

Seattle University School of Law

Seattle University School of Law Digital Commons

I. Core TJRC Related Documents

The Truth, Justice and Reconciliation
Commission of Kenya

6-27-2011

Public Hearing Transcripts - Western - Kakamega - RTJRC27.06 (Kakamega County Municipal Hall)

Truth, Justice, and Reconciliation Commission

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

Recommended Citation

Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts - Western - Kakamega - RTJRC27.06 (Kakamega County Municipal Hall)" (2011). *I. Core TJRC Related Documents*. 125.
<https://digitalcommons.law.seattleu.edu/tjrc-core/125>

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

**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON MONDAY, 27TH JUNE,
2011 AT KAKAMEGA COUNTY MUNICIPAL HALL**

PRESENT

Ahmed Farah	-	The Presiding Chair, Kenya
Ronald Slye	-	Commissioner, USA
Berhanu Dinka	-	Commissioner, Ethiopia

(The Commission commenced at 9.40 a.m.)

(Opening Prayers)

The Presiding Chair (Commissioner Farah): Good morning. I welcome you all to the Commission's hearings in Western Region starting here today in Kakamega. This morning and, indeed, the whole of today will comprise of a panel of three Commissioners.

*(The Presiding Chair (Commissioner Farah)
introduced himself and other TJRC Commissioners)*

The Presiding Chair (Commissioner Farah): Due to circumstances beyond our control, the following Commissioners could not be with us today but will join us tomorrow; these are Commissioners Thomas Ojienda and Margaret Shava both from Kenya and Commissioner Judge Gertrude Chawatama, one of the international Commissioners from Zambia. Unfortunately, she had to go to Zambia but will join us later in the week.

The Truth, Justice and Reconciliation Commission was established by an Act of Parliament under Section 3(1) of the TJRC Act known as Act No. 6 of 2008 with the objective of promoting peace, justice, national unity, healing, reconciliation and dignity among the people of Kenya. The Commission, in following its objectives and functions, has collected 40,000 statements and 600 memoranda nation-wide. The Commission is now conducting its hearings from selected window cases.

The procedure we shall follow today in this hearing is to swear witnesses after which our lawyer or leader of evidence will lead the witnesses in their testimony. On completion of the evidence, the panel of Commissioners may pose questions to the witnesses to clarify certain matters. There will be no cross examination allowed.

All are requested to maintain absolute silence in respect of the witnesses while giving their testimonies. We must not say anything even if we do not agree with what the witnesses are saying. All of you are requested to switch off your mobile phones as they will interrupt the proceedings. Photographs may be taken during these proceedings but please avoid flash photography.

Now I will ask if there are any counsels present and if they are here, could they please identify themselves and whom they represent. I can see that there are no counsels present and, therefore, there will be no need of any preliminaries.

Leader of evidence, can you bring in the first witness; and the clerk, please swear in the first witness to take the stand.

Thank you.

(Mr. David Ikunza Murila took the oath)

The Commission Secretary (Ms. Nyaundi): Thank you and welcome to the Commission. I will ask you, for the record, if you can state your name, where you stay and your current occupation.

Mr. David Ikunza Murila: I am David Ikunza, I am the head teacher Kakamega Primary and I stay in Tonyi Village, Shirere Sub-Location, Bukhungu Location, Municipality Division.

The Commission Secretary (Ms. Nyaundi): I notice that you have been escorted by two individuals. Can you please introduce them to the Commission?

Mr. David Ikunza Murila: I have Mr. Steven Odenyi who is the Chairman, School Management Committee, Kakamega Primary and Madam Elizabeth Lishamba, a member of the DEB of the same school management committee.

The Commission Secretary (Ms. Nyaundi): There is a memorandum that you have prepared dated 27th June 2011. I invite you to present that statement to the Commission.

Mr. David Ikunza Murila: The Presiding Chair and other Commissioners, members of the public, I will give a copy of what I am going to present to the Chairman, TJRC. I am presenting this memorandum to TJRC in relation to grabbing of school land.

Kakamega Primary School, formerly Indian School Kakamega, was founded in August 1948 as an Indian school. In 1968, the school was handed over to the public as a public utility. This school is located in Kakamega Central District, Municipality Division, Sheiywe Location, and Township Sub-Location in the heart of Kakamega Town, off Kenyatta Avenue, opposite Easy Coach booking office.

This school is densely populated, serving children from slum areas like Murram, Malava, Shikambi, Jua Kali, Kambi Somali, Lutunyi and Joyland. Above all, it also serves street children and currently, we have ten such children in the school.

This school enjoys academic performance in both local and national exams in the category of 245 children. The school has 2,659 pupils, 66 teaching staff and nine support staff.

The school had two blocks of land. Block 231 was meant for infrastructure buildings and Block 232 was meant for playground and pitches. Currently, Block 231 has

physical facilities built on it and these include classrooms, library, toilets, kitchen, staffroom, administration block, two teacher's houses and a borehole. Block 232 which was meant for a playground and for future expansion has all been grabbed by private developers. I have the names here of the grabbers but I am not going to read them out. But you have my copy to peruse because of insecurity.

The rate at which these parcels of land are exchanging ownership is self-explanatory. The community and anybody within Kakamega town will know that there is something wrong. The grabbing of the land by private developers and putting up of premises is contrary to the original intention and plans by the school, and it has caused the school untold suffering. It has impacted negatively on the social well being of all the stakeholders of the school. This includes pupils, parents, school management committee, teachers and the community as a whole.

The following are the negative impact on learners:-

1. The learners were hurt during the demonstration and I have some photographs that I would wish to give to support this statement. The confrontation by the developer's hired workers, stone throwing and gun threats by the OCS, Mr. Gachanja, and the police caused untold suffering to the learners and the teachers. May I give some newspaper cuttings to prove the same?
2. **Disruption of learning:** The conducive learning environment was interfered with as the school ground became a battle-field for a whole term, and to date, there is an insecure atmosphere. May I also give some documents and cut outs to support the same?
3. **Harassment:** The head teacher, Mr. David Ikunza, the deputy head teachers Mr. Kajilwa and Mr. Mbete and the school management committee member Mr. Ndegwa were picked, taken to the police station and threatened. If it were not on the strength of the learners who came demonstrating, we would not have been set free.
4. **Traumatized pupils:** Pupils were injured and an example is Mukolwe and Bryson Ikutwa who were seriously hurt and this has left a bad memory of this incident of the grabbed land in their lives.
5. **Immorality venue:** The grabbed land has stalled development hence there are a lot of un-cleared bushes, incomplete and unplanned structures which have become brothels for the public and safe havens for drug and substance abusers. This has a negative effect on the learners as some have been noted to develop wanting characters of late. Others have witnessed and reported public immoral behavior during day time. May I be allowed to give a photograph of the same?
6. **Lack of playground:** We cannot produce all-round students because we have no place to play. We have no grass hence the school is muddy during rainfall and dusty during the dry season and here are some photographs to show the situation.

7. **Congestion and over-crowding:** There is no classroom that has less than seventy two pupils and because of lack of land, the parents have been forced to build a storey building which is very expensive for them.
8. **Communicable diseases:** Due to congestion, children have had to skip lessons owing to easy spread of communicable diseases. Unfortunately, there was a recent spread of chicken pox and five pupils were infected. Thanks to the MOH, Kakamega, who stepped in fast to combat the spread. Part of the grabbed land which is yet to be developed has become a dumping site for garbage and this is posing a health risk which may soon lead to environmental degradation. I have given a photograph to confirm the same.
9. **Low esteem among the pupils:** Children are unable to participate fully in co-curricular activities because of the small pitches available that are muddy hence our pupils have low esteem before their peers in other schools. This makes their uniform dirty whenever they play.
10. **Lack of demonstration plots:** Practical lessons in agriculture and 4K club cannot be conducted due to lack of demonstration plots. We fear that we may produce artificial citizens who have no practical life skills.
11. **Negative impact on children:** The school fears that it may produce children who will soon cherish corruption as a way of life since they have witnessed their school land being grabbed and nobody in authority is intervening. Therefore, this vice must stop and we get our land back to restore confidence in our children, parents, teachers and all the stakeholders.

To confirm that this was our school land which was held in trust by the county council, I have copies of the green cards with me.

We used to have a nursery which has now been fenced off by a perimeter wall and here is the copy. When we wanted to get access to this building, it triggered war and if we have a site visit, you will surely see it. The children who learn at the nursery are still at school.

There were unwarranted expenses in treatment of the injured children during the physical confrontation with the workers of the private developers and hiring of the school lawyers, Sichama & Sichama advocates. I have a copy of the fee that we are supposed to pay to our lawyer.

Impact on teachers:

1. **Insecurity:** There was a massive transfer of teachers out of the school due to insecurity. This compromised the performance of the school in national exams.
2. **Unexploited talents:** Teachers with different talents in co-curricular activities are unable to impart their expertise to the learners since there is no spacious ground to practice.

3. **Bad image:** The head teacher has lost his image in the society owing to the wrong assumption that I may have colluded with the grabbers and this is character assassination.

Impact on the school management committee:

1. Members of the school management committee feel insecure and fear for their lives as they struggle to get the school land back. It has been very expensive for the school management committee to hire lawyers to pursue the case every time they engage Sichama & Sichama Advocates. This is clear evidence that the school management committee wishes and wants their land back.
2. The school stands to lose its property and land as it is illustrated by the court case filed by one of the grabbers who sued the school seeking compensation for property destroyed during the confrontation. This will only happen if the school does not recover its land. May I give a copy from the Attorney General concerning the same, a copy of the minutes whose chairman was the then DC Kakamega, Mr. Eliud Parsankul, with signatures and names of the parents who attended the meeting.

Our recommendations and expectations as a school:

1. Kakamega Primary School and the community strongly recommend that the grabbed land be returned unconditionally. This will enable the school to process the relevant documents necessary for ownership and registration of the school to prevent future wrangles. The school wants compensation for the inconvenience and destruction caused and use of the same land for the period it was illegally occupied.
2. Mr. Chairman, the school is going to find strength and solace in truth and justice from the TJRC that will prevail today if the Kakamega Primary School acquires its land back. Many public schools currently and before did not have land title deeds nor letters of allotment. Therefore, this did not mean that school land was free for grabbing. We promise to amalgamate our school land and process the school land title deed.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Mr. Ikunza. You confirm that you wish your memoranda to be admitted to the record of the Commission?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): Commissioners, I pray that we admit the memorandum. You have said that originally, the school owned block 231 and block 232 located here in Kakamega?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): And you have presented to the Commission a number of green cards? Are you the saying that plots No.252, 292, 294, 295 and 296 were curved out of the original block no.232?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): And the school now is standing on the original block 231?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): So, you will also be submitting the green cards to be on the record of the Commission?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): How long have you been the headmaster at Kakamega Primary?

Mr. David Ikunza Murila: I joined Kakamega Primary in 2002 and this is my ninth year.

The Commission Secretary (Ms. Nyaundi): So, when was the first time that as a school, you noticed that land had been taken away from the school?

Mr. David Ikunza Murila: That was in January, 2004.

The Commission Secretary (Ms. Nyaundi): And what is it that caused you to find out that land had been taken away from the school?

Mr. David Ikunza Murila: This was a playground and during break time one day, children were playing and a lorry dropped a number of workers and started putting beacons around the school compound.

The Commission Secretary (Ms. Nyaundi): And how did you discover that the interest of these people was in conflict with that of the school?

Mr. David Ikunza Murila: I discovered because the children were not amused. They went on rampage because they were also beaten and threatened.

The Commission Secretary (Ms. Nyaundi): The people who were responsible for those workers, are they among those that you feel you are unable to name today?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): But you can confirm that this is the person in respect of block 296 as per the title deed?

Mr. David Ikunza Murila: Block 292.

The Commission Secretary (Ms. Nyaundi): And you have with you a certificate of official search indicating the name of the individual showing that as at 19th July, 2004, the registered owner of Block 2292?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): And you also would want that certificate of official search admitted to the record of the Commission?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): When you say that children were injured during the confrontation, the children you are referring to are Blason Ikutwa and Mukolwe?

Mr. David Ikunza Murila: Yes.

(The witness wept)

The Commission Secretary (Ms. Nyaundi): We can continue, Mr. Ikunza?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): You have submitted to the Commissioner two photographs of two children, Blason Ikutwa and Mukolwe?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): And you are submitting that we can admit these photographs to the record of the Commission?

Mr. David Ikunza Murila: Yes. Commissioners and the members of the public, I have undergone what I have undergone because Blason was one of my best pupils and Mukolwe - their education has been affected.

The Commission Secretary (Ms. Nyaundi): We are very sorry for that. Are they still in school?

Mr. David Ikunza Murila: I am able to locate Blason. He is admitted at Musingu Boys out of good will and talking with the principal. Mukolwe has just disappeared.

The Commission Secretary (Ms. Nyaundi): Mr. Ikunza, you have told us that this incident occurred in your school in July, 2004, when the students were attacked?

David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): You have said that one of the people who had been allocated this land proceeded to court?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): So, I have here with me court proceedings in the Chief Magistrate's court at Kakamega, Civil Case No.281 of 2004 where one person proceeded to obtain an injunction restraining the school from interfering with plot No.Kakamega/Municipality/11292. As the head teacher, were you served with these court papers?

Mr. David Ikunza Murila: I was, Madam.

The Commission Secretary (Ms. Nyaundi): You were also served with papers for the same parties again, High Court at Kisumu No.97 of 2004. That is correct?

Mr. David Ikunza Murila: That is correct.

The Commission Secretary (Ms. Nyaundi): Is it correct, Mr. Ikunza that later on, the parties withdrew the case in the Magistrate's court?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): And that, therefore, you instructed Mr. Shitsama to defend the school in the High Court of Kenya, Civil Suit No.97 of 2004?

Mr. David Ikunza Murila: Yes, Madam

The Commission Secretary (Ms. Nyaundi): Did you seek the assistance of the Attorney-General by your letter dated 13th September, 2004, so that you would get representation by the Attorney-General?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): Is it correct that the Attorney-General responded and advised you that they were unable to afford you legal representation and that you should continue with Mr. Shitsama?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): That is the letter dated 17th November, 2004, forwarded to you by your PS on 9th December, 2004?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): And it is your wish to also submit this document to the Commission as part of its record?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): Within the Kisumu High Court, 97, the counsel for the plaintiff had made an application to amend their case and also to extend the orders for injunction but that application was dismissed on 18th August, 2004 by the High Court in Kisumu?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): And you would also like that ruling to be a part of the record of the Commission?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): Mr. Ikunza, if I understand the documentation that you have, from August, 2004, the High Court in Kisumu had refused to give an injunction to the party that was stopping the school from using at least, block 292. Is that correct?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): So, from 2004, have you been able to have access to the parcels of land that you say have been taken away from the school forcefully?

Mr. David Ikunza Murila: No, Madam.

The Commission Secretary (Ms. Nyaundi): And that is why you have brought these pictures that show that there is a perimeter wall that has been built?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): And you would want these photographs to be a part of the record of the Commission?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): Have you made any endeavors to obtain land title in the school's name for the properties?

Mr. David Ikunza Murila: Yes, but my efforts have been rendered fruitless. There were blocks all over in the Ministry of Lands and I could not make headway.

The Commission Secretary (Ms. Nyaundi): Currently, for instance, block 231 that is still occupied by the school, in whose name is the title of that land?

Mr. David Ikunza Murila: That plot is in the name of Kakamega Primary being held by the County Council in trust.

The Commission Secretary (Ms. Nyaundi): And block 232, who was the original registered owner prior to its being sub-divided?

Mr. David Ikunza Murila: Kakamega Primary being held by the County Council in trust.

