stores or for storage, there is a control room so that it would not take somebody very clever to even begin to imagine that these rooms were purposely constructed for the purpose of torture by the virtue of the control room and just how they were built. Have you had a look at the control room?

Mr. Sylvester Muli: Yes, I have been shown the control room. But as I said in the beginning, in the absence of the drawings which you are looking for, I may not be able to establish the building as was designed.

The Presiding Chair (Commissioner Chawatama): As I listened to you as you were questioned by my colleagues, one of the things that I was thinking is that you were banged in the middle of a very busy place. If anything were to happen to this building and you quickly had to retrieve the drawings so that you would know how to proceed, whether it is the fire brigade or whoever, will it take you ten months to look for these drawings in order to avert a disaster? What are you telling the people of Kenya as a Ministry? How prepared are you to deal with emergencies if they arose?

Mr. Sylvester Muli: I said we started looking for the drawings last week and I believe we will get them.

The Presiding Chair (Commissioner Chawatama): That is what you said and even if it is a week or two, we are telling you that the request was made in May, 2011. How prepared are you to avoid disasters taking place if you cannot even find not even drawings of such an important building?

Mr. Sylvester Muli: I may not be able to answer that.

The Presiding Chair (Commissioner Chawatama): Our worry as well as the nation, is that we are obliged to call you so that we hear your side of the story as a Ministry, because through testimony, through our research and our investigations, we have a lot of information. So, if we do not hear from you, it means that as a Commission we will go on and use the information that is before us and because we have called you and this time has not been used the way it should have been used in giving us accurate and complete information, then we will be obliged to use the information that we already have and your input will count for nothing. That is the message that you take back to the Permanent Secretary and we thank you very much for your attendance.

Mr. Sylvester Muli: I am requesting if we can get some more time, we can bring more accurate information.

The Presiding Chair (Commissioner Chawatama): It will be up to you. But we finish our hearings at the end of this month. We are sitting every day and the chances of you having a public hearing are nil. In fact, a public hearing may not even happen. So this opportunity has been lost.

Please stand down the witness and call the next witness.

(Ms. Joan Kabaselleh took the oath)

Ms. Belinda Akello: Presiding Chair, this is the next witness on your list. Good morning and we welcome you to the thematic hearing at Nyayo House and we thank you for having made time and also for coming today. Kindly tell us your names?

Ms. Joan Kabaselleh: My names are Joan Akinyi Kabaselleh.

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

Ms. Joan Kabaselleh: I am a retired civil servant because of age but not lack of knowledge.

Ms. Belinda Akello: As a civil servant, what was your job before?

Ms. Joan Kabaselleh: I was working with the Meteorological Department as a Climate Scientist.

Ms. Belinda Akello: Where do you live currently?

Ms. Joan Kabaselleh: I was in Kariobangi South Nairobi, but now I am between Kariobangi South and Eldoret where my late husband was buried.

Ms. Belinda Akello: You have mentioned about your late husband. Would you like to tell us more about what caused his death and also any information that you have with regard to the thematic hearings at Nyayo House?

Ms. Joan Kabaselleh: My husband was a musician by profession. He could record and perform live music. By the time he was arrested, he was married to two wives, I being the first one and the second one was there. We had five children. By the time he was arrested, the youngest was three years old. It was the night of 26th October, 1986 around 1.00 a.m. when heavily armed people came in. They were about ten people. They knocked the door and then my husband hurried to open the door. I followed him and asked whether they had identified themselves. They told me, "Mum, if we were bad people, we would have acted immediately." Then some of them moved to the bedroom, some went to the kitchen and some remained in the sitting room. So, from the bedroom, they started searching the rooms. They searched all the things that they could find in the bedroom. They turned the mattresses upside down. I remember our young boy who was three years old; they turned the mattress when he was asleep and he could not even hear. They folded the mattress when he was inside and he did not hear. He did not even know what happened. So, the other children were bullying him in the morning telling him in Kiswahili: "Our father was taken away and you were just sleeping and you did not hear."

After three hours' search, they left. They carried the documents, my husband's passport and some newspaper cuttings which my husband used to have. My husband used to have so many newspaper cuttings. They carried all these documents with them. As they were leaving, my husband told me: "Joan, go and see the advocate very early in the morning". They told me: "This is beyond an advocate." We did not go back to sleep because we did

not know what was happening to him. The next day very early in the morning, I started contacting some of his friends and some of our close relatives telling them that he was taken and we did not know his whereabouts.

We stayed for about two weeks and we did not know anything concerning him. One afternoon, there was a document remaining and they had come for that document. He was handcuffed and put in a white Land Rover with people in plain clothes, but armed. I was on duty but the younger wife was around. When they entered the house, they requested her to bring another briefcase which was carrying that document.

My husband told her while in tears, "Since I left this place, I have not eaten. I would request if I can get something." His people refused him to eat anything cooked in the House. So, they requested her to buy a soda and half a piece of bread but he could not finish it out of the pain of seeing his wife and the young boy. He was not also in good health and the younger wife is my sister. She informed me that the knee had a problem. They then left with him. We kept on looking for him having sleepless nights and I believe there was a friend who was close to the people who arrested him. He would always come and tell us not to talk to the media people because that would worsen the situation. We did not know that, that was another way of avoiding publicity. People would tell us that he had been seen at Naivasha Maximum Prison. Others told us that he had been seen being taken to Ngong Hills. So, all through this was a time of pain. It would have been better if he was in a police cell. We would have gone to see him and known his whereabouts.

On 29th October, 1986, a relative called us around 8.00 p.m. that he was saying that he had been seen at the High Court and that he had been arrested for three years. He advised the relatives that we could go and see him.

(Ms. Joan sobbed)

The Presiding Chair (Commissioner Chawatama): *Pole sana* Joan. Thank you for coming to speak to us. It is because of people like yourself and others that we called the Ministry to come and explain to us what the thinking was behind the construction of the torture chamber behind you so that we, as a Commission can have answers for you. We know just like many victims in Kenya, you have a lot of questions so that you can understand what happened to your loved ones and to some extent so that there can be some closure. We knew before we came that there would be moments like this. We empathize with you. We thank you that you are very courageous and that you are able to talk about very painful events that took place and how that has impacted your family. Please, take your time and when you are ready, you can proceed.

Ms. Joan Kabaselleh: The next day, which was 30th October, we went very early in the morning with my sister and my sister in-law who had visited us. The newspapers on that day carried this message as the headline. It was in all the newspapers. It was painful seeing those newspapers in the streets. When we went to the Industrial Area, we followed the normal procedure and around 11.00 a.m., we were able to see him.

He was brought by the warders and the prison officers but we could not talk much and because of seeing us he broke down. He cried and we also cried. So, we ended up not talking. The time was up and we left. We left in tears and the prison warders who were outside there were asking us sarcastically, “*kwani nani amewapiga hapo ndani?* We gave no answer and we went back. At home, we had a dull moment. By then, many people did not want to associate with us because of the torture. We were informed that he had then been taken to the Kamiti Prison and we went to visit him. We did not know the procedure there and when he was called, we thought that we could have time with him alone. When he came, we wanted to talk to him but so many people were also talking at the same time. We thought that we could have our own time with him only for the warder to tell us that time was up. They told us that the next time we come we should just speak to him directly.

We went back home but from Kamiti we only saw his face because he was behind a block. After the second visit, when we went to Kamiti, I was informed that he had been transferred to Nyeri Prison, King’ong’o. It was my first time to go to Nyeri and I had no idea even how to reach that place. Owing to the stress I had, I can remember that on that day, I had a very bad headache. I cried all through and even after reaching the stage in Nyeri Town, the person who instructed me told me to ask some lady who would direct me to get a vehicle to Nyeri.

I arrived there but two days after my husband had been taken there. So, they were very keen on how I knew that he had been taken there. It took time for them to allow me in. In the end, I was allowed to go in. He was brought before the officers and I thank God that on that day we had time to talk but not too much. I noticed that he had a pain in the knee and health-wise, he had become thin. He was huge before he was arrested. I then left and they told me that we would be visiting him only once in a month. I then came back.

The only thing that was painful is that owing to this arrest, my husband did not leave us any clue concerning his business. So, we had no way of getting any income from his business. So, as a civil servant getting less than Kshs10, 000 a month that is what took us through and paid school fees for our children including paying rent. This was not easy. My father decided to take one of the boys to go to the rural area so that we had few of them with us. So, we remained like that toiling and sometimes later, we could have few friends coming in to see us and a few relatives. People feared that if they were connected with people arrested in connection with *Mwakenya*, it was easy for them to also be arrested.

If I can go back a bit, by the time my husband was arrested, we had a problem with our power, something to do with the main switch. Therefore, we were in darkness. They only used their torches to search the house. So, after him, we stayed in darkness until one time a lady came to visit us. On seeing where we were, she could not stay. Although it was raining heavily but to us, things were changing and we were trying to get used to the life. By the grace of God, we got somebody who came and repaired the switch and we got light.

