



**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON TUESDAY, 25TH
OCTOBER, 2011 AT BARINGO COUNTY
COUNCIL HALL, KABARNET (Women Public Hearing)**

PRESENT

Gertrude Chawatama - The Presiding Chair, Zambia

Anne Kiprotich - Counsel

(The Commission commenced at 12.00 p.m.)

*(The Presiding Chair introduced herself
and the other TJRC Commissioners)*

(Opening Prayers)

Ms. Anne Kiprotich: The women are happy to have this meeting. I want to take this opportunity to welcome you so that you can greet them.

The Presiding Chair (Commissioner Chawatama): I greet you all. I am very happy to be here. My name is Gertrude Chawatama. I am one of the international Commissioners from Zambia, where I work as a High Court Judge. I have had the privilege of presiding on many cases involving women. I am very excited to be here. The women's meetings are very important for the Commission. In fact, without the contribution of women, our work will not be complete. In the Commission, we have said that when a woman is healed, then a family is healed; a community is healed and the nation is healed. I am happy to say that I truly believe this and that I believe that through the healing of women in Kenya, this nation will be healed. So, I welcome you to this women's meeting. Please, be as frank as possible. Let us discuss the things that have affected or impacted your lives negatively and some of the changes that you would like to see. Ms. Kiprotich will speak to us about areas that we will touch, areas that the Commission is mandated to look into and to make recommendations.

I am happy to say that the recommendations made by this Commission are mandatory by operation of law. What this means is that they have to be implemented. So, the work of the Commission is a weighty one. What you say today is very important and will in future have a bearing on the direction which this nation will take. So, I welcome you. As a woman, I know some of the issues that we go through. Issues of women have no respect. Just because I am a judge does not mean that I am not affected. We are all women. We all go to labour ward and we all try not to scream. We are women. So, let us talk and let us map the way forward and contribute to the well being of this nation. I thank you for your attendance and may God bless our deliberations. Thank you.

Ms. Anne Kiprotich: Thank you very much for those words. As the Commissioner has said, I would like to take a short time to tell you why the Commission was formed so that it can highlight. The first one is about rape. I would like to start with that one because most of the time, women speak about other things. They talk about other challenges that affect their children, husbands and maybe even their neighbours. However, they cannot speak about what affects them as women. So, the issue that the commissioners want to look into is about rape or social injustices that affect the women, the girl-child and the children in the community.

Another issue that I would like to hear from you is the issues to do with killings. We know some of your husbands lost their lives in ways that we cannot understand. You will find that sometimes, it could be killings by one person to another, massacres by other communities aimed at other communities and even Government institutions like the police officers. They might have contributed to the loss of their lives.

Other issue that we would like to hear from you is the choice of women, especially in terms of inheritance. You will find that in the community, women are neglected and they are not allowed to inherit because a woman is regarded as someone who does not have strength in a community. You find that in a community since your --- inheritance, a man beats you. Those are the things that we want to hear from you.

The other reason why the Commission was formed is that we would like to see the issues of women in terms of leadership. We have heard in other areas women talking about their chance in leadership. Sometimes when women want to vie for seats, their lives are threatened. Other issue that the Commission is looking into is the issue of the position of women in the community. Let us open our hearts, so that we can talk about these issues. Other issues are human injustices and historical injustices. We would like to hear how the traditions and cultures have contributed in terms of education, health issues and access to health. We would like to hear about issues concerning traditions which are done in a community like FGM for girls and even women. How does this contribute to the injustices of women? So, those are the few things that you will highlight. It is your chance for you to speak and tell us.

This is an open forum. If somebody raises their hand, we will give her the microphone so that she can speak. I would urge you to talk about issues that affected you as a person. You can also talk on behalf of other women who are not here but whose problems you know, so that when the Commission writes its report, it will have listened to all the issues affecting women. When you are given a chance to speak, please, tell us your name before you explain your issues. At the end of it all, you should give us recommendations. What do you recommend to the Commission so that the issues can be highlighted and looked into? Thank you very much. Be free to share with us your experiences. As I said, this is not my day. It is your day, so that we can hear from you, women. Thank you.

Councillor Veronica Chesang': My name is Councillor Veronica Chesang', the Chairlady for Maendeleo ya Wanawake in Baringo District. I have two issues to raise and I hope we get some assistance. First of all, we have been oppressed. There are many

cases of rape in this region. For example, a girl was raped in Kipkilelwa. She was taken to the hospital by the police officers. The man who raped her was arrested and later set free. The girl was discharged from the hospital and went back home. However, she cannot walk properly because she sustained wounds during the rape ordeal. After some time, it was discovered her uterus had been affected. The child was taken to Nairobi Women's Hospital. I felt so bad that the man was set free and this girl continued to suffer. I went to the police and asked why the person who defiled the child was set free but they said there was no evidence. The family could not follow up the issue.

Another problem is that there are two women who reported that their land had been grabbed. We tried to contact them through the phone but we could not manage to reach them. The land was grabbed by the in-laws because their parents did not bear a boy child. So, the two women are not there. These are some of the problems that women here face.

There is also the problem of inheritance. They cannot get ownership of land if they do not have a boy child.

In this town, there is a group called Kabarnet Precious Women Group. This group was given a plot within the Municipal Council in 1984. They contributed and paid the money in 1996. They were given the allotment letter and shown the plot by the municipal planner. They were also issued with the beacon certificates. However, the municipal council denied them access to the land. These women have been suffering from 1998. The women have been denied their rights. They were oppressed. They were told that the plot belonged to one person but not a group. We went to court and the ruling was made in his favour. We appealed against that ruling but up to date, the case has not been concluded. We were told that our file disappeared from the court. How can a file disappear from court? The person who grabbed our plot claims the case was concluded and probably, we were not told. So, they have really been oppressed in that particular manner. Thank you.

Ms. Anne Kiprotich: Thank you for speaking on behalf of the children and the community. Perhaps, the Commission has questions for you.

The Presiding Chair (Commissioner Chawatama): Let her sit down. When she comes back, we will ask her questions.

Ms. Mariam Lesirma: My name is Mariam Lesirma. I am very grateful to the TJRC for paying us a visit here in Baringo. Today is our day, my fellow women. Let us present and address all our issues. We have cried for a very long time that we have been oppressed. We would like to say we have been oppressed by who and how. That is why we say let us open our hearts today so that we can address all our issues that we have in our homes; not only in our homes but elsewhere even on the roads. Let us tell this Commission all what we have undergone in terms of oppression. We believe the TJRC will help us today so that our issues can be understood.

I am going to contribute about the oppression of a mother and their children. Women of Baringo have suffered for a very long time. There was a girl who was raped at Marigat

Town. This happened in July. That girl was five years old. The five-year old girl was raped by a man who was 26 years old. This man has a wife and a child. We were astonished when we heard about this case.

This child was raped by the person who was carrying her on a motorcycle when she was being taken to school. On the tragic day, it was noted that the child could not even wake up. Her private parts hurt. Her mother reported the matter to the police station and the child was taken for medication. However, the rapist has never been arrested and charged in a court of law. We demonstrated in Marigat Town demanding for action to be taken against the rapist. Women cried when they saw the girl. She was in great pain. It was really painful for us. Many children in this area have been defiled, but very few cases are reported. I urge the Government to arrest that man because he did a lot of damage to the girl.

Our children, especially the girls, have been oppressed in many ways. I believe women should teach children good manners. We should always make sure that they discuss freely with us so that we know their problems.

In this part of the country, women have been oppressed for a long time. We have been beaten and our property taken away. We cannot talk about these things in public because of fear of being intimidated and most of us are not enlightened. Today, let us open up our hearts and talk about our issues without fear of intimidation. Thank you.

Ms. Anne Kiprotich: Thank you. I am sorry for the challenges your children face. Maybe we can get another woman who will highlight different issues from what has been said here.

Ms. Rhoda Kobilo Cherop: My name is Rhoda Kobilo Cherop. I am happy to see that all women are here. I did not imagine that a day will come when we will talk freely about issues affecting us.

In 1995, I was given a plot in Nakuru. I paid some money to the Commissioner of Lands and I was issued with a title deed. I built a house on that plot. However, last year, it was destroyed.