The Commission Secretary (Ms. Nyaundi): You have said that as a school, you have had to pay Mr. Shitsama some legal fees?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): What is the exact amount that you have had to pay?

Mr. David Ikunza Murila: I may not quote the exact figure but I know we have paid him Kshs11,000.

The Commission Secretary (Ms. Nyaundi): Is Kakamega Primary School a public school?

Mr. David Ikunza Murila: It is a public school, PEB sponsored.

The Commission Secretary (Ms. Nyaundi): Did I understand you to say that it is your understanding that you are entitled to legal assistance from the Attorney-General's Chambers?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): You also sought the assistance, through the District Educational Officer, of the State Counsel here in Kakamega?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): Did he accord you the assistance that you were seeking?

Mr. David Ikunza Murila: No.

The Commission Secretary (Ms. Nyaundi): There is a letter here dated 27th August, 2004, signed by the DEO, Mr. Khalede.

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): This letter has not received any response to date?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): You would also like it to be part of the record of the Commission?

Mr. David Ikunza Murila: Yes, Madam.

The Commission Secretary (Ms. Nyaundi): And the letter dated 10th November, 2004 and 14th January, 2005, from Mr. Shitsama requesting for the payment of his fees, you would also like this to be part of the record of the Commission?

Mr. David Ikunza Murila: Yes.

The Commission Secretary (Ms. Nyaundi): So, as matters stand right now, are the people who obtained this land in actual occupation of the land?

Mr. David Ikunza Murila: They are in actual occupation because we do not utilize that land and they have put firm security around it so that children cannot move near. The state at the school for children playing and the whole process is just war.

The Commission Secretary (Ms. Nyaundi): Have constructions continued on the parcel of land?

David Ikunza Murila: They had started developing Block 292 and it has stalled for reasons I do not know.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Mr. Ikunza. The Commissioners will ask you additional questions.

The Presiding Chair (Commissioner Farah): Thank you, Leader of Evidence. I now ask my fellow Commissioners if there are any questions that they would like to ask. I will start from my left, Commissioner Slye.

Commissioner Slye: Thank you Chair, the Evidence Leader. Mr. Ikunza, thank you for coming before the Commission and sharing the challenges you face and the challenges faced by your people and your staff and by all of you that are trying to educate the future of Kenya. We appreciate your being here. You mentioned you started the Kakamega Primary School in 2002. Could you tell us a little bit about your experience before that?

Mr. David Ikunza Murila: I trained at Highridge Teachers Training College and taught in Nairobi at Moi Avenue Primary. I was transferred to Western Province where I taught in AC, Webuye and then transferred to Kakamega District. I taught at a school called Ikonyelo for six years and then I was transferred and promoted as a deputy to the school known as Isasali. I was promoted as head teacher to a school known as Ehwamba. I was transferred after three years to my old school known as Bukhulunya where I worked for ten years. Then I was transferred in the same capacity in 2002 to the current school, Kakamega Primary.

Commissioner Slye: So, you have extensive experience in educating children in Kenya. Could you help me as somebody who is relatively new to Kenya, to understand the structure of education facilities here especially the funding? Where does your money come from to pay for your staff and private attorneys?

Mr. David Ikunza Murila: Sir, Kenya has the Free Primary Education system and the Ministry of Education gives us money in two categories. We have account one which we use to buy instructional materials. We have account two which is called operational. We use this money to run the day to day activities. This includes payment of water bills, electricity, support staff, activities, quality assurance and standards, namely, internal exams, contingency which is used to buy girls towels. When it comes

to the teachers' salaries, we have the Teachers Service Commission which is entirely responsible for teachers' employment and remuneration.

Commissioner Slye: Is the Teachers Service Commission funded by the Government?

Mr. David Ikunza Murila: Yes.

Commissioner Slye: In your view, is the amount of money that you are currently receiving sufficient to run the school?

Mr. David Ikunza Murila: In my view, the money we are receiving to run schools in accounts one and two is not enough to run schools because this was the money that was given at the beginning of the Free Primary School Education Programme in 2003. Each child was given Kshs1,020. You realize that prices of goods and services have really gone up since then but the Government has continued awarding children Kshs1,020 per child, which is not enough.

Commissioner Slye: The amount of money that you get from the Government is based on the number of students you have?

Mr. David Ikunza Murila: Yes.

Commissioner Slye: And that amount has stayed the same since 2003?

Mr. David Ikunza Murila: Yes.

Commissioner Slye: So, you currently get Kshs1,020 per student per year?

Mr. David Ikunza Murila: Yes.

Commissioner Slye: You had mentioned that the smallest classroom had 72 students?

Mr. David Ikunza Murila: Yes, our classes, because the school is over enrolled, we have put them in streams. So, you will find that one class has four or five streams and I am talking about 72 pupils in a stream and not in a class.

Commissioner Slye: And that is the smallest?

Mr. David Ikunza Murila: That is the smallest number.

Commissioner Slye: Do you have an idea of what the average is per stream?

Mr. David Ikunza Murila: The average would be around 78, 75.

Commissioner Slye: And what would be the largest?

Mr. David Ikunza Murila: The largest is 92.

Commissioner Slye: And in your opinion, what would be the ideal number per stream?

Mr. David Ikunza Murila: As a professional teacher and by the recommendation of the Government, a stream is supposed to have 50 pupils.

Commissioner Slye: Then you said that as a result of the land clashes and issues related to the land grabbing, a number of teachers have left the school. Is that right?

Mr. David Ikunza Murila: Yes.

Commissioner Slye: Do you know how many teachers have left because of that?

Mr. David Ikunza Murila: Because of that, I have lost eight teachers.

Commissioner Slye: So, that means you have about six teachers now.

Mr. David Ikunza Murila: As these teachers went, the DO's office made arrangements and gave us others. But those were very highly skilled compared to the teachers that I got in the various disciplines.

Commissioner Slye: Is that number of teachers in your view sufficient for that number of pupils?

Mr. David Ikunza Murila: It is not.

Commissioner Slye: So, how many teachers do you think you will need to sufficiently educate the pupils?

Mr. David Ikunza Murila: If I got 72 teachers, they will be sufficient.

Commissioner Slye: You mentioned and it is mentioned in some of the documents that you have given us about the achievements of the students on national exams. Could you speak to that a little bit? Give us a sense of the trend of those achievements?

Mr. David Ikunza Murila: When I joined the school, it was doing well. It had an average mean score of 293 and in 2004, we had really prepared our children and we expected to have performed better than the results we got. But because of the disruptions, we got a mean score of 307. Because the situation was calmed by the Provincial Administration, I am happy to inform you that 242 pupils sat for the KCPE last year and they got a mean score of 307 giving the school first position in the district and the best primary school with that enrolment of 242 candidates. The school was doing very well in co-curricular activities but it has narrowed to disciplines that do not require big fields to practice like music and drama. I want to assure you that the football, netball, athletics have narrowed down to zero. We have no grounds on which to practise. As I speak, the school is presenting a choir in a provincial competition in Chavakali.

Commissioner Slye: How is the choir able to practice if there is no room at the school?

Mr. David Ikunza Murila: The choir can practice in a small place as possible. It does not require a big pitch to practice. We use our classrooms and parade area for practice.

Commissioner Slye: If the land that was grabbed was returned to the school, would that be enough to provide the practice areas, the playground and other facilities or is there an additional need given the increase in population?

David Ikunza Murila: I want to assure you that if we are given that land, it will be enough because that was initially the size of the school.

Commissioner Slye: You mentioned earlier that you taken children from other poor areas and also some street children. Are there children from those communities that you are aware of that are unable to come to either your school or other schools?

Mr. David Ikunza Murila: Yes. I am happy to inform the Commissioners that that school has a mixed grill because of its performance even the able parents have their children there. Even the ones seated here are my parents. They support me to maintain the children from the streets. An old student by the name Ramesh Kotesha has taken up the responsibility of preparing the meals for the children. I want to say that I enjoy the school because it has a mixed grill from all the communities, low, above and average. They are all there.

Commissioner Slye: That is very commendable to both you and your students and your teachers. I am wondering whether even given what you are able to accomplish, are the children in those communities who are still not being served and they could be served if they were additional facilities.

Mr. David Ikunza Murila: I am very sure that could be done effectively because I am already in practice.

Commissioner Slye: To your knowledge, are there students who are not being educated either on the streets or in the poor areas of the community?

Mr. David Ikunza Murila: There are.

Commissioner Slye: Do you have an idea how many students that would be?

Mr. David Ikunza Murila: I may not know but I know those that I have in my school.

Commissioner Slye: My last question, is Kakamega Primary School the only primary school serving Kakamega or how many primary schools are there here?

Mr. David Ikunza Murila: Within this municipality, we have 32 schools and the closest school to my school is only ten metres away. I want to believe that because of

the performance, professionalism and the level of commitment of the teachers and the support I have from the school management committee is in itself an attraction.

Commissioner Slye: Are those 32 all private or some of them public or what is the breakdown?

Mr. David Ikunza Murila: The ones I am talking about are public primary schools.

Commissioner Slye: So, there are 32 public primary schools?

Mr. David Ikunza Murila: Yes.

Commissioner Slye: Are they comparable in size in terms of the number of students?

Mr. David Ikunza Murila: Their number is lower compared to mine because we normally receive statistics returns from the DEO. I have the highest number in this part of Kenya.

Commissioner Slye: Thank you very much, Mr. Ikunza and I want to thank the other staff with you and also the parents that are here in the audience. It is clear to me that the level of commitment that you and your colleagues have to educating children here in Kakamega. I know that it is a very difficult thing at times. You have shared with us some of the challenges you have faced and I am sure there are many other challenges that we have not had time to discuss here today. We thank you for persevering even with all those challenges. I know that when students or a choir performs well, that is a reward and it helps you to continue the next day. It makes the struggle worth it. We thank you.

Commissioner Dinka: Thank you very much, Mr. Ikunza for coming and assisting the Commission to understand what normally looks like simple issue but a very complicated matter. It is very distressing for all of us to hear what land grabbing has done to a school, namely, the negative impact psychologically to the children, the teachers and the community as a whole. I only hope that in the final analysis, what the Commission will do will be of some assistance in resolving this problem. But in the meantime, since I am from outside of Kenya, I also want to find out a few things from you.

When a public primary school is set up, is there a standard size of plot or they differ in terms of plots that are given to them?

Mr. David Ikunza Murila: They differ from one community to the other, from one location to the other and from one province to the other. They entirely depend on the community offering this particular facility because in the history of Kenya, schools were started by churches, some were started by District Education Boards (DEBs) and as such, they depended on the community and how much they were willing to give. Like Kakamega Primary School, the Hindu Community had to set aside a size of land that was enough for learners.

Commissioner Dinka: Thank you very much. Now, the school was established as an Indian school in 1948?

Mr. David Ikunza Murila: Yes, Sir.

Commissioner Dinka: Then it became a public school in 1968?

Mr. David Ikunza Murila: Yes, Sir.

Commissioner Dinka: So this size of land was the land that was allotted to this primary school from day one or have they been expanding?

Mr. David Ikunza Murila: It is the same size of land that was allocated to this school in 1948 that has got its share of grabbers.

Commissioner Dinka: So the community had set aside this land for the primary school from 1948 and then suddenly in 1993/1994, things began to change.

Mr. David Ikunza Murila: 2004, Sir.

Commissioner Dinka: All right. When the land was given from the school to some other people, who does the giving, is it the city council or who is it?

Mr. David Ikunza Murila: The municipal council. Actually in this case, I am mixed up because we have sought advice from even the municipal council and nobody is able to explain. I have even a letter where we wrote the Town Clerk of the Municipality to explain to us, but the truth of the matter is that Kenya was corrupt. What can we say?

Commissioner Dinka: So it was given by the municipal council?

Mr. David Ikunza Murila: I believe so because nobody can operate on a municipal land without the consent of the municipality.

Commissioner Dinka: Okay. Let me ask you one thing also; when the land was given by the community in 1948 continuing up to 2004, has there been any condition attached to that gift of land, condition in the sense that you do this, you do not do that on this land, or you have to do this in the next number of years or something like that?

Mr. David Ikunza Murila: May I bring to your notice that there was a lot of respect for schools built by churches in Kenya from independence but I think in the 1990s, the whole thing changed. People were now grabbing even land belonging to both churches and schools. For sure, like this case of Kakamega Primary School, there was trust that this was land for the Hindu Community and nobody would come in. In Kenya, as I have said in my memorandum, you will find that many schools, even as I talk here, do not have land title deeds. So that was the case with Kakamega Primary School.

Commissioner Dinka: You said that a structure was started on Block No.2292 but it stalled. It is not completed. How about the others?

Mr. David Ikunza Murila: The others, as somebody was coming up with a perimeter wall, I think the children got annoyed because that was the only area they would play, so they pulled the wall down. So nobody is doing anything on that plot. The other one, I am seeing some kind of napier grass growing on.

Commissioner Dinka: Let me ask my last question. You said that the person who had been allocated Block No.2292 has started some structures but has not completed. It just stalled. The others nobody has built anything on them. They have just a built perimeter wall since 2004?

Mr. David Ikunza Murila: Yes, Sir.

Commissioner Dinka: In your recommendation or expectation, you said they should return the land to the school unconditionally and compensation be paid for the use of the land during the period it was illegally occupied.

Mr. David Ikunza Murila: Yes, Sir.

Commissioner Dinka: What is the community saying? Did the community join in the pursuit of justice with the teachers, with the school or this is only left to the school right now?

Mr. David Ikunza Murila: What I am saying in part are the feelings of the community through the Parents/Teachers Association and the school management committee. It is not my own.

Commissioner Dinka: Okay. Go ahead! The other question is, if this is the business of the entire community, are the DC and the PC involved in trying to resolve this problem or they have just left it to God?

Mr. David Ikunza Murila: If you can look at one of my submissions, one of the duties----

Commissioner Dinka: Unfortunately, we have not received the submissions until few minutes ago.

Mr. David Ikunza Murila: Sir, there was a meeting which was chaired by the DC by the name Parsankul and the resolution of that meeting did not change anything. As I have said in the statement, Kenya was corrupt and, indeed, corrupt.

Commissioner Dinka: When was the last time your case was heard in court?

Mr. David Ikunza Murila: That must have been in September, 2004.

Commissioner Dinka: Since 2004, the status quo has not changed?

Mr. David Ikunza Murila: Yes.

Commissioner Dinka: The people have gone with it and they have not returned it to the school. What percentage of the land area was taken away and has been allocated to other people from the previous holding of the school?

Mr. David Ikunza Murila: Actually, we can say that two thirds of the land belonging to the school; that is, Block 231 and Block 232, has been taken away.

Commissioner Dinka: In terms of acreage or square metres, what is the total land area of the school that had been taken and how much is left to you now? Just to be precise.

Mr. David Ikunza Murila: To be precise, for Block 232, we have remained with 1 acre and 3 acres have been taken away. And Block 231, which is around 5 acres, is still intact.

Commissioner Dinka: Thank you very much. We really empathize with the problems that you, your students, your school as well as your community has been having. I am sure at the end, the report of the Commission will reflect part of this.

Mr. David Ikunza Murila: Thank you very much.

The Presiding Chair (Commissioner Farah): Thank you very much, Mr. Ikunza. We appreciate your effort in ensuring that the land of the school remains in the hands of the school because of posterity. However, I can see that at that time, when you were really fighting for the school land, some very powerful forces, through corruption and what have you, were against you. But I see that there is somebody by the name Michael Otuoma who went to court to restrain you from interfering with the land of the school which was originally yours anyway. The judge was very good because he refused to give an injunction. By this, why did you not go ahead and take your land back since the judge had already ruled that you did not have any case?

