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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND  
RECONCILIATION COMMISSION ON MONDAY, 9<sup>TH</sup> MAY, 2011  
AT THE AGRICULTURAL TRAINING CENTER - MULTI-  
PURPOSE HALL, ISIOLO**

**PRESENT**

<b>Mr. Berhanu Dinka</b>	-	<b>The Presiding Chair</b>
Tecla W. Namachanja	-	Acting Chair, Kenya
Ronald Slye	-	Commissioner, USA
Gertrude Chawatama	-	Commissioner, Zambia
Ahmed Farah	-	Commissioner, Kenya
Belinda Akello	-	Leader of Evidence

*(The Commission commenced at 2.40 p.m.)*

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

**The Presiding Chair** (Commissioner Dinka): I would like to welcome all of you. This is the first public meeting in Isiolo. During the day, we will be hearing several speakers some of them presenting memoranda on behalf of their communities and others will be speaking on their own behalf. This will form the principle basis of our activities.

The TJRC is mandated and is expected to produce an accurate record of historical injustices as well as gross human rights violations and economic and social injustices. This will be done through principally, public hearings, investigations, and other documentations and presentations. It is an extremely important exercise in the mandate of the TJRC because the time that it covers is so large; from 12<sup>th</sup> December, 1963 until February, 2008.

When we are listening to our witnesses, everybody will be given an opportunity to say their piece and present their side of the story. In the meantime, when a person is testifying, whether we like or do not like what they are presenting, I would like to appeal to all of you to pay special attention to what the witness is saying and also to respect and recognize the dignity of the witness which he or she deserves.

In that regard, I would like everyone to switch off their mobile phones and to be calm and quiet during this whole process. Those who may not co-operate will be asked politely to leave the hall. I want to ask the media and those who want to take photographs to do so before or after the testimony and not while the testimony is going on. That would create unnecessary commotion and disturbances.

Allow me to explain the process briefly, especially what will happen this morning and afternoon and throughout the public hearings. The hearing clerk will ask the witness to

come and take his seat. We will swear him. Once that is done, the evidence leader will take over and lead the witness. Once that is done, the panel of Commissioners may ask questions for clarification purposes.

I would now like to ask the hearing clerk to call the first witness of the day.

*(Mr. Hussein Sheikh Adan Golicha took the oath)*

**The Presiding Chair** (Commissioner Dinka): Leader of Evidence, you may proceed.

**Ms. Belinda Akello:** Hon. Commissioners, this is our first witness, Dr. Hussein Adan Golicha who is a Borana and he will present the memorandum on behalf of the Daaba. He will explain what Daaba is.

For the record, kindly state your three names.

**Dr. Hussein Sheikh Adan Golicha:** My names are Hussein Sheikh Adan Golicha.

**Ms. Belinda Akello:** Kindly confirm if you presented a memorandum to the TJRC.

**Dr. Hussein Sheikh Adan Golicha:** Yes, I did.

**Ms. Belinda Akello:** Dr. Hussein, kindly and briefly take us through the memorandum that you gave the Commission.

**Dr. Hussein Sheikh Adan Golicha:** Mr. Presiding Chair, Sir, the content of this memorandum is based on a research report entitled: *Daaba: A Historical Account of the People – Pastoralism and Poverty amongst the Waso Community*. It is by Godana Doyo and me.

It is an attempt to tell the story of Daaba on behalf of the people most of whom are long dead. It tells what happened during Daaba, the effect of Daaba and the remedies thereof. It is my hope that you will find this memorandum helpful in attracting your attention to the events of Daaba and the historical injustices that took place more than four decades ago so that one day justice may seem to be done.

The title of my memorandum is: *Daaba: The Forgotten Historical Injustice*. What is Daaba? When and where did it take place? “Daaba” literally means when everything was stopped. It refers to the period between 1965 and 1967 when the Waso Boran of Isiolo District and their livestock were forcefully placed in these concentration camps. The camps were located at Merti, Garbatulla, and Modogashe by the Kenyan security forces. Also known as Gaaf Daaba or the era of Daaba, it is a time when the Government security forces indiscriminately decimated people and their livestock in parts of Isiolo District. All these took place between 1965 and 1967 in Isiolo and in the area presently known as Isiolo County – County No.11.

While Government policy of emergency and security was not new in Isiolo District or the great NFD both before and after Daaba, the incidents that took place during Daaba were overly outrageous. The sheer magnitude of the force used was overwhelming. Nothing like that has ever been witnessed before or after then. Daaba constitutes one of the greatest single transformations of relatively well endowed people from prosperity to poverty that is ever recorded in the post-colonial Kenyan.

The major events that led to Daaba are as follows: The first one is the formation of political parties. As the clamour for Kenya's Independence was rising in the 1950s and 1960s new political parties cropped up in the south of Kenya. The NFD was not left out. Political parties representing the interests of the pastoralists emerged. The two major parties from the north were the Northern Province People Progressive Party (NPPP) and the Northern People's Union Association (NPUA). While the NPPP which was predominantly supported by the four districts of Garissa, Isiolo, Mandera, and Wajir wanted the NFD to secede to the Republic of Somalia, the NPUA predominantly supported by Marsabit and Moyale districts agitated it to remain in Kenya. Thus there seemed to be a shift in the opinion of the people of the Cushitic part of the NFD.

In a bid to determine the future of the NFD, the British Government formed the NFD Commission late in 1962. The Terms of Reference were prescribed. In order to satisfy the ToR, a referendum was commissioned between October, 1962 and December, 1962. The question was to secede or not to secede. The Report of the Commission showed that the people of the NFD overwhelmingly voted for the secession to Somalia.

The third major event is the declaration of the final status of the NFD. For reasons that we shall see later, the British Government did not grant the people of NFD their wish. On 17<sup>th</sup> March, 1963, Sir. Duncan announced that NFD would remain in Kenya. So, it remained.

Let us look at the reaction of the people and the start of the *Shifita* War. Those who were frustrated by the decision opted to wage a guerilla war against the Kenya Government. This was the beginning of the infamous *Shifita* War. The Government of the newly independent Kenya used excessive military force to quell the uprising in most parts of the NFD. Although most of the civilians suffered, the Waso Boran was collectively condemned to bear the brunt of the war thus Daaba was born.

Now I will narrate what happened during Daaba. In the beginning, it was the usual security operations – arrests and shootings here and there. As this did not bear fruit and the insurgency was growing, the Government took drastic action to put people in concentration camps. Few people did not enter the Daaba and managed to escape to the only known sanctuary then, Somalia. Now what happened to those who were left behind? They were thrown into concentration camps where they faced the most inhuman conditions. Many died and a few survived.

The concentration camps were set up at Merti, Garbatulla, and Modogashe. All the other villages and satellite settlements were collapsed into the three designated camps. Merti

Camp housed people from Bulesa, Piliko, Gafarsa, Malkagala and other areas. Garbatulla housed people from Kina, Burji, Kulamawe, Malkadaka and other close areas. Modogashe Camp housed people from Siricho, Bagdana, Iresaburu and other close by areas.

Each camp consisted of a high walled enclosure housing both people and their livestock. Each had gates manned by security forces. Inside the camp all types of atrocities took place. Anything mobile, whether man or beast, outside the perimeter of the camp, was considered *Shifta* or bandits and, therefore, an enemy that had to be destroyed.

Estimated deaths per family in Daaba and the common cause of death are given hereby. In Modogashe Camp there were 1.1 men per family. In Merti it was 1.6 men and Garba, 1.6 men. You will excuse me for having those decimal points. I will elaborate on this as we go along. Women were 0.4 and children 0.4 in Modogashe. In Merti, 1.2 women and 0.7 children. In Garbatulla, 0.9 women and 0.8 children.

The causes of death are in Table 2. Please refer to the table.

Based on the population at that time, about 2,700 people died in Daaba. Although the causes of death vary between the different camps, the major cause may have been the security forces, the epidemic, hunger and thirst which account for over 80 per cent of the deaths. It is noteworthy that contrary to the many beliefs, the contribution of the *Shifta* to the deaths was minimal. It was just as much as those attributed to the natural causes.

I would like to mention one of the biggest happenings in Daaba. It was called *Guyaua* which means “the day of killing.” On that day, the calls, “*Ua! Ua!*” rang around all the camps. This was the day the camp was literally turned upside down. Between 30 and 60 men were taken away in military lorries and shot at point blank range. That action was supposedly triggered by the *Shifta* blowing up three military vehicles between Garbatulla and Modogashe. This episode, which was the climax of Daaba itself, may require much deeper investigations so as to determine why such high levels of brutality even by the standard of Daaba became necessary.

Immediately, people were left to go, quite a large number fled to Somalia afraid of being taken back to the camps. Observation shows that 17 people for every ten families fled to Somalia. This translates to more than 21 per cent of the then population. Of the families that fled to Somalia only one in a thousand went before Daaba. The rest went during Daaba or immediately thereafter. Only about 60 per cent of those who fled actually came back. The vast majority of the escapees ended up in refugee camps.

What was the loss of livestock as a result of Daaba? Those who left earlier for Somalia lost relatively small numbers of livestock. The overall loss of livestock is shown in the table below. Please refer to it. Camels and donkeys were shot on sight as they were considered by the military instruments of war. In fact, the camel population was almost wiped out. The table shows 93.4 per cent. The *Shiftas* usually took the livestock away for food or transportation.

A number of cases of torture, rape and beatings were reported from all the three Daaba camps. For example, the taking over by security forces of women whose husbands were believed to be *Shiftas* was well-known in the camps. However, this cannot be quantified at present although the scars on the victims, both mental and physical still remain long after the dreadful events of Daaba.

With regard to the effects of Daaba on the Waso Boran, some of the more visible ones are given hereby. The first one is poverty. Before Daaba, the people of Waso did not know anything about hunger. The people had excess milk that they declared the milk from the rear two teats of the cow *haram* which means forbidden, that is, unfit for human consumption. After Daaba, the same people were reduced to the poorest of the poor. The effect of Daaba is thus described: In a space of a generation, the pastoralists of this area have been reduced from prosperity to penury even chronic famine.

The figures showing the poverty are also indicated in the table. Please refer to it. Daaba is thus the root cause of poverty in Isiolo. The figures in the table are for the whole district, including the urban centres. This means that the situation is worse in areas where Daaba was directly experienced.

The second effect of Daaba is people moving to towns and the emergence of slums. People were living in their villages before, but after Daaba, they had to rush to close by towns because they had lost all their livestock. According to certain reports some 40 per cent of Boran and Sakuyo of the district had been driven to peri-urban shanty villages in the new administrative towns where it is said they eke out subsistence hanging around petrol stations for odd jobs, hawking *miraa*, making illicit alcohol, engaging in prostitution and so on. This is what we witness daily in centres like Garbatulla and Isiolo today because the remnants of Daaba and the *Shifita* War descended on the towns.

The restriction of the Waso population into the designate security camps led to the depopulation of the people and livestock in most parts of the district thus creating a vacuum taken over by others. Some of these areas now lost include Hadado, Arbjan, Banale, Ireswajile, Guchichachafa, Basir, Kofo, Boke, Dakabor, Roga, Kubishera Maresa, Yagabute, and others. The loss of these traditional lands, known for their good pasture and water, led to over-concentration on narrow grazing zones hence depletion of livestock resources.

The fourth effect is the breakdown of social economic system. The strain caused by the livestock economy led to the breakdown of the Boran system of mutual subsistence and copying strategy, that is, Busa Gonofa which is a system of distribution of wealth among clan members. Daaba thus led to the disruption of the whole livelihood system. For example, the Sakuyo lost almost all their camel herd and they were rendered dropouts from their occupation of pastoralism. The Boran Gutu were not spared either.

The fifth effect is the migration of the adult male in search of jobs. Majority of them and even children flocked to south Kenya in search of wage employment having no skills. Majority of them ended up as watchmen or night guards.

This absence of men affected pastoralism and the livelihood system among the Boran as only women and children were left behind to revive the domestic economy leading to slow recovery. And, of course, the family network of father, mother and children as we know it, was disrupted.

The sixth effect of Daaba is the creation of refugees and internally displaced persons. Many families were either internally displaced or became refugees in Somalia or even in Ethiopia. Families fled to areas like Garissa, Marsabit, Moyale and Tana River, among other places. Most of the displaced people are still out there up to today.

Hon. Commissioners, the question is; who is to blame for Daaba? According to this research, the colonial Government scored four, Kenya Government one, Somalia Government two, local leaders three, the people themselves five. In this classification, one is for the greatest blame whilst five is for the least blame. According to this table, people perceive it that those to blame for Daaba are the Governments of Kenya and Somalia and then the local leadership, in that order.

However, these responses appear to be based on the activities of the most feasible players during Daaba. Thus the Governments of Kenya and Somalia represented by the *Shifita* took the first two positions. However, short steps back in history may reveal otherwise, as explained herein. As already stated, though, there were other underlying factors which might have contributed to the Daaba. The reason for Daaba was the *Shifita* insurgency and the reason for the *Shifita* insurgency was failure to follow the decision of the people of NFD. The organization of the people who did not want to implement that decision was the British Government. The question that comes to mind is; was that referendum necessary? If so, why was the outcome not honoured when the colonialist seemingly agitated for it? There is no denying that Daaba came when the *Shifita* overwhelmed the Kenya Armed Forces. But was the *Shifita* phenomenon unique to us? These questions still beg for answers, over 40 years after Daaba.

### **Remedies and Recommendations for Daaba**

1. In the context of the transformation in Kenya, as evidenced by the constitutional changes, it is prudent to redress the effects of historical injustices such as Daaba.
2. The opportunities brought forth by the resulting democratic space and political liberalization is expected to open a window for these aggrieved pastoral communities. It is with this in mind that the following recommendations are made; we present four recommendations.

## **Formation of Commission of Inquiry**

1. Today as we speak, six Kenyans are on trial for their suspected role in the infamous Post Election Violence (PEV) of 2008. You will remember that the PEV did cause the loss of lives of about 1,300 Kenyans. You will also note, as I presented, Daaba caused the death of 2,700 Kenyans. The sad thing is that many Kenyans know nothing about Daaba. The only thing that lingers in their minds is the *Sifta*, which is just a corruption of the word *Shifta*. We, therefore, present as our number one recommendation that these atrocities be thoroughly investigated, the names behind Daaba, some of whom may still be alive be made public. We recommend a commission of inquiry to be constituted to establish the truth about Daaba and justice be seen to be done. This will not only appease the affected section of the Kenya society, whose human rights have hitherto been violated, but also encourage national reconciliation. This mandate lies squarely with this Truth, Justice and Reconciliation Commission.
2. The second is the review of the current district boundaries. Since there is no denying that Isiolo District lost several parts of its land to neighbouring districts during the height of Daaba, a boundaries commission should find the truth about this claim. This will facilitate the liberation of the lost lands to the rightful owners. In this regard, the memorandum presented to the Interim Independent Boundaries Review Commission (IIBRC) by the Ewaso Trust land on 4<sup>th</sup> March, 2010 comes in handy. Also the recent work by Prof. Goff Hoper on historical boundary contest between Meru and Isiolo districts 1924-2010 will greatly help to solve this problem.
3. The recent Government efforts to repeal some of repressive laws are hereby acknowledged. However, these repeals have neither eradicated the practice of human rights violation nor reduced the cumulative effects of marginalization. The discriminative laws and policies should, therefore, be replaced by legal or policy incentives in the form of positive interventions or affirmative action. In this direction, the arrival of the new Constitution is expected to play a much greater role when implemented.
4. The Government should undertake a comprehensive development initiative similar to Marshal Plan that USA initiated for post war construction of Europe. The objectives of such plans are many fold:
  - (i) To rehabilitate and resettle the displaced population through restock and other sustainable means.
  - (ii) To provide basic needs like education, water, health *et cetera*.
  - (iii) To provide physical infrastructure like roads, telecommunication.
  - (iv) To identify and provide monetary compensation to those directly victimized.

Mr. Presiding Chair, Sir, Daaba took place over 40 years ago, many of the victims are long dead, but the effects of Daaba whether mental or physical, will remain with us for a



long time to come until and unless these issues are investigated and justice done to all those who were involved.

Thank you very much, Mr. Presiding Chair, Sir.

**The Acting Chair** (Commissioner Namachanja): Thank you for your testimony. Now the leader of evidence will take over.

**Ms. Belinda Akello:** Thank you very much Dr. Hussein. We just have a few clarifications that we would like you to give. In indicating about the concentration camps that were selected by Government security forces, are you in a position to tell us which branch of the security forces was responsible for this and would you by any chance know the person who was in charge of giving instructions?

**Dr. Hussein Sheikh Adan Golicha:** The people who were directly involved in the creation of the concentration camps were the military; the Kenya Army. I do not have the name of any direct individual who was commanding the situation at that time.

**Ms. Belinda Akello:** How about the District Commissioner?

**Dr. Hussein Sheikh Adan Golicha:** I would not say that.

**Ms. Belinda Akello:** Thank you very much. The other clarification is with regard to the NFD commission report. Was it published and would you confirm that we could easily get a copy of this commission report?

**Dr. Hussein Sheikh Adan Golicha:** The NFD report of 1962 exists and it is available.

**Ms. Belinda Akello:** We will ask a question maybe not directly linked to your testimony, but may be in your position as a doctor. There is a document known as the Arusha Declaration that has mostly been referred to. Was this report also made public? Did it have any semblance or similarity in recommendations with the NFD Commission report?

**Dr. Hussein Sheikh Adan Golicha:** I think the Arusha Declaration has a bearing on the NFD report, but remember the Arusha Report came later because it was a sort of agreement or sort of ceasefire to end the *Shifita* War. So, definitely it had a direct bearing on the NFD report of 1962.

**Ms. Belinda Akello:** Could you avail a copy of this declaration report or findings?

**Dr. Hussein Sheikh Adan Golicha:** I do not have the Arusha one, but I can get you the NFD report.

**Ms. Belinda Akello:** Thank you very much. You have informed the Commission that the beginning of the *Shifita* War was as a result of the referendum that was held and the results that people were not very happy with. Could you confirm that those people also

propagating the *Shifita* War were both proponents of NPP; the political party that was in favour of cessation and NPUA the political party that was against the cessation?

**Dr. Hussein Sheikh Adan Golicha:** The referendum was held to ask the people of NFD which way they wanted to go and the result was very clear that they wanted to secede. And, this was not granted by the British Government as stated. Definitely there were big disappointments and the only way to react to that was the insurgency, as I had put it.