On 23rd December, 1987, mother passed away. When mother passed away, we had a problem. How were we going to release this news to him? That was very painful. So, in one of the visits, we went and told him. He broke down, cried but he had no choice but to accept it although it was painful. He only asked, how was she buried and we told him it was good. That was okay. We continued to visit him but life was not easy. Our first born was in Form One and we had to look for his school fees, rent and money for food. Owing to these problems, I remember very well I would have sleepless nights and that I had to use piritons every night. I started by using one and at some point it was not helping me. I increased the dose to two.

In August 1988, I heard a preacher who was preaching from the Book of Luke 22:22 asking, “Why worry when you cannot change anything in your life? It is only Jesus who can save you. I surrendered my life and got saved. From there, things changed. I started facing things positively, I stopped taking piritons and my sleep was restored. I thank God and from that time, I told God that the second wife would be my first born and the rest of the children would follow her. So, I carry the shoulder of the house knowing that all of them are my children. Any mistake they commit, I take it like it is the mistake of any other child. God started providing for us.

In the year 1989, October, he was released. He came back and found that his instruments which he had left at the care of his friend had been sold without his knowledge. He used to send us to his friend when he was in jail but the man could not give us anything because he had sold the instruments. So, when he came back, he had to start a fresh. He had no equipment and in terms of life performances, he had restrictions. Life did not change. We had to continue that way. However, one thing I realized was that when he came from jail, his sight was not normal; he had chest problems and was diagnosed with diabetes. So, he was in and out of the hospital. Before his arrest, my husband had no sickness. As a result of that, he could not visit anybody who was in hospital. He used to tell us that he was scared of the hospital because in his life he had not visited any hospital. My mother was in the hospital at one time and he did not visit us. So, this was something normal to us. But after he was released, my husband was in and out of the hospital until 1998 when it was too much for him. At one time he was discharged. Towards the end of the year, he was admitted at the Nairobi West Hospital under the care of Dr. Aluoch and he came out. He was discharged although he was not well. He forced the people at the hospital to release him and he told them that he wanted to come home. He came home after two days and we had to return him.

He came home. After two days we had to return him back to the hospital. So when he was at home one time he told me, “Joan, take care of my children. Make sure that all the children are educated”. I told him, “Do not talk about that, you are not going to die. You will live. Be strong. Be courageous”. He told me, “Joan, I am not seeing any chances of living”. I told him, “Be encouraged”. He told me, “As I have told you, take care of our children and one thing; make sure that all the children are educated”. We went back home.

As we were visiting him normally, one afternoon we found his condition was worse. I could not go back to the house. I told my sister to go back to the house and take care of the children as I remained in the hospital. She asked me how I would remain without warm clothing. I told her it was late and no one could come back and bring me the clothes. I told her to go, I will persevere.

At around 1.30 a.m. his condition worsened, I called the doctor. I saw them bringing oxygen and I realized my husband was going to be no more. I tried to assist them but they told me to go and sit outside. I told them I am saved and I am not worried. They told me to go and sit outside. I left and sat outside after sometime the doctor told me: "Your husband is gone". I went back to the bed, saw him there. God gave me courage. I really prayed and asked God what I was going to do. I heard a clear voice say, "I will never leave you. I will never forsake you. I am with you". That was the courage I had. From there I called my pastor, they collected me and we went back to the house at around 3.00 a.m. They encouraged us and broke the news to our children and my sister. It was a painful moment losing a loved one exactly ten years from the time he left jail. He was trying to reorganize his life but he could not continue with life. That was the end of my husband. From there, we entered another phase of widowhood. This was now permanent. It was a very painful experience.

When he came from jail, if I take you back a bit, my husband was very bitter. People could come to say hello to him but they could not stay. They feared. He was talking about the Moi regime without fear. He was bitter. I could encourage him but he was telling me: "No, the torture that I got from Nyayo House... Somebody using all parts of a seat to beat you until they are all in pieces". He could tell us that he would remain in water the whole day without food. When he remembered those things, he was very bitter. He said it was better if he was imprisoned but not the torture chamber. It was very painful. That is where his knee was hit and the pain remained until he died. The chest pain also remained until he died.

In my life I always avoided the Nyayo Torture Chamber. Even when I was told people were coming to visit this place, I could not come. It was only last week that I came to see the place. Surely it was a beastly act. I just questioned myself whether this was being done during colonial rule or after. How can you imagine, inflicting pain on the body of a human being like you? But God is good.

What I can recommend from the meetings that have been held with the survivors' widows; if there could be free medical services for the families and survivors. Many of them are hurting and they have no means of getting proper treatment. If that can be given it could help some of them who are still surviving to better their health.

Again, compensation should be done without going to court. In one of the meetings I was told of somebody who was awarded Kshs1.3 million but the lawyer wanted him to add Kshs200, 000. In other words, the person went without anything. Try to imagine such a thing happening to a widow who is already in pain. That is like digging a grave for that widow. I recommend that this thing should be done without going to court.

I also recommend a counseling centre for the survivors because of what they went through because some are still hurting. I am saying this because of my spiritual background. When I was with them I realized that many of them are still hurting and they need assistance.

I recommend special attention for the widows of the departed. Some of them were left with children who were going to school. Some of them have various issues which they have to address. As for me, all the investments that I had, all the money I used to get I invested in the education of my children as my husband directed me. I made sure all of them were educated. The last born sat for her KCSE last year and I thank God her school was the best in Kiswahili and she performed well. So, I did not make any business. I did not have anything for myself that the family can lean on.

One of the boys did Business Administration course at the Kenya College of Accountancy, Ruaraka but up to now with a diploma he is still jobless. There is only one who did civil engineering at the polytechnic who is working. All through, I denied myself comfort and that is why I was saying I am retired because of age but not knowledge. I have a lot of wealth in knowledge concerning climate activities. Given a chance, I can do something with assistance.

Again, concerning the widows, through the pain I first experienced when my husband was jailed and after the death of my husband, I had a burden of a widow. I have been meeting widows, encouraging them and many are getting healed. That is spiritual healing.

Some of the widows are left when still young. So, how are they going to help themselves? I recommend that not only the widows of Nyayo Torture Chambers but also the widows in Kenya should have their cases looked into. Like now, we have widows in the IDP camps who did not become widows by choice but they are there. The test that they were given during that time, you normally see it on TV; these are the tests they still have. With my knowledge of weather, the long rains are just about to set in. Just try to imagine the condition of these widows.

As I conclude, allow me relay a message to Kenyans from the word of God, from the book of Exodus. I will read from my Bible if you allow me; Exodus 22:22 reads:-

“You shall not afflict any widow or fatherless child; if you afflict them in any way and they cry at all to me, I will surely hear their cry and my wrath will become hot and I will kill you with the sword, your wives shall be widows and your children shall be fatherless”

That is the word of God. The Governments may come and go but the word of God is forever settled in heaven.

So my message to Kenya is take care of widows. We are approaching the elections again and it is my humble prayer that they take care that this land may not have more widows.

May the Lord, bless you.

Ms. Belinda Akello: We thank you very much Joan. We have also listened to your clear recommendations and your testimony.

Presiding Chair, I have no questions.

The Presiding Chair (Commissioner Chawatama): Thank you very much Leader of Evidence and thank you very much mom for your testimony. Your testimony was so clear. Thank you again for coming to share with us your experiences.

I will ask the Commissioners if they have some questions for you.

Commissioner Farah: Mama Joan Kabaselleh, thank you very much for your testimony. It was a moving tale of what happened in Nyayo Torture Chambers and the prisons and how people cut short others' lives. It is very sad that a professional like you with a thorough knowledge on meteorology and climate could suffer the way you suffered instead of having happily worked for the people of Kenya so that they can expect the rains, farm very well and produce food for this country.

I just wanted to know the date your husband was arrested and the date he was released from prison and the date he died.

Mrs. Joan Kabaselleh: He was arrested on the 26th of September 1986, jailed on 29th October, 1986 and he was released in October, 1989. I will get the exact date later on. He passed away on 11th December around 1.30 a.m. in 1998.

Commissioner Farah: Thank you very much; we are sorry for putting you through all that pain. It is very clear to me now. I have no further questions.

Mrs. Jane Kabaselleh: I carried the Death Certificate and I have handed it over. It shows clearly that the cause of his death was diabetes.

The Presiding Chair (Commissioner Chawatama): Thank you very much. I am sure the documents have been admitted or are being admitted now and will form part of the record of this Commission.

Commissioner Dinka: I, too, have no questions. I would like to thank you, Mama Joan for your testimony and to express to you; I think from all of us, we empathize with your suffering and your pain. What happened to you, your children, your sister and your husband is something that can only be seen in nightmares. However, for you it was the reality of life. Your courage in bringing up your children and keeping your family intact is something I would like to salute. I have heard your very tragic story. I think everyone here is celebrating your life and courage today. I hope that your coming here will in some measure lighten your burden. I assure you that the Commission has heard similar stories

from other people as well, among them victims of the Nyayo Torture Chambers and it will be fully and faithfully reflected in our final report with appropriate recommendations.

Thank you very much for coming.

The Presiding Chair (Commissioner Chawatama): Thank you very much Commissioners. Thank you very much Joan for your testimony. We have heard from many witnesses and we have heard from them on how their faith in God saw them through very difficult circumstances. For some, because of what they were going through, they found God. For others, their faith was strengthened. We have also heard from many women on the plight of widows. It was always very sad for Commissioners to hear from widows who when they got married all they really wanted and all they really knew was to be wives and how lost they were without the head of the family.