(Technical Hitch)

Now, we have power problems! Is it okay now? So can you answer that question please?

Mr. David Ikunza: Sir, you have effectively used one terminology; “very powerful and corrupt.” This minute, as I am talking here, if anybody steps on that land in terms of a student or a teacher, I think your life will be in danger. It is better to be a coward who lives longer than a courageous person who lives for one minute.

The Presiding Chair (Commissioner Farah): Thank you very much, I see your point. Since the court of law ruled against the powerful person, why could the police not come and give to the school what is due to the school?

Mr. David Ikunza Murila: The police had been rounded up.

The Presiding Chair (Commissioner Farah): You mean they have been compromised?

Mr. David Ikunza Murila: Yes.

The Presiding Chair (Commissioner Farah): Thank you. I now applaud you and congratulate you for having come to the TJRC because the reason why the Commission was set up is because of things like this, matters which cannot be done by the courts. But you have also consolation that apart from the TJRC, we also have a new Chief Justice and we will really follow up this case because it is a case involving land grabbing as well as corruption, both of which are in our mandate. I can assure you, having supplied the Commission with all the facts, we will take it up from there. Thank you very much.

The Commission Secretary (Ms. Nyaundi): Thank you, Chair. With your kind permission, I have additional documents that I am requesting that you admit on the record. There is a bundle of newspaper cuttings for September 27, 2004, 30th September, 2004, and July 8th, 2004. There are also minutes for a special parents' meeting held on 28th July 2004. I pray that you allow them to be admitted in the records of the Commission.

The Presiding Chair (Commissioner Farah): The records are so admitted!

The Commission Secretary (Ms. Nyaundi): Thank you, Presiding Chair. The final report I have is that the witness has whispered to me that he has concerns about his security. I pray to you, Chair, that you, please, inform all those who are present that the Commission takes very seriously any threat that might be made to this witness or any other witness that will appear before the Commission. I am respectfully requesting that you inform them about the consequences of seeking to obstruct, in any way, the work of the Commission.

The Presiding Chair (Commissioner Farah): I will ask Commissioner Prof. Ronald Slye who is a professor of law to reply to that.

Commissioner Slye: Thank you, Chair, and Evidence Leader. I just want to reiterate that this Commission takes the threat on the security of our witness and any threat, whether acted upon or not, is, in fact, a violation of our witnesses and our Act. We can and we will use the full force of the law including the use of the police and other services which are provided for in the Act, to both ensure the safety of our witnesses and also to prosecute any individual or individuals who threaten the safety of any of our witnesses. Thank you.

The Presiding Chair (Commissioner Farah): I will also add to what the Professor has said by not only allaying the fears of the head teacher but also whoever is out there or whoever was threatening to take any sort of action against anybody who tries to regain the land that the school has lost, that is the work of TJRC. We will follow it up, we have a new constitution, we have a new Judiciary, we have a Supreme Court and the case will continue and we will also take it up from there. And I want to tell all those people that the time of corruption and land grabbing is up. It is now time to gain dignity, healing and all those things I said earlier in my opening remarks. Thank you very much, head teacher. The Leader of Evidence, can you stand down the witness please?

Just hold on!

Commissioner Slye: I would like to say this in front of everyone. Mr. Ikunza, please, stay in touch with the Commission. If you receive any threats or any of your colleagues or parents or others, to immediately let us know so that we may act accordingly. Thank you.

The Presiding Chair (Commissioner Farah): Leader of Evidence, you can stand down that witness and please, bring in the next witness.

(Mr. Benjamin Ikadwa Okodi took the oath)

The Commission Secretary (Ms. Nyaundi): Chair, with your kind permission, as we begin, it has come to my attention that there is too much movement where the witnesses are seated. I am requesting, Chair, if you could please direct the person in charge of security and even advise the members of public that they should not exit through any of the entrances at the front of the room and that there is an area that has been designated for the media, if they could kindly confine themselves to that region. There is too much movement up here.

The Presiding Chair (Commissioner Farah): For the attention of everybody, as the proceedings from Kakamega Primary School were going on, I heard one or two telephones ringing. For heaven sake, this is the last request, please, switch off your mobile phones. Do not put them on silence mode because they will still ring and they will disturb you. Just switch them off. There is also too much movement and too much talking at the back there. Please, stop that too. And finally, nobody should exit through the entrances at the front. Anybody or part of the audience should not go beyond where the media is. If any of you wants to exit, use the door at the back there. Thank you very much.

The Commission Secretary (Ms. Nyaundi): Thank you and welcome to the Commission.

The Presiding Chair (Commissioner Farah): Can the media also remain in the media area please?

The Commission Secretary (Ms. Nyaundi): Please, state your name, where you stay and your current occupation.

Mr. Benjamin Ikadwa Okodi: My name is Benjamin Ikadwa Okodi from Shiiru Settlement Scheme.

The Commission Secretary (Ms. Nyaundi): Thank you very much. I will ask that you use one language. If you want, you can use English or Kiswahili so that the interpreters do not keep repeating. So if you want to use Kiswahili, please, do so. Thank you very much, Mr. Okodi.

Mr. Benjamin Ikadwa Okodi: I come from Shiiru Sub-Location, Shabiringa Location, Hamisi District. I was relocated from Mbale in 1986. We were in a group of about 75 because the Government wanted to do some development. So we were

moved after making an agreement with the late Hon. Mudavadi. We were relocated from Mbale and others moved from Mululu while others came from Vokoli. We moved to Shiiru Settlement Scheme where we were allocated land when we were 75. Since the time we relocated, there is no provision of any items or compensation or anything to help us to carry our belongings to the new area.

Since that year, we have seen people from Vokoli, Chamakanga, and from Shiiru come as from 1986 when some were taken from Mbale and elsewhere. We went up to Shiiru and people constructed their houses but there was no compensation that was given to help us develop or continue with our lives. There was a school which was headed by Mr. Dave Mwangi and the DO was Mr. Odoyo. We left our land and went to the settlement scheme where we were not given title deeds or even numbers for the land. Since then, there are no title deeds issued to us but we have been living in the scheme ever since. Most of the old people with whom we went to the scheme are now dead. I am urging the Commission to push the Government to issue us with title deeds so that we can develop and also occupy that land legally and not like squatters.

We have a district hospital which is very far in Mbale. So the people living in Shiiru have problems because we lack both medical and water services. There are a lot of mosquitoes which are causing malaria. We are asking the Commission to intercede and get the Government to compensate us.

We had been promised that once we got to the settlement we would be allocated 10 acres of land but once we got there, things changed and we were given some half an acre, one acre and so forth. We wrote some letters to the Ministry of Lands and we have them here. They promised us that they were going to deal with the issue. Even our Member of Parliament, hon. George Khaniri, is aware of this issue. We have been asking him to help us and he keeps telling us to wait because the Government is working on the issue. But we are still waiting for the Government to take action. We are asking the Commission to help us so that the Government can issue title deeds to us and compensate us. If that issue is addressed, we will not have much to talk about.

There is a lady who accompanied me from Shiiru; Gladys Mwazo, and she could also come here and say a few things. That is all I have. Thank you.

The Commission Secretary (Ms. Nyaundi): Thank you very much. You have said that you have been escorted by Gladys Mwazo. She is the lady seated to your right?

Mr. Benjamin Ikadwa Okodi: Yes, she is the one I am with here.

The Commission Secretary (Ms. Nyaundi): I will first ask you a few questions and then the commissioners will direct whether they will have any questions for Gladys. Now, you say that up to 1996, you stayed on land which you vacated for purposes of the construction of the district headquarters. How long had you stayed on that land?

Mr. Benjamin Ikadwa Okodi: I have lived in this new land for---

The Presiding Chair (Commissioner Farah): Stick to one language because when you use many languages, you are confusing the interpreter.

Mr. Benjamin Ikadwa Okodi: I had lived there for almost 60 years because this is where I was born. I worked until I retired.

The Commission Secretary (Ms. Nyaundi): And the district headquarters that was being constructed was for which district?

Mr. Benjamin Ikadwa Okodi: Vihiga District.

The Commission Secretary (Ms. Nyaundi): Did you have a title deed for the land in Mbale?

Mr. Benjamin Ikadwa Okodi: We had titles but we gave them back because we were told we would get new title deeds for the new land we were going to occupy.

The Commission Secretary (Ms. Nyaundi): Do you have the number for that parcel of land at Mbale?

Mr. Benjamin Ikadwa Okodi: Yes, I have the number. It was 592.

The Commission Secretary (Ms. Nyaundi): Do you have a document with you?

Mr. Benjamin Ikadwa Okodi: Right now, I do not have it because immediately after issuing out those title deeds, we just gave them and left.

The Commission Secretary (Ms. Nyaundi): When you were asked to leave, was that request in writing?

Mr. Benjamin Ikadwa Okodi: There was no letter as we were just told the Government was moving people and you know you cannot argue with the Government. When you are given such a notice, you just move.

The Commission Secretary (Ms. Nyaundi): Were you given sometime within which you had to move?

Mr. Benjamin Ikadwa Okodi: We were given only 10 days.

The Commission Secretary (Ms. Nyaundi): Did the orders come to your individual homes or was it at a meeting?

Mr. Benjamin Ikadwa Okodi: The DO came with *askaris* to our homes and told us to move.

The Presiding Chair (Commissioner Farah): For the translators, we are hearing the Swahili testimony of the witness first before we hear the translation. I hear the English of the Leader of Evidence straight away and after that, I should hear the translated evidence after that if he is talking in Kiswahili but there seems to be a lot of interference.

The Commission Secretary (Ms. Nyaundi): Now when you were asked to leave the land, were you transported to the new location or each found your own way there?

Mr. Benjamin Ikadwa Okodi: Everyone had to find out his own way because we had been told to vacate the land and settle in the new area.

The Commission Secretary (Ms. Nyaundi): You were advised on where to go and then you found your own way there?

Mr. Benjamin Ikadwa Okodi: We were asked to prepare ourselves and move to the new area.

The Commission Secretary (Ms. Nyaundi): How big was your parcel of land at Mbale?

Mr. Benjamin Ikadwa Okodi: I had one acre.

The Commission Secretary (Ms. Nyaundi): And what was its value then?

Mr. Benjamin Ikadwa Okodi: Currently, it can fetch Kshs1 million.

The Commission Secretary (Ms. Nyaundi): What was its value then?

Mr. Benjamin Ikadwa Okodi: You could still sell it to somebody for Kshs300, 000 or Kshs400, 000. That was the value at that time.

The Commission Secretary (Ms. Nyaundi): When you moved to Shiru, how much land were you given?

Mr. Benjamin Ikadwa Okodi: I was given one acre and a half.

The Commission Secretary (Ms. Nyaundi): What is the value of the land at Shiru?

Mr. Benjamin Ikadwa Okodi: At the moment one acre is about Kshs350, 000.

The Commission Secretary (Ms. Nyaundi): You said about 75 families were affected?

Mr. Benjamin Ikadwa Okodi: Yes, we were 75 families.

The Commission Secretary (Ms. Nyaundi): Were all these families given land in Shiru?

Mr. Benjamin Ikadwa Okodi: All of them were given land.

The Commission Secretary (Ms. Nyaundi): What is the distance between Mbale and where you are currently staying?

Mr. Benjamin Ikadwa Okodi: It is a long distance because it is about 32 miles.

The Commission Secretary (Ms. Nyaundi): Did you have structures at Mbale?

Mr. Benjamin Ikadwa Okodi: We had houses. We had hospitals and the district headquarters.

The Commission Secretary (Ms. Nyaundi): Did you have a permanent house?

Mr. Benjamin Ikadwa Okodi: I had a semi-permanent house. I had a banana plantation of almost 50 stems. I also had 80 trees and the house. I had a separate kitchen and some cattle.

The Commission Secretary (Ms. Nyaundi): If you compare your life now in Shiru and the life that you had in Mbale, how do they compare?

Mr. Benjamin Ikadwa Okodi: Sincerely, we went because we were forced. We were living well wherever we were. I am fine now though.

The Commission Secretary (Ms. Nyaundi): You have said that you do not have title deeds here at Shiru; what difficulties has this presented you with?

Mr. Benjamin Ikadwa Okodi: At this time, life is a bit tough because if you do not have a title deed you can be told to move anytime and be relocated. We are living in the forest and you know life in the forest is difficult because whoever is found without a title deed can be moved.

The Commission Secretary (Ms. Nyaundi): Thank you very much Mr. Okodi. The Commissioners will ask you questions and they will also direct if they want to ask any questions to Gladys.

Commissioner Dinka: Mr. Okodi, thank you very much. When you were told to leave your homestead and move to the new settlement scheme with the promise of seven acres of land, had you received any kind of written promise from the Member of Parliament, Mr. Mudavadi?

Mr. Benjamin Ikadwa Okodi: The late Moses Mudavadi was the MP at that time. When he died it was difficult to ask anybody. That is why we have kept quite.

Commissioner Dinka: It was only an oral promise?

Mr. Benjamin Ikadwa Okodi: It was just oral.

Commissioner Dinka: Since 1986, it is almost 25 years now, what have you done? Have you gone to court? Have you gone to the PC or DC to get more land as promised and the title deed?

Mr. Benjamin Ikadwa Okodi: We were just waiting politely and trying to humble ourselves because we know the laws. When we went to the DC he told us that the Government is still working on it. I even have a letter here that we wrote to the Ministry of Lands in Nairobi in 2004. We are waiting for the results on this letter.

Commissioner Dinka: What is the written response from the Ministry of Lands?

Mr. Benjamin Ikadwa Okodi: There is a letter here which I got from Ardhi House, Ministry of Lands. It is dated 8th April 2005.

The Commission Secretary (Ms. Nyaundi): Commissioners, the letter reads:-

“Request for Land Title Deeds to Shiru Scheme Settlers.

This is to acknowledge receipt of your letter dated 19th November 2004 addressed to the DC Vihiga and copied to us among others in which you raised the need for title deeds to be issued to you. I wish to confirm to you that the matter is receiving our attention and we will revert to you in due course”

The letter is signed by Mr. Ongaki for Permanent Secretary. He was serving in the Ministry of Lands and Housing.

I pray that Presiding Chair, you allow us to admit the letter dated 8th April on the record of the Commission.

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

Commissioner Dinka: From your side, did you contact them again or any reminder from their part since April 2005?

Mr. Benjamin Ikadwa Okodi: We have never reminded them because we are still waiting for their promise. We have reached this point and that is why we are coming before you because you can help the people from the settlement scheme.

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

Commissioner Slye: I just have one or two questions for you and then I would also like to hear from Gladys. You mentioned that when you moved from Mbale to Shiru, the amount of land is roughly about the same. Is that correct?

Mr. Benjamin Ikadwa Okodi: We never agreed but we were forced to. We could not go back to our land so we just went to live there.

Commissioner Slye: The quality of life that you are able to have in Shiru is satisfactory. It is similar to what you had in Mbale. Is that correct?

Mr. Benjamin Ikadwa Okodi: There is food but the only problem is that of health facilities which are very far. Women who want to deliver undergo a lot of problems. They are carried on wheelbarrows because we do not have vehicles.

Commissioner Slye: How far away is the closest health facility?

Mr. Benjamin Ikadwa Okodi: Almost three kilometers from where we stay.

Commissioner Slye: You have said that you would like to have the title deed to the land. Could you describe to us what it means to you to have a title deed? How would that make your life and the life of other members of your community different?

Mr. Benjamin Ikadwa Okodi: When we get the title deed it is good because if we want to do some business and need a loan, I can use it as a guarantee. After repaying the loan they will give me back the title deed.