I was called so that I could go to court. However, last year, they picked me from Baringo and took me to Nakuru Prison. They chased my people from that piece of land after they arrested me. If there is any justice to be done, then it should be done to me. Right now, I do not have money to hire a lawyer. I have children who depend on me. Last year, my child did not sit for the examination because I was in prison.

Yesterday, I was told somebody had fenced my plot. I felt that they should not do anything to that piece of land until I get money to hire a lawyer so that we solve the matter once and for all. The other person says that he has the title deed to that piece of land. I also have the title deed to the same plot. I have been going to court but I have

never been assisted. They want to arrest me so that they can take my plot. Who can respect women's rights in this country? We want justice to be done to us.

It pains me to see how things are done in this country. I do not get enough sleep. Today, I want to speak the truth before I am affected by high blood pressure. So, I would like the TJRC to help me so that I get my land back. They can also help me hire a lawyer. I want to educate my children so that they will be self-reliant when they grow up.

The Presiding Chair (Commissioner Chawatama): Thank you for speaking out. I really see your pain. You are crying because of the efforts that you have put in at the cost of your loss. I am really sorry for the loss that you have suffered. I want to understand what has happened in your case. Could you remember the year in which you got the title deed?

Ms. Rhoda Kobilu Cherop: It was in April, 1995.

The Presiding Chair (Commissioner Chawatama): Do you know the year in which the other person got their title deed?

Ms. Rhoda Kobilu Cherop: I was given a title deed on 4th January, 1995. The other one was given on 23rd March, 1995.

The Presiding Chair (Commissioner Chawatama): Do both title deeds bear the same particulars of the land?

Ms. Rhoda Kobilu Cherop: No. Mine is Plot No.17232. I cannot remember particulars of the other title deed. It is just a small parcel of land. I do not know why the other person wants it and he has a larger parcel of land than mine.

The Presiding Chair (Commissioner Chawatama): Why were you arrested? What did the court say?

Ms. Rhoda Kobilu Cherop: There was a lawyer who came to discharge me from the court. So, I did not have enough money to pay him, so that he could continue with the case.

The Presiding Chair (Commissioner Chawatama): What did the court say to you? Why were sent to prison and for what reason?

Ms. Rhoda Kobilu Cherop: I was arrested because I insisted that plot was mine.

The Presiding Chair (Commissioner Chawatama): Do you have any document from the courts?

Ms. Rhoda Kobilu Cherop: I have one from the court but I left it at home. I have the title deed with me. I have a photocopy because they requested for the original to take to the court. However, up to date, I have not had enough money and that is why they are

disturbing and harassing me every now and then. They even came up to my home to arrest me.

The Presiding Chair (Commissioner Chawatama): Is your home far? Could you bring the documents to us?

Ms. Rhoda Kobilu Cherop: It is not far. It is on the side of Kabartonjo. I can go there and bring those documents.

The Presiding Chair (Commissioner Chawatama): So we can see what you have and then decide the way forward. We have a lawyer here. She will look at your documents. Were you attending a court here?

Ms. Rhoda Kobilu Cherop: No, it was in Nakuru Town.

The Presiding Chair (Commissioner Chawatama): Please, bring the documents so that we can understand your matter a bit more.

Ms. Rhoda Kobilu Cherop: Thank you.

Ms. Anne Kiprotich: Thank you, Rhoda, for your courage to speak about the issues that affected you. I would like to give this chance to another woman.

Ms. Agnes Chepkemboi: My name is Agnes Chepkemboi. I have a personal problem concerning my mother. There is a plot that my mother was given in 1977. After being given the allotment letter, she had not received the title deed even after paying all the dues to the municipal council. Five years ago, she went to demand for it, but she was told that it had already been issued to somebody else. She only has the allotment letter. She has a sale agreement. We also received a letter from the Commissioner of Lands.

After that, when my mother went to find out where the plot is, a person came to me and said that plot belongs to the other party. She had a different number but the plot is the same. The other person took the title deed. We looked for a lawyer. The lawyer investigated and looked at the letters of my mother. He then addressed a letter to the municipal council stating that the plot belonged to my mother. But nothing has happened to date.

My mother has even become ill because of the issue of this plot. She has paid the lawyer. There is nothing that has been taken into consideration. We engaged a lawyer in 1998. However, up to date, nothing has happened. The case was only mentioned once. We do not know what is going on. The person who took the title deed is still cutting down the trees. He is continuing to develop the farm. He can even lease out the land for some time. That is all about my mother.

My personal problem is that I was married in November, 1982. I stayed with my husband for about two years. I was called by my parents to go home. After going home, they came for the engagement at my home. I was married in Nandi. After going back to Nandi, we

stayed and we were blessed with five children. When I got the fifth child, I asked my husband to pay a visit to my parents and pay them dowry so that I could know that I am officially married to him. He became furious and asked me whether I wanted a marriage certificate. We stayed in that situation for a long time. After some time, this man married a second wife. I decided to go back to my home. I continued to stay at home. After some time, the second wife was also chased away and he married a third wife. He stayed with the third wife but he also sent her away.

My children are grown up by now. They are adults. The youngest is 22 years old. I wonder where they will go. I cannot now marry. He was summoned by my parents. When he came to my parents' home recently in April, he was asked whether he still wanted me back or they stay with their child. He said that he still needs me. He was asked to pay the dowry. He said that he would pay the dowry on 25th April. Since that day, he has never paid anything. I do not have a house; I do not have anything. I have been staying in rental houses for the last 30 years. I do not have any rights in that particular home yet I have children

The Presiding Chair (Commissioner Chawatama): How long had you stayed with your husband?

Ms. Agnes Chepkemboi: For the last 15 years.

The Presiding Chair (Commissioner Chawatama): What is the cultural practice here in as far as marriage is concerned? If you move in with a man and you have children with him, is that considered a marriage culturally?

Ms. Agnes Chepkemboi: Yes, if he has paid dowry. However, if he promises to pay dowry, then they consider you are married in that home.

The Presiding Chair (Commissioner Chawatama): Have you tried to ask your husband for maintenance for yourself?

Ms. Agnes Chepkemboi: He was asked the same question by my parents. He said that he could look for a house in Eldoret and then he would be paying the rent before he built a house for us. It is almost ten years now since he gave that commitment but he has done nothing. He does not give me anything for my maintenance. I am suffering with my children. He does not even pay for their school fees.

The Presiding Chair (Commissioner Chawatama): Whether it is English law or traditional law, by the time you live with a man for so many years and you have children with him, there is a presumption of marriage because the people you live with will look at you and say that is husband and wife. So, your husband is supposed to take care of you and the children. Did you ever take him before the chief or to court in order to ask for this maintenance?

Ms. Agnes Chepkemboi: There was a time I approached the Human Rights officers in Eldoret. He was given a letter to go to their office but he did not respond. The human rights officers themselves also did not make a follow up.

The Presiding Chair (Commissioner Chawatama): We have a lawyer who will take your particulars and your contact. We shall then deliberate on your issue and see what the way forward should be but you have seen the practice. He married you and left you. He also married another woman and left her. He went further and married another woman and left her. So that if life is so easy for him that he can continue to just marry and leave people and then not feel responsible to look after them, that is not right. That should not be encouraged.

I do not know whether there is a women's group where you meet and talk about these issues because sometimes it is better to tackle issues in numbers. I think it was Rhoda who spoke of the demonstration they held when it was found that a child had been defiled in Marigat. Those are the things that attract attention. Often women just suffer silently in their homes. You are entitled to maintenance.

Even when you lived together, there are things that you did that made the family's life easy. I am sure he worked and you also worked whether it was in the home or in the farm. So, you are entitled to a contribution. We will take your particulars and the lawyer in the Commission will also take your contact address so that we can deliberate on the way forward on this matter.

Are there other women in this group who are in a similar situation- whose husbands have divorced them and they are not receiving any maintenance?

Ms. Agnes Chepkemboi: Thank you very much. I will do as you have said. Regarding my mother's issue, I have the photocopies of the documents.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your courage to address your issue. I can see my fellow sister is here. Tell us your name.

Ms. Rebecca Lembasi: My name is Rebecca Lembasi. It is a joy today to see that we, as the women, have got a platform to address our issues with the TJRC so that we can speak about the problems that we undergo.

In our cultures and traditions in Africa, women are taken to be weak vessels. We are perceived to be people who are challenged. It is a joy to see that you have come today to listen to the problems that we are undergoing as African women or as women of Baringo County.