**Ms. Belinda Akello:** So, both groups did support the *Shifita* War; those who were for the secession and those who were against it? They all fought the *Shifita* War?

**Dr. Hussein Sheikh Adan Golicha:** I think when the decision was given; the reaction was definitely and mainly among those who were for the secession. But when Daaba came in, it was not choosing who was for secession and who was not. So, everybody was affected.

**Ms. Belinda Akello:** Thank you very much. You did make reference to something that you call the *Guyaua*.

**Dr. Hussein Sheikh Adan Golicha:** Yes.

**Ms. Belinda Akello:** And you have also informed us that persons found outside the camps were killed and everyone was expected to be within the camps. You have also informed us that during *Guyaua* people within the camps were now taken and killed. Can you confirm who took them, if it was still the military, and would you by any chance know the person who was in charge of giving orders at the time?

**Dr. Hussein Sheikh Adan Golicha:** The fact that anybody, whether men or women or even livestock found outside the camps was an enemy, was not restricted to *Guyaua*. It was throughout. The *Guyaua* day was a very special day because as I narrated the night before some military trucks were blown up by mines between Garbatulla and Modogashe, and that morning people in the camps were woken up and pushed to a central position and some people were taken out. Those who were believed to have their sons in *Shifita* were taken in military vehicles; specifically the Garbatulla situation, people were shot, according to our respondents and the remains - we actually saw bones at a place called Taiboto of the people who were killed. I cannot give the name of the officer who commanded this at that time, but the military which was in the area is known, I am sure, according to the records this can be obtained.

**Ms. Belinda Akello:** Thank you very much. You also have given us very clear statistics on the escapees, those who went to Somalia. You have also informed us that only a small percentage came back and that many people who did flee to Somalia have consequently been refugees. Can you inform us which countries they are currently refugees?

**Dr. Hussein Sheikh Adan Golicha:** Actually, after Daaba, most people went to Somalia. As I pointed out, they fled fearing another Daaba; they may be put in another

concentration camp. They fled to Somalia specifically. Seventy six per cent actually became refugees there and about twelve per cent became citizens and ten per cent just continued with their profession of pastoralism. Only two per cent were reported to have joined the *Shifita*.

**Ms. Belinda Akello:** Thank you very much for that. You also briefly, in your presentation indicated that women particularly did suffer quite a number of violations that you have put; torture, rape *etcetera*. To the best of your knowledge, has there been any organization or has the Government done anything to particularly help the women and the children who suffered these atrocities at the time?

**Dr. Hussein Sheikh Adan Golicha:** It is true that women and children always suffer in such situations, specifically the atrocities I mentioned of rape for both the young and the old women. Immediately after Daaba, there was help from the missionaries and there was very little else I can comment on. Not much help in our report as regards this particular incident. But I can give you a full report of our research which forms the basis of this report and you can get the main details of that.

**Ms. Belinda Akello:** Thank you very much. You also indicated that in spite of Daaba, you lost your traditional ranch to other communities, and you have also pointed out the works by Prof. Guff Hoper, in 2010, brought up the issue of delineation of land between Meru and Isiolo. Do you confirm that the traditional lands lost were only to Meru or was it also lost to other specific areas?

**Dr. Hussein Sheikh Adan Golicha:** From the names I have mentioned; it appears like a lot of the land was lost towards the Meru. However, if you look at the position of Isiolo District and the neighbouring communities, it is possible that large parcels of land were lost to other communities. A good example is the case Arbajahan up in the north and Banane also. So, it is not only to the Meru, but a lot is on that side.

**Ms. Belinda Akello:** Thank you very much. You have also informed this Commission that a lot of the effects were suffered by the Ewaso-Boran community. Which other Boran community do you have?

**Dr. Hussein Sheikh Adan Golicha:** In Kenya we have two areas occupied by the Boran. These ones in Isiolo whom we call Ewaso-Boran, named after the Ewaso Ngiro River live around the river. Then the other ones are the communities of Marsabit and Moyale.

The NFD *Shifita* insurgency affected the whole of NFD and the operations took place in all these areas. I remember, personally as a young child before I went to school, when we were taken out to the football field and people were classified and put into their different tribes; by the way I come from Marsabit. That is all I can remember as far as Marsabit is concerned. But when the *Shifita* insurgency increased, it was only the Ewaso-Boran people who were put in concentration camps. These are the only ones who suffered Daaba, not the whole of the NFD which predominately voted to secede to Somalia.

**Ms. Belinda Akello:** Thank you for that clarification. You also have informed us that estimates of 2,700 deaths were occasioned by Daaba. Would you have a database of these 2,700 names?

**Dr. Hussein Sheikh Adan Golicha:** Yes. The figure 2,700 is based on the data we collected. It is based on the fact that the population census of 1999; the population of the three divisions of Garbatulla, Merti and Modogashe was 38,912. We assume the 4.8 per cent increase in the population and, therefore, go to the population of 1969 of about 9,000, hence the 31.0 per cent of the population which gave us the 2,700 persons who died in Daaba. Definitely, this is estimation and the difficulty is that we were looking at a situation that took place many years ago that we consider this as a fair estimate of the persons who died in Daaba.

**Ms. Belinda Akello:** Thank you very much. My last clarification is on your recommendation of affirmative action. In light of the new Constitution that we do have today, which specific affirmative action would you recommend for the Ewaso-Boran people for the total eradication of the effects of the Daaba other than the Constitution which we have now?

**Dr. Hussein Sheikh Adan Golicha:** It is true the new Constitution covers a lot of ground as far as the reduction of marginalization goes. I would not pretend to be able to give you specific interventions as far as the legal and policy issues that need to be done are concerned. But I am sure that as you sit here, more presentations may come from the NGO community and the local community and the necessary legal and policy frameworks will be presented. But I would like to point out on the issue of affirmative action, and that again is in the Constitution; and reparations, all the compensation for that matter. But all these can only come if our recommendation number one takes place. Which is the formation of a commission or inquiry; this memorandum is based on a social research. It is time that proper investigations are done before it is too late. By the way, the children who were five to six years old in Daaba are now adults. Soon they will be old men and gone. So, the most important thing that needs to be done is the formation of this commission of inquiry.

**Ms. Belinda Akello:** Thank you very much Dr. Hussein. Presiding Chair; that is all we have from our desk.

**The Presiding Chair (Commissioner Dinka):** Thank you very much the leader of evidence. I would now give an opportunity to my colleagues Commissioners if they have any questions to ask.

**The Acting Chair (Commissioner Namachanja):** Thank you Dr. Hussein. Where do you work and what do you do?

**Dr. Hussein Sheikh Adan Golicha:** I teach physics as senior lecturer in Egerton University, Njoro.

**The Acting Chair** (Commissioner Namachanja): Thank you so much for a well researched paper. When was this research carried out?

**Dr. Adan Golicha:** This research was carried out in the year 2002.

**The Acting Chair** (Commissioner Namachanja): So, was it an academic paper?

**Dr. Hussein Sheikh Adan Golicha:** This was a social research and it was sponsored by Action Aid the northern region and it was under the basic needs research to determine the cause of poverty in Isiolo and the report exists both with Action Aid and ourselves.

**The Acting Chair** (Commissioner Namachanja): Thank you. So, part of the recommendation may have been followed up or did you come up with new recommendations specifically for the Commission?

**Dr. Hussein Sheikh Adan Golicha:** The recommendations are as they were in that research report. The research report was not implemented as such, but I am sure the content and the results we obtained must have been used by the NGO which sanctioned the research. The information was literally confirming what they feared to be the main cause of poverty in Isiolo.

**The Acting Chair** (Commissioner Namachanja): Dr. Hussein, I just want to thank you for travelling all the way to come and articulate issues concerning your people. We have been receiving a lot of issues, painful stories; at times I wish that leaders like you could participate in such meeting so that in future we look for the way forward.

Thank you so much for coming.

**Dr. Hussein Sheikh Adan Golicha:** Thank you.

**Commissioner Slye:** Dr. Hussein, I want to thank you for presenting this memorandum to the Commission. I think it will prove to be extremely helpful for us as we undertake our research and further investigations. You have both set out a history of what happened during Daaba and you have also set the effect of those events both at the time when they occurred but also spreading to today. You have also provided us with information with respect to the presumption of those events.

First, along with the other things that the evidence leader has asked you about, I would like to formally request that if you could give us a copy of the entire report, because the memo is a small version. I wonder if you could just spend briefly a small amount of explaining a little more the methodology you used. It looks, from the memo that you have presented to us that some of this is based upon interviews with individuals. Could you just speak a little bit about that?

**Dr. Hussein Sheikh Adan Golicha:** Yes. Thank you very much. The methodology of the research involved interviews. We interviewed about 200 people and there was also group

discussion, the researcher travelled all over Isiolo District; that is the Ewaso part. The data was collected from those who were directly involved. In some cases reported about, and especially the families that escaped to Somalia whom we could not reach. As you would see in the memorandum, because of the fact that Daaba took place long time ago, it was very difficult to get the information.

Secondly, on data, what is published on Daaba is also very limited. So, a lot of this actually depended on what people said; especially those who got involved or those who heard from those who were involved. Then there was discussion to corroborate some of the information given to us. So, in a nutshell, we had interviews, focused group discussions, sitting with large numbers of people in those areas and the report was written.

**Commissioner Slye:** Thank you. That is very helpful. My last question is a minor one, you have made reference to the referendum and we heard reference to the referendum throughout our travels in the northern region. And, the numbers have risen. I recall that we faced some different individuals from about 70 per cent to 75 per cent up to 85 per cent who responded wanting secession or independence. Do you have an idea what that number is and; if so, what is the source of the information that you have on the referendum?

**Dr. Hussein Sheikh Adan Golicha:** I do not have the exact figure of the result of the referendum. It is just from the report which says it was overwhelming. I do not have that figure, but I believe it is a figure which, if need be, can be obtained.

**Commissioner Slye:** Okay. Thank you very much. On behalf of the Commission, thank you for taking your time to put this together and for coming forward and presenting it to the Commission. We have really appreciated.

**Dr. Hussein Sheikh Adan Golicha:** Thank you.

**Commissioner Farah:** Dr. Hussein, I am a Commissioner who is from this area and I am aware of the historical circumstance in which they have occurred. Mine is just to thank you for having taken the time to put together this brilliant write-up. It will help the Commission a lot. Thank you very much.

**Commissioner Chawatama:** Dr. Hussein, I thank you for making yourself available to appear before us this morning. In your memo you stated that there are many questions that still beg for answers. And, in our travel in North Eastern, indeed, a lot of people had a lot questions for which they have demanded answers. As correctly put by Prof. Ronald Slye, one of the issues has been to do with the referendum. I would like to know in your opinion, what was the mischief on the part of the Colonial Government in allowing for the referendum whose results they did not honour? In your discussions with others, what do you think the mischief was in such an action?

**Dr. Hussein Sheikh Adan Golicha:** Thank you very much. I think the answer to your question was on my laptop, I would have presented it to you, but unfortunately, the power went off and I could not refer to that. I was referring to the hard copy which is not very well updated.

During our research we were truly puzzled why the British Government would call for a referendum and then do the opposite of the result of that referendum. It came out that it had to do with the population of the British settlers in the south of Kenya, that it Central Province and the Rift Valley. By the way, this is an opinion. If the British Government gave away the NFD, which the Kenyan Government wanted to keep, then they would be at loggerheads with the Kenyan Government and that would not have been good for the British settlers in the south of the country. Therefore, it must have been that the lives of the British citizens in Kenya who were the White settlers was definitely more important than the northern frontier districts population. Therefore, it is not what was good for the NFD population that needed to be done but what was good for the settler population then. That is my honest opinion on that.

**Commissioner Chawatama:** Thank you very much. Will we have the benefit of the updated memo?

**Dr. Hussein Sheikh Adan Golicha:** Yes. I will give it to you.

**Commissioner Chawatama:** Thank you very much. I look forward to reading it.

**The Presiding Chair (Commissioner Dinka):** Dr. Hussein, I would like to join my colleagues on the panel to thank you for your very useful memorandum and also for taking time to take us through the experiences of your community through which they have passed during the Daaba period. I would say that the transmission of information between different provinces and districts of African countries--- It does not matter really, it is not only Kenya, anywhere in African; the transmission of information from one province to the other is not well developed. Therefore, the rest of Kenya might not even have an idea of what had happened to those people during the Daaba period and before that as well.

So, one of the hopeful products of this public hearing is to make it available to the rest of the people of Kenya so that they would also understand what had happened in the other parts of the country and begin to empathize with their compatriots in different parts of Kenya.

As far as the referendum is concerned, I hope we will have a report which you will make available to us, but one thing that we should keep in mind, the last question from my colleagues Judge Chawatama is: Why did they do it? Of course, we cannot get into the brains of the then colonialist to understand why he did it. But this is not, if you remember the history of the continent, just before Independence in the 1960s and late 1950s, this is not the first time colonial powers left behind bombs intentionally or deliberately so that they would explode.

So, that could also be an explanation but we will await the report you are going to give us on the referendum, so that we can see if the intention of the then Colonial Secretary is somehow explicit.

I thank you very much. I have no further questions for you. I ask the Hearing Clerk to lead the witness to his seat and call the next witness.

**Dr. Hussein Sheikh Adan Golicha:** Mr. Presiding Chair, Sir, I thank you very much. May I, on behalf of my colleague, Mr. Godana Doyo, apologise because he could not be with us here today. I did the research with him. He is a lawyer. Today, he could not be with us for he had some emergency elsewhere.

**The Presiding Chair** (Commissioner Dinka): Thank you very much. Please, convey our gratitude to Mr. Godana Doyo.

*(Mr. Hussein Mohamed Jomaa took the oath)*

**Ms. Belinda Akello:** Good morning and welcome. For the record, kindly, state your full names.

**Mr. Hussein Mohamed Jomaa:** I am Hussein Mohamed Jomaa. I am a businessman. I was born and brought up in Isiolo. I currently reside in Isiolo Town.

**Ms. Belinda Akello:** Hon. Commissioners, this is our second witness. He represents the Somali community, and particularly the Harti and Isaak clans, in line with the memo on your desk.

Mr. Hussein Jomaa, you did present a memorandum to the Commission on 4<sup>th</sup> May, 2011, on behalf of the Harti and Isaak communities in Isiolo County. Kindly, take the Commission through your presentation and contents of the memo.

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, I stand here on behalf of the Harti and Isaak communities in Isiolo County. Today is a very important day for these two communities because they have never had an opportunity to be listened to for the last 45 years.

The Harti and Isaak communities settled formally in Isiolo District leasehold area of Central Division in the year 1919. Sorry, this is only a brief history. They were urban pastoralists spread across the expansive Isiolo leasehold area, from Gotu to Oldonyenyiro. Their livestock holding was 400,000 head of cattle and one million goats and sheep and 30,000 donkeys. They were also traders in various trades.

**Ms. Belinda Akello:** Thank you, Mr. Jomaa. You have just informed the Commission of the expansive area of Isiolo you had occupied, ranging from Gotu to Oldonyenyiro. You



have informed us of the loss of 400,000 head of cattle, one million goats and sheep and 30,000 donkeys. So, kindly, proceed.

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, they held positions in the community and the administration like chiefs, councillors, civil servants, DOs, clerical officers, policemen, *et cetera*. Injustice happened to them in 1964, when the Government of Kenya declared a state of emergency in the then NFD. Isiolo, being the Provincial Headquarters, suffered the bulk of injustice and atrocities of the administration. People were tortured. Women were raped and killed, and property looted.

There was an infamous known incident where innocent elderly worshippers were massacred inside a mosque. Seventeen of them were killed. They were shot dead by the elite GSU, commanded by Sergeant Muge. Harassment and torture were the order of the day. As a result, the people were moved from their Wongila area, which was composed of three villages named after the following people: The late Gaare Ahmed, the late Sheikh Ahmed Yassin, and a Quran Centre with a big mosque.

Longobito area was composed of Barsalinga Shopping Centre and Indayare Villages; Kambi ya Sheikh Village, Kambi ya Juu Village, Kambi ya Garba Village, Kambi ya Bula Pesa Village, Kambi ya Chumvi Edegale Village; Kambi ya Gotu Village; Kambi ya Magado Village; Kambi ya Javaaga Varsa Village; Kambi ya Maredley Village near Engarmara; Kambi ya Daaba Village; Kambi ya Shawili Shopping Centre Village; Kambi ya Gambela Village; Kambi ya Chumvi Area Village; Kambi ya Malbi Shilmi Village; Kambi ya Burat Village, which was resided by Haji Dirie; Kambi ya Hari Morodhi Village; Kambi ya Gisile Village; Shaab Village; Shaur Village and El-adhi Village.

People were forced into the concentration camp of Golabeza of Central Division. In the concentration camp, sideline rape, torture, hard labour, digging trenches, beating and shooting, and looting of valuables were rampant. This forced the people to flee in all directions. Four hundred and one people were known to have died while fleeing as they were hunted by wild animals, hostile tribesmen and merciless soldiers. Their villages were burnt down and their valuables like jewellery and household items looted. The livestock that were found in the villages were confiscated by the authorities, transported and shared amongst themselves. The weak ones were shot dead *enmass*. The loss of animals was estimated as follows: 187,000 head of cattle were shot dead; 420,000 were taken away; 10,000 donkeys were shot dead.

The loss of livestock and property was valued at Kshs2 billion. The civil servants who executed these atrocities in the name of the Government bear the responsibility for this injustice, and they should be brought to book. Their names are as follows: The then Provincial Commissioner (PC), Mr. Eliud Mahihu; the Provincial Police Commissioner, Mr. Henry Ochieng; the District Commissioner, Mr. John Kahara; the District Commissioner, Special Emergencies, Mr. Mahinda; Inspector-In-Charge, Kaborio, Mr. J. Suberio; SSP, Mr. Matu; DO1, Mr. Kawari; DOII, Mr. Benson Kaaria; DOII, Mr. Patrick Bakara, and the DA, Mr. Gitau.

These civil servants misused the GSU, the Kenya Army and the notorious Kaborios from Meru and Embu Districts. Members of this community in adjacent districts like Samburu, Marsabit and Moyale were rounded up, their property confiscated and transported to Isiolo Town. Their settlement and grazing areas were taken away by other communities, who settled there, thus displacing the entire community and reducing them to internally displaced persons up to today.

