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REPORT OF THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION

TJRC KENYA

Volume IIA



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REPORT OF THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION

Volume IIA

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His Excellency

President of the Republic of Kenya

Nairobi

3 May 2013

LETTER OF TRANSMITTAL

By Gazette Notice No. 8737 of 22 July 2009 and pursuant to section 10 of the Truth, Justice and Reconciliation Act No. 6 of 2008, the undersigned were appointed to be Commissioners of the Truth, Justice and Reconciliation Commission. The Commission was established with the objective of promoting peace, justice, national unity, healing, reconciliation and dignity among the people of Kenya.

Having concluded our operations, and pursuant to section 48 of the Truth, Justice and Reconciliation Act, we have the honour to submit to you the Report of our findings and recommendations.

Please accept, Your Excellency, the assurances of our highest consideration.

Amb. Bethuel Kiplagat
Chairperson

Tecla Namachanja Wanjala
(Vice Chairperson)

Judge Gertrude Chawatama

Amb. Berhanu Dinka

Maj. Gen (Rtd) Ahmed Sheikh Farah

Prof. Tom Ojienda

Margaret Shava

Prof. Ronald Slye

Table of Contents

Foreword iii

List of Abbreviations vi

CHAPTER ONE

Historical Context: A General Overview 1

Introduction 1

British Colonial Era 3

President Jomo Kenyatta's Era 17

President Daniel Arap Moi's Era 24

President Mwai Kibaki's Era 27

Appendix

Selected major events in Kenya 30

CHAPTER TWO

History of Security Agencies: Focus on Colonial Roots of the Police and Military Forces 33

Introduction 33

The Police 34

The Military 72

Conclusion 99

CHAPTER THREE

The Shifta War 101

Introduction 101

Origins 103

Legal Framework 109

Socio-Economic Policy in Support of The War 111

Fighting The War 113

Massacres During The Shifta War 131

Assigning Responsibility 137

Mass Graves, Burial Sites and Forensic Possibilities 142
War's End - October 1964 144

CHAPTER FOUR
Unlawful Killings and Enforced Disappearances 147
Massacres 149
Political Assassinations 430
Extra-Judicial Killings and enforced Disappearances 477
List of Massacre Victims 552

CHAPTER FIVE
Unlawful Detention, Torture and ill-Treatment 589
Introduction 590
Definitions and Legal Framework 590
Methodology 594
Detention and Torture during the Colonial Era 599
Detention and Torture during President Kenyatta's Era 602
Detention and Torture during President Moi's Era 605
Detention and Torture during President Kibaki's Era 662
List of Victims of Detention, Torture and ill-Treatment 664

CHAPTER SIX
Sexual Violence 707
Introduction 707
Definition 708
Methodology 712
Reporting of Cases on Sexual Violations 713
Sexual Violence during Peacetime 718
Sexual Violence during Conflicts 721
Sexual Violence in the Context of Interrogation 744
Sexual Violence during Forced Evictions 746
Sexual Violence by the British Royal Army 750
Impact of Sexual Violence on Victims and their Families 753

Foreword

This Volume focuses on the major violations of bodily integrity rights that were committed during the Commission's mandate period While most of the violations in this volume are traditionally defined to require state action – extra judicial killings, enforced disappearances, detention, torture – the Commission adopted a more expansive view of these violations This was for four reasons First, while as a matter of law the distinction between state and non-state action is important with respect to many of these violations, many victims are less concerned about the official status of those who wronged them, and more with identifying those individuals and addressing the consequences of the harm they suffered

Second, if the Commission were to strictly define these violations as requiring state action, the experience and narratives of many victims would be lost This would diminish the ability of the Commission to provide an accurate, complete and historical record of gross violations of human rights committed during the mandate period

Third, while some of the violations described in this volume were not directly committed by state officials, the failure of the state to provide adequate security to many of its citizens provided an opportunity for such violations to occur In seeking to understand the circumstances, factors and causes of violations committed by militias and other non-state actors, the Commission was inevitably drawn to an analysis of state inaction, and in particular the failure of the state to provide, and appear to be providing, justice and security

Fourth, while the Commission does make recommendations with respect to the law and legal structures, it is not a court of law, but rather a body dedicated to describing and explaining historical injustices and gross violations of human rights While accountability is part of the Commission's mandate, justice is one of three equally important pillars, the other two being truth and reconciliation In interpreting its mandate, therefore, the Commission was sensitive to furthering the fulfilment of each of the three pillars, and not giving undue weight to any one over the other two.

While much of this volume is focused on violations directly committed by the state, it also includes descriptions of killings, severe injury and violence, sexual violence, detention, and other similar violations committed by non-state actors

The volume starts with a general overview of the political history of Kenya This chapter provides the overall political context for understanding not only the other specific

violations in this chapter, but also the violations and other materials in the rest of the report Because the political history focuses heavily on the state and its development, we include it here in the volume that focuses most on some of the worst violations committed by the state

In the chapter on political history we also, as in other parts of the report, discuss some of the practices and violations of the colonial government While the Commission's temporal mandate formally commenced at independence, the Act also required us to describe and analyze the 'antecedents, circumstances, factors and context' of violations committed during the mandate period There is no question that in order to understand, for example, the newly independent government's reaction to the Shifta War (not to mention injustices related to land, state abuse of power, corruption, and many of the other violations discussed in this Report), one needs to understand the policies and actions of the colonial government, as well as the legal, political, and economic structures they established and bequeathed to the newly independent government

This general political overview is then supplemented by a description of the history of the state security agencies While other agencies of the state were responsible for historical injustices and gross violations of human rights during the mandate period (see e g. Volume 2B which focuses on land, economic crimes, violations of socio-economic rights, and corruption), the security agencies were both primarily responsible for many of the acts of commission discussed in this volume, as well as the acts of omission (the failure to provide security) that allowed many of the violations committed by non-state actors to occur

The next chapter focuses on the major armed conflict (in this case a non-international armed conflict) within the Commission's mandate, the Shifta War As the defining moment of the independence of the nation, the Shifta War acts as a bridge from the violations committed by the colonial power prior to independence and the violations committed by the newly independent government The Shifta War had a profound impact on the early development of the state, the effects of which are still being felt today, not least by the survivors and their descendants in the north eastern part of the country

The remaining chapters are organized by class of violations Unlawful killings and enforced disappearances are divided into three separate parts massacres, political assassinations, and extra judicial killings Detention, torture and ill treatment were unfortunately present during all periods of Kenyan history While the infamous Nyayo House torture chamber is often the first thing that one thinks of with respect to the Kenyan government and torture, this chapter illustrates how prevalent illegal detention, torture, and other similar treatment continues to plague the nation Finally, the chapter on sexual violence

describes a particular form of violence committed against men and women, boys and girls It is only in the last three decades that the international community has become more aware of the use of sexual violence as a systematic tool of oppression and armed conflict Sexual violence was prevalent during the colonial period, and unfortunately continued unabated through independence to the present day

Investigations related to some of the events in this chapter – e g the Wagalla Massacre, the assassinations of, among others, Tom Mboya, J M Kariuki, and Robert Ouko – are some of the most anticipated by many Kenyans The report of the Task Force reported the high interest in providing truth and justice with respect to these violations, and the experience of the Commission was the same The Commission was able to unearth some new information regarding some of these events But there is no question that the Commission was unable to provide clear answers to all of the questions raised about these injustices A major cause of this inability was the difficulty the Commission faced in securing documents and the cooperation of witnesses and other interested parties with respect to these events It is our hope that the information provided here will re-emphasize the importance of the government coming clean and releasing all of the information within its possession with respect to these and other historical injustices

List of Abbreviations

ADC	Agricultural Development Consult
AFC	African Finance Corporation
AP	Administrative Police
ADCU	Air Defence Control Unit
ASTU	Anti- Stock Theft Unit
AMREF	African Medical and Research Foundation
BBC	British Broadcasting Corporation
CBK	Central Bank of Kenya
CJPC	Catholic Justice and Peace Commission
CEO	Chief Executive Officer
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CID	Criminal Investigation Department
CMS	Church Missionary Society
COVAW	Coalition of Violence against Women
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment
DSC	District Security Committee
DNA	Deoxyribonucleic Acid
DO	District Officer
DSBO	District Special Branch Officer
DTM	December Twelfth Movement
EAR	East African Rifles
EATC	East Africa Transport Corps
FAO	Food and Agricultural Organitzation
FERA	February 18 Revolution Army
FEM	February Eighteenth Movement
FGM	Female Genital Mutilation
GSU	General Service Unit
GVRC	Gender Violence Recovery Centre
ICTY	International Criminal Tribunal for the former Yugoslavia
IBEAC	Imperial British East Africa Company
IMLU	Independent Medico-Legal Unit
ILO	International Labour Organization
IDPs	Internally Displaced Persons
KAR	King's African Rifles
KR	Kenya Rifles
KANU	Kenya African National Union
KDF	Kenya Defence Forces
KPU	Kenya Peoples Union
KCB	Kenya Commercial Bank
KADU	Kenya African Democratic Union
KGGCU	Kenya Grain Growers Cooperative Union
KPTC	Kenya Posts and Telecommunications Corporation
KAF	Kenya Air Force
KHRC	Kenya Human Rights Commission
KNHRC	Kenya National Human Rights Commission
KNH	Kenyatta National Hospital
KMC	Kenya Meat Commission
KBC	Kenya Broadcasting Corporation
KWS	Kenya Wildlife Service
KIC	Kenya Intelligence Committee
KDHS	Kenya Demographic and Health Survey
KPLC	Kenya Power and Lighting Company
KNUT	Kenya National Union of Teachers
MoU	Memorandum of Understanding
MoH	Ministry of Health
MMB	Meat Market Board

MP	Member of Parliament
NCPB	National Cereals and Produce Board
NFD	Northern Frontier District
NTZ	Nyayo Tea Zones
NBC	Nyayo Bus Company
NTZDC	Nyayo Tea Zones Development Corporation
NARC	National Alliance Rainbow Coalition
NPPPP	Northern province People's Progressive Party
NFDLA	Northern Frontier District Liberation Army
NSC	National Security Council
NSIS	National Security intelligence Service
NEP	North Eastern Province
OLF	Oromo Liberation Force
ODM	Orange Democratic Movement
OCS	Officer Commanding Station
OCPD	Officer Commanding Police Division
OB	Occurrence Book
PPSA	Preservation of Public Security Act
PSBO	Provincial Special Branch Officer
PPO	Provincial Police Officer
PCIO	Provincial Criminal Investigations Officer
PNU	Party of National Unity
PRCT	People for Rural Change Trust
PEV	Post Election Violence
PC	Provincial Commissioner
PSC	Provincial Security Committee
RHA	Royal Horse Artillery
SDO	Special District Ordinance
SLDF	Sabaot Lands Defence Force
SSAs	State Security Agents
SYL	Somali Youth League
SOA	Sexual Offences Act
TJRC	Truth Justice and Reconciliation Commission
UAE	United Arab Emirates
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UPI	United Press International
UN	United Nations
VOK	Voice of Kenya
VOCA	Victims of Coup Attempt



CHAPTER

01

Historical Context: A General Overview

Introduction

1. On the eve of Kenya's Independence Day, the Duke of Edinburgh said the following to a people that about to become free citizens of a new African nation:

> Tomorrow a new volume will be opened and an independent Kenya will start to write a new story. The pages of this volume are still blank and empty; the story that is to be written on them is still in the hands and minds of all the people of Kenya.[1]

2. The next day, 12 December 1963, independence was greeted with jubilation and celebrations across the entire country. Immediately, Kenyans began to write the country's story. Almost 50 years later, Kenya's story is a success story as it is a sad story. It is a success story because, despite the many challenges that have bedeviled the country, Kenyans have made huge strides in achieving the goals that had been set forth at independence, chief amongst which is the eradication of poverty, diseases and illiteracy. It is a sad story because it is burdened by ghastly accounts of gross violations of human rights and historical injustices. It is mainly this sad part of Kenya's story that the Truth, Justice and Reconciliation Commission was tasked to examine and document.

1 Daily Nation, 13 December 1963.

Kenya's story is a success story as it is a sad story. It is a success story because, despite the many challenges that have bedevilled the country, Kenyans have made huge strides in achieving the goals that had been set forth at independence, chief amongst which is the eradication of poverty, diseases and illiteracy. It is a sad story because it is burdened by ghastly accounts of gross violations of human rights and historical injustices

3 This Chapter locates gross human rights violations and injustices that occurred in Kenya between 1963 and 2008 in their historical context. It provides a composite account or historical overview of the dynamics and factors that nurtured an environment under which these violations and injustices thrived. The overview is presented in a chronological order beginning from 1895 when the Kenyan state was created to 2008 when it was at the edge of disintegration.

4 For analytical purposes, the historical period has been divided into four distinct epochs. These epochs correspond with the four political administrations that governed the country during the Commission's mandate period:

- British colonial era (1895 to 1963),
- President Jomo Kenyatta's era (1963 to 1978),
- President Daniel arap Moi's era (1978 to 2002), and
- President Mwai Kibaki's era (2002 to 2008).

5 As a historical overview, the scope and focus of this Chapter is limited to describing and explaining key events in the political realm during these four epochs. As such, it does not describe any particular violations and injustices in great detail. Comprehensive descriptions of such violations and injustices are covered in subsequent chapters and volumes of the Report.

6 In analysing these key events and their historical perspective, it is argued that the violence generated in the context of colonialism was perpetuated in the post-colonial period through unaltered colonial structures, institutions and mentalities. Thus Kenya's relatively long history of human rights violations cannot be explained nor understood adequately without unravelling the country's colonial experience.

British Colonial Era

7 The creation of modern day Kenya dates back to 1885 when European imperial powers assembled in Berlin, Germany, to partition Africa among themselves At the Berlin conference where these powers met, it was resolved that those interested in Africa would declare their spheres of influence then follow such declaration with effective control of the new territories What followed was the partition of Africa, with little knowledge of the continent, especially its hinterlands In the end, some roughly 10,000 African polities were amalgamated into 40 European colonies and protectorates These colonies and protectorates would later provide the basis for the modern nation-states of Africa including Kenya Some African societies with a lot in common were rent apart while others with nothing or little networks were fused together

8 To establish and consolidate their rule in Kenya, the British employed violence on a locally unprecedented scale and with unprecedented singleness of mind and purpose The colonial violence was characterized by unimaginable human rights violations and injustices which reached its zenith in the 1950s, a time when communities in Kenya staged a fight for political and economic self-determination

9 The British, having earmarked Kenya for control, moved with speed to implement the Berlin resolution. Within two years, the British East African Protectorate (where most of the present Kenya falls) had been declared Henceforth, most laws applicable in England and its hinter territories such as India would be exerted in the so-called 'protectorate'

Rule by proxy: Imperial British East Africa Company

10 Initially, the British chose to administer its newly-acquired territory through a proxy the Imperial British East Africa Company (IBEAC) The IBEAC was granted a charter in 1888 to administer and develop the territory as it saw fit It used this authority to exploit natural resources such as ivory The charter was exclusive but the company faced numerous challenges in establishing its authority in Kenya Its agents have been described as 'alcoholics' who failed to establish working relationships with the local populations with whom they were supposed to trade.[2] Moreover, the IBEAC lacked the finances to develop infrastructure and was therefore unable to make the investments necessary to properly advance its East African presence

2 B Berman *Control and Crisis in Colonial Kenya The Dialectic of Domination* (1990) 50

11 In early 1890, the company started constructing the Mackinnon-Sclater road, which was actually little more than cattle-track designed to link Mombasa and Busia. The company also ordered a large steamship, the *SS William Mackinnon*, in the hope that it would crisscross Lake Victoria and further stimulate commerce in the region Neither of these projects succeeded Indeed the failure of these projects, coupled with high profile political disputes and wrangles in Uganda, eventually convinced the British government that the IBEAC's charter should be cancelled Consequently, the charter was cancelled on 1 July 1895. Administrative control of the territory passed from the IBEAC to the British Foreign Office In effect, Kenya became a British protectorate

From British Protectorate to British Colony

12 The declaration of Kenya as a British protectorate was primarily a diplomatic gesture, aimed at the Sultan of Zanzibar, Germany, Italy and Ethiopia It was a declaration of exclusion of these powers from this political space that ran from Jubaland to Lake Naivasha [3] This 'diplomatic gesture' proved a major obstacle to the British settlers and the British Colonial Office in their attempts to secure cheap loans under the Colonial Stock Act of 1900 for the development of the protectorate The Colonial Stock Act of 1900 only benefitted British colonies and dominions and not protectorates [4] The crown agents, therefore, advised the colonial office to look into ways to change the status of the protectorate to a colony

13 It was this desire to change the status of the protectorate to a colony that exposed the intricate political arrangement of the territory It became clear that the incorporation of the 10-mile coastal strip into the colony would arouse international conflicts from other countries that had entered into trading agreements with the Sultan of Zanzibar

14. The sultanate of Zanzibar for instance had signed treaties with various states United States of America in 1833, France in 1862, and Germany in 1886. These treaties recognized the sovereignty of the Sultan Of particular importance was the 1886 Anglo-Germany treaty which internationally recognized the 10-mile coastal strip as the rightful dominion of the sultanate of Zanzibar [5] As a result of manipulation, persuasions and coercions, the Sultan accepted the proposal and acknowledged that he

3 Alieno-Odhiambo Mugo s Prophesy in W Ochieng (ed) *Kenya The Making of a Nation A Hundred Years of Kenya s History 1895 1995* (2000) 7

4 M John The Ten Mile Coastal Strip An Examination of the Intricate Nature of Land Question at Kenyan Coast' (2011) *International Journal of Humanities and Social Sciences* 177

5 As above

was the child of His Majesty's government and was always ready loyally to carry out its wishes If His Majesty's government considered the alienation desirable, he was quite prepared to agree to it [6]

15 Thus, in July 1920, the territory of the East Africa Protectorate was annexed to the British Crown under the new name Kenya Colony From then onwards, the former protectorate became the Kenya Colony The British colonialists imposed the state structure on collections of ethno-political communities in Kenya that historically lacked the inter-communal coherence The communities which lived independently from each other were forced to live together in newly-created colonial Kenya[7] This imagined or invented political community superimposed into much older alignments and loyalties has continue to be a fault line of ethnic socio-political mobilization and conflict till today

Resistance and military expeditions

16 The conquest of state and territory for British settlement and exploitation in Kenya was achieved through colonial violence [8] To force Africans into submission, the colonial administration in Kenya conducted 'punitive expeditions' in the 1890s against what they called 'recalcitrant tribes' There were military expeditions against the Nandi in 1901, 1905, and 1906, against the Embu in 1905, against the Abagusii in 1904, 1908, and 1914, against the Kipsigis in 1905 and against the Abagishu and Kabras in 1907

17. Even the 'angels' within the British administration who recommended peaceful methods of expansion discovered that the majority of the African people were not willing to forgo their independence without some military show [9] Sir Arthur Hardinge, the first protectorate commissioner, could even remark 'These people must learn submission by bullets - it's the only school, after that you may begin more modern and humane methods of education'.[10] The aftermath of such violence was destruction of property, rape, torture, death, and destruction to property

6 As above

7 N Peter Colonialism and Its Legacies in Kenya Lecturer Delivered During Fulbright Hays Group Project July 6th to August 6th 2009 Moi University-Kenya O Bethwell Introduction" in W Ochieng (ed) Kenya The Making of a Nation A Hundred Years of Kenya s History 1895-1995 (2000)

8 This study borrows from Tirop Simatei s Work "Colonial Violence Postcolonial Violations Violence Landscape and Memory in Kenyan Fiction" Here colonial violence is understood to mean relationships processes and conditions that attended the practice of colonialism in Kenya and that violated the physical social and/or psychological integrity of the colonized while similarly impacting on the colonizer

9 W Ochieng *A History of Kenya* (1985) 89-90

10 For details se J Lonsdale The conquest state 1895 1904 in O William (ed) (1989) *A Modern History of Kenya 1895-1980* (1989) 11

18 Having been appointed as the first commissioner, Sir Hardinge later realized the need to convert the external, costly and destructive force of conquest into internal, negotiable and productive power [11] In order to set up an administrative and judicial system, Hardinge fell back on the IBEAC administrators, retaining people like Charles Hobley and Martin the Maltese. He proceeded to divide the land into provinces and districts And since administrative boundaries tended to be based on ethnic or linguistic units, they froze cultural development and population mobility at a certain point in time, thus fossilizing situations which had been fluid [12] But more importantly, the administrative creativity of Hobley witnessed the planting of seeds for ethnic hatred as communities started to establish ownership of their territories to the exclusion of others Hardinge

> had low opinion of the Africans, whom he regarded as barbarous races and he therefore hoped to rely on the Arabs and to a lesser extent, the Swahili people who according to him were a civilizing influence for local administration The process of dividing the Kenyan people into primitive tribes and civilized tribes had begun and intensified as the administration spread into the interior"[13]

19 Sir Arthur Hardinge was succeeded as a commissioner by Sir Charles Elliot, who had an even lower opinion of the Africans His first task was to consolidate British control within the protectorate and to formulate administrative policies and structures suitable for white settlers Unlike his predecessor, his actions witnessed not only grave injustices against Africans, but also widespread fighting between different African 'tribes' in the second half of the 19th Century The tribal units thus created and defined were encased in district boundaries, but many of these classifications were arbitrary in some cases dividing groups more sharply than they had been previously while in others they combined groups that were originally distinct As Ogot aptly concludes, 'new and bigger tribes such as the Luhya, the Kalenjin, and the Mijikenda had been invented by the Africans themselves to safeguard the interest and welfare of smaller units against possible domination by the larger groups' This kind of balancing action has tended to intensify ethnic chauvinism and the struggle for the capture of the post-colonial state[14]

20 On the ground, the British sought to establish alliances and loyalties of Africans In so doing, the British sought to manipulate, subvert and at times circumvent the existing indigenous systems of authority. As Atieno-Odhiambo explains

11 As above
12 Ogot Bethwell (2000 21) Boundary Changes and the Invention of Tribes in William Ochieng (ed) *Kenya The Making of a Nation A Hundred Years of Kenya s History 1895-1995* (2000) 21
13 As above
14 As above

'the politics of this time were at one level the politics of conquest, but the more enduring heritage was the politics of manipulation'[15] Such were evident as the British manipulated leaders of the Maasai namely Olonona, Ole Galisha, and Ole Masikonti The British too manipulated the power equation in Luhya land by inventing empires for Mumia in Wanga and for Sudi Namachanja in Bukusu This was followed by imposition of new leaders such as Karuri wa Gakure and Kinyanjui wa Gathirimu among the Kikuyu In the coastal region, the Sultan of Zanzibar was manipulated by Sir Edward Northey and the British residents in Zanzibar to allow annexation of his 10-mile coastal strip to be part of the new colony [16]

21 Practically everywhere in Kenya, as was the case in the rest of Africa, the imposition of colonial rule was resisted Such resistance inevitably provoked military retaliation from the colonial powers Better armed and employing crack shot mercenaries, colonial powers imposed their rule by violence and/or military expeditions This was particularly the case between 1895 and 1914, a phase of pacification of 'recalcitrant tribes' fighting for the preservation of their political, cultural and economic independence [17] The period was thus characterized by an unimaginable degree of human rights abuses against defenceless Africans The military expeditions were accompanied by crimes such as theft, rape, death and destruction of property by the colonial soldiers or their associates Such actions defy the view that the British colonialist used humane and gentle methods to impose their rule in Kenya [18]

22 Examples abound of how the British used brutal force to impose its rule On the Kenya coast, Swahili chiefs like Mbaruk were famous for resisting alien rule When the British took over Kenya, the Mazrui chiefs resisted British rule as they had repeatedly done in the past They knew that they could not win pitched battles against an enemy who was far more powerful and better armed than they So they concentrated on fighting limited engagements and making lightning attacks, and they sustained a fairly successful resistance movement for some time But the British were in Kenya to stay They therefore imported Baluchistan regiments from India to crush the African resisters [19] Mbaruk, the leader of the resistance, fled to Tanzania, only to fall into German hands

15 Atieno-Odhiambo (2000 7) 'Mugo s Prophesy' in William Ochieng (ed) (2000) Kenya The Making of a Nation A Hundred Years of Kenya s History 1895-1995 Maseno University Institute of Research and Postgraduate Studies
16 Mwaruvie John op cit pg 177
17 S Kiwanuka *From Colonialism to Independence Reappraisal of Colonial Policies and African Reactions 1870 1960* (1973) 20
18 As above 21
19 As above 21

23 He and four other leaders died in exile [20] The same fate befell the Ogaden Somali in 1889, when they too attempted to resist British rule Their opposition to British colonialism forced the British to resort to more violent methods Convinced that the best 'tutors' to make the Ogaden see reason were bayonets and machine guns, the British in Kenya moved against the Ogaden with the help of Indian regiments in 1889 Ogaden resisters were smashed and hundreds of their cattle confiscated by the British.[21] Similarly, while forcing the Taita to submission, Captain Robert H Nelson remarked

> In a few minutes the men cleared out, leaving some fifteen dead on the spot and I have no doubt that a good many received fatal wounds I then marched on to the village of the men who had been fighting us, burning the surrounding villages and seizing the sheep and goats belonging to them [22]

24. In the Mount Kenya region, Colonel Richard Meinertzhagen also led many bloody expeditions between 1902 and 1906, in which many Kikuyu and Tharaka people were killed and about 11,000 head of stock captured

25 British soldiers, porters and other associates made more injustices in western Kenya, particularly among the Kisii and the Luo people When a message arrived in 1905 of the Kisii revolt, a detachment of a hundred African Police under Robert Foran and a company of the Third King's African Rifles (KAR) under captain Jenkins were immediately dispatched to quell it This is how Foran described the encounter:

> The machine gun was kept in action so long during this sharp engagement that it became almost red-hot to the touch Before then they left several hundreds dead and wounded spearsmen heaped up outside the square of bayonets This was not so much a battle as a massacre, but wholly unavoidable under the circumstances It was an urgent case of decimating the determined attack or else being completely wiped out by the Kisii warriors [23]

26 In 1908, the British organized another expedition, when the Kisii ambushed and speared a colonial administrator, Northcote One of the relief patrols headed by Foran sent to Northcote's aid explained that ' the African Rifles were putting in some strenuous work – burning villages, devastating standing crops, capturing livestock and hunting down the bolting warriors'[24] A series of telegrams conveyed the results of the expeditions to the colonial office in London On 1 February 1908, a telegram received by the colonial office read in part: 'Result of operations in Kisii to 28 January -

20 Ochieng' William *A History of Kenya* (1985) 90
21 As above
22 As above 91
23 For details see W Audrey *Rural Rebels A Study of Two Protest Movements in Kenya* (1977) 25
24 As above

cattle captured 5,636 sheep and goats 3,281 and 100 Kisii killed' Two days later another telegram reported the number of Kisii dead had risen to 160 [25]

Manipulations

27 The British colonialists' injustices against the people of Kenya were not only limited to the 1895-1914 military expeditions British administrators and functionaries used manipulation, colonial laws and policies, and continued to use violence and harassment to appropriate both human and natural resources from Kenya throughout the colonial period

28. Manipulations were more evident in the signing of treaties involving British administrators and African leaders to create frontiers for European settlers from Britain, Canada, South Africa, Australia and New Zealand One such 'treaty' which easily comes to mind was the first and the second Maasai Treaty of 1904 and 1911 The first treaty, signed without the knowledge of the Maasai people, agreed to move the Naivasha Maasai *en masse* to the Laikipia plateau, together with their cattle Such a move enabled white settlers to occupy the whole of the Rift, Zedong and Gong But even this grave injustice committed against the Maasai by the colonial government did not satisfy the appetite of the white settlers for more productive land. They pressed that the Laikipia Maasai should be moved again to a southern reserve so that the Maasai tribe could be together in a United Maasai Reserve On 4 April 1911, the second Maasai agreement was signed according to which the northern Maasai had agreed to move to the southern reserve Subsequently, the new Maasailand was declared a closed area and the policy of reservation for the new tribe continued throughout the colonial period As such, attempts to further alienate Maasai land during the post-colonial period engendered strong ethnic feeling among the people [26]

29 It was not only the Maasai who suffered colonial manipulations, the same was the case in the Kiambu-Thika area from 1903 to 1908, central Rift Valley 1904 to 1914, and lastly in the Kericho to Nyeri/Nanyuki areas through the soldier settlement schemes following the First World War This last scheme left the Kipsigis without Kimulot, the Nandi without Kipkarren valley, the Sabaot without the Trans-Nzoia pastures and made the Samburu, Meru and Kikuyu squatters in the Timau-Nanyuki areas [27]