I would just like to speak about the child, especially the girl-child. In the community that I come from, most of the time the girl-child has a lot of problems. In our particular place, they are forced into early marriages. There is also the problem of FGM. Women want their children, especially girls to get the best education. There are still some issues that are making us lag behind, especially in my particular community.

As I said earlier on, girls undergo circumcision. Most of the time in our culture, when a girl has been circumcised, she is told that she is now a woman and she is ready to go into adulthood and get married. The girls undergo circumcisions at a very early age; as early as nine, 10 or 12 years. Just imagine this girl-child is told that she has become a woman and that she is ready for a marriage life. She is then given out for marriage. Is she ready to become a wife? It is so painful. When the girl resists and says she wants to go to school, she is told that she cannot go to school because she is now a woman and she is supposed to get married. It is only the boy-child who is given chance to continue with his education.

You find that at home, the woman has no right to claim ownership of the land or livestock. It is the man who sells without the consent of the woman. You are just told there is a cow but wealth belongs to the man. You are just there. You are just supposed to take care of the wealth but you do not have the right to mention that that wealth belongs to you. We do not know what the way forward is so that women can also have a right of ownership of the wealth that is in a particular home. Most of the time, you find that even if it is a farm, the man registers it in his name. You find that a man can marry a second wife and live with her after leaving the first wife without any wealth or right to ownership of particular land.

If you look at the lives of women in the community I come from, you will find that we have a lot of problems. Mostly at this time in that place, there is the Perkerra River, which has taken a different course and it is now near people's homes and they do not have a place to go to. You find that it makes the lives of the people there very difficult, and as a woman, people depend on you since you should go and fetch firewood. You find that there is a river that brings problems and you find that most of the women in such areas suffer when they go to fetch firewood. On their way back, they are affected by the weeds of the Perkerra River. For example, there is a girl who sat for the KCPE Examination and passed very well but they said that she cannot continue with education since her parents could not afford to pay school fees. That girl was given out for marriage to a certain old man. They have stayed for around eight months. The girl has been chased away and the parents say that she should be married forcefully to that home. The girl wants to return home and the old man does not want the girl.. I was with her yesterday and asked her what she was doing at the moment. She said that she did not have any choice because she cannot go to school since her parents cannot pay and the man who married her does not want to stay with her. She is below 16 years of age. She is still a student. She went to Form One for very few days because of lack of school fees. I do not know what you can do for that girl because she is undergoing a lot of problems. She is a person who would help her parents in future but now she is suffering and the parents will also suffer in future because she cannot take care of herself and the parents. She is my neighbor and I stay with her most of the time. So, I think it is good that you are with us today so that you can look into our issues and address our problems. Thank you very much.

Commissioner Chawatama: Thank you very much. You have brought up the issues of early marriages, FGM and education of the girl-child. From some of our findings in the places where we have been like Narok and Lodwar, women are speaking openly about FGM. They are realistic on the dangers to their health and are questioning it; they are now saying that it is not necessary. They have also come to accept that when a girl-child is educated, she looks after their parents much more than men or boys. We heard in Narok about a young girl whose mother had nine daughters and people wanted to take away land from her but since she was educated and understood the law, she fought and stood by her mother. However, we also found that women themselves were the main culprits in FGM and that the young girls only agree to being cut because they are stigmatized. So, you need to form a group and get together women to begin to discuss these things openly. If deaths have occurred because of the cut, you need to record them, be it when the girls are cut or when they are giving birth; talk about everything else that goes with being cut.

How can a child of nine years be married? Even her body is not ready for what she is being subjected to. So, again, this needs to be discussed and it is an offence really. So, if one or two people were imprisoned, maybe people will begin to fear the law. So, you need to get together with other women; you need to be strong and take some of these issues to court. Let the court just imprison one or two people and at the same time create awareness. Let us help one another. If some of us have ideas on how to tackle some of the problems that we are hearing, let us educate each other. If you are involved in a group that has done some work, let us share the experience.

Ms. Anne Kiprotich: Thank you very much Commissioner for the encouragement to women. I can see we are continuing in a good manner and we want to listen to the issues that the women are going through.

Ms. June Yegon: Thank you very much. My names are June Yegon from Baringo County. I am very grateful for the TJRC because you have come to the grassroots. We had said that the Government had forgotten us. If you go to the grassroots in Baringo County, we do not have tarmac roads and women are suffering. Not less than two women die in one month during delivery due to labour pains. The hospital is far from their homes and Baringo is a hilly place and is full of valleys. You can take about three hours while suffering from labour pains. Maybe you were supposed to go for an operation and you bleed and die. Most of the women have been affected; these are the young women and who are expecting their first born children. Second, during the rearing of the children, most of them become disabled but we do not get assistance from the Government or even from the departments that are in the areas that we come from.

The disabled and hermaphrodites undergo a lot of problems; we have them in this community. We do not know how to help them. At times, we are told to take the children to Kabarnet so that they can be attended to but the roads from East Pokot to Kabarnet are very poor. There is no means of transporting such disabled children and that is a very big problem. It forces somebody to leave the child at home until she dies. When you go to some places, you cannot walk alone as a woman since you can be attacked by thugs. Men go to the forest to hunt or look after the cows. We are really suffering when it comes to

feeding them. The children are dying of hunger. Most of those under five years cannot survive. If a child survives for more than five years, we are really thankful. They do not have enough food. There are malaria attacks and also other issues that we encounter in our place. There is only one district hospital in Kabarnet. From Muchongoi up to Kabarnet District Hospital is a long distance. From East Pokot to Kabartonojo, there is only one district hospital and we want the Government to consider that issue seriously.

On the side of the young girls who undergo early marriages, even those who are in primary schools cannot complete education. They finish when they are pregnant because the young boys who drop out of school also get into schools and defile them. When we report these cases, they are brought back to the community and the council of elders. The Government is not doing anything. We lose about ten girls---. The men who defile them have wives and families but we do not know how to help them.

On FGM, I want to say that in the community you are discriminated against if you have not undergone FGM. It is just last year that the girls had gone for circumcision and they had no food. They had to go to the roads to look for motorists and ask for food from them. If you are not circumcised you are discriminated against totally in the community. I do not know how the Government can help us so that we can overcome FGM and our girls get assistance like any other girl in any other particular area. In the interior, there are no roads; there is nothing. You can come to East Pokot to look for food but you will just get illegal brew which is alcoholic. Children eat the dregs at times. We do not know how we are going to assist ourselves. When we go to job opportunities, schools should be spread out in Baringo. Secondary schools should be in distances that are apart. If we are educated, we can get jobs.

On the issue of women groups, we have a few of them but we have not got aid from the Government so that we can develop ourselves. Also, aid for children with disabilities is not there. We are appealing to the Government to take note of the registration of the children that are in the community and help them in one way or the other. The Government should assist the people who are to be operated on. Also, we try as much as we can to assist and make children comfortable in their homes. That is all.

Commissioner Chawatama: Do you know if any of the women groups have had funding from the Government?

Ms. June Yegon: For sure, in the interior areas of East Pokot, Arabal and Muchongoi, there is no assistance at all that they have received from the Government. Even if they have groups they just assist with buying utensils at least to help and get out stress and poverty.

Commissioner Chawatama: Do we have a woman present whose group has benefitted from funds from the Government? We would like to hear how they managed to access the funding and what they did with that funding. Anybody?

Ms. Mary Tabosei: Thank you very much. My names are Mary Tabosei. On the side of the women and their needs, if you take them to the Department of Social Services, they can help you but most of the time they just concentrate on one side. They cannot meet the needs of all the women. Our group took a loan and we paid it back. We also took another one and we paid back; it reached a point where we could not manage. At times the Government assists but they do not consider the women who are at the grassroots. They look for women who are capable. The Government first wants women to try their best. They want us to contribute so that they can see that at least we are trying and that is when they can give us loans. They do not loan us in a very fast way. Also the Government suppresses women, in that they wait for women to suffer for long before they give out loans. Now, how do we go about this issue? It is for the women to decide. In our group, we struggled for five years before we could get the loans. They assisted us but it took a very long time.

Commissioner Chawatama: What business venture did your group involve itself in?

Ms. Mary Tabosei: In my group of women in Karwesa Division, we have poultry farming and cattle or livestock farming. They visited the place and agreed to give us a loan.