The communities' grazing land that was taken away by the Government includes the following: The LMD holding ground; Buffalo Spring Game Reserve and Shaba Game Reserve.

There were human rights violations and marginalisation. All school-going children could not access education due to lack of school fees as all the communities' livestock had been confiscated forcefully by the Government. Children of the two communities were denied bursaries. So were trade licences. Government workers from the two communities were sacked. To date, the problem of unemployment remains the same. The community has no political representation in modern Kenya, where there should be equal representation in all areas.

Marginalisation of the Harti and Isaak communities continued under the leadership of former and present Presidents. We now demand affirmative action so that we can be like other tribes in the country, as per the new Constitution. We also demand compensation from our Government for the losses incurred by confiscation and shooting of livestock and human beings, the burning down of homesteads and looting of other property. All those who ran away during the emergency should be returned and settled in the Somali leasehold areas for the Isaak and Harti communities.

Thank you very much, Mr. Presiding Chair, Sir.

**Ms. Belinda Akello:** Thank you very much, Mr. Jomaa. Could you, kindly, for the record, read the names of the people who signed with you this memorandum?

**Mr. Hussein Mohamed Jomaa:** Representing the ladies, are Khadija Mohamed, Hawia Abdile, Amina Sheikh Yassin, Halima Noor, Saladhe Gulee; Shamsi Mohamed Shaur, Amina Yussuf Gaab, Amina Samatar and Wadhan Ahmed Jomaa. The gentlemen are Adhan Hussein Gure, Hussein Guled, Hussein Mohamed and Hussein Haji Abdilahi.

**Ms. Belinda Akello:** Thank you very much, Mr. Jomaa, for the very well articulated memorandum, on behalf of the Harti and Isaak communities. I have very few clarifications to make. In your memo, you have mentioned one Sergeant Muge, whom you said took part in the massacre that took place in the mosque. First, do you know whether he is still living?

**Mr. Hussein Mohamed Jomaa:** We are still gathering information from the elders. So far, we have an indication it was the late Bishop Muge, but we are not sure. We are yet to

get the full name of the person and establish whether that person subsequently left the forces and became Bishop Muge or it was somebody else.

**Ms. Belinda Akello:** Do you have personal knowledge of that person, including his identity? Can you identify him?

**Mr. Hussein Mohamed Jomaa:** On behalf of the elders of Isaak and Harti communities, I would like to say that as the shooting took place, it was difficult for people to know but I suggest that we will get elders to inform us and then I will inform the Commission at a later stage.

**Ms. Belinda Akello:** As the elders make the clarification, let us have somebody who can personally identify the person and give the identification information for the exact person, so that you can be sure of the exact person you are referring to. You have also informed us that 401 persons died while fleeing. Do you have a list or a database of the names of the 401 persons?

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, as you know, these two communities have been marginalised so much, even up to today. They are traumatised. It is only after this Commission's sitting that they started feeling that there was now a forum at which they could prepare themselves, carry out proper research and bring the full names of those people who ran away for their lives and those who died.

**Ms. Belinda Akello:** Could the elders also provide those names?

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, I would like to appeal, on behalf of those elders, that we do not have the capacity to do the research. If the TJRC can support us with technical staff, it can be done. We are literally on the ground. We are victims of marginalisation up to today. So, the elders have asked me to appeal to the TJRC to give us technical support, so that we can come up with proper names, and detailed information of what happened to members of the Isaak and Harti communities in Isiolo Central.

**Ms. Belinda Akello:** I believe the Commissioners have noted that request. In furtherance of the hearings, the Commission has heard and also gotten response from various Government agents and actors; you have also indicated in your memorandum that a lot of your animals were taken away by state actors who were in office at that time. Similar state actors have also informed us that persons were always called to identify their animals. Can you, please, inform us whether, when the animals belonging to the Harti and Isaak communities were taken, the locals were called to identify their animals?

**Mr. Hussein Mohamed Jomaa:** A very negligible number of animals were released to the communities. Others were taken away by the state and the officers who rounded up the animals. Some of the animals were taken to the Kenya Meat Commission (KMC) by the state. So, the people, who were in fear, identified very few animals. As people tried to

identify their animals, state security personnel were shooting at random, without even caring whether people were among the animals.

**Ms. Belinda Akello:** We have noted that a few of you did identify their animals. My other clarification is on the persons whom you have given their names as the civil servants who executed these atrocities. With all respect, you have mentioned the names of ten persons, who were civil servants. Are you in a position to confirm the years when these people served and the exact chores performed in perpetuation of the atrocities you have indicated?

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, again, this is an area where once you avail to us some technical staff, we will give you the details, including the dates and the times these civil servants served in Isiolo.

**Ms. Belinda Akello:** You have also informed us that the grazing land that was taken away by the Government included the LMD holding ground, the Buffalo Springs Game Reserve and the Shaba Game Reserve. Are you also informing this Commission that it was your community – the Harti and the Isaak – who occupied this land before the Government took it away?

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, I want to tell you that, that is the area in which we used to live, as Isaak and Harti community, from Gotu all the way to Oldonyonyiro. Those are the areas where we were settled. The Government, forcefully, evicted us from there and brought us to Bula Pesa concentration camp. The land was taken and given to other communities. The Government also took part of that land for its own use, as the LMD holding grounds. Game reserves like Buffalo Springs and Shaba were put in place. All those were settlement areas for Isaak and Harti communities only; nobody else.

**Ms. Belinda Akello:** So, no compensation was given?

**Mr. Jomaa:** No compensation was given.

**Ms. Belinda Akello:** At the time the land was taken away, did the Harti and Isaak communities coexist with other communities on that land?

**Mr. Hussein Mohamed Jomaa:** Ninety-nine per cent of the people who were living in those areas were Isaak and Harti community members. We may have had one or two other people living with us.

**Ms. Belinda Akello:** My last clarification is on employment. You have indicated that Government workers from the Harti and Isaak communities were sacked. Was the termination of service on the basis of just being members of the Harti and Isaak communities or was it for other reasons?

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, on employment, the Clerk to the Isiolo County Council was an Isaak. It happened that, because of the harassment, their lives were endangered. People fled from their offices. The few who were working there were told: “You people were shiftas and, therefore, you must go.” So, people left because of their own safety. Some of them ran away for their own safety. They went all the way to Gulu, Uganda. Some of them went to Tanzania. Some of them went to Zimbabwe. So, those civil servants who could afford to run away ran away. Those who remained in the jobs were sacked enmass. So, they had to go to neighbouring countries.

**Ms. Belinda Akello:** You clarify that those people resigned but were not only sacked?

**Mr. Hussein Mohamed Jomaa:** The majority of them were sacked.

**Ms. Belinda Akello:** Were they sacked for being members of the Harti and Isaak communities?

**Mr. Hussein Mohamed Jomaa:** They were sacked because they were Somalis from the clans of Isaak and Harti, because we were regarded as shiftas.

**Ms. Belinda Akello:** So, they had notification letters to the same effect?

**Mr. Hussein Mohamed Jomaa:** There were no letters. People were just told to vacate their offices. They were not given any letters.

**Ms. Belinda Akello:** Before the research that you have requested from the Commission, is it possible for the Commission to get a list of the names of the civil servants who were sacked?

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, before the end of this session, I will avail some names of those civil servants. Some of them are still alive and living in Isiolo today.

**Ms. Belinda Akello:** Thank you very much.

**The Presiding Chair (Commissioner Dinka):** Thank you, Leader of Evidence. The Commissioners will ask the witness some questions, for clarification purposes.

**Commissioner Chawatama:** Mr. Jomaa, mine is jus to thank you for your testimony. To hear you say that as a community, you have not had an opportunity to be heard in the last 45 years, and for you to express your joy at having us come has made it worthwhile for us to be here. It is for communities such as yours that this Commission was appointed. We are so happy to be here today to hear from you the life experiences of your community. I do not have any specific questions. The only observation that I would like to make is the fact that if we had received your memo early enough, we would have had an opportunity to call the persons that you have mentioned, so that they could also have an opportunity to hear how some of the work that they did may have impacted on your

lives. But since this was not done, the Commission will discuss and decide on the way forward. Please, encourage the women who signed the memorandum to attend a women's meeting tomorrow, so that we also specifically hear the experiences of women. I consider it an honour and privilege to serve you in my capacity as Commissioner.

Thank you.

**Commissioner Slye:** Mr. Jomaa, I also say my thanks to you and the nine women and four men who put together and signed this memorandum for us. As you know, one of the functions of this Commission is to put together an accurate and complete history of Kenya. It is because of you and those 13 other individuals that the Harti and Isaak communities will clearly be part of that history. So, I want to thank you and those individuals for taking the initiative and accepting an invitation to come here and testify before the Commission. I just have one specific question. On the first page of your memorandum, you make reference to the killing of 17 individuals in a mosque. I am wondering if you know any more details about those killings in terms of the date when the killings occurred, the name of the mosque and anything else that could assist us.

**Mr. Hussein Mohamed Jomaa:** Mr. Presiding Chair, Sir, the killings happened at Jamia Mosque. At the time, it was built using iron sheets. The children of the elders who were massacred at that mosque are in Isiolo today. Some of them are about 40 or 45 years old. We can give you all their names. We can bring even their relatives. I do not know whether some of them are here today. If I am allowed, I will ask those sons and relatives of the elders who were killed at the mosque, if they are here, to stand up and be given an opportunity to elaborate more. We can give you a list of names of the children and the elders, and the date on which they were massacred. We can avail those details to the Commission today.

**Ms. Belinda Akello:** Mr. Presiding Chair, Sir, for the Commission's information, we have a memorandum from Jamia Mosque. We also have an individual statement to be presented on that incident.

**The Presiding Chair** (Commissioner Dinka): Mr. Jomaa, I thank you for your testimony and for taking your time to come here and walk through that terrible experience again. We have seen how painful it has been, but we salute your courage in narrating it. We hope that you will avail to us the names of the 17 people who were killed in the mosque. The Commission will be very happy to recognise the presence, in our midst, of their descendants, if they could stand up and be recognised.

*(Descendants of the 17 elders who were  
killed in Isiolo Jamia Mosque stood up)*

Welcome and we empathise with you for your loss and the atrocities suffered by your parents. Thank you for coming.

Before I ask the Hearing Clerk to bring in the next witness, I would like to perform a very pleasant duty of recognising some personalities amongst us, who came to show solidarity with our process and also to support the TJRC. Ladies and gentlemen, please, if I call your name, stand up and be recognised. I will be very grateful.

We have Commissioner Halake Wako of the National Cohesion and Integration Commission; Commissioner Fatuma Dulo of the Kenya National Commission on Human Rights; Mr. Rasana Abdile, who is the Regional Co-ordinator of the National Commission on Human Rights; Mr. Ndungu Michael, who is the Secretary of National Cohesion in the Ministry of Justice, National Cohesion and Constitutional Affairs; Reverend Makokha from the National Cohesion and Integration Commission; Mr. Charles Mwangi, who is an Assistant Director in the National Cohesion Department of the Ministry of Justice, National Cohesion and Constitutional Affairs; Miss Gabriel Minch from the University of Leeds; and Mr. Michael Assenau, Deputy Chief of Mission of the German Embassy in Nairobi.

Ladies and gentlemen, I welcome you all warmly, on behalf of the Commission. I would like to say to you how grateful we are for your attendance and your support to our process and to the Commission. Thank you very much. Hearing Clerk, please, can you lead the witness back to his seat?

**Ms. Belinda Akello:** Honourable Presiding Chair, before the witness steps out, I have something to say.

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

**Ms. Belinda Akello:** Hon. Commissioners, the witness has provided a map of the proposed Somali Leasehold Area in Isiolo District, which was in the Kenya Gazette Notice No.657 of 1941, which Mr. Jomaa would like to be admitted as part of his testimony.

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

*(Ms. Amina Ibrahim took the oath)*

**The Commission Secretary** (Ms. Nyaundi): Thank you, Ms. Amina. Welcome to the Commission's hearings. For the record, please, tell the Commission your names, where you work and stay.

**Ms. Amina Ibrahim Joan:** My name is Amina Ibrahim Joan. I stay in Isiolo. Professionally, I am a teacher.

**The Commission Secretary** (Ms. Nyaundi): Commissioners, this is witness No.6. Ms. Amina, you have submitted a memorandum to the Commission and the focus is on the experience of people living with disabilities. In your memorandum, you have highlighted

particular issues. I will now ask you that we go straight into the memorandum and you take us through it.

**Ms. Amina Ibrahim:** I have presented this memorandum on behalf of persons living with disabilities in Isiolo, but bearing in mind that disabilities beyond Isiolo and all problems shared in Isiolo are as well shared in other places of this country. Unlike many of the presentations done previously, mine is a bit personal. It will involve some of us around and maybe, even other people in our authorities directly.

The first case I want to present is of a person living with physical disability. His name is Mr. Muktar Adan. His case is a piece of land that he owned as from 1978 that was grabbed from him by a man called Abdulrahman Ahmed Abdille. That plot is situated in LMD and it is No.98. The plot case has been presented in court, but due to threats and financial problems, this person has not been able to finish the case. So, it is our request that this case be attended to, as well as this person's security ensured.

The second person I have is Mr. Hussein Mohamed. His case is health related. He was doing his business and went to Nairobi to purchase goods for sale. On the way, he was robbed and regained consciousness after one month at the Kenyatta National Hospital. A metal bar was inserted in his leg. Getting the bar out of his leg has taken almost ten years. He has incurred a lot of costs because he has been going there now and then. Our request is for this person to be attended to by the doctors in a better way so that he does not incur more expenses. As he was taken to the hospital, the vehicle that hit him was not noted because it escaped. If there could be a way of dealing with issues, so that witnesses can be involved actively to ensure that any such case can be attended to correctly--- He also wants compensation for his property and health.

The third case I have is for land grabbing. This is Mr. Joseph Muthee. His land is around Mwangaza area. Mr. Mwenda Nturibi is said to have colluded with the county council and fenced almost ten acres of land which were previously owned by other people. He paid them a lot of money. Among them is Mr. Joseph who tried to make a follow up of his plot. After following up, the council gave him a place that is naturally flooded by rains. This place, as he searched in the map, was a road reserve. He is also physically handicapped.

The fourth case I have is of Mr. Rueben Oyani. He was a teacher at Kambi ya Juu Primary School. He initiated the Integrated Programme for Children with Vision Impairment. After initiating the programme, he was sidelined by the headteacher. Although he suffered a lot, he went on taking care of the home and managed to construct some rooms for the children to sleep in through donations from his sponsors. As the school went on, the administration never recognized his efforts. After his retirement, the donors wished him to continue as a private assistant, but the administration kept on bothering him until he pulled out. This is because he felt that it was direct discrimination and due to this, even some of the donors decided to pull out. This did not affect him alone, but also the children with visual impairment, because their needs were not attended to.



The other case I have is of Boru Wario. He was mauled by a lion in Merti in 2003. His son who is also physically handicapped has tried to make a follow up of this case, but due to negligence of the police, this was not even recorded in the OB and for this reason, his case is not yet even in court. So, he is requesting to be attended to quickly by the police and his case presented in court.

We have other people who are visually impaired, who have tried to own their property, but due to insecurity, their property has been grabbed or taken away by thugs. We have Ahmed Ibrahim who lost ten goats, Mr. Guyo who lost 20 cows and 100 goats and Mr. Galgalo who lost 20 goats. We also have another case of Lucy Kihora, who is a religious nun. We have noted that she has discriminated her employees by paying the disabled less, depriving them favours and treating them with a lot of disdain, hence, making them really uncomfortable with a centre that is meant for persons with disabilities.

I also have a case that concerns me. In 2006, I was admitted to a centre for Catholic religious teachers. In that centre, I was qualified totally but on admission, the director said that he could not admit a blind person. So, I had to give up just because of my disability. The integration programme has also failed in Kenya. This is a programme where persons with visual impairment are integrated to learn alongside people who have no disability. In this case, we find that the attention given to a child with visual impairment is not real. This is because the child may not have any text books at all. I went through the integrated programme in secondary school. In this programme, I never did anything to do with mathematics because my teachers told me that they were not able to teach me. There was no text book at all. So, I would say that failure and poor performance was caused by lack of those materials. That led to a change in our lives and not living the way we should. Our aims were higher but due to lack of those materials and committed teachers, we were not able to attain what we wanted to attain. Parents of children with disabilities are somehow backwards. This is evident in primary schools. The children admitted to schools, especially those with hearing impairment are old. We feel that they start learning late because parents take too long to decide whether to take them to school. Parents are also not able to communicate with children with hearing impairment. So, when they go for holiday, it is like going to prison, because nobody can communicate with them freely as their teachers or peers do.

The children with mental disability drop out of school because of teachers' attitudes, especially when they are integrated. After dropping out of school, they are used as labourers in town and the pay they are given is very little.

The transition between primary and secondary has always been a problem. This is because the secondary school life is different from primary school, of course, in terms of provision of materials, environment and acceptance. I am referring specifically to people with physical disability because they are admitted in regular schools and sometimes they are criticized. The way they are treated is not good. Sometimes, this leads to discouragement and as a result, children drop out of secondary schools.

The last case I want to present is of a child I had in class. She is an Internally Displaced Person (IDP). The parents were living in Bomet. They lost a lot of property during the 2007 post election violence. They had acquired land. They also had land that they had rented. They lost both with a lot of crops and property. They also lost cows and goats. They had crops like pyrethrum and potatoes.

In conclusion, it is our request that these people who have been affected are compensated. Also, proper school management should be put in place so that proper education is guaranteed for these children.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much, Joan for that statement. I would like to confirm to the Commission the cases that you have presented. Are these the only persons with disabilities who have faced difficulties or are these cases representative?

**Ms. Amina Ibrahim Joan:** They could be representative like the land and insecurity issues. But some directly concern persons with disabilities.

**The Commission Secretary** (Ms. Nyaundi): Joan, concerning the persons with disabilities here in Isiolo, have you organized yourselves into a group yet?

**Ms. Amina Ibrahim Joan:** Yes, we are in groups. We have, at least, two CBOs. One CBO is in the eastern side while the other one is in the western side. Of late, we have tried to go deep into villages and we have realized that there are some disabled persons who are not yet recognized. There are even some children with disabilities who are still hidden. So, this exercise has really enabled us to go deep and wide.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much, Joan. Are you able to identify the names of these CBOs? Can you give them to the Commission and also the membership of both CBOs?