25 As above

26 For details see O Bethwell 'Boundary Changes and the Invention of Tribes in William Ochieng (ed) *Kenya The Making of a Nation A Hundred Years of Kenya s History 1895 1995* (2000) 21 Ochieng William A History of Kenya (1985) 90

27 Alieno-Odhiambo (n 3 above) 8

Chiefs and forced labour

30. British officials, with African submission to their authority after pacification, were pressed by the reluctant metropolitan taxpayers to find means of making the colonial territories self-financing. They achieved this through the creation of the office of the chief as agents of local administration and tasked them with the responsibility for tax collection, maintenance of law and order and more importantly to supply cheap labour for public and settler requirements It was the assignment of these tasks which put the colonial chiefs at the forefront in the abuse of human rights

31 During the mobilization of labour for Europeans, chiefs were empowered by a series of labour laws to call out any number of able-bodied persons to labour without pay on public works[28] This mandate was extended at the outbreak of World War 1 to finding able-bodied manpower for the First World War, a war that caused the death of over 50,000 Africans and left thousands more wounded Astonishingly, most Africans who were recruited into the war had very limited understanding of why the Europeans were fighting. In 1919 the Northey Circular spelt out its extension to embrace the directive on African labourers to work for settlers at very low wages These aspects of chief authority were backed by force Chiefs had retainers who in the process of tax collection, punitively confiscated peoples' animals and produce, seized their women and routinely whipped the young men [29] Such coercive chiefly authority, supervised and approved by the district commissioners, brought in the intense hatred of the system, even in the post-colonial period

32 In his 1936 report on Kenya's finances, Sir Alan Pim identified two potential opportunities for corruption - the counting of huts for hut tax, and the enforcement of tax payment by chiefs The hut counters responsible for determining tax liability were, certainly not of a type likely to be exempt from the temptation to make a little money, they used both influence and bribery to exempt some who were required to pay and to extort taxes from those who were not. Additionally, due to limited staffing at the district level, collection was largely enforced by employing the services of the chiefs or headmen with their various satellites This unavoidably gave opportunities for the abuse of authority, either in the direction of using improper means to enforce payment, or in connection with applications for exemption

28 Ochieng' William A History of Kenya Nairobi (1985) 16
29 Atieno-Odhiambo (n 3 above) 8

Land alienation

33 After the First World War, the colonial administration was keen at increasing the number of settlers, increasing settler land holding and boosting settler agriculture by providing them with good infrastructural services Needless to say, the land alienated to the settlers was carved out of the most fertile regions, land which was inhabited by the Africans Therefore, the main injustice on Africans after the First World War focused on land alienation and the creation of the African squatters, both in Central and the Rift Valley regions of colonial Kenya

34 In enforcing this injustice, the colonial administration introduced the Crown Lands Ordinance of 1915,[30] which declared all 'waste and unoccupied' land in the protectorate 'Crown Land' subject to the governor's powers of alienation In the British imagination, such land included any empty land or any land vacated by a native [31] The protectorate administration gave no cognizance to customary tenure systems, and by 1914 nearly 5 million acres (2 million hectares) of land had been taken away from Kenyan Africans, mostly from the Kikuyu, Maasai and Nandi communities It created the reserves for 'natives' and located them away from areas scheduled for European settlement These developments witnessed the creation of what Mamdani refers to as 'citizen' (settlers) and 'subject' (Africans) – a dual system of land tenure and land administration to consolidate colonial rule [32]

35 Colonial appropriation of land and alienation of a large section of the African people produced a situation where by 1930, probably more than 15 000 Kiambu Kikuyu had lost their land ownership, while a similar number lost their communal or 'tenant at will' use of land Thus, approximately 30,000 Kikuyu had lost land rights in Kiambu district alone About half that number lost land rights in Murang'a and Nyeri districts The total loss of land among the Kikuyu could therefore involve well over 45,000 people Annual reports for the period indicate that there were 41,156 Africans in European-settled areas of Nakuru and Naivasha and these would seem to support our estimates, given that the majority of Africans in these areas were Kikuyu.[33]

36 Other 'troublesome communities', like the Talai, were in 1934 forcibly evicted from Kericho/Nandi areas on accusations of being extortionist and sent to open jails in Lambwe, a tsetse-flies infected area in a valley where sleeping sickness was rampant

30 S Wanjala Essays on Land Law The Reform Debate in Kenya (2002)
31 Syagga Paul (undated) Public Land Historical Land Injustices and the New Constitution Society for International Development (SID) Constitution Working Paper No 9
32 M Mamdani *Citizen and Subject Contemporary Africa and the Legacy of the Late Colonialism* (1996)
33 Alila Patrick *Kinyanjui Kabiru and Wanjoyi Gatheru (Rural Landlessness in Kenya* (1985) 2

It was described as the 'Valley of Death' where 30 years earlier, 60 percent of Lambwe valley inhabitants had been killed by diseases [34]

37 By 1945, there were about 203,000 people rendered squatters and labourers in European farms, with 101,000 Kikuyu as resident labourers on European farms and about 21,000 more employed mainly in the government's department of forestry A substantial number of Africans in the settled area were not enumerated in this labour census and the total number of the Kikuyu in the alienated area must have been a lot more than 150,000 by 1945 No wonder, three years later, in 1948, the number of Kikuyu recorded as living outside their 'native reserves' was more than 294,000 or nearly 29 percent of the total Kikuyu population. Some of them lived in towns or in other African reserves, but nearly all of them had been effectively uprooted by the process of alienation They were outside their reserves in search of work and or new land as a means of subsistence [35]

38 The creation of reserves in areas deemed unsuitable for European settlement had far-reaching implications, both for the natives and the colonial administration. Underlying them was a policy of exploitation and oppression against the colonized people accentuated by land alienation, forced male labour mobilization, overcrowding, insecurity, stagnation in African agricultural production, massive landlessness and rapid land deterioration due to fragmentation, over-stocking and soil erosion

39 In the long term, the problems in the reserves led to unrest and eventually to a political uprising – the Mau Mau resistance movement that organized around the issue of foreign rule, land alienation and political and economic inequality [36] The colonial state's answer to the unrest was to initiate an ambitious project of land tenure reform in the reserves that would serve as a bulwark against rural radicalism The colonial agronomist's thought about the individualization of land tenure was first contained in the less well-known JH Ingham Report published in 1950 However, the blueprint that was to destroy the indigenous/communal access to land was formulated by Roger Swynnerton in what was to be known as the 1954 Swynnerton Plan The architect of this plan argued persuasively in support of individualization of tenure in Kenya as a pre-condition for enhanced agricultural production[37]

34 D Anderson Black Mischief Crime, Protest and Resistance in Colonial Kenya' (1993) 36 The Historical Journal 36, 851-877

35 For details see A Palrick *et al Rural Landlessness in Kenya* (1985) 2

36 S Okuro *Land Reforms in Kenya The Place of Land Tribunals in Kombewa in Elisio Macamo ed Negotiating Modernity* (2005)

37 Studies have shown that those on whose names land was registered as principal landholders-men assumed exclusive individual rights in given pieces of land at the expense of women widows and juniors whose rights to land remained either secondary or usufruct

Mau Mau War

40 The Mau Mau war, from 1952 to 1955, marked the climax of African resistance to British colonial rule in Kenya It was a key event in Kenya's history Recent studies by Caroline Elkins, David Anderson and Charles Hornsby have demonstrated the extent of British atrocities hitherto undocumented in Kenyan History

41 In contrast to the conventional notion that the counter-insurgency was aimed at the Mau Mau militants, Elkins recognizes that the British interned practically the entire Kikuyu population as Mau Mau Key to this was turning the insurgency inward, into a battle of Kikuyu militants against Kikuyu loyalists, thereby turning Mau Mau insurgency into civil war The turning point came on the night of 26 March 1953, at Lari, which was the site of two successive massacres, the first by the Mau Mau and the second by homeguards During this massacre, Anderson describes how the Mau Mau militants herded Kikuyu men, women and children into huts and set them on fire, hacking down with *pangas* anyone who attempted escape, before throwing them back into the burning huts The vast majority of the 400 killed at Lari were women and children

42 But even more importantly, the Mau Mau started to target, less and less the settlers on the highlands or even less the colonial power itself, but increasingly those they perceived as local beneficiaries of colonial power, turning neighbours and relatives against each other in a rapidly brutalizing civil war This was not the only massacre, the colonial administration also committed a similar massacre in Hola in 1959 in which 11 detainees were clubbed to death, with 77 having permanent injuries [38] The submissions of Michael Gerard Sullivan, the colonial officer in-charge of Hola camp to the commission investigating the death of the detainees revealed the firm instructions from Compell, the deputy commissioner of prisons, to torture the Mau Mau detainees by denying them drinking water for a number of hours, weeding rice fields with bare hands and use of batons on the non-cooperative ones [39]

43 Elkins has indeed demonstrated the injustices meted on the Mau Mau by the colonial police and the loyalist For example she argues that electric shock was widely used, as well as cigarettes and fire Bottles (often broken), gun barrels, knives, snakes, vermin, and hot eggs were thrust up men's rectums and women's vaginas. The screening teams whipped, shot, burned and mutilated Mau Mau suspects, ostensibly to gather intelligence for military operations and as court evidence

38 M Wunyabari *Mau Mau and Kenya An Analysis of a Peasant Revolt* (1993)
39 KNA Documents related to the death of 11 detainees at Hola camp in Kenya Reference No K967 62

44 Between 150,000 and 320,000 Africans were detained for varying lengths of time in more than 50 detention and work camps The treatment in the camps, staffed by little trained non-Kikuyu, loyalists and European settlers, was often brutal. The information about what was happening there was carefully controlled and the colonial office and the governor systematically denied reports of mistreatment Elkins' extended descriptions of the regime of torture, one is struck by its predominantly sexual nature Male detainees were often sexually abused 'through sodomy with foreign objects, animals, and insects, cavity searches, the imposition of a filthy toilet bucket-system, or forced penetrative sex' Women had 'various foreign objects thrust into their vaginas, and their breasts squeezed and mutilated with pliers' Variations abounded, with sand, pepper, banana leaves, flower bottles (often broken), gun barrels, knives, snakes, vermin, and hot eggs being thrust up men's rectum and women's vaginas A common practice during interrogation was to squeeze testicles with pliers Josiah Mwangi Kariuki (popularly known as J M Kariuki) was detained in 14 detention camps between 1953 and 1960 In his book 'Mau Mau Detainee', he wrote that his experience at Kwa Nyangwethu detention camp was the worst

> Kwa Nyangwethu was, however, particularly bad and was notorious not for mere beatings, but for castration I have seen with my own eyes that Kongo Chuma whom I first met in Nakuru before he was detained and who is now living at Kianga in Embu district, has been castrated He had not been like this when he was in Nakuru but when we met in the detention camp at Athi River he told me it has been done to him by the screeners at Kwa Nyangwethu He also told me that bottles of soda water were opened and pushed into the uterus of some women to make them confess Kongo said these things were done by the Africans but the European officers knew what was going on [40]

45. The Mau Mau fighters were also responsible for unspeakable atrocities Contrary to African customs and values, they assaulted old people, women and children The horrors they practiced included decapitation and general mutilation of civilians, torture before murder, bodies bound up in sacks and dropped in wells, burning victims alive, gouging out of eyes and splitting open the stomachs of pregnant women[41] Mau Mau officially ended with the capture and execution of Dedan Kimathi, the uprising's most senior leader in October 1956 While the figures are debatable, the Mau Mau are said to have caused the death of at least 14,000 Africans, 29 Asians and 95 Europeans

40 JM Mwangi *Mau Mau Detainee* (2009) 30

41 O Bethwell Allan BRITAIN S GULAG *Histories of the Hanged Britain's Dirty War in Kenya and the End of Empire* By DAVID ANDERSON London Weidenfeld and Nicolson, 2005 Pp viii+406 (ISBN 0 297-84719-8) *Britain's Gulag The Brutal End of Empire in Kenya* By CAROLINE ELKINS (London Jonathan Cape 2005) Pp xiv+475' *The Journal of African History* (Cambridge University Press) 46 493–505

There were also extra-judicial executions by the colonial police and homeguard units. Moreover, the beating and torture of Kikuyu suspects was commonplace, and the security forces murdered hundreds.

46 To establish the root causes of Mau Mau, the colonial administration appointed the Corfield Tribunal, which relied extensively on psychologist JC Carothers and in their report recorded 11,503 Mau Mau dead. It was understandable that the number was under-estimated to disguise the ferocity of the colonial office response to Mau Mau. A thousand were hanged upon being convicted by courts, while more were killed by troops in the forest. There were also extra-judicial executions by the colonial police and homeguard units. Moreover, the beating and torture of Kikuyu suspects was commonplace, and the security forces murdered hundreds. The Mau Mau war did not only mark the end of the African resistance against colonial rule, but it was the climax of colonial atrocities on Africans suspected to be members of Mau Mau.

47 In 1999, a few former fighters calling themselves the Mau Mau Original Group announced that they would attempt a £5 billion claim against the UK, on behalf of hundreds of thousands of Kenyans for ill-treatment they said they suffered during the rebellion. In November 2002, the Mau Mau Trust - a welfare group for former members of the movement - announced it would attempt to sue the British government for widespread human rights violations committed against its members. With the assistance of the Kenya Human Rights Commission, in 2011, the Mau Mau group succeeded in suing the British after a British court ruled that the Kenyans could sue the British government for their torture.

48 After the Mau Mau War, the colonial government not only relaxed the ban on the formation of African political parties, but also attempted to increase African representation in the colonial administration. The colonial administration permitted the re-establishment of African district- based political parties and/ or associations and disallowed national organizations. The first to be registered was the Nairobi District African Congress in April 1956, with Mau Mau lawyer Argwings Kodhek as the president. The other district-based associations that emerged at this time were the Mombasa African Democratic Union, the African District Association, the Abagusii Association of South Nyanza District, the South

Nyanza District African Political Association, the Taita African Democratic Union, the Nakuru African Progressive Party, the Nakuru District Congress, the Abaluhya Peoples Association and the Nyanza North African Congress[42]

49 One of the legacies of these district-based political associations was that the pace of political developments among the various districts continued to be uneven and parochialism rooted in ethnic loyalties was encouraged at the expense of African unity [43] It provided the foundation of alignment of political orientation and ethnicity The other effect was the emergence of local powerful figures that would resist attempts at political centralization by colony wide political organization such as the Kenya African National Union (KANU)

50. The process of increasing African and other races' representation into the colonial administration was initiated by the British Colonial Secretary Oliver Lyttleton in 1954 In his advice to the administration, he said 'it is prudent to have all the inhabitants of the colony to share in the responsibility of government, albeit at a subservient level' His advice resulted in the enactment of the Lyttleton Constitution in 1954, which put in place institutional structures to curb anti-colonial revolts, establish a multi-racial society and provide a timetable for independence But in reality it asserted minority interests while the language of democracy was employed to hoodwink the majority [44] The War Council created by the constitution was racially exclusive and emerged as the supreme organ with powers to enact legislation to deal with the Emergency without reference to the legislative council Even the Council of Ministers was by and large in the hands of a handful of settlers The contradictions emanating from the dispensation of the Lyttleton Constitution culminated in protracted political struggle in which Africans, Arabs and Asians demanded an all-inclusive political process The political crises after the 1957 general election witnessed the enactment of another constitution, the Lennnox Boyd Constitution in 1956.

51 While the Lennox Boyd Constitution increased the number of African representatives in the Legislative Council, it did not adequately address the Africans' grievances However, it sharpened divisive racial and ethnic political interests that spilled over into the 1960 Lancaster House Constitutional Conference where a new constitution was negotiated Therefore the Lancaster House conferences became a space for contest by various racial groups and emerging political elites and commitment to democratic and social change remained abstract [45]

42 Ogot Bethwell and Ochieng William (eds) *Decolonization and Independence in Kenya* (1995) 52
43 As above
44 For details see Samwel Alfayo Nyanchoga *et al Constitutionalism and Democratisation in Kenya* 1945- 2007 (2008)
45 As above

President Jomo Kenyatta's Era

52 On 12 December 1963, Kenya got independence from British rule with Jomo Kenyatta as the Prime Minister A year later, Kenya became a Republic with Jomo Kenyatta as the President and Jaramogi Oginga Odinga as the Vice President Within a short period into independence, gradually returned to the ways of the colonial master The government and the ruling political party, Kenya African National Union (KANU), not only retained repressive colonial laws, but also became increasingly intolerant of political dissent and opposition Political assassinations and arbitrary detentions were turned into potent tools for silencing dissenting voices and ultimately for dismantling opposition political parties For the larger part of Kenyatta's reign Kenya was a de facto one-party state

Official amnesia

53 The attainment of Kenya's political independence on the 12 December 1963, with Jomo Kenyatta as the first Prime Minister, marked the culmination of 68 years of anti-colonial struggles waged by Kenyan Africans to free themselves from British domination, oppression and exploitation However, in his independence speech, Jomo Kenyatta did not suggest any substantial change in the colonial structures The colonial state would remain intact – despite the fact that the fight for national independence had been dominated by demands for social justice, egalitarian reforms, participatory democracy, prosecution of those who had committed mass killings and other forms of crimes during the war of independence, and the abolition of the colonial state and its oppressive institutions

54 Also, in his independence speech, Jomo Kenyatta never mentioned the heroism of the Mau Mau movement [46] No Mau Mau freedom songs were sung, no KLFA leaders was allowed to speak during the historic day. Instead, Kenyatta asked the people to forget the past - to forgive and forget the atrocities committed against them by the British and their Kenyan supporters during the war of independence[47] He became no radical on nationalization of foreign-held assets including land and often remarked "I regard titles as a private property and they must be respected I would not like to feel that my *shamba* (smallholding) or house belongs to the government Titles must be respected and the right of the individual safeguarded[48]" In this way, the Kenyatta administration provided a relief to the settler community that their land will not be taken away from them without compensation

46 The usage of KLFA to refer to Mau Mau is rather problematic in literature KLFA is *not* simply another name for Mau Mau It was the name that Dedan Kimathi used for a coordinating body which he tried to set up for Mau Mau It was also the name of another militant group that sprang up briefly in the spring of 1960 the group was broken up during a brief operation from 26 March to 30 April

47 Maina wa Kinyatti (2008 363) History of Resistance in Kenya 1884 2002 (2008) 63

48 For details see Daniel Branch *Kenya Between Hope and Despair 1963 2011* (2011)

55. The attainment of political independence shadowed several tensions and cleavages which occupied the new ruling elites prior to and immediately after independence.[49] For example, the radicals represented by Oginga Odinga and Bildad Kaggia who favoured nationalization of foreign owned corporations, seizing of white settler farms without compensation and following more pro-Eastern foreign policy. Odinga persuasively argued that "I understand that in communist countries the emphasis was on food for all If that was what communism meant then there was nothing wrong with that[50]" He as his supporters opted to look to Soviet Union, China and their allies for backing. On the other hand, conservatives led by Jomo Kenyatta and Tom Mboya - the nationalists who espoused a constitutionalist and reformist approach and were after independence concerned with the maintenance of the colonial legacy As the struggle raged for control of the state, decisions based on short-term expediency were interspersed with fundamental directional choices

56 Kenya soon returned to a command and control leadership model strikingly similar to that of the colonial era Decisions about development, money and military protection drove foreign relations, domestic policy and land policy, which in turn drove greater centralization and a conservative social and political model that combined individual accumulation with a partisan and interventionist state [51] The struggle for power saw the abandonment of the *Majimbo* Constitution, which conceded much autonomy to the regions for a *de facto* one party state The dissolution of the Kenya African Democratic Union (KADU) was a critical moment, setting the stage for three decades of single-party dictatorship and prioritisation of the maintenance of public order by the Kenyatta administration

Dealing with Mau Mau

57 Jomo Kenyatta took over power in a country which was already polarized by the Mau Mau issue over land and more importantly "ownership of the fight for independence" The reason for this was the expectation that those who fought for Uhuru (independence) should exclusively eat the fruits of independence[52] This debate thrived even in the context of the revelations that Kenya had many powerful voices in the anti-colonial movement Indeed Bethwell Ogot has demonstrated the roles and responsibilities of all the communities in Kenya, in anti-colonial movements[53] Therefore the first issue which Jomo Kenyatta had to deal with was the Mau Mau – a movement whose main agenda revolved

49 For details see Hornsby Charles Kenya A History Since Independence (2012)
50 For details see Branch (n 48 above) 36 2011
51 As above
52 E Atieno Odhiambo Matunda Ya Uhuru Fruits of Independence Seven Theses on Nationalism in Kenya' in E Atieno Odhiambo and John Lonsdale (eds) *Mau Mau and Nationhood Arms Authority and Narration* (2003)
53 O Bethwell Mau Mau and Nationhood Untold Story' in ES Odhiambo and J Lonsdale (eds) *Mau Mau and Nationhood Arms Authority and Narration* (2003)

around land and the colonial land alienation among the Kikuyu, which had created a special group of Kikuyu without land[54]. Before independence, Kenyatta had pardoned the remaining Mau Mau detainees in prison and issued an amnesty for Mau Mau fighters to leave the forest and surrender their weapons More than 2,000 did so in the first weeks after independence far more than the British had expected[55] But after the amnesty for Mau Mau expired in January 1964, the government started treating the remnants as criminals

58 By early 1965, most of the remaining Mau Mau hard-core fighters had been captured and killed by the new independent government The Mau Mau who made good their threat to return to the forest under the slogan of 'Not yet Uhuru,' Baimungi, were quickly executed Kenyatta's message in the 1960s was clear - there would be nothing for free. In the 1970s, it was politically imprudent to be called Mau Mau Although on paper, Kenya acknowledged the role Mau Mau had played in the struggle for independence, his government persistently downgraded its importance and did nothing to reward the those who had suffered Despite President Kenyatta's promise in 1964 that the land confiscated during the Emergency would be returned, nothing happened

59. The British removed and hid most records of the war on the eve of independence to protect loyalists from reprisals and themselves from demands for compensation for atrocities. Ex-Mau Mau were given no preferential treatment in access to land and jobs [56]

60. The ex-Mau Mau fighters were thus short-changed after independence Even when the settlement schemes were initiated between 1963 and 1967, the Maasai who suffered the most got nothing and the Kalenjin received small areas around Sotik and Nandi The squatters were not any better in their continued demand for cultivatable land across the highlands Those living in the former White Highlands were evicted In the majority of the settlement schemes in Nakuru and Nyandarua, the existing squatters were simply removed by force, with new claimants chosen to occupy the plots The situation of the landless did not improve with the sale of larger farms under the 'willing buyer, willing seller' model A decade after the implementation, one sixth of the settler lands were found to have been sold intact to the emerging African elite comprising Kenyatta, his wife, children and close associates These elites did not even need much money to buy settler farms, as they were also able to raise loans from government bodies such as the Agricultural Finance Corporation (AFC) and the Land and Agriculture Bank [57]

54 M Patrick *The Land Question and the Mau Mau today* (2005) IFRA Kenya Studies IFRA - Les Cahiers N° 28
55 The Times 19th December 1963
56 Hornsby Charles (2012 117) Kenya A History Since Independence London I B Tauris
57 As above

Shifta War

61 After dealing with the Mau Mau issue, the next issue that the emergent fragile state had to deal with was the Shifta War. Before independence, the Somali had maintained a constant attack on police posts and army camps in Somali-inhabited regions Two days after independence, the Somalia staged five more incursions, forcing the government to declare a state of emergency on 25 December 1963 The government became convinced that Somalia was training and providing bases for up to 2,000 shifta (bandit) guerrillas While the shifta used guerrilla tactics, including hit-and-run attacks and mining of roads, the Kenya government adopted British counter-insurgency techniques used during the Mau Mau uprising, including the establishment of collective villages surrounded by barbed wire and guarded by troops. There were widespread beatings and killings of civilians and mass confiscation of livestock As with the Kikuyu in 1953 to 1955, every Somali was seen as a potential shifta and treated accordingly, although, there was no equivalent of the detention camp pipeline, and the loyalists were not so well rewarded

62. The government used its ability to detain without trial anyone it believed to be helping the shifta No official death figures were published for the conflict, which received little international attention The conflict established patterns of suspicion and hostility between ethnic Somali and other Kenyans that has endured for decades Development in the colonial era in North Eastern where the Somali live had been non-existent and this changed little after independence The state treated the Kenyan Somali as subjects rather than citizens and the region as a military-ruled colony.

Consolidation of power

63 On 24 January 1964, there was a strike by several hundreds of soldiers of the Kenya Rifles 11th Battalion, based in Lanet near Nakuru The mutineers were driven by disgruntlement over pay, working conditions, and fear of their future under the KANU government which held on to British expatriate officers. With increasing internal tensions and external threats, the Kenyatta regime became even more repressive after the January 1964 mutiny With no reference to the cabinet, Kenyatta appealed for and received the support of the British Army units to restore order without significant bloodshed.

64. But to make an example to mutineers, 43 soldiers were court-martialed, and the military court jailed 16 ring leaders for a total of 197 years. To consolidate power, the Kenyatta regime supported constitutional amendments between 1964 and 1969 whose objective were to destroy democratic institutions while

protecting the KANU-led government and the interests of the comprador class [58]

Selected constitutional amendments (1963-1969)

The Constitution of Kenya (Amendment) Act No. 14 of 1965
This Amendment Act reduced the threshold for amending the Constitution from 90 percent to 65 percent in Senate and 75 percent to 65 percent in the National Assembly It also increased the days within which Parliament should approve a state of emergency from 7 to 21 days Importantly, it reduced the threshold for approval of state of emergency from 65 percent to a simple majority

The Constitution of Kenya (Amendment) Act No. 16 of 1966
The Amendment Act introduced the rule that a Member of Parliament would lose his seat in Parliament if he missed 8 sittings or was imprisoned for a period of over six months This amendment was intended to deal with KANU 'rebels' and those who had joined KPU The amendment also increased the President's powers to rule by decree in North Eastern Province

The Constitution of Kenya (Amendment) (No. 2) Act No. 17 of 1966 (Turn Coat Rule)
Under this Amendment Act, a Member of Parliament would by law lose his parliamentary seat of he defected to another political party The amendment was meant to deal with Members of Parliament who had defected from KANU to KPU

The Constitution of Kenya (Amendment) (No. 3) Act No. 18 of 1966
This Amendment Act increased the period for National Assembly's review of emergency orders from 2 to 8 months It permitted greater and wider derogation powers of fundamental rights and freedoms It also removed the provision calling for reasonable justification for such derogations This amendment was intended to allow for detention of KPU members who had defected from KANU

The Constitution of Kenya (Amendment) Act No. 13 of 1967
This Amendment Act was intended to clear doubt over section 42A which spelt out the Turn Coat Rule It backdated the effect of the Fifth Amendment to 1963

The Constitution of Kenya (Amendment) (No. 2) Act No. 16 of 1968
Under this Amendment Act, independent candidates were barred from participating in elections The amendment also removed parliamentary approval for state of emergency declaration

The Constitution of Kenya (Amendment) Act No. 5 of 1969
This amendment Act consolidated all the constitutional amendments as at February 1969 thereby resulting in a revised Constitution of Kenya in a single document which was declared to be the authentic document

58 For details see Samwel Alfayo Nyanchoga et al (2008) Constitutionalism and Democratisation in Kenya 1945- 2007 Catholic University of Eastern Africa

65 The polarization of the country between the radicals and the conservatives continued to remain a threat which Kenyatta had to handle The first attempt to deal with this situation was the development of Sessional Paper Number 10 of 1965, which was a mix of the socialist and capitalist models, rejecting both Marxism and laissez-faire capitalism, and stressing African traditions, equity and social justice. Kenyatta made it clear in his introduction to the paper that the intent was not to stimulate discussions on Kenya's economic policy, but to end it. However, Oginga Odinga and his camp instructed Pio Gama Pinto to prepare a competing paper to mobilize for the rejection of the government sessional paper But before Pinto could prepare the parallel paper, he was murdered on 24 February 1965 outside his home in Nairobi by people believed to have been auxiliaries loyal to Kenyatta. The killing of Pinto marked the process of political assassinations under the Kenyatta regime

66 The year 1966, marked the turning point in Kenya's political history and witnessed the introduction of the motion of confidence in the president by Tom Mboya without the knowledge of Oginga Odinga, who was then the leader of government business The year also saw the holding of the KANU National Delegates Conference in Limuru, which created a new position of eight new provincial vice-presidents These actions forced Odinga and his supporters to pursue the constitutional opposition by forming a political party, the Kenya Peoples Union (KPU) On 14 April 1966, Odinga resigned as vice-president and together with his supporters joined KPU. In his resignation statement, Odinga argued that he refused to be part of a government "ruled by underground masters serving foreign interests", and accused the Limuru Conference of being rigged in favour of Kenyatta and his allies. The Kenyatta regime also passed the Preservation of Public Security Act in 1966, which provided the state with wide powers for detention without trial and allowed control of free movement, the imposition of curfews and press censorship. The Act was used effectively from 1966 to 1968 in dealing with those perceived to be critical of the Kenyatta regime, particularly in the jailing without trial of Odinga and KPU supporters

67 Next was the assassination of Tom Mboya on 5 July 1969 in the current Moi Avenue[59] As with Pinto's death, the apparent culprit was a petty crook with connections to the intelligence service who was charged with the murder on 21 July the same year Facing a revolt from the Luo and the growing support for change among many Kenyans horrified by Mboya's assassination, Kenyatta's closest allies reverted to their ethnic bailiwicks, through oathing to force Kikuyu voters to return sitting members of parliament in the election.