Commissioner Chawatama: Thank you very much for the information that you have shared. I think this is an example of how our ownership can help women; when you get together as a group and you are responsible and accountable to each other, property is yours. So, if anybody else makes a contribution on the project that they went into, please take time to share with us so that we can give each other ideas in order to improve the lives of women.

Ms. Anne Kiprotich: Thank you very much. I would also urge you that if you get an opportunity, be very brief since we are running short of time, so that we can give an opportunity to as many women as possible since we only have 30 minutes.

Ms. Jacqueline Leiro: Thank you very much. My names are Jacqueline Leiro. I am married in Ilchamus. I am not from there but I am married there and have lived there for a long time. I take this opportunity as a woman from that area. There are a lot of issues that affect the women in Ilchamus. As my fellow women have said, there is FGM, girl-child education and insecurity among the women. The Pokot raid us and there is fighting. In African tradition, men go to fight and women stay at home and most of the time they run; in the culture of Ilchamus we do not stay in IDP camps. We stay with families until the fighting ends.

At this time there are challenges that face women in Ilchamus. Men disappear during the raids and there is a lot of divorce and separation. Therefore, you find a woman in Ilchamus does not get a right as a woman. Due to separation, the women are affected a lot since there is no food and the women there believe that the man is the sole provider of food; she is not used to looking for food. So, during insecurity, the women are affected because there is nobody to take care of them. Maybe they are pregnant and there are a lot

of abortions which happen in that area and they are affected. Also during insecurity, police officers are brought by the Government to restore peace and they misuse the women whose men have gone to fight. They harass them sexually; sometimes they come to women's houses and say that their husbands were involved in raids. At times they chase the women or rape them. Most of the time, you find that women are infected with HIV/Aids and they do not know what to do. They do not know where to get help because they are not educated. They are affected and there is nothing they can do.

So, I will recommend that security officers should not go into people's houses to infect them with diseases. Leaders should look into this. During raids, the girl-child does not go to school. They stay at home and maybe you find that it is a girl of ten or 12 years who has already undergone FGM; since there is no body at home she is misused by the police officers and nobody takes care of them. Also, in that community, there are issues of leadership affecting women. You find that since they are not educated, women are not given leadership positions. In Ilchamus, we only have one woman who has a Master's degree. I have a colleague who is doing a Master's degree course. She is the second woman who is doing it; even if she says that she wants to go to school during the time when she is working, her husband does not allow her because people who are educated help in communities.

There is also the other issue of voting rights, where women do not have rights during elections. I happened to be a head clerk in a ward. During the registration exercise, you find that women do not have rights. When they want to register in a certain polling station, they have to discuss it with men. So, it is very difficult. During voting, the woman has to vote for the person the husband wants because they do not have any right to say that they will vote for so-and-so. So, I request that during General elections, women should be sensitized and have civic education. They should be educated on their rights and choose the candidate that they want. They should not choose a person because their husbands want them to vote for that person.

The other issue where we women are affected is that as a community, our men are polygamous and you find that you get married at the age of 17 or 19 years. Maybe your husband works as a teacher or policeman and you are left in the village. They stay away and you look after the cattle; you stay for 20 years and then your man comes with another woman from where he lives. I saw in a newspaper that there will be a law which will say that if you have lived with a man for two or more years and you have a child, automatically you have a right of owning the property of your husband. You find that women who are first wives are affected a lot because you look for property for 20 years and then it is divided between you and the second wife. You as the first wife suffer and you do not get anything. I would like the TJRC to legalize this law. Help us on this issue because women are affected a lot. After so many years, the other woman comes with one child and during division of the property, you get the same share.

Commissioner Chawatama: Thank you very much for the issues that you have brought up. As much as I should not talk much but should listen to you, every speaker has provoked me into speaking. I am trying not to get angry, but there are so many things

which you have said that have really touched my heart. I will share with you. Even in Zambia we struggled with this issue where a man takes a second wife and then upon his death or separation, that is what the wives are entitled to. What was decided was that if the wife was entitled to 50 per cent of the wealth, the one who has lived with that man the longest gets a higher percentage. It is right because this person has lived longer and contributed more. Even if that person is not working, the mere fact that she bore someone children, washed clothes, ironed them and cooked for her husband is enough. So, even as this law is being discussed, I think there is need for women to intervene and discuss things that you have brought up.

As a Commission, we will find out the stage at which this law is before it is enacted and let us try and see if we can influence aspects of it. If it is a policy, and because we are allowed to, let us influence policy and at the same time we will also speak to the electoral body on the issue that you have raised because women should be allowed to exercise their rights to vote. I do not know when this issue of treating women like children is going to come to an end; it is all over since it is an African thing. We are treated like children. Sometimes even judges are not respected. Even women presidents are not respected. So, we should continue to work towards ensuring that our men know that we are not children and that we should be allowed in decision-making fora.

You seem to suggest that there is a very high rate of divorce in the area where you live. Do you know why this is so? Two, why are women miscarrying? Thirdly, on insecurity and rape, and you have mentioned in particular the Pokot wherever we go, maybe in just less than three minutes you can touch on the issues that I have raised.

Ms. Jacqueline Leiro: On the issues of abortion, they happen when there are raids. Women give birth to many children and some of them run away with their children when they are pregnant. So, they change their lifestyles where they run away. Maybe there is no food or there is lack of proper nutrition; they also get stressed or are not settled. During this period, they do not go to the clinic due to poor infrastructure and lack of roads and hospitals. They end up miscarrying or the child dies soon after birth. So, there is a high mortality rate there. In terms of insecurity, we saw yesterday that in Ilchamus 100 head of cattle were taken by the Pokot people; security agents are on the ground but do nothing when livestock are stolen. People become poor and life continues like that and nobody asks anything.

Commissioner Chawatama: What about the high rate of divorce or separation?

Ms. Jacqueline Leiro: On the high rate of divorce, it is because husbands go to raids and stay there long. Their woman end up meeting other men in the places where they go and they are harassed sexually. So, when the man comes back and finds that you have slept with another man, automatically that is a divorce and then you suffer. The woman suffers because she has to look for food, look after the children and there is nothing she can do.

Commissioner Chawatama: We would like to hear from the three elderly women here.

Ms. Jennifer Sote Tuitoek: My names are Jennifer Sote Tuitoek. I have a big problem about land. I think of land, especially where I can build a house for my son; the councillor discriminated against me. He wrote letters to me and told me to get out of that land. I have been given the land. I had been told to get out of a piece of land which was mine and I even had a title deed. Now, they have demolished what I had there. From 2008 to date, I have letters to that effect and I have been evicted from that piece of land. Even when the children try to build a house there, it is demolished. I do not know what to do because they are discriminating against me. I have a whole file of letters from the municipal council.

Commissioner Chawatama: Let us see the letter you have received from the council so that we can see what the real issues are; we have our lawyer here who is going to be very busy looking at the issues that most of you have raised, including land. Can we have someone who has a very pressing issue? Mum, we will find a way of getting your papers.

Ms. Anne Kiprotich: Since time has gone, I would like to get three speakers and please address different issues from what has already been addressed.

Commissioner Chawatama: Be brief; we want to listen to you in about 15 minutes.

Ms. Nancy Kiptoon: My names are Nancy Kiptoon. I come from Kerio Valley, North Baringo, Baringo County. I have a very long story concerning my personal life and it all concerns a man. I attended school up to Standard Seven. When my mother sent me to fetch water and wash clothes in the river, I met a certain man who was called Mark Chergat. He was working with the Ministry of Public Health. I was still a student. He got hold of me and took me to the forest. He told me not to speak and not to mention his name.

He raped me and I became pregnant. I did not know until when I went back to school. I was in a boarding school then. I told my mum but she said that if we reported the person then our businesses would be closed. So, I kept quiet. In the middle of the term, I felt ill. I did not know that I was four months pregnant. I did not know what to do. When schools closed, I went to the man's place but he refused to take responsibility. He took a transfer. The child is my first born and he is now in Form II. The man disappeared. My uncles assisted me. I delivered at a district hospital. When the child was in Standard VII, the person came to demand for the child. My mother told him that he had to pay first. I reminded him that he denounced me when I told him I was carrying his baby. However, he insisted the child was his and he could not leave him because he resembled his people.