We have also heard in meetings as we have shared with women the difficulty of bringing up children especially boys once they reach a certain age. We understand your cry for the plight of widows in this country. From your testimony, a number of things that we shall take away and seriously consider and recommend because it is evident that nothing was said to you about why the officers came home. They did not inform you what they were looking for. So we have to relook at the law as it relates to searches and seizure. We also have to look at whether it is the policy or procedures for relaying messages to families whose loved ones find themselves in prison. What kind of information they are entitled to receive such as where their loved ones are being held, the privacy to be able to talk to them and the visiting. Monthly visits must have been a real torture for you. I was just imagining you going to prison not knowing whether you will find him alive. To even try to talk at such a visit, I am sure was impossible because what do you say in the few minutes that you were with your loved one?

There are a lot of issues that you have raised because of the testimony that you have given us that we need to look at closely and make recommendations. We also thank you for your recommendations which are very persuasive. We thank you once more for coming and for testifying. We wish you and your children well. May God, continue to provide for you.

Thank you very much.

Ms. Belinda Akello: Thank you very Presiding Chair. As the witness leaves, as I had indicated before, the witness has produced a certificate of death No.580398; I pray that the same be admitted as part of the record.

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

Commissioner Dinka: Leader of Evidence, can you call the next witness.

(Mr. Wilson Awuor Ang'ong'a took the oath)

Ms. Belinda Akello: Good morning and we welcome you to this session. Kindly tell us your names for the records.

Mr. Wilson Awuor Ang'ong'a: My names are Wilson Awuor Ang'ong'a.

Ms. Belinda Akello: Mr. Wilson, we welcome you to this thematic hearing on Nyayo House. We would like you to particularly give your testimony with regard to your experience at this place and how you did end up here and what work you were doing at the point in which you were brought to this place.

We welcome you to give your testimony.

Mr. Wilson Awuor Ang'ong'a: Thank you. It was on the 22nd September 1989 when I was arrested at Nakuru GK Prison. I was a prison warden No.14718. I can say I am now ex-prison warden No.14718. I was working in Nakuru Prison at the time of arrest.

Ms. Belinda Akello: Would you know why and by whom you were arrested with?

Mr. Wilson Awuor Ang'ong'a: When I was arrested, I was at the place of work. I was attached to prisons documentation. I was following prisoner's death cases. There was death of a prisoner which we had sent a signal on death but the prison had given wrong particulars. I was following that matter with the police officers. The officer in charge knew that. So, on that day of 22nd I reported at work in the morning and left at around 9.00 a.m. back to my quarters. Later on the officer in charge sent somebody that I should report to his office immediately in civilian.

When I got the information in my house, I changed into civilian and came back to the officer in charge. When I reported to him, in his office he was having two visitors whom he introduced to me as officers from the Nakuru Central Police Station and they had come to help me to trace the case of the prisoner. He was sending me out with them for that work.

We left the officer's office, came out of the prison gate, got a white car which was parked outside with a driver. We went straight to that car and in that car I took the back seat with the two officers putting me in the middle. The vehicle drove from the prison up to somewhere in Nakuru town at a building which I knew was hosting a supermarket called Ibrahims Karimbuks. On the first floor was an office of the special branch. We went there straight and I was placed in one of their rooms which only had a bench. I stayed there up to around 2.00 p.m. and then I was brought to a certain officer who was very harsh and on his table was a pistol.

He called me by name and told me to name all my friends in Nakuru and the names of my relatives in Nakuru. I started with the names of my relatives in Nakuru because I had some there. He dismissed me and told me to give him the names of my friends. I gave

him some and he asked me about Koigi Wamwere's family and if I have met them at Nakuru Library. I told him we had not met. Then he told me where I am. The other officers then took me away from him.

We stayed there up to late in the evening. I was taken back to my house in the company of three vehicles. By then I was married with two children. My first born was around one year old. When we reached the house, my wife was instructed to stay away from the house. They then started searching the house. They turned everything upside down. They got some books because I used to go to Nakuru Library to borrow some books. All my photographs, all personal effects were taken. They then told my wife to stay there; they will come and know her position.

At night after around three hours, I was driven back to that office but I was transferred to Nakuru Railways Police Station cells. Here I stayed for seven days. Later I was transferred to Nairobi at Muthangari Police Station. Later on I was transferred to Nyayo House on a night I cannot remember.

In Nyayo House I stayed for 19 days. Just where I am seated, there used to be an electric gate but today I am not seeing it.

In Nyayo House what I remember, I will not mention so much about torture because others have mentioned that. What I remember this is where I lost my lower tooth and I got a fracture on my lower mandible which just healed by itself at the cells here. The officers here were not able to take me to the hospital.

I stayed here for those days and later on I was taken to the court at around 6.00 p.m.

I was taken to court at around 6.00 p.m. where a charge sheet was read – that I was a member of an unlawful society, which was Mwakenya. Due to fear for my life at Nyayo House, because the experience there was very bad, I just admitted the offence and I was sentenced to four-and-half years imprisonment. Later, I was taken to Kamiti Maximum Security Prison. After two days, I was transferred to Kamiti Medium Security Prison, where I was taken to the Segregation Block. In the Segregation Block, I and other political prisoners who were there were not allowed to communicate. We were in isolation. That was the life there.

So, I served my sentence up to 12th July, 1992, when I got Presidential amnesty, which also gave me another problem with the prison authorities. I do not know when the prison authorities got the signal but I was to be released after 6.00 p.m. Since I had stayed behind bars for a long time, I told them that I was unable to trace my way back in Nairobi. This one was actually very difficult. I was forced to put on my clothes. I told them to give me a chance and safe custody in prison because that is what the Prisons Act says. The officer-in-charge who was there refused. Later on, the officer-in-Charge who was in charge of political prisoners, came. That was SSP Joel Kariuki. He called me aside when it was getting very late. He just told me that it was an instruction. So, I had to leave.

When I got that information from him, because he was also very good to me, I decided to take my bag, which contained my clothes. I put them on, signed the documents that were there. I asked the prison officer to give me the certificate of imprisonment. He refused. By then it was approaching 9.00 p.m. I decided to walk away under the escort of about 30 prison wardens, who escorted me up to the last gate of the prison facility. Walking out of that gate, I was very desperate because I had stayed in the prison and visiting me was very difficult. Nobody came to visit me because they were not allowed to do so.

So, I started walking in the direction of Nairobi. I walked for about 200 metres from the prison gate. Somebody came from behind in a small car. I just decided to stop him. Fortunately, he stopped after passing me at about 50 metres. I went and explained to him my problem and this person was to be a Good Samaritan. He asked where he could drop me in Nairobi. At that time, the mothers of political prisoners were camping somewhere in Nairobi. So, I told him if he could bring me somewhere close to the All Saints Cathedral, where I guessed the mothers were.

Fortunately, he brought me somewhere in town, at the All Saints Cathedral Minor Basilica. He dropped me and I had to trace where the mothers of political parties were, since it was at night. I talked to a watchman who was at the All Saints Minor Basilica and he showed me where I could get the mothers of political prisoners. I then walked up to where the mothers were. I got a watchman at the gate. He asked me who I was because I did not have any document to show that I was from prison. At that time, I did not even have money. When I was arrested, I had Kshs80. That was the money I had when I was released. All that time in the prison, I was not on the earning scheme, which is normal to ordinary prisoners.

So, I gave my name to the watchman at the gate of the All Saints Cathedral. He went down to the mothers and informed them. Where they were, there was a very big cross with the name tags of all the prisoners who were inside. They went and searched that cross. They found my name. I was then allowed to join them. When I joined them, I realised that Philip Tirop arap Kitur was already released and he was asleep. The late Karimi Nduthu was also there. So was Kangethe Mungai. I joined them and stayed with them for about four days. So, I joined that struggle.

At that time, my family did not know that I had been released. After four days, the mother of Koigi wa Wamwere, Mama Monica Wangui, called me aside and asked if I could see my family back at home and re-join them later on. I accepted. She gave me Kshs400. I went to our home in Kisumu very early in the morning. I went to our home.

What was very unfortunate was that during the time I was in jail my wife was at home. She was pregnant. Special Branch officers in Kisumu used to come for her during the night drive her to unknown destination and later bring her back to the house and tell her not to inform my parents. That happened for about five times. On the fifth day, she was taken to some places in Western Kenya, where man-made graves were. One of them had my clothes, which I had when I was jailed. One of the officers asked where her husband was, if she knew those clothes.

When I went back home, I found that some rituals had already been performed because she had reported that I was dead. The family did not know that I was released. It was a problem. When I went home, I decided to stay in my mother's house for two days. I did not go to my house. My mum was very welcoming but my wife was very negative. To her, it was like she was seeing a ghost. So, my mother talked to me at length and explained all that had happened. She told me that she would take me to some herbalist for cleansing before I rejoin the family. I accepted because I was not a difficult person. We went to a certain herbalist, who gave us some medicine for use in my house. I did that under the instructions of my mother.