68 KPU MP Okelo-Odongo claimed that those being oathed were stripped naked, tied with a rope around their neck and forced to swear to fight the Luo and not

59 Other prominent leaders and academicians who died in politically controversial circumstances included but were not limited to Argwings Kodhek (1969) and Ronald Ngala (1972)

to allow any other tribe to lead Kenya.[60] The worst came on the 25 October 1969, when Kenyatta visited Kisumu to open the Russia-built Nyanza Provincial General Hospital. The opening of this health facility coincided with the Kisumu District sports day, with a huge number of students attending. Odinga was not invited, but he and his supporters came in force shouting Dume (Bull, the party symbol of KPU).

69 In the ensuing commotion, a full-scale riot erupted, the presidential escort and the dreaded crack paramilitary General Service Unit (GSU) surrounded the president, shot their way through the threatening crowd and continued shooting 25 kilometres outside the town. When the dust settled, the 'Kisumu Massacre' of 1969 was complete, with many shot dead, including school pupils, by the presidential security. Virtually all the films of the incident was seized and destroyed. Odinga and his supporters were arrested and detained without trial and KPU, the party associated with Odinga was banned. A curfew was imposed in Central Nyanza and Siaya and hundreds were arrested.

70 Although KPU was banned and its leaders arrested, after 1969 Kenyatta's legitimacy and that of his government was still being questioned by left-wing politicians. Kenyatta himself became more intolerant of dissent and the centralization of power around him encouraged sycophancy, exploitation and the creation the so-labeled 'Kiambu Mafia'. Josiah Mwangi Kariuki was the government's most influential critic between 1970 and 1974. 'J.M.' Kariuki catalysed the wishes of the poor, landless and those unhappy with the direction that Kenya was taking. It was Kariuki who coined the phrase "we do not want a Kenya of ten millionaires and ten million beggars". He was also at the forefront of the fight against corruption and the social policies of the government. As assistant minister for tourism and wildlife, he was probably involved in revelations about poaching and ivory smuggling.[61]

71 Under a state orchestrated fear on 3 March 1975, Maasai herdsmen discovered JM's tortured and mutilated corpse on the slopes of Ngong Hills near Nairobi. His fingers had been cut off and his eyes gouged out before he was shot. The killers had burnt his face with acid to prevent identification of the body and his fingerprints were gone. JM's death also joined the long list of unresolved political assassinations during the Kenyatta era. To respond to Kariuki's murder and to rebuild his authority, the Kenyatta regime continued arresting and jailing those he labelled troublesome MPs such Jean Marie Seroney, Martin Shikuku, Chelagat Mutai, Peter Kibisu, Mark Mwithaga and George Anyona on dubious grounds even within the precincts of Parliament Buildings. As Kenyatta departed from the political scene with his death in Mombasa in August 1978, he left a handful of unaddressed issues including: corruption, tribalism, state orchestrated repression, political assassinations, and land distribution policies.

60 Okelo- Odongo East Africa Standard 12 August 1969

61 For details see *Daniel Branch Kenya Between Hope and Despair 1963 2011* (2011)

President Daniel Arap Moi's Era

Following in Kenyatta's footsteps

72. Daniel arap Moi assumed the presidency after Kenyatta's death in 1978. On assuming power, President Moi promised that he would follow in Jomo Kenyatta's footsteps. In December 1978, President Moi released all the 26 political detainees across the ethnic spectrum, most of whom had been languishing in jail for years (Shikuku, Seroney, Anyona, Koigi wa Wamwere, and Ngugi wa Thiong'o) He also reassured Kenyans that his administration would not condone drunkenness, tribalism, corruption and smuggling – problems which were already deeply entrenched in Kenya under President Kenyatta's administration This was partly a strategy geared towards the achievement of specific objectives, namely, the control of the state, the consolidation of power, the legitimisation of his leadership and the broadening of his political base and popular support [62] President Moi was well aware of his own underlying problems, especially the fact that he was from a minority community Leading the country to independence had brought President Kenyatta economic opportunities that had permitted him to rule over a period of prosperity [63]

73 President Moi's first priority was to secure his position and to weaken not only his most vociferous Kikuyu opponents, but also those he perceived to be critics of his regime. To achieve his objective, President Moi under the cover of an anti-corruption crusade, systematically started replacing President Kenyatta's courtiers with his own to topple the Kikuyu ascendancy. Like his predecessor, he also resorted used the law to consolidate his power

74 To bolster his grip on power, President Moi also embarked on the gradual 'Kalenjinisation' of the public and private sectors from the 1980s President Moi is a Tugen, one of the smaller Kalenjin ethnic groups He began to "de-Kikuyunize" the civil service and the state-owned enterprises previously dominated by the Kikuyu ethnic group during President Kenyatta's administration He appointed the Kalenjin to key posts in, among others, the Agricultural Development Corporation (ADC), Kenya Commercial Bank (KCB), Kenya Posts and Telecommunications Corporation (KPTC), Central Bank of Kenya (CBK), Kenya Industrial Estates (KIE), National Cereals and Produce Board (NCPB), Nyayo Tea Zones (NTZ), Nyayo Bus Company (NBC), Nyayo Tea Zones Development Corporation (NTZDC) and the Kenya Grain Growers Cooperative Union (KGGCU) [64] This process marked the rise of the Kalenjin elite, who strategically positioned themselves to benefit from state resources

62 Korwa G Adar and Isaac M Munyae Human Rights Abuse in Kenya under Daniel arap Moi 1978-2001 (2001) 5 *African Studies Quarterly* 1

63 Hornsby Charles *Kenya A History Since Independence* (2012) 334

64 Ibid

Constitutional amendments

75 President Moi's government sponsored a series of constitutional amendments in a bid to consolidate power in the presidency The Constitution of Kenya (Amendment) Act No 7 of 1982 introduced Section 2(A) which had the effect of transforming the country into a de jure one-party state Moreover, Parliament reinstated the detention laws which had been suspended in 1978 The application of a number of laws had the effect of denying citizens' enjoyment of human rights These laws included the Chief's Authority Act, the Public Order Act, the Preservation of Public Security Act, the Public Order Act, and the Penal Code The parliamentary privilege, which gave representatives the right to obtain information from the Office of the President, was also revoked Parliamentary supremacy became subordinated to the presidency and the ruling KANU party[65]

76 Moreover, the provincial administration became highly politicized and provincial administrators wielded wide discretionary powers In 1981, President Moi banned all ethnic-centred welfare associations The president also outlawed the civil servants union and the university academic staff union

Selected Constitutional amendments, 1982 -1991

The Constitution of Kenya (Amendment) Act No 7 of 1982
This Amendment Act introduced Section 2A that changed Kenya from a de facto to de jure one party state It also abolished the Turn Coat Rule

The Constitution of Kenya (Amendment) Act No 14 of 1986
This Amendment Act removed security of tenure of the Attorney General and Auditor and Controller General

The Constitution of Kenya (Amendment) Act No 20 of 1987
This Amendment Act made all capital offences non-bailable

The Constitution of Kenya (Amendment) Act No 8 of 1988
This Amendment Act made it lawful to detain capital offenders for 14 days before they could be formally charged in a court of law It also removed the security of tenure of constitutional office holders

The Constitution of Kenya (Amendment) Act 1990
This Amendment Act reinstated the security of tenure of constitutional office holders

The Constitution of Kenya (Amendment) Act No 12 of 1991
This Amendment Act repealed Section 2A of the Constitution hence bringing an end to the de jure one-party rule in Kenya It also reintroduced the Turn Coat Rule The nomination procedure leading to elections of the National Assembly and Presidency were amended to accommodate multi-party system of governance

65 Weekly Review, Nairobi 8 May 1987 See also Ogot B A 'Politics of Populism pp 187-213 in Ogot and Ochieng op cit 187-213

Attempted Coup and the aftermath

77 On 1 August 1982 there was a military coup attempt by Kenya Air Force (KAF) officers The attempted coup was however brutally quashed by Kenya Army officers who were loyal to President Moi. It was put down at an estimated cost of 600 to 1,800 lives lost in addition to other human rights abuses, including arbitrary arrests, detention and torture The coup attempt and the punitive reaction accelerated the process of the control of the state and solidified President Moi's authoritarian rule. In 1986, Parliament amended the Constitution to remove the security of tenure of the Attorney General and of the Auditor and Controller Genera This was followed in 1988 by another constitutional amendment that removed security of tenure of constitutional office holders The amendment also made it lawful to detain capital offenders for 14 days before they could be formally charged in a court of law Limitations on the independence of the judiciary, with far-reaching human rights violations By this time, Parliament was functioning largely as a rubber stamp of policies initiated by the presidency [66]

78 Following the attempted coup, the government resorted to even more vicious and repressive ways of dealing with dissent Political activists and individuals who dared oppose President Moi's rule were routinely detained and tortured. This led to the formation of dissident groups whose main focus was to agitate for opening up of the democratic space, social justice and respect for human rights The best known of the dissidents groups is Mwakenya movement The government moved to quash this movement with brutal force In 1986 alone, 100 people were arrested and detained for their alleged association with Mwakenya Moreover, between March 1986 and March 1987, at least 75 journalists, academics, and university students were jailed for crimes such as the possession of seditious literature In the 1990s, the government used the same tactics to denounce and quash the February Eighteenth Movement (FEM), which was accused of planning attacks on Kenya to be launched from Uganda

Multi-party and ethnic clashes

79 But as government's crackdown of pro-democracy activists intensified so did the pressure on government increased In 1991, in response to local and international pressure prompted by the end of the Cold War, President Moi yielded to demands for a multi-party state However, political and ethnic violence, reportedly orchestrated by the state became integral to multi-party elections held in 1992 and 1997 Ethnicity was used as a political tool for accessing power and state resources and for fuelling violence

66 Korwa G Adar and Isaac M Munyae Human Rights Abuse in Kenya under Daniel arap Moi 1978-2001 (2001) 5 African Studies Quarterly 1

80 From various independent human rights reports, the 1992 and 1997/1998 ethnic clashes in the Coast, Rift Valley, and Western Provinces were deliberately inflamed for political purposes by members of the government Violence spread in the Likoni-Kwale (Coast Province) prior to and after the 1997 elections, in areas where opposition to KANU was strong These clashes led to the displacement of many people from their lands in the Rift Valley Reports by the KHRC indicates that the 1991 to 1997 election-related clashes displaced more than 600,000 people in the Coast, Rift Valley, Nyanza and Western provinces [67]

81 The displacements, which were occasioned by the ethnic clashes in the Rift Valley has been used to explain the emergence of Mungiki in Kenya [68] Most of the Mungiki members, are victims of land clashes in the Rift Valley region who were affected by ethnic conflicts on the eve of the 1992 multi-party General Election in Kenya, the majority of whom are either Standard Eight or Form Four school dropouts composed mainly of low-income earners in the Jua Kali (hot sun) sector However, in the rest of the country, the ethnic clashes and the use of private militias witnessed the rise of the so-called "armies of the elders" known at least to be backed by an ethnic leader For example, during the multi-party era there were the Taliban, Jeshi la Mzee, Jeshi la Embakasi, Baghdad Boys, Sungu Sungu, Amachuma, Chinkororo, Dallas Muslim Youth, Runyenyes Football Club, Jeshi la King'ole, Kaya Bombo Youth, Sakina Youth, Kuzacha, Kamjesh, Charo Shutu, Sri Lanka and the Banyamulenge.[69]

President Mwai Kibaki's Era

Goodwill

82 On 30 December 2002, Kibaki was inaugurated as Kenya's third President Presidents Kibaki's NARC government had huge goodwill, both domestically and internationally NARC had to come to power on a platform that promised to curb and ultimately eliminate the political transgressions and human rights violations that had been regularised during the 39 years of KANU's rule NARC had also pledged to address and rectify historical injustices The first few months of its operations the NARC Government initiated numerous legislative and institutional reforms and a range of activities aimed at redressing past injustices

67 Kenya Human Rights Commission *Justice Delayed A Status Report on Historical Injustices in Kenya* (2011)
68 Grace N Wamue Revisiting Our Indigenous Shrines Through Mungiki" (2001) 100 *Africa Affairs* (2001) 454
69 Okuro Samwel "Thinking Through the Chequered History of *Mungiki* in Kenya A Historiographical interrogation" (2006) *Journal of Historical Association of Kenya*

Sliding back to old practices

83. However, before long, President Kibaki's government started to renege on its promises [70] The emerging "Mount Kenya Mafia" behaved as its predecessor had done corrupt, intolerant and ethnically chauvinistic As put across by Daniel Branch, "behind the scenes, the newly-appointed ministers and their supporters had quickly eased themselves into positions at the top of corruption networks' and that 'the apparent hypocrisy of the government, whose ministers continued to attack Moi's regime for its corruption, angered many in KANU" These corruption networks crystallized into what became known as the 'Anglo-Leasing Scandal' As was the case with President Moi, the new Kibaki administration soon began to 'Kikuyunise' the public service In essence, despite NARC's many promises, the new government soon adopted the practices of its predecessors, and while the economy improved, it unable to reduce corruption and human rights abuses

84 Moreover, during the first term of President Kibaki's administration, insecurity remained high, particularly between 2005 and 2008 In January 2005, more than 50 Kenyans lost their lives in various clashes between communities over grazing, access to water and cattle raiding In July the same year, Boran cattle raiders attacked Gabbra village in Turbi, in which over 50 people were killed (many of them children) at Turbi primary school [71]

2005 Constitutional Referendum

85 The state of insecurity worsened as the country prepared for the 2005 constitutional referendum The constitutional referendum seems to have shattered the dreams of key players in the NARC coalition At the Bomas constitutional conference there were two contentious issues on which the coalition partners sharply disagreed on - the powers of the president and devolution In return to Raila Odinga's endorsement of Kibaki as the NARC presidential candidate in 2002, he was promised the position of the prime minister The coalition collapsed when the Kibaki side of the coalition reneged on the coalition's two key pillars.

86 And when the resultant constitution (with clauses promising devolution and dilution of presidential powers removed) was put on the referendum in November 2005, it was overwhelmingly defeated The main architect of the crusade against the watered down constitution Raila Odinga and his supporters joined with some KANU leaders and other dissatisfied members of the government and campaigned for a 'No' vote The 'No' campaign was triumphant, claiming 57 percent of the vote

70 See Chapter One of Volume 1 of this Report

71 For details see Daniel Branch *Kenya Between Hope and Despair, 1963-2011* (2011)

87. After the defeat in 2005 constitutional referendum, the Kibaki administration did not only consolidate his faction's grasp of power, but also became increasingly intolerant to opposition In the early hours of 2 March, a team of armed men stormed The Standard newspaper offices in central Nairobi, right in the middle of the central business district At the same time, another armed group stormed the newspaper's printing plant and destroyed copies of that day's edition, which were awaiting collection and distribution As the country approached the 2007 General Election, Kibaki consolidated power in the hands of trusted Kikuyu, Embu and Meru allies However, more importantly was the powerful message which those who surrounded the president shared In the words of Daniel Branch 'each had bitter memories of the 1980s and 1990s, when it seemed as though Kikuyu influence was restricted and the opportunities for wealth limited as a result Kibaki supporters were not willing to repeat the experience [72]

88 More disturbing under the Kibaki administration were the rampant extra-judicial killings targeting Mungiki youths in Central Kenya and parts of Nairobi. In November 2007, the Kenya National Commission on Human Rights (KNCHR) published a report on extra-judicial killings The report concluded that the police could be complicit in the killing of an estimated 500 individuals suspected to be members of the outlawed Mungiki sect [73] Thus, the general elections of 27 December 2007 were conducted in a volatile environment in which violence had been normalised and ethnic relations had become poisoned.

2007 General Elections

89 Kenyan voters went to polls on 27 December 2007 Before the polling, opinion polls had indicated that Raila's Orange Democratic Movement (ODM) had a considerable lead over Kibaki's Party of National Unity (PNU) Voting went on relatively smoothly and peacefully However, this mood changed as people moved from polling to vote counting Delays in announcing presidential results caused not only frustration, but also suspicion among citizens particularly in ODM-dominated regions. In the end, Mwai Kibaki was declared the winner with about 200,000 votes Immediately after this declaration, violence erupted in ODM-dominated regions When a mediation process finally brought the violence to an end,[74] more than 1,300 lives had been lost, thousands were maimed, more than 300,000 Kenyans were internally displaced and property worth billions of shillings destroyed

72 For details see Daniel Branch (2011 265) Kenya Between Hope and Despair 1963 2011 London Yale University Press
73 KNCHR *The cry of blood Report on extra judicial killings and disappearances* (2008)
74 See Chapter One in Volume 1 of this Report

Appendix

Selected major events in Kenya

1963	Kenya gains independence with Kenyatta as Prime Minister
1964	Republic of Kenya formed with Jomo Kenyatta as President and Oginga Odinga as Vice President KADU dissolves and joins KANU
1964 - 967	Shifta War
1965	Assassination of Pio Gama Pinto
1966	KANU's Limuru Conference which proposed eight vice presidents Oginga Odinga resigns from KANU and forms rival Kenya People's Union (KPU)
1969	Tom Mboya assassinated, (Assassination sparks ethnic unrest) Kisumu Massacre KPU banned and Oginga Odinga arrested Kenya thereby became a de facto one-party state under KANU
1975	Assassination of Josiah Mwangi Kariuki
1975 - 1979	Change the Constitution Movement (seeking to bar Vice President, Daniel Arap Moi from ascending to power in the event of President Jomo Kenyatta's death)
1978	President Jomo Kenyatta dies Daniel Arap Moi becomes the President and releases political prisoners
1980	Bulla Karatasi Massacre
1982	Kenya becomes a de jure single party state Attempted coup
1984	Wagalla Massacre Lotirir Massacre
1986-1989	Mwakenya arrests, torture, detention and trials
1986	Constitution amendment meant to remove the security of tenure of the Attorney General and Auditor and Controller General
1988	KANU nominations by 'mlolongo' (queuing) System
1989	Political prisoners freed Rubia, Matiba and others expelled from KANU Muoroto Riots

1990	Detention of Charles Rubia, Kenneth Matiba and Raila Odinga
	Assassination of Robert Ouko
	Sabasaba Riots
1991	Section 2A repealed paving way for multi party political system
	Further Sabasaba Riots
	Release of political prisoners
	Formation of various political parties
	Multiparty General Elections
	Ethnic/Tribal Clashes
	Crackdown on FERA
	Ethnic clashes
1997	General elections
	Ethnic clashes
	IPPG reform package
2001	Murukutwa Massacre
2002	General Elections, NARC dislodges KANU from power
2005	Referendum on the proposed Constitution (Rejected by 57% of Kenyans)
	President Mwai Kibaki dissolves Cabinet and forms Government of National Unity incorporating members of KANU into his new Cabinet
	Turbi Massacre
2006	SLDF atrocities in Mt Elgon
	Extra-judicial killings by police of Mungiki suspects
2007	General Elections President Mwai Kibaki is declared elected President
	Dispute over the Presidential Results sparks Post Election Violence
2008	Kenya Dialogue and Reconciliation Process
	National Accord is adopted forming the basis for formation of Grand Coalition Government with Mwai Kibaki as President and Raila Odinga as Prime Minister
2009	Truth, Justice and Reconciliation Commission is formed



CHAPTER



History of Security Agencies: Focus on Colonial Roots of the Police and Military Forces

The soldiers killed our men and raped our girls but there was no one to complain to. When you complained [...] they told us that the soldiers are the law themselves and if they kill you, you have no one to talk to.[1]

While he was doing that, crying on top of the roof, the neighbours heard a bullet shot. That gun shot hit my son in the left leg, disabling him and he fell from the roof. But he was still pleading with the police saying: "Please, do not kill me." Instead, the police went ahead and shot him right in the pelvis. By that time, the police vehicle had also arrived and they carried the young man to the hospital while he was still speaking. I am told he was still asking them; "why have you killed me?" When they reached the hospital, he was pronounced dead.[2]

Introduction

1. As institutions, the police and the military forces are at the centre of Kenya's history of gross violations of human rights. Across the country, the Commission heard horror accounts of atrocities committed against innocent citizens by the police and the military. The history of security operations conducted by these

1 TJRC/Hansard/Women's Hearing/Mandera/26 April 2011/p.4.
2 TJRC/Hansard/Public Hearing/Busia/1 July 2011/p. 29.

two institutions, either jointly or severally, is dominated by tales of brutal use of force, unlawful killings (sometimes in large scale), rape and sexual violence, and burning and looting of property. In security operations, the police and the military have known no other means of achieving their goals but through collective punishment, the indiscriminate rounding of individuals in a specific area, then brutally punishing them with the hope that this would yield the desired results Thus, since independence, the police and the military in Kenya have been viewed and invariably described as rogue institutions; they are still feared and seen as perennial violators of human rights rather than protectors of the same

2 This Chapter traces the colonial roots of these two institutions with a view to unearthing the origins of the post-independence mentalities and practices of Kenyan security agencies The Chapter explores the colonial organisational arrangements, structures and attitudes that have influenced and shaped the behaviour of the Kenyan police and military forces in the post-independence period

The Police

Policing in Colonial Africa

3 In details, specifics and personalities, the history of policing in Kenya has of course been shaped by features unique to Kenyan history In its telling of the story of the police in Kenya, however, the Commission came to understand that Kenya's experiences can also be placed within a much larger paradigm policing in British colonial Africa For all its peculiarities, Kenya belongs to an established and broad approach to the maintenance of law and order in British colonial Africa Similarities can also be found in other parts of the Commonwealth (particularly India) but it is within Africa that the resemblances are most striking Notwithstanding an almost century long tradition of policing in Anglophone Africa, historians and others have been slow to provide the kinds of analyses that would shed light on overall trends and patterns Incidentally, the same lack of pace is also found in Kenya studies One explanation given for this reticence has been the focus of academic energies on issues such as the creation of a civil service, taxation, labour, agriculture and other visible examples of what have been described as "government in action"[3] The other more sinister explanation is that the coercive, forceful and frequently violent nature of policing in colonial Africa has resisted analysis and has instead simple listing and describing manifestations of such violence and coercion.

3 Richard Waller Towards a contextualisation of policing in colonial Kenya *Journal of Eastern African Studies* 4 2010, 526

4 The Commission benefitted from a number of attempts over the past decade to shed light on the inner workings of the police Because of the emptiness of the field, these attempts have had to start with very basic definitions The most basic of these definitions explains who the police are in an African context

> National police forces are the formal conduit through which regime power or authority is normally channelled The rationale of the police remains maintaining the order that the regime sustaining them defines as appropriate [4]

5 Additional definitions have sketched out the primary functions of African policing as 'the maintenance of law and order, paramilitary operations, regulatory activities and regime representation'[5] Finally, some scholars believe that African experiences also require an preliminary understanding of a 'police system' This is a much more nebulous concept that attempts to explain the overall meshing together of key individuals and personalities with more formal policing structures and functions

> The police sector forms a system [defined] as an organization made up of groups and individuals existing for a specific purpose, employing systems of relatively structured activity with a structured boundary and driven by actors pursuing their own goals according to their own incentives and calculations The complexity of the police sector results from the interactions between the various parts of the system [6]

6 While these three definitions offer much needed simplicity and clarity, the Commission remains acutely aware that the overall story of policing in Africa is deeply rooted in some of the most complex and contested issues in the continent's history For instance, the question of law and order in colonial period presents a number of fundamental difficulties It is clear that the arrival of the British signalled the entrance of an entirely new legal system based on the situation pertaining in England at the time Initially, no provisions were made whatsoever for pre-existing African notions of law, order, crime and punishment New authorities, new judicial personnel and new personnel in charged populating this new English-based system of law and order These included judges, magistrates, administrative officers, clerks, messengers and, of course, policemen More often than not, all these people were drawn from Britain and other parts of Commonwealth In essence, the British introduced an entirely alien legal system manned almost exclusively by either the British themselves or their emissaries

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4 Alice Hill *Policing Africa Internal Security and the Limits of Liberalization* 6

5 Alice Hill, *Policing Africa Internal Security and the Limits of Liberalization* 8

6 Alice Hill *Policing Africa and Internal Security and the Limits of Liberalization* 11

7 The arrival of a formal and codified legal system should not be confused with the rule of law. If anything, the opposite applied. The primary preoccupation of the legal system was not the rule of law but the maintenance of colonial authority over frequently rebellious and recalcitrant Africans And so it was that the laws imposed in much of Africa were designed to underpin the colonial presence and little else Colonial rule went on to create many new crimes that were mostly crimes against, as it were, the colonial edifice itself rather than serious transgressions. Essential features of colonial law and policing became enforcing colonial rules and punishing those who breached them as opposed, for instance, to curbing and punishing disputes and crimes committed by one person against another To make matters even worse, this deeply skewed and biased edifice was manned by men (and they were indeed almost always men) with very little professional training or any local knowledge The result was what has been described above as rough, ready and violent Numerically small, the colonial police and military maintained their authority almost entirely through superior weaponry Machine guns, modern artillery gave them a clear edge in their encounters with African opponents

8 The crudeness of colonial law was a continent wide phenomenon It is also clear that the nature of colonial law also gave birth to equally crude forms of policing all over Africa A lack of resources and man power meant that most colonial governments in Africa could not translate ambitions into reality In some territories, the British presence was barely felt as colonial authorities governed indirectly through existing traditional rulers These traditional rulers became the conduit through which the British governed many a far flung territory A professionalised form of colonial administration only began to emerge after the First World War Prior to that, most colonies were run on a shoestring budget overseen by a skeleton staff The same applied to the police, the military and other forces charged with the maintenance of law and order, Africa was very thinly policed Hubs of intense police activity coincided with areas where the colonial government had an interest in protecting European lives, property and economic interests and infrastructure Most Anglophone colonies therefore had police forces dedicated to precisely such duties; there were units charged with the protection of British settlers and officials Others were attached to railways, waterways, mines and other sites of economic value

9 The policing of 'native' or African matters was limited to municipal police who regulated and supervised the movement of Africans in towns and other urban centres Africans in rural areas were largely left in the hands of traditional authorities The two-tier system of policing is a recurrent theme in African history Kenya was not the only country characterized by clearly demarcated zones of concentrated and negligent (if not non-existent) policing Crime in African townships and in the country side lay beyond the boundaries of colonial interest The prevailing ideology

argued that to the extent that it was possible, African communities needed to police themselves Africans themselves knew best what ailed their communities and were best placed to address their own problems Transgressions of law and order only became problematic if they directly impinged on core colonial concerns and, more seriously, on the security of the state itself. African crime went almost entirely unchecked by British who lacked the local knowledge about it and the means to prevent it What few government police and soldiers only intervened in the most extreme and pressing cases

10 Ultimately, however, this hands off and detached approach to the policing of local African affairs would prove detrimental to the very security and integrity of the colonial state that it was meant to promote In many instances the traditional authorities charged with the maintenance of law and order turned into predators who in turn inspired African populations into civil unrest, disorder and even open rebellion There are numerous instances of chief and their agents who used their positions to seize livestock, exploit labour and impose taxes all for their own personal gain Others ran protection rackets, created vigilante groups and in some extreme cases set up their own tribunals, courts and judicial type systems imposing fines and meting out punishments at will It became very clear to central authorities that changes would have to be made and that new conduits would have to be found for the delivery of colonial law and order It was at this point that the idea of 'tribal' or 'native' police began to sweep across Africa

A chronology

11 For the most part, developments and advances in policing were determined by events within individual colonies Indeed, it is even possible in some cases to speak of policing as the response to even more local, sub-regional concerns A handful of researchers have, however, tried to impose a broader chronology They have emerged with a chronology during which the multitude of experiences can easily be reduced to just a handful of themes While broadly general and necessarily crude, such chronologies are nonetheless useful for comparative purposes For the Commission, they offer the opportunity to present policing in Kenya as part of a larger, continent-wide narrative The general chronology of Anglo-African policing, law and order covers the following key phases