He talked to my parents and they allowed him to take the child. He took the child to a boarding school. However, it was as if he was not taking care of my child. Whenever the child wanted anything, he did not provide. I was providing everything. In fact, I wondered why he took custody of the child if he could not take care of him. He took the child's birth certificate. When the child joined Form I, he told me to educate him. I

discussed the matter with my mum. We decided to take him to court. When I told my husband, he asked me where I met the father of the child to discuss such issues.

The child reported the father at the Children's Office. We were all summoned there. He wrote a commitment letter that he would pay money before schools closed. I committed myself to be doing shopping for the child. However, he never paid the school fees as he had promised. So, I sold my cow and paid the school fees. My husband was annoyed with me. He told me to go finish my issues with the father of my child. He said he was not going to deal with two people. My child suffers a lot. He asks me who the father is. I decided that I will struggle with him until he finishes school.

Commissioner Chawatama: You are a strong woman, my dear sister. Nobody should ask you the difficult question to try and choose between a marriage and a child. I sense that that is what your current husband was asking. He is supposed to help you sort out the issue of your child. Why do you not go back to the Children Welfare Office? He made a commitment and there should be a penalty for him for not honouring his commitment to pay school fees.

God has been good to you. Continue to do the best for your child but ask your husband for support. Let your husband be part of the decisions that you are making for the child. Seek his wisdom and ask him what you can do for the child. Do not let him be an outsider. Even when you go to the Children's office, go with him because the two of you are one. He is not happy with the fact that you are meeting the father of your child and making decisions in his absence. That is not good.

Ms. Beatrice Chepkoech: My name is Beatrice Chepkoech. What are the rights of a woman whose child is taken away after she has struggled with the child for a long time? Is it fair for a man to claim custody of the child simply because he has a pay slip?

When a school girl gets pregnant at their home, who is responsible of taking care of the girl? What if the father of the child denies he impregnated the girl? What are the rights of the unborn child? The Children's Welfare Office would normally say that the child should be born first before any action is taken.

Ms. Jane Chepkwony: My name is Jane Chepkwony. I am pained because of the orphans. In Baringo County, we have very many orphans. They do not know where to seek help. They are really suffering because they do not have parents. They have a lot of needs. They need food, clothing and so many other things yet, they do not have anybody to depend on. It is relatives who try to take care of them. However, the orphans are discriminated against. Good Samaritans raise money for them but it gets depleted. The girl-child has a lot of needs. They need sanitary towels. Most times they get these things from fellow girls. It is more challenging when such girls get admission to the university. Our leaders are trying. The Government should take full responsibility of taking care of the orphans. The parents to most of these children died of HIV/Aids-related diseases.

Ms. Rosemary Kibet: My name is Rosemary Kibet. I am a resident of Kapropita. I lost my husband. I live with my children alone. The eldest one is in Form II and the follower is in Standard VIII. I have not built a house. I have a farm but I have not been shown the acres that I own. Everything of mine has been taken away. I am asking whether you can help us. We women are suffering a lot. When you lose your husband, the in-laws make you suffer. They do not want you to develop. We thank God that we are alive.

Here in Kabarnet, coding was done at Kasoyo and Kipkuro. However, they did not record all the children. My children were not recorded. How do they expect us to support our children? I do not have a job. I sell tomatoes in order to get school fees. Life has become difficult. We do not get bursaries. The councilors know that I am a widow but they cannot help me get a bursary. The IDPs were given Ksh10, 000 only. They were to be given Ksh25, 000 and land. They have not been given that up to now.

Commissioner Chawatama: I will not allow anybody to speak now. Those who want to speak, please, record their names and your subject of discussion with Ann.

Ms. Ann Kiprotich: Madam Commissioner, her name is Margaret Kiboi and her issue is about access to education bursary. The next one is Joyce Chemwongei. Her issue is about land. There is Rose Kiptaywa whose issue is about post-election violence. She wanted to address the issue of the HIV/Aids pandemic. She says that when most men realize they are infected, they do not tell their wives. Therefore, they leave their wives suffering once they pass on.

Milcah Rotumoi has two issues. She says Hon. Cheptumo who was their lawyer has been evasive and he does not give them time. Serah Bolei says that her husband was killed during the post-election violence period. Mary Teriki Chelagat has an issue about Katimop Forest Right Holders.

Jennifer Kibon comes from East Pokot. She would like to talk about the challenges facing women and children.

Ms. Serah Bolei: My name is Serah Bolei. My husband was killed on 26th January, 2008 in Nakuru. I am the first wife. A lot of children were brought to my homestead as they claimed they were the children of my late husband. I agreed to take care of them because most of them resemble my late husband. My husband used to sell cows. I have six children. The community I live in discriminates against me. My home is in Baringo. We have a farm in Nakuru. When my husband died, we left Nakuru. We now live in Kasoya. My father-in-law had given us the farm in Nakuru, but we could not stay there any longer. As I speak, I have not inherited anything from my husband.

One of the TJRC officers talked to me and I told him my problems and that is how I managed to be here before this Commission. I do not have any document I can use to defend my position. I receive no help from my late husband's family. The children are brought to me without clothes. They come to me naked but I buy them clothes. My husband had not told me that he had children outside wedlock. I respect those children

and I help them because my late husband never discriminated against me. Some of the children ask me the whereabouts of their father. I do not know what to tell them. He was slaughtered. He was killed together with our herdsboy who was called Chebet. I even do not know if the body that was brought to me was my husband's or not. There is nothing the Government has done for us. There was a small *harambee* that was conducted during the funeral. However, my father-in-law took the money and went away with it. I was only given 1 kilogramme of maize flour and Ksh200.

We cried with my children. I even circumcised my child – he was brought to me – alone. I went to Kenya Women Finance Trust to borrow some money to cater for his circumcision and upkeep expenses. He looks just like my husband. I could not take him away. I alone struggle with upkeep of the children. I thank God because he gave me a job. They tell me that I do not want to talk to them because I have a job. They say I do not merit anything from my late husband's property because I am employed. Another man gave me his house and farm and told me to be firm and fight for my rights.

If it is possible, this Commission should look at the issues of IDPs in Kabarnet Town. I hear over the radio, people saying that there are no IDPs in Kabarnet. They are there. I have children in secondary school. I was left with a child who was 11 months. He does not even know the father. He normally asks me where the father is. I feel very bad. Whatever I had planted in the farm I did not benefit from it. I do not have food. We widows are really suffering because we do not have people to fight for us. Women need to respect their husbands even if they are bad.

That is all I have to say.

Commissioner Chawatama: Thank you very much, Serah. My prayer is that your life turns around. I thank you all for your participation. I am sorry I could not listen to all of you. God bless you.

(The Commission adjourned at 2.00 p.m.)

**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON TUESDAY, 25TH OCTOBER,
2011 AT BARINGO GTI LIBRARY, KABARNET (*Men In Camera
Sitting*)**

PRESENT

Berhanu Dinka - **The Presiding Chair, Ethiopia**
Ahmed Sheikh Farah - Commissioner, Kenya

SECRETARIAT

Patrick Njue - Leader of Evidence

IN ATTENDANCE

Dr. Samuel Tororei - KNCHR

(The Commission commenced at 3.40 p.m.)

Mr. Patrick Njue: We only have one male in camera witness and that is no. 9.

The Presiding Chair (Commissioner Dinka): Mr. Macharia, I welcome you to this afternoon's in-camera hearing. You requested to meet with us in a closed session and I would like to assure you from the beginning that anything that you say here will not leave this room. All of us here work for the TJRC. The camera that you see here belongs to the TJRC, not the media. The only person who is not working for the TJRC who is here with us is another commissioner who has taken the same oath of office like us. He is Dr. Tororei and he is one of the commissioners from the Kenya National Commission on Human Rights (KNCHR). He is here with us because they have to follow what we are doing. After the TJRC completes its task, they are one of the parties that will continue to look after the recommendations that will be made by the TJRC and follow up the implementation. You can say whatever you want to say to us with full confidence that it will remain confidential.

*(The Presiding Chair introduced himself
and the other commissioners)*

With that, you may now swear him in so that he can begin his testimony.

Mr. Patrick Njue: Thank you, Presiding Chair.