Commissioner Slye: Given that you cannot get a loan from the bank now, are you still able to borrow money to engage in farming or other activities or do you just have to rely upon your own resources?

Mr. Benjamin Ikadwa Okodi: Sometimes you can get some money but how can you live on a land which you have no right to own? You may be told to move from that land because it is not yours. I have given you the example of Mau Forest where people have been evicted from their land.

Commissioner Slye: Thank you Mr. Okodi. I would like to then ask Gladys if she can answer some questions as well.

(Mrs. Gladys Malongo took the oath)

Commissioner Slye: Thank you for agreeing to be here to share your story as well with us. As has been explained to you, you should feel comfortable speaking in whatever language you would prefer; English, Kiswahili or any other language. I wonder if you could just explain to us your relation to the settlement scheme. Are you one of the people that were moved from Mbale?

Mrs. Gladys Kamonya Malongo: My names are Gladys Kamonya Malongo. I come from Shiru Settlement Scheme, Shiru Sub-location, Shaviringa Location, Hamisi District. I am a house wife and a farmer. I was moved from Vokoli Girls High School. I was told that I would be compensated by being given another land. Therefore, I accepted. However, coming to the compensation they told me that they did not have money to compensate for our transport. They told us to demolish our houses so that we could go and build houses the other side using the iron sheets we had. We did not have money.

People demolished their houses and moved to the new area. We were then told that the school had no money to compensate people. We used our own transport. My husband had land which was valued. We took that value to those people but they never agreed to pay. They said that they could not compensate us because they did not have money. They also told us to uproot all the trees and bananas or if possible move with them.

It forced me to leave all those trees. Even at this time the trees are still there at the school. They told me to uproot the water pipes I had. But I could not and so I just left them there. We underwent different problems. There was no main road. It was hard to penetrate the forest. I had a permanent house but now I could not construct another permanent house. We were stressed and underwent different problems. Where we were living, we never had title deeds, when we moved we never gave them the title deeds. We still have them. We were moved to this other place.

We cannot give them the title deeds because they never compensated us. We want this Commission to help us so that the Government can compensate us. People went through different problems. Some of our husbands died because of stress. We have so many widows because of the stress we had during the resettlement. We are asking the Commission to help us.

The Commission Secretary (Ms. Nyaundi): Thank you Mama Gladys. I will ask you a few questions and then the Commissioners will also ask you some. I see here there is a letter you were written to by Mr. Maithya, the DO, dated 10th December 1987 asking you to vacate the school compound. Your husband was Mr. Lumasia Andalia?

Mrs. Gladys Kamonya Malongo: Yes.

The Commission Secretary (Ms. Nyaundi): So you left Vokoli in 1987?

Mrs. Gladys Kamonya Malongo: Yes.

The Commission Secretary (Ms. Nyaundi): And you moved to---

Mrs. Gladys Kamonya Malongo:In 1987 I refused to move. I stayed there up to 1990 when they came with a bulldozer to demolish my house. That is when I moved. I was forced to move out in 1990. It is a permanent house that the teachers are using as an office now.

The Commission Secretary (Ms. Nyaundi): In a letter dated 8th March 1990 signed by Rose Musungu, she is the secretary, Board of Governors of Moi Girls High School, Vokoli. In that letter she is thanking you for the cooperation you showed during the negotiations for compensation of your permanent house. She says the Board paid you and granted you your request for a six months grace period to vacate the house. They are asking your husband to inform them when he is going to move. They are telling you to carry away your pipes. Is it true that you were compensated for the permanent house?

Mrs. Gladys Kamonya Malongo: We were partly compensated. When you look at the valuation we were not given that amount. It is written there.

The Commission Secretary (Ms. Nyaundi): There is a letter dated 20th December 1988 signed by your husband addressed to the Commissioner of Lands forwarding the valuation by Momali and Company Valuers. They valued your property at Kshs445, 000. Is that correct?

Mrs. Gladys Kamonya Malongo: Yes.

The Commission Secretary (Ms. Nyaundi): Admit this bundle of documents in its records.

Mrs. Gladys Kamonya Malongo: Yes, that is why I brought them to be seen by the Commission. You can use them.

The Commission Secretary (Ms. Nyaundi): Do you have children?

Mrs. Gladys Kamonya Malongo: Yes, I have children.

The Commission Secretary (Ms. Nyaundi): Did you have children when you were asked to move?

Mrs. Gladys Kamonya Malongo: They were young. One was in class two and the other one in class three.

The Commission Secretary (Ms. Nyaundi): So, did you move with your children?

Mrs. Gladys Kamonya Malongo: I moved with them.

The Commission Secretary (Ms. Nyaundi): Were you able to settle them into new schools at Shiru?

Mrs. Gladys Kamonya Malongo: They got admitted into school but it was a problem because the school was far.

The Commission Secretary (Ms. Nyaundi): What was the size of land that you got at Shiru?

Mrs. Gladys Kamonya Malongo: Two acres.

The Commission Secretary (Ms. Nyaundi): What was the size of land that you had in Vokoli?

Mrs. Gladys Kamonya Malongo: It was 0.8 hectares.

The Commission Secretary (Ms. Nyaundi): So when you look at your life at Shiru and your life in Vokoli, how do the two compare?

Mrs. Gladys Kamonya Malongo: I said that we went through stress because of the resettlement. There was no water and we underwent trauma. We started a new life, had to build new houses when we already had houses. The money we were given was not enough to build a house. This situation even led to the death of my husband.

The Commission Secretary (Ms. Nyaundi): Thank you. The Commissioners will ask you some questions.

Commissioner Slye: Thank you. I want to make sure I understand the testimony; you received compensation for the house but not for the land. Is that correct?

Mrs. Gladys Kamonya Malongo: The land in Vokoli was compensated by the land I was given in Shiru. However, I was not compensated as required for the property that was on the land.

Commissioner Slye: What entity was it that provided the compensation?

Mrs. Gladys Kamonya Malongo: There was a fundraising in the school. President Moi and others contributed money. However, the money could not be released to us. It was used to develop the school.

Commissioner Slye: So, the money which was raised was originally to compensate you but it was used to build the school. Is that right?

Mrs. Gladys Kamonya Malongo: We were all supposed to be compensated but they said the money would be used to do some development. They said we had been given land and so we should just move to the new piece of land.

Commissioner Slye: Did I understand you that in Vokoli you had a title deed to the property?

Mrs. Gladys Kamonya Malongo: Yes.

Commissioner Slye: Now in Shiru you do not have a title deed?

Mrs. Gladys Kamonya Malongo: I do not have.

Commissioner Slye: Can you describe in your own words what difference that makes; whether you have a title deed or not?

Mrs. Gladys Kamonya Malongo: The problem where I live is that I do not have a title deed. The second problem is that when I am living in that area of Shiru the people are Tiriki and I am a Maragoli. Sometimes it forces me to undergo their culture which I cannot do according to traditions. During their cultural rites, I am forced to move my children to Maragoli.

Commissioner Slye: What are those cultural rites that are causing problems? Can you say a little bit more about that?

Mrs. Gladys Kamonya Malongo: Circumcision.

Commissioner Slye: How many children do you have?

Mrs. Gladys Kamonya Malongo: I have three daughters and one son.

Commissioner Slye: How old are they?

Mrs. Gladys Kamonya Malongo: My son is 11 years old and in class eight.

Commissioner Slye: Can you say a little more about the difference between the life in Vokoli and life in Shiru and your ability to provide for them and their education?

Mrs. Gladys Kamonya Malongo: Life is a bit hard for me and it has forced me to work extra hard so that I can take my children to boarding school. This is because there are no schools where we live. It forces me to work extra hard so that my children can get proper education.

Commissioner Slye: You said your husband passed away; when was that?

Mrs. Gladys Kamonya Malongo: He died in 2007.

Commissioner Slye: Did you move in 1990?

Mrs. Gladys Kamonya Malongo: I moved in 1990. However, he was sick for 13 years before he passed away.

Commissioner Slye: Thank you very much. I want to, again, on behalf of the Commission thank you for taking the time to come here and share with us your story. It sounds like you have persevered for your family in very difficult circumstances. We empathize with you and want to thank you for coming here and sharing your story not only with this Commission but also members of the public.

The Presiding Chair (Commissioner Farah): Thank you Gladys. I know that in the middle of proceedings we let go Mr. Benjamin Okodi but is it true that you and him are issuing your statements together on behalf of 75 people who were all displaced from three places; Mbale, Vokoli and Mululu?

Mrs. Gladys Kamonya Malongo: Yes.

The Presiding Chair (Commissioner Farah): Do you confirm to the Commission that you were given a letter in 1986/87 and you refused to go but in 1990 they came and removed you forcefully? They bulldozed most of your things except the house that was permanent and they could not demolish and is being used by the primary school now. Is that correct?

Mrs. Gladys Kamonya Malongo: Yes.

The Presiding Chair (Commissioner Farah): Mr. Okodi, shifted in 1986. He did not wait to be removed forcefully. Can you please tell us about these other 75 people on whose behalf you are speaking? Were they all removed forcefully? Did they all go in 1986?

Mrs. Gladys Kamonya Malongo: When we were told to vacate the place, every person had a different opinion. There are those who wanted to go on different days. We were not together then so that we could speak in one voice. Everyone was going alone at one's own time.

The Presiding Chair (Commissioner Farah): Can you confirm to the Commission whether you all had seven acres at these three places or did you have different sizes of land?

Mrs. Gladys Kamonya Malongo: We had different acres of land. It was not equal.

The Presiding Chair (Commissioner Farah): How much did you have yourself?

Mrs. Gladys Kamonya Malongo:In Vokoli I had 0.8 hectares. When we went there we found they had measured the piece and were telling us to go. We do not know whether the land we were given is equal to the one we vacated.

The Presiding Chair (Commissioner Farah): 0.8 hectares comes to how many acres? Leaders of Evidence, how many acres is it?

The Commission Secretary (Ms. Nyaundi): It is two acres.

The Presiding Chair (Commissioner Farah): So you had two acres and Mr. Okodi confirms that he had seven acres or is it the whole group that had seven acres?

What is the acreage of the land that you occupy now in Vokoli?

Mrs. Gladys Kamonya Malongo:In Vokoli I was given around three acres of land. At Shiru Settlement it was about three acres.

The Presiding Chair (Commissioner Farah): The issue therefore which you are bringing to the Commission is your lack of title deeds but you are not complaining about the size of the land. This is because where you were before you had two acres and where you have been shifted to now is three acres. You have, therefore, gained but only if you get a title deed you will be satisfied, correct or not?

Mrs. Gladys Kamonya Malongo: Now, we are complaining about the properties on that land. I am not complaining about the size of the land. The land is okay but what we planted on the land we left is what we are complaining about.

The Presiding Chair (Commissioner Farah): What you had planted in the previous land which you were not compensated for; is that what you are also complaining about?

Mrs. Gladys Kamonya Malongo: Yes, I am complaining about that. Again, the valuation report was not for the whole land. It was just part of the *shamba*.

The Presiding Chair (Commissioner Farah): You are not satisfied with the valuation report for the land in Vokoli?

Mrs. Gladys Kamonya Malongo: It is mine.

The Presiding Chair (Commissioner Farah): Would you be satisfied if you were given title deeds? If the Commission fights for you to get title deeds, would that be satisfactory or would you ask for something else?

Mrs. Gladys Kamonya Malongo: I am asking for whatever assistance. I will accept it.

The Presiding Chair (Commissioner Farah): Thank you Gladys, I do not have any more questions. The case is clear to me now. I am satisfied. Rest assured that this Commission will not rest until that anomaly is corrected. Leader of Evidence, please,

stand down this witness and the previous one. Bring in one more witness before lunch.

(The witnesses were stood down)

(Mr. Caleb Malongo took the oath)

The Commission Secretary (Ms. Nyaundi): Thank you, Mr. Caleb Malongo. Welcome to the Commission. For the record, kindly state your names, your current occupation and where you are staying.

Mr. Caleb Malongo: My name is Caleb Malongo. I am from Ndambongo Village, Bungoma Location, Vihiga Division, Vihiga District.

Commission Secretary (Ms. Nyaundi): I can see the memoranda which is signed by you as the Chair of Maragoli Hills Natural Resource Users and the Secretary, Richard Misigo. I now invite you to present the memorandum to the Commission.

Mr. Caleb Malongo: I thank you very much. I am the Chairman of Maragoli Hills Community Forest Association. This Association is made up of 14 villages. These are: Muguba Dabongo, Kisieli, Rudunyi, Egago, Liamedi, Kirwaji, Buguga, Chadugonyi, Enyangza, Emuhaya and Diagora.

The Government through Parliament allowed communities living around forest land in the country to manage it on their behalf. A Motion was passed in Parliament that the community should take responsibility of forest land of the Government. In Maragoli Hill, we have two villages. The hill was gazetted as forest land of Government in 1957. Initially, it was their ancestral land. The problem is that they do not have titles. They have been staying in the hills for all those years with threats from the Government. A former DO called Odoyo urged the people to move out. This is our ancestral land. When we lived in the hills, we had problems. Wild animals were scaring us. Children could not go to school and most people were illiterate. Monkeys destroyed our properties. I want these villages to be given land. There are more than 6,000 people, but they have no schools or health centres.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Mr. Caleb Malongo. I will now ask you a few questions and then the commissioners will also seek further clarifications.

First of all, could we admit this memorandum on to the record of the Commission?

Mr. Caleb Malongo: Yes, it should be admitted.

The Commission Secretary (Ms. Nyaundi): There is a statement you recorded with the Commission on 20th May, 2011. Could we also admit that onto the record of the Commission?

Mr. Caleb Malongo: Yes, it should be admitted.

The Commission Secretary (Ms. Nyaundi): In your statement, you said that the colonial Government gazetted this area as a forest area in 1957?

Mr. Caleb Malongo: Yes.

The Commission Secretary (Ms. Nyaundi): There is Gazette Supplement No.28, which shows the gazettelement of that area. Could we admit this document into the record of the Commission?

Mr. Caleb Malongo: Yes, Mr. Presiding Chair.

The Commission Secretary (Ms. Nyaundi): You also have with you here a letter dated 17th January, 2002 signed by the then Provincial Commissioner for Western Province, Mr. Kiilu, addressed to the PS for the Ministry of Environment and Natural Resources. The subject is the status of Maragoli Hill, Vihiga District. Could we admit this letter on the record of the Commission?

Mr. Caleb Malongo: Yes, Mr. Presiding Chair.

The Commission Secretary (Ms. Nyaundi): Now, I see that in this letter, dated 2002, Mr. Kiilu had proposed to the Government that the hills be degazetted, so that the 340 families who moved there can be settled. Is that correct?

Mr. Caleb Malongo: Yes.

The Commission Secretary (Ms. Nyaundi): Is there any further action that has been taken by the Government after that letter?

Mr. Caleb Malongo: I understand that land was given to those people, but the chief gave it to the wrong people.

The Commission Secretary (Ms. Nyaundi): You are now referring to page three of your statement. Paragraph one says the paramount chief, Mr. Meshack Kagoe instead of giving the people at Maragoli Hills land, he gave it to people of Lugari living in Kidudu Village.

Mr. Caleb Malongo: He was called Paul Agoe and not Meshack.

The Commission Secretary (Ms. Nyaundi): That was in 1960s. However, Mr. Killu, the then PC wrote to the PS, in charge of forest and recommended that the land be gazetted. Are you aware of any action that was taken?

Mr. Caleb Malongo: In fact, our area MP, Mr. Yussuf Chanzu, is aware of this. We recently visited him and wrote another memorandum. We even presented it to the Minister for Forestry and Wildlife, Dr. Wekesa. However, we have not received any report as at now.