1885-1914

12. This initial phase was characterized by the creation of small constabularies in central towns and larger urban centres where the British had established footholds The Sierra Leone Frontier Force and the Niger Coast Constabulary are good examples

of early constabularies Small, haphazard and lacking in proper mandates, these constabularies were also often assigned more paramilitary duties related to the conquest and/or pacification of troublesome hot spots still resisting colonial impositions

13 By 1914, a crucial distinction had been made between military and paramilitary forces and civilian ones Constabularies were re-drawn as civilian and completely separated from the military. Proper, albeit rudimentary, police forces were established in most colonies In a handful of colonies, a further separation had taken place with the creation of the aforementioned Native or African police. Few were well funded or properly equipped as what money there was funnelled towards the military forces and their apparently more pressing needs for uniforms and munitions

1914 – 1920

14 Researchers describe this a militarized period during which most energies and resources were dedicated to the fighting of World War I as it manifested itself in Africa Little is known about growth and development of the police during the war years

1920 – 1945

15 These two and a half decades are characterized by the rapid intensification of police work in many parts of Africa A number of developments drove this trend Most fundamentally, while not entirely pacified, most colonies were peaceful enough for attention to turn to questions of public order and not military conquest Even so, the changing nature of the threat to presented a number of challenges to ever fragile and underfunded African police forces Most significantly some colonies saw the rise of civilian unrest over political, labour, agricultural, taxation issues In some parts of Sierra Leone, Northern Rhodesia and Nigeria, such unrest was frequent with police frequently called in to quell sometimes violent demonstrations and riots At the same time as the colonial state expanded and entrenched itself in rural areas, the need for African/Native police and policing services away from main urban settlements and town centres increased A number of technological advances meant that in some cases police departments were better placed to bear the heavier burdens placed upon them Forensic laboratories, finger printing and radios became far more common

16. The inter-war years were also characterized by the gradual establishment of units tasked with investigating the political, civil, religious and labour unrest just

described The predecessors of what later became known as 'Special Branch' were set up to keep tabs on agitators, activists and various others deemed threats to internal security Elevated concerns about serious and organized crime syndicates also resulted in the creation of specialized Criminal Investigations Departments. In some territories, however, the onset of the Second World War once again drew resources and attention away from the police and to the military

1945 – 1960s

17 This period served to both consolidate earlier policing trends and to create new ones that would persist into the 1960s and 1970s as most colonies in British Africa attained independence Both military and police forces gradually increased both in strength and equipment Driving the increase was the apparent need to respond to the political unrest and opposition that had begun to be seen in the 1940s New paramilitary forces were proposed and then created throughout Anglophone Africa at the behest of governors and senior police administrators worried about the impact of rising political disquiet Kenya was a key arena for such beefed up policing Following a series of disturbances in parts of central Kenya in 1947, authorities created a Police Emergency Company The Police Emergency Company was far more expansively equipped with top of the range bren and stun guns, grenades, rifles and even armoured cars The company undertook preventive crime patrols in Nairobi and parts of central Kenya In 1949, as Kenya hurtled towards the Mau Mau uprising, the Police Emergency Company was replaced with the even more vigorous Kenya Police Emergency Company

18 Policing during this era has also been described as increasingly professional as better qualified and trained personnel gradually edged out the casuals employed as 'native' policemen in the countryside In essence therefore there was a narrowing of the gap between policing urban, settled and industrialized areas and more rural ones Equipment and techniques previously only seen in towns now began to feature in more remote regions But once again, most of these new improvements and investments were arranged around an old priority the security of the colonial state Researchers have found very little evidence of an increasing desire to actually extend the net of safety, security, law and order to poorly served populations Instead, the need to curtail and repress threats dominated

19 By the late 1950s and early 1960s when it became increasingly clear that British rule would not persist, discourse changed somewhat to the reforming of the police service for post-colonial times Policing entered something of a transition

period during which forces had to make a difficult change from being—as it were—agents of colonial control to servants of the independent state. Whether or not police systems were actually successful in making this transition has been the focus of many long and vigorous debates. The overall consensus being that very few successfully made that leap. Contemporaneously, however, police forces began to prepare for Independence by embarking on a process of Africanisation the appointment of indigenous Africans to senior police positions

The Police in Colonial Kenya

20 The origins of Kenya's present day police force are irrefutably colonial Everything before 1885 can only be described as haphazard, informal and limited by the equally haphazard and limited nature of the Imperial British East Africa Company's hold over Kenya The only formation in pre-colonial Kenya that has been documented as responsible for the maintenance of law and order and deterrence were attached to the Liwali of Mombasa The *Liwali* was an important and powerful figure charged with governing the ten mile coastal strip of mainland Kenya on behalf of the Omani Sultans of Zanzibar who installed themselves as the rulers of the strip after a series of small scale wars with the Portuguese who had in turn maintained a tenuous hold over the coast since their own arrival at the end of the 15th century. Beginning with Imam Sa'if ibn Sultan in 1698, the *Liwalis* loosely oversaw the local Arab and Swahili elites who held sway in coastal towns and settlements. The presence of British anti-slavery ships in the Indian Ocean from the 19th century served as precursors that the pendulum would soon shift away from the Omanis and towards the British The nature and extent of Omani rule sits at the heart of a long running and heated secessionist debate during which numerous arguments have been made for and against the coastal strip as historically distinct from the rest of Kenya This is a debate that the Commission considers in other sections of this report Here it suffices to identify the coastal strip as the initial focus of modern policing in Kenya

21 When the first emissaries of the Imperial British East Africa Company arrived in Mombasa in the mid-1880s, the closest thing to a law enforcement unit was a company of Baluchi soldiers deployed during Sultan Seyyid Bargash's tenure (1870-1888) Originally from the plateaus of western Pakistan and eastern Iran, Baluchi soldiers were held in high regard by the Zanzibari sultans on account of their military prowess and bravery Indeed, the Baluchi had been used for at least a century as the Sultans' first defense against unrest or threats in their coastal territories The Baluchi role was as such largely military but from time to time, they seemed to feature in more civil and criminal matters Strictly speaking however, the

Baluchi company stationed in Mombasa was a military one Sir William Mackinnon, IBEAC's chair and founder, would have found them unsuited to the company's civilian policing needs The Baluchis were decommissioned but were allowed to remain in Mombasa and were settled in Makadara, a neighbourhood right in the middle of the island Mackinnon's attention then turned to the question of securing the vital company stores and property that were needed for IBEAC's launch into the hinterland

22 With 10,000 pounds to be paid to the Sultan in annual rent and various other expenses, it was vital for the company to quickly exploit the interior for ivory and whatever other commodities could be funnelled towards settling the bills The company's stores in Mombasa therefore became the hub and the staging post for inward bound caravans Their value and centrality to IBEAC's operations cannot be understated Mackinnon had vast business interests in India His primary holding, the British India Steam Navigation Company employed thousands With IBEAC's leasing of the coastal strip, staff members were diverted from Indian operations and to East Africa On arrival some were quickly organized into a company of watchmen Their main duty was to guard company property Very little information is available as to how they were supervised or regulated Even so, historians of policing in Kenya have taken this lightly documented group of Indian imports as representing the first time that an organized, sustained attempt was made to address the maintenance of law and order and the prevention of crime Some of these men travelled inland accompanying caravans bound for the interior Once again, however, their policing credentials were limited They are better understood perhaps as simple armed guards who could also be drafted as porters or general labourers

23 Despite its best efforts, the IBEAC simply could not succeed in East Africa The company found itself in a territory with huge potential but almost impossible to translate into regular and steady profits The costs of the caravans were immense Moreover, as other sections of this report discuss, the caravans themselves were often caught up in webs of violence that made it very difficult to conduct them as money making ventures. The IBEAC completely underestimated the expense of creating and maintaining administrative forts along the caravan routes There were salaries to be paid as well as an array of maintenance and construction costs For some historians, the collapse of the Company demonstrated the structural instability of merchant colonialism, a form of colonialism driven by the interests and priorities of the merchant and business owning classes This particular school of thought holds that the drivers of colonialism are not in profit and loss accounts but more geo-political and cultural reasons that need the underpinning of a state In other words, the IBEAC was destined to fail

24 There is much in the company's operations to support the notion that mercantilism and colonialism are fundamentally incompatible. Just two years after the company was granted its charter, the IBEAC was flirting with bankruptcy A humiliated Sir William explained the extent of IBEAC's woes to the Colonial and Foreign Offices in London Without some kind of assistance, Mackinnon warned that he would no longer be able to fulfil his obligations in Uganda and Kenya. Spurred into action by the activities of Karl Peters and competition from the German East Africa Company, a combination of private and public sympathizers raised 21 000 pounds This bought the IBEAC another year as bureaucrats decided what do next. Finally in 1893, the curtain came down on the company's operations in Uganda The Foreign Office took over the administration of the Uganda Protectorate Two years later the Foreign Office stepped in and took over the running of British East Africa. The final transfer was made in 1905 when the Colonial Office assumed full responsibility for both Uganda and British East Africa The IBEAC experiment came to an ignominious end as both territories were absorbed into the British Empire.

25 The arrival of the Foreign Office and the Colonial Office signalled a complete overhaul of the rather haphazard arrangements that the Company had made for the policing of its East African holdings. Simply put, the Indian freelancers who had guarded IBEAC stores and accompanied the caravans were no longer befitting of a fully-fledged protectorate Changes had to be made and they had to be made quickly

26 In 1896, an important appointment was made A Mr Ewart was sent from Zanzibar to Mombasa and named as the Assistant Superintendant of Police In effect, however, there was no police force for Ewart to supervise His main task became to assemble a credible police force out of the ragtag porters, watchmen and part-timers that greeted him upon his arrival in Mombasa Ewart's task was both a daunting and a pressing one He drafted in two Inspectors, J. West and A Hill to assist him They immediately set about recruiting the men who would form the core of the British East Africa Police By 1901, the force stood at 150 strong The stories of these individual recruits are impossible to tell in any great detail

27 As with so many Africans in early colonial history, these men have been all but ignored by official and written records For administrative purposes, their ethnic and national origins were recorded Some were from the Comoros Islands There were clutch of Indian and Swahili men drawn from a pool of Mombasa residents who may well have had previous exposure to police work during the Company

years The bulk of this fledgling police force, however, consisted of Somali recruits Some were quickly promoted to the rank of Deputy Inspector Over time, this early Somali dominance and seniority within the police force developed into something of a trend Indeed the Somali community's understanding of itself as a professional elite gave rise to very curious form of political activism that promoted the re-classification of Somalis as non-natives entitled to different tax, housing and political benefits than other African populations The question of Somali nationalism from the 1930s onwards is explored at length elsewhere in this report

28 It would be many years before leadership of the Kenya Police would become an indigenous affair For nearly six decades, the force remained exactly as described above African and Indian foot officers commanded by European (largely British) seniors This was neither unusual nor unique After all, the very essence of the colonial project was to impose European norms and ways of doing things on African ones. With the police force, however, these patterns and structure became particularly symbolic of European dominance at the cost of African submission Simply put, the European hold over the police was unyielding and—as this chapter will discuss later on--difficult to dismantle Personnel such as Ewart were not the only expatriate feature, the legislation used to set up the fledgling police force was imported directly from India The Indian Police Act along with the Penal Code, Criminal Procedure Code and the Evidence Code were all drafted in by the British to provide the foundation for law and law enforcement in Kenya No alterations were made to the codes to cater for a context and a setting that was African and not Indian

29 The idea of an alien, poorly adjusted regime of law and order run by outside agents is one that the Commission will return to later For now it is enough to appreciate the structural frailties of the British East Africa Police In both its regulation and membership, the force seemed ill-suited to the immensity of the task handed it Not for the Foreign (and later Colonial) Office were the half-hearted and piecemeal efforts to govern the territory as attempted by the IBEAC The colonial project was a much grander one with aspirations to pacify, govern and modernize British East Africa as part of the larger British Empire The ability to provide and guarantee security and policing was one of the cornerstones of the colonial project But from very early on, it was clear that the ambitions of the colonial state could not be reconciled with the reality on the ground And reality of the situation was that the British East Africa Police could not be counted to deliver any kind of security beyond Mombasa Even within Mombasa itself, the quality and consistency of services provided by the police were questionable An early administrator, a

Captain Rainsford, described them disparagingly:

> I was in those early days somewhat intimately acquainted with the working of this composite and heterogeneous body One had to admit that the system and recruitment and want of training, together with all the other disadvantages from which the Force suffered, made it extremely unlikely that their activities would prove in any way satisfactory, but the practical results were somewhat amazing Burglaries of the most daring character were committed constantly, almost under their eyes, and went undetected The house of every European Government servant, with one exception, was broken into, or attempted, in the course of a few months The altar cloth was stolen from the church and the cashier's box from the Law Courts without anyone being apprehended Indian merchants made constant complaints of the losses they suffered by robbery and asked piteously if something could not be done

30. In some ways Rainford's commentary is enduring Complaints about the training, character and professionalism of the police reverberate throughout Kenyan history Even so the Commission is wary of drawing a straight line between the problems facing the police at the beginning and at the end of the 20th century. The police force of the early 1900s was in a very unique and peculiar position There was as Rainford has indicated no formalized program and schedule of training The new recruits were simply taken as they were Trial and error became the only way to determine what worked and what did not

31 Notwithstanding the lack of training and the wanting performance of the officers, the biggest concerns for British East Africa police lay beyond the force itself For all the weight that the colonial state was to eventually acquire, its origins were halting and humble What this meant was that it took many years for the state and its organs to fully establish itself. In essence then the British East Africa Police operated in a vacuum of sorts that greatly compromised productivity Nothing illustrates this point more clearly than the early history of the Judiciary in Kenya The establishment of the Judiciary in the new protectorate occurred at roughly the same time and pace as the police An 1897 Order in Council created a three-tier court system. The first tier consisted of so called Native African courts overseen by administrators and magistrates The second category of courts served adherents of Islam The third and final branch catered to the small but growing European community resident in Kenya Cases from the Native and European courts could be referred upwards to higher courts As mentioned above, legislation was hastily imported and tacked on from India As with the police, the arrangements and aspirations for the courts far out ran actual capacity. Properly qualified magistrates and administrators were in short supply The Captain Rainsford quoted above was eventually installed as a magistrate

In that capacity he found himself presiding over cases involving the very same police officers that he had earlier railed against

> On several occasions, I have had to convict policemen of robbery from people in the streets and night, and in a number of other cases to order them punishment for being the cause of street rows or affrays in which they attempted to screen themselves by arresting unoffending people and then charging them with riotous conduct

32 But while Rainsford poured scorn on the police, there is no indication that the judiciary was performing at a higher level. The courts themselves had a limited reach and only served Mombasa Island and its surrounding environs. More conceptually, there is also no evidence that local Africans either accepted or understood these new methods of determining right from wrong. The judiciary cannot be presented as any more functional than the police.

Roots: 1902-1908

33 It did not take long for it to become clear that the haphazard arrangements made for policing British East Africa were completely inadequate. The administration's hands were forced by a number of important developments in the protectorate. The most critical of these was the completion of the Uganda Railway in 1901. Initiated in 1985, the railway line connecting the coast with the hinterland became the defining symbol of British colonialism in Kenya. Another section of this report looks in greater detail at the centrality of the railway to the unfolding of the colonial project in Kenya. The line quite literally became the spine for the expansion and establishment of colonial rule in the Protectorate. Informal trading centres and stations became morphed into District and sub-District headquarters. Administrators known as Collectors were posted to these stations and charged with the business of manning them. In so doing, the railway presented two distinct policing needs.

34 Firstly, there was the need to police the railway itself. At a cost of nearly five million pounds—a staggering sum at the time—the railway represented a huge investment on the part of the British government. The safety and proper functioning of the line was key, after all the goods transported up and down along the line and the profits extracted from them represented the only way of recouping that investment. And so it was that in 1897, the decision was made to establish the Uganda Railway Police under the stewardship of a Mr. Napier, a railway engineer with no real policing experience. Once again the British looked to India for resources. Indian labour had been brought in to construct the railway and Indian labour was also brought in to secure it. Initially their main job was to protect the line, workers and supplies from the threats presented by local African communities. The railway police were also key players in the saga of the man-eating lions of Tsavo that ruptured wok in the

line in the middle of 1900. When construction ended, the Uganda Railway police continued to provide protection along these lines

35 By 1902, the railway police force consisted of some four hundred men commanded by a dedicated superintendant (G Farquhar) and an assistant (C Ryall) Two further European inspectors were also appointed as well as a number of Indian Deputy Inspectors The Railway Police worked independently of the British East Africa Police. But it is not at all clear from the sources whether they developed their own operational codes and procedures.

36. The creation of administrative posts along the line led to the second branch of policing The Collectors and Assistant Collectors sent to places like Voi, Makindu, Sultan Hamud and further up the railway required the services of police more concerned with broader law and order issues that—for the most part—had very little to do with the railway itself These new administrative centres represented the sharp end of the colonial project, the point at which the British introduced (imposed) new ideas of right and wrong on a bewildered population The police were amongst the first purveyors of the reality that traditional African norms no longer applied More literally, the police acted as the eyes and ears for the often oblivious Collectors and Assistant Collectors They conducted patrols and carried out surveillance again for any threats to the nascent new order. Officers were often recruited locally by the respective Collectors No central body oversaw this process

37. The result was nothing short of chaotic Each district essentially had its own autonomous force Precious little united them From one district to the next, uniforms changed as did formations, pay and chains of command The only common dominator was an unhappy one: the lack of professionalism and resources A Captain Ewart travelling inland from Mombasa to Kiambu in 1904 described all the units he encountered along the way as 'an extraordinarily ragged lot, almost untrained and [with] little in the way uniforms' There was also no consistency to the equipment used by the various forces In general, however, the guns and weapons supplied to the police were of very poor quality having already either been used or rejected by the King's African Rifles Indeed, early there was even one extraordinary instance when guns dumped in the sea because they had outlived their usefulness were recovered, cleaned and re-issued to the various police units.

38. The situation persisted until 1904 when a Captain McCaskill, Ewart's successor, presented the Foreign Office with a series of proposals and estimates for the long overdue amalgamation of the various forces into one centrally organized structure The proposals were studied and eventually approved by both the Foreign Office

and the Sir Charles Elliot, the Commissioner of the Protectorate The entire system was then overhauled Sitting at the top was the Inspector General of Police He was in overall charge Beneath him were a Deputy Inspector General, six Assistant District Superintendants, seven European Inspectors, six Sergeant-Instructors, Asian Inspectors and sub-Inspectors (about 1800 of them), Asian and African non-commissioned officers and men. Rigid and hierarchical, these reforms brought order and structure where there had been none A focused attempt was made to fill all these positions with men who had previous policing experience McCaskill remained as Inspector General Applications were welcomed from all over the British Empire – South Africa, Australia, Canada and New Zealand Generous terms of service meant that by the end of 1904, all the upper level positions were occupied

39 Two years later, the Kenya Police Force formally came into being through the Police Ordinance of 1906 The ordinance built on many of the earlier organisational and personnel changes described above with the confirmation of the transfer of police headquarters from Mombasa to Nairobi Soon afterwards there was however an announcement was made about a key new development the creation of a European Police Force A statement from the Secretary of State for the colonies, Lord Elgin, explained that this new force was a response to requests from settler community The European Force operational area was limited to Nairobi, expansion was not regarded as feasible

> The duties of officers and men have been defined by the new Police Ordinance, and in order to meet the wishes of the European inhabitants I have sanctioned the formation of a small European Police Force for the Nairobi District The substitution, however, of European for African Police in other parts of the Protectorate cannot be contemplated in view not only of the great expenditure involved but also of the probability that European Police would be less efficient than Africans for service in the tropical regions of the protectorate

40 Small as it was, the creation of the European force would have significant and far-reaching implications for overall policing Those implications will be discussed by the Commission shortly in a section on the race-driven nature of law enforcement in Kenya

41 Police reform during these early years was characterized by fits and starts of activity In 1908 another redrawing took place Once again, it was described by contemporaries as an attempt to modernize, rationalize and expand the force A Captain W Edwards arrived from Uganda to take up the post of Inspector General of Police The new Commissioner of Police—a separate position--was given to a Mr Notley who also had previous Uganda experience Notley and Edwards embarked

on yet another round of reform. They bemoaned the militarism that ran rampant in the Kenya Police Force. Also bothering then was the perennially troublesome issue of inadequate training:

> That a military element had been advanced at the expense of Police training; the Force is inadequately staffed; the superior officers of the Force have been insufficiently trained, as also the subordinate ranks; there has been no means of reward for the zealous and competent; the Force has not received that official recognition and support which are its due; insufficient attention has been paid to the selection of recruits; superior officers have exhibited no tendency of sympathy towards the community and little towards their subordinates; there has been no co-operation with the Chiefs or Headmen.

42. The list of woes continued. Like many of their predecessors, Notley and Edwards found that there was very little that they could do to reverse the rot. One success they registered was setting the foundations for re-training the police along more civilian lines and methods. Eventually in 1911, a Training Depot was established in Nairobi. While the training was still militaristic in nature, it was only offered to police officers (both European and African). The influence of army was diluted somewhat with this separation. In 1914, however, increasing demands from the war effort resulted in the police returning to paramilitary work especially in districts bordering enemy territory and forces in German East Africa.

Zoned policing: 1920s-1930s

43. The Commission has found it useful to follow the lead of previous studies and to divide policing in Kenya into different zones of policing intensity. These zones were very clearly in evidence by the early 1920s. The first and more dominant zone consisted of main urban centres and the more populated (and developed) areas of white settlement in the Rift Valley and Central Kenya. These zones were policed in the sense that the presence of police was both routine and growing. Crimes were detected and investigated with a certain rigor and attempts were made to arrest criminals and deal with them through the nascent criminal justice system. Developments in the policed zone were almost entirely defined by settler understandings of law, order, crime and punishment.

44. Beyond this core lay a second zone in which policing thinned out to, in the most extreme cases, almost nothing. On the frontiers of colonial rule in Kenya, therefore, it is not possible to speak of a consistent or sizeable police presence. Indeed, it is difficult to speak of the maintenance and enforcement of colonial law and order in parts of the country where the concepts of law and order were

not only contested but irrelevant The majority of Kenyan communities in the 1920s continued to deal with transgressors and offenders as they always had The notion that this function could be taken over by external agents did not resonate Similarly, few communities were willing to leave issues concerning their foes and competitors to be handled by police forces whose legitimacy was only very poorly understood

45 The Northern Frontier District provides the clearest evidence of what policing an un-policed zone looked like in the 1920s and the 1930s The NFD was a vast, arid and sparsely populated district that effectively made up the whole northern half of Kenya. Exact figures are unavailable but until the early 1930s, it appears that the district was served by between just 240 and 300 policemen The burden that these officers were expected to bear was a heavy one In just one year, 1931–1932, nearly 180 murders were reported to the police Several hundred others were simply never became matters because they took place during the course of violent inter-ethnic encounters between the various communities that occupied the district Police success in the processing and handling of these cases was very limited Isiolo—a southern corner of the district—recorded nearly 30 murders during that year Just 12 arrests resulted with no word as to how prosecutions unfolded District officials were unsentimental about the shortcomings and failures of their policing programs In 1935, administrators in Samburu expressed surprise that murder rates in their area were not much higher than they already were

46 Lack of personnel and the demands of the territory gave rise to very unconventional and sometimes alarming forms of law enforcement that the Commission has taken as the foundations for a long history of questionable policing in the region in particular and in Kenya in general In essence, what one finds very early on in the history of policing in Kenya is a certain readiness to abandon and ignore all norms under the guise operating in a difficult policing environment Once again, the evidence from Samburu is instructive Conventional police work in any sense of the word did not exist as administrators and officers readily admitted to ignoring all crimes other than murder, assault and stock theft Others were candid about their treatment of suspects Sometimes groups of people were held hostage and forcibly detained until communities produced those believed to be the real culprits Witnesses were similarly harshly treated and were kept under armed guard in the lead up to their testimonies and court appearances

47 In some parts of the Northern Frontier District, all pretences at civilian policing were abandoned Everything to do with the maintenance of law and order was abdicated to the King's African Rifles Such was the case for instance with the Ilemi

Triangle Ilemi was a 5400 square mile triangle of land in the extreme north western corner of Kenya With political ownership long contested by Sudan, Ethiopia and Kenya, Ilemi was characterized further characterized by intense competition between the Turkana, the Dassanetch, the Didinga, the Topasa, the Nyangatom and other pastoralists who roamed the land in search of pasture and water for their livestock The violence of their gun-dictated encounters were far too intense for the already stretched police force deputized to the Northern Frontier District. Add to this international tension over boundaries and frontiers and the police were simply unable to cope In the later 1920s, units from the King's African Rifles were posted to Lokitaung just south of a key Ilemi boundary. And there they would remain at the staggering cost of thirty thousand pounds a year It was a cost that the Treasury would bear for another two decades There was never any chance that the triangle would be left in the care of the police Any civilians concerns about law, order and criminal justice were subsumed to the military imperative

48 While terrain, lack of finances and personnel were all acknowledged as reasons for the dilapidated state of policing at the frontier, colonials seized on to much more fundamental existential explanations for the chaos Many an administrator argued that African cultures and norms were fundamentally incompatible with Western notions of crime and punishment They bemoaned incidents such as one took place in Gusii in May 1926 when a woman was killed during a brawl The killing went entirely unreported as the various parties decided that the issue was a private one that could be discussed and resolved internally It took a concerned neighbour to alert the police The overall assumption was that in time, African communities would eventually adjust to the new realities And until that adjustment took place, most colonial officials, as exemplified by those in Samburu, were more or less resigned themselves to tackling the only most serious of crimes and leaving the rest to traditional systems of disputes and conflict resolution

49 As colonial administrators chided local populations for their resistance and backwardness, they failed to consider that the piecemeal and haphazard nature of the policing that they offered held very few attractions for Africans Officers rarely showed up to investigate incidents in a timely fashion They offered no preventive measures whatsoever On the very rare occasions when incidents were carried forward for prosecution, the outcomes were rarely satisfactory A more accurate reading of the situation therefore has to be that instead of mindlessly rejecting colonial policing, Africans deliberately chose to continue using an indigenous system that worked well for them and was far more responsive to their needs

Racialised policing

50 Yet another dynamic was at work further distancing African populations in Kenya from the goals and aspirations of the Kenya Police Force That dynamic was race The security needs of Kenya's settler population exerted a powerful influence on policing from 1902 onwards when the territory was thrown open to European settlers and immigrants as means of paying for the Uganda Railways and other investments and expenses associated with formal colonization It is impossible to understate the centrality of settler concerns to the history of policing in Kenya The small European Police Force created in 1906 formed the beating heart of police system with only one goal· to serve the settler population in Nairobi As Europeans spread into what would eventually become known as the White Highlands, the European Police Force followed to provide coverage Over time it became even more explicit to the extent that the Kenya Police Force was in effect banned from the Reserves where the vast majority of African lived The Reserves were left to Tribal Police Kenya Police were only allowed to cross into the Reserves when they were in hot pursuit of suspects And even then they had to seek permission from the relevant District Commissioners

51 Tribal and Administrative Police held sway in the Native Reserves The Tribal Police were the product of a pioneering piece of legislation designed to bring African's more solidly under colonial influence and rule the Village Headman Ordinance of 1902 The ordinance mandated the establishment of the Tribal and then (later) Administration Police A great deal of writing has been done on the administration police in Kenya mainly with the aim of understanding their role and niche in law enforcement.[7] There is a lot of uncertainty as to whether the Tribal/Administration Police were ever actually envisioned as a vehicle for law enforcement It seems clear that they were initially conceptualized as running somewhat parallel to the British East Africa Police In this, Tribal Police were handed a rather complex set of duties Their job it seems was to cover predominantly rural expanses ensuring compliance with new regulations and obligations imposed by the new colonial order For instance, it became the job of the trial police to enforce the payment of head and hut taxes Tribal police were also responsible for the enforcement of livestock regulations They also made sure that local populations followed the many regulations introduced to govern labour, farming and water use Eventually the Tribal and Administration would acquire powers that would result in a certain amount of overlap with the Kenya Police particularly in crime prevention and the apprehension of offenders and suspects

7 J Mbuba and F Mugambi 'Approaches to crime control and order Maintenance The role of village headmen chiefs, sub-chiefs and administration police in rural Kenya' (2011) 4 *African Journal of Criminology and Justice Studies* 1 -12

52 The European Force and the Tribal/Administration Police provide the very clearest examples that law enforcement in Kenya was carried out along solidly racial terms with each of the dominant groups (African, Asian and European) seen as a meriting distinctive handling by the police and justice system. African and Indian police would never be assigned to incidents involving either European suspects or victims European settlers demanded nothing else In Kiambu, settlers even went as far as donating the materials to construct housing for a permanent contingent of European officers, the only ones that settlers would trust with their cases. In some instances, racialisation was born out of sheer necessity The majority of Indian officers and labourers did not speak English or Swahili As such, they could only be processed by Indian-language speakers By the early 1900s, it became increasingly evident that similar arrangements had to be made for the myriad African populations who were also very poorly served by the services offered by the British East Africa Police

53 At the heart of complaints about inadequately trained and resourced officers were lay even more fundamental concerns about the actual applicability of Western models of law and order to societies with very different traditions. The codified and streamlined approach taken by the British to crime, disputes and conflict was not always suited to the much more fluid notions in evidence in Africa Furthermore, African communities had in place their own indigenous systems that were difficult to sweep aside simply because of colonial demands In essence, there remained an entire raft of African activity that remained beyond the reach of administrators of colonial law and their agents Furthermore, as has been mentioned above, there was very little interest drawing Africans into the colonial fold, only the most grievous of African crimes elicited reactions from administrators

54 There was no question that European interests dominated the hierarchy with a disproportionate amount of time and money spent addressing the security of only several thousand people The main settler concerns were that their lives and property were under severe threat from the African populations surrounding them They were persistent and vocal about expressing their worries Legislators, representatives, Colonial Office officials were bombarded with letters, missives and petitions demanding stiffer legislation, increased surveillance and more rigorous policing Certain crimes were almost guaranteed to raise settler temperatures and set off a firestorm The rape of European women was one. Murder and stock theft were others Panics often swept the community that crime was on the rise with further demands that something more needed to be done Single incidents were often seized upon as evidence that insecurity was rampant and out of control Settlers often threatened to take matters into their own hands and to respond

instantly As many were armed and easily mobilized, the threat that they would mete out their own from justice was a very real one and often prompted the police to act in a timely fashion

55 While Kenya's police force was almost entirely tailored around European needs, the police themselves were objects of scorn and derision The European Police Force itself was very small More often than not, the officer sent to the scene of a crime as an immediate response was an African. Some settlers simply refused to accept their authority Research has uncovered the case of a settler known as Mrs Rainbow who threatened and eventually drove off at gunpoint an African sergeant who was simply trying to serve a warrant The opposite also applied in that very few settlers were prepared to hand over European suspects to officers and a system that many of them regarded as somewhat inferior Some have described the vast settler estates as fiefdoms, private dominions in which settlers could do as they pleased without fear of retribution and recrimination The Kenya Police Force therefore found itself in something of a conundrum with the settler community On the one hand, the Force spent inordinate amounts of time trying to resolve the many issues facing this small but demanding population No police official—senior or otherwise—could afford to ignore them and expect not to hear about it On the other hand, the police were widely reviled by the very same constituency that they were attempting to serve The White Highlands of Kenya eventually distinguished themselves for the reckless and trigger-happy behaviour of its inhabitants who seemed to show no fear of either detection or punishment

Stock theft

56 The limitations and failures of the Kenya Police Force were, as has been discussed above, were both many and obvious. But few issues exposed the weakness of the Force as starkly as stock theft Stock theft presented successive colonial administrations with a difficult almost insurmountable problem The problem consisted of two fairly distinct trends Firstly, there was theft that took place as cattle raiding between various African communities Culturally sanctioned by many pastoralists, cattle raids were a feature of African life throughout the Western Highlands inhabited by the various Kalenjin groups, the Maasai, the Turkana, the Pokot and others Secondly, there was theft of livestock from European-owned farms particularly those in areas already plagued by the first form of stock theft.