(Mr. Joachim Macharia took the oath)

Mr. Patrick Njue: I want to welcome you to this afternoon's session just like the Presiding Chair has done. I will start by asking that you, once again, for the record, state your names, tell us where you come from and what you do for a living.

Mr. Joachim Macharia: I live in Koibatek District, Maji Mazuri Sub-location in Eldama Ravine. The location is called Makutano Location. I am not employed but I am a farmer.

Mr. Patrick Njue: You were seated with us in the morning when a colleague of yours from Maji Mazuri was making a presentation and told us the issues that affect those people. Now you are here to share with us an individual account. Do you confirm that to be the case?

Mr. Joachim Macharia: Yes, that is true.

Mr. Patrick Njue: You may then begin making your presentation.

Mr. Joachim Macharia: I would like to say that when we had the clashes after elections in 2007, I was with my son who had completed his Form I that year. He was shot with an arrow on 14th at about 5.00 o'clock and he died on 7th day. When he was shot, we were ambushed and everybody ran in all directions. He ran towards the farm and that is when he was shot with an arrow. I happened to run towards the road and I saw people who were wearing shorts and some had folded their trousers. I knew that they must have been the attackers. When I heard them speak, I noticed that they were Kalenjin. From then on, my son was taken by some Good Samaritans to Mercy Hospital in Eldama Ravine. Once there, he was told that there were no doctors and so he would have to wait until the next day to be attended to. Those who took him there decided to take him to Mary Hospital, also in Eldama Ravine. When he got there, he got an X-ray and they put a bandage on his chest where the arrow had hit him. That is because when he was hit by the arrow, he removed it himself. He was allowed to go home after that but he could not because it was at night. So, he spent the night there just sitting on the bed. The following morning, he went to my friend who had gone to the hospital to pay Ksh1, 750 for his medical bill. On the third day, he came back home. When he got home, I asked him whether he could run if we were to be ambushed again, now that he was injured. So, I told him that I would take him to Dundori within Nakuru District where his brother was. He stayed for six days and died on the seventh day. I looked for a burial permit there because there was nothing else I could do. He died on the 21st and I buried him on 23rd. When I saw that, I was shocked because there were some security personnel living in my compound. I had volunteered because the place I was living was next to a nursery school. There are people who had run to the nursery school for refuge. We tried as much as we could to get help because it was mostly women, children and the very elderly that were there. So, we were given three security personnel who were living there. In the morning, my wife would make tea. Before they could be given any food, I would give them tea. That is because they were staying in my compound and I gave them my son's house to live in. In the morning of 14th, I told the corporal that I could see that they were preparing to leave. He told me that they had been told to go and clean their guns and then all the three left. We

were attacked on that same day and I thought that whoever had instructed all of them to go and clean their guns at the same time knew what he was doing. They had been brought there to specifically protect the people who had sought refuge in that area. Why did all the three security officers leave without leaving one of them behind and yet they had been brought there to protect us? The commander who had instructed them to leave was the Maji Mazuri Chief. So, I thought that there was a plan by the chief for the security people to leave so that that the attackers could have a free hand. That is just what I think. That is because as far as I know, the corporal is a senior person and he had three other security personnel with him. So, why did they all have to go at the same time?

When my son came back from the hospital, I asked him if he had been treated and he told me that he had been treated. There is one thing that I did not understand because I noticed that he had the X-rays and the arrow went in through the breast. When he told me that he had been treated, I told him to go to his brother's place because should the attackers strike again, he would not run. I put him in a *matatu* and sent him over. I never went to check on him in the hospital because at about 6.00 p.m., some policemen came in and they tried to chase the attackers away. That is because other people wanted to attack them. When they saw the security personnel, they decided to take off. I asked them how they could help me to go to Eldama Ravine to see my son. They told me that in the Makutano area, the road had been blocked and so they could not take me anywhere because they were going there to see if they could unblock the road. When I woke up the following morning on 15th, I waited at the road from morning until 6.00 p.m. but there were no vehicles that passed by. There was no way I could reach the hospital to visit my son. I would like to be very brief because when he came back, I sent him to go where he eventually died.

From the day my son died, I have had problems with my health because I started having high blood pressure up to now. Sometimes, when I am in the house and my wife comes in even if it is to serve me tea, my heart skips a beat. I know that my wife is not expected to knock every time she comes to the house to bring me tea but I have had that permanent phobia. Sometimes when she brings *ugali* and goes back for the vegetables, my heart skips a bit. Even when somebody knocks on the door, my heart skips. Whenever I go to sleep, I usually start remembering my deceased son at about 3.00 a.m. because I never owed anybody anything. Whenever I think of that child who was my future hope and hope for the Government--- He was a very bright student who used to perform well in school and I had no problem paying school fees for him. I had a lot of hope that should he get though his education, he would help me in my old age and also help this country. He should have worked for the Government. My problem is trying to find out if the Government can think of ways of helping me, especially in regard to my child who just died innocently. When I asked the young man why he had tried to run away from the attackers and if there was anyone he could have recognized, my son told me that he saw a young man who was called Kibuchi. That is what my son told me and it is not what I saw. He was a young boy and he could see further than I could. But among the ones that I saw, there was nobody I could recognize. That is all I needed to say. The reason why I needed an in-camera session is because I would not have known if the people who would be in the public hearing are the ones who lived close to where I live and I have no

security. I was worried about my security. That is why I requested to speak in camera. My son was innocently murdered and if I come and present that to this Commission, then what would happen to me? I might also be targeted. I would suffer an affliction that is worse than what befell my son. My son was nineteen years old at that time. That is the end of my submission.

Mr. Patrick Njue: Thank you, Mr. Macharia, for your testimony. I begin by expressing my sincere empathies for that loss. You refer to him as your son but for the record, please tell us his name.

Mr. Joachim Macharia: My son was called David Mburu.

Mr. Patrick Njue: You constantly refer to the day of the attack being 14th of the year 2008. For the record, what month was it?

Mr. Joachim Macharia: It was on January 14th.

Mr. Patrick Njue: You also say that you heard word from your son that he had been attacked by young men and that he identified one Kibuchi. As you know this Kibuchi today, what tribe does he come from?

Mr. Joachim Macharia: He was a Kalenjin.

Mr. Patrick Njue: Perhaps, as you were talking to your son before his demise, did he tell you how many they were?

Mr. Joachim Macharia: He did not know how many they were because when I saw them, they were very many people. There were some attackers where the boy was and some on my side as well. So, there were very many people. Before they reached our area, they had killed an old man somewhere.

Mr. Patrick Njue: Apart from your son who was killed, do you have any other children?

Mr. Joachim Macharia: I have nine other children. I have four sons and five daughters.

Mr. Patrick Njue: Is your eldest child still living at home? Where is he living and what does he do?

Mr. Joachim Macharia: The eldest does not live at home because he is a headmaster at a school called Adama Primary School of PO Box 135, Eldama Ravine. The second born is a headmaster in a secondary school in Murang'a, but I do not remember the name of the school. The third and fourth born are both boys and they are farmers. The three girls are all married but one of my daughters is still at home. I paid for her to go to a hair dressing college. She has a child but she is not married.

Mr. Patrick Njue: Was David your last born son?

Mr. Joachim Macharia: No, the last born is called Francis Kamau and he is currently in Form I. His education was interrupted when we ran off to Ndundori and he had to repeat Class VII.

Mr. Patrick Njue: What other loses, if any, did you sustain?

Mr. Joachim Macharia: I incurred a lot of loses because when I saw my son dying, I had a posho mill which I dismantled and demolished the house. I paid Ksh40, 000 to transfer it to Ndundori. I lived there from January up to May and I saw that life was not easy there. That is because I was not running my posho mill and that was my source of sustenance. I told my wife that I will just go back where I came from. I then had to hire a vehicle and I paid more than what I had previously paid. I paid Ksh50, 000 and came back. When I came back, I started by building a house and store so as to install the machine in order to start my life again. I had to bring in a mason to build the foundation for the posho mill. I incurred a very huge loss and you know the problem is that whenever you transport anything, it must get destroyed. Since that day, my body is weak and whenever I am, you can find me talking to myself silently. Sometimes, when my wife finds me talking to myself like someone who is not very normal, she comes and touches me and it shocks me. She asks me what I was telling myself and that is when I come back to normal. There is also something that is bothering me. I could be talking to you and then I lose my train of thought in the middle of our conversation and so, I have to come and ask you what it was that we were talking about. So, you have to remind me and then I pick up my thoughts from there. All that started after I lost my son. When I sit in my house alone, many thoughts really disturb me and even if I switch on the TV, I am still bothered by the thoughts, especially when I remember my child. So, I resort to prayer. Usually after prayers, I go to sleep and maybe once or twice in a week, I have insomnia. So, my life is not as it was. I am trying to put away thoughts but they still bother me. If that child would have grown to help me in old age, it would have been easier. The others, sometimes, send me a thousand shillings and I know it is because I educated them. I keep on thinking that there is no way he would help me now that he is dead and yet, I owed nobody anything. The Government should come in and help me by considering that deceased child and his years and what he would have contributed to Kenya and to his parents. Those whose houses were burnt down have had their houses reconstructed for them. There are those who were given Ksh25, 000.