However, I was not comfortable in my house because when I was there, I was really thinking about the other political prisoners who were behind bars at that time. I was not discussing anything that I experienced in the prison. Due to the long time of isolation, I was a very quiet man with my wife. This disturbed my wife and later on she miscarried. I told her to accept the situation and we buried the baby.

So, my wife developed a sickness. As I had left the prison alone, I never wanted to discuss things about prisons. People feared me in the community. Most of the time, I was just in our home. My wife used to cry from time to time because she realised that life was going to be very difficult since I did not have any employment. I kept reassuring her that life would be normal but it did not work.

On 15th February, 1996 my wife passed on. It was very difficult on my part to remain with two siblings. I did not know what to do with the siblings. I did not have employment. Even the two children were not able to go to school well. That was my life.

In the 1980s, the Government was like a monster which did not know even the public servants. We had several public servants such as Onyango Sie, who was working with the Department of Public Trustee in Nyeri; Wainaina Chege, who was working in the Judiciary at the High Court, Nairobi; Nelson Akaukwa Muyela, who was working with the Kenya Railways; Oduor Ongwen, who was teaching at Kericho Girls High School; Richard Odenda Lumumba, who was also a teacher at Kericho Girls High School; James Mwangi Kahiri, who was a teacher at Muguga High School, and Florence Murage, who was an Administrative Assistant at the University of Nairobi. This is only a short list of public servants who were political prisoners.

I will give just one recommendation – that the Commission should be good to us. Most of us do not have employment. Could you recommend that we be reinstated back to the Government service because our cases are going on in court and we are not criminals?

Secondly, may the Commission recommend that we have a victims' rehabilitation centre, where the victims can be counselled from time to time?

I give only those recommendations because other recommendations have already been given by some of my colleagues.

Before me here is certificate of completion of course that was awarded by Kenya Prisons, which I would like to leave with the Commission as evidence.

There is also a letter of confirmation, showing that I was confirmed on 31st December, 1986 and that I was in a pensionable establishment.

All those were lost during that time. I also lost my loving wife, Lois Aweno, whose burial permit I have. I have gone for the death certificate several times. I hope that I will get it one day.

Thank you.

Ms. Belinda Akello: Thank you very much, Wilson. Presiding Chair, the witness has produced four documents. The first one is a certificate of completion dated 20th April, 1985 and a letter dated December, 1986. The second letter is dated July, 1984 and the Burial Permit for his wife. He prays that all these four documents be admitted as part of this Commission's record.

The Presiding Chair (Commissioner Chawatama): They are admitted as prayed.

Ms. Belinda Akello: Wilson, just to ask you one simple question, you said that on the day you were arrested in September, 1989 certain books were found in your house. Which books were those?

Mr. Wilson Awuor Ang'ong'a: When I was recruited as a prison warden, I once said that this was not my profession. It was by chance that I got there. When I was with the Prisons Department, I used to like reading. I joined Nakuru Library as a member, so that I could borrow some books from there and read them. Most of them were historical and literature books.

Ms. Belinda Akello: Thank you very much. I have no further question for the witness, Commissioners.

The Presiding Chair (Commissioner Chawatama): Thank you very much, Leader of Evidence. Commissioner Dinka, do you have any question for this witness?

Commissioner Dinka: Thank you, Wilson, for your testimony. You said that because the conditions in Nyayo House were very bad, you admitted to being a member of this political movement. In actual fact, were you a member of Mwakenya?

Mr. Wilson Awuor Ang'ong'a: Commissioners, I want to believe that Mwakenya to some people was real but to some people, they were just brought in without their knowledge. I want to say for transparency that in Nakuru GK Prison, where I was working, there were three people who were convicted for the same offence. They included the late Peter Kihara, the late Alex Okoth Ondere and David Kesuse Masirai

Lengasi. These people would actually come to me one after the other when they were in need of something, and I would assist them. I did not know that that was committing an offence; I knew that in prisons there were offences under the Prisons Act.

Commissioner Dinka: So, you were suspected because you assisted those three prisoners, but personally you were not a member of the movement?

Mr. Wilson Awuor Ang'ong'a: Even today, I do not know who were there.

Commissioner Dinka: Yes but you know about yourself. Were you a member or not?

Mr. Wilson Awuor Ang'onga: I was not a member, Commissioners.

Commissioner Dinka: Why do you think you were suspected? Was it because, as you said, you assisted these three people or did somebody from within your service probably say something bad about you?

Mr. Wilson Awour Ang'ong'a: This thing was somehow political because when I was brought to Nyayo House, on the day I was tortured, one person, who was huge and about 7.3 feet tall, and who was of my tribe, when he was beating me, he spoke in mother tongue and said: "You Luos, whenever the Government is being overthrown, you must be brought in." That is why I said that it had some political inclination.

Commissioner Dinka: Thank you very much. I just wanted you to clarify that point. Your statement is very clear. Thank you very much for coming. I hope that the future will be much better for you.

The Presiding Chair (Commissioner Chawatama): Yes, Commissioner Farah.

Commissioner Farah: Wilson, thank you very much for your very good evidence. Have you given evidence to the Commission before?

Mr. Wilson Awuor Ang'ong'a: Yes, Sir.

Commissioner Farah: Yes, because I remember your case. That was where?

Mr. Wilson Awour Ang'ong'a: That was in Kisumu.

Commissioner Farah: In which year were you imprisoned? That is the day you pleaded guilty to the charge.

Mr. Wilson Awour Ang'ong'a: It was on 17th October, 1989.

Commissioner Farah: You were imprisoned for how long?

Mr. Wilson Awour Ang'ong'a: It was less than six years.

Commissioner Farah: I know you said you did not like the tribulations at Nyayo House torture chambers. You also said that you lost your teeth and all that. Was that the reason as to why you pleaded guilty?

Mr. Wilson Awour Ang'ong'a: If I may take you back to Nyayo House cells, when I was confined here, there was one guard who was very close to me. He was a Kalenjin. He was tall and he had side bones. He would visit me during the night when he was drunk. Whenever he opened the cells, I would get the smell of alcohol. One day, I wanted to catch him and take the pistol from him and shoot him but my reflection of the gate there restrained me. I was also weak because I was not eating. The feeding here was by the grace of God. So, when I went to court, I never wanted to be brought back here. Thank you.

Commissioner Farah: Let me take you back slightly to the library, where you used to frequent and borrow some books to read. You said that the Special Branch officers came and picked you. They asked you whether you used to meet some people in there.

Mr. Wilson Awour Ang'ong'a: Yes.

Commissioner Farah: Did you just use to read the books, or it is true that you used to talk to some people whom you did not even know would lead you to danger?

Mr. Wilson Awour Ang'ong'a: The question was very specific. I was asked if I ever met any member of Koigi wa Wamwere's family, whom I had not.

Commissioner Farah: Let us go back to Naivasha GK Prison. You think they picked you because you used to assist those prisoners inside?

Mr. Wilson Awour Ang'ong'a: Because of what I was doing in the prison, they could have suspected that I was assisting them in one way or the other, but I knew that was the process of rehabilitation.

Commissioner Farah: Thank you very much. You are very clear now. I really empathise with you for the tribulations that you faced and the injustices that you suffered when innocent.

The Presiding Chair (Commissioner Chawatama): Thank you for your testimony, Wilson. I would like to know from you whether when you were taken to court the magistrate asked you if you needed legal representation.

Mr. Wilson Awour Ang'ong'a: When I went to court, the situation was very difficult; I had been made to sign the document, without reading it, at the CID Headquarters that was read in court. So, when I spoke of the counsel, the Deputy Public Prosecutor told me that I would get that in prison.

The Presiding Chair (Commissioner Chawatama): So, when you appeared before court, the magistrate or judge did not ask you if you needed a lawyer to represent you. Yes or no?

Mr. Wilson Awour Ang'ong'a: He did not.

The Presiding Chair (Commissioner Chawatama): You said that you were not treated for your injury?

Mr. Wilson Awour Ang'ong'a: I was not.

The Presiding Chair (Commissioner Chawatama): Was the injury sustained here or in prison?

Mr. Wilson Awour Ang'ong'a: The injury was sustained here during the 19 days I was here.

The Presiding Chair (Commissioner Chawatama): When you went to prison, were you treated or were you referred to a health institution outside the prison facility?

Mr. Wilson Awour Ang'ong'a: In prison, you could only be given panadol. That was why it was to heal on its own.

The Presiding Chair (Commissioner Chawatama): How do you feel now? Is it something that still affects you?

Mr. Wilson Awour Ang'ong'a: It actually affects me.

The Presiding Chair (Commissioner Chawatama): In what way?

Mr. Wilson Awour Ang'ong'a: If I go on a long journey, one side of my body pains me.

The Presiding Chair (Commissioner Chawatama): I would like to hear from you about the assistance that you said you gave to the three persons. You also mentioned the prisoner. Was this assistance outside what was required from you in as far as the Prisons Act was concerned? In your line of duty you were required to perform certain activities; was this outside your work?

Mr. Wilson Awour Ang'ong'a: While in prison, these prisoners were supposed to make a request if they wanted to see the welfare officer or the officer-in-charge. There was a book I was to write for them. So, they were to tell the officer-in-charge of the block where they were. They were then to be brought into the documentation place. I was the one in charge of that book. So, I was to do the application on their behalf and take it to the Officer-in-Charge, whom they want to meet. If this would actually constitute to be any offence, then it would only be some kind of trafficking, which is an offence under the

Prisons Act. For such an offence, I would have been charged within the prison's establishment, but it would not have been much bigger than what I saw.