**Ms. Amina Ibrahim Joan:** The most recent one is Gargasa which is in the western side. It has a membership of 71 people. It is not yet formed, although it was registered last year. The other one is Isiolo Welfare Group of the disabled which has been there since 1999. It started with 53 registered members but so far, it has around 300 members.

**The Commission Secretary** (Ms. Nyaundi): Thank you, Joan. Do these CBOs receive funding or support, maybe, from the Government or other donors?

**Ms. Amina Ibrahim Joan:** The one that started in 1999 has been accessing some funds here and there from some few donors and the national council, but it is still not enough. The other one is still in the process of making its stand. So, it is not yet funded by any donor or organization.

**The Commission Secretary** (Ms. Nyaundi): Thank you, Joan. Are these CBOs, in your assessment, well linked to the National Council of Persons with Disabilities?

**Ms. Amina Ibrahim Joan:** Not totally, but for some, the last two years we have been linked to the National Council, through the welfare group of the disabled. We, too, have been either ignorant or not had enough knowledge of how to follow up some issues for support.

**The Commission Secretary (Ms. Nyaundi):** Thank you, Joan. You had mentioned that with regard to education, there are a number of schools that have integrated programmes. Is it within your knowledge how many such schools exist within Isiolo?

**Ms. Amina Ibrahim Joan:** There is Kambi ya Juu Integrated Programme and Uhuru--- The children with mental impairment have been integrated with other children in Uhuru Primary School. So, they are two.

**The Commission Secretary (Ms. Nyaundi):** Are these schools sufficient? Do they meet the need?

**Ms. Amina Ibrahim Joan:** If I may be very frank, the answer is “No”.

**The Commission Secretary (Ms. Nyaundi):** Joan, I am sure that you have had opportunity to look at the recently promulgated Constitution of Kenya. The Government is under an obligation to take special measures, especially for persons with disabilities. Therefore, I would like you to give, maybe, a brief picture to the Commission. In your assessment, have there been special arrangements within Isiolo for persons with disabilities maybe, to deal with their movement, roads, access into buildings and other special needs that they may have?

**Ms. Amina Ibrahim Joan:** Persons with disabilities live mostly under great poverty. As you know, poverty goes hand in hand with illiteracy. For this reason, even knowing so much about their rights is a problem. Knowing what is provided for in the Constitution, so that they are able to make, at least, a follow up of their needs, is not quite clear. In schools, we find that parents are involved so much. So, parents should be, at least, taught how to deal with children with disabilities, so that they may link them properly with education. As a result, the teachers may also know how to bring up these children in a better way.

The Constitution is very good in areas concerning disability and we are very happy. But I do not know if we will be involved in the implementation. But we really wish to be involved mostly. If there is anything that is taking place in the district that involves the development of the county and so on, we wish to be involved. If there is anything that would be going on that may need our representation, so that we could also voice our needs, we wish to be notified and informed.

Regarding the buildings and accessibility, some time back, the roads were very rough for us. As usual, some buildings have upstairs, but of late, the roads are a bit clear. If I want to move around, I am able to do so, somehow comfortably. But deep inside the villages,

still there are some barriers here and there. If the roads could be made clearer inside the villages, it would be very comfortable for us.

The Consolidated Bank has a very narrow door. That door cannot allow a wheelchair to go through. There are other banks that are upstairs. If you want to reach a certain officer, you have to go upstairs. We hope that with time, it will change. We hope a follow up will be done by our Government.

**The Commission Secretary** (Ms. Nyaundi): Thank you, Joan. I have a few more questions. In your memorandum, you had spoken about the general violations. Where you were talking about children and in schools, you had stated that specifically, children with mental challenges fall easy prey to people who defile them. Could you, please, tell the Commission how serious and prevalent this problem is?

**Ms Amina Ibrahim Joan:** I have heard of two cases. We presented one of them in court two years ago and finally, we were defeated as usual. There is another case where a child in Uhuru Primary School was being harassed by his uncle, but the case was thrown out because of family consensus. I have not heard of many cases, but it happens. Even these children mostly do not stay with their parents. They are abandoned at their grandparents' homes. So, maybe, they are neglected and recognizing such cases may be a bit difficult.

**The Commission Secretary** (Ms. Nyaundi): Thank you Joan, I am about to wind up. You had indicated to us that you would be escorted today by your husband. Is he here today?

**Ms. Amina Ibrahim Joan:** Yes, he is with me here.

**The Commission Secretary** (Ms. Nyaundi): The gentleman seated with us here today?

**Ms. Amina Ibrahim Joan:** Yes.

**The Commission Secretary** (Ms. Nyaundi): His name is Moses Maeka. On behalf of the Commission, I would like to welcome him and thank him for accompanying you here today. Joan, will you allow me to ask you some questions about your life?

**Ms. Amina Ibrahim Joan:** Yes.

**The Commission Secretary** (Ms. Nyaundi): Thank you. What primary school did you go to?

**Ms. Amina Ibrahim Joan:** I went to St. Lucy's Primary School. It is in Meru.

**The Commission Secretary** (Ms. Nyaundi): What did you score?

**Ms. Amina Ibrahim Joan:** I got 45 points in KCPE.

**The Commission Secretary** (Ms. Nyaundi): How many aggregate points were those? That was out of how many marks?

**Ms. Amina Ibrahim Joan:** Out of 700.

**The Commission Secretary** (Ms. Nyaundi): How many did you score?

**Ms. Amina Ibrahim Joan:** I scored 400 marks.

**The Commission Secretary** (Ms. Nyaundi): Which secondary school did you go to?

**Ms. Amina Ibrahim Joan:** I went to St. Mary's Girls High School in Igoji.

**The Commission Secretary** (Ms. Nyaundi): What did you score in your O Levels?

**Ms. Amina Ibrahim Joan:** I scored a C Minus.

**The Commission Secretary** (Ms. Nyaundi): It was at that school that you say that you were not able to pursue mathematics, chemistry and physics?

**Ms. Amina Ibrahim Joan:** Yes.

**The Commission Secretary** (Ms. Nyaundi): That was your interest?

**Ms. Amina Ibrahim Joan:** It lowered my mean grade.

**The Commission Secretary** (Ms. Nyaundi): What did you pursue after your O Levels?

**Ms. Amina Ibrahim Joan:** I went to Highridge Teachers' Training College, but before then, I had tarmacked. I managed to go to Machakos and trained as a telephone operator. After that, I also went to Irene Industries in Meru. I trained in knitting and typing. After that, I joined Highridge Teachers' Training College. I capitalized on my teaching after I was through with college.

**The Commission Secretary** (Ms. Nyaundi): Currently, you are a teacher?

**Ms. Amina Ibrahim Joan:** Yes.

**The Commission Secretary** (Ms. Nyaundi): You had mentioned, your experience is that discrimination that persons with disability face is that they are paid less for the same job. Is this your personal experience?

**Ms. Amina Ibrahim Joan:** No. It is not my personal experience, but some private employers are doing it because they feel that a person who is disabled, maybe, cannot produce the same as the other persons. In most cases, we do better than them.

**The Commission Secretary** (Ms. Nyaundi): I have no reason to doubt that, Joan. I want to thank you very much. The Commissioners will ask you some questions. So, I will ask you to give them some time.

**The Presiding Chair** (Commissioner Dinka): Thank you very much, Leader of Evidence. I will now give the opportunity to my colleagues, if they have any questions to the witness.

**The Acting Chair** (Commissioner Namachanja): First, I would like to thank you, Joan, for the journey you have travelled as a person with disability to be where you are. I know that it has not been easy. Secondly, I would like to thank you for being the voice of people with disability. I will encourage you to continue. I just want to seek one clarification.

You mentioned a Sister Lucy who discriminates against people with disability. Are you able to provide us with some of the names of such people?

**Ms. Joan Amina Ibrahim:** Yes, I am able to provide. I have two persons with disabilities. One is a man who is physically handicapped. The other one is a lady who is visually impaired. Maybe, there are more but I have not really gone deep into the case. Those two had reported the issue to me.

**The Acting Chair** (Commissioner Namachanja): Thank you. We shall appreciate if we shall get those names.

**Commissioner Slye:** Ibrahim, I want to ask you a question in connection with your testimony with respect to integrated education. You mentioned the lack of support and knowledge that parents of children with disabilities have. I wonder if you are aware of any models of educating and educational systems for people with disability, even in Kenya or other parts of the world that you would recommend as a model for here and Isiolo.

**Ms. Joan Amina Ibrahim:** I am not really aware of one specific, but I would imagine that the Government can organize such a move, so that parents are educated, especially in basic sign language and how to deal with children with mental and physical disabilities. They are not just in a prison, but at least, they have a comfortable environment at home as well.

**Commissioner Slye:** The CBOs that you said exist, have they been able to start working with parents on issues like that?

**Ms. Joan Amina Ibrahim:** Not yet. But I understand there is a group of parents who have come together as an organization. Sometimes, we are in touch with them, especially when we are attending any seminar; we call them and they are represented.

**Commissioner Slye:** Lastly, you had indicated one of the cases you mentioned involved the Catholic Education Centre religious teachers was, in fact, your story. You mentioned that you are qualified to be a teacher and that they accepted you and then your hire was objected to by the director. Do you happen to remember the name of that director?

**Ms. Joan Amina Ibrahim:** I really do not remember his name, but if I can trace it back to 2006, I am sure I can get his name.

**Commissioner Slye:** I want to thank you again and join my fellow Commissioners in thanking you for appearing today before us. We very much appreciate it.

**The Acting Chair** (Commissioner Namachanja): Thank you very much, Ms. Ibrahim, for your testimony. All of us are aware of the fact that disabled persons need and deserve to be supported by everyone. The story of the nun that had disdain for people with disabilities and even paid unequal wages to people without disabilities and your own case of having been rejected by the director of the school in the Catholic Centre are graphic examples of how some people make the mistake when dealing with people with disabilities. I would like to express my own admiration to you in your success in achieving your life goals which you have set for yourself. We can only imagine what you could have achieved if you had the necessary action that would have been supportive to you and to other people with disabilities.

I would like to take this opportunity to join my colleagues to thank you for your testimony and for appearing before us today. Thank you very much.

In conclusion, Ms. Ibrahim, I would like to ask you if you could bring to us, particularly to the Leader of Evidence, the supporting documents that could help us in reviewing, considering and assessing the cases that you have mentioned. If you could get them to us as soon as you can---

The Commissioners will take about 15 minutes recess and come back after that.

*[The Commission temporarily adjourned at 11.58 a.m.]*

*[The Commission resumed at 12.15 p.m.]*

**The Acting Chair** (Commissioner Namachanja): The Commission recognizes that most of you are going for prayers. We will take one witness. I hope we will complete in time to release you for the prayers. Let me ask the hearing clerk to call the next witness.

*(Ms. Josephine Muli took Oath)*

**Ms. Belinda Akello:** Hon. Commissioners, this is Isiolo Number 4. She will be presenting a memo on issues facing the Turkana Community, particularly the plight of women. For the record, kindly tell us your name.

**Ms. Josephine Muli:** My name is Josephine Muli. I am a business woman in Ngarngara.

**Ms. Belinda Akello:** You have indicated that you are businesswoman here in Isiolo. For how long, have you lived in Ngarngara?

**Ms. Josephine Muli:** I was born there. So, I am a resident of Ngarngara.

**Ms. Belinda Akello:** You do remember that you did record a statement to the TJRC on behalf of the Turkana Community?

**Ms. Josephine Muli:** Yes, I do remember.

**Ms. Belinda Akello:** Kindly take the Commission through your statement, highlighting the plight of the Turkana community.

**Ms. Josephine Muli:** First and foremost, what I wrote is about land. Most of our land was taken to be used as a game reserve; for the Buffalo Springs and Shaba Springs. This was a very good area for pastoralists who were living in Ngarngara who are the Turkana. They were living there. All the springs were closed down by the officers who came there. They told the old men there that it would be good for them if they could select another place where there was a spring with water, so that they can be watering and grazing their animals there.

Unfortunately later when they closed down that area and confiscated it, they told the residents who were there not to take their animals there. Many elders asked why they were being denied their rights to graze and water their animals there. They were told they could be refunded their money which they had paid, but they could not be allowed to water their animals there.

Another issue is that we had the military officers who lived in Chokaa. There is a school in Chuli area. Those people have taken a very big slot of land. At this moment, there is a conflict between the soldiers and the residents of that area. When they came, they found residents who were there. However, they do not allow other people to build there. So, people living there, they do not know if this area was gazetted or not. Nobody has ever informed them about the land.

There is Tigania East boundary which was imposed on us by residents of that area. However, we have never been told about it. We do not know where it starts and ends. In such a situation, a conflict always erupts. They do not know where the boundary between Tigania and Isiolo is. So, we have always been fighting in the area because some people claim that area is part of Isiolo while the people of Tigania say it is theirs. That is a very big problem which has been there until today; the communities living in that area do not know where the boundary between Tigania and Isiolo is.

All this is due to lack of water supply and pastures for the animals. This conflict arose because springs were taken by those people without consulting us.



We also have human/animal conflict. Every time wild animals attack residents, Kenya Wildlife Service does not compensate victims. Their livestock have been killed by wild animals. There were some instances when our children could not go to school because of fear that they could be attacked by elephants.

There are many armed forces camps in this area. This has led to school dropouts because most girls are seduced by soldiers. Sometimes, women and girls are raped. This leads to conflict between the families of the girls and the soldiers. This has also resulted in a lot of unwanted pregnancies among the girls.

There is a serious problem of child labour because most of the children are dropping out of schools due to poverty. They are forced to go to the barracks where they work as house girls and houseboys. As a result of this, those children do not have a bright future.

Those people who have been living there since their land was taken away; our land that was taken from us could form a location on its own. It was a vast land. Our people are now living as squatters. They do not have their own land. If anybody wants to try and construct a house, they are denied the opportunity to do so by the officers who claim that land belongs to them.

There is also another problem regarding the boundary. You will find that people in that area do not know where the boundary is. It is hard to understand where the boundary between Meru and Isiolo is today. They do not know whether they belong to Meru County or Isiolo County. This has led to the people of that area being denied basic services.

In 1996 or 1997, there were some cattle raiders in Meru County where the animals were taken away. They say that these animals were taken to Ngarngara area. So, the army and the regular police went to Ngarngara. They forced the people of Ngarngara to produce the animals, but the animals were not there. As a result, the people were beaten and a bomb was thrown there. Fortunately, God saved them because the bomb never detonated. People in that area were injured. They were thoroughly beaten by the soldiers. They became desperate. Most of their animals died and others were taken away. Some of the elders were locked inside Isiolo Complex and were being told that they should produce the animals that were taken from Meru.

They did not know where they could get the animals from. The soldiers who came to do a search took all the animals from Chokaa and Ngarngara. As I said, most of their animals were stolen. Others died at the police station. The few that remained, the Meru Community came claiming that those animals belonged to them. They said that they could identify them because of the marks that were on them. They said that the animals which had Turkana marks were taken away. They claimed all the other animals belonged to Merus.

During that conflict, there was a boy by the name of Mr. Joseph Iria. He was taking care of the animals. However, when conflict erupted, he was injured by a bullet. As I speak now, he is a cripple. He rides in a wheelchair. He was taken to Wambaa Mission Hospital. He is now a disabled young man. His disability was as a result of that conflict.

Another issue is about the socio-economic which is affecting our community. The Turkana Community from Ngarmara do not get their basic needs in Isiolo County. They are marginalized because they are illiterate. We have very few schools. Ngaramara Primary School has a large population of pupils. For example, one class has 120 pupils with only one teacher. Pupils in this school do not get quality education.

Getting medical care is also a very big problem in this area. Some women give birth at home because of lack of transport to Isiolo District Hospital. This endangers their lives. Some of them die at home because of lack of proper health facilities. Most of our roads are impassable. There is no single road leading to Manyatta or interior part of Turkana. The only passable road is the highway. Other roads are impassable.

The issue of devolved funds is just something we hear in the press. It is very difficult for us to get these funds. This is because we have to travel from Turkana to Isiolo.

My recommendation is that we get a share of money generated from the game parks. I urge our Government to use this money to develop Turkana.

The Government should also find a way of getting water from the streams to be distributed to the people because the ordinary people are not allowed to access water from the springs.

We would like the army to clearly demarcate their land. When somebody wants to build a house, he is told: "No. You are a squatter here where you are constructing." It would be good if boundaries were clearly marked, so that people can identify their land.

Another thing is about school dropouts. We have many girls who have dropped out of schools. The Government should come up with a new policy to help these girls to go back to school. The Government should come up with a good policy that will prevent the elders from marrying off their daughters at early age. They should not force these girls into early marriages. The girls should be educated.

The other issue is of compensation of people whose animals were confiscated and taken to the police station on claims that they were stolen. We are poor because our animals were taken away from us.

The Government should mark clearly the original boundary, so that we know where we belong. We want to know our county. The boundaries should be clearly demarcated to avoid conflict between us and other people.

**Ms. Belinda Akello:** We thank you for representing the Turkana. I will seek a few clarifications and you will be asked a few questions by the commissioners. You have informed us that the land belonging to the Turkana people was taken by the Government. On that land, we have the Buffalo Springs and the Shaba Game Reserve. How long have the Turkana been staying on that particular land?

**Ms. Josephine Muli:** From the information I got, even at that time when our land was being taken away, we were the last people who got the opportunity to say where we wanted to be settled. If I had more time, I would have consulted elders who have been living on that land before the pre-colonial period. They could have given us more information because these people have been living there since then and they were the ones who were controlling those springs.

**Ms. Belinda Akello:** Could you try and confirm the year when the elders would indicate that they started living there. Is it in your knowledge if the Turkana were sharing this particular land with any other community?

**Ms. Josephine Muli:** According to what I know, that land belongs to the Turkana and the Somali who were living there as neighbours.

**Ms. Belinda Akello:** In your memorandum, you have named one Minister who was also involved in the Tigania East boundary issue.

**Ms. Josephine Muli:** The old men only gave me one name, Angaine, who was the Minister of Lands at that time.

**Ms. Belinda Akello:** You were given this name by the elders?

**Ms. Josephine Muli:** Those old men living in the village are the ones who know this information very well.

**Ms. Belinda Akello:** There is a very high rate girl-child drop-out from schools. What, in your view, is the underlying cause of the young girls dropping out of school?