The Commission Secretary (Ms. Nyaundi): Thank you very much. Now the commissioners will ask you some questions.

The Presiding Chair (Commissioner Farah): Thank you very much, Mr. Caleb Malongo.

We thank you for coming forward to the Commission. We notice that at the time the colonial Government gazetted that hill, people were already living there, three groups of people as you said. When we got Independence, the Government planted trees, and you used be “marooned” in between. Could you just explain that a little bit? That is the word you used in your memorandum. Were you enclosed, or what did you by the word “marooned in there”?

Mr. Caleb Malongo: The villages were surrounded by trees. There were many wild animals which caused a lot of suffering and destruction of crops. Even our children could not go to school because they feared these wild animals. There were leopards, hyenas, baboons, among other animals. That hill was destroyed and we do not know who destroyed it. The Government should explain that.

It has been difficult for the Government to restore trees to Maragoli Hills, but as a Chairman, I am trying my level best to make people understand. The Government is not taking any action. These people have identity cards to show that they are Kenyans. They vote for their MPs like any other people.

The Presiding Chair (Commissioner Farah): Since the PC wrote to the Ministry of Lands to leave the forest as it is because this land was given to squatters in 1986, if the Government agrees to give that land to the people, would there be problems? Are you settled in sizeable parcels of land, so that it is easy for land to be demarcated and divided amongst the people who are settled there?

Mr. Caleb Malongo: Yes, if the Government gives people title deeds. This land is full of stones. There was a time we lodged a case through the KACC, but the Ministry of Environment and Natural Resources came up with issues.

The Presiding Chair (Commissioner Farah): All I know is that the 469.5 hectares was forest. About 69.5 hectares of which the people had already occupied by the time the colonial Government gazetted it as Government forest. What do you want us to recommend? Do you want us to recommend the 69.5 hectares, where you were living to be subdivided and given to the people? What are you recommending?

Mr. Caleb Malongo: In my opinion, if this people can be given an alternative land, it will solve the problem. The Government should buy land for them because the livelihood of these people is not good. They should just be given an alternative land. The Government should buy land for them somewhere else, so that they can live like other Kenyans. That is when it would be easy for the Government to rehabilitate the Maragoli Hills.

The Presiding Chair (Commissioner Farah): Part of Maragoli Hills land can be demarcated and given to the people.

Mr. Caleb Malongo: You know the Government is everything. If it agrees to give them land and they have access to good road, education and good life, it will be okay.

But in my opinion getting access roads is very difficult. That is my fear, but if the Government can decide, that is okay.

The Presiding Chair (Commissioner Farah): Thank you very much for your evidence, Mr. Malongo. The Commission will follow up this matter. Thank you very much.

Please, do not call another witness. We would like to break for lunch and come back at 2.00 p.m. to continue with the hearings. Thank you.

[The Commission adjourned temporarily at 12.40 p.m.]

[The Commission resumed at 2.50 p.m.]

The Presiding Chair (Commissioner Farah): Welcome back for this afternoon session. It appears Mr. Patrick Njue is not ready. Once you get ready, please, proceed and swear in the witness.

Mr. Patrick Njue: Commissioners, we are ready. Our next witness is coded as KAK/4A.

(Mr. Hosea Hunter Lusiola took the oath)

Mr. Patric Njue: Good afternoon. Kindly for the record, state your names.

Mr. Hosea Hunter Lusioloa Mulamula: My name is Hosea Hunter Lusioloa Mulamula.

Mr. Patrick Njue: Mr. Mulamula, what do you do at the moment for a living?

Mr. Hosea Hunter Lusioloa Mulamula: I am now a small-scale farmer. I am also a consultant agronomist by profession.

Mr. Patrick Njue: Where do you live, Mr. Mulamula?

Mr. Hosea Hunter Lusioloa Mulamula: I live in Rostaman, about five kilometres from here.

Mr. Patrick Njue: Mr. Mulamula, you are seated with us this afternoon on the indication following your recording a statement that you want to present a memorandum on the plight of the people of Rostaman on what you say is a continuing violation in terms of dumping that is taking place in what you call communal land. Is that the position?

Mr. Hosea Hunter Lusioloa Mulamula: That is the position.

Mr. Patrick Njue: If you are ready, kindly take us through the memorandum.

Mr. Hosea Hunter Lusioloa Mulamula: Commissioners, Sir, my memorandum outlines the history of this land spelling out who are the ancestral owners, starting

from 1920 through 1924 when the Carter Commission was published to 1939 when it was implemented.

I want the commissioners to learn that the land I am talking about was gazetted and classified as native land; native land which is sedentary and not migratory. Now having done that, gold was discovered in Rostaman in 1931. There was a plot by the colonial Government to have all people from North Kavirondo, what is presently Kakamega District, evacuated to North Eastern. Fortunately, the plot became public. So, the miners had to use our land through leasing contract. However, the mining activity ended in 1952.

Everybody took back his small parcels of land. This was reserved for public use. That is 20 hectares of LR.No.1202. Now in the course of time, the Government started a school of people with disabilities and a committee was formed to manage the centre drawn from the community. This community was moderated to develop a blueprint to help them move forward. All the members accessed that blueprint. All the agenda we had have been accomplished, except those that required proof that we owned the land. So, I am going to address commissioners on three aspects, Plot No. 1202 has been subdivided without due course of law into two parcels, 4030, 4031, the management was not involved in this. This is contrary to sessional paper No.3 on land policy, which requires the Community to participate.

In the course of time, the Municipal Council has created a dumping site there. We held a meeting with the Chief, Assistant Chief, DO, Baraza and a memorandum was drawn protesting that we do not want a dumping site there. What they throw there includes syringes, leftover food from hotels, and I am sorry to say condoms. Children blow them thinking that they are balloons.

Since they started dumping these things there, we have really suffered. Bones or leftovers from hotels are dumped there. Some of these bones find their way to our villages where they are eaten by dogs. We have no poultry. This dumping site is 30 metres from the dormitory of disabled people. I want to inform the Commission that this institution is the only institution for the disabled people in Kakamega County. It is the desire of the community that we develop it into a school for the benefit of those who are disabled as well as those who are able.

We now have a population of 38 students, out of which 28 are disabled. The ratio is 1:3 and they are girls and boys. Of late, we have very good support from the Government in terms of equipment and we want to develop this place. The major limitation is that we cannot market our projects because we do not have title deeds. The municipal council and county council are all play ping-pong and nobody wants to take responsibility. We want title deeds now. We wrote that document before August after promulgation of the Constitution. Through you, I want the Council to know it is not business as usual. Preparations are at advance stage to file a case against the Municipal Council invoking, Article 258 of the Constitution. We have a right to clean environment. The Council is abusing our rights.

Finally, from historical point of view, when the mines were there, they extracted 4,000 kilogrammes of gold. My son who works for the World Bank says that is worth Kshs14 billion. We want it back. Italians have gone back to Italy. We want our gold

back. That should come later, but it should go on record. Because of this limbo of not having title deeds, when I was a Board member of Lake Basin Development Authority, I solicited for the Board to do “a”, “b”, “c” and “d”. However, they did nothing. This status has completely retarded our development. I am seeking the commissioners to assist us unravel who is responsible to give us title deeds so that we implement our proposals. I think if you have questions you can ask.

Mr. Patrick Njue: Indeed, Mr. Mulamula, I would be asking you a few questions just to clarify your testimony after which commissioners would do the same before we can let you go.

You have been reading from a memorandum. Would you want that memorandum to be presented formally to this Commission as part of the record of this Commission?

Mr. Hosea Hunter Lusioola Mulamula: Yes.

Mr. Patrick Njue: Mr. Presiding Chair, I request through the Chair, if the memorandum can be admitted.

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

Mr. Patrick Njue: Mr. Mulamula, hearing from you speaking today, I have been able to pick out three issues together with your statement, I would say are key contentious issues. The first one is dumping. If I may ask, is this dumping ongoing?

Mr. Hosea Hunter Lusioola Mulamula: It is still going on. We have been recording the registration numbers of all the trucks. We can know the owners of those trucks from the Registrar of Motor Vehicles.

Mr. Patrick Njue: Have you written to them formally complaining of this action and asking them to cease doing so?

Mr. Hosea Hunter Lusioola Mulamula: Commissioners, Sir, I wrote a letter 1st July, 2010, copied to the DC and a number of people. None of them reacted. It was before the new Constitution and I can forgive them, but not now.

Mr. Patrick Njue: Again, you want this letter to be admitted to the records of this Commission?

Mr. Hosea Hunter Lusioola Mulamula: Sure.

Mr. Patrick Njue: Again, through the Chair, I request if the same letter dated 1st July, 2010 maybe admitted as part of the record of this Commission.

The Presiding Chair (Commissioner Farah): It is so admitted, but could he read it for us?

Mr. Patrick Njue: Commissioners, the letter is addressed to the District Commissioner, Kakamega Central District, and forwarded through the DO, Chief and Assistant Chief. It is written by Dr. H.H. Mulamula who sits right next to me. The

reference is “unauthorised dumping on community land, parcels, Isuha/Shirere/1202 and two others.”

It is a two-page letter basically protesting on the dumping on the said parcels of land. I am requesting if the said letter can be admitted?

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

Mr. Patrick Njue: Much obliged.

Now, Mr. Alusiola, this parcel of land under /1202 is the one that Kakamega Vocational Centre rests on?

Mr. Hosea Hunter Lusioloa Mulamula: That is the plot.

Mr. Patrick Njue: What about the two others that you have constantly referred to?

Mr. Hosea Hunter Lusioloa Mulamula: The others are community pieces of land on which the company built houses which the community members have bought.

Mr. Patrick Njue: So, in a manner of speaking, you would say that the two others are also under the benefit of the community members?

Mr. Hosea Hunter Lusioloa Mulamula: That is okay. I have no quarrel with them.

Mr. Patrick Njue: When you subsequently talk about non-issuance of a title deed, who is it that is registered under LR.No.1202?

Mr. Hosea Hunter Lusioloa Mulamula: I had the honor of listening to the first presenter here – the head teacher – all institutions, primary schools and even my three years of high school at Kakamega High, where I was in 1959. They had no title deeds until the current DC is the one who helped them to get title deeds. They are all sitting on trust land, and that is the fact. LR.No.1202 is a trustland and a community land for public use. As the head teacher said here, there is corruption because somebody has hived off half of it and sub-divided it to his sons and children. He has even blocked a road. I better show you this map. This is the land.

Mr. Patrick Njue: Hold on. The Hearing Clerk will hold it high up for you as you point it out to the commissioners.

(Mr. Hosea Mulamula pointed on the map the portion which was grabbed)

Mr. Hosea Hunter Lusioloa Mulamula: Okay. The land I am talking about is this one; all this land up to here. This is where the institute is. The land grabbers have grabbed all that and they have sealed the road as you will see in the next map. The land LR.No.1202 is no longer 1202 in the other maps. *Wapi hiyo nyingine?*

(Mr. Hosea Mulamula displayed another map)

The LR.No.1202 now reads 4430/4431. We never participated in that sub-division.

Mr. Patrick Njue: Mr. Mulamula, who are the owners of LR.No.4430 and 4431?

Mr. Hosea Hunter Lusioloa Mulamula: The beneficiaries of those parcels are stated in the statement I signed.

Mr. Patrick Njue: That is noted. Again, through the Chair, we have the statement from the witness. I am requesting if, again, the same may go on record as part of his testimony. I note that he has also shown us maps, which are original maps of the land. Maybe we could have them for purposes of making copies so that the same can be admitted for the record of this Commission.

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

Mr. Hosea Hunter Lusioloa Mulamula: That is Sheet No.11 - Shirere.

Mr. Patrick Njue: Now, Mr. Mulamula; you have also said that you have severally written. Is it severally or just that once that you wrote to the DC? Have you tried seeking the intervention of any other office for purposes of addressing this very issue?

Mr. Hosea Hunter Lusioloa Mulamula: Members of the Commission, as you realize, under the old Constitution, avenues of redress were not many. But under the current Constitution, I am giving the Municipal Council notice. *Hakuna mchezo!*

Mr. Patrick Njue: Noted. Lastly, I got two expectations that you would like or ask of the Commission; and that was the fast tracking of the title deed and you also talked about some money that was the proceeds from the gold that was harvested from Rosterman back in the years.

Mr. Hosea Hunter Lusioloa Mulamula: Correct.

Mr. Patrick Njue: Is there anything else you would like to ask of this Commission?

Mr. Hosea Hunter Lusioloa Mulamula: Those are the two cardinal things; we want the status to be regularized and then we will have the freedom to seek aid for the development of people. To encroach on land we would have set aside for disabled people is actually a violation of marginalized people. This is not the Kenya of yesterday but Kenya of today. I am even ready to go to court on behalf of my students.

Mr. Patrick Njue: For myself, I want to thank you for coming forthright in your presentation and in a very unique way also, salute you for highlighting the plight of a group in our community known as the disabled who hardly will have people to speak on their behalf. For you to have them hosted in the vocational centre is, really, a commendable thing you are doing. I want to encourage you to continue doing the same.

Thank you very much. Our commissioners may now ask you questions.

Thank you, Mr. Presiding Chair, Sir.

Commissioner Slye: Thank you, Mr. Presiding Chair, and Leader of Evidence.

Mr. Mulamula, I will start by asking you if you could give us a brief history of the vocational institute. When was it founded and who founded it?

Mr. Hosea Hunter Lusiolo Mulamula: Okay. Can I go a little bit further? All native land under the colonial system of Government was held in trust by county councils. So, ours here was North Kavirondo County Council which now changed name to North Nyanza. When the mines closed, it was North Nyanza County Council which the gold miners restored our piece of land to hold in trust. The Ministry of Social Services and Gender – the name keeps on changing – is the one which started this school in the 1970s. I joined the management group in 2004 and I found only four students. We now have 38 students, both boys and girls, including the disabled. We want to simulate the school to what happens at home. We do not have our children who are lame locked somewhere because they are part of our society. So, that is the history.

Commissioner Slye: It sounds as though when you came on board in 2004, the school was not that successful because there were very few students. Is that right?

Mr. Hosea Hunter Lusiolo Mulamula: You are right.

Commissioner Slye: Do you know how successful it had been before that? Were there a lot of students when it started in 1970s? Do you know a little bit of that history?

Mr. Hosea Hunter Lusiolo Mulamula: What happened is that this school was led into the period when Kenya was becoming more corrupt so that even some of the management officers at the centre were selling stones or assets belonging to the institution left and right. As I am speaking now, we do not have the entrance to one of the buildings because one of the previous tenants claims that he repaired the school at Kshs1 million and he cannot hand over the keys. While we are still battling with that, I am now told that a second tenant--- I have no idea who brought him in because we are the sole managers of the school and I have a lot of reservations with some of the public officers here.

Commissioner Slye: Do you know when the land grabbing with respect to the vocational centre started? Did it start back in 1970 or was it more around 2004 when you came on board or sometime before?

Mr. Hosea Hunter Lusiolo Mulamula: In 2004, the map that was there shows that parcel LR.No.1202 as intact. So, it is after that.

Commissioner Slye: So, the problems with the land started after 2004?

Mr. Hosea Hunter Lusiolo Mulamula: Correct.

Commissioner Slye: Can you briefly tell us a little bit about your history? You came to the centre in 2004. What were you doing before then?