57 Colonial administrations appeared largely helpless in the face of both The raids launched by one ethnic community on another were frequently spectacular Some of the very earliest ones recorded by European observers could involve up to

fifty or sixty warriors. They had to be sanctioned by elders, elaborate prayers and rituals were an essential part of the lead up to the raid itself Raids were therefore community-wide affairs Indeed cattle acquired during a raid were distributed widely. By the same token, the entire community stood to suffer if their adversaries decided to take revenge. The violence of the raids was immense. Indeed, the raids themselves came to symbolize the very chaos of traditional African life that necessitated a stern reaction from colonisers And so it was that by the early 1900s, subduing if not actually eradicating cattle raids became a top priority for the British as they too expanded into the Western Highlands Cattle raiding communities were dealt harshly The Nandi in particular were on the receiving end of punitive military expeditions that were also designed to counter their broader opposition to colonial rule

58 By the 1920s, the large scale cattle raids of old had been largely eradicated But new forms of stock theft developed to fill the void Individuals, as opposed to entire communities, began to engage in smaller scale theft from each other as well as from European settlers who had by this point had established farms and settlements throughout Uasin Gishu and other parts of the Western Highlands Forest areas were identified as the main lairs for thieves who would then steal into farms and drive small numbers of cattle back into the woods and then back across to their home locations either of sale or keeping While most of the thefts appeared opportunistic, by the mid-1920s some District Commissioners found evidence of fairly sophisticated gangs that actually organized the theft and trafficking of cattle for specific markets

59 Colonial administrators enacted various legislations to help tackle the problem The primary vehicle was the Stock and Produce Theft Ordinance of 1913 In presenting the ordinance before the Colonial Office for consideration and eventual approval, Kenya's Attorney General explained

> Stock and Produce Theft Ordinance is designed to deal with a class of offence which is prevalent in the Protectorate and which, if not checked, will ruin a most important industry Amongst natives of this Protectorate cattle thieving is considered as an honourable occupation, provided the thefts are committed in respect of cattle not the property of any member of the community to which the thief belongs, and it is not only by creating a public opinion in the Reserves against stock thieving that stock thieving can be checked The sentencing of natives convicted of that offence to long terms of imprisonment has not and will not have the desired effect If, however, heads of families and communities can be taught that it is not only their duty but it is to their advantage to use their parental authority to restrain the young men from committing this offence, a public opinion against stock thieving will be created

60 Reforming sentiments aside, colonial authorities also introduced a formidable raft of sanctions designed to drive the point home that theft of produce and, in particular, stock was not going to be tolerated and would be soundly punished And so people convicted under the ordinance could be subjected to between one and five years imprisonment On top of jail time, there was a fine to be paid as well The size of the fine depended on the number and value of the stock stolen The ordinance was adamant if the convicted person could not pay, family members and even the broader community could be liable Administrators could also use the Collective Punishment Ordinance of 1909 to fine the community as whole if it was believed to have harboured the thief or have otherwise prevented detection and prosecution

61 Settlers were on hand to harangue for the energetic pursuit of all livestock thieves As usual, the Kenya Police Force was the focus of most settler efforts It should come as no surprise, however, that the police proved spectacularly incapable of handling the complexities of stock theft Quite aside from the usual problems of lack of personnel and equipment, the force was stymied by an even more basic issue lack of jurisdiction The various machinations surrounding the police meant that in 1911, the Kenya Police was in effect limited to Nairobi and the White Highlands What this meant was that the police were banned from the very African Reserves that formed the hub of a booming but illegal business in stolen animals Certain regulations allowed the Police into African Reserves particularly when were in hot pursuit of suspects These occasional incursions were far from adequate and did very little to help police pinpoint key individuals involved in what was by the late 1920s the theft of thousands of animals

62 The real responsibility for tackling the problem of stock lay with the much maligned Tribal/Administration Police as well as government appointed chiefs and headmen There was particular pressure on chiefs and headmen It was to them that senior administrators turned to for first hand information on the identity of cattle thieves and the movement of animals in and out of their respective locations The Administration Police were tasked with conducting regular patrols as well as mounting emergency responses to particular incidents For this they depended heavily on information and intelligence provided by chiefs and headmen Over all of them hung the threat of Stock and Collective Punishment Ordinances which held that entire communities could be held liable for the crimes of a few This made for a very difficult policing and environment Just as predictably, very few headmen, chiefs and administration could claim regular success against the livestock menace. Thefts continued unabated Some locations such as Tinderet became particularly notorious for the near complete inability of the local authorities to

stamp out the theft and movement of stolen animals. An investigation of Tinderet and its environs in 1923 found approximately 1500 illegal cows in the forest A few years later, further investigation revealed almost 4500 animals By this stage, the theft of livestock dovetailed with another colonial concern the unregulated settlement of forested areas Far from combating the trade, chiefs and police were often suspected of even colluding with criminals

63 The 1930s were characterized by the theft of livestock place on a vastly expanded scale Thieves had organized themselves into much larger and sophisticated gangs that were even capable of funnelling animals across the borders into Uganda and Tanganyika The gangs made a complete mockery of the numerous colonial regulations surrounding the sale, movement and quarantining of animals As the black market boomed and settler woes mounted, it became increasingly obvious that the Kenya Police could no longer sit on the sidelines and devolve responsibility to headmen, chiefs and administrative police In the late 1930's, a number of senior Kenya Police officers (Sam Slatter, Jack Tull and Des Conner) turned their attentions to the vexing issue of stock theft. Detailed investigations resulted in the gathering of much useful intelligence on the gangs' membership and behaviour For instance, it emerged that many of the gangs had forged working relationships with each other thereby setting up an intricate chain that allowed for stolen livestock to be easily transported far away from locations where the thefts first occurred

64 European officers called for increased patrols and more frequent raids of known cattle-raiding areas They also proposed more radical interventions such as the creation and maintenance of 'black lists' of suspicious characters, their associates and kin The list was meant help in surveillance Another proposal was that it be circulated widely to prevent those listed from taking up employment on European farms especially if they had been to prison By far the most ambitious attempt to keep track of cattle thieves occurred in Elgeyo, another troubled location in the West, where a special compound was set up to house known and convicted raiders under the supervision of trusted chiefs and headmen The new efforts and energies directed towards stock theft yielded little If anything, the police were swimming against a tide of increased theft brought about by the establishment of a Meat Marketing Board licensed to buy cattle directly from Africans The MMB occasioned a boom in criminality as traders tried to get animals—stolen or not—to the board.

65 Police administrators returned to the drawing board in order to craft an even more aggressive response to what was openly described by the mid-1940s as a very serious crime wave In essence, concerns about stock theft finally pushed the Kenya Police into policing parts of the country, the African Reserves, that it had

studiously ignored before on account of the racial and zoned approach that the force had taken to law enforcement and the detection and prevention of crime A number of regulations and recommendations laid the foundation for the move. In 1943, Provincial Commissioners' recommended that the Commissioner of Police consider expanding into Native Reserves. A pilot scheme was approved and the Kenya Police Force set up shop in Kiambu, Nandi and Narok Districts Once again the continuing challenge presented by livestock theft meant that this slow roll out of police service had to be sped up

66 The following year, two cattle rustling hot spots, Kisii and Kipsigis, were also brought under the Kenya Police as arrangements were made for Nakuru and Mau Narok The Auxiliary Police Regulations of 1944 laid the foundation for additional police posts namely District and Assistant District Commandant and Senior Auxiliary Officers At the same time, the Legislative Council passed a motion directing yet further solutions be found for those areas hardest hit by livestock theft The idea of a mounted police force was born Approximately one hundred horses and mules were imported from Ethiopia and were distributed to those police divisions in the Rift Valley and the Highlands where a quick and agile response to cattle raids was deemed important Vulnerable divisions were also equipped with new radio transmitters The Mounted Unit then went on to form the foundation of the Anti Stock Theft Unit in 1965 This unit which now consists of the three platoons continues to form the basis of the Kenya Police's response to livestock theft

67 The unhappy conclusion of most observers was that very few of these reforms and innovations could get to grips to the full extent of cattle thieving in the colony As Kenya headed towards independence the raiding and theft of livestock became even more entrenched and audacious than ever before Indeed, as the Commission found, the struggle to contain and to respond stock theft sits at the core of several disturbing incidents and trends surrounding the violation of human rights in Kenya

Coercive policing

68 A central dilemma presents in itself in any historical consideration of the Kenya Police For all its weaknesses, lack of resources and oversights, the Kenya Police was easily one of the most violent and coercive institutions of the colonial era If anything, the Police have become emblematic of the very worst excesses of colonial administration in Kenya and beyond At once weak and powerful, the Commission believes that these colonial contradictions in the police force have carried over

into postcolonial Kenya with disastrous consequences Part of the Commission's work has therefore involved understanding this particular dynamic

69. The weakness of the Kenya Police Force is well established As has already been explained above, the force was intrinsically flawed with its racially driven approach to the cross-racial issue of crime and law enforcement To these ideological failures, organisational ones must be added. Understaffing was a chronic problem In 1925, nearly two decades after establishment, the force consisted of just 2224 officers serving in 31 police stations and 15 police posts Distribution was wildly unequal with some stations much better served by others Far from getting larger, the force actually got smaller over the next two decades The global depression of the 1930s hit Kenya hard and compromised the government's ability to expand services Recruitment picked up again in the mid-1940s By 1945, the force had nearly doubled Five thousand men were employed in 59 police stations and 162 posts As the force increased its operational areas to cover Native Reserves, the size of the force increased accordingly

70. Increases in efficiency and productivity were not, however, the outcome of a larger force The reason for this was an old one lack of resources and equipment A 1930 census showed that outside of Nairobi, the transport pool available to the police consisted of 19 cars, 4 motorcycles and 57 bicycles Improvements in radio and telephone communications helped considerably but did not fundamentally alter the fact that more often than not, the police were rarely able to respond to incidents in a timely fashion The ability to launch regular and wide-ranging patrols was also limited particularly in areas plagued by stock theft

71 Puny and under-resourced, the Kenya Police Force was nevertheless capable of violence on a spectacular scale. Indeed, the argument can and has been made that the very weakness of the force provided the very impetus for violence and coercion A little known but extra-ordinary feature of the Kenya Police Force and the District Administration was the ability to impose what were known as Police Levies Levies were amongst the most powerful tools available to Kenya's hapless police Careful procedures had to be followed for a levy to be imposed on particular district or location For starters, an inquiry had to be carried out to establish whether the location was 'disturbed' or 'dangerous'. In other words, there had to be an exceptional situation where crime and violence were out of control and were considered a serious threat to overall security Having made this determination, administrators could then ask the Police Commissioner for temporary reinforcements to be drafted in to assist the local authorities. Their stay could be extended until such time as the situation was felt to have returned to

normal While such operations were not uncommon, they are lightly documented So examples appear only rarely in the record Recent research has uncovered a 1929 operation in Kipsigis country Nearly 100 extra men were drafted in to the district on an unspecified law and order mission Between 1935 and 1936, there was a similar year-long operation in Samburu In 1948, another took place in Keiyo location badly affected by cattle theft

72 The procedures and formalities required for police levies belie the fact that in essence the levy was a sort of tax imposed on host communities Simply put, communities had to bear the cost of the very operations launched to pacify them Payment was made either in cash or kind (livestock and produce) There is very little documentation to indicate how the size of the levy was determined The suspicion is that it was probably a fairly arbitrary process detached from any proper consideration of the actual cost of the operation Of concern, was that the police were permitted to extract money and goods from the inhabitants of a particular location set the stage for frequent clashes between the two groups In essence, the police simply took to raiding and stealing from local populations under the guise of imposing levies Many could not distinguish so-called police operations from full out military campaigns carried out by the Kings African Rifles The police were further informed by the Collective Punishment Ordinance that allowed entire communities to be held responsible for the crimes of a few. Undergirding almost all operations was the sense that people had to be punished, harshly treated and—if necessary—forcefully be made to understand that they had to comply with colonial rules and regulations The futility of using such punitive methods to enforce respect for the law was entirely lost on authorities

73 While levies and punitive para-military operations were common features of early policing in Kenya, things began to change somewhat in the 1930s A notable shift took place in the way that the police approached the public, a new era of somewhat more advanced policing was ushered in as the force attempted to deal in a more targeted fashion with threats to overall law and order

Criminal Investigation Department

74 This new era of policing in Kenya was characterized by establishment of a discrete unit dedicated to the pursuit of higher value crimes and criminals the Criminal Investigation Department (CID) As with so many other aspects of colonial policing, the story of the CID is a murky, often contradictory one In 1908, a committee set up to review the force concluded that a criminal investigation and criminal records department could not be established because Kenya lacked the

calibre of [European] officers necessary to properly run such departments The following year Captain Edwards—the new Inspector General of Police—offered a completely different opinion He was of the view that criminal investigation and criminal records units were hallmarks of a modern police force He recommended that notwithstanding the lack of personnel, the force had to consider creating them Edwards was particularly anxious about criminal records describing them as weapon for detection and against re-offending However, no movement was made on the issue For the next decade, the closest that the force came to criminal records was a small Finger Print unit run by a single officer

75 The question of a Criminal Investigation Department returned in 1925 when the Police Commissioner bemoaned the lack of funds and personnel necessary to handle serious cases Even so, the decision was made to push ahead with the formal creation of a specialized unit It is unclear how this decision came about One thing is certain, Nairobi and other settled areas at this stage played host to an expanded array of crimes—forgery, rape, murders, housebreakings, violent robberies—that resulted in the usual hue and cry that something needed to be done The more sensational cases were reported in the press in lurid detail further creating the impression that crime was spiralling out of control More likely than not, the new CID was a product of the need (and the need to be seen) to respond to the activities of an increasingly sophisticated criminal class Few other details about the early history of the department are available other than attempts were made to recruit the most qualified African, Asian and European officers The following year—1926—was spent giving organisational shape to the department The Criminal Record Department was also formalized

76 While it got off to a slow start, by the mid-1930s the CID began to be regarded as something of a success story. The department was credited with developing a network of informants that finally allowed the police to arrive at some sort of understanding of the crime and criminals that so plagued the colony By the very nature of their work, these agents and informers worked in the shadows and in anonymity Very little is known about their identities and their motives for engaging in such work Some may well have been criminals themselves or at the very least, associates Whatever their identities and their motives informants helped the police to amass criminal intelligence, make arrests and initiate prosecution Statistically, the Police Department began to register impressive increases in three key areas the number of cases being reported, conviction rates and the number of parolees under police supervision At their simplest, increases between 70 percent and 80 percent provide evidence of increased efficiency and productivity in a buffed-up police force These figures do, however, have to be

treated with a certain amount of care because they cannot be desegregated into petty and serious crimes/offenders In other words, there is no real way to determine from the statistics alone whether the creation of the CID actually led to a dent in serious crime The department's greatest achievement may well have been the simple creation of the impression that the police were taking crime more seriously than they previously had

Special Branch

77 The creation of Special Branch represents another attempt by the Kenya Police to refine and professionalise its operations in the mid-1920s The unit's origins were, however, fairly innocuous in that initially it was simply a part of the larger Criminal Investigation Department The Intelligence Branch—as it was then known—sat unheralded within the CID largely because of a lack of clarity Nobody could really say what was that an Intelligence Branch was meant to do

78 Modern practitioners and analysts offer a layered definition of the term "intelligence"

> The meaning of the word intelligence varies among people and even within governments It certain contexts, it connotes information needed or desired by government in order to pursue its national interests It means information or news concerning an enemy or an area of an agency engaged in obtaining such information It includes the process of obtaining, evaluating, protecting and eventually exploiting the same information It also encompasses the defense of government's institutions from penetration and harm by hostile intelligence services The term is also used to describe mechanisms and the bureaucracies that accomplish these activities Hence intelligence is knowledge, organization and process Its four major disciplines (analysis, collection, counter intelligence and covert action) are interdependent

79 By this definition, the Kenya Police of the early colonial era cannot comfortably be described as an intelligence-oriented body Out of sheer necessity, however, police officers performed many intelligence functions During World War I, the Kenya Police oversaw an ad hoc intelligence operation that sought to acquire information on German and Italian activities along Kenya's borders A wide cast of characters was drawn into the effort to establish what Britain's enemies were up to Game rangers, hunters, traders, messengers and even missionaries were all used to get a sense of troop movements and formations The police were responsible for basis processing and analysis of the data and sending it on to the military for consumption With the end of the war, the police retreated from issues of national and external security and returned to their usual fodder of crime and punishment, law and order The Intelligence Department appeared somewhat redundant in a force preoccupied with fairly local concerns

80. In the 1930s, the Intelligence Department began to find its feet again somewhat. The main reason for this was the Italo-Ethiopian war of 1935 – 1936 While Kenyan territory was never actually threatened by this tussle for autonomy and power between Italy and Ethiopia, the war had important intelligence implications There were well-grounded concerns, for instance, about the threats presented by refugees and runaway troops Another worry was the impact that unrest would have on the already volatile and insecure Northern Frontier District It therefore became very important for the Police to run intelligence operations out of outposts like Mandera and Garissa The usual network of herdsmen, hunters and tradesmen was activated to gather whatever information they could about this difficult yet highly vulnerable terrain The need for intelligence continued on into the late 1930s as the tensions that would eventually explode into World War manifested (albeit on a much smaller scale) in East Africa In the months before war broke out, both the Intelligence Department and the military placed an increasingly high premium on sources who could speak to the activities of Italian troops, their equipment, weaponry and officers The department did its best to meet need for this kind of information

Policing the emergency

81. On the 20th of October 1952 the Governor of Kenya, Evelyn Baring, declared a State of Emergency For the next seven years, Kenya was effectively at war with itself as colonial authorities attempted to get to grips with the Mau Mau uprising Mau Mau, its origins, unfolding and its implications for the overall story of human rights violations in Kenya are dealt with at some length in other sections of this report. This particular section concerns itself with the institutional and organisational implications of the Emergency for the Police Force The Commission's interest stems from a broad understanding that the Emergency was an extraordinary period that made extraordinary demands of the police, military, security and intelligence The Emergency is a watershed moment in the policing history of Kenya, seven years of both intense and unconventional warfare changed the force completely

The lead up

82 The five or so years in the lead up to the Emergency were busy ones for the force occasioned by the placement of the African Reserves under police jurisdiction The size of the force increased More significantly, efforts were made to improve terms of service In 1946, a Governor-appointed committee was established to investigate such issues as pensions, housing, allowances, promotions, uniforms and other benefits A number of the committee's recommendations were accepted by the government at the same time that greater investments were made in hardware and

equipment Once again, these were increases were pegged to police expansion into previously neglected regions. New motor vehicles were acquired The distances involved in this new policing effort led to a revamping in communication New radios were purchased and in 1943, a Signals Branch was established Run by a European supervisor and ten African signallers, the Signals Branch became the lifeblood of such far flung areas as the Northern Frontier District Small but vital, signals were the primary means of passing information between various districts and their respective headquarters They were absolutely critical to determining police reactions to a given situation

83 In 1948, there was another important development with the opening of a new police training school in Kiganjo. A small trading centre in the heart of central Kenya, Kiganjo replaced Nairobi as the location of the national Police Training Depot Senior police administrators were proud of their new establishment The buildings were described as airy, clean and far more conducive to effective learning than then run-down facilities that compromised the old depot in Nairobi Other facilities on the campus included a clinic, a dispensary and spacious living quarters for faculty The police were prouder still of the actual syllabus offered to incoming students After several decades of trying, the police were still trying to reduce the militarized nature of the training offered to new recruits Many of the instructors at Kiganjo were knowledgeable in modern methods taught at the Police College in England itself, the hope was that the Kenya Police Force would finally become much more civilian-oriented in its overall approach Optimism aside, the new training school was under considerable pressure The number of new recruits in the force was so large that the six month course was slashed to three months This was the only way that everyone could be accommodated With this, of course, came concerns that the much-vaunted training was being watered down and that recruits were leaving Kiganjo somewhat prematurely

84 Another worry was that incoming recruits had such different levels of education that it was difficult to standardize the training offered them Some were completely illiterate and others were much more proficient Even so, Kiganjo remained the jewel in the Kenya Police Force's crown Contemporary observers could not hide their joy at the school's graduates

> All who have been privileged to watch a Passing Out Parade at the Kenya Police Training School, Kiganjo, cannot have failed to be impressed greatly by the smartness, precision and excellence of these parades The recruits, who have completed their course of training are posted to units for duty as fully-fledged policemen and they put up a remarkable performance which reflects the highest possible credit on the School and its staff of instructors It is made only too evident that no effort is spared in turning out thoroughly smart and efficient policemen

85 These new batches of policemen and Kiganjo graduates were draw into a complex criminal environment that tested their new found skills and training to the limit Kenya in the lead up to the Emergency presented a variety of law enforcement challenges Crime continued to soar in and around Nairobi Stock theft continued to plague outlying and frontier areas. What really distinguished the pre-emergency years, however, was a steady rise in politically and religiously-driven incidents which, more often than not, were given to the police to tackle despite the fact these were not clear-cut law enforcement issues Discussed at length in another section of this report, the Kollowa Massacre of 1950 is an example of a complex anti-colonial uprising turned into a simple policing matter A company of almost fifty policemen were posted to a remote part of West Pokot to deal with Louis Pkech and three hundred of his armed followers. The results of this encounter were spectacularly disastrous, scores lay dead at end of the fire fight between the police and civilians *Dini ya Jesu Kristu*, a Kikuyu-based sect, posed a similar threat with its complete rejection of European norms When in December 1947 sect members attacked police killing three of them, *Dini ya Jesu Kristu* became the object of a sustained police operation that eventually resulted in the arrest and trial of two dozen of them In both cases the underlying theme was African rebellion against colonial norms

86 The rise of such overtly anti-colonial disquiet prompted a drastic re-drawing of Special Branch By the 1950s, it was no longer possible for authorities to ignore the ever growing tides of unrest sweeping across the country From trade unions to trade unions to political associations, various factions and constituencies in Kenya made their disdain for colonial rule known The need to understand these groups and to gather information was what finally pushed police authorities give Special Branch shape and definition The unit was removed from underneath the Criminal Investigation Department In 1945 Special Branch was assigned its own director who in turn reported to the Member for Law and Order (the Attorney General) instead of the Commissioner of Police Special Branch's realignment allowed the unit to turn inwards and focus on individuals and groups deemed to threaten Kenya's internal security and cohesion The revamped unit placed new emphasis on political rather than strictly criminal activity Theoretically, therefore, Special Branch entered the Emergency with an improved ability to keep of political dissonance and dissidents

87 Before the full scale and nature of the uprising dawned on the administration, government officials tackled Mau Mau incidents disparately In other words, there was no structured response with each policing division responding in its own capacity and in its own time Some police divisions choose to impose police levies Others embarked on a flurry of mass arrests, fines and prosecutions for such offenses

as illegal assembly and malicious damage to property. In the first few months of 1952, it became clear that what colonial was up against was a movement that was far more cohesive than they had previously imagined Oathing was being carried out on a systematic almost industrial scale By the middle of 1952, there were carefully organized raids on settler farms killing hundreds of sheep, goats and cattle Holdings in and around Mount Kenya in particular were badly hit State responses continued to be largely uncoordinated until May 1952 when a Special Police Bureau was established The Bureau's only job was to work on Mau Mau and Mau related cases. In August, the Bureau was supplemented with something called the "The Special Effort Force" The Special Effort Force was made up of detachments of police officers drawn in from all over Kenya including Northern Kenya Seven hundred men were on hand to assist in anti-Mau Mau campaigns These initial reforms did very little to stem the flow of Mau Mau activity. From the end of 1952 onwards, the police were forced to embark on program of rapid expansion and reorganization There were several key elements to this expansion and re-organization

The General Service Unit

88 Police administrators had long expressed the need for the Kenya Police to have a standing emergency force that could be used during extraordinary situations when regular policing channels were not enough. This was a need that predated the Emergency as, incidentally, did the response In 1948, a Police Emergency Company was created At first it was little more than a mobile unit consisting of a handful of armoured cars and an unknown number of men With the onset of the Emergency, the Police Company became the object of wholesale reform It was renamed the General Services Unit Forty seven European and just over 1000 African officers were added to the unit Platoons consisting of an African and a European Inspector and 40 men were sent to the provincial headquarters of Central, Rift Valley, Nairobi, Nyanza and the Coast Each platoon was equipped with a Land Rover, a pick-up, a 3-tonne lorry, wireless radios, tents and modern arms The concentration of Mau Mau activity in Central and Rift Valley meant that these two provinces received extra infusions from the General Service Unit Nyeri was assigned a total of 12 platoons with 500 men. Five platoons each were sent to Rift Valley and Nairobi

Kenya Police Reserve

89 Like the Emergency Company, the Kenya Police Reserve started life as a fairly innocuous and low profile branch of the larger police force The Reserve was initially concocted as a response to the pressures of World War II and the need for extra boots on the ground to support the war effort In 1943, the Legislative Council passed regulations requiring all male adult Europeans to sign up for basic military

training In 1944, these regulations were changed slightly to allow conscripts to see out their service in auxiliary police units Three years later, these units were disbanded but continuing shortages in the police meant that approximately three hundred men were retained as a force that was known as the Special Police Its status was regularized in 1948 with the Kenya Police Reserve Ordinance At first, Police Reserve was almost European in its membership Asian members were outnumbered by almost four to one There were no Africans