**Ms. Josephine Muli:** It is early marriages according to their tradition. The girls are always removed from school to go and get married before they become mature adults. Secondly, due to the poverty prevalent in that area and there are also Army soldiers there who have money. As a result, most of the school girls get interested in those soldiers because they have lived there for so long. These soldiers end up using these girls and they drop out of schools.

**Ms. Belinda Akello:** Who are these soldiers?

**Ms. Josephine Muli:** It is the Army forces who live there. There is the school of artillery and the school of combat engineering.

**Ms. Belinda Akello:** You have also indicated that there is a lot of rape perpetrated by the military officers. Is this correct?

**Ms. Josephine Muli:** It is true. According to how they live there, when it is 6.00 p.m., these army officers go out in the villages on the pretext that they are trying to beef up security. They end up raping women. When a woman is found on the road, she is asked what she is doing there. Up to now, no rape incident has been reported.

**Ms. Belinda Akello:** Do they report to the police when they are raped?

**Ms. Josephine Muli:** What makes them not to report is that they are not aware of their rights. Majority of them are raped. Their rights are violated, but according to their cultural beliefs, it becomes hard for them to go and report the incident.

**Ms. Belinda Akello:** Based on the same thing, you have also informed the Commission that there is a lot of child labour. You have said that the children go to the military bases to work so as to be given money and food. What kind of work do these children engage in? Is it children of both sexes; both boys and girls?

**Ms. Josephine Muli:** When they go there, they are told to cook, wash utensils or sweep the ground. All this makes them not to go to school. They are only given food as payment instead of being given money. This has led a lot of students to go there and they are given instructions on what work to do. They do not go to school.

**Ms. Belinda Akello:** Is it both boys and girls who go to work in the military bases or is it only one sex of the children?

**Ms. Josephine Muli:** It is boys who participate in that kind of work.

**Ms. Belinda Akello:** With regard to the bomb that you said was planted in 1997, was it ever established exactly which arm of Government or who planted that bomb? You have also told us that no one died. So, how was the bomb discovered, identified and maybe removed from that area?

**Ms. Josephine Muli:** There was a clash. As a result, vehicles from the Armed Forces and police came. When people saw it, they ran away. According to me, the Army came there and they took it because those people who were running are the ones who saw it and they call it *Etingili* in their mother tongue.

**Ms. Belinda Akello:** If the bomb was taken away by the Military, who do you think planted the bomb there?

**Ms. Josephine Muli:** According to the information that I got from those people who were there, they told me that it was the armed forces and the police who were together. But it was the army vehicles which were there.

**Ms. Belinda Akello:** In your memorandum, you have listed a few people who you interviewed and formed the basis of the information for the memo that you presented. Could you read out the names of the 10 people who provided you with information for the memoranda?

**Ms. Josephine Muli:** The area councilor, Mr. Eko, the chief, the village elder, Engule, elder; Elegei, elder; Langoli, elder; Mary Ngunyuk, women representative and Geoffrey Kilenga, women leader.

**Ms. Belinda Akello:** Thank you, Ms. Muli. That is all we had.

**The Presiding Chair** (Commissioner Dinka): Thank you, Ms. Muli. I will now ask my colleagues if they have any questions for you.

**The Acting Chair** (Commissioner Namachanja): Thank you, Ms. Muli, for taking time to develop this memorandum, interviewing your people and ensuring that the issues of your people are not left behind during this hearing. I have just two questions for clarification. The first one is concerning land that was preserved as a game reserve. You mentioned in the memoranda that when the elders wanted the land back, they were asked to give back the cheques and they were given. Was this money meant to compensate them for the land that was taken away? If so, would you know how much it was?

**Ms. Josephine Muli:** According to my view, those cheques were not compensation for the land. These officers came to that area, called some elders and gave them food and some cheques. They talked about the water springs that could be constructed so that the people could use that water well. They were told that later on they would be using the water which was found there in a safe area. But afterwards, they were prevented from watering their animals there. That is the time when the elders came and asked them: What about the land that was taken? Was it ours or yours? They were told: "If you want back your land, then you should bring back the cheques that we gave you."

They had a meeting and they were told that they should return the cheques and the money so that they could give them back their land. So, they were misled due to illiteracy. They never knew anything about that. They were used because of illiteracy.

**The Acting Chair** (Commissioner Namachanja): These were just a few elders who were called for this meeting and the cheques were not given as per each household?

**Ms. Josephine Muli:** It was not for every household, but for only those people who were there.

**The Acting Chair** (Commissioner Namachanja): You mentioned that there are no Government hospitals or dispensaries in the area and that women have to suffer, walking long distances, especially when giving birth. How many hours would you walk from your area to the main road where you could get a vehicle to Isiolo?

**Ms. Josephine Muli:** I can estimate that it is 40 kilometres from Dadaab to Isiolo.

**The Acting Chair** (Commissioner Namachanja): From the 40 kilometres, would you make this by using public means or you have to walk?

**Ms. Josephine Muli:** We walk because there are no public vehicles which operate on those roads. The only road we have is the main road. So, they have to walk from Dadaab to Ngaramara to get a public vehicle.

**The Acting Chair** (Commissioner Namachanja): Thank you.

**Commissioner Chawatama:** What is the population of your community?

**Mr. Joseph Muli:** I cannot estimate. I do not know.

**Commissioner Chawatama:** You mentioned that you have a few schools in your area. Do you know how many primary and secondary schools are there?

**Ms. Josephine Muli:** We have some primary schools. We have four of them. We have one secondary school which was opened last year and started functioning this year.

**Commissioner Chawatama:** You mentioned the fact that some of the classes are overcrowded and you may have 100 children in a class. What about in terms of teachers, equipment and books? Are they readily available?

**Ms. Josephine Muli:** Sincerely speaking, at this moment, the Government has tried to assist on the side of books but on teachers, their number is very low. We tried to ask the Teachers Service Commission (TSC) if they can give us more teachers to no avail. That has forced parents to contribute some money so that they can employ Form Four school leavers to help in teaching and solve the problem of scarcity of teachers.

**Commissioner Chawatama:** You also said that there are no Government hospital and dispensaries. Are there any private health facilities?

**Ms. Josephine Muli:** We have a dispensary for admission and we also have a dispensary in Isiolo Complex.

**Commissioner Chawatama:** You mentioned of cheques that were given to elders. I do not recall that you mentioned who gave them the cheques. Maybe, you did but I apologize if I am asking again. Do you know who gave the elders the cheques?

**Ms. Josephine Muli:** I think that if you give me more time, I will try to find out. I will ask the old men on who gave them the cheques.

**Commissioner Chawatama:** Could you also find out if they signed any documents and if they have them in their possession. It is something which will be very helpful. Thank

you very much for making time to come and testify before us. Your testimony has been helpful.

**The Presiding Chair** (Commissioner Dinka): Thank you very much Josephine for your testimony. I do not have a particular question for you but I would like to join my colleagues in thanking you for bringing this memorandum and presenting your case of your community to the TJRC and to the people of Kenya. Let the clerk lead the witness to her seat. I believe this is the last witness this morning. So, we will adjourn the meeting until this afternoon at 2.30 p.m. However, I would like to announce that the statement takers of TJRC will be around here today, tomorrow and Wednesday all day and any of you who think they need to record statements, they are ready to take your statements. So, come forward and record your statements Thank you very much and have a nice day. Go for lunch and come back at 2.30 p.m.

*[The Commission adjourned for lunch at 12.50 p.m.]*

*[The Commission resumed at 2.50 p.m.]*

**The Presiding Chair** (Commissioner Dinka): Hearing Clerk, could you call the next witness?

**Ms. Belinda Akello:** Mr. Presiding Chair, Sir, hon. Commissioners, before the next witness is sworn in, the panel had requested the former witness Isiolo No.6 to provide information. The witness has provided that information and for the record, we thought he was going to say it now. Isiolo No.6 was Johana Amina. She was requested by the panel to give information on the person who was discriminated by Sister Lucy Kiuro of Mary and Joseph Nomadic Rehabilitation Centre. The discriminated person is called Mary Nkoroï and we have the cell phone number. The director of the organization where she was denied admission from Sacred Catholic Education Centre for Religious Teachers has provided the name. The name is Lillian Kageni.

**The Presiding Chair** (Commissioner Dinka): Thank you very much and she will be entered into the record.

*(Ms. Lucy Lolosoli took the oath)*

**Ms. Belinda Akello:** Good afternoon. Thank you very much for coming. For the record, kindly state your three names.

**Ms. Lucy Lolosoli:** My names are Lucy Lolosoli.

**Ms. Belinda Akello:** Where do you live?

**Ms. Lucy Lolosoli:** I live in Samburu.

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

**Ms. Lucy Lolosoli:** I earn my living through business.

**Ms. Belinda Akello:** Thank you very much for coming. Lucy, if you remember you recorded a statement with the Commission?

**Ms. Lucy Lolosoli:** Yes.

**Ms. Belinda Akello:** Kindly take the Commission through the statement?

**Ms. Lucy Lolosoli:** The statement that I recorded was about Samburu in totality. It is a very extensive area but I was not able to cover the whole area. I just tried to cover the area that I could because the time was also a limiting factor. The information that I gave out was about the violation that was done on children. They were kidnapped and killed. I am going to share with you about that. Also, I am going to share with you about the people who were killed in Samburu by the local police officers. I am also going to share with you about land issues. To add to that, I am going to share with you about education and employment issues. Those are the reports that I was able to give out. Thank you. If I may start, I will do that in the area of how the children were kidnapped and later killed. The date was on 23<sup>rd</sup> January, 1994. That is when all those things happened. The children from the community where I stay were kidnapped from that locality.

The children were herds people and they were kidnapped together with their property. After that, they were killed. Up to date, nobody knows their whereabouts, including their bodies. They have never been found again. Those children were very young. They were between the ages of 12 and 13. They had gone for holiday to take care of cattle in the bush. Those were very painful and traumatic killings both to their parents and community at large. People have been unable to forget about that very emotional trauma. Besides this, even the herds of cattle were taken away and we were left with nothing at all. The herds of cattle were more than 320 on that date when they were kidnapped and later killed. On the same vein, I also blame the Kenyan Government because when that incident was reported, instead of it coming to check about the incident and get the details, some of the leaders never took any opportunity to come and find out more about this. They never took any opportunity to come and take charge of anything. That really pained the Samburu people. To add insult to injury, more of their property was taken away forcefully and distributed to other people. This is not to say that the people who were affected are the ones who took charge of everything, but there were also other people. Their property was taken away and redistributed to people who did not deserve to get it.

I will go to the other area of police brutality. This was on 16<sup>th</sup> June, 1999. There was an area called Loreta where the local police officers entered 14 of their vehicles. They went ahead and captured young boys that we call *warani* who have long hair. They were taken forcefully and cut in various places of their bodies, including their skulls. Those boys were greatly and adversely affected by that ordeal. In the same place, Loreta, there were two young boys who were taking their goats for sale in the local market. They were found by the local police officers who were also armed. They were going for some



operation and they caught them. They brought out their knives and assaulted them very badly. One of them was lucky to run away and narrated their ordeal. The other one died. That was a very painful death and nothing was done. That is why I have come to share with you this testimony. We are adversely affected in various ways. We are in different states of trauma and we see that there is no help that is forthcoming in our various communities.

Similarly, I will share with you about the land issues that affect us. On issues of land, there is an area in Samburu called *lososio*, which is in an area called Archers Post which was given out about 1963. I am not sure about the year. It was either in 1963 or 1964. It is a very extensive area which was given out. I am also not sure about the actual acreage of land that was given to the British Army or the Kenyan Army. So many things have happened in that area like killings. So many killings have been reported there because of various bomb blasts and also as a result of environmental pollution. Pregnant mothers were also affected and that led to very many miscarriages. Similarly, the women of that area have reported cases of rape both by the British and Kenya armies. To say the truth, we have tried to testify about these painful and traumatic ordeals, but nothing has happened. Many of the women were not able to come and share their testimonies about what happened to them because their culture and traditions do not allow them to come out in public to say that they were raped. If that is known to other community members, they might even miss husbands because of the stigma. So, those are the reported cases in the area in question and those bomb blasts have really affected many people. Their livestock have died. Those atrocities continue to be visited on the people there. They are still ongoing as I talk to you. This is an area that is near people. Mothers are experiencing very bad situations. The bomb blasts there lead women to miscarry their babies. That has adversely affected them. If you are pregnant, you get sick and later miscarry. This is very critical and dangerous. To add to that, you find that very good houses are built there and before you know it, they have very big cracks on them as a result of those bomb blasts. So, this is also another problem that we are experiencing.

I will also share with you about education. Not very many people are educated here. Why? Because many schools are far away from where we reside and so many children do not go to school. That contributes to very many underlying issues because idle children engage in unnecessary activities that are not beneficial to them. Also, there are some areas that have a water shortage or no water at all and so, they have a problem accessing water and schools. Also, the infrastructure is not there. Apart from Archers Post where there is a tarmac road, all the other neighbouring areas do not have good infrastructure. There is a lot of insecurity and no step is being taken to rectify that.

On the employment factor, so many people are not able to access employment. Previously, it was not very easy. You find that people were being employed according to who they were in the community and also according to how many bribes they give. You find that our people did not have money to bribe or, maybe, they did not know any other person to help them. However, I can say frankly that there are some changes because if there is any vacancy and you have the qualifications, then you are employed. So, there has been some positive changes but, previously, there were none concerning this.

**Ms. Belinda Akello:** Thank you for your statement on behalf of the Samburu. I will ask you to clarify a few things. I will go systematically from the first violation that you talked about of 23<sup>rd</sup> January 1994. You have indicated that there was an attack at about 5.00 a.m. in the morning. Who attacked the Samburu and what was the effect of the casualties of that attack? Were there any lives which were lost?

**Ms. Lucy Lolosoli:** Yes, many people lost their lives. To be precise, four young men lost their lives.

**Ms. Belinda Akello:** Your *manyattas* were attacked?

**Ms. Lucy Lolosoli:** Yes, the ones who attacked our *manyattas* were the Boranas who are our neighbours.

**Ms. Belinda Akello:** Lucy, was this incident reported to the police?

**Ms. Lucy Lolosoli:** Yes, when the police went to the incident site, they were able to find out the criminals behind that and no other action was taken after that. There were no further investigations.

**Ms. Belinda Akello:** Lucy, in your statement, with regard to an incident that took place on 17<sup>th</sup> June, 2009, you have indicated that some people died and some were tortured or treated in an inhuman way. Could you kindly clarify the events of this date?

**Ms. Lucy Lolosoli:** Yes, there are some young men who were tortured when they came to take their livestock. The Government took forcefully the Samburu's livestock because they claimed that it had been stolen from other communities. So, they came. Other young men were tortured by being sprayed with bullets from aeroplanes and with very bad water.

**Ms. Belinda Akello:** Thank you very much. In relation to the Archer's Post, you have indicated and stated in your statement that young and mature girls were captured or caught. Can you kindly elaborate who was taking or capturing those young girls and for what reason?

**Ms. Lucy Lolosoli:** It is not young ladies but it was two young men aged 12 years who were kidnapped in the same ordeal.

**Ms. Belinda Akello:** In all the incidents that you have enumerated in your statements, did girls suffer by virtue of being girls or women?

**Ms. Lucy Lolosoli:** Yes, it is the women who suffered most because when they went to take care of their livestock and look for firewood, the Kenya policemen tortured them and sexually harassed them.

**Ms. Belinda Akello:** Honorable commissioners, kindly make reference to the memorandum that has been given to you. As the witness has indicated, there are certain issues that are almost taboo in their culture to be spoken about including rape and about men who have been hurt. The memo does give names and that is all the questions that I have.

**The Presiding Chair** (Commissioner Dinka): Thank you very much for your testimony. Commissioners, do you have any questions?

**The Acting Chair** (Commissioner Namachanja): Thank you for your testimony. In one of the incidents when the police came to intervene, you said in Kiswahili that mambo yalibadilika. Mambo yalibadilika kivipi?

**Ms. Lucy Lolosoli:** When I say that mambo yalibadilika, I want to give reference to the traditions of the Samburu. For example, if a woman or a girl is raped, this becomes a traumatic ordeal because the repercussions are great. The victims in question may not even be remarried, so you find that men stigmatize the women who are raped and they do not even want to relate to them. That is why I said that.

**The Acting Chair** (Commissioner Namachanja): Mama Lucy, you have listed a number of incidences of raid after raid. I want you to specifically help us understand how women and children were affected in such raids.

**Ms. Lucy Lolosoli:** Women and children were adversely affected in these raids. For instance, there is a certain woman whose child was killed and it goes without saying that, that woman will be traumatized because she will see that it is not God who has taken the child but it is a human being who has taken the child. The woman's life will be adversely affected because she will just depend on the livestock.

**The Acting Chair** (Commissioner Namachanja): What about the children?

**Ms. Lucy Lolosoli:** Even the children are greatly affected because when their system is disturbed. They will have no food and no one to play with. Many of them become parking boys or girls in the small towns.

**The Acting Chair** (Commissioner Namachanja): You have also mentioned issues pertaining to education. Do you have any specific recommendation on how to improve education for children especially the girl child in your community?

**Ms. Lucy Lolosoli:** In our community, it is not easy for the girl-child to be educated because they say that the girl should just be married off and start a family. When you look at issues pertaining to education, the girl child capacity should be built for her to understand that her work is not just to stay in the manyatta; that she needs to go out and get education.

**The Acting Chair** (Commissioner Namachanja): What can be done so that the girl child can get education? Do you have any recommendations?

**Ms. Lucy Lolosoli:** My recommendation is that the girl child should be fully supported and her capacity should be built so that she understands the importance of education regardless of what our traditions say about the girl child.

**Commissioner Slye:** Thank you very much for coming here and representing your community and in particular for raising issues that I know at times may be difficult to talk about. It is of great benefit to us that you have been willing to do this.

I wanted to ask about one other area that you have only touched on indirectly and that is access to health facilities. What sort of access to either hospitals or dispensaries do you and your community have at the moment?