I have not been given any money - not a single cent. Not even the Ksh10, 000 that was given to the victims. I have not received any money from the Government. I find it strange that TJRC has paid for my ticket to enable me to come here and speak out on how I was affected. I find that wonderful. I took the responsibility of going to Eldama Ravine police in March and told them that I wanted to see the CID boss who was called Mr. Odera. I spoke to him and I told him that I wanted to go to Mercy Hospital with him. You know that in some of these places, when you pay money, you cannot get medical records. We found the doctor, who looked at the medical records and told me that he could not give me the medical notes but that he could write a report. He wrote a report and I have it. After that, I went to the chief and told him that since my son was killed, he needed to

write a letter explaining how he died and the date. He wrote a report as well and I have it with me. He also gave me the burial permit and a duplicate of his school identity card which I have. I recently went to Nakuru where death certificates are issued. But we waited for long because there were so many people. Some of them were looking for birth certificates and at about 3.00 p.m., I was given some forms to fill and pay for the forms. I do not know what the form is called but I have it here with me. I was told to go and fill out the affidavit according to what is filled in this form. So, I went to court to swear an affidavit and returned it to Bima House in order to get his death certificate. This was filled out for me and I do not know whether it was correctly filled so that I could take it with me to swear an affidavit in court. I told somebody to help me fill it since it is written in English and I am not educated to that level. I know how important education is. It was too late and so, I said that I will go back another day if this form had been filled well, swear the affidavit in court and go back to see if I could obtain the death certificate. I do not have any other option because he died in Nakuru District and I have to spend money on fare. I do not have much work apart from farming and those were huge losses to me.

Mr. Patrick Njue: Mr. Macharia, is it your wish that these copies of documents thereof be made and formally admitted to the records of this Commission?

Mr. Joachim Macharia: Yes. That is my wish because I did not come with the originals. These are just photocopies that I have made. The only one that I would want to keep is the affidavit that I made for the death certificate since the other ones are copies.

Mr. Patrick Njue: I pray that these documents be formally be admitted into the records of the Commission.

The Presiding Chair (Commissioner Dinka): So admitted.

Mr. Joachim Macharia: I have the originals for these others at home.

Mr. Patrick Njue: If I can offer advice, you do not necessarily have to go before a magistrate to have the affidavit commissioned. You can as well go to a Commissioner for Oaths if that will save you time. You will, perhaps, be required to pay only Ksh100 or so and then you can lodge the affidavit together with the application and the death certificate will be processed.

Mr. Joachim Macharia: I think that will be difficult because on that day, when I decided to go to court, I met an advocate and asked him if he could help me because I am supposed to go and swear the affidavit in court as proof that that was my son. He told me that he needed Ksh1000 and I thought it was too expensive. From Koibatek to Nakuru and back would be a heavy expense and I still have a child in high school that depends on me to pay his secondary school fees. The advocate was too expensive and I thought that I would just go and swear the affidavit in court. That is because I was told it is only about Ksh100. I will take this back with me to get the death certificate. You could give me your address so that I can send it to you.

Mr. Patrick Njue: Once you get the certificate you can forward it to us in our office location. Nonetheless, once we finish, we can talk aside outside and I can assist you to get the affidavit commissioned. That is just an advice.

Let us proceed. You have said that you have gone back to where you were living prior to the post election violence.

How is your relation with your neighbours?

Mr. Joachim Macharia: We cannot say that we live in harmony. The reason I am saying this is because there are certain things that can be done. I do not want to say that it is the Government and I do not want to blame it on authorities, but there is a lot of theft. There is one thing that I keep asking in my heart; if someone can steal ten cows that are spending the night in the open, what of the one cow that is confined in an enclosure? There must be some problem there and when you go to report this theft, the animals are never recovered. After some time, you will hear that another one has been stolen. There are some people who have lost all their cows; one after another. I have never heard even one cow belonging to a Kalenjin having been stolen. So I ask myself why the Kikuyus' cows are stolen and they disappear completely. That is why I am saying that complete security means that you should not live worrying about any of your property that you have enclosed somewhere. You cannot call that living in harmony. For instance, in my case, anytime I hear anybody screaming even if it is during the day, my heart skips a beat.

Mr. Patrick Njue: How was life before 2007?

Mr. Joachim Macharia: Before the elections, there was theft, but it was not as rampant. Since the elections, theft has escalated and could bring about conflicts. This is especially if I insist on knowing who it is that has stolen my cattle. It might lead to conflicts breaking out again and people might start fighting yet you are simply trying to track your stolen property. I would not want to say that we are living in harmony. We are worried all the time. I was born there in 1945 and I was brought up there and I bought land there.

So even if I am told to go somewhere else, I would not know where to go. I lived in a rented house in the place where I had run to and I would buy a sack of charcoal at Ksh500. That is why I thought that life was difficult and it made me go back to where I had come from. Where I live, I can do my own things, my *posho* mill is working and if I get Ksh100, it helps me educate my child. If I needed to install a *posho* mill where I was staying, I had to rent a house but since it is in my farm, I find it better.

Mr. Patrick Njue: Lastly, next year we have General elections, what is your apprehension of the elections?

Mr. Joachim Macharia: I would not talk about it because it is not like the other year when we had the last elections. I say this because before we voted in 2007, the Kalenjin were saying that we were all ODM people and every time they would be bragging that we should wait until we vote then we will know who they were. We thought that they were

just bragging for no apparent reason yet there is something that they had foreseen. I cannot say what I think about the next elections because you would actually want to advice even those who were bragging. We hear them talking and saying that they were misled into fighting with people they had lived with for many years and they simply followed those who needed their votes. You can notice that they are a little bit repentant and they are confessing that they were in the wrong. I think that they want to talk about things that they really do not believe in because if they are honest about what they are saying, then I would like to think that there would be peace during the next elections.

Some of them have realized that they were fighting for no apparent reason, especially because we are on one farm. I am an elderly person and I asked another elderly person from the Kalenjin community: "Since you are an elderly person and you have sons, and Hon. Ruto, Uhuru and Raila have sons, where did their sons fight"? We were fighting in the farm. I have two acres of land and he has two acres of land, why do you not think of going to fight for Ruto's farm which is several acres because you could benefit by getting yourself an extra 20 acres? Why would you fight for my two acres?

Why would I fight for your farm and not Uhuru's which is several acres but look at your small farm? The elite's children live in Nairobi while others are abroad in good universities. These are things that I usually ask the Kalenjin elders and they respond by saying that they also do not know. I think this is the devil's temptation. It is just the devil who came between us and if somebody tells you that, you would not know whether they could be used by the devil again. In 1992 there were clashes, so you cannot really trust them, but you agree with them and wait for the next elections.

Mr. Patrick Njue: Thank you once again for your candid testimony. I once again empathize for the loss of your son. Commissioners may now ask you questions.

The Presiding Chair (Commissioner Dinka): Thank you very much, Leader of Evidence and Mr. Macharia. We empathize with your loss. Please accept our condolences on the loss of your son and I also thank you for your optimism and hope that you are alright. Let me ask my colleague if he has any question.

Commissioner Farah: Mine is just a clarification, Mr. Macharia. Thank you very much for your evidence. We have heard quite a number of people from that area, but please tell me your village; is it Koibatek or Ijure? Where is your sub-location and district?

Mr. Joachim Macharia: The district is Koibatek, the location is called Maji Mazuri within the Eldama Ravine area, the sub-location is Makutano and the village is Ijure Adama.