90 The exigencies of the Emergency led to a sharp redrawing of the Kenya Police Reserve In 1948 it was opened to Africans again as a means of adding numbers and bite to the fight against Mau Mau. Very quickly large numbers of Africans began to join the Reserve Their training can only described as rudimentary, no Kiganjo-style lessons were on offer. Instead African reservists were taken through a very basic program focused on the use of modern rifles and arms They were then issued with uniforms and badges and sent out into the field Their role was loose and largely undefined It seems that they were deployed to wherever they were needed providing extra manpower during sweeps and raids. They also conducted patrols Despite their rag-tag training and lack of structure, the Reserve has been described as having 'rendered invaluable service to the Force and the Colony'

*The Police Air wing

91 The Police Air Wing was formed in 1948. The impetus behind its formation was the need to enable the police to respond to emergency situations in far flung areas that could not easily be reached using regular methods The Air Wing was small but expensive to run Pilots and planes were drawn from both public and private sources They were also only available on a part-time basis. The typical air wing incident involved evacuating critically injured or ill people from remote farms, hospitals or missions As with other branches of the policing tree in Kenya, the Emergency wrought a number of changes Pilots were employed full time and more planes purchased Modern radios and sets allowed synchronized communication Military and police strategists were quick to realize that the Air Wing gave number of strategic advantages over the Mau Mau The Air Wing was quickly pressed into bombing raids in the Aberdare and Mount Kenya forests and ranges By 1954, these were regular features of the effort. Planes overflew sites identified as Mau Mau strongholds and released one thousand pound bombs It was also not unheard of for officers to throw grenades out and to shoot out of open plane doors An air base at Nanyuki served as the Wing's main operational base in Central and Rift Valley. In 1957, permanent headquarters was set up at Wilson Airport in Nairobi and the wing was confirmed as part of the police force

Special Branch

92 The Criminal Investigation Department and Special Branch were also not immune to the exigencies of the emergency Both were forced to adjust to the tremendous security challenges birthed by the Mau Mau crisis. But for Special Branch in particular, the Emergency was transformational The Emergency's impact was profound on an institution that, up to this point, struggled for identity and purpose Special Branch entered the Mau Mau period as a fairly autonomous body with its own headquarters (in Nairobi) and its own reporting line (through the Attorney General) As it emerged that the threat facing Kenya was an overwhelmingly internal one, the focus on externally-oriented intelligence was dropped In its place rose strategies and structures dedicated to the acquisition of information on Mau Mau The restructuring of Special Branch was overseen at the very highest levels In November 1952 the Director-General of Security Services in Britain (MI5), Sir Percy Sillitoe, arrived in Kenya charged with review of the prevailing security situation and making whatever recommendations he saw fit Sillitoe's assessment was unsympathetic concluding that Kenya's security and intelligence services were simply not fit for purpose. If anything, Sillitoe may well have agreed with various top officials who argued that weaknesses within Special Branch may actually have led to a failure to understand and combat Mau Mau during the early years

93 The Sillitoe-authored restructuring was sweeping and ambitious Its effects persisted long after the end of the Emergency and can easily be described as the foundation of modern intelligence and security in Kenya Sillitoe drew extensively from Britain's experiences during the Malayan Emergency which also involved a guerilla army taking on a traditional colonial army in a war of independence Sillitoe recommended the creation of central body responsible for the collection and analysis of intelligence This body was named the Kenya Intelligence Committee In addition to receiving and analysing intelligence, the Kenya Intelligence Committee would also give direct advice to the governor regarding based on its reading of the information that it was privy to Sitting on the Kenya Intelligence Committee were the head of Special Branch, the Secretary for Law and Order (the Attorney General) and members of African Affairs and East African Command Security Liaison Stilltoe also recommended the establishment of such Intelligence Committees at the Provincial and District level with the same collection, analysis and advisory functions

94 Special Branch itself was overhauled to reflect its increased prominence in the new security/intelligence arrangements Recruitment was stepped up to fill vacancies in

Special Branch units set up in all districts and provinces However, new officers were not easy to come by and Special Branch was frequently in competition with the CID for the very best and most highly qualified officers Efforts were made to harmonize the handling of files and other security or intelligence material All districts and provinces were set up with secret registries and reading rooms for sensitive documents As mentioned above, the focus on politically-relevant intelligence was sharpened No politically prominent Africans were immune from Special Branch's determined and relentless gaze At the same time a military element was also integrated with the realization that such intelligence could be used to plan specific operations and tactics. Field Intelligence Officers (Military Intelligence) were tacked onto Special Branch. In Mau Mau hotspots, Special Branch, the Police and the Army were all put into an overarching unit known as JAPOIT (Joint Army Police Intelligence Team) which became an operational focal point

95 By its very nature Special Branch work during the emergency was hidden and secretive One issue on which there is a certain amount of openness and pride is the unit's use of infiltrators Special Branch was behind the creation of so-called 'pseudo gangs' that were sent into the forests to gather information and intelligence from genuine Mau Mau Pseudo gangs were valuable assets not only for the information they yielded but also because they were charged with destabilising and confusing Mau Mau from within A special unit known as 'the Bureau' was set up to handle and organize the gangs.

Home guards

96 Twenty five thousand strong (at their peak) the Home Guards were an important part of the overall policing response to Mau Mau Technically speaking, however, they were not really police Home Guards were drawn from the parallel Tribal or Administration Police. Colonial chiefs known as loyalists because of their fidelity to the colonial government first began to put together teams of home guards in 1952 In a process that is still unclear, Home Guards eventually received official sanction and approvals Some of them underwent a very rudimentary training and were assigned basic weapons and uniforms Home Guards were not under direct police control Instead, their received orders from chiefs, headmen and others in the parallel system of Native Administration In the course of their duties—patrols, guarding of villages, anti-Mau Mau sweeps—home guards worked closely with the various other branches of the police force described above Home Guards have even been described as the most effective weapon that the colonial government had in the fight against Mau Mau on account of their knowledge of the local culture and terrain.

Post-emergency policing

97 The State of Emergency was not lifted until the very of end 1959 By 1957, however, authorities were quietly confident that Mau Mau no longer presented the threat that it once had and that a scaling back of sorts could take place In 1958, the military returned to barracks leaving the police in complete charge A handful of cells continued to be active necessitating small-scale (but robust) mopping up operations in the Aberdares, Meru and Embu Such operations were, however, the exception rather than the rule For the most part, official attention began to turn back to more ordinary policing matters

98. One of the most pressing issues was the handling of the thousands of extra men who had been drafted into the force from 1953 It became very important to decide their fate as not all of them could be retained A number of them lost their jobs outright as police posts and stations in Central and Rift Valley were shut down Kiganjo School absorbed some of the overflow as well with some 3600 constables who joined the force at the beginning of the Emergency undergoing training Another issue became the revisiting of crimes that had been left somewhat unattended as the force grappled with Mau Mau. The frequency and intensity of poaching increased particularly in Hola, Makindu and Voi. Last seen dropping bombs over the forests of Mount Kenya and the Aberdares, Kenya Police Force aircraft were re-diverted to surveillance, reconnaissance and tracking The perennially troublesome question of livestock continued to plague frontier districts In late November 1957, Merille tribesmen from Ethiopia crossed into Northern Kenya killing almost 180 Turkana villagers In a response that would lay down a modern template, a number of police units set of in pursuit of the Merille Two companies KAR was also called upon to assist

99 The end of the Emergency put to an end to one kind of political activism but it also marked the rise to others Mau Mau made it clear that Kenya had no future whatsoever as a colony of any kind; settler or otherwise Independence was inevitable Kenya's different political constituencies repositioned and realigned themselves all in readiness for the handover of power Unionists, workers, politicians and their followers took to organizing all manner of rallies, strikes and demonstrations Because these sometimes turned violent, the police were anxious to see that they did not Riot and crowd control became a top priority as did the monitoring of political luminaries To this end, both Special Branch and the Criminal Investigation Department retained the highest levels of support and funding that could be afforded them In the middle of 1957, a new CID training was opened in a Nairobi suburb Specialized courses were offered in investigation, detective work and prosecution Special Branch Training School opened the following year in the same location with advanced classes for officers

100 Structurally, a number of adjustments were made again with the aim of giving the department a forward-looking and progressive gloss One of the most important interventions was the creation of the new position of Deputy Commissioner (Field) This was a key bridging post designed to link police officers out in the field more closely to Police Headquarters. His job was to communicate central policy to those in the more outlying areas and to make them feel closer to events in Nairobi Similarly, the Deputy Commissioner was charged with communicating information and sentiments in the field back to headquarters Post-emergency budgeting reflected the continuing centrality of the police and law enforcement Hundreds of thousands of pounds were allocated to the force to embark on an expansive (and expensive) building scheme New police stations and new police housing were planned Most ambitiously of all, a large modern headquarters was to be constructed in downtown Nairobi. Completed towards the end of 1957, the new building signified the dawning of a new era for the police in particular and Kenya in general Spacious and modern, the new building finally united all branches of the force under one roof Plans were made to add a second block to house Special Branch and the Criminal Investigations Department

101 The immediate run-up to independence found senior police officers in a somber, reflective mood Mistakes past and future possibilities were on Commissioner Catling's mind as he delivered a seminal speech in October 1960 Catling acknowledged serious failings during the Emergency and described the police as completely 'unprepared' for the storm that would break in the form of Mau Mau He was also acknowledged that the force had great difficulty in fighting the emergency and carrying out normal policing work at the same time The main thrust of the speech was, however, forward looking with Catling concentrating on the force's impending transformation into a post colonial entity

102 Two things appeared to concern the Commissioner about the upcoming era The first was that police officers develop a reputation for public and citizen-oriented service Implicit in this of course was the acceptance that this was something that the force had previously been unable to do The hope was that notions of service would somehow be inculcated

> Kenya policemen exercise their powers and responsibilities on behalf of the citizens of this country—powers and responsibilities which in essence are shared by all citizens alike—and not as the agent of a higher authority These policemen are therefore the appointed agents of those citizens for ensuring conditions in which the people of Kenya can go about their lawful occasions in peace and without fear In other words we were trying to say that the description of a policeman as an officer of the law

and a servant of the public should really mean something and that the importance of this distinction between the policeman and the ordinary Government civil servant should be realized and understood by the people of the county, no less than by the policemen themselves

103 The second issue was, as Catling delicately put it, the selection and training of local police officers for higher offices and ranks Otherwise (and simply) put. Africanisation Once again, the sub-text was clear in that there was the unspoken concession that the force was devoid of Africans at the senior levels According to Catling, some progress had been made with the promotion of some 200 corporals to various ranks within the overall Inspectorate The Commissioner was blunt in his assessment of the poor prospects of further advancement, there were simply not enough locals to promote without a sharp reduction in the quality of policing Compulsory Africanisation would put the police force on a slippery downward slope unless drastic measures were taken·

> We shall not be stuffy, unimaginative or fearful in tackling it but the object cannot be achieved with reasonable speed or without an acceptable drop in efficiency with reasonable speed unless training facilities are increased both Kenya and the United Kingdom

104 In conclusion, Catling sketched out a picture of a meritorious police force populated by police officers who earned appointments and promotions on the basis of their work, productivity and results His vision was for a force that would thus rise to the policing challenge of independent Kenya

> We have reached our position by basing advancement in the force on a combination of ability, merit and professional regardless of race, by concentrating on quality and not quantity and by devoting our resources to the production of quality I believe that it would be foolhardy and wrong to desert these principles for anything else I believe that we should be doing a disservice to the people of Kenya if we did Moreover, there appears to be no reason why we should There is good material in the Force today which, by training and experience can be advanced to high responsibility although this will require time We face the future therefore with confidence and are not afraid [8]

105 Catling's smooth optimism was misleading even deceptive The police force that marched towards independence in 1963 was, as the Commission has established, deeply and historically troubled From the 1890s right through to the late 1950s and early 1960s, the Kenya police force clearly structured itself around the policing needs of a small and politically powerful elite and racial minority Kenya's police force was from the outset built to cater to these privileged few What little money and few resources it had were channelled towards the protection of a handful

8 Foran 230

Most ordinary Africans were left to fend largely for themselves in a parallel policing universe run by administration police, chiefs and village headmen. Direct links between these two very different worlds were tenuous and infrequent. When, however, the Kenya Police Force *did* encounter African populations it was with a force, violence and lack of understanding that the Commission has characterized as devastating Kenya's experiences have also made it difficult to argue that the eventual bringing in of African reserves under the umbrella of the Kenya Police Force was born of anything other than age-old impulse to protect and guard the same elite interests that dominated in the White Highlands and larger urban areas With the colonial administration itself describing Mau Mau as a policing and intelligence failure, the Emergency itself represents a mighty effort to re-impose law and order on the wayward and misguided

106 Fifty plus years of racialised, elite and coercive policing were not easy to dislodge Kenya's police force would not have found it easy to shed nearly half a century of such deeply rooted characteristics Moreover the force had such a long and stuttering history of reform that few expectations could be attached to the adjustments made to Kenya Police in anticipation of Independence For the Commission then, the Kenya Police Force of 1960 much resembled the Kenya Police Force of the 1900s narrow in outlook, unclear in mission and violent in tendency It was a deadly combination which, as is discussed elsewhere in this report, would have stunning consequences for the human rights story of Independent Kenya

The Military

107 There are few more visible symbols of the chaos of the colonial project than a colonial army on the rampage From Cape to Cairo and beyond, the European presence in Africa was both established and maintained through the barrel of a gun Kenya was no exception to this overall rule of colonial rule as the product of brute force From the outset, British exploits in Kenya were defined militarily Civilian authority rested almost entirely on the ability to marshal colonial troops and forces generally (but not always) better organized and equipped than indigenous ones The incidents and events that gave rise to military encounters are in themselves worthy of attention because, again, they clearly demonstrate the violence of the collision between the conquering and the conquered

108 The military history of Kenya is the history of an institution that has long dominated accounts of gross human rights violations in Kenya For the Commission, therefore,

the exploration of Kenya's military past provides an opportunity to explore those organisational arrangements, structures and attitudes that have shaped the military present Apart from continuities, the Commission is also interested in questions of reinvention, and reform and the various ways that Kenya' military has tried to break with its past. The overall story, as the Commission understands it, is a complex one that intersects with well-known currents in Kenyan history as well presenting a number of less obvious ones

Origins

109 While recognizing that many indigenous African societies had sophisticated and well-organized military systems, most military histories of the continent begin with colonialism The Commission follows this convention by beginning its analysis of Kenya's military in the late 1870s and 1880s with the arrival of the Imperial British East African Company The IBEAC was a purely commercial concern established to exploit East Africa's natural resources [9] A primary concern for the company became the creation of an environment that would allow trade and commerce to thrive From the outset then security was an issue with rudimentary police and military forces established to protect, defend and expand Company territory IBEAC police have already been described as unprofessional, poorly organized and only capable of performing the most basic of tasks [10]

110 The IBEAC military and armed forces fit into the same mould [11] They were a motley bunch Some were former mercenaries from Baluchistan and Iran Originally hired by the Sultan of Zanzibar to take on enemies, threats and revolts on the mainland, some of these men were taken on in the 1870s by a Lieutenant Matthews Matthews was a naval officer mainly responsible for anti-slavery patrols but he also undertook various expeditions on land A decade later, Matthews was in charge of some 1,300 men The force stood at 850 strong in the early 1890s and leadership was taken over by a Captain Hatch Hatch organized them into 12 companies A band and drums added a little pomp and ceremony Populating the force presented the Company with an ongoing challenge The Zanzibari mercenaries continued to feature There were also discussions about the wholesale importation of troops from Sierra Leone and from Southern Africa These suggestions were dismissed as expensive and unworkable Eventually, the Company settled on man power from the Sudan and various other miscellaneous

9 For more on the economic imperatives of the IBEAC, see William Robert Ochieng and Robert Maxon (eds) *An Economic History of Kenya* Nairobi East African Publishing Company 1992

10 See sub-section above on the history of policing in Kenya

11 The central text on the early history of the King s African Rifles is Lieutenant-Colonel Moyse-Bartlett *The King s African Rifles A Study in the Military History of East and Central Africa* 1890 – 1940

soldiers who had seen service in Afghanistan and Egypt. The end product was predictably messy. Different languages, cultures and levels of training were thrown together into a collection of 'slipshod, half-clothed and half-drilled' soldiers.[12] Half-clothed and half-drilled though they were, the Company had no alternatives. These were the only men available for deployment to various hot and trouble spots along the Kenyan Coast and hinterland. The sultanate of Witu near Lamu was particularly restive and became the focus of a number of expeditions What little is known about these early expeditions is that they were violent affairs pitting company forces against local ones with frequently disastrous consequences for the local ones

111. For reasons that are explained in detail elsewhere, the IBEAC could not administer its East African holdings In 1895, the Foreign Office took responsibility for running the territory that was now referred to as the East African Protectorate Sir Arthur Hardinge-, previously the Consul General in Zanzibar--moved to Mombasa take up a new appointment as the Commissioner of British East Africa Hardinge inherited 800-odd soldiers Half were stationed in Mombasa and the rest in Jubaland, Tana and surrounding areas They were as poorly trained and equipped as they had been during the Company era In that regard, there was no change Hardinge was disparaging about his charges describing them as 'inclined to drunkenness'[13]

East African Rifles

112 Initially, few efforts were made to improve the actual quality of the troops Issues of discipline and equipment were put on the back burner Instead, Hardinge and his team occupied themselves with questions of re-organizing and re-drawing They initiated a number of administrative reforms that would have important and long standing implications All the troops were pulled into a single regiment called the East African Rifles The erstwhile Captain Hatch was proposed as the overall commandant He was assigned two assistants Both Hardinge and Hatch were of the opinion that, at the very least, 1000 troops were needed to garrison the protectorate. But once again the question of actual recruitment was shelved in favour of more immediate and more administrative concerns The Protectorate was divided into three large military districts Tana/Seyyidieh, Ukambani and Jubaland The 800 troops of the East African Rifles were divided amongst three districts with Hatch and his two assistants at the helm In 1897,

12 Lieutenant-Colonel Moyse-Bartlett *The King s African Rifles A Study in the Military History of East and Central Africa* 1890 – 1940 96

13 Lieutenant-Colonel Moyse-Bartlett *The King s African Rifles A Study in the Military History of East and Central Africa* 1890 – 1940 104

there was another restructuring that resulted in the drafting of a further two hundred troops bringing the total regiment size to 1000, the figure that Hardinge had originally recommended

113 The East Africa Rifles was short-lived By the early 1900s, it was disbanded to make way for a new formation Its life was however, was an eventful one The regiment was immediately drawn into the violent and messy task of subduing African resistance to British rule A process known as pacification was anything but peaceful Troops were dispatched to all corners of the Protectorate to take on the various groups that were challenging the imposition of colonial rule Resistance was widespread but certain regions stood out for the persistence and intensity of their campaigns Jubaland, for instance, consistently presented challenge as the various groups took on the British In 1901, a campaign was launched against the Ogaden who had been battling the British since 1893 Crushing the Ogaden had been the goal of an earlier mission in 1898 Limited success meant that the Ogaden continued to raid and attack all manner of government expeditions

114 While the Ogaden were peculiarly dogged fighters, the expedition launched against them was fairly typical for the time EAR troops moved into the area with very little understanding of the fighters that they were up against, they were very rarely the beneficiaries of local intelligence and espionage The troops and their commanders would have been unfamiliar with the unconventional guerilla tactics used by their opponents Excessive heat and a desert terrain made matters very difficult for the EAR and often left them with significant losses during their encounters with the enemy Modern weaponry gave the regiment some advantages and they were also able to inflict damage against Ogaden who were only equipped with daggers and swords. With time, the EAR adapted somewhat to the harsh environment that they found themselves in The creation of a camel corps for instance helped with mobility and transport in the thick desert shrubs

115 By the middle of 1901, the campaign was winding down Once again, however, results were mixed Despite increases in size and re-organization, the EAR was unable to completely snuff out the rebellion The Ogaden, like several other communities continued to resist the British—both overtly and covertly—for many years It is not altogether possible (or even useful) to make assessments about the regiment's success of failure For the Commission, the regiment's importance lies in highlighting the difficulties encountered in the creation of a military tradition where none existed. It was difficult, touch and go work that demanded time, resources and expertise that were not always available in early colonial Kenya

Uganda Rifles

116. The Uganda Rifles was also important to the overall history of the military in Kenya If anything, it was probably much more pivotal than the EAR because of the controversial nature of the missions that it undertook. Older and larger, the Uganda Rifles regiment dates back to 1890 when Captain Lugard set off from Mombasa en route to Buganda. His mission on the face of it was a simple one: to set up shop on behalf of his employers, the Imperial British East Africa As it turned out, Lugard's actions in the Buganda heartland triggered off a complex chain of events that resulted in the eventual colonization of the whole of Uganda That particular narrative lies beyond the Commission's mandate (even though the interconnectedness of British colonialism meant that the conquest of Uganda had direct consequences for Kenya)

117. What is of interest here is Lugard's putting together of the fighting force that would eventually become the Uganda Rifles Lugard first left Mombasa with some 70 Sudanese soldiers who had recruited by a Captain Williams in Egypt As he travelled inland, he added a further 100 Somali and Sudanese recruits The usual complaints about lack of discipline and training featured The 400 porters who were part of the expedition were described as 'entirely useless'[14] The following year intensified recruitment brought the total number of men available to Lugard to 650. Captain Williams, who by this time was also stationed in Buganda, attempted to raise standards by basic training and daily drills. The real change in fortunes came in 1891 when Lugard essentially inherited about eight hundred or so men who had previously served under Emin Pasha in Equatoria Province, Sudan Once again, the specifics of Emin Pasha's story belong to another strand of British colonial history in East and Central Africa The Commission's only interest is in the arrival of several hundred men described as the 'best material for soldiery in Africa'[15]

118 Actual legal recognition for the regiment would only come in September 1895 with the Uganda Rifles Ordinance which provided for a Commandant, Chief Officers, African Officers and under-Officers But even before that, what Lugard was in fact in charge of was by far the largest and most sophisticated collection of troops in East Africa It should come as no surprise that these were liberally used to take on the various challenges to IBEAC supremacy In Uganda itself those challenges were many and serious In 1893, for instance, the target became Bunyoro A powerful kingdom in the west, Bunyoro refused to accept protectorate status [16] The ruler of Bunyoro, Kabarega was rumoured to command an army of some 8000 gunmen and 20 000 spearmen Unsurprisingly, the threat from Bunyoro elicited a vigorous response from the IBEAC who marched on the kingdom with a strong force of its

14 Lieutenant-Colonel Moyse-Bartlett, *The King s African Rifles A Study in the Military History of East and Central Africa* 1890 – 194, 49

15 Lieutenant-Colonel Moyse-Bartlett *The King s African Rifles A Study in the Military History of East and Central Africa*, 1890 – 194 50

16 For more on the complicated history of Bunyoro kingdom and its relationship with the British, see M S M Kiwanuka 'Bunyoro and the British A Reappraisal of the Causes for the Decline of an African Kingdom' *Journal of African History* 9 (4) 1968 pp 603 – 619

led by a Colonel Colvile What followed were two years of fierce fighting and the eventual subjugation of Bunyoro resistance five years later

119 One other aspect of the Ugandan Rifles' early campaigns deserves mentioning, weaponry The regiment provides the clearest examples bestowed by superior weaponry As Lugard left Mombasa, he took with him a single Maxim gun Described in the literature as 'worn-out', the Maxim gun nevertheless underscored that the key difference between the colonial and traditional militaries was the ability to access modern firearms [17] And in the early 1890s, there was no weapon more advanced than the Maxim The gun itself was a re-worked version of the heavier and more cumbersome Gatling gun and was capable of firing 600 rounds per minute A Maxim prototype had been used during the Emin Pasha expedition Somehow—it is not clear how—Lugard came to possess the final version of the gun or why it was in such poor condition At any rate, the gun had a brief but starring role in Lugard's campaign During the battle of Mengo in January 1892, the gun was fired for the first time leaving observers and the enemy with no doubts about the weapon's power Weapons such as the Maxim gun were what gave colonial formations the edge over their enemies Without such weapons, it is debatable whether they would have been able to take on African armies that were often much better organized and disciplined

Uganda Rifles and the Nandi Expeditions

120 Kenya's military history is deeply intertwined with Uganda's not least because until 1902, all land west of Lake Naivasha was actually part of the Uganda Protectorate Developments in [modern-day] Uganda had a direct impact on events in [modern-day] Kenya And so it was that was that as the unrest was quelled in Uganda, attention turned to Kenya which presented similar challenges to British authority The Commission has already noted the difficulties that the Company along the coast in Tana and Jubaland These troubles followed the British as they moved further inland with the railway and its attendant administration As the railway reached the western edge of the Rift Valley, it ran into very serious trouble with local inhabitants completely opposed to the British passage and presence in their lands Nandi campaigns against the British are a much studied topic in Kenya's early colonial history on account of their determined nature [18] For the Commission, they provide yet further evidence of a military past defined by spectacular and unequal violence unleashed in the name of colonial pacification

121 The Uganda Rifles were central to British efforts to take on the Nandi The regiment was, by some distance, the best trained and equipped in the region It was also much

17 Lieutenant-Colonel Moyse-Bartlett *The King's African Rifles A Study in the Military History of East and Central Africa* 1890 – 194 49

18 For detailed narrative on Nandi resistance see A T Matson *Nandi Resistance to British Rule 1890 – 1906* Nairobi East African Publishing House 1972

more battle hardened than, say, the East African Rifles The dust in Bunyoro had barely settled when the alarm was raised in Eldama Ravine; a small station deep in the highlands that was an important stop over for those on their way westwards to Lake Victoria and Uganda itself Eldama Ravine and the surrounding areas became the focus of Nandi campaigns to oust the British from their lands Sporadic raids were launched throughout 1895 as warriors attacked caravans stealing supplies and weapons and inflicting casualties There was real concern that British influence would not be able to proceed past Eldama Ravine. After yet another attack in early October 1895 that left nine people dead, the decision was made to take action Orders were sent to Major Cunningham, the commanding officer of Uganda Rifles On the 14th, Cunningham and about left Kampala bound Kenya He took with him almost one thousand Sudanese and Ugandan men as well as the fabled Maxim gun It took him two weeks to reach Mumias, another westerly station There he was joined by Captain Sitwell and troops from the East African Rifles who had been in the region since August on a separate excursion Together they launched what is known in the literature as the First Nandi expedition.

122 Descriptions of the fighting that ensued are vivid They paint a picture of attacks and counter attacks at high altitude and difficult surroundings Sitwell, the EAR commander, was an avid diarist and has left detailed accounts between his troops and an enemy whom he described as determined and formidable It is quite clear that many of their encounters were dramatic

> In the valley of the River Kimondi, Cunningham stood to face a sudden attack, delivered by about 500 tribesmen, who advanced rapidly through the long grass in a formation resembling three sides of a square It was the first time that the Sudanese had faced tossing skin headdresses and flashing, long-bladed spears of the Nandi warriors, but they stood firm and their fire checked the attack before it reached close quarters, though the enemy scored a minor success by cutting off and annihilating a party of fourteen men [19]

123 The Commission's interest is in the dark underbelly that made the first Nandi expedition and the two that followed so problematic The dominant narrative of a plucky colonial army against a cunning and deserving enemy is one that has to be unpacked Like many other colonial expeditions, the Nandi expeditions were punitive Their only goal was to punish the Nandi for their transgressions No distinctions were made between the guilty and the innocent or between the civilian and the military The tactics used reflected the military mindset Sitwell's accounts are clear he and his men swept through the countryside burning huts, villages and crops. Other punitive measures included the confiscation of livestock For pastoralists and cattle-owning peoples such as the Nandi this was a painful and keenly felt punishment Once again, there is no doubt that such confiscations took place Colonial records themselves carefully document how many cows, sheep

19 Lieutenant-Colonel Moyse-Bartlett *The King's African Rifles A Study in the Military History of East and Central Africa* 1890 – 1945 p 66

and goats were taken during each expedition The records also show how the booty was distributed amongst the officers The confiscation and redistribution of livestock laid the foundation for expeditions that were less about tackling unrest and more about enrichment and personal gain By June 1897, the proceeds of the expeditions consisted of 238 cattle and 7, 800 sheep and goats [20] These were distributed by seniority with commanding officers eligible for the highest quality bulls African troops were only entitled to the smaller stock (sheep and goats)

124 It came as no surprise to the Commission that a very low premium was placed on negotiation and discussion between aggrieved parties The interaction between the military and the Nandi was entirely pugilistic There was no real interest in anything other than a military solution to the Nandi issue With the benefit of hindsight, it is quite clear that no amount of force and militarism would ever resolve the problems caused by the advent of colonial rule. Nandi concerns about loss of power, prestige, territory and culture could not be blasted away with a maxim gun The confusion and violence surrounding the expeditions rendered all efforts at generating peaceful, non-military solutions useless. On the 10 February 1896, a group of elders arrived in Eldama to talk peace Whether these elders were actually sanctioned to talk peace is debatable as they lacked the ritual authority to control the younger warriors That notwithstanding, some kind of discussions were held and some kind of agreement reached; the literature is not specific Soon afterwards, the agreement collapsed The reason for the collapse was given as the construction of yet another fort/station in a place known as Kipture The stung elders withdrew and hostilities

125 Fighting inspired yet more fighting And, if anything sentiments hardened on both sides Writing in 1899 after nearly five years of back and forth battling, the District Commissioner (Hobley) complained that 'The Wanandi with the exception of a few in the vicinity of the station, have all along viewed our presence in the country with veiled repugnance . We were unwittingly living on the edge of a volcano'[21] The volcano rumbled on and there were two further expeditions launched in 1900 and 1905 These will be discussed shortly.