Mr. Hosea Hunter Lusioloa Mulamula: Before I joined the centre, I worked--- Okay, if you want to know, I went to school through Makerere and then I joined Plant Breeding Research Centre in Njoro, where I was in charge of the entire wheat program in Kenya for 18 years. Through experience, I was trained in research management and I did my postgraduate up to PhD level at Njoro. I became a consultant with the IFAD, the FAO and the Government of Netherlands. Right now, I am a consultant agronomist. That is the knowledge I am injecting into the KAVOREC. Right now, we have five cows we milk but we have nowhere to graze them because these people have grabbed the land.

Commissioner Slye: Is the focus of the vocational centre primarily on agricultural activities or do you have other programmes as well?

Mr. Hosea Hunter Lusioloa Mulamula: We have various disciplines namely carpentry, leather work, tailoring and computers. We went into arc welding and so on so that boys can learn and start working.

Commissioner Slye: Did you say that the programmes that you offer have been somewhat successful? Do you have examples of either persons with disabilities or others who have gone on to become more self-sufficient as a result of those programmes?

Mr. Hosea Hunter Lusioloa Mulamula: Yeah, they are there. The ones who are there have started small businesses and we are very careful what programmes--- For example, one of the programmes we want to start is poultry keeping. Not everybody who is sitting on a chair is lame; we can run a poultry plant. All he needs to do is to make orders over the mobile phone, the flock comes in and the eggs go over while he is seated. So, these are some of the aspirations that have been frustrated, otherwise the other disciplines which have been there namely agriculture and carpentry. They are now opening their workshops and they are no longer begging.

Commissioner Slye: If the land issue would be resolved, would that be sufficient to make this centre successful or are there other things that you would need?

Mr. Hosea Hunter Lusioloa Mulamula: If I woke up and found that I have a title deed for KAVOREC, the sky is the limit because I have connections even in the World Bank because I am an international person. I want to woo all this money for the benefit of this institution for both girls and boys, able and disabled. That is the way we are.

Commissioner Slye: Can you help us understand why having a title deed would make a difference?

Mr. Hosea Hunter Lusioloa Mulamula: It instills confidence on whoever you are dealing with.

Commissioner Slye: So, if you went to the World Bank today, they would not be willing to fund you because you do not have a title deed?

Mr. Hosea Hunter Lusioloa Mulamula: There is no title deed.

Commissioner Slye: Okay. They would not know whether, in fact, you really own the land?

Mr. Hosea Hunter Lusioloa Mulamula: Yes. That is correct.

Commissioner Slye: I see. Lastly, you said that if you got the title deed, the sky would be the limit?

Mr. Hosea Hunter Lusioloa Mulamula: That is correct.

Commissioner Slye: Can you just say a little bit about this? If you get the title deed, what are the sorts of things that you would like to do with the centre and with the students?

Mr. Hosea Hunter Lusioloa Mulamula: First of all, we all know that there is free primary school education. It came after we had written the “Blueprint” and we see no reason why our children who are at my centre should not get that assistance. We want to develop it so that they can do their “grade eight” and join high school like anybody else because high school receives Government sponsorship. So, we are discriminating against them by giving the others and not them.

Commissioner Slye: How will you address that? Will you start such a school yourself or will you provide support to those students so that they can go to other schools? How will having a title deed enable you to do that?

Mr. Hosea Hunter Lusioloa Mulamula: We would run it just like any public school and establish the physical structures. The Government will give the course content and may be the teachers, the children will have access to the same environment and off they will go to rejoin the others.

Commissioner Slye: So, it would be a school only for persons with disabilities or, like what you have now, a mix?

Mr. Hosea Hunter Lusioloa Mulamula: It would be like what we have now. At home, we do not have seclusion for the disabled because we live side by side with them.

Commissioner Slye: Why do you do that? Why do you have the students mixed like that? What are the advantages of that?

Mr. Hosea Hunter Lusioloa Mulamula: So that they can learn from one another. Who knows, you will soon have one who is disabled marrying a beautiful girl and they will be unbiased. This is my vision.

Commissioner Slye: Thank you very much. That is a very beautiful vision and we salute you for your efforts in trying to achieve that vision.

Commissioner Dinka: Thank you very much, Mr. Mulamula, for letting us hear this very optimistic and human story. The Commissioners, for the last few weeks, have been listening to all kinds of difficult stories and this is a real pleasant break from that. This is something promising; something hopeful to create hope in otherwise desperate people.

Thank you very much. Who is currently funding the school?

Mr. Hosea Hunter Lusioola Mulamula: The school has gone through phases. When the committee came in, there was no funding even from the parent Ministry. So, we had to go back and contribute food to the kids to feed. However, being an agriculturalist, I looked and saw a lot of land here where we can grow beans and the kids can also learn how to do it. Right now, we are generating Appropriations-in-Aid (A-i-A) which we ploughed back and the place is vibrant. We get money from the Government but our funding latitude will increase if we had a title deed.

Commissioner Dinka: Very well. You have also been successful in creating some income generating projects. That is from what I have seen in your report.

Mr. Hosea Hunter Lusioola Mulamula: Correct.

Commissioner Dinka: What is the area on which the centre stands in terms of acreage?

Mr. Hosea Hunter Lusioola Mulamula: Originally, it was 20 hectares, but 10 hectares have been grabbed and we are remaining with 10 hectares.

Commissioner Dinka: Is the dumpsite part of the grabbed land?

Mr. Hosea Hunter Lusioola Mulamula: No, it is not. The dump site is on the land that remains after deducting the grabbed side.

Commissioner Dinka: Is the grabbed land being utilized by those who grabbed it or is it lying fallow?

Mr. Hosea Hunter Lusioola Mulamula: The guy who grabbed it immediately subdivided it and gave it to his sons and they have built small huts. There was a case in court disputing who signed the transfer forms but that file, I am told, has disappeared. However, he has a title deed and we do not know how he got it.

Commissioner Dinka: That was to be my second question. Which authority gave him the land? Was it the county council or the municipal council?

Mr. Hosea Hunter Lusioola Mulamula: As far as the county council is concerned, we are the only occupants of that land, but somehow, the guy has a title deed.

Commissioner Dinka: Okay. Have you gone to court or through administrative structures like county council, the PC or DC? What is the response from this Government and institutions?

Mr. Hosea Hunter Lusioola Mulamula: I want, through you, as a member of the Commission, to thank the Provincial Administration. It is, in fact, as a result of such meetings that we were able to write this memorandum and forward it through them to the higher authorities. They have been very co-operative and are not part of---

Commissioner Dinka: You have not gone to court?

Mr. Hosea Hunter Lusioola Mulamula: No. We did not have money because the case would have cost us a lot of money.

Commissioner Dinka: All right. Was the dumpsite established officially by the county council or how was it started?

Mr. Hosea Hunter Lusioola Mulamula: Sir, that is a question the municipal council can answer. I just found lorries going there and dumping things. What is all this? Do you know the green plate?

Commissioner Dinka: When you came in 2004, was the dumpsite there?

Mr. Hosea Hunter Lusioola Mulamula: No.

Commissioner Dinka: It came after that?

Mr. Hosea Hunter Lusioola Mulamula: Yes.

Commissioner Dinka: And you do not know which authority established it?

Mr. Hosea Hunter Lusioola Mulamula: I do not know. Even in September, last year some guys attempted to set up a public market there having been authorized by the municipal council. Fortunately, the whole thing failed because it is not viable.

Commissioner Dinka: But is it not something that the municipal council should find a resolution to? Why did you not get in touch with them?

Mr. Hosea Hunter Lusioola Mulamula: If you go to them, you will find that it is business as usual.

Commissioner Dinka: Okay. Really, what you have done or what you are trying to do is something that everybody should be supporting, especially within Government structures and the community. Hopefully, something positive will come out of this discussion – and I am sure it will come – to enable you to expand the school and create better living conditions for your students. As you said, you have worked with the IFAD, the WFP, the FAO and so on. You have also said that you have a son in the World Bank. You have international contacts and I think everybody should be helping you so that you could use your network of international contacts to bring more hope or realise the hope that you have created among those young people.

I really thank you very much and I have no further questions.

The Presiding Chair (Commissioner Farah): Thank you very much, Mr. Mulamula. I also have no further questions because my two other commissioners have clarified everything. I thank you for having come forward to tell your story to the Commission.

Leader of Evidence, you can stand down the witness.

Mr. Patrick Njue: Mr. Presiding Chair, Sir, this is Witness No.5a.

(Mr. Kasigane Kagai David took the oath)

Good afternoon, Sir.

Mr. Kasigane Kagai David: Good afternoon.

Mr. Patrick Njue: I want to welcome you this afternoon to the Commission's sitting. The reason you are here is because you have recorded a statement with us which you will be taking us through shortly. First, for record purposes, once again, kindly state your full names, what you do for a living and where you live.

Mr. Kasigane Kagai David: I, Kasigane Kagai David come from Vihiga County, Sabatia District, Isava North Location, Mbale Sub-Location.

Mr. Patrick Njue: Mr. Kasigane, what do you do for a living?

Mr. Kasigane Kagai David: Formerly, I have been a student and now I offer voluntary services at the Kitale District Hospital.

Mr. Patrick Njue: Mr. Kasigane, you are seated with us today because you recorded a statement on what you call injuries that you sustained sometime in 2007 and, specifically, on 30th December of that year. Is that the position?

Mr. Kasigane Kagai David: Yes.

Mr. Patrick Njue: Kindly take us through the events of that day that led to your injuries?

Mr. Kasigane Kagai David: It was at 5.30 p.m. after the announcement of the election results. I was doing my job away from home. It was at the time I was returning home when I met people on the way running from side to side. To get home, I had to cross the Kisumu-Kakamega Highway. I met three policemen who were in their usual police uniform. They commanded us to go back, but our minds were set to go home. They became furious and insisted that we go back. They shot me from behind and the bullet broke my left femur when we turned back and started running to where we had come from. After that, there was a second shot which injured the second person. A third person died on the spot. After that, I lost consciousness because of excessive bleeding. When I regained conscious at 9.00 p.m., I crawled to a nearby school and the watchman at the school gate went and alerted the principal. After some time, the principal ordered the school van to take me to hospital. On reaching the hospital, I was taken to the theatre where I was sedated. I found myself in the ward the following day. I stayed at Vihiga District Hospital for about six weeks

where the wound was cleaned. I used drugs just to relieve me of the pain. Due to transport problems, I stayed there after discharge. I was later given a referral letter to New Nyanza Provincial Hospital where I was admitted and put on traction for six weeks.

Due to financial problems, I continued to stay there even after discharge and that is when my parents were forced to look for cash. That is when they came and took me home with the plaster on the leg for another four weeks. I went back to the hospital after four weeks and the plaster was removed. I went home with crutches, which I used for another four weeks. After that, I became pretty stable and fortunately, I had applied for a course in the Kenya Medical Training College (KMTC). I received an admission letter to join Lodwar KMTC for a two-year nutrition course. I stayed there and filed a case in court and I used to receive summons to travel from Lodwar to Vihiga Court to attend the proceedings. This was very expensive. After that I finished the course and I am now out offering voluntary services but I have not yet collected my certificates due to fees balance. I am not only speaking on my behalf now but I am also speaking on behalf of the other people who suffered due to these incidents.

I think I can stop there for now so that you can ask me questions.

Mr. Patrick Njue: Indeed, Mr. Kasigane, I will be asking questions to clarify what you have told us. Our Commissioners will also proceed and ask you questions. On that day, 30th December, 2007, what time did you say it was that this incident took place?

Mr. Kasigane Kagai David: It was around 5.30 p.m.

Mr. Patrick Njue: And where were you coming from?

Mr. Kasigane Kagai David: I was from my village by the name “Musuli”.

Mr. Patrick Njue: And you say that you were working?

Mr. Kasigane Kagai David: Yes, I was doing something to do with glass fitting.

Mr. Patrick Njue: So, you were coming from work going home? Were you alone?

Mr. Kasigane Kagai David: No.

Mr. Patrick Njue: You were with other colleagues?

Mr. Kasigane Kagai David: Yes. We just met as a group, but from my job, I was alone.

Mr. Patrick Njue: Did you know the others in the group?

Mr. Kasigane Kagai David: Yes, I knew the one who died.

Mr. Patrick Njue: With regard to this group, did you know the others?

Mr. Kasigane Kagai David: Yes, I knew the one who died.

Mr. Patrick Njue: What was his name?

Mr. Kasigane Kagai David: He was Ng'andu and the other one Eliud. He was injured on the arm.

Mr. Patrick Njue: What is the plight of Eliud today as we speak?

Mr. Kasigane Kagai David: Eliud is still carrying a bullet in the arm.

Mr. Patrick Njue: You said you know the police officers by their uniform. What kind of uniform was it?

Mr. Kasigane Kagai David: Jungle jacket, helmet and shield with the words "POLICE".

Mr. Patrick Njue: When they shot at you, were you walking or running?

Mr. Kasigane Kagai David: We were running because they were also running towards us.

Mr. Patrick Njue: Did they shoot you and leave you for the dead?

Mr. Kasigane Kagai David: Yes, they just left me there. They did not do anything.

Mr. Patrick Njue: Do you know the reason for them shooting you?

Mr. Kasigane Kagai David: I cannot say any.

Mr. Patrick Njue: You said that subsequently and by the grace of God, you were able to crawl and get assistance from a watchman and the principal of a school. You were taken to hospital where you were admitted for some time. Did you carry any documentation showing the treatment you went through?

Mr. Kasigane Kagai David: Yes. I have my referral letter from Vihiga District Hospital to New Nyanza Provincial Hospital.

Mr. Patrick Njue: And you would want this to be admitted as part of the record of this Commission to accompany your testimony?

Mr. Kasigane Kagai David: Yes.

Mr. Patrick Njue: Commissioners, I pray that this document be admitted as part of the records of this Commission.

Commissioner Farah: The letter is so admitted.

Mr. Patrick Njue: You have also talked about having filed a case in court. It is a case in which you were seeking compensation. What was the outcome or the present position of the case?

Mr. Kasigane Kagai David: Yes. We were just told that there is a letter which was written to the Attorney-General but up to now, we have heard nothing.

Mr. Patrick Njue: I believe this is communication that came to you from your advocate. What is the name of the advocate?

Mr. Kasigane Kagai David: Yes. His name is Kulecho from Kulecho and Company Advocates.

Mr. Patrick Njue: Would you know the case number?

Mr. Kasigane Kagai David: I had communicated to them about that but unfortunately, they did not get back.

Mr. Patrick Njue: From the injuries sustained, do you have any present complications?

Mr. Kasigane Kagai David: Yes. The affected leg has become shorter than the other. Then there is some pain that erupts after some time and within three days, my legs swell and I cannot walk. I have to take medication so that my legs can heal. I cannot walk long distances, neither can I run.

Mr. Patrick Njue: From these injuries, there is need for future medical check-up?

Mr. Kasigane Kagai David: Yes.

Mr. Patrick Njue: What will be your expectations? What will you tell this Commission to do for you or on your behalf?

Mr. Kasigane Kagai David: On my behalf and that of others who suffered, I would like the Commission to act as it initially said. It should first get the truth, justice be done and reconciliation comes last. After that, we will seek reparations.

Mr. Patrick Njue: Have you ever known the three police officers who shot you?

Mr. Kasigane Kagai David: I could not know them because they had helmets on their heads. On the material day, nobody could wait to know who was who.

Mr. Patrick Njue: If you were shown the people who shot you, what would be your reaction?

Mr. Kasigane Kagai David: For now, I do not know if I can do anything. However, what will be done to them is what the Commission will have decided.

Mr. Patrick Njue: Have you forgiven them now that you talk of reconciliation?

Mr. Kasigane Kagai David: Actually, before I met this Commission, I had a negative attitude towards the police and the entire Government. However, after being counseled, I realized that there is forgiveness.