**Ms. Lucy Lolosoli:** Concerning health facilities I want to apologize because I did not mention that there is a problem. The hospitals and dispensaries are very far from where we live. There are places where you can go for 60 kilometres without seeing any dispensary. So, we just depend on the missionary dispensaries because they are nearer but the Government hospitals are very far.

**Commissioner Slye:** How close is the closest dispensary?

**Ms. Lucy Lolosoli:** For those who live far from the town, they are about 60 to 70 kilometres. We only have one dispensary at Archers Post and it is a missionary dispensary.

**The Presiding Chair** (Commissioner Dinka): These attacks which are very many in your memo are mainly attacks from other groups. Could you specifically say the ones that are from the military and the police?

**Ms. Lucy Lolosoli:** There is the attack of the young boys who were caught and their hair cut. That was not from the military but it was from the police and GSU

**The Presiding Chair** (Commissioner Dinka): Was it the only incidence where the Government forces attacked your people?

**Ms. Lucy Lolosoli:** There was the other one where there was rape by the British Army and the Kenyan Army and it was continuous. It happened a long time ago but it affected many women.

**The Presiding Chair** (Commissioner Dinka): Thank you very much for coming and giving this testimony on behalf of your community and for presenting us with a detailed and clearly written memorandum. I have two questions. One, how many high schools do you have in Samburu?

**Ms. Lucy Lolosoli:** At Archer's Post, we only have one high school for boys. In the whole constituency, we have two, one in Archers Post and the other in Wamba and one girl's school which was recently established.

**The Presiding Chair** (Commissioner Dinka): How far apart are those high schools from each other?

**Ms. Lucy Lolosoli:** There is a long distance between them because one is at Wamba and the other one is at Archers Post. They travel about 70 kilometres to reach there.

**The Presiding Chair** (Commissioner Dinka): You have talked about the land that was taken away from the Samburu and given to the military; the British Army and the Kenyan Army. You said that because of the military presence, women are being raped and explosives are being left behind to harm people and animals. Have you reported this to the Government? What has the Government done in terms of compensation or moving the military bases out?

**Ms. Lucy Lolosoli:** We have reported and they came to see but up to now, the military is still training at that particular field. They have assisted us a little and they have taken out some of the bombs.

**The Presiding Chair** (Commissioner Dinka): Is there compensation when people or animals are killed?

**Ms. Lucy Lolosoli:** Previously, they gave compensation to the women who had been injured but at the moment, there are some people who have been injured and they have not been compensated.

**The Presiding Chair** (Commissioner Dinka): Thank you very much, Mama Lucy. Can you lead the witness to her seat and bring the next witness?

*(Mr. Yusuf Halake took the oath)*

**The Commission Secretary** (Ms. Nyaundi): Thank you and welcome to the Commission. For the record, please, tell the Commission your names.

**Mr. Yusuf Halake:** My name is Yusuf Halake.

**The Commission Secretary** (Ms. Nyaundi): Mr. Halake, can you also tell the Commission what name you would want the Commission to address you by?

**Mr. Yusuf Halake:** Yusuf.

**The Commission Secretary** (Ms. Nyaundi): Yusuf, please, tell the Commission where you stay and what you are doing right now.

**Mr. Yusuf Halake:** I am a resident of Garbatula and I work for a local CBO called Northern Pastoralist Empowerment Program.

**The Commission Secretary (Ms. Nyaundi):** I have a memorandum that was prepared and I wish for you to confirm that this memorandum was prepared by Fatma Guracho Gonaya, Gababa Hapicha, Boru Wako, Selesa Molu and yourself, Yusuf Halake.

**Mr. Yusuf Halake:** Actually this memorandum was prepared by Garbatula elders and at the back of the memorandum; we have names of 59 elders.

**The Commission Secretary (Ms. Nyaundi):** This is the memorandum entitled; “Dying an Invisible Death and Living an Invincible Life.”

Mr. Yusuf, you will notice that it is heading to 4 O'clock and we have four other witnesses that we hope to hear today. I can see that your memorandum focuses in great detail on the consequences of the violations that were suffered by the people of Garbatula. I have noticed that you have also in your memorandum explained the pre-independence, the NFD and the referendum and I want to assure you that the Commission will have an opportunity to read your memorandum in detail. Your memorandum adds to what the Commission has heard in Garissa, Wajir, Mandera, Moyale, Marsabit and the speakers who have spoken this morning.

Therefore, I will request that you, please, emphasize because I think that this is the first time we have seen a memorandum that has grown into great detail and spelt out the effects that these violations had on individuals. I will ask you to please elaborate on this for the Commission.

**Mr. Yusuf Halake:** I will be looking at the terrain especially in response to the Government's security in the shifta war. In response to that conflict, the Government immediately declared a state of emergency in NFD and as the armed resistance gained momentum in the region; the Government relied on legal statutes mostly inherited from the colonial Government to deal with the emergency.

This is one of the legal statutes that the Government enacted and at the peak of the Shifta War in 1966, the Government promulgated the North Eastern and contiguous district revolution under the Preservation of Public Security Act, Cap. 57 of Laws of Kenya. This Act divided the NFD into two regions, the prescribed zone and the prohibited zone. In the prescribed zones that consisted most of northern Kenya as defined in Section 127 of the Constitution, security forces could enter and search without warrant, seize any property and detain any person. Those who were seen outside the prohibited zone because the prescribed zone had a 5 kilometre radius would be shot.

That is one of the legislation that led to most of the violations in northern Kenya. It is in total disregard of international treaties governing conflicts. International treaties define the core obligations that must be respected and it means that no matter what the nature of a war or conflict, certain basic rules cannot be abrogated.

Let me take briefly take you through the impact. Because the Boranas and the Somalis are similar in culture and lifestyle, the Garbatulla region became the epicenter of many conflicts. Mere ethnic affiliation, similarities, sympathy or even war and conflicts does not justify the heinous crimes against humanity committed by the security forces in that region.

Violence against women and girls especially in front of their family members added its own brand of shame into the conflict. Security forces carried large scale systematic mass rape as a tactic of war to probably humiliate and instill fear. Those rapes pre-inflicted lasting psychological harm on scores of women, girls and elderly mothers. For example, an elderly mother, Sofia Abdi (not her real name) was gang raped by the hostile security forces and her three daughters in front of their father and two sons. Horrifying accounts of rape were given by Satura Abdi who said the security forces on their routine raping spree, opened the birth canal of a twelve year old girl with a knife after initially failing to penetrate. Like a leopard driven into killing frenzy by the sight of blood, the security forces continued with this disgraceful inhuman act disregarding the plight of their profusely bleeding victims.

There were also aerial bombardments carried out by security forces especially the aerial bombing used by the military. Mzee Mero Ilalo says that he vividly remembers the aerial bombardments in Bule area and witnessed similar attacks in Barambatikara near Komu in which 79 villagers were killed and thousands of livestock were killed. Before the conflict, it is important to highlight that the pastoralists in those areas were richly endowed with livestock. For them, livestock was their entire fibre of their existence. Livestock provided them with food and skin which is made into clothing and shoes and sold to buy clothes and shoes. Important rituals like birth, marriage, circumcision, death and treatment of illnesses required animals to be slaughtered. Most of friendships are started and solidified by giving and receiving of livestock.

In the war, pastoralism and pastoral way of life was dealt a devastating blow. According to the FAO Report of 1970, Isiolo District lost 75% of the camel population, 90% of the cattle population and 75% of small stock which is goats and sheep during the war as a result of bombing and policy of human and animal concentration.

Having said that, I would like to add that Government security forces and agents used torture as their tool of operation. It was deliberate and it not only caused physical and emotional trauma to the well being of individuals, but also in some instances, eroded the dignity and will of the entire communities. The widespread torture took the following forms; beatings, fractures, head trauma, chest and abdominal fractures, sexual torture including forced nudity in public, verbal sexual threats and actual rape. Consequences of this includes re-experiencing the trauma where victims develop flash backs and intrusive memories in which the traumatic event is happening all over again. Distress at exposure symbolized the trauma and this is currently manifested by lack of trust and fear of persons of authority. For example, security forces are to date referred to as Nyab meaning enemy. Another thing is avoidance and emotional numbing where most of the

victims avoid any thought, conversation, activity and places that are a recollection of the trauma. There is also hyperarousal where most of the victims complained of difficulty of either falling or staying asleep and exaggerated startled response. Another one is damaged self-concept and shortened future. Nearly all the victims have a subjective feeling of being irreparably damaged and having undergone an irreversible personality change. They have a sense of a shortened future without expectations of a career, marriage, children or normal life plans. Victims also complain of pain, headache, muscle skeletal pains and chronic traumatic headache. Symptoms of depression are also wide spread among the victims who are still alive and a feeling of worthlessness, thought of death and suicidal intentions.

Those are the impacts and on the part of recommendations, the elders have recommended that the Government compensates them unconditionally for the loss of human and livestock killed by the security forces. During the conflict, there were also others who fled to Somalia and have started coming back and they are denied national identity cards and live in inhuman conditions. We also recommend that the Government issue national identity cards to those who had fled to Somalia and came back. We also ask the Government and military officers to apologize for their atrocities in the region and request the TJRC to investigate the use of names at wards in the Forces Memorial Hospital that reflect places where massacres and hundreds of livestock were confiscated by the military. Names of those places are used to name wards in most Forces Memorial Hospitals. We also recommend to the TJRC to visit Garbatulla and see those killing fields and the mass graves and the plight of those who have returned from Somalia after fleeing the violence.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much, Mr. Yusuf. I will ask you a few questions for clarification and then the commissioners will also ask you some questions.

In your presentation, you mentioned collective punishment. Can you, please, expound what you mean by this?

**Mr. Yusuf Halake:** I meant that the security forces punished everybody including the innocent. In the memorandum, I had indicated that there were proxy forces fighting the security forces in the region but because those people have ethnic link or they are similar, the inhabitants of Garbatulla are also taken to be members of the forces fighting the Government. It was difficult for the security forces to identify who was a Borana and who was a Somali. So, they meted out collective punishment whether you are innocent or not.

**Commission Secretary** (Ms. Nyaundi): Mr. Yusuf, you have also talked about the consequences at an individual level of these atrocities. I am wondering and we may need to understand how you collected this information. How many people did you interview and what was the source of your information?



**Mr. Yusuf Halake:** I actually started collecting this information after we learnt that Garbatulla was excluded from statement taking. Nobody from Garbatulla had his statement taken. The technical team sent by TJRC to Garbatulla in February told us that Garbatulla had been left out because there were no statements from there. We asked for, at least, two weeks so that we could go round and collect this data. That data was sent to your Commission. I visited 613 households. I later fell sick for two weeks after going through what I was told by the victims.

**Commission Secretary (Ms. Nyaundi):** I really appreciate the work that you have done. In many of our African communities, we have found way to handle different issues. I am just wondering, within your community, would you know whether there have been attempts to help the victims? Is there any social support available for the victims? I am asking this question, especially for the women and may be the girls who were raped and you have said that there is stigmatization. You have said that for their male relatives, they were de-humanized. Is there something that the society does for these people or are they just left unattended?

**Mr. Yusuf Halake:** They have been left unattended since that time. So many females are illiterate. Illiteracy level in Garbatulla District is 79 per cent. It is as a result of this war. Practically, learning started after 1972/73. That is when people started going to school after the cessation of the hostilities.

**Commission Secretary (Ms. Nyaundi):** You have also spoken about some people who had to flee to Somalia. Are the identities of these people known, so that their cases can be followed up on an individual level because you had said that what you needed was processing of identity cards for these people?

**Mr. Yusuf Halake:** Yes, they are known because most of them left their relatives behind in Garbatulla when they ran away. The people who are now coming back are a young generation who do not even know their kinsmen. It is a pathetic situation and the Provincial Administration has denied them access to identity cards.

**Commission Secretary (Ms. Nyaundi):** My final question to you is: Is it the position of your community that the persons who were responsible for this atrocities have never been held accountable?

**Mr. Yusuf Halake:** They have never been held accountable.

**Commission Secretary (Ms. Nyaundi):** Thank you, Mr. Yusuf. Before I hand you over to the commissioners, I noticed that you were seated with two other gentlemen. Are they also from the Garbatulla community?

**Mr. Yusuf Halake:** Yes, they are. We came with five elders who were sent here to support this memorandum. Personally, I was not born in the era of the conflict. So, I know nothing about it although I am affected by it.

**Commission Secretary** (Ms. Nyaundi): Please, introduce them to the Commission.

*(Mr. Yusuf introduced the elders to the Commission.)*

**Commission Secretary** (Ms. Nyaundi): I do not know whether they want to stand and be acknowledged.

**The Presiding Chair** (Commissioner Dinka): Thank you very much for coming. You are welcome. Thank you very much for your testimony. Mr. Yusuf and your colleagues, probably, the commissioners might have some questions for you.

**The Acting Chair** (Commissioner Namachanja): Thank you so much, Mr. Yusuf for taking the initiative of researching into issues that happened to your community members at Garbatulla.

When I was reading this memorandum, it sounded like a book that is fiction. I wish it were, unfortunately, it is the reality that your community went through. When I was reading it, I also wished that it was just a story that did not happen in our beloved country. Again, unfortunately, it happened in our own country. As I was reading it, I was seeing some of the issues for the first time. I have never come across them in the history books or even in Government reports.

Thank you so much for helping us to write the history of this unfortunate situation. I have some questions for clarification. Most of the impact you have shared, apart from the physical impact, has to do with psychological impact. In your report, when you talk about the intervention, you mention that at the end of the Shifta war in 1970, the Government allowed the Christian missionaries into the area. The Catholic and Methodist Missionaries stepped in to avert a looming human tragedy in the area, so they set up feeding centers at Garbatulla and Mogadishu to feed ailing and frail population just set free from the concentration camps with nothing else to their names. When you were carrying out your research, would you know if there were any attempts by these missionaries or any other groups to heal the psychological wounds some of which you have highlighted?

**Mr. Yusuf Halake:** That is true. The Catholic Mission in Garbatulla saw that the only way to bring life back into the community, was to take them back to the pastoral lifestyle they were used to since time immemorial. They carried out re-stocking programmes and they restocked over 400 families. In one particular instance, each re-stocked family got 40 goats and 2 donkeys respectively, but at that time, insecurity was at its peak due to marauding bandits who at the end of the shifta war had to also seek for ways of securing their livelihoods. They saw that there is a community here with no protection and they came and took everything. The missionaries attempted on three occasions. Later, they saw that because of the intense insecurity, they cannot continue with the programme. Each time, they re-stocked, marauding bandits would come and take everything at will. There was no protection from the security forces.

**The Acting Chair** (Commissioner Namachanja): Would you know if there were any counseling sessions for the children, women or the survivors of this conflict?

**Mr. Yusuf Halake:** There were some missionary nuns who were dealing with the girls and women and helping them to overcome their problem. They set up some small soap making and dress making industries for them.

**The Acting Chair** (Commissioner Namachanja): I am asking this because I recognize that we have some of our partners here from the Government, from the Civil Society and some of our international partners. What is coming up is that we are dealing with the population from Garissa, Wajir, Marsabit, Moyale and now in Isiolo that is highly traumatized. They were affected by horrible things, but while there were attempts to deal with the physical injuries, psychological injuries were never dealt with. That is why each time somebody stands up to talk, they break down. We need to reinforce the need for counseling sessions and if there are any partners here who can do that.

My next question is to do with the current relationship between the local administration and the residents. You said that they are called 'nyaps' up to now which means enemy. How is the current relationship between the local administration and the people?

**Mr. Yusuf Halake:** The security forces, during the shifta war, led the people to have mistrust. They took people from the other part of Kenya whether security forces or civilians as nyaps. After the shifta war, the military continued killing people in Garbatulla in 1999. It is not covered in this memorandum and I want to request the Chair to allow us to present more refined memorandum. There was a village in Garbatulla which was cordoned off by security forces in 1998 and they killed a school boy and a school cook and up to today, nobody has taken any action against them. Along the Maua-Garbatulla Road, Military Forces attacked a convoy ferrying food and miraa to Garbatulla near Kina. It is not as bad as some years back, but still there is that lack of trust and fear of security forces. Whenever they see a person in uniform, they feel like running away or avoiding them. It is a bad situation because these two need one another. It is due to that fear and mistrust that sometimes important information which the people have does not reach the security forces.

**The Acting Chair** (Commissioner Namachanja): As you improve on your memorandum, come up with a memorandum on how we can mend that relationship. How can we correct that relationship between the local administration and the people they are serving? It will be very helpful.

**Commissioner Slye:** I also want to commend you for this very useful memorandum. It combines rich factual matter with very sharp sense of the law and very sharp legal analysis. As you pointed out in your testimony, no matter what the reason is for a particular conflict, there are rules that apply. Those rules should not be violated. You have laid out a lot of violations of those rules from killings, rapes, degradation and torture in such an extremely rich and helpful memorandum.

As the Chair of the Commission said, for the first time for us in our trip to the Northern Region, we have seen medical and psychological effects that individuals suffer even today from events that happened over 40 years ago. In reading through your memorandum, I suspect that either you may have some medical training or somebody that worked with you did. It is a very sophisticated description of the symptoms that people have suffered. As our Chair said, it is clearly something that is not limited to Isiolo. We have seen evidence of it and heard stories related to it throughout the region. I hope that with the help of some of our partners and with the community here, we can start a process of providing the assistance to people that clearly need it because of being traumatized from events from such a long time ago and being re-traumatized by more recent events.

I want to mention that the Commission will be visiting Garbatulla later this week. I look forward to that visit. We have heard from you and from others about some of the events that have happened there.

We are very interested in going there and seeing for ourselves the evidence of the atrocities that were committed there. Again, I want to thank you on behalf of the Commission. I do not have any specific question for you, but I do look forward to an even richer document if you are going to improve upon this memo.

**The Presiding Chair** (Commissioner Dinka): I also join my Chair and Commissioner Ronald to commend you on the quality of your presentation. I particularly want to note that you have referred to the area as the Siberia of Kenya. These are very strong words. Garbatulla was the epicenter of the atrocities and we will study your memorandum and make recommendations to ensure that these kinds of things never happen again in Kenya.

I just want to join my colleagues to thank you very much for this detailed description of what had happened and to some extent continues to happen even now in Garbatulla and other parts of the region. We hope that your memorandum will add to our understanding even further and help us gain more insight into the problems besetting the Northern region and prepare us for organizing and writing our report and making our recommendation and final analysis.