Mutiny in the Ranks

126 The East African regiments were deeply troubled The lack of training, money and proper administration made for a very uneasy operating environment The military is by its very nature a highly regimented and stratified institution People occupy certain ranks and issue or receive orders accordingly There is no room for transgression. And yet such were the difficulties in the Uganda and the East African rifles that revolt was almost inevitable In 1897 mutiny broke out and

20 Lieutenant-Colonel Moyse-Bartlett *The King s African Rifles A Study in the Military History of East and Central Africa* 1890 – 1945 p 69

21 Lieutenant-Colonel Moyse-Bartlett *The King s African Rifles A Study in the Military History of East and Central Africa* 1890 – 1945 p 86

made it starkly clear the levels of disaffection between foot soldiers and their commanders

> Once again the details fall beyond the Commission's mandate and as such cannot be told here The story itself is a complex one that is intricately tied up with the colonial geo-politics of the conquest of East-Central Africa In 1897 an exploratory expedition was organized for the Sudanese province of Equatoria The British Government became convinced of the importance of mapping and investigating the province further A large expedition was raised under the command of a Major Macdonald Three Uganda Rifles companies were called up even though they had only just come out of many months of arduous fighting in Bunyoro and in Nandi Indeed, the plan was for the Uganda Rifles men to wait in Eldama Ravine for Macdonald and to depart directly for Equatoria from there It was too much for the men Instead of following instructions and waiting for Macdonald to travel up from the coast, they deserted After taking ammunition and other supplies the men—most of them Sudanese—headed westwards for Uganda What made the Ugandan Mutiny particularly unusual was what happened next Upon arrival in Uganda the mutineers found sympathy and support amongst groups already rising up against the British presence the Bunyoro and Muslims The result was a sprawling and multifaceted rebellion further complicated by the fact that the Sudanese defectors were skilful fighters and easily the best troops in East Africa The British incurred several losses and were often on the back foot Lingering concerns about the loyalty of African troops meant that the decision was made to import Indian troops Even with these reinforcements, the mutiny was not fully quashed until 1898

127. The British were surprisingly candid about the part they had played in the emergence of Sudanese unhappiness Subsequent debates and inquires in the House of Commons depicted Macdonald as high handed and 'uncompromisingly strict' in his dealings with troops whose language he did not understand [22] He was also criticized for being tardy in his pursuit of the original group of mutineers from Eldama Ravine to Uganda Recognition was also made of underlying structural issues In 1899, a Military Ordinance was passed and it greatly improved the terms of service Sudanese pay was raised from seven to twenty rupees a month (though this was later scaled back to eighteen) The more hard-nosed and political calculations was also made to slash British dependency on what were—in some quarters—described as a mercenary force The mutiny had revealed the Sudanese impact on the Ugandan Rifles to be very inordinately powerful. The Military Ordinance provided for the appointment of more European officers and the strategic recruitment of larger number of Indian and indigenous African troops The Sudanese hold on the regiment was gradually diluted out of pragmatic necessity

128 While the need for post-mutiny reform was clear, some British administrators were open in their admiration and respect for Sudanese services to the Uganda Rifles

22 Lieutenant-Colonel Moyse-Bartlett *The King's African Rifles A Study in the Military History of East and Central Africa*, 1890 – 1945 p 82

Possibly they are not heroes—heroes are not required, but in endurance, subordination, patience and cheerfulness, they are a model to be admired and imitated by every army in the world They would march twenty miles a day, or more, through long tangled grass reaching over twenty miles a day, or more, through long tangled grass reaching over their heads, through swamps and jungles, and at the end go foraging, sometimes for many miles to fetch food Crime and punishment were almost unknown, they worked at parade, at agriculture, or at house-building, from sunrise to sunset, and they did so cheerfully and well their monthly payment of some four shillings worth of white calico [23]

King's African Rifles

129 While the Ugandan and East African Rifles were central, the starring role in Kenya's military history belongs to the King's African Rifles (KAR) A direct line can be drawn between the KAR and the current Kenya Defense Forces The organization and structure of the KAR provides a much more recognizable predecessor for the KDF than the older Ugandan and East African formations The regiment itself was the product of strategic re-thinking in the War Office in London Concerns about fragmented and expensive nature of their Africans forces led top military officials to embark on sweeping reforms In the late 1890s, troops from Sierra Leone, Nigeria, Gold Coast and Gambia were brought consolidated into a single force called the West African Frontier Force. The first commander of the Frontier Force was none other the (by now) Colonel Lugard fresh from his numerous adventures in East and Central Africa

130 The same need for consolidation was identified on the other side of the continent As the Commission has already intimated, the East African formations were in something of a shambles There was overlap and uncertain jurisdiction between the East African and Ugandan Rifles The confusion was magnified by equally loose arrangements in the Central African Rifles of Nyasaland (Malawi) and the sporadic contributions from Indian and Somali contingents There was the further weight of a large wage bill occasioned by the mutiny In short, East Africa was in real need of urgent reform The Foreign and War Offices entertained various suggestions and memoranda but what won out in the end was the proposal for the creation of a force very similar to the West African one In November 1901, the Foreign Office set a dispatch to the Commissioners of Kenya, Malawi, Somaliland and Uganda explaining what was to happen next 'The definite constitution of the armed forces under this Department as one regiment, to be styled the King's African Rifles, will take effect from 1st January next'[24]

23 Lieutenant-Colonel Moyse-Bartlett *The King's African Rifles A Study in the Military History of East and Central Africa* 1890 – 1945 p 86

24 Lieutenant-Colonel Moyse-Bartlett *The King's African Rifles A Study in the Military History of East and Central Africa* 1890 – 1945 p 129

131. As announced and scheduled, on the 1st of January 1902 the King's African Rifles came into being. The multi-battalion regiment was organized as follows [25]

- 1st Battalion consisting of 8 companies (formerly 1 Central African Rifles)
- 2nd Battalion consisting of 6 companies (formerly 2 Central African Rifles)
- 3rd Battalion consisting of 7 companies and one camel corps (formerly the East African Rifles)
- 4th Battalion consisting of 9 companies (formerly the African companies of the Ugandan Rifles)
- 5th Battalion consisting of four companies (formerly the Indian section of the Uganda Rifles
- 6th Battalion consisting of three companies, camel corps, militia and mounted infantry

132. Added up, the six battalions came to just over 4500 men and 104 officers. Colonel Manning, a very senior officer with many years of African experience was appointed Inspector-General

133 The regiment's regulations were not published until 1905 These regulations formalized a number of practices that had already informed the KAR's overall operations and ethos For starters, the 5th KAR Battalion was confirmed as the highest ranking in the regiment 5 KAR was of course compromised exclusively of the Indian troops sent to Uganda to quell the mutiny In this, the regiment was just as racialised as its predecessors and sister institutions such as the police The regiment's relationship with civilian authorities was also clarified.

134 Colony/Protectorate Commissioners were the commanders-in-chief of their individual battalions and they defined the objectives and scope of operations But they did not have actual operational control. That was left to battalion commanders The regulations also specified that within a year of their appointment, European officers had to demonstrate that they possessed a working knowledge of the main language spoken by their troops Regulations were changed regularly. In 1908, a revised manual was issued by which officers were required to compile written operation reports and maps A few years later, the regulation manual changed again to include revisions on deployment; KAR troops could be called on to serve anywhere in the four colonies/protectorates For the Commission, the changing nature and content of the regulations speaks to a regiment that could not afford to remain static in a difficult, ever-shifting working environment

25 Adapted from Lieutenant Colonel Moyse-Bartlett *The King's African Rifles A Study in the Military History of East and Central Africa* 1890 – 1945 p 129

3rd King's African Rifles Battalion

135 Upon the creation of the King's African Rifles, the East African Rifles became 3rd KAR Its operational area was confirmed as the East African Protectorate, later Kenya The Battalion's seven companies were posted throughout the territory Some remained in the older stations (such as Mombasa), others were sent out to establish new ones in places in Embu and Nyeri The overall situation in Kenya was a complicated one This meant that almost as soon as 3 KAR was commissioned, it found itself embroiled in ongoing security situations linked—unsurprisingly—to continuing efforts to establish British control

136 The Commission's interest in the battalion goes beyond mere curiosity 3rd KAR continues to live on in the minds of some Kenyans as the source and cause of many of their historical injustices While long defunct, for some communities and individuals, 3rd KAR as such continues to wield power as a perpetrator Sections of this report explore the battalion's role in mass killings that resulted in the murder of hundreds of people along the Coast and in Pokot country [26] This section looks at the KAR's role in a smaller but no less shattering incident the shooting dead of Koitalel Arap Samoei on the 19th of October 1905 Even today Koitalel's murder resonates as an example of one of the most callous abuses of colonial power in Kenya's history More than a century later, the feelings of anger aroused by this death and the circumstances in which it occurred have not faded

The King's African Rifles and the Killing of Koitalel Arap Samoei

137 The story of Koitalel Arap Samoei's death intertwines with the story of Colonel Richard Meinertzhagen's service with the King's African Rifles Meinertzhagen was a deeply divisive and controversial character The reasons for this will emerge shortly A member of a prominent and wealthy British family, Meinertzhagen arrived in Kenya in 1902 and was assigned as a staff officer in the KAR Meinertzhagen was a keen journal keeper and compiled daily notes which were subsequently published as *The Kenya Diary 1902 - 1906* [27]

138 The diary is revealing For starters, it vividly shows that despite the elaborate administrative reforms, the fundamentals of 3 KAR were very much the same as those of EAR poor equipment, training and discipline Meinertzhagen's company was in a hapless state and clearly not fit for purpose

> My company is armed with Martini-Henry 450 rifles with old fashioned bayonet, and each man has a machete, an excellent weapon for cutting bush and incidentally ideal for close fighting Every man has two pairs of boots which they always take off on the slightest

26 See Chapter on Massacres
27 Colonel Richard Meinertzhagen *The Kenya Diary 1902 – 1906* London Oliver and Boyd 1957

excuse I examined the rifles this morning and found every one rusted up and corroded; in one case the breech mechanism would not work owing to rust and in another case the barrel was completely blocked by rag All this is going to take time but in six months' time, I am going to have the best company in the battalion I have already asked for 24 new rifles but am told there are none and that we shall be re-armed with the 303 service rifle shortly I enquired about musketry and a rifle range Apparently we have not yet reached that stage [28]

139 Poor equipment went hand in hand with indiscipline

My company is composed of 125 Swahilis with a few Sudanese and 4 Maasai, the latter being useless The Swahilis are excellent material, very willing and cheerful but quite undisciplined and untrained, they have the mentality of children, my first duty is to lean their language And then I should have no difficulty in bringing the company up to my standard, that is, an efficient fighting machine and perfect discipline The native officers are not much good and the NCOS have little control but I shall soon alter that [29]

140 The diary is a product of its time and makes difficult reading on account of its casual racism and chauvinism Even so, for the Commission it was a valuable document because it gave a direct and first-hand account of the actual workings of 3rd KAR

141 Meinertzhagen went further, much further What he also revealed is that in addition to the inefficiency and broad technical failings, the Battalion was also characterized by shocking levels of internal violence towards its very own recruits As Meinertzhagen seemed to suggest a constant stream of insubordination had to be swiftly and firmly dealt with But even he balked at the beatings meted out as punishment and wondered about the appropriateness of the 3rd KAR's disciplinary codes

Last week I brought up a man to orderly room for insubordination, he told his sergeant that his mother was a crocodile and his father a hyena Bailey sentenced him to 25 lashes As his company officer, I had to witness the flogging The culprit was lashed to a triangle, his breeches were removed, and he was then flogged by a hefty Sudanese with a strip of hippopotamus hide, he was bleeding horribly when it was over and I was nearly sick. I hated and resented the punishment so furiously that I went off to the orderly room and expressed my thorough disgust at such brutal punishment, which I thought should be ordered only in cases of violence and cruelty, and said that such a flogging should always be automatically followed by discharge for how can a man have any self-respect left after such a brutal public flogging Bailey and Mackay gaped in astonishment, told me that I was squeamish, that I did not understand the African and that it was gross impertinence questioning an orderly room punishment I rejoined that never again would I have any of my men flogged unless they were discharged, I was then told by Bailey that if I did not like flogging and that if I made any further complaints I could revert to my regiment, I said I certainly should I fear I was very angry, but never again does a man in my company get flogged as long as I command [30]

28 Richard Meinertzhagen *The Kenya Diary 1902 – 1906*, p 10
29 Richard Meinertzhagen, *The Kenya Diary 1902 – 1906* p 10
30 Richard Meinertzhagen, *The Kenya Diary 1902 – 1906*, p 11

142. Meinertzhagen's discomfort about the use of violence did not extend any further than this In all other regards, he showed no qualms whatsoever about unleashing the full force of the 3rd KAR on enemy forces His war ethic was clear By any means necessary and whatever the consequences, the enemy had to be taken on

> As regards the first, a soldier enters a fight to come out on top in the shortest possible time and lost the fewest possible casualties In my view any means to achieve those ends are justified In the long run, inflicting heavy casualties on an enemy will shorten the duration of a conflict, it will teach a lesson and will result in a more enduring peace than less violent measures War cannot be carried out without some degree of cruelty and suffering, these curses of war are inevitable, and nobody knows this better than the soldier, but they can to a large extent be reduced by an iron discipline Cruelty, unnecessary slaughter and suffering after victory are almost always the outcome of bad discipline The strain of war on the individual will lead to acts of unnecessary suffering if discipline is relaxed [31]

143 Once again, Meinertzhagen brought up the issue of discipline. He created a link between a disciplined force and minimal casualties In other words, disciplined troops would be far less inclined to excesses than undisciplined ones For the Commission this link was illustrative That 3rd KAR (and EAR before) were entirely lacking in a disciplinary tradition has already been established This then implies that as a fighting force 3rd KAR was structurally pre-disposed to violence and casualties on a massive scale The battalion lacked the internal mechanisms to operate as anything other than a massive killing machine

144 In 1905, Meinertzhagen took to his diary again to describe Koitalel Arap Samoei as 'the root of our trouble'[32] His disdain for Samoei was rooted in a long history As the Commission has already described, the arrival of the British in the Western Highlands triggered the beginning of years of fierce Nandi resistance The British response to this resistance was the launching of a series of punitive expeditions Beginning in 1895, colonial officials set off on a series of elaborate military campaigns designed to eliminate the Nandi threat to the advance of British colonialism The conversion of EAR to 3rd KAR did nothing to change the fundamentals The British seemed to be unable to find a lasting solution to a people they regarded as 'naturally truculent and unruly' [33]

145 In April 1903, the British adopted a familiar tactic They put together a fourth expedition to address the issue of the continued theft of railway supplies as well as the danger of unrest spreading to previously peaceful areas A formidable force was assembled out 3rd KAR troops with support from 4th and 5th KAR A further 700 "friendly" Nandi were also included The mission set off towards the end of the

31 Richard Meinertzhagen *The Kenya Diary 1902 – 1906* p 10
32 Richard Meinertzhagen *The Kenya Diary 1902 – 1906 p 223*
33 Lieutenant-Colonel Moyse Bartlett *The King's African Rifles A Study in the Military History of East and Central Africa*, 1890 – 1945 p 196

month By all descriptions, it was classically punitive Crops were destroyed and livestock The casualty count was one-sided 100 Nandi fighters killed in contrast to just 4 colonial troops At the end of the expedition, administrators were confident that the issue had been resolved The new Commissioner of East Africa, Sir Donald Stewart, concluded that the Nandi issue was dead and that peace would prevail Nothing was further than the truth By 1904, it was as if the fourth expedition had never taken place. Thefts of cattle and railway supplies resumed A number of settlers were also killed. The killing of any Europeans was--as has been discussed elsewhere in this report—guaranteed to elicit an energetic reaction from security officials After another flurry of Nandi-authored unrest, the British had enough In the middle of 1905, the fifth expedition was announced. It was by far the largest and most ambitious of all the expeditions The *whole* of 3rd KAR was called up as well as six companies from 1st KAR, 200 armed police and other assorted Maasai and Somali auxiliaries The scale of the force signalled British intent to settle matters once and for all

146. Koitalel Arap Samoei loomed large in the architecture of the fifth Nandi expedition While the British regarded the Nandi as inherently warlike, they also believed that there was a central organisation and purpose to the rebellion And they credited this to Koitalel Colonial literature refers to him as the 'Supreme' chief of the Nandi [34] It is a simplistic description that flattens the nuanced, complex role that Koitalel played in Nandi society He was first and foremost an Orkoiyot, a ritual expert and specialist A hereditary position (Koitalel inherited it from his father Kimnyole in 1855), Orkoiyots were infused with considerable spiritual powers These included powers of prophecy, divination, witch-finding and healing Research and writing emphasizes their highly specialized role, these were not people who played any part in the mundane [35] If anything fear and respect for the Orkoiyots' abilities meant they were deliberately kept at arm's length from day to day community, social and political affairs.

147 The Orkoiyot cannot properly be called a paramount chief for the very simple reason that the Nandi were a chiefless society Anthropological research has established the Nandi as a highly egalitarian society organized around age-sets [36] Even so there is no denying the Orkoiyot's centrality to key events in the society and the leadership role that he played during these events. He presided over, for instance, fertility and rainmaking ceremonies as well as the various rites attached to the transition of age sets Orkoiyots also featured during war and conflict. Warriors could not take up arms without his ritual counsel or his protective herbal potions. With livestock raids, the

34 An early example of colonial writing on the Nandi is Alfred Hollis The Nandi Their Language and Folklore Oxford Clarendon Press 1909

35 See for instance P K Magut The Rise and Fall of the Nandi Orkoyot 1850 – 1957", *Nairobi Historical Studies* 1 (1969) pp 95 – 108

36 The seminal piece is G W B Huntingford The Nandi of Kenya London Taylor and Francis 1953

Orkoiyot's intervention was even more direct [37] His divination was used to determine the timing of raids He was also was consulted on questions of the conduct and organisation of raids

148 It was the Orkoiyot's militaristic role that led successive British administrators to conclude that Koitalel was in fact the leader and the person behind the decade long Nandi resistance Once again while British readings of the situation were not entirely incorrect, they are not nuanced enough Koitalel was almost certainly centrally involved in the planning of what was a focused, long-running and determined campaign Even so, it is important to appreciate that Orkoiyots were not commanders in the classic [Western] sense and did not have executive powers Indeed their decisions—even ritual ones—could be challenged Furthermore, Nandi society was also highly militarized with entire age sets dedicated to the commission of war They were somewhat self-running with the power to hold discussions and make decisions within themselves They did not necessarily require the hands-on involvement of the Orkoiyot The British presence in Nandi country presented a unique and unprecedented problem that demanded a unique and unprecedented response from Koitalel In becoming the face and the focal point of the resistance, he re-defined the *Orkoiyot's* mission for the exigencies of colonialism

Ket Parak Hill, 19 October 1905

149 Meinertzhagen's disdain for Koitalel was profound, almost personal His diary it makes clear that the only solution to the Nandi problem lay in either capturing or killing Koitalel

> Koitalel is a wicked old man and at the root of all our trouble He is a dictator, and as such must show successes in order to retain power He is therefore in favour of fighting the British Many of his hot-heads support him My main reason for trying to kill or capture the laibon is that, if I remove him, this expedition will not be necessary and the Nandi will be spared all the horrors of military operations But both the civil and military authorities are intent on a punitive expedition The military are keen to gain a new glory and a medal and the civil people want the Nandi country for the new proposal of the White Highlands—just brigandage [38]

150 That Meinertzhagen intended to eliminate or kill Koitalel was also evident In a series of events that are still very murky, Meinertzhagen managed to arrange a meeting with Koitalel for the 19th of October 1905 in location known locally as Ket Parak Hill The ostensible purpose of the meeting was to discuss a truce of sorts Two things

37 Details can be found in T Matson "Nandi Traditions on Raiding" *Hadith* 2 (1970) pp 61 – 78
38 Richard Meinertzhagen *The Kenya Diary 1902 – 1906* 223

were unusual about the meeting. Firstly it is not at all clear how Meinhertzhagen himself landed this assignment As has been explained above, the whole of 3rd KAR was in the field for the expedition. Senior commanders were passed over in favour of a relative novice and this sensitive job was handed to a man with very little African experience Secondly, and just mysteriously, Koitalel agreed to the meeting Over more than a decade of fighting, he had steadfastly refused to meet any Europeans For reasons unknown, on this particular occasion he assented to British requests. The meeting was set for Ket Parak Hill. Koitalel was accompanied by several dozen warriors and Meinertzhagen by 80 3rd KAR men Meinertzhagen left the bulk of his men at the behind and went upwards to a small clearing with just five armed men

151 There are many versions about what happened next but they nearly all converge around one crucial fact as Koitalel approached with an outstretched hand, guns were drawn and fired at nearly point blank range.[39] As Nandi warriors rushed forward a fierce fighting broke out and at the end of it all, a further 25 of them lay dead Meinertzhagen and his men escaped unscathed The colonel presented his superiors with a simple and straightforward account of what had happened explaining that he and his men had opened fire in self-defense in the belief that his interpreter was a double agent and had lured them into a trap His report was accepted unchallenged Meinertzhagen was the recipient of much preliminary praise. As a result of Koitalel's death, Nandi resistance quickly crumbled. In the middle of November 1905, the hostilities were declared over Koitalel's supporters were executed, deported and imprisoned

152 As the dust settled on the expedition, questions began to be asked about events on Ket Parak Hill The first hints of suspicion and disquiet came from within 3rd KAR itself A number of officers openly wondered how just six people (Meinhertzhagen and his five riflemen) could kill so many warriors without suffering as even as much as a scratch Meinertzhagen's version of events just did not seem credible Various other parties joined the fray, missionary groups, humanists and abolitionists included [40] A powerful and noisy bloc, they also raised the alarm about an incident that increasingly appeared to them as cold blooded murder not a heroic stand against a dangerous enemy Pressure continued to build Telegrams flew back and forth between the War Office, the Foreign Office and Nairobi Eventually, a Court of Inquiry was created at the end of 1905 The inquiry's purpose was to investigate the incident. After two further inquiries in early 1906, Meinertzhagen and his men were eventually declared, as it were, innocent Meinertzhagen's version of the incident was upheld and he was determined to have upheld the honour and dignity of the 3rd KAR [41]

39 Oral sources

40 For more on the story on public outcry (in Britain) surrounding Meinertzhagen s killing of Koitalel see Brian Garfield The Meinertzhagen Mystery The Life and Legend of a colossal fraud Washington D C Potomac Books, 2007 p 66 – 67

41 From Brian Garfield The Meinertzhagen Mystery The Life and Legend of a colossal fraud, p 67

153 The inquiry's verdict did very little to quell public anger For the humanists and reformers, Meinertzhagen represented military excess and violence that could not be tolerated in the very young Kenya Colony They continued their letter writing campaign and petitions The Foreign Office took a much more pragmatic line Meinertzhagen's continued presence in the 3rd KAR could act as the impetus for another round of Nandi resistance The Foreign Office was unwilling to take the risk of further Nandi unrest on account of a single troublesome officer Eventually in May 1906, the War Office issued Meinertzhagen with his marching orders He left Kenya for England His brief career with the King's African Rifles had come to an ignominious end In another humiliating blow to the Nandi, Meinertzhagen took with him three clubs that symbolized the Orkoiyot's authority and leadership These important artefacts remained in England with the Meinertzhagen family until 2006 They are currently housed in the Koitalel Arap Samoei museum in Nandi Hills

Fall out

154 The impact of Koitalel's death and the subsequent snuffing out of Nandi resistance was momentous Defeat marked the beginning proper of the removal of the Nandi from their traditional lands and their settlement into a so-called Native Reserve The doors were thrown open to European settlement The Commission took Koitalel's murder in October 1905 as a watershed moment in Kenyan history There was no returning to a simpler time where the Nandi and associated groups were free to roam the highlands with their cattle The Nandi in defeat were alienated of their lands and their livelihoods The die was cast for many decades of confusion, distress and violence surrounding questions of territory and land ownership These are issues the Commission explores in detail in another section of this report [42]

Forced Recruitment and Labour Exploitation: The Carrier Corps

155 The fifth punitive expedition temporarily put the lid on Nandi unrest The colony was, however, far from pacified 3rd KAR companies were dispatched throughout Kenya to tackle smaller but no less dogged resistance to the arrival of the British In 1907, troops were sent against the Kabras in Western Kenya A year later, 3rd KAR was in Kisii November 1912 found the KAR in Sotik and in 1912 it was in Gilgil The Northern Frontier Districts and the borderlands with Uganda were particularly restive and posed a special challenge to the KAR As the Commission has discussed elsewhere, Giriama armed resistance from about 1912 onwards placed further demands on the KAR As World War I approached, it became clear that Eastern Africa would be a proxy battleground due to the presence of the Germans and Italians There is

42 See the Chapter on Land in this Report

no understating the subsequent demand in the colonial military set up for huge amounts of manpower From 1910 onwards, 3rd KAR turned into a labour-hungry beast that required constant feeding The mechanisms used to supply 3rd KAR with labour were controversial and have contributed much to the battalion's historical reputation for ruthlessness and brute force

156. The sudden arrival of World War I in the East African theatre caught the military establishment completely unprepared All the old frailties—indiscipline, limited equipment and understaffing—were all cruelly exposed as 3rd KAR geared up to face immediate threats from German troops in Tanganyika While KAR's needs were many and pressing there was one that dominated the rest the need for porters and carriers to ferry equipment and supplies Transport in the 3rd KAR was completely unmechanised The battalion did not have any vehicles And even if it had any, there were roads Cattle drawn carts were also not an option because of the widespread prevalence of tsetse fly As a news article explained it, the main difficulty lay not in defeating the enemy but in *reaching* the enemy[43] There was no other way around it, equipment had to be transported manually And so it was that in early 1915, command orders established the Carrier Corps as a section of the East Africa Transport Corps.[44] In 1916, the Corps was separated from the EATC and assumed its own autonomous identity

157 From the outset, populating the Carrier Corps proved difficult At first the recruitment process seemed to rest on goodwill, good timing and volunteerism District officials were simply asked to see how many men could be funnelled into the corps They in turn depended on the co-operation and efficiency of local headmen and chiefs In a handful of locations, the process was a fairly smooth one But more often than not, it proved almost impossible to find men who were willing to volunteer for service One drive in Malindi in 1915 yielded just three recruits District officials turned to subterfuge and trickery to get men to sign up In a station in Kisii for instance young men who thought that they were signing up for temporary menial work (such as cutting grass or general cleaning) were surreptitiously enrolled as porters In other instances, officials resorted to force After the disastrous Malindi drive described above, district officers took drastic, shocking action which was later described by the District Commissioner

> Government raided the town by the night under the exigencies of marital law forcibly collected 200 This 200 was apparently mostly composed of loafers and 'scally-wags' living on the earning of the women, and whilst it were perhaps idle to waste sympathy on the particular victims, the fact remains that a general exodus immediately took place, with the

43 From Donald Savage and J Forbes Munro "Carrier Corps Recruitment in the British East Africa Protectorate 1914 – 1918" *Journal of African History* 7 (2) 1966 p 314

44 For a complete and detailed history of the Carrier Corps see Geoffrey Hodges, The Carrier Corps Military Labour in the East African Campaign 1914 – 1918 Westport 1986

result that the appearance of any government officer of whatever standing is even now the signal for a general and headlong flight of all except women and greybeards.[45]

158. The haphazard and unreliable nature of early recruitment frustrated both the Carrier Corps and the 3rd KAR companies that so depended on them. A more robust response was required. In August 1915, the Native Followers Recruitment Ordinance was passed. The act gave the government the power to conscript for the Carrier Corps. It was stunning in its breadth. All Africans were eligible. Exemptions were only extended to the elderly, infirm and those able to produce passes/letters showing that they were employed by settlers.[46] The narrowness of choices for African men—either military or settler labour—were obvious to the Commission. Force and coercion were inbuilt. The actual job of recruitment fell to headmen and chiefs. Those judged to be uncooperative could be fine and/or jailed for six months. Conscription dodgers also faced stiff fines and imprisonment. As soon as the ordinance passed, recruitment unfolded with a grim efficiency. Recruitment parties to hunt down men who fled into the bush to try and escape. Deserters were returned to the Carrier Corps with determined regularity. It has been estimated that by 1918, more than half of the total male population in the African Reserves had been conscripted.[47] It is a stunning statistic that clearly demonstrates the scale of the conscription effort.