The Presiding Chair (Commissioner Chawatama): So, by virtue of the position you held, what you did for the three prisoners was not unusual and was not restricted to those three prisoners?

Mr. Wilson Awour Ang'ong'a: No, it was not.

The Presiding Chair (Commissioner Chawatama): It could have been for any prisoner?

Mr. Wilson Angonga: Yes.

The Presiding Chair (Commissioner Chawatama): So, it would be safe to, maybe, conclude that it was the reason for which the three were in prison that landed you in prison. It was not that you were doing something outside your normal mandate.

Mr. Wilson Awour Ang'ong'a: I was not.

The Presiding Chair (Commissioner Chawatama): I also remember that we had an opportunity to question you quite extensively. The reason as to why we have questioned you is because this is a different forum and it is for the sake of the audience that is here.

Thank you for getting time to talk to us and *pole sana* for the loss of your wife. I hope that you and your children will live a good life. We have heard what you seek in terms of the recommendations for civil servants. I was just wondering, as an alternative to reinstatement in service, what else do you think would satisfy you?

Mr. Wilson Awour Ang'ong'a: Maybe, compensation; that one has been recommended already.

The Presiding Chair (Commissioner Chawatama): Thank you very much.

Leader of Evidence, stand down the witness and, please, approach the Bench.

Could the witness be sworn in? We will hear this witness and another one by the name Anna Kihara before we adjourn. We believe that we have had sufficient witnesses who are representative of all the other witnesses some of whom have not come.

(Mr. Wafula Buke took the oath)

Ms. Belinda Akello: I want to thank you for coming. For the record, kindly state your name again.

Mr. Wafula Buke: My name is Wafule Buke.

Ms. Belinda Akello: We welcome you to today's hearing at Nyayo House. As the Presiding Chair has pointed out, we wish to understand more of the experience that you and others went through at this place and also the infamous history that you have, having gone through a number of prisons. Could you in a synoptic way give us the reasons why you were arrested and your experience?

Mr. Wafula Buke: Presiding Chair and Commissioners, the journey to this place begun when I joined university. If there is such a thing as joining university at the wrong time, then that was the time because we joined the university when political repression was high. Our colleague students were in detention and others like Adungosi were in prison. Our lecturers were also detained. This was in 1985.

During those days, we had to make a choice; either we are on the side of those in prison, those pushing for change or those who want to lie low, get certificates and get a job. I think I am lucky to have been brought up well. I made the choice to be on the side of the oppressed. Within the university, state security operatives were all over. They operated in the disguise of cooks, watchmen and students. I remember that Prof. Odege Awolo who was one of the progressive lecturers was arrested and when he came back he complained that some of the students in class had told the security officers what he had said in class. He wanted to know who among us was a policeman. Another proof of problems was the current Director of Starehe Centre, Prof. Mugambi. He came to give a lecture on Nyayo Philosophy and naturally everybody flocked in Ufungamano. Those days learning was not very easy, so people could come from all over. Prof. Mugambi said that he would talk in a manner that does not burn his fingers but also try hard to use his intelligence. In short, he was not coming to tell us anything. He spent one hour giving an introduction to his speech and stopped before beginning.

Actually as students, we realized that there was nothing going on. So, we decided to join student politics to try and reinforce the forces that were committed to change. We targeted the student leadership organ. At that time, the state used to struggle to capture the leadership of the same. In 1986, I was a student leader. I had not been chosen. Somebody else was picked on the side of the Government. I decided to also contest. The first time I contested I was in second year but I was rigged out. The second year we made it with a landslide. The experiences of torture that occurred much later were not as upsetting to us because we were consciously involved in the struggle. I remember asking my colleagues Dr. Kabereri, Miguna Miguna, Munoro Nderi and Munamlesa Mleji whether they knew the consequences of our decision to be progressive. They said that they understood. So, we decided to embark on our programme. After developing our plans it took us only nine days.

We had been student leaders for only nine days because in October the police came for me. I was in my room and they escorted me out. They were all armed and pointed pistols at my head. We were taken to Central Police Station where I found my colleagues. At that time we were a bit naïve and we did not know how the state works. I remember asking a lawyer friend what the state would do to us. My first lawyer even told me that he thinks we will just be beaten and set free. So, as we were beaten I had hopes of being

released. I found that all my colleagues, the student leaders had all been arrested. They were about seven. I was taken to Kasarani Police Station and in the morning a police inspector came there and gave me about four hard slaps mentioning something like seditious publication. I thought that maybe he was preparing me for the case.

The following day I was put in a Land Rover and brought here. At that time, I did not know it was Nyayo House. The story of Nyayo House has been told. There were interesting places also. We got a chance to learn many things about ourselves and about torture. I have given a few talks on how to survive torture courtesy of that experience. One of the good things that I learnt about my body is that when I am very scared sweat moves from my armpit and rolls down. That is something that I did not know. The other thing I learnt is that while undergoing torture and they give you little foods you better just reject it. You will only suffer for two days and the third day you will be ready to go down and in control of your faculties. The other thing I learnt is that you cannot survive torture. If you have any information you will tell it. You will tell them the name of your mother and her mother. So, torture is a very difficult thing. One of the things that I learnt and applied in the days to come when I had been subjected to a lot of torture over the years is that if you have precious information just be violent and they will beat you until you are unconscious because then you will not speak. If you allow them to follow a systematic plan you will break down.

After about 12 days at Nyayo House, I was taken to Kilimani Police Station and asked to plead guilty after we had gone through the writing of statements. I told him that I had done nothing. The things they are saying I have done I said them because of the beatings. They claimed that I was a Libyan spy and I had been sponsored by the Libyan Embassy. They guided me through so I just said yes. When you say no they will beat you until you say yes to survive. Towards the end when I refused, I was brought back. When we reached the cells and the lift went up an officer I later met in another interrogation years later called Leonard Wachira asked me what happened. I said that nothing had happened. He told me that the Officer Commanding Station (OCS) was very unhappy. Of course my sweat again rolled knowing that I was going to be beaten again. While there they said they just wanted to beat me up. So, they beat me up from 8.00 a.m. onwards. I cried until there were no more tears. By Monday, anywhere was better than Nyayo House. They told us that they control the courts and every time they give a statement to the magistrate, they write at the back your sentence. So, they told me that I will not be jailed for many years. One even said that I will be jailed for only two years.

When I was taken to court, I was very ready. It was very late. I remember that all the torturers were there. I pleaded guilty and Chunga gave a conviction. I know that we were taken to court late because the officer who was in charge of the lorry that took us to Kamiti complained that when we are jailed, we are kept for too long. He was a Luo serjeant called Odhiambo. I began the prison life that many people have talked about. The people who were angry in prison were those who were in charge because some of the sufferings that we were going through were because of corruption and greed.

I remember under Kamakil, we could eat flour with a lot of sand for about three months. I do not think that was Moi's agenda. That was Kamakil in action. Prisons make prisoners very vulnerable to malpractices of other officers. The other important thing that I can say about prison is treatment. It is a bad thing to be sick while in prison. We lost many people because of that. I know fellows who had quarrels with the administration and Dr. Owino could tell them that they have been disturbing them and they can take themselves to Kenyatta National Hospital (KNH). The fellow, his name is Macharia, stayed for five days and died. The doctor was only willing to treat "good" persons. Prison was tough. There were no books and we tried to go on hunger strikes to get books. I remember staying without food. I was with Waweru Kariuki for about six days before they could allow us to get books from outside. Those were wiped out with time and we went back to square one.

I wish to talk about how Adungosi died which is also connected to health conditions. Is it okay?

The Presiding Chair (Commissioner Chawatama): Let me just consult first.

Leader of Evidence, I was just consulting to find out whether this issue was listed for public hearing as opposed to other special hearings.

Ms. Belinda Akello: The witness informs me that the information he will give regards the prison experience and just limited to that particular extent.

The Presiding Chair (Commissioner Chawatama): Then proceed.

Mr. Wafula Buke: I had talked about health issues and I wanted to give another example of Titus Adungosi, perhaps Kenya's Steve Biko. I never met Adungosi myself but towards his end, he came to Kamiti Prison. When he arrived, he was taken to the sick bay. Those are local dispensaries. We learnt from a trustee that Adungosi had been transferred to Kamiti and he was very sick. That trustee was called Ndung'u. He told me that every time he swallows milk, he vomits. He was not taken to hospital the first day, second day, the third day and the fourth day when we bumped into Ndung'u he told us that Adungosi had died when he arrived at KNH.

After our hunger strike for changes in our lives like sunshine because we were staying indoors for too many hours, the administration became uncomfortable with us and transferred us to Naivasha. While in Naivasha, I started investigating how Adungosi died. I learnt from a fellow prisoner in punishment block where political prisoners were kept and also from the warders, one of them a Munubi and another one called Corporal Masinde from Kimilili Constituency, who told me that Adungosi got sick but could not get medication. His colleagues asked him to organize and bring in money through some illegal means. Adungosi was a very religious man. In fact, he used to argue with professors like Maina wa Kinyati, and could say "Jesus or Marx". He said that he had been jailed for fighting corruption and malpractices and that if the only way he could get medication is by smuggling in money, then his days were numbered.