The evidence leader asked you if there were some local traditional mechanism for assisting those who have been violated. In a number of African societies, we have that as she rightly said and I was surprised to hear that there is no ritual or ceremony of cleansing or re-integrating that person who has been so badly violated into the Borana society. Is my understanding correct that there is no such thing, say for a woman who has been raped or for a young girl that has been violated? Is there no kind of cleansing ceremony in your society?

**Mr. Yusuf Halake:** There was nothing of the sort. The victims just remained with their problems.

**The Presiding Chair** (Commissioner Dinka): That kind of enriches our insight into the problems and the continuing problems that these victims would have because there is no such mechanism in the society. We empathize with the pain, difficulty and suffering of your people and we will try to do our best to understand and reflect this thing in our report and make the rest of the people of Kenya understand your problem as well.

Will you take the witness to his seat and call the next witness?

**The Commission Secretary** (Ms. Nyaundi): Chair, before the witness leaves, I am informed that one of the elders that accompanied him would like to address the Commission. I would be requesting with your kind permission if you can direct us on whether the elder can address the Commission.

**The Presiding Chair** (Commissioner Dinka): Thank you very much, leader of evidence. I am sure that all Commissioners will agree that he can do so.

**Mr. Boru Wako:** Thank you so much, I am grateful for you today. When the massacre took place, I was a grown up man with children. I am the one who told my partner everything he has read because he was not born at that time. Most of the people who were in the massacre are now dead and only a few are still alive. We have never documented what we went through, but we only had them in our hearts. We narrated that story to many people. The Borana community was very rich and even the colonialists knew that because we had a lot of livestock. We did not ask for food aid because we had enough food.

We shared a border with the Samburus and the Somalis who were living in Garissa. The Government of Kenya killed us though we are Kenyan citizens. We are all black and we love each other but when the colonialist left, they told us to fight because we were illiterate. When the Government found the Borana and the Somalis fighting, they encouraged us to fight and up to now we are still fighting. We cannot travel from Isiolo to Gabra. Isiolo is ours and it is even written in our identification cards.

I am requesting the Commission to go to Garba and I will personally take you there and you will see a grave where many people were buried. Whatever happened in Garba, Merti and Modogashe was very traumatic more so in Garba. Most of the people who were living in Garba are now living in Isiolo town, some took their animals to graze and they died there and nobody knows where they are. I am illiterate so I do not know the date but the Government knows the date.

I was 22 years old then and I did not have any children and we were living at a place called Hadi and if you go there now, you will not find anybody. At the time I was married with no children but my wife was seven months pregnant and then they were attacked at a place called Alkahaman and they were all killed. Rashid's Sister-in-law was killed. Up to now, we are suffering because of that. We do not have anything, we have no land, and we lost our animals and our relatives. We had many cows, donkeys and camels, but we do not have any now. We need our rights because our people were killed.

We are behind in development because most of our people were killed and most of the people who were alive during the massacre are now dead. We need justice for the people who were killed in Garba and they were buried in one grave. Yalan Boru Wako, Halima Galgalo, Bule Duba and Gilo were killed while Halkani was shot. All the people who went to that borehole were killed and some people became mad. I cannot sleep well at night and since that day, I developed high blood pressure and I am on medication. I am 69 years old and I live on medication and the drugs do not work because sometimes I do not sleep. I am a religious man and that is what is helping me. Thank you so much and may God be with you.

**The Presiding Chair** (Commissioner Dinka): Mr. Wako, you spoke with such passion from your heart. It is not written but you said what you have lived and what you have gone through and we hear you. We thank you so much for going through that experience again to enhance our understanding of the situation.

**The Commission Secretary** (Ms. Nyaundi): Thank you Commissioners. As the next witness is led here, I am now in receipt of a document that has been submitted to the Commission by our second witness today, Mr. Hussein. As he had promised the Commission, he has brought two documents. The first is dated 9<sup>th</sup> May 2011 and it lists 17 individuals who were killed on the 19<sup>th</sup> of June 1967 at the Jamia Mosque. The second document is dated 5<sup>th</sup> of May 2011 and it gives 7 individuals who have lost their jobs on account that the Government found or thought them to be shifta sympathizers and also a security risk. I am praying Commissioners that you admit these two documents on the record of the Commission.

**The Presiding Chair** (Commissioner Dinka): It is decided to admit the documents and Mr. Yusuf has asked for permission to present a new and refined memorandum and that is also decided. You may do so.

You can now call the next witness.

**The Commission Secretary** (Ms. Nyaundi): Thank you Sir. For the record, please tell the commission your name.

**Mr. Sheikh Eno:** My names are Sheikh Eno from Kinna Town. I am a religious leader at Kinna Jamia Mosque, but professionally I am a teacher.

**The Commission Secretary** (Ms. Nyaundi): Please guide us on the names that you would prefer us to address you by, Sheikh Eno.

**Mr. Sheikh Eno:** Sheikh Eno.

**The Commission Secretary** (Ms. Nyaundi): Thank you Sheikh Eno. Sheikh, you submitted a memorandum dated 12<sup>th</sup> of February, 2011, in which you have clearly articulated the experience of the residents of Kinna Division. I have looked at the memorandum and noticed that you have also given us some background within the larger

context of the Northern Frontier District. I will respectfully request you only because of time to focus on the specific consequences to the people of Kinna and the recommendations. I will give you the Commission's assurance that the Commission will read the entire memorandum; so, only because of time I will be requesting you to focus on Kinna, and this is page 3 of your memorandum. Speak to us also about the recommendations that you are making to the Commission.

Thank you very much Sheikh, proceed.

**Mr. Sheikh Eno:** Thank you very much, Mr. Presiding Chair, Sir. I want to make some request before I actually present the memorandum, and if the Chair accepts I will continue. We found that during this TJRC tour of Kinna people have been a bit left behind, because even statement taking did not reach our place. Many people did not give statements and at the same time we had given our request through your people who visited us at Garbatula, that hearings take place at Garbatula. Unfortunately this has not been done. We do not know whether our request was presented to you, the TJRC from which we expect to get justice. We are getting injustice from them in the first place. We found that those who had their statement written are too old, and cannot come to this place; out of 100 people with whom we prepared this memorandum only three of us are around. So I request the Chair to give at least 5 minutes to each of the elders who are with me to say what happened. The second request I am making is an apology from very important elders, who also could have come. One of whom is Jattan Wako Wario, who is the Vice President of NCC, and is among those who fled to Somalia; because of his age and health he cannot come to this place. Since the commission cannot come to our place he cannot testify, but I bring his apology.

The other person is Aden Ali Wako, whose father was killed in Garbatula Daba. He lost his father and he actually could have presented his own feelings. He is currently the area councilor and the chairman of the county council. He could have presented but unfortunately he is not here with us and I bring his apologies. The third request that I am making is that we got the invitation letter very late. We got it on 1<sup>st</sup> of the month and were told that we make any changes we want to make in this memorandum, and send it to the Commission seven days before the hearing. Imagine that between 1<sup>st</sup> and 8<sup>th</sup> we were unable to make the changes. So I am requesting this Commission that I might have to add some information to this memorandum that has not been corrected. So we might add some oral information which might not be in the memorandum, but is very important.

Lastly, I have a request from the elders who said that so many people came to their place, and inquired about reports; they said Mr. Hussein went to them, they gave information but nothing happened. They said that people go to them and the *wazee* give them information, but nothing changes. They said the Commission should commit themselves in writing and assure the public that something will be done. We want affirmative action to be taken. I can continue with what I was to say.

**The Presiding Chair** (Commissioner Dinka): Sheikh Eno, thank you very much for being very frank with us. I am sorry that your community feels that they have not been

sufficiently attended to. Statements were taken all over; we know the region and have taken the highest number of statements from the northern region. We have taken more statements than from any other Province in Kenya, because we cannot cover the entire population. Nevertheless, if there are some people who would want to record statements while this hearing is going on, as I have said earlier in the morning, we have set aside today, tomorrow and Wednesday for people to continue recording statements. The very idea of the memorandum is to fill that gap, the gap that has not been filled by individual statements; the memorandum is for presenting what the community feels, or what the community's grievances are and to put them into one document. If you like, you could include or attach to it the names of the 100 persons whom you mentioned, so that their names could appear in the final report. About the late invitation, I am very sorry. Possibly, it was because of the mailing system in the country, and it is not only peculiar to Kenya but is the same throughout Africa. Sometimes you send Christmas greetings through mail which may not even have reached by the next Christmas. So it happens but we had actually tried to send the invitations out as early as possible.

As for additional commentaries, or even facts to that memorandum, that, of course, is welcome. The two gentlemen who are with you and for whom you asked for 5 minutes, I have not consulted with my colleagues, but I am sure they are very generous people; they would want to hear them and from everybody for five minutes, if you can make sure they will each conclude in five minutes. Thank you very much and you may continue now.

**Mr. Sheikh Eno:** Thank you very much. I am presenting a memorandum relating to bad relations caused by the *shifita* war, and decades of marginalization in Isiolo County. I will not be talking about the historical background; I will highlight one point. During the era between 1960 and Independence time, northern people had chosen NPP and NPU at the same time. This time, as my brother, Hussein, reported there was a commission which was formed, the Northern Frontier District Commission. Its terms of reference, as you said, were to ascertain and report on public opinion in the NFD regarding arrangements to be made for the future of the area. During this time, I am adding some information here, the Governor by then Malcolm MacDonald came up to Garbatula and the Commissioner who was there then, according to information I am getting from the elders, was a Nigerian. They are telling me he was a tall huge man, and he was the one who had taken the people's opinions. It is only that they did not know his name and we have not established the name. The majority of the people overwhelmingly voted for secession formally but the Government acted against that. It was believed that the British Government was forced to take anti-people's stand for fear of reprisals against settlers by the independent Kenya Government. That is one point that I wanted to make.

During this time, I wanted to highlight to the commissioners that PC Eliud Mahihu came to Garbatula with lorries full of military officers headed by a general called Maritim. What he said in public was that they would not look for other *shiftas*, but those people seated there were *shiftas* and they should start with them. He added, "They should not leave this compound unless his friend---." Immediately he left in a plane, Gen. Maritim started beating the people in this same field where he came to give that notice. This is the point that I was given. After that Gen. Maritim was injured in a fight with *shiftas*, but he



was replaced by Gen. Mohamud who was one time Maj.-Gen. He started fighting and immediately after that concentration camps started where we have Garbatula, Modogashe and Merti. I do not want to give details.

One of the incidents I want to include in this memorandum is that the person who led the contingent that killed about 70 people at one point was Gen. Mulinge, who was at one time the boss of the Kenya Army. The lost lives were many and I do not have to go into the details because they are in the memo. This was loss of lives and property, lack of access to basic needs, denial of mobility, social stigmatization, displacement, social disintegration, and loss of pastoral grazing areas. That was what happened, but because of the exit of the Government from the area I want to add one thing; that poverty levels rose. The people of Garbatula rely on livestock and we do not do any farming. However, because of the serious poverty, we are now doing farming in Kinna. There are no written documents to show this from the Government reports, but there is a writer by the name Buckter who wrote in 1997 and called it "Time of Stoppage". In one line he said, "The pastoralists of this area have been reduced from prosperity primarily". This is how the people in this area have suffered a lot despite their past prosperity. They have been turned into paupers.

From the survey of 1994, it is indicated that poverty levels rose up to 82 percent. Do not forget that up to now the Government has done nothing about the illiteracy in this area. In the whole of Garbatula District we only have two secondary schools, Garbatula Secondary and the one at Kinna; but currently there is a school we have started at Modogashe and Cherecho, which goes only up to Form One.

Besides that, there is lack of other facilities such as health. We still rely on a health centre at Kinna. We have the internally displaced people; some of whom ran away to Somalia. As I indicated, one ran away to Somalia and he is expected here but he has not yet arrived. He was a member of the NCP. Between the year 2002 and 2004 some of them came back, but up to now they have not been given identity cards and they are being discriminated against. I hope that you commissioners when you go to some of these other areas you will find that all the watchmen are people from my place. If you go to Naromoru, Naivasha, Nairobi, Nanyuki you will see people from the Ewaso region. People who live in Meru today have been given the name Nangai. What made them acquire this name is because they have nothing and have to beg. There is loss of grazing land, and due to the poverty that bedevils our people--- The then lands Minister, Hon. Jackson Angaine, gave some land to Ngambira and Gare Mara here. This went to the Meru people while the rest was taken to Wajir and Garissa. The area has been taken by some other people; so, today it is not their place. To add to this, Meru National Park is part of our land. When there is drought we are not allowed to graze our few remaining livestock in the park. The rich minerals of Duche have been grabbed by people like the late Kimathi, who was said to be an in-law to the late Mzee Jomo Kenyatta. He took the land and there was no compensation; he has been using it for several years.

Then the worst of all is this insecurity that happened to me as a Kinna person. These were bandits from Somali who came in and the Government of Kenya had nothing to do with

it. If the commission will give us time we shall bring a different report on what happened all the way from 1980 to the year 2000; banditry took place in our area. Most of the cases have been reported to police stations. Many animals were lost and several people have been killed, but we shall bring a good report. Rape took place and the Government is doing nothing about it.

Lastly, we also have discriminatory laws, some of which have been changed, like the Special Districts Administration Act of 1934, North Eastern Province and Contentious Districts Act, 1968, Sections 127 and 128. All these have been discriminatory Acts which have been affecting our people. Up to now people fear the army and the police. They call them “nyaps”. That fear has been entrenched so much that when we see the police, the AP, the army, we know they are nyaps, they are enemies, and are not there to protect us. With this in place, the same Government enacted the Indemnity Act. This is how this Government has acted; it enacted the indemnity Act so that we can get nowhere.

Finally, the expectations and the recommendations that we have: We seek reparations and compensation, the Government should undertake comprehensive development initiative similar to that of America which was initiated for posterity. The implementation of such a plan should be manifold to rehabilitate and settle an impoverished population through restocking and other sustainable means, to provide basic needs like quality education, water, infrastructure like roads and telecommunications, identify and provide monetary compensation to those directly victimized.

We also think of review of boundaries; the Electoral and Boundaries Commission should undertake a special enquiry in order to establish the truth of our claims. If the truth is established, the lost land which has not been occupied should revert to its original owners. Some places might have been occupied, and I do not know whether we can retake them, but there are those which have not been occupied and these should revert to us. We also give a recommendation that Acts like the Indemnity Act--- We have heard that the President has refused to assent to the removal of this Indemnity Act. We want it removed or replaced by another Act. Lastly we are also asking that a commission of inquiry should be established to find out exactly what happened under the Act. Finally our recommendation is that in important places like Tariborto, where several people died, the Government should put up something like a monument, a big stone or a university and write names of those people who died so that generations that will come can know what happened. We have names of about 71 people who died, and if the commission tells me to read them out I can do it; but since the names are many I think commissioners can read them for themselves. I now give a chance to others.

**Mr. Halake Bonja:** First of all I would like to give thanks. All those who have come here are talking about concentration camps. These problems have been too much, and instead of calling them concentration camps they should say that this is the time when the Boranas lost their lives. Concentration camps were jammed with people who were denied education and had a lot of problems. They were put in the same place with animals. They were put in concentration camps where there were no toilets and none of them knew how or what to cook, because they used to live on milk and meat. They suffered from diseases

and they died there. All the animals were killed with bullets while others died of hunger. When I was still a young man Kenya got Independence; I was 30 and I was at Uhuru Park when Kenyatta was given the leadership of this country. What I am telling you today is what I actually saw and it is not something new to me or hearsay. Mr. Mahihu called us for a rally and our councilor was Mohamed Gaigatan. I have not said that there are no bandits in our place. There is no going to school.

Major Maritim was the one who was in charge, and he said you cannot go looking for guys whom you cannot find. "You should start your work here". This was a Provincial Commissioner giving orders to his juniors. They started now doing whatever they could do. The problems that we had during this concentration camp period included losing education and up to date we have problems. In Kinna we do not have a police station. We have two Kinnas, the one on the Meru side and the other one is on the Garbatula District side. The one on the Meru side has a police station while the other does not have it. We have not seen justice here as we have been suffering from the bandits although we belong to the same Kenya. Our people in Meru are called 'give me' because they have nothing and they have to keep begging. These people are always in the streets begging; so, they are called "Nangai" which translates to "give me".

In our memorandum we have told you so many things and I do not need to tell you so many things. These atrocities have been committed by the Government. I will ask you, commissioners, that we should be paid reparations because we are still in the same condition that we were left in, and we are still suffering.

**The Commission Secretary (Ms. Nyaundi):** Please tell us your name.

**Mr. Dura Nura:** My name is Dura Nura and I would like to say three points. Two are personal because they involve the kind of torture that I went through, and the third issue is about the community from which I come. In 1965, when I was in grade I of primary school, I used to go home when schools closed. While at home one day the armed forces raided our residential place and my family, including my aunt, grandmother, sister, my mother, and fourteen sisters were raped before me. I tried to cry and to defend them but I was brutally beaten. My parents themselves were not able to know where I was. They had taken me to Garbatula and they were able to know about my whereabouts after one week.

The young man, who was a son to a neighbour, had blood shot eyes and could not speak. His name was Ordha Jilo Wario Gulio. He went through a high level of trauma. We do not know whether he went to heaven, or whether he was burnt. This was the first issue. When they were burning our residence at a Manyatta about 114 jericans of fuel were brought. My businessman uncle brought a big lorry from Mombasa and it was burnt down. That was the first violation.

The second violation happened when I was in Class Three on 16<sup>th</sup> June, 1967. I was frog marched from the classroom by armed forces; I asked them what it was and they did not respond. The headmaster witnessed all this as I was taken to the police station where I found four elders, Abdikadir Sogo who was my uncle, Ali Kugow, Ali Jirma, and Hassan

Halake. I was put in custody by the armed forces who were using the Kenya Wildlife Service (KWS) airplane.

We were taken to Meru Town along with 7,000 head of cattle. The Member of Parliament of Isiolo South then was Ali Hassan Wako Wario, who is still alive up today; when he got this information he was able to hire an airplane. We were taken to Nairobi by the plane and we went to his residence. The following day we were taken by a station wagon Land Rover, KCW 164, up to Meru Town. After four days cattle were brought to Meru Town from Kinna. This is what I witnessed with my own two eyes; thirteen lorries from the Kenya armed forces transported the cattle for four days. The cattle were taken to the Kenya Meat Commission by the military lorries, whose numbers were concealed.