Mr. Patrick Njue: I would like to encourage you and tell you that part of the healing process entails forgiving those who have wronged us. I thank you for your spirit of volunteering which you are doing at Vihiga District Hospital. Our Commissioners will now ask you questions.

Mr. Kasigane Kagai David: Thank you.

Commissioner Farah: Mr. Kasigane, I want to thank you for coming and talking to the Commission. It gives us more insight into what happened during the post-election violence. For you, it is difficult to relive what happened to you at that time. When you were going home from work at around 5.30 p.m., what was the context of the area? Were riots going on? What were the police doing with shields because it is the riot squads that carry shields?

Mr. Kasigane Kagai David: The whole area was in conflict and some people were looting. I could not identify the people I came across.

Commissioner Farah: So, there was turmoil and it is in that kind of situation that you were confronted by the three policemen?

Mr. Kasigane Kagai David: Yes.

Commissioner Farah: That is all I wanted to know. I empathize with your pain and we hope you will get better now that you have ventilated the suffering that you have gone through. It helps. Hopefully, there will be more help coming.

Commissioner Slye: I am humbled by your statement of forgiveness that you ended your testimony with. You talked about wanting justice. Could you tell us a little bit more what you would like in terms of justice?

Mr. Kasigane Kagai David: I think the law should take its course.

Commissioner Slye: Do you mean you would like the individuals to be identified and prosecuted? What do you mean by the law taking its course?

Mr. Kasigane Kagai David: Yes, they should be prosecuted.

Commissioner Slye: You also talked about reparations. Could you speak a little more than that?

Mr. Kasigane Kagai David: I was a footballer and there are works I would do by walking long distances which I cannot do now. I need something to make me comfortable because in my present state, that cannot happen.

Commissioner Slye: What are the things you would like to do, but you are unable to do at the moment?

Mr. Kasigane Kagai David: Long distance walking because the injury interfered with my balance. I also liked football which I cannot play now. During my voluntary services, much of the work I do involves standing and yet the injury does not allow me to stand for long hours.

Commissioner Slye: What kind of volunteer work do you do at the hospital?

Mr. Kasigane Kagai David: I trained as a nutritionist. I do counseling to patients suffering from diabetes. I give health talks on breastfeeding. I counsel HIV/AIDS patients on diet issues.

Commissioner Slye: Is that the kind of work you would like to continue with or do you have other plans in terms of your profession in future?

Mr. Kasigane Kagai David: For now, that is what I want to do but there is something hindering me and that is the fee balance. I cannot make any application without my certificate.

Commissioner Slye: How much is the fee balance?

Mr. Kasigane Kagai David: It is Kshs30,000.

Commissioner Slye: Before the day you were shot, there was an election. What were your thoughts about the elections?

Mr. Kasigane Kagai David: My thoughts were that, what we had done was what we deserved in the results.

Commissioner Slye: Can you explain that?

Mr. Kasigane Kagai David: It was believed that Raila Odinga was going to be the winner, but the opposite happened and that was what brought chaos.

Commissioner Slye: At the time, did you think that Mr. Odinga was going to be the President or is it something that you just learnt later?

Mr. Kasigane Kagai David: With a single vote, I could not have determined who was going to be the winner.

Commissioner Slye: How do you feel about the elections to come in 2012?

Mr. Kasigane Kagai David: I expect that the same thing will not happen again. At least, before we change the Government, something ought to be done.

Commissioner Slye: What do you think ought to be done?

Mr. Kasigane Kagai David: Reparations. I should continue with medication and collect my certificate.

Commissioner Slye: If those three things happen between now and the next elections, you will have good feelings about the elections coming up?

Mr. Kasigane Kagai David: I have no other feelings.

Commissioner Slye: I want to join my colleague in thanking you for coming here to share your story with us. You were a victim of random acts of violence in a situation of chaos. I want to commend you for having pursued your studies and got training in nutrition. The work you are doing at the hospital is of great value to the people there. I hope that with assistance, you will be able to pursue your career and get your certificate.

Mr. Kasigane Kagai David: Thank you too.

Commissioner Farah: I have no question for you because my colleagues have clarified everything. I only empathize with you for the injury. We have heard your story and that is why this Commission was set up, so that the coming elections are not similar to the ones that happened in 2007.

The Leader of Evidence, you can now stand down the witness and bring in the next witness.

Mr. Patrick Njue: Commissioners, our next witness is No.7A.

(Mr. Jackson Isaiah Sikolia took the oath)

Please, tell this Commission your full names, where you live and what you do for a living.

Mr. Jakson Isaiah Sikolia: My names are Jackson Isaiah Sikolia. I am a resident of Kakamega Municipality, Sitao Village, Bukhungu Location. I work as a servant of God in the church now.

Mr. Patrick Njue: In your statement which you recorded with us, you mentioned something to do with the lapse in the administration of justice. Can you confirm whether that is the position?

Mr. Jakson Isaiah Sikolia: Yes.

Mr. Patrick Njue: Please give us your testimony.

Mr. Jakson Isaiah Sikolia: I was born in 1970 and my father was called, "Samson Masala Mbishi". I am the fourth born in our family. I have six brothers and one sister and we live together at home. One of my sisters is married in Shinyalu. We grew up under the care of my mum after my dad passed on in 1979. I went up to Standard VIII at Shitao Primary School. I never continued with my studies because of school fees. I was blessed to go to school due to the support I got from the NCKK. They sponsored my education up to Standard VIII and then I dropped out. I do casual work and I love God. I was the choirmaster in our church and I am a very hardworking person.

In 1984, I joined politics and I managed to register as a member of the FORD – KENYA. I was elected as the youth leader in Lurambi Constituency and chairman of the branch. At that time, I was representing Shinyalu, Lurambi and Manyala. I was given duties when the office was opened and I was the in charge. My office is behind this building we are in.

The Chairman of the party then was Mr. Shoita Shitanda. When party elections were called, I joined and the elections were carried out smoothly. On 22nd 2002, I was in the office at around 10.00 a.m reading newspapers because there was not much work. One person known as “Eliud Mukuya” came to the office accompanied by some youth. They entered the office and pointed at me, saying that I never won the election. I asked him how I had made him lose the election because I was not the presiding officer but he never listened to me.

He entered the office and started beating me and his friend joined him in beating me. The fracas ensued and all the youth who were with him attacked me. Some of them had clubs, knives, hockey sticks and so on. Since it was mob justice, I took a chair to protect myself. One of the boys wanted to stab me but I protected myself with the chair. It only penetrated my flesh by two or three centimeters.

I now knew they had come to kill me. So, I fell down and cried that they had killed me because I wanted them to go away. They moved out and a person who was outside the office called our Secretary, Mr. Joseph Hamisi Mukanda. He came and called the police. They found me lying on the floor and took me from the youths who were still there. We left them there and I was taken to the police station. I recorded a statement in the OB and I was taken to Kakamega District Hospital. The doctors wanted to admit me but I was afraid those people had the will to finish me. I went to a private hospital, Kakamega Nursing Home where I was admitted. I stayed there for two days and then discharged. I had no money, but my brothers in the church assisted in clearing my bill. My ID remained there, but they later gave it to me after talking to them.

I decided to pursue the case so that the police could arrest the youth who had attacked me. Their friends are here even as I speak now because they are known. No action was taken although I recorded a statement with the police and even wrote the names of the witnesses. The police told me to go there the following day when I followed up the matter. They would also tell me to provide them with fuel for their vehicles. I pursued the matter and I gave up and the guys who attacked me were just laughing at me. I wrote another letter through the leader of our office asking the Provincial Police Officer why the case was not being taken up and yet they knew the culprits.

The PPO answered me that way in the letter saying; maybe, I could try to go there on 24th June for an answer. After writing, it took him only four days to answer me and he said that I should go into his office for any assistance. So, I went to that office, but unfortunately, I never got any help. When I went to the office the next day, he sent me to the person in charge of crime who was handling the case. When I went to the person I was referred to, he sent me to another person, who in turn sent me to an officer of a lower rank, who could continue asking me to give them fuel to fill their vehicle. So, it reached a time I gave up and said; “no, it is better to settle down because I was not seeing any other way I could receive any justice.”

That was because when I went to the PPO, he referred me to the next person of a lower rank until I failed to get any justice because there was no way I could get justice from those people. The only way I could get justice was to look for a matchet and slash them up. But, by that time I was not in good health because I was still injured and even as I am talking to you now, my health is not good, as my ribs are not functioning well. Sometimes, my nose can start bleeding but those people who did this to me are still free and moving around. That was the first case.

I have another case which is of the same nature. This one happened on 14th, February, 2007. That time, I was inspecting a house in Keffin Location. I was looking for that house so that I could let it to do business in collaboration with a friend of mine known as Moses Gisenga. We talked with the owner of that house and he agreed to let it to me. I never knew that there were some brokers who had some interest in the same House. When the brokers heard that I was taking that house, they came in very fast so that they could work it out and sell the house and maybe, get some profit. So, there was somebody by the name Antolina who was having the key to that house and who could bring the key to me. She had a deal with some people who were not good; so, they connived to try and do some business to me in that house. When we reached there, he called me into the house and told me; “come I give you the key.” I never knew that they had a plan with the other people who could beat me up so that I can leave that house to them.

So, I went there unknowingly with my friend called Morris Gisenga. When I reached there, I got a young man who was there together with Antolina and the boy was known as Cleopus Wanyura and sometimes, they called him toto. The boy was with some other three youths and they were also armed. So, they were there to beat me up because of the house and they did not ask me anything. So, when I arrived there, I entered into the house so that I could take the key, but unfortunately, immediately I got out of that house, when I was on the stairs going down, I met Cleopus who pushed me on the stairs and I fell down. When I fell down and on rising up, I asked him; “what is happening?” Instead of answering me, he started beating me and pushing me forcefully. So, when I tried to stand firm, he called the other group. So, the boys drew their weapons and started beating me up and pushing me. I tried to stop them but because I had no weapon, I was helpless. When I tried to react, they said: “Ah, you are pretending as if you know so well.” But I never knew what they were talking about.

As they were beating me, I had nobody who could save my life from them; my friend was all alone and they were three. So, they faced me and they really beat me up. But I managed to escape and I ran away into a car. I called Morris and when I was in that car, I was helped and they drove off from that area with my friend to the police station. So, I went to the police station and I wrote a statement on what had happened; it was on 14th February, 2007.

So, I went to hospital and I was treated. I also wrote the statement at the police station. I took the witnesses who were there and Morris also wrote his statement. After writing the statement, it was upon the police and all those witnesses to do their job. I was seeking justice from them but they could only tell me to go back the following day so that they could go and arrest the victims. So, I fuelled the Land Rover in order them to go to town and arrest them. I thought that those people had a bad agenda on me because by that time I was moving there, they could ask me about my position--- Sometimes, I could go there to see the PPO and other officers but the

challenge could be to face the other group. So, I could not know what was happening as they just started playing with my mind. When I go to one officer, he could send me to the other officers, and they repeated the same by sending me to other officers of junior ranks. At the end of it, I discovered that they were playing the same games they played to me during the first case.

Later, I came to realize that they wanted to get their commission and they later sold the house to Mr. Jirongo. So, that was what made me to suffer while they wanted to use the house for their benefit. That is my main case.

Mr. Patrick Njue: Thank you Mr. Jackson Isaiah for coming out to speak on your tribulations, revealing what is clearly a serious lapse in the administration of justice. I will ask you a few questions just to clarify your testimony, after which our Commissioners will proceed to do the same before you can step down.

If I got you right, you very well knew both your assailants in your first and second incidents. Did you say that to date, they were never arrested, and get arraigned before a court of law?

Mr. Jakson Isaiah Sikolia: Those people are still there and I know them and as we are talking here now, no action has been taken against them.

Mr. Patrick Njue: During the second assault, is it the same group which is affiliated to the first group that assaulted you?

Mr. Jakson Isaiah Sikolia: The people who assaulted me the first time are the same people I know, although it was a long time ago. These are the same people I know and I do meet them. They pretend not to be generous to others.

Mr. Patrick Njue: The question was whether they are in any way affiliated to the first group? Are they affiliated?

Mr. Jakson Isaiah Sikolia: No, they are not.

Mr. Patrick Njue: The assault on you seems to be politically connected; I would say, by virtue of your being a youth leader in a political party. Would I be correct in my assumption?

Mr. Jakson Isaiah Sikolia: Sometimes, you could be saying the truth.

Mr. Patrick Njue: Sometimes, I can be saying the truth. I think you are saying the truth. Maybe, you are not affiliated to any political parties.

Mr. Jakson Isaiah Sikolia: I am a youth leader with FORD (K); besides, I am a servant of God. I am beyond being a youth leader because I passed that stage and I left that issue.

Mr. Patrick Njue: So, you left being involved in political activities, so to say, of whatever party?

Mr. Jakson Isaiah Sikolia: At this time, I am not doing anything concerning politics but I am only serving God.

Mr. Patrick Njue: Following the two cases of assault that befell you, you have said that you sought treatment. Could you be having any documents with you, as treatment documents that, perhaps, were issued to you in your course of seeking treatment? What would they be?

Mr. Jakson Isaiah Sikolia: In the first case, I have the doctor's prescription and a P3 form which is here. I can hand them over to you.

Mr. Patrick Njue: Kindly, do. Pass them over to me. You could explain what you are doing, so that it can go on record and they can be admitted as well.

*(The Witness passed the doctor's prescription
and the P3 form to the Commission)*

Mr. Jakson Isaiah Sikolia: This is a letter I got when I went to hospital for treatment and it assisted me fill in the P3 form.

Mr. Patrick Njue: It is from which hospital?

Mr. Jakson Isaiah Sikolia: From Kakamega General Hospital. This is the P3 for the first case; which was in 2002, and I filled it at the Kakamega Police Station. Then this is a letter I wrote after waiting for long without receiving any communication and then I approached the police officer to assist me and these are the answers which I got from him after he received my letter.

Mr. Patrick Njue: May the said documents be admitted to form part of the record of this Commission and this witness's testimony.

Thank you.

My next question is somewhat answered because I was to express my concern about the two incidents of assault which seem to be taking place during the election period. I was concerned about the on-coming elections, if you had any fears, but I wonder if my question will be valid now that you said you do not engage in any way in political affairs.

Mr. Jakson Isaiah Sikolia: You know now, as I have gone through all this, being beaten by people--- I never knew that it will come a time to have a Truth, Justice and Reconciliation Commission like we do now. So, we have faith that since the Commission has come, I believe there could be some changes that are going to be in our country. So, maybe, when it is going to the next general elections, even if I will not be there--- As a youth leader by that time, my main aim was to teach the youth on how to have unity. But this time round, I know we will have a commission which is already here and we expect some other things to come. So, we know that those who will not have chance will not give people time to wait for election time to attack others because people will be having other agendas in the elections; so, we will have to face the elections generally.

Mr. Patrick Njue: We are talking about this Commission being here today; again, would you expound on what your expectations would be as you sit there today?

Mr. Jakson Isaiah Sikolia: My expectations are that this Commission I am giving testimony before, if it could have that heart of helping Kenyans because many of them have suffered--- And, it is not only this case that we are talking about. When these people were beating me, I was just a person they knew and we have people who have gone through such experience but they are afraid to come before this Commission to give testimony. But if this Commission could stand firm without the interference from anybody, it can help Kenyans receive justice.

Mr. Patrick Njue: Lastly, you have also talked about the present injuries that you have. I did not quite understand the nature of those injuries; if you may, please, again, state the present injuries and, perhaps, if there is any need for future medical attention.