So, he got sick and continued deteriorating. He decided to try the only weapon that prison authorities listen to and that is hunger strike. He had stomach ulcers and yet he had to go on a hunger strike. He was on hunger strike I hear for about seven days, and then they decided to take him to Naivasha District Hospital. He did not stay there for long. The fellow in charge, I was told, was a Luhya with a Luo name. He claimed that security could not be guaranteed. So, he was brought back to prison and forced again to go on a hunger strike so that he can secure a transfer to Kenyatta National Hospital for treatment. That is how we ended having him in Kamiti and that is how he died. I owe it to Adungosi to say that story.

Naivasha Prison was okay. I would say that we ate very well. It was not as bad as Kamiti. I think it is because it has prisoners who serve long sentences. Normally, it is life or ten years sentence and above. So, somehow they have adjusted conditions to be a bit better. We also used to read a bit. We could get books and read. After about three years, because I had been jailed for five years, I asked to be transferred to Bungoma to complete my sentence. I also wanted to know how small prisons were run. That is how I found myself in Bungoma and I learnt what I do not have to say now about how small prisons work.

My term came to an end and when I got out, I found policemen waiting for me. They were five under a corporal. They commanded me to enter their vehicle. I refused and then we had a heated exchange. My father and brother were there. My father told me to stop the things I was doing. He said that I had made them go through hell and that I should just go wherever they wanted me to go. I sympathized and obeyed him. We went to the police station. I think they just wanted to introduce me to those who will monitor me. They summoned police officers into the hall. They just looked at me and set me free. I must say I was lucky because I was still a progressive citizen. I had received letters from comrades who were abroad that had code names. I received instructions on how to continue with the struggle for change.

I remember the first illegal meeting because the following day, we started working. George Waninga who died linked up with me. He had also finished his five year sentence. In my opinion, he was still sober. We went on organizing meetings for change. I do not want to go into that. After 43 days, one of our colleagues was caught. He had a letter that we had received from Jaramogi Oginga Odinga asking us to mobilize for the National Development Party (NDP). Those days, that was sedition. So, we knew they would come for us. He was taken to a police station in Chesikaki and somebody from there said that he heard my name on radio. George and I ran away to Uganda. While in Uganda they still tried to organize to get us smuggled back. The Uganda intelligence read and told me that they cannot allow us to embarrass them, so they will keep us in a safe place. I told them that I hoped it was not prison but they just told me that it is a police station. That is how I started again living in Mbale Police Station for two months.

I wrote letters to my friends in Tanzania and they managed to organize through the central government with the Ugandan Government and I was released and taken to Kampala. While in Uganda, we tried to live as patriots. We struggled not to be taken to Europe. We stayed in the neighbourhood of our country and continued mobilizing and

preparing ourselves to come and engage the system. Mr. Moi had no ears, he only had a *rungu*. So, we also tried to learn the science of violence. We went for military training. While there, I was a powerful small boy because my identification was reading “Intelligence Officer Attached to the President’s Office”. That enabled me move easily through roadblocks and carry any cargo, human or otherwise from Kenya to Uganda.

Mr. Moi must have learnt that people were organizing because we were not the only group in Uganda. I had my group led by patriots like Dr. Arthur Owiti, Mwandawiro Mganga and Prof. Mucheri Mugo. Those were the presidents of our movement. Then there were others like Kenya Patriotic Front (KPF) and February 18th Revolutionary Movement. In short, we were beneficiaries of support from the Comrade Muammar Gaddafi because he had decentralized his Mataba International where all soldiers fighting global terrorism led by imperialism were receiving training.

So, I think the global establishment got Mr. Moi to agree to repeal Section 2A of the Constitution. We got back although we were disorganized because of the heavy presence of the middle class in our groups. Most of them decided to join the establishment and the guerilla army wound up before shooting a single bullet. To that extent, I think we tried.

The Moi Government arrested five of our colleagues and charged them with treason and attempted robbery. That was not true. They were bundled up and put in Shimo La Tewa Prison. They also looked for me and arrested me when we were launching the National Union of Students of Kenya. I was taken to Gigiri Police Station. At that time, I was okay because I was a trained soldier. I knew how torture is handled, so I was prepared for them. The first thing that I did when I arrived at the cell is sleep. When you stay in prison, you would know how to induce sleep. I remember the officer wondering why I was already asleep but I was preparing my head for interrogation. At that time, I had documents for the movement plus pictures but I had hidden them in Kondele, Kisumu. The trouble was that my wife saw me hide them. So, the interrogation was tricky because I had to protect my comrades whose identities I had and also make sure that the police did not reach my wife because she could have exposed us as happened during Mwakenya. Mwakenya was blown up by a wife of a comrade.

I adopted an antagonistic approach because I wanted us to go physical. I knew that they were not keen on killing people in custody. All I needed to do is getting injured till I am taken to KNH. When they stretched their hands to greet me, I did not greet them. They asked me if that is how guerrillas behave. They told me that I will tell them everything and I replied by saying that I was not a small boy anymore. They tried walking away and I called them back. I told them if they will bring me food, then they should bring breakfast, lunch and supper without fail and that if they skipped any, they should not bring it. I think my hostility helped because they decided to change gear. They decided to allow interrogation. I had more information than they had and it was easy to manipulate them.

Finally, they released me after five days and we went on mobilizing and working for change. After this period, I went back home again to try and mobilize people around their

agenda. Then terror struck. There was only one underground movement that managed to at least attack a police station killing two people in my own home market. In those days if a seditious publication was found in your sub-location you would be arrested. Once again, I was arrested while trying to run to Tanzania. I was still in Kawangware. I was taken to a chief's camp where I got a normal dose of beatings before being transferred to Naivasha Prison. I demanded for a place because of the way the cells were. We went through another phase where I got a broken tooth because they were pissed off. Such details are known. I stayed there for 49 days and then I was set free.

After that, I have just been going to police stations like everybody else who fights for change. I have gone to Central Police Station about nine times, Kasarani four times, Karuri once, Embakasi twice, Muthangari once and Kileleshwa once for many charges. I was charged for trespassing the university because we went to look for free tea, inciting the students to riot. Sometimes you are charged for stealing the lights of your car. We have had many cases but the only bad thing is that several people suffered because of being our associates. For example, if you slept in people's homes, they are rounded up and their lives change forever. That is the only bit that was not good. That is generally what I wanted to say.

Ms. Belinda Akello: Thank you very much, Mr. Wafula Buke for your testimony today. I have two questions that I would like to ask.

In your time in detention, did you at one point experience friendly warders? Did you see any of them being punished for being friendly to the inmates?

Mr. Wafula Buke: The best warders were Kalenjins. I do not know whether it is because of the security that arises from a Kalenjin being head of state? They were always the best. They smuggled newspapers and gave us some information. Others were even better because they could smuggle out information for us. For example, we managed to smuggle out some information with Adungosi. Stories have also been told of writers who have written books. So, warders were not entirely enemies. There were those who were allies who also disliked Mr. Moi and his people. Unfortunately, during our time in Kamiti three or four officers were arrested and accused of having been oathed by Maina wa Kinyati. So, they lost their jobs and were imprisoned.

Ms. Belinda Akello: You have indicated that you were fighting for change. We also had other organizations like Mwakenya. Were you operating with a similar manifesto?

Mr. Wafula Buke: Organizational dynamics are problematic. Much as we were all united in the pursuit for a better country, we had our own internal issues that made it necessary for us to operate on different goals but pushing in the same direction. We fundamentally believed in the same values but in different ways.

Ms. Belinda Akello: Finally, you also talked about an organization called UAKE. What does UAKE stand for?

Mr. Wafule Buke: UAKE is an acronym from Kiswahili. It is the Union of Patriots Fighting for Liberation of Kenya or Umoja wa Wazalendo wa Kupigania Kenya.

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

The Presiding Chair (Commissioner Chawatama): Thank you very much. I will call upon the Commissioners if they have questions for you.

Commissioner Dinka: Thank you very much, Mr. Wafula. This is fascinating although we knew some parts of it but this is probably the full story. These are the outlines of the full story.

I want to ask you two questions. The Kenya Patriotic Front, then Mwakenya and FERA, are those three independent unrelated organizations or is it that the Kenya Patriotic Front was organized first and then, when it did not work, it went underground and then became Mwakenya, and then when you were exiled and ran away, you came back and started FERA? How are they related?

Mr. Wafula Buke: Mwakenya emerged from the ashes of December 12th Movement, which is older than all those other organizations. After Mwakenya faced various organizational problems, especially after the crackdown, and those conflicts over how our politics were managed, led to people creating independent organizations. So, from Mwakenya, we had an organization called Mekatilili Revolutionary Movement. We also had Kenya Revolutionary Movement associated with Okong'o Arara. Then we had WAKE and Kenya Patriotic Front, which was, perhaps, the only one that trained people in Libya itself. Then, we had February 18th Revolutionary Movement, which was being led by Brig. Odongo, a person who got himself in Uganda after the KPU fall out; fought for the liberation of Uganda from Amin and then joined Museveni and fought for change. I think that Odongo and FERA, therefore, was one of those projects Museveni may have had for change in the region, alongside the Rwandese Patriotic Front.