After the cries of our MP we were only able to recover very few head of cattle. The fat ones and the big ones were taken to the KMC. Many animals died due to lack of pasture. My uncle, who was one of the richest people with 604 head of cattle, was left a pauper. If the cattle were not taken I would have been a professor like Commissioner Slye. The story is now different because all our resources were depleted. Even as I talk to you today, I am unable to educate my own children because of the violations that I have gone through.

The third violation touches on land. Today when you go to Kinna, which is very fertile, you will see that our land was taken. All the land where we used to graze our livestock was curved off and given to the Meru Game Park against our wish. A national Park benefits the country, but if it is not going to benefit the local people, that is not good. Kinna residents, who are only three kilometers from it, have not benefited at all from the national park. The most interesting thing is that the wildlife in that park have been given a very vast area without our consent. At the same time the wildlife has put our lives at risk.

We have depleted all our resources and this is, in my view, the greatest violation. When you enter into our town the looting that was done by the armed forces in 1965, three plots of our elders who were the pioneers of development of our area, up to date the concrete foundation is still at the centre of the town. This was a business premises for these elders. Just in one night the armed forces struck. The town was demolished.

The armed forces looted everything. You did not know what to say or who to complain to. As I speak to you this has happened in this town in Kenya. All these scars will be seen. When the heads of cattle were taken the son of Amolu Konchara, the son to my uncle who is older than me by three years--- We do not know where he is to date.

With those few remarks, I thank you.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much Sheikh, Bwana Halake and Bwana Nura. The Commissioners will ask you questions; so, I ask that you be patient.

**The Presiding Chair** (Commissioner Dinka): Thank you very much. I will ask the Commissioners if they have any questions.

**Commissioner Slye:** I do not have any questions, but I want to, on behalf of the other Commissioners, express our gratitude to everyone of you for your testimony. You have both presented us with a very interesting framework in your memorandum to understand the context of a lot of what happened. As you know, in our mandate not only are we to document the historical injustices that have occurred, but we are also to try and understand the context and the cause. You have provided us with some useful information in respect to that. Particularly the last two speakers provided a very human side to what you have provided in the memorandum in a more detailed way.

The personal cost of the atrocities that have occurred, I want to assure you that this Commission takes these atrocities seriously, and we very much appreciate your presence here and your willingness to share with us this information. We look forward to working further with you as we move forward in understanding the causes, and the consequences of these terrible injustices. So, again I want to thank you very much for the work that you have put into this, and for your willingness to come here and share with us what you know.

Thank you.

**The Presiding Chair** (Commissioner Dinka): I have no question also, but I would like to take this opportunity to join my other colleagues to thank you Sheikh Hussein for the memorandum, and also for the promised report on banditry from 1980 to date, which you said you would give to us. I think that will be very helpful.

I would also like to thank the two elders, Mr. Bunja and Mr. Nura for the passionate presentation in five minutes. As my colleague, Prof. Slye, said about the human side of the story, I believe that when we leave this place tonight we will be much better informed on the situation of the Kenyan community and the entire story of what happened in Garbatula and the neighbouring regions.

Thank you very much and I would like to ask the Hearing Clerk to accompany the witnesses to their seats. If there is any other witness, call him or her.

**The Commission Secretary** (Ms. Nyaundi): Mr. Presiding Chair, Sir, I was going to seek your direction; we have two witnesses and they are present, Hassan Guyo Shano and Mama Fatma Abdi Rahaman. I seek the direction of the Commission since it is 5.20 p.m. as to whether we shall hear both witnesses.

**The Presiding Chair** (Commissioner Dinka): Leader of evidence, I think you could try to tell them to be brief in their presentations; I think we can take both of them. Perhaps we might have to go until about 6.30 p.m.

You can now call the next witness.

*(Mr. Hassan Guyo Shano took the oath)*

**The Commission Secretary** (Ms. Nyaundi): For the record, please, tell the Commission your names, where you stay and the work you are currently engaged in.

**Mr. Hassan Guyo Shano:** My names are Hassan Guyo Shano. I am the manager of an NGO by the name Uwaso Trust Land Project, which has offices in Isiolo Town. It serves the areas in Isiolo District.

**The Commission Secretary** (Ms. Nyaundi): Guide me on what name you would like us to use when referring to you.

**Mr. Hassan Guyo Shano:** You can call me Shano.

**The Commission Secretary** (Ms. Nyaundi): We are in receipt of your memorandum dated 9<sup>th</sup> May 2011. Looking at it I see you have spoken on the broad issues around land and past historical injustices and their consequences to this community in which you are working. I will give you the assurance of the Commission that your memorandum will be looked at and we will request you, only because of the interest of time, that without losing the richness of your memorandum, if in your submissions, you could kindly focus on the recommendations that you are giving to the Commission.

You may proceed.

**Mr. Hassan Guyo Shano:** Thank you very much. I want to thank the Commission for coming here today. As a member of the civil society, I am among the people who have been fighting for the formation of the TJRC. Some of the problems people have been talking about can be faced and we can solve them. I have been among them and I was also trying to object to those against the TJRC. However, I thank God that the TJRC was formed; I also thank God that problems that people have been encountering--- Things have changed and at this moment the Commissioners can be trusted. I only hope that our cries will be heard.

So many people have been coming here and complaining that at the end, all the papers collected will just be thrown somewhere. Nothing will come out of the hearings. This has been a routine in this country Kenya. However, because of the concrete impact that the TJRC has in the world we believe what we are doing will be understood and undertaken.

As you know trust land is one of the resources that pastoralists have. Pastoralists have been rejected politically, socially and economically. Isiolo does not have a good climate. We have drought all the time. This occurs continuously and because we are pastoralists, sometimes when it rains there are floods and all the time the people of Isiolo undergo different problems.

When I come to what concerns me, it is about the boundaries and land demarcations. We have the Uaso Trust Land which educates people and defends the rights to land. As you were told before, there was a time the NFD was always opposing the Government, because of different issues. These people do not know the meaning of Independence. We were colonized by the Europeans up to 1960. We were marginalized and neglected; we never knew anything about Kenyans. We were called “the frontiers”.

The colonialists had their issues and after Independence our elders said we should go to Somalia. If I could have had a post those days I could have told the colonialists to continue colonizing us for 20 years more instead of being colonized by blacks.

When we refused to be in Kenya, the Europeans told Kenyatta that these people are not good people, so they should be beaten. That is the time we had the camps which people have been talking about since this morning. This story is just the same. We were placed in the concentration camps. We have heard old men crying here, we have undergone so many problems and properties looted. As the Borana, we have cattle known as Borana. We are told that people know the Borana cattle more than the Borana people. This is because when the colonialists came they found cattle and not people. We had many cattle but few people. We have been paupers because our properties were destroyed by people who were employed to do that. That is the genesis of the problem that we have undergone. Some people sat down and decided to divide Kenya.

There is an old man who died. He was at one time the Minister for Lands. That was Mr. Angaine. He was the one who took our land. Since those days we have not got anything from Somalia. We came back to Kenya in the early 1970s. From the 1970s all the maps started being changed and others destroyed. There was a conflict in Isiolo; people were killing each other and doing different things. The conflict in Isiolo cannot end because people have taken land without paying for it. The tribes who were living in Isiolo before were living peacefully.

However, because land demarcation was changed, people decided to grab land. We have complained to the council, we have gone to court and also to complain in different places. Their people are more than us, are richer and have authority in the Government. They are using force to take our land from us. This is what brings all this conflict.

**The Commission Secretary (Ms. Nyaundi):** I would like to thank you for the history you are telling us, but I want to tell you that the speakers who talked earlier talked about the same issue. I want to ask you with due respect that if you can only concentrate on your recommendations on the last page of your memorandum. We are asking you to do so with due respect.

**Mr. Hassan Guyo Shano:** There is something that I never wrote in the memorandum. It is important because the object of this Commission is to solve the problems that affect us, so that such things do not recur. If we cannot talk about the problems now, they will always be repeated during elections or any other time.

Because of lack of time I will talk about other issues. The other issue I am going to talk about is poverty. Poverty affects we people of this area. Poverty has brought problems in Kenya, and if we cannot talk about such issues there will be a lot of problems. Seventy five per cent of the people who live in this area are very poor and illiterate. If that kind of problem cannot be solved by this commission and we cannot be given a chance to talk about this issue it becomes a problem. When we talk about 50 years of Independence and things are still happening like this; a commission has been formed, but the problem is the same. Why do you think such a problem cannot happen again? What happened in 1963 and 2011 is the same and there will be no big problem.

We are educating our children and we are told primary school education is free. We have hunger and families cannot even provide food. Animals have been finished by drought. A child is expected to go to school without having tea in the morning. What do you expect such a child to learn? Children from this area get grades of D+ or D-, and when they go to the university the money they get through from the CDF is only Kshs5,000 or Kshs10,000. This helps only in paying for transport or school office supplies. In terms of education, we are really suffering.

In the upper part of Eastern we have problems in job opportunities. When some opportunities come we are not given a chance as the Borana. We live in three districts, Isiolo, Marsabit and Moyale. In these areas you find that the Borana are the majority. In jobs, when people are given opportunities our brothers in North Eastern Province and us are classified under one group. If it is about education we are treated equally. I cannot blame my brothers. We have not even been given an ambassador or a PC or even an MD in any Government parastatal. We can only be found in some commissions where you would find one who comes from this area. As I speak to you, this is not the only violence that has been done to us.

Even when we talk about census, we can say we are not equal; Garissa, Wajir and Mandera have 2,700,000 people. Isiolo, Marsabit and Moyale have 160,000 people. We find that people look at us in a different way. We are marginalized and that is the feeling we have.

Another thing is the conflict that comes from the boundary. The grabbing of land is rampant in Isiolo and Nyambene District. Nyambene District has now moved to Isiolo. They have done land survey in Isiolo District. You find that a different district has come into Isiolo District. You find that people have been living there for centuries. There was a time when the maps showed boundaries well, but because there is no defence in Isiolo people decided to migrate into Isiolo. I cannot blame anybody; we have the Meru whom we are within Isiolo, but at a time when there is conflict, a full Minister, Peter Munya, is the one telling people to move from Meru to a new district where we had a conflict. Just two days ago people were killed and animals taken. Because the leaders of Isiolo are dormant, that should not be a reason for other leaders to deal with us in an aggressive way, and bring death in the country.



I am saying that we have a problem of land demarcation, boundaries and land grabbing. This is something that should be addressed.

Because the madam has told me to be faster, let me read the English version. I am going to read the recommendations.

- (i) Injustices such as emergency and security operations like the Daaba and Isiolo Mosque massacres which caused poverty among Isiolo communities. There is the absolute need for the comprehensive construction and development of the region.
- (ii) The victims of human rights violation of Isiolo should be compensated by establishing a special fund for reparations and institutions, especially for families that lost their members and livestock.
- (iii) The Government should conduct further investigations into massacres that occurred in Isiolo during the emergency period, determine the extent and scope of violations of human rights and punish the perpetrators accordingly.
- (iv) Isiolo should have a special employment quota to enhance employment opportunities, especially in the public sector and the Government.
- (v) The Government should immediately stop arbitrary demarcation of Isiolo boundary by Nyambene County Council. Nyambene leaders should be investigated for instigating violence along the common borders to reclaim land for the Meru Community.
- (vi) The incoming Independent Electoral Boundaries Commission should review the Ligale Report, and take into account areas like Isiolo that were left out in the distribution of additional constituencies. Isiolo is a big county geographically and has historical political institutions and thus requires additional constituencies.
- (vii) The Government should declare a moratorium in the allocation of land to put an end to unscrupulous deals by all authorities and Government agencies. Such a moratorium will ensure that community land management will be established and better protection of public and community land.
- (viii) Comprehensive and sustainable plans and strategies are required to be formulated to alleviate poverty in Isiolo District and support the residents on the path to recovery and development. There has been a general complaint and allegation of misuse of devolved funds such as the CDF in Isiolo County. The CDF Management Committee should release the audit and other reports for public scrutiny. Many projects that were said to have been completed have actually stalled or are even not started.
- (ix) There are many cases of economic rights violation of the local community in Isiolo, and, therefore, require Government intervention by conducting proper investigations.
- (x) Land and natural resources of the community which are currently being grabbed by private conservancies such as Northern Range Land Trust and Lewa Down Conservancy should be investigated urgently, so that the survival of the pastoralists is not further endangered.

Those are the recommendations that I had. As I wind up, after the formation of the Ligale Commission that was here, there has been a lot of violence, especially in the upper Eastern, Isiolo, Marsabit and Moyale. Instead of doing justice they did a lot of corruption and at the end they never gave us assistance. This is one of the commissions that were

formed under the Koffi Annan Act. A commission like this, which is international, should not do shoddy work like that done by the Ligale Commission.

Those people who came here on behalf of Ligale, because Ligale himself did not come here, were with Eng. Sharawe. He really never gave us justice. He did injustice to us. We have not been awarded any constituency. In Meriti Division, there is not even one water spot. People can die because of lack of water. There are also a lot of problems there. Instead of considering us they only went and considered those in manyattas and villages, where they gave a constituency, leaving us, the people of Moyale, without any justice.

**The Commission Secretary** (Ms. Nyaundi): I will ask you a few questions and then the Commissioners will also ask you some questions.

Mr. Shano, I really want to appreciate your participation in our hearings as a member of the civil society I can see you have worked in this region since 1996. The people we have heard in the morning, including you, have pointed out that there are a number of communities that live within Isiolo County. Around the issue of land, I need to understand it correctly. Did you say that there are tensions within this county between the different communities? We have heard that there are the Borana, Somalis, Meru, Turkana and the Samburu in Isiolo. Have I understood correctly that there are tensions between these different communities over the land resource within this county?

**Mr. Hassan Guyo Shano:** In the past, all these communities lived in peace. However, when we go back in history, there are some people who have come here and have gone further than others.

In Isiolo Central there are tribes known as Kharte and Hisak. There are people who have been living here since the 2<sup>nd</sup> World War. They were brought here as soldiers from Northern Somaliland. Then other communities joined us. We lived together peacefully and there was no conflict. Even the Meru people were just our neighbours. This went on until when the new maps were drawn. This was when conflict erupted and people started killing each other.

**The Commission Secretary** (Ms. Nyaundi): I needed to hear more from you as somebody who has worked in the civil society on ownership of land in this region. We are looking for guidance from organizations like yours. This is because you have said this is a recurring challenge. Have you framed specific recommendations regarding how the issue of land ownership can be resolved, having regard to the diversity of the people within this region?

**Mr. Hassan Guyo Shano:** We tried but because of the laws that time we could not manage. That time the President had the power to distribute the land to everybody who wanted it. We tried to stop such grabbing by saying the land belonged to the community and would only be allocated by the Constitution under the Lands Commission. The county will have the mandate to give out this land to the people. It is not where the council allocates land anyhow. The elders of the council will be mandated to distribute

land so that the routine of just issuing land is stopped. The corruption in which rich people just come and take land should be stopped.

**The Commission Secretary** (Ms. Nyaundi): I am also wondering whether your organization has carried out any work towards the auditing of the management of the CDF, and whether maybe at a later date you can share your findings with the Commission.

**Mr. Hassan Guyo Shano:** The CDF is so bad in this area, because people do not understand their rights. They lack knowledge about their rights because of illiteracy. We also have the political elites who come and try and take the chance and grab public property. Some people use a cartel to benefit from such funds.

The people have tried to go to court, but there is lack of justice. As an NGO we are trying to educate people so that they know their rights. It is not just about money from the CDF, but all the money from the Government should be accounted for. The rights of people should not be violated. As we talk now, the people of Merti are suffering because of lack of water. There is the Northern Water Service Board, but it does not supply water there. We have the Ministry concerned with water, the Ministry concerned with development of Northern Kenyan, Isiolo County Council, the Ministry in charge of livestock and yet people are still dying because of drought and hunger. Nobody is there to assist these people. All the officers live in Nairobi. As an NGO, we are going to educate these people.

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

**The Acting Chair** (Commissioner Namachanja): You are the first person we are hearing from the civil society. We thank you for your initiative. I have one question. Would you know how many civil societies operate in Isiolo?

**Mr. Hassan Guyo Shano:** I know those that work here. There are many CBOs, but we only have ten NGOs that I know of.

**The Acting Chair** (Commissioner Namachanja): Do you know if any of these NGOs are working in the area of alleviating poverty?

**Mr. Hassan Guyo Shano:** I do not know if there is any amount of money that can be sufficient. If there is any way I could support, I would be happy to do so.

**The Acting Chair** (Commissioner Namachanja): I wanted to know if there are any groups that have been working towards reducing the poverty. Has there been any success? If not, what recommendations would you make before this Commission?

**Mr. Hassan Guyo Shano:** In order for poverty to be eradicated in this area, it is the responsibility of the Government. The people of this area pay taxes which should be used well. There is a lot of corruption in the Government. If that does not stop, poverty will

prevail. Look at the prices of things like petrol, kerosene, and food. At a place called Bula Pesa we have over 2,000 people living there. The area is like a slum. Nobody is there to help. There is no development there and yet all the Ministries are present. It is said that there is rural electrification, but there is no electricity there. It is not lack of money; rather it is lack of taking responsibilities seriously and lack of justice that brings poverty in this area. NGOs will not eradicate poverty and elevate living standards of people.

**The Acting Chair** (Commissioner Namachanja): We want to thank you for your testimony and coming here to talk to us.

**Mr. Hassan Guyo Shano:** I also thank you, very much.

**The Commission Secretary** (Ms. Nyaundi): Mr. Presiding Chair, Sir, I have consulted with Fatma Abdirahman who was to be our final witness for today and she has informed me that subject to your directions she is willing to come tomorrow morning. I, therefore, request that we adjourn today's proceedings to tomorrow so that we do not rush her. We had said that we want to end at 6.30 p.m.

**The Acting Chair** (Commissioner Namachanja): Ladies and gentlemen we come to the end of today's session. We had eight witnesses this morning. We also received various memoranda and documentation.

I want to thank all the witnesses and members of the public for keeping calm and showing supportive attitude towards the witnesses.

The meeting is adjourned until tomorrow at 8.30 a.m.

*(Closing prayers)*

*(The Commission adjourned at 6.03 p.m.)*