Mr. Jakson Isaiah Sikolia: Maybe, one of my ears is not good and the other parts of the body; I am trying to do with them. I limp; sometimes when I am talking here, all these ribs have pain and I cannot stretch myself well. Sometimes, I feel very painful; sometimes even when I sleep using the other side, I really feel very painful. This is the part of my body where I was stabbed with a knife. Sometimes, I tell my friend that I feel pain and sometimes, I feel half my strength when I try to stretch myself. That is the reason why I go to preach the word of God because I do not have anything to do but maybe, to help my life.

Mr. Patrick Njue: Well, thank you Mr. Jackson Sikolia, for coming forward today to give your testimony. When you say that there is nothing more you can do than just to work for the church--- I want to tell you that it is enough to do the service of humanity when you are taking care of the flock; indeed, that provides for quite many people and one of the things we look for is spiritual nourishment.

Mr. Jakson Isaiah Sikolia: We have some jobs that one can do which are the same as that of the church service. Sometimes, you can do some business because these are some of the jobs you can do while seated but there are jobs that need energy. But when people beat you up, they really bring you down and you cannot do heavy jobs.

Mr. Patrick Njue: We understand but I want to commend you and encourage you to keep on even with the church work you are doing. May God bless you!

Mr. Jakson Isaiah Sikolia: I only gave the documents for the first crime, but I have the second document and the P3 I was given for the second assault. This is the one you have here and it was filled.

Patrick Njue: Commissioners, you said the P3 from the second assault may be admitted as part of the record of this witness?

The Presiding Chair (Commissioner Farah): The P3 is admitted as evidence.

Thank you.

Mr. Patrick Njue: That is all from the Commissioners, Presiding Chair.

The Presiding Chair (Commissioner Farah): You may stand down the witness. Do you have another witness?

(Mr. Jackson Sikolia) was stood down)

Sorry, there are questions from the Commissioners. Okay. You should have immediately said: "That is all from me, I now hand you over to the Commissioners."

Commissioner Slye: Thank you Presiding Chair and the leader of evidence. Mr. Sikolia, I think you may have just answered this, but I want to make sure I have clear information in my heart. Why are you no longer involved in political activities or in politics?

Mr. Jackson Isaiah Sikolia: Pardon!

Commissioner Slye: Why are you no longer involved in political activities or in politics?

Mr. Jackson Isaiah Sikolia: That is because at times, people who live in this country just take politics as a dirty job and they just start to suppress others through politics. So, I saw that it is part of electing our leaders but others like the youth, use this as a joke in order to disturb others. I saw it better to step aside and try to advise the youth if it was possible.

Commissioner Slye: So, is it something you have as the situation dictates and with the change of the way politics is practiced in Kenya or the change that you would be interested in getting involved?

Mr. Jackson Isaiah Sikolia: Even as I am talking now, sometimes in our country, we have desire for good leaders to take the leadership but there are people who are against the law or who are not straight forward. They are the ones who are being elected and who are taken back to power so that they continue staying there. But my aim was only to help and have peace, so that people can live peacefully.

Commissioner Slye: Lastly, I think you just said that, in addition to serving God and engaging into activities related to your church; you also gave advice to the youth. I am wondering; if you were to give advice to a young person today, who has interest in politics, what sort of advice would you give to that person?

Mr. Jackson Isaiah Sikolia: In my heart, I really feel for the youth because that time I had no good attitude to the youth. Even the youth who are now joining politics and religious jobs, when you look at most of them, they do not know anything to do with politics. They only meet once, and they want to use force. Sometimes, they can be given *marijuana* or even alcohol. The politician wants to use the youth to achieve his or her goals. But as a youth, it is better for one to use his manpower and vision to become a good leader, not a leader people will not respect. So, I want to advise the youth; if they want to be the leaders of tomorrow, they should not accept to be used by the leaders who are in office because if they want to be the leaders for the future--- If a youth from a given family, even a person who has not been good, has to show a good example to the rest; otherwise, even his father cannot be given a chance to raise

an idea. I want the youth to change their attitude and be modified, so that they can know that the leadership is in their hands so that they are not used by the politicians.

Commissioner Slye: Thank you Mr. Sikolia. Sometimes, one of the problems you identified as the values that are instilled in the youth today and I gather that the work you are doing in serving God is addressing the issue that we are trying to address and, we commend you for. I also gather, based upon your own personal experience that another problem facing those who would like to go into politics and to make positive contributions is lack of protection and security provided to individuals like yourself by the police and other authorities. So, we want to thank you for bringing those issues to the attention of this Commission.

Thank you.

The Presiding Chair (Commissioner Farah): Mine is one question and that is; you have given us your P3s for both cases, maybe the leader of evidence can clarify whether you have given him the report you made to the police and with an occurrence book (OB) number and everything.

Mr. Patrick Njue: Commissioners and the Chair, indeed, he has submitted a letter he wrote to the Provincial Police officer (PPO) detailing the assault and the OB number and also the response he got from the said office.

The Presiding Chair (Commissioner Farah): Thank you. Mr. Sikolia, I empathize with you because your case is that where the police were reluctant to provide or to give you justice. With all the documents that you have handed over to us, I think you have put your case to the Truth, Justice and Reconciliation Commission.

Thank you very much. I have no more questions. My colleagues here do not have any questions either. So, leader of evidence, the Witness can be stood down. You can bring in the next witness and I think he is going to be the last one for the day.

Mr. Patrick Njue: Certainly Chair, this is Witness Number 8A.

(Ms. Truphosa Saisi) took the oath)

Mr. Patrick Njue: Good evening mama.

Ms. Truphosa Saisi: I am fine, sir.

Mr. Patrick Njue: I want to welcome you this evening to our hearings for which you had recorded a statement.

Ms. Truphosa Saisi: Yes.

Mr. Patrick Njue: But before you can begin taking us through your statement, kindly once again for the record; please, state your full names, what you do for a living and where you live.

Ms. Truphosa Saisi: My name is Truphosa Saisi Olwali. I come from Isaba Location, Due Sub-location, Elongo Village, Sabatia Division, Vihiga District. I am a farmer.

Mr. Patrick Njue: Thank you. You are seated with us this evening, following a statement you recorded on what you referred to as an extra-judicial killing of, I believe, your husband, as you said in your statement?

Ms. Truphosa Saisi: Yes.

Mr. Patrick Njue: If you may, kindly, take us through the events of this very day by beginning with which day it was in so far as you can remember, perhaps, the month and the year.

Ms. Truphosa Saisi: On 31st December 2007, at around 10.00 a.m., my husband left the house to go to work in Mbale. He had opened a barber shop where he had a computer; he used to cut people's hair and he had things for repairing mobile phones. As he left the house, he explained to me that he would go to Mosulo Market to buy vegetables and he would bring them home, then he would go back to work. My husband did that and then he left. After he bought the vegetables and as he was coming back home, he was shot. I was just at home waiting for the vegetables to be brought for lunch. I waited from 10.00 a.m., up to 3.00 p.m. Some young man came home and asked me whether I knew Evans who worked at the barber shop, the one who cuts people's hair and also does computer work. I told him that I knew him. I asked him why he was asking me that question, then he told me that, "your husband had been shot and he is near Mbale and he was carrying vegetables in a paper bag." I told him; "please, let us go together with you to David Esilo, who is a pastor of EDC Church, my husband's brother." I went and when I reached at a place where my husband was shot, I just saw a lot of blood but I did not find my husband there. I found that he had already been removed from the scene and I did not know where he was taken to.

I started looking for him. I looked for my husband up to the district hospital in Mbale. When I reached there, I found my husband had been admitted at the casualty and he was in a bed next to the door. He was still holding on to his paper bag having vegetables and tomatoes. He was shot on the right side of his neck. The bullet went into the neck and cut through the veins and went into his head. His head had been blown off and, I found him bleeding but he could still talk. When I reached where he was, I asked him how he reached hospital and he told me; "first of all, I have been crying because I wanted you to come so that I explain to you." I found him with the vegetables, I tried to remove them from his hands but he told me; I could give the vegetables to the doctors because that was what he was looking for and he had been shot by a lady police officer. I asked him whether he knew the police; he just said it was a lady police officer. He said; "she is the one who shot me and I fell down and have been brought to hospital." I continued talking to him and asking him questions, for example; why were you shot and you had not stolen anything or what were you doing? He told me; "I was shot as I was walking home to bring vegetables; this is why I am holding on to this paper bag so that you can verify that it is the vegetables I was carrying and nothing more." I was shocked. My husband continued suffering in hospital, doctors came and they tried to bandage his head and he was not getting any better. The doctors told me; "please, move nearer so that you help us to hold on to his

head to stitch his head. But the blood flow was just pushing out the stitches even his brain sprouted out of the skull. At around 6.00 p.m., he was still suffering and he died at 6.30p.m. I talked to the doctors and I told them to take the body to the mortuary so that the following day, I could take the body for burial.

Before I went for the body, I went to the police station at Mbale and made a statement for them to have information that my husband had been shot dead. I found the OCS and other policemen. They took my statement and then they allowed me to take the body home. Before I took it home, the police told me; “go tell them to remove the bullet and give you the postmortem report so that we could know for sure which bullet killed him, and whose it was.” I did that and after that, I asked them to give me the body to carry it home. The OCS gave me the vehicle and told me; “this is a police vehicle, take the body home and bury it.” I removed the body from mortuary on 1st January, 2008, and I buried him on 3rd January, 2008, at our home.

After that, as I was still at home, I was sitting and waiting--- That year, I went back to the police station once again, I made another statement that my husband had been killed and nothing had been done about it. At the police station, I was told that they would look into the matter and up to date, nothing has been done.

I have four children, three sons and one daughter that my husband left me with. These children used to go to private schools, now they are going to public schools. My little child is a boy and when he starts thinking about his father and the kind of education he used to get before, valuable education, he is really in low spirits. He feels bad, he has stress and keeps suffering from headache and he cannot even go on well with his education.

On my side, when I start thinking about how my husband used to take care of us, he would meet all our needs, everything that went on in our house. I am really stressed, I now have ulcers and my head keeps aching. All my children are now going to public schools. From then on, no one is bothered about my children, it is only me who is looking after them. I have become the father and the mother of those children.

In 2008, I tried my best, I went to the police station and I made a statement to the police and they told me that they would look into the matter and they will follow it up. They did not make any follow up. In the same year, I got a lawyer from Kisumu who said he was a Government lawyer called Kolecho; he took up my case and filed it. He says he is still following it up and he has not succeeded much.

From that time, I have never heard of anything. I have not been assisted by any leader. I have remained on my own with my children. Even where I am married there is nothing. It is my husband who used to support all of us in the whole home. I want to thank the Commission for coming to us so that we can talk about these things. I am not talking on my own behalf but on behalf of those who were tortured and suffered. Some of them are here. If Commissioners could allow me, I could ask them to show themselves by lifting their hands. Will I get that permission?

The Presiding Chair (Commissioner Farah): It is permitted.

(Several people raised their hands)

Ms. Truphosa Saisi: Thank you very much, Mr. Presiding Chair, Sir. Those are the people who have suffered like me. Here in Western Province, we have been forgotten but in other places, people were taken care of. Projects have been set up for people but there is no help that has come our way in Vihiga. I feel very sad and I plead with the Commission to fight for us to get our rights. If that happens, I will be able to educate my children. I am also requesting that you take action against people who were killing people without a reason. Those people should go to court and explain why they were just killing people rampantly. They should admit their mistakes for proper reconciliation.

I would also like to say that the elected leaders do not come back to check on the common *mwananchi*. The Commission should be asking them why they did that.

Mr. Patrick Njue: Mama Saisi, I want to commend you for being bold and coherent in narrating your ordeal and also speaking for many people, some of who are seated here today. I should have extended my sincere empathy to you and to the loss of your breadwinner. I also empathize with the others who underwent similar tribulations. I just have a few questions to clarify what you have told this Commission.

On 31st December, 2007, what was the situation like in Mbale Town and particularly, at the time when your husband was shot?

Ms. Truphosa Saisi: On 31st December, 2007, police were killing people randomly. They would go into the village and shoot people who were in their homes. My life was going on well when my husband was alive but right now, I am a destitute. I do not know where to start from and where to end. I just want the Commission to fight for me, so that I am given my due rights and my children can go to school.

Mr. Patrick Njue: You have said that police officers were just going to the villages and killing people. For what reason would they be doing that?

Ms. Truphosa Saisi: I do not know why they did that. We just voted well and we did not know who was going to win or lose.

Mr. Patrick Njue: You have said that your case is with a certain advocate called Kulecho. Do you know the case number? Do you know whether he filed the case or not?

Ms. Truphosa Saisi: I do not know the case number but we can get the number at any time.

Mr. Patrick Njue: I salute you for being brave and for being a voice to the many who are seated here today and I empathize with you and your family. The Commissioners may now ask you a few questions if they have.

Commissioner Slye: I want to join the Leader of Evidence in expressing my empathy towards you and what you have gone through. I also commend you for coming here to share your story with us. I know it is a painful story and you and your children are still affected. As you know, this Commission does not have the power to give

immediate reparations to people like you. That is something that we have asked the Government to do but for now, we do not have that power.

However, we have entered into a relationship with various civil society organizations and other organizations that do provide assistance to people like you. So, we can put you in touch with them but I cannot promise that anything would come of it. But it is something that we can assist you. To other individuals who raised their hands, I also extend my empathy. You said that you are the sole breadwinner of your family. There are many people around you and I know that they could provide a little bit of support to you. For example, they have come here to support you while you speak to us. The Commission does have power to make recommendations for reparations among other things and we will certainly do that. We will do that, based upon stories and information that people like you have given to this Commission. The recommendations that we will make are binding as a matter of law. That means that the Government is legally obligated to follow them. We also have the power to establish an organization that will exist beyond the life of this Commission. The purpose of that organization will be to monitor the Government and to make sure that our recommendations are followed. We have already decided that we shall recommend the establishment of such an organization. That is to say that while we are limited in what we can do for you in a very concrete way at the moment, we do have powers that we will exercise later and we hope that it will result into very real changes to the lives of people like you and others.

The question that I would like to ask you is about the violence that was suffered by your family, including the death of your husband after the elections of 2007. This Commission was set up because of that violence in the hope that our work will lessen or even prevent a similar amount of violence in the next election. I do not know whether you and your community are optimistic or fearful of the upcoming election in 2012?

Ms. Truphosa Saisi: I would like to say that I would not like to see the violence that we witnessed in 2007. We want to see people united.

Commissioner Slye: Mama Saisi, again I want to thank you for coming here. I also want to thank all those who accompanied you here.

The Presiding Chairman (Commissioner Farah): I also want to say that I empathize with your tribulations. I apologize for the death of your husband and the pain which you underwent. As my fellow Commissioners have said, we have heard you and we are also glad with what you want to see in 2012 elections.

Thank you for coming up to speak about these issues.

Leader of evidence, you may stand down the witness. I think that is the end for today.

Mr. Patrick Njue: That is very right, Mr. Presiding Chair, Sir.

The Presiding Chairman (Commissioner Farah): Today, we have heard the evidence of David Igunza, Benjamin Okodi, Gladys Kamwana and Caleb Malongo. They also produced a memo. Another group was Hosea Mulamula, David Kakai Gasigane,

Justus Esiah Shikolia and Truphosa Saisi. I want to announce that the taking of statements has been going on at the tent outside. So, as you go home, you can tell your friends who have any statements to give to do so at the tent. Tomorrow, there is a women's hearing at Sheywe Guest House from 9.00 a.m. There will also be hearings tomorrow here at 9.00 a.m.

We have come to the end of today's session.

(The Commission adjourned at 5.30 p.m.)