Commissioner Farah: What is Eldama Ravine?

Mr. Joachim Macharia: Eldama Ravine is where the DC lives, so it is the biggest town in the district. That is where the DC's and the DO's offices are located.

Commissioner Farah: So it is actually Eldama Ravine District?

Mr. Joachim Macharia: Eldama Ravine is within Koibatek District and that is our leading town.

Commissioner Farah: We really empathize with you for the death of your son. We know that that area witnessed clashes. There is even a councillor from Maji Mazuri who earlier on gave us a testimony. So we have heard the story before except the death of your son which we really empathize with. We have noted what you have said. You left on 21st January after the death of your son but came back in June and you have been living there since June 2008. So you are confident that there is now peace. I think in the elections of 2012, everybody is afraid and I do not think people will fight again.

Thank you very much.

The Presiding Chair (Commissioner Dinka): Mr. Macharia, I want to ask you a few questions: Do you speak the Kalenjin language?

Mr. Joachim Macharia: I do not speak the Kalenjin language, but I can understand one or two words because I know their greetings. I know when you want to tell somebody "let us go". So when you speak, I will know what tribe you are even if you are far.

The Presiding Chair (Commissioner Dinka): When you left your homestead on 21st January and came back in June, did you find your property, your house and everything intact or was your house burnt or vandalized in any way to show hostility?

Mr. Joachim Macharia: I left my house on 21st after my child had died. I buried him on 23rd and I went back to my house and then I left on 27th of January and moved to where I had buried my child; a place called Dundori in Nakuru District. I left the security men who were staying in my son's house and when I came back in June, I found them still living in my compound. Those policemen left my compound after everything had completely calmed down in July. They left after I had come back to my home. I would like to say that nothing was vandalized because I had security men staying in my compound. Even the corporal was living in my son's house. I told him to be staying there and I told the other four - since two had been added - to stay in my son's house since my son lives in Murang'a. I told the other three to use the two double beds that were in my elder son's house and the other one in my deceased son's.

When I came back, nothing had been vandalized. I sold a cow to one of the policemen at Eldama Ravine because I told them that I had actually seen people's cattle being burnt so I thought mine would also be burnt. I sold him the cow at only Ksh10, 000 but it was worth about Ksh30, 000. I also sold two goats for Ksh2, 100. That was just like giving away and so, I incurred a big loss.

The Presiding Chair (Commissioner Dinka): Since you came back, it is now three years, you have been living in the same place and you said that you have been talking to some

Kalenjin elders; people of the same age as you, have you ever heard from them the word *bunot*?

Mr. Joachim Macharia: No, I have not heard that and I do not know what it means.

The Presiding Chair (Commissioner Dinka): Did they discuss with you, for example, why the Kikuyu Community was targeted? Have you discussed that with them?

Mr. Joachim Macharia: At that time, the Kikuyu were targeted because there was the issue of ODM and PNU. They were targeted because of party differences because in politics, whenever they voted for PNU, they would be voting for Kibaki. That farm and those other farms around them belonged to the Kalenjin. I think that was the main reason for being attacked because we were not members of the ODM.

The Presiding Chair (Commissioner Dinka): My last question. One of the recommendations in your recorded statement is to bring the Kalenjin and the Kikuyu communities together for reconciliation. What would you suggest as the best way of doing this and at what level?

Mr. Joachim Macharia: To be honest, when I came back in June, there was a meeting between the Kalenjin and the Kikuyu. So much was discussed and one preacher who was a Kalenjin spoke and everybody was happy. He said that it was wrong because people fought and started running away. The Kalenjin went to one direction and the Kikuyu another. We did not have Kikuyu going and Kalenjin remaining. Even the Kalenjin were worried that the Kikuyu might retaliate, especially when they went to reunite at police stations. He said that people should be wise because when they all ran away, they must have left behind something. Dogs and cats were left and the cats did not know whether these houses belonged to Kalenjin and the dogs did not know whether these were Kikuyu houses. They were visiting every house. Why is it that the human beings who those animals depend on and who have better brains kill each other yet these animals do not have such brains and still live together? That is something that has brought people back together and people are asking themselves why they were fighting.

The Presiding Chair (Commissioner Dinka): Thank you, Mr. Macharia, for your testimony. You have given us a very good perspective of what happened during the 2007/08 period in your district, particularly in your village. I thank you also for being optimistic and hopeful for peace and stability of your own country, Kenya. I hope and pray that your optimism will bear fruit. It is our hope and prayer. Thank you very much.

Mr. Joachim Macharia: I would like to ask one question if I am allowed. There are some things that you can talk about. There is a duplicate of my son's school ID. Would you like to see and look at the photograph and determine whether it is admissible because I have it here?

Mr. Patrick Njue: You have given us the documents as they are and they have been admitted. We will look at them in detail but nonetheless, I may still pass it to the

Commissioners for them to take a look. Do not worry because once it is admitted, it will be looked into and it goes on to build your testimony as you have presented it today.

With your indulgence Presiding Chair, a follow-up question is being posed from *Daktari*. Mr. Macharia, you said that you were born in 1945 in Koibatek and that is a long period of time. How is it then that you are not familiar with the predominant language of the people there given that you have lived in this place all these years?

Mr. Joachim Macharia: I would not have known their language because in most cases, for you to know a language, you can learn it from the women or children. Koibatek was previously part of Baringo District and when I grew up and got married, I went to work for the Government in Dundori. I was working at the Logging Unit. I lived in Dundori for 16 years. The little language that I would know is not deep Kalenjin. When children come to my posho mill, I usually ask them how to say in their language; "I will see you tomorrow", and they tell me that they say; "*ngetuiyen garon*". When I am milling their maize, I tell them *ngetuiyen garon* and I see them happy about it because it means "see you tomorrow".

Sometimes when a girl whose name I do not know comes, I tell her *change tibin* which means; "how are you young girl?" and they say *change*. I just know a few words but I cannot form a sentence because I know that when I tell you "*nyoo*" I mean come here and when I say "*ngepe*" I mean "let us go", but to join it into an intelligible sentence is a bit of a problem. Somebody can only learn a language if you feel that your heart really encourages you to get to know the language and in most cases, you get to know a language when you work together with people of a certain community, but most of my working years were spent with the Kikuyu in Dundori.

Commissioner Farah: Mr. Macharia, the reason the doctor asked you that question is a matter of passable interest because I have a Kikuyu who settled in Wajir in 1978 and he has a big hardware shop known as *Saba Nane* shop.. Not only him but all his children speak Kisomali fluently. So it is the individual. I think it is because he makes good money and good business in Wajir. From a shoe repairer, he built a big hardware shop and he now has a petrol station where several tankers fuel and he is a Government contractor. His customers were Somali; therefore, he was forced to learn the language. Maybe with you, you did not make good money or maybe you were not interested but you have now answered us by saying that for 16 years of your life, you were working in Nakuru in Dundori where your fellow Kikuyu were. Therefore, you continued speaking your Kikuyu language not bothering to learn the language of the community in which you have your one, two or three acres.

We are satisfied because it is about the individual interests. If I compare you to Mr. Karanja of Wajir, he is different. All his children and his wife learnt the language because on a daily basis, the people coming to buy things from his hardware shop are Somali and he has to talk to them. Thank you very much.

The Presiding Chair (Commissioner Dinka): Just to add to this, you said you were born in 1945 in this place and it was later that you went to work for the Government. Most people learn languages when they are children playing with other children of other communities. So by the time you reach the age of 15 or 16, you actually speak fluently the language of that region. As my friend said, the interest may not have been there, but do you not think that without foregoing your own culture and language, but at the same time being familiar with the culture of the majority of the people would help much more in mutual understanding between communities and creating the necessary strong bond of friendship and relationship?

I think second to language and culture, maybe, marriage is another thing that happens. That does not mean forgetting about your culture and language of other people, but I think both can be done, especially when you are young. We are not blaming you, but we are just saying, do you not think it is important even for future generations?

Mr. Joachim Macharia: When I was born in 1945, at that time, people were not living on the farms. In 1945, people would live within the forest in logging villages up to the time of Emergency. By the time we moved to a place where everybody was free to build anywhere, we were taken into villages that were fenced and it is only the Kikuyu who suffered this until Independence.

(Power failure)

(The Commission adjourned 4.55 p.m.)