Commissioner Dinka: Thank you very much. I now have a clear picture of how they evolved. I really want to salute your effort and that of your colleagues in the transformation of Kenya, from university and all kinds of prisons and police station without relenting or giving up. You have done probably beyond the call of duty for any citizen. This is something that I think you should be proud of. My last question is: When I was a special representative of the Secretary General of the United Nations in Sierra Leone, I came across very credible information which was denied by everybody at that time, that Libya at that time, under Gaddafi, had trained also the RUF people like Foday Sankoh and his people. Of course, I can understand why everybody wants to distance himself from Foday Sankoh because he was committing all kinds of atrocities. Have you ever met him?

Mr. Wafula Buke: Now, I did not train in Libya. I trained at the time when Masaba International had been decentralized, but a student leader who was an official with me and who trained in Libya, met Foday Sankoh. He used to say that Foday Sankoh would

never eat; he had to wait for all his soldiers to eat first. So, it is true that Foday Sankoh had an army that was undergoing training in Masaba International, Benghazi.

Commissioner Dinka: You are familiar with the late journalist and writer from Uganda, who died on his way to the airport on Mombasa Road?

Mr. Wafula Buke: I knew him very well. I cannot recall his name; it could come back to me. He was also trained in Libya and was very close friend with Foday Sankoh. In fact, I had to use his good offices to get in touch with Foday Sankoh in the bush.

Commissioner Dinka: Thank you very much.

The Presiding Chair (Commissioner Chawatama): General, do you have any questions?

Commissioner Farah: Thank you very much, Wafula. I thought that I was reading a book written by you. But tell me something; having described the art of resisting torture... I did not even know that we normally sweat through the armpits and that if you are expecting more beatings then do not ask for food. But having served in this torture chamber here, police station cells and experienced a punishment ward and also small prisons, and explained very interestingly those warders who were good to you, what ethnicity they were and the ones that were bad to you, what is that thing that makes a human being enjoy torturing as a person?

Mr. Wafula Buke: When I was free to move around, I think I was an angry man with the torturers. I remember going to the reception of Nyayo House and camping there to identify those who beat me. I stuck there from 8.00 a.m. to 1.00 p.m. and saw three. One I now know is called Wachira and he is my friend. That was the most violent. I also saw Opiyo who I think had retired. He did not look like money. I also saw another one whom I do not know. But I can say that in retrospect, I think we were all just in trouble. I remember when I was in Nyayo House I had just been beaten up there. So, when I came out, I was locked in the cell. I knocked to be taken to the toilets and when that fellow came, the guy asked me: "Why did you not do it earlier?" He gave me a hard blow and I fell down. Later on, when I reported him up to the *wazees*, I think they talked to him. He told me: "I am sorry. You know these old men are stressing us. They are giving us a lot of problems and so, we are also just frustrated. So, I want to apologize." It is from him that I got information that students had rioted. I did not even know. I think the chain goes up to the torturers. They also must have had their problems; being pushed to beat other people's beautiful children. I think the people who take the ultimate responsibility and may have some enjoyment out of it are those who make lots of money and control power. Those are the only people who enjoy. But I think having lived through that experience I can say that Kenya was just a country of people suffering in various capacities. If you were in charge of agriculture, you had your problems. You were delivering qualitatively you were just like a police officer who was also delivering bad services. A medical officer was not any better. He was just a perpetrator like any other. So, my outlook these days is that I think we were victims of a system and that system needs to be dismantled. Since I was a hardcore enemy of the system, I also saw something positive about Moi. That is because

after training in Uganda and seeing how Museveni dealt with rebels... If it is canes on your buttocks, they would cane you until they reach the bone. I used to live with them in police custody. Of course, if you were caught as a rebel, you would be in trouble. You would board the earliest bus to heaven. So, when we came back and Moi was arresting, interrogating and, of course, beating us, I felt that there was something good because he did not kill us, as is standard practice in African politics. But, otherwise, he takes political responsibility for mismanaging our country and compelling us to engage him by any means available.

Commissioner Farah: That is interesting because the system of torture here; the six o'clock magistrate, Kenyatta Hospital doctor and the warder in the prison, is all the same bad thing. Thank you very much for the insight into the bad system.

I have no further questions.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony. When I was listening to you speak and you talked about being told by those who were torturing you that they control the courts, I wondered what went through your mind. This is because ordinarily, any person who is to be taken to court already begins to prepare themselves for justice. When you heard this, could you just very briefly tell us what went through your mind?

Mr. Wafula Buke: I was evolving from a student who simply expected to be beaten and released to go to class. Now I was realizing that the State operated in more complex forms. So, I went to court knowing fully well that I was going to be jailed. I remember Benard Chunga who was the prosecutor. A person sat behind him and kept clarifying details. At some stage, I remember Chunga pretending that he did not know the name SONU, when he had jailed many in SONU. Basically, in my opinion, he was trying to get the magistrate to know that this was a State project and he needed to act accordingly. So, for me, it was just learning.

The Presiding Chair (Commissioner Chawatama): You also mentioned the fact that on the statement that was obtained from you, the sentence would be written at the back. Is this the sentence that you ended up getting? What was the impact on yourself of having the very people who tortured you being present in a place of justice?

Mr. Wafula Buke: I almost felt ashamed to say the truth, because I was finished. I had been beaten into total submission. I remember at one stage, Opiyo, gesticulating to me to do this (*Mr. Buke demonstrated*) and I did that. So, I was a very frightened person, praying to be jailed for anything. So, the presence of officers was really proof that we were still in hell. We were at Nyayo House and anywhere you go was better.

The Presiding Chair (Commissioner Chawatama): What about the sentence that was written on the back of the statement; is that the sentence that the court imposed?

Mr. Wafula Buke: I do not know what was written. All I was told was that usually, one of the Special Branch officers who was playing friends, I think he was called Mjomba... From the descriptions, I have heard, he may be Mjomba. Much later on in Naivasha, when I was arrested again, I also met him. He never beat me throughout, but he told me that normally, they write the sentence at the back.

The Presiding Chair (Commissioner Chawatama): There are a lot of reforms that are taking place in Kenya right now. There is a new Constitution in place, reforms within the police and Judiciary. Have you seen this change that you yearned for and are you satisfied with this change?

Mr. Wafula Buke: There are several ways in which I can say we lost the war. One, all my colleagues - even by the way they look out here - none of them has a suit. This is because we did not take power. But what we managed to create conditions that would control appetites of those who were capable of leading and compel them also to put in place a few reforms that can make it possible for them to be accountable to the people. So, I can say that the greatest thing that happened - I almost think that it is a miracle - is that we got a Constitution. But now we also look forward and see the re-emergence of KANU in various forms. If those monsters of KANU that we fought against manage to capture power again, then there is a risk of wiping out all the gains that we have had. But so far it is good enough.

The Presiding Chair (Commissioner Chawatama): We have heard many of your colleagues speak of the experiences that they went through. It is clear that there was a course when you hear them speak. We have also heard those who have criticized the movement or movements. Do you sometimes feel offended at being misunderstood? If you had an opportunity to confront one of those persons, what would you say to them?

Mr. Wafula Buke: I am not sure if I have understood your question. I am sorry.

The Presiding Chair (Commissioner Chawatama): Okay. Clearly in your minds, with all your colleagues from the different movements at the time, were fighting for change. You were fighting for a course which you recognized and appreciated and risked your lives for and the lives of many members of your family. But, of course, there are those critics who may have thought or still think that all those efforts count for nothing.

Mr. Wafula Buke: We have many critics and those who believe that we took the wrong choice by taking this rough path. Some of the most embarrassing moments I have had are those times when you meet somebody and he reprimands you for not having a degree. He thinks that he is a greater person because he has a Masters. Usually, that happens after you have argued better than him or her. So, hitting you under the belt means saying that you have no papers. So, many people, I think the majority... The generation we have today is fairly opportunistic. We are not necessarily positive people. We do not inspire. People look at what we have and our stations and say that we took the wrong choices. They criticize us for what we try to do, but I think it is the price that you pay when you decide to pursue a cause which has challenges.

The Presiding Chair (Commissioner Chawatama): Thank you very much.

Commissioner Farah: I have one last question which somehow escaped my mind from the list of the questions that I had. I know that it is a bit unfair because you were a university student in the 1980s and, perhaps, not born even with the colonialists were governing this country. But you are an educated man and, therefore, have read. A lot of scholars say that African governments learnt from the colonial masters how to suppress dissent, but having read books, I now realize that the colonialists were not as bad as the new independent governments. Even the Kenyatta Government was not as bad as the Nyayo time. Of course, things are good now because we have a new Constitution, as you said, which we fought for, for over 20 years. Do you think, therefore, that it is true that, as we got Independence, we just inherited the structures of colonialism or did we perfect it worse than even the colonial government?

Mr. Wafula Buke: I agree with your analysis. One of the special things about the colonialists is that they tried as much as possible to oppress using the law. I do not know how right I am, but if they wanted you killed, at least, in a non-confrontational situation, they would make sure that they use the law to kill you. But we find now after Independence that Kenyatta realized that he cannot detain Pio Gama Pinto, Gen. Baimungi and Gen. Mwariama. So, he rounds them up and shoots the Mau Mau people. The radical nationalists and strategist Pio Gama Pinto could not be detained because it would be bad politics. So, the colonial era becomes better for him, because then he would have been taken to custody and charged. But under Kenyatta, he had to be killed and we see those murders being littered in our history of major leaders, even more than we had during the colonial period.

Commissioner Farah: Thank you very much, Mr. Wafula.

The Presiding Chair (Commissioner Chawatama): Do you have recommendations over and above those which have already been made? We will give you three minutes.

Mr. Wafula Buke: While in prison, I managed to read something, where I was told that when somebody is jailed in Bulgaria, you continue earning the salary that you had when you were free. I think that is common sense because the children and wife are innocent. After all, you have just gone for correction. You will come back a good person. In my view, I do not know how long it would take, but I would be very happy if we delink the punishment of the victim from the innocent children and family. Today, we are talking about people even being jailed and taken to ICC. I think the State must have an agenda on how they intend to deal with the children of those people just in case I was jailed. That is because we were jailed and had our own ideas. Our children who were innocent suffered even more than us who were being fed by the Government. So, I would really recommend that a system should be put in place that ensures that nobody should go to prison if the Government has no agenda of making sure that those who remain behind are safe.

The other recommendation I would give that, maybe, would be useful is that the universities should waive--- Today, if I wanted to stand for election, I will be asked to repay the university loan. Now, that loan was not useful to me because I have not even finished the degree. When they allowed us to go back, I told them that I would go back when I have raised enough money to pay school fees. So, it is annoying to be asked to pay for a loan whose agenda was sabotaged by the system in collaboration with the university. I would ask that those loans that my colleagues who were expelled and went to exile had should be written off.

The rest has been said.

The Presiding Chair (Commissioner Chawatama): I have not gagged you. Are those the only two recommendations you have?

Mr. Wafula Buke: One of things that I find problematic is that the broader family paid a very high price. In fact, my uncle who was a teacher was arrested on FERA charges and stayed in for four months, because he was my friend. He lost his head and we buried him not so long ago. Of course, my brothers were all put in and got many problems. But the major thing that hit us, as a family, is that because we were a bit of a dissident family, the fellows in KANU schemed and used their connections and secured the title deed of our family ancestral land, where we had lived from 1940s. Of course, as endangered people, when clashes began, we were the first to run away. So, we got displaced and our houses were brought down. But they went a step further and changed the land. So, we do not have our land. So, I think that if the Truth, Justice and Reconciliation Commission (TJRC) ensured that the law is obeyed and the fake title deed is not respected, then I have some relief, as the architect of their problems.

The Presiding Chair (Commissioner Chawatama): Thank you very much. I think it would be of interest to the Commission if we got the names of those who were affected by your recommendation No.2, who owe loans to the universities.

Mr. Wafula Buke: Yes.

The Presiding Chair (Commissioner Chawatama): Thank you very much for coming. We know that you had to travel and have to travel back. All the same, you came and spoke to us.

Mr. Wafula Buke: Thank you.

Ms. Belinda Akello: Presiding Chair, we seek your direction. Having listened to most people, we pray the final witness who has just come do make the presentation with the second last witness, as they will be basically highlighting their memoranda.

(Ms. Hannah Wangari Gathoga took the oath)

Ms. Belinda Akello: Welcome to this afternoon session of thematic hearings on Nyayo House. Kindly state your names for purposes of our record.

Ms. Hannah Wangari Gathoga: My name is Hannah Wangari Gathoga, the daughter of Peter Young Kihara. I am the fifth born in the family of nine. We are five daughters and four sons.

As per what we have gone through by the arrest of our father, he was arrested as we witnessed in 1986. That is what I will talk about most. He was arrested with the Mwakenya group. The policemen bothered us a lot because we were put aside, all our property was destroyed or torn, for example, mattresses, blankets and everything. Everything was placed on the ground and we were living in a mud house. There were certain documents that they were looking for. So, we have suffered a lot because of the arrest of my father and his run in with the Moi Government.

Because of what we went through, we did not go to school because of the problems we had. Our mother is unemployed and we are nine children in the family. So, we were not able to get educated. If we had a chance, we would have been educated and we would have been good children just like my father.

Our father later got sick and he went to Aga Khan Hospital, Guru Nanak Hospital, MP Shah Hospital and Kenyatta National Hospital. We suffered because we had a huge medical bill, but God helped us at the end. The Honorable Prime Minister chipped in and he was able to take my father to Nairobi Hospital, where he paid the hospital bill. He also paid the mortuary fee and all the bills that we had incurred as well as the funeral expenses. He also constructed a home for us – a three bedroom house which is good.

Our recommendation is that because we were not able to get good education, we would like if there is a way for us to get assisted. This will enable us to educate our children so that they will have a good foundation just like the one our father had. Still, there are other children who are not from my family who have also suffered because of their parents. So, we would also like them to be assisted so that they are also able to stand for themselves as people.

The third thing is that my father had started a book; he was writing his autobiography but he was not able to complete it because he died before completing his writing so that the generations to come would read about the problems and tribulations that he went through.

The other thing is that, it hurts a lot because I sat for my examinations in 1985 with my elder brother and I was not able to join a good school because they came for my father on 23rd January. So, when we were looking for a school, my mother started catering for my father instead because he was taken away on 23rd January and we saw him again on 2nd April. So, instead of looking for a school for me and my brother, my mother had to first take care of my father. So, that is why I am requesting the Commission that if there is a way that we, his children, can get some help for us to be able to educate our children well, we will appreciate. That is my recommendation.

Ms. Belinda Akello: Thank you very much, Hannah, for your presentation and we also thank you for bringing some insight of how the children of persons who underwent this

have suffered. We also would like to thank you for the recommendations that you have made, not only for yourself, but also for your children. The same has also been taken down.

I have no further questions, Presiding Chair. I would like to pass on the witness to the commissioners.

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

Commissioner Dinka: I have no questions, Presiding Chair. But I would like to thank you, Hannah, very much for this testimony which gives the perspective of the children. I empathize with your suffering, pain and the pain of your siblings. Thank you very much for coming.

Commissioner Farah: Hannah, it is the same with me. I have no questions for you because your testimony is very clear. We empathize with you because you and your siblings were robbed of your father and you did not get education. Life would have been different if your father was never arrested. So, thank you very much.

I have no further questions.

The Presiding Chair (Commissioner Chawatama): Hannah, thank you very much for your testimony. It is clear that there are many opportunities that you and your siblings lost due to the death of your father. You have mentioned the fact that your father started writing a book which has not been completed. I would like to know where this unfinished journal is. Who has it right now?

Ms. Hannah Wangari Gathoga: It is in the hands of a man known as Githuku.

The Presiding Chair (Commissioner Chawatama): What is the relationship between you and this man or the relationship that your father had with the person who has his journal?

Ms. Hannah Wangari Gathoga: He was his friend.

The Presiding Chair (Commissioner Chawatama): Do you have any idea how far your father had gone in his writings or whether he had come almost close to the end?

Ms. Hannah Wangari Gathoga: He had completed it, but it was not published yet.

The Presiding Chair (Commissioner Chawatama): Thank you very much. This is something that we will talk about in the Commission and we will be able to communicate with you on what we think the way forward should be. Because you are right; your father's experiences should be documented and we should give generations to come an opportunity to know that part of the history that took place in this country so that they

may also know some of the struggles and difficulties that the generations before them went through.

Thank you very much for coming and speaking to us. We also thank you very much for your recommendations.

Ms. Belinda Akello: Presiding Chair, we wait for your directions. This is the last presenter.

The Presiding Chair (Commissioner Chawatama): We would like to thank everybody who has attended today's hearings. Indeed, we have heard 10 out of the 12 witnesses. This is taking into consideration the fact that last week and this week, we had some witnesses. We are happy that we have been able to hear from very many people. We are conscious of the fact that the people who have spoken, whether today or last week, have spoken for many others and we do not think that there is any evidence out there that has been left hanging. That the experiences of all who went through torture here at Nyayo House has been sufficiently dealt with. We would like to thank the public and the victims for their patience and for co-operating with us. We would also like to thank the staff of the TJRC for their hard work. The commissioners would not have done this work alone without you and we value you very much.

I will ask Commissioner Farah to read out the names of the witnesses that we have heard today and to just thank them.

Commissioner Farah: Thank you, Presiding Chair. Today, we heard the evidence of Architect Sylvester Muli, Joan Akinyi Kabaselleh, Wilson Awuor Ang'ong'a, Wafula Buke and Hannah Wangari Gathogo. We thank them all.

The Presiding Chair (Commissioner Chawatama): Leader of Evidence, we thank you and we adjourn these proceedings and we turn over to our masters of ceremony. I think part of the programme, as we close, is in the same way; that we observe a moment of silence for the victims of torture in this land, especially those who lost their lives and those who continue to suffer because of the experiences that they went through. We will just think about them and offer our prayers to them and their families.

Thank you.

(The Commission observed a minute of silence for the victims of torture)

(The Commission adjourned at 2.10 p.m.)