159. The conditions in which these thousands of men found themselves were truly appalling. Porters and carriers represented the very lowest rung of the colonial military structure and were treated accordingly. They were paid minimally for arduous, back-breaking work. Discipline was roughly instilled; whippings and canings were the order of the day.[48] The killer blow was dealt by diseases such as pneumonia, influenza, dysentery and typhoid which swept through the corps with fatal consequences. Recent studies have estimated that porters in Tanganyika subsisted on less than 1000 calories a day.[49] Their Kenyan counterparts were almost certainly on a similar regime. Weak, underfed and overworked, the porters had virtually no resistance and they died in their thousands. Almost no medical attention was offered them. As the war wound down so did the conscription effort.

45 Donald Savage and J. Forbes Munro "Carrier Corps Recruitment in the British East Africa Protectorate 1914 – 1918" *Journal of African History* 7 (2) 1966, pp. 316 – 317.

46 There were further almost eugenic considerations at work. Certain communities—such as the Maasai—were deemed too warlike and unstable to be drafted either into the Carrier Corps or 3rd KAR. For the sake of overall peace and stability in the colony, such communities were never targeted for recruitment. The Maasai reputation is discussed in Robert Tignor, "The Maasai Warriors: Pattern Maintenance and Violence in Colonial Kenya" *Journal of African History* 13 2 (1972), pp. 271 – 290. Conversely, some communities (such as the Kamba and some Kalenjin sub-groups) were categorized by the British as 'martial' and particularly suited for military work. Special efforts were made to recruit them both for the Carrier Corps and 3rd KAR. For the martialisation of the Kamba community, see Timothy Parsons, ""Wakamba Warriors are soldiers of the Queen": The Evolution of the Kamba as a Martial Race, 1890 – 1970", Ethnohistory 46 9 (1999), pp. 671 – 701.

47 From David Killingray, "Labour Exploitation for Military Campaigns in British Colonial Africa, 1870 – 1940" Journal of Contemporary History 24 (1989), p. 489.

48 On corporal punishment, see David Killingray, "The 'Rod of Empire': The Debate over Corporal Punishment in the British African Colonial Forces, 1888 – 1946" *Journal of African History* 35 2 (1994), pp. 201 – 216.

49 David Killingray, "Labour Exploitation for Military Campaigns in British Colonial Africa, 1870 – 1940" Journal of Contemporary History 24 (1989), p. 493

By 1918, porters and carriers were being formally discharged and being allowed to return home In a final irony, scores more died on the journey back to their villages or soon after their arrival. Over 2000 men died at a camp set up near Nairobi to care for recently discharged men

160. Final and accurate mortality figures will never be known [50] A report known as the Watkins Report put the total number of porters who died during the British East Africa campaign at 23, 869 This represented nearly 15% of the total number recruited into the Carrier Corps As astonishing as this figure is, it is an underestimate. The number of men who died after discharge is essentially unknowable In some ways, the exact number is unimportant as forced recruitment for the Carrier Corps in support of 3rd KAR had already distinguished itself as one of the most disastrous events in Kenya's military history

Kenya Defence Force: Settler Politics and the Military

161 The Kenya Defence Force sits at the intersection of settler politics and the military. This curious, little-known and short lived military formation was the product of settler efforts to create an all-European armed force [51] The Commission has already examined settler manipulation of the police force resulting in the Kenya Police Force which was dedicated almost entirely to the policing of the settler community and its security needs The Kenya Defence Force was an attempt to recreate the same within the military a strict hierarchy in which European and settler priorities dominated over all others The notion of a settler force dates back to the first years of the Kenya Colony. At an early settler political meeting in 1905, resolutions were passed requesting the establishment of just such a force The issue returned to the fore in 1914 as World War One brewed This time round settler associations were joined by various ex-servicemen (former KAR and others from different formations in the Commonwealth) They passed another resolution recommending the establishment of a Defence Force A small committee was created for the purpose of looking South African precedents It returned in February 1920 with the recommendation that a force be established consisting of all European males between 16 and 60

162 The proposed Defence Force was a curious beast It is not at all clear what its objectives were Some researchers have explained it as a response to the thousands of demobilized and discharged African men and concerns that they could rise up against the settlers Others have taken the view that it represented deep-seated settler resentment at the settlers' inability to control and/or influence 3rd KAR.

50 Efforts (some more successful than others) have been made at overall quantification have been made See for instance G W T Hodges "African Manpower Statistics for the British Forces in East Africa, 1914 – 1918" *Journal of African History* 19 1 (1978) pp 101 – 116

51 One of the few academic articles on KDF is C Duder "An Army of One s Own The Politics of the Kenya Defense Force" Canadian Journal of African Studies 25 2 (1991), pp 207 – 225

Confusion and scepticism about the overall purpose of the force also reigned at the Colonial Office delaying its institutionalization One official put a damper on the whole idea describing it as 'an arrangement by which native malcontents are liable to be shot down is undesirable'[52] After another five year delay, the force finally received approval via the Defence Force Bill of 1926 The membership of force was just as had been proposed in 1920 all European men between the ages of 16 and 60 Recruits were required to swear an oath of allegiance to the King and the laws of Kenya Past that, Functions and operations remained vague The Governor could send the force out to any part of the country for any length of time Locally, the force would be administered by district commandants

163 A decade later the force had been abandoned without, as far as the Commission can tell, undertaking a single substantial operation Numerous factors contributed to the Kenya Defence Force's demise There was the sheer inefficiency of the unit A government committee found that KDF store keepers could not account for 225 rifles and nearly 90,000 rounds of ammunition! Colonel Fitzgerald, the officer in charge of overall administration was deemed to have 'failed signally' The lack of preparedness and professionalism in the KDF meant that administrators were highly unlikely to call them up in the case of any real trouble The more serious threat was internal opposition to the force, not all settlers were in favour of it Indeed there were some whose hostility was so intense that it doomed the whole project from the outset Some sections of the settler community rejected the idea of wholesale and compulsory conscription They had livelihoods to earn and simply had 'no time play at soldier'[53] Others took issue with the movers and shakers behind the KDF (men like Lord Delamere) and suspected that the force was merely a vehicle for their personal political ambitions All in all, the Kenya Defence won itself very few supporters and plenty of detractors Hardly anyone objected when in March 1936, the Governor of Kenya moved to disband it in favour of another force known as the Kenya Regiment 3rd KAR was unshaken as the dominant military formation in Kenya

Kings African Rifles, Mau Mau and the Emergency

164 The KAR entered the Emergency on the back of long and difficult campaigns during the Second World War Because the regiment was part of the British Army it could be dispatched anywhere that commanders, planners and strategists at the War Office in London saw fit This had happened during the First World War and it happened again with the second with KAR battalions sent as far away as Burma and Japan There were a number of changes at the regimental level to accommodate the astonishing demand for troops. New divisions were assembled drawing in companies from

52 From C Duder "An Army of One s Own The Politics of the Kenya Defense Force" Canadian Journal of African Studies 25 2 (1991) p 213

53 C Duder An Army of One s Own The Politics of the Kenya Defense Force" *Canadian Journal of African Studies* 25 2 (1991), p 215

South Africa, Nigeria and Ghana These were later dismantled At the end of the war, administrative attention turned to the tricky question of demobilizing approximately 100 000 KAR men It was an issue that the administration took very seriously because of fears that these ex-soldiers would severely destabilise the political and social life of their home areas [54] Various 3 KAR companies continued to join the police in tackling security threats in far flung frontier areas Added up, what all this meant was that 3rd KAR like the rest of Kenya's security and intelligence apparatus was caught entirely of guard by the onset of Mau Mau.

165 There was never any doubt that the military would form a key part of the government's response to Mau Mau [55] In fact, one of the early criticisms made of the Kenyan administration's handling of Mau Mau was that it was treated as a law and order and policing matter instead of military one When Emergency was declared in October 1952, Sir Evelyn Baring took up the mantle of Commander in Chief coordinating the police and the army as they carried out joint sweeps By June 1953, however, another command and control structure had emerged It was a multi-faceted one that by some accounts often clashed and confused Evelyn Baring was shunted aside for General Erskine who was appointed as the Commander-in-Chief of the East Africa Command The East Africa Command was an entirely new entity separate from the Middle Eastern Command that the region previously used to sit under Erskine had direct operational control over the Army, the Police, the Air Force and all other auxiliary formations mobilized to take on Mau Mau There was a separate civilian strand occupied by civilian administrators who concerned themselves with the restoration of law and order in areas affected by the violence. But they too had to report and implement through Erskine

166 The military element consisted of all five companies of 3rd KAR 5th KAR also saw battle An entirely new battalion--7th KAR—was created specifically to take on Mau Mau Three further battalions were drafted in from Uganda, Tanganyika and Mauritius This amounted to about 4000 KAR men in total A further 1800 men came from the Kenya Regiment, the volunteer all-settler force formed in the mid-1930s to replace the defunct KDF From 1954 onwards, huge numbers of troops (6000 in all) were seconded to East Africa Command They came from as far afield as Britain itself, Malta and Cyprus. The Royal Air Force also featured running bombing raids in the Aberdares and other parts of the Highlands The other contributors to the armed forces consisted of the police, police reserves and African Home Guards Some sources mention 6000 'other' African troops but fail to detail who these troops were and where they came from. There was a great deal of movement between the various units For instance, the Kenya Regiment seconded some 300 men to the KAR

54 Details on demobilization can be found in Hal Brand "Wartime Recruiting Practices, Marital Identity and Post World War II Demobilization in Colonial Kenya *Journal of African History* 46, 1 (2005) pp 103 – 125

55 All details on security and military arrangements during Mau Mau are drawn from Anthony Clayton *Counter-Insurgency in Kenya A study of military operations against Mau Mau* Nairobi Transafrica, 1976

The Army's role

167 In some ways, the role played by the KAR and the other military units during Mau Mau was fairly traditional Forested areas in the highlands in and around Mount Kenya were the sites of pitched battles between the various combatants But because Mau Mau was a guerilla force, the security forces were pressed into methods and techniques that went far beyond the bounds of conventional warfare And it is these unconventional methods and techniques that form the core of the many continuing controversies surrounding the part played by the Army in the suppression of the movement The central difficulty for the security forces were the issues of membership and support for Mau Mau The working assumption was that Mau Mau enjoyed widespread, practical, tacit and otherwise, favour in the general population It became a priority to cast as broad a net as possible and to screen and interrogate people in order to extract information from them It is from these twin processes of screening and interrogation that the most astonishing evidence of widespread and institutionalized torture has emerged

168 The nature and extent of the abuses are discussed at some length elsewhere in this Report [56] The purpose of this section is to consider the role that the army played in screening and interrogation In this the Commission has benefitted from research and writing that has occurred around civil proceedings that have been instituted by Kenyan victims of screening and interrogation [57] The Army (and particularly those units imported into Kenya) has maintained a studious distance from screening, interrogation and the abuses born of them The backbone of their argument has been the claim that screenings and interrogations were carried out by the police, Special Branch officers, local administrators and Home Guards The Army describes its role as limited by operating procedure to throwing and maintaining a cordon around an area while others (the Police and so on) moved in to continue with the actual screening

169 Current and still-emerging evidence paint a very different picture of an Army, both local and shipped in, steeped violence The distinction between cordoning and screening/interrogating was a spurious one, there was simply too much cross-pollination Military Intelligence Officers conducted screenings Indeed lines of interrogation were developed around army needs and priorities The Army maintained a close relationship between the African Home Guards who are often blamed for the worst of torture, violence and abuse In 1953, East Africa Command headquarters issued a memorandum directing Police and Military to make "full" use of the Home Guards [58] A number of KAR officers were tried and convicted for crimes committed during interrogation Above all, the official British attempts to subvert

56 See chapter on Detention, Torture and ill-Treatment

57 Principally Huw Bennett "Soldiers in the Court Room The British Army's Part in the Kenya Emergency under the Legal Spotlight *The Journal of Imperial and Commonwealth History* 39 5 (2011) pp 717 – 730

58 Huw Bennett Soldiers in the Court Room The British Army's Part in the Kenya Emergency under the Legal Spotlight" *The Journal of Imperial and Commonwealth History* 39 5 (2011), p 772

documents—the 'Hanslope Park files'—speaks at the very least to a reluctance to allow proper scrutiny of the Army's role in the quashing of Mau Mau [59]

170 The Commission's study of Kenya's colonial history has turned up a number of trends, patterns and practices that have endured post-colonially The military's assessment of its role in screening and interrogating Mau Mau suspects provides a particularly striking continuity. The Kenya Army retained the procedure whereby the function of the army in security operations [involving civilians] was establishing and maintaining a cordon The procedure emerged most spectacularly in February 1984 during a security operation at the Wagalla Airstrip in Wajir The same insistence on military distance from the main action also prevailed in official descriptions of Wagalla unmasking the army as one of the most fixed and unchanging institutions in Kenya

Lanet 1964: Mutiny in the Ranks

171 As the Emergency wound down and it became evident that Mau Mau would be defeated, the military embarked on the familiar routine of demobilizing and discharging the hundreds of extra troops raised during the Emergency Independence from Britain was fast approaching De-colonizing the KAR and handing it over to local [African] administrators and commanders rose to the very top of the military agenda. It became a difficult issue to address because the army overseers—like the police ones—had done nothing to engender the development of a class of African professionals. Basic primary education for recruits was a feature of the KAR from the 1950s but none of the African enrollees ever progressed into post secondary education While promoting Africans was a priority, there were in effect no Africans to promote to leadership positions And so it was that in December 1963--Independence—more than fifty percent of the all senior and non-commissioned officers were still non-Africans [60]

172 Another obstacle was the lack of ethnic diversity The British had diligently divided indigenous African communities into the martial and non-martial The so-called martial races were regarded as inherently suited to military service The result was an army largely populated by a handful of ethnic groups A 1959 report on the KAR revealed that 77% of all recruits were drawn from the Kamba, Kalenjin, Samburu and other communities that had for so long been characterized as martial [61] For an institution meant to symbolize Kenya's newfound nationhood and nationalism, the KAR stood out as a sore reminder of division and colonial stereotypes Despite all these problems (and others besides), the KAR was Kenya's premier military formation; there was no alternative Upon Independence on the 12th of December 1963, the KAR became the

59 For more on the Hanslope Park files see David Anderson, "Mau Mau in the High Court and the "lost" British Empire Archives Colonial Conspiracy or Bureaucratic Bungle?" *Journal of Imperial and Commonwealth History* 39 5 (2011) pp 699 – 716

60 Timothy Parsons "The Lanet Incident 2 – 25 January 1964 Military Unrest and National Amnesia in Kenya" *The International Journal of African Studies* 40 1 (2007) p 61

61 From Timothy Parsons, "The Lanet Incident 2 – 25 January 1964 Military Unrest and National Amnesia in Kenya *The International Journal of African Studies* 40 1 (2007) p 60

Kenya Military Forces The individual battalions were also renamed as 3rd, 7th and 11th Kenya Rifles

173 Kenya's military faced an immediate and daunting challenge in the form of the Shifta War which was declared on the 24th of December 1964 Troops were immediately thrown into a very difficult campaign against secessionists in Northern Kenya The conduct of this war resulted in a catalogue of very serious human rights violations Many of these violations were committed by the army itself These violations are discussed at length in another section of this report In addition to the external stresses caused by the Shifta War, Kenya's army also buckled under the weight of a number of internal strains The most pointed of these was issue of military pay The question of military wages was a long standing one From the very earliest days of the KAR, troops were paid a pittance a few shillings and a roll of calico The trend continued over the decades and by the early 1960s, the rumblings of discontent were getting louder In 1961, Oginga Odinga warned the Kenya Legislative Council about the possible consequences of continuing disquiet about army pay[62] A pay rise was instituted in 1962 but it appears to have been too small to keep pace with inflation Disgruntled soldiers were far from pacified

174 Matters finally came to a boil in late January 1964 at Lanet Barracks near Nakuru The trigger was indirect one Troops in Uganda and Tanganyika succeeded in wringing out substantial pay rises from their respective governments as well as the promise of the speedy removal of British officers from top army positions The literature is not precise on how these promises were extracted One version of events describes the soldiers as 'essentially holding their political masters hostage with the implicit threat of violence'[63] News of the Ugandan and Tanganyikan developments reached Kenya very quickly through the old KAR radio network that linked all the East African battalions together Army seniors tried to diffuse the situation by calling for meetings and forums to discuss wages but it was too late, the issue had moved beyond that Once again in a series of events that is not exactly clear, troops gathered on the evening 24th of January expecting to hear President Kenyatta announce wage increments The president's speech made no such announcement Disappointed and incensed, troops from 11 KR based in Lanet decided to act They took over the armoury where weapons were kept and then attempted to barricade the entire barracks

175 The mutinous men 11th KR were quickly and decisively dealt with assistance from the 3rd Regiment of the Royal Horse Artillery The RHA was amongst several British formations that had remained in Kenya after independence for strategic reasons. British military intelligence had already warned of possible unrest in the Kenya Army and so RHA (and others) had already been mobilized and were already on

62 From Timothy Parsons The Lanet Incident 2 – 25 January 1964 Military Unrest and National Amnesia in Kenya The International Journal of African Studies 40 1 (2007) p 59

63 Timothy Parsons "The Lanet Incident 2 – 25 January 1964 Military Unrest and National Amnesia in Kenya" The International Journal of African Studies 40 1 (2007) pp 61 – 62

alert The RHA troops surrounded Lanet and used loudspeakers to warn mutineers that maximum force would be used to sweep through the camp if they did not put their weapons down Shots were fired at any 11th KR soldiers who attempted to break though the perimeter A Private Simon Kiprop was shot dead in the process, he was the first casualty of the rebellion The barricade was maintained into the following day—the 25th of January—as a core group of about twenty soldiers apparently made plans to shoot their way out of Lanet at whatever cost The rebellion only came to an end when an armoured vehicle was used to barrel into the camp allowing RHA troops to enter and disarm the 11th KR.

176 President Kenyatta's handling of the entire incident was nothing short of strident The RHA was mobilized with his full knowledge and authorization. The President also refused all negotiations On the morning of the 25th of January, he issued a press statement stating the rigidity of his stand

> Those who took part in the Lanet incident have gravely broken military discipline and must be dealt with firmly They will be dealt with according to military law There will be no compromise on this, and I do not intend to meet them or to allow any of my Ministers to negotiate with them [64]

177 After the mutiny was quashed it became clear just how firmly Kenyatta intended to deal with the rebels 11 KAR was completely disbanded Military carried out extensive investigations of 11th KR eventually classifying the regiment into three colour-coded categories each representing a different levels of involvement in the mutiny Three hundred and forty men were coded green and were allowed to remain in the Army on account of their limited participation They were redeployed to a new regiment designated 1st KR Yellow consisted of some 100 troops who were discharged and sent back to their home areas They were kept under surveillance for any further signs of possible unrest and trouble that they might cause The final and most serious category was red One hundred troops were charged with mutiny under the Kenya Military Forces Act They were then taken forward and prosecuted Sentences ranging between five to fourteen years imprisonment were handed down With that, 11th KR passed unheralded into oblivion The battalion is not even mentioned in the Kenya Defence Force's official version of its history.[65]

178. Inevitably perhaps, the Lanet incident was politicized Part of the vigour of the President's response stemmed from the sense that there was more to the mutiny than met the eye Suspicions hovered about Oginga Odinga who was—as has just been mentioned—a long term supporter of higher wages and better conditions for the Army Indeed part of the Defence Counsel's strategy during the court martial became to argue that the rebelling soldiers were acting on "outside" orders Although these

64 Timothy Parsons The Lanet Incident 2 – 25 January 1964 Military Unrest and National Amnesia in Kenya" *The International Journal of African Studies* 40 1 (2007) p 63

65 See Ministry of State for Defence *History of the Kenya Army* at http://www.mod.go.ke/army/?page_link=history Accessed March 28th 2013

claims were never proved, the unspoken text of the entire trial became that army unrest benefitted President Kenyatta's political opponents and enemies Conversely, in his own memoirs Odinga accused the President of using the mutiny as a vehicle for the re-introduction of British influence over the Kenya Army [66]

Fall out, consequences

179 A central reality emerged from the wreckage of Lanet Mutiny the importance of stability within the military Events in the barracks had shown that a small handful of armed men had the ability to generate a serious security incident Concerns that the government had either ignored or downplayed before the incident were taken up at the very highest levels In April 1964, pay rises were introduced across the board for military, police and prisons staff The painfully slow clear out of senior British officers picked up pace in the wake of the rebellion In December 1966, Brigadier Joseph Ndolo was appointed as the first indigenous commander of the Kenya Army Content and depoliticized, Kenya's armed forces retreated to barracks until the 1980s Their return to centre stage through the 1982 coup and mass killings in Garissa and Wajir are discussed elsewhere in this Report For the Commission, they mark something of a return to form with displays of violence and brutality that so characterized the earliest years of Kenya's military history

Conclusion

180 Independent Kenya inherited a police force which was deeply and historically troubled From the 1890s right through to the late 1950s and early 1960s, the Kenya police force clearly structured itself around the policing needs of a small and politically powerful elite and racial minority Kenya's police force was from the outset built to cater to these privileged few When, however, the Kenya Police Force did encounter African populations it was with a force and devastating violence. Throughout the Commission's mandate this never changed The police force remained a law unto itself The Kenya Police Force of 1960 much resembled the Kenya Police Force of the 1900s narrow in outlook, unclear in mission and violent in tendency The history of the military paints a similar grim picture During the colonial period, and especially during the emergency period, the military was engaged in the screening and interrogating of people in order to extract information from them concerning Mau Mau It is from these twin processes of screening and interrogation that the most astonishing evidence of widespread and institutionalized torture has emerged The military would continue to use similar brutal tactics way into the post-independence era and as recently as March 2008 during *Operation Okoa Maisha* in Mt Elgon

66 Oginga Odinga *Not Yet Uhuru* (New York 1960) p 281



CHAPTER



The Shifta War

Introduction

1. On 24 December 1964, faced by a region that was threatening to secede, President Jomo Kenyatta declared a state of emergency in Northern Kenya. What followed is what has come to be known as the 'Shifta War', and in which, widespread and systematic violations of human rights were committed by state security agencies. It is in the Shifta War that the citizens and communities of the new Kenyan nation experienced state brutality and violence in a large scale level. Most of the tactics employed by state security agencies during the Shifta War would endure throughout the Commission's mandate period, with only slight variations. For this reason, the Commission paid special attention to the Shifta War.

2. For analytical purposes, the Commission categorized the Shifta War as a non-international armed conflict under the Geneva Conventions of 1949. Under these Conventions a non-international armed conflict exists when there is (1) protracted armed violence between government authorities; when there are two (2) organised armed groups within the state. The intensity and prolonged nature of the violence and the organisational structure of the parties distinguishes an armed conflict from banditry, the normal activity of a criminal organisation and unorganised and short-lived insurrections. As discussed later in this Chapter, although their organisational structure was loose (in order to adapt to the environment of the region and the nature of guerrilla warfare), the Shifta

exhibited the type of organisation that is common among guerrilla forces. Given the materials available to the Commission, it was difficult to determine the nature of the organisation of the Shifta forces, including to what extent they operated under a uniform command and hierarchy The evidence that was available, however, including analysis of Shifta activity by the Kenyan government and by foreign diplomats reporting on the situation, suggests that the Shifta forces meet the organisational test for qualifying as a party to an armed conflict

3 The conflict with the Shifta lasted four years, resulted in the deaths of between 2,000 to 7,000 combatants and civilians and engaged the Kenyan military in pitched battles throughout the Northern region These facts satisfy the second requirement of a prolonged and intense conflict

4 There is, however, some evidence that the Shifta War had an international dimension to it Traditionally, international armed conflicts involve the military forces of two separate states Contemporary jurisprudence developed at the International Criminal Tribunal for the former Yugoslavia (ICTY) defines an international armed conflict as including situations in which a foreign state plays "a role in organising, coordinating or planning the military actions of the military group, in addition to financing, training and equipping or providing operational support to that group."[1] The Somali government clearly provided assistance to the Shifta forces operating in Kenya – in fact it was the agreement reached between the governments of Kenya and Somalia in 1967 that effectively ended the Shifta War However, the information available to the Commission is not sufficient for it to conclude that the Somali government exercised a level of control over the Shifta forces that would qualify the conflict as an international armed conflict

5 Whether the Shifta War qualifies as an international or non-international armed conflict is significant, because it determines which body of international law applies to the parties to the conflict However, for most of the work of the Commission, the significance of whether the Shifta War was an international or non-international armed conflict was minor With respect to the Commission's mandate to establish an accurate, complete and historical record of human rights violations, the killings, torture, rape and other atrocities committed during the Shifta War are violations no matter how the conflict is characterised

1 Decision on the Defence Motion for interlocutory appeal on jurisdiction *The Prosecutor v Duško Tadić a/k/a 'Dule'* Case no IT 94 1 AR72 para 137

Origins

6 Few episodes in the post-colonial history of Kenya have been subjected to scrutiny, including the Shifta War, yet the war is unique in that it represents the first time that the Kenyan state formally declared war on a section of its territory It is hoped that historians and researchers will take up the challenge of placing that particular period within the larger narrative of Kenya's modern history [2]

7 For the purposes of this report, however, the main focus will be the relatively narrow theme of mass killings With an official death toll of about 2,000 and unofficial estimates reaching 7,000, the Shifta War represents one of the most intensive spates of widespread killing that Kenya has ever experienced Some of these deaths were legal the killing of armed combatants and killings that took place in self-defence Others were not, such as the deliberate targeting of civilians by both parties to the conflict The task of the Commission was to establish how many of these deaths could be attributed to massacres A brief review of the history of unrest in Northern Kenya helps to place this inquiry in a broader social and political context

8 The Shifta War itself arose out of a long history of political unrest in Northern Kenya Ethnic Somali and other Northern Kenya communities resisted centralised rule from the very earliest days of colonialism.

9 From 1893 to about 1918, various Somali groups engaged in primary resistance to the colonial powers Resistance at this stage lacked an explicitly positive political objective and instead centred on resistance to the British invasion of previously independent territories

10 As in other parts of Kenya, however, not all inhabitants of Northern Kenya took up arms against the colonialists One Somali clan, the Herti, for example, adopted a strategy of cooperation Collaboration with the British gave the Herti a virtual monopoly in government employment Nearly all *askaris*, scouts and mail runners were drawn from this small clan The scattered and sporadic nature of the uprisings meant that ultimately the resistance did not present a major challenge to the British Ethnic Somalis, however, acquired a reputation of being troublesome, difficult to govern and dangerous as several fairly high-ranking European administrators were killed in the fighting

2 See for example Daniel Branch *Kenya Between Hope and Despair 1963 – 2011* (2011) 28 – 35

11 By the 1920s, this initial phase of primary resistance had more or less come to an end The locus of Northern activism then moved to Nairobi The move ushered in nearly two decades of sustained politicking by a numerically minor clan known as the Isaq Notably, Isaq activism revolved around the issue of identity

12 The colonial government's love of taxonomy meant that officials spent a great deal of time classifying people by race and ethnicity. The Isaq were grouped as African or native-Africans and were saddled with all the tax, residential and labour requirements that came with that status The Isaq resisted this definition of them as African Their objections were based on a claim that they were more Arab than anything else, with the modern-day port of Aden in Yemen often cited as their original birthplace Isaq determination to distinguish themselves both from Africans and other Somali groups fuelled many years of curious yet determined efforts to exempt themselves from the various regulations governing African life in Kenya The particular target of Isaq's anger was the Native Poll and Hut Tax Ordinance, which required them to pay the same amount of tax as Kenya's other African populations [3] Through various welfare associations, the Isaq sought to be removed from Native Ordinance and placed under the Non-Native Ordinance At 30 shillings per year, the non-native tax rate was a hefty 10 shillings more than the native rate, but this did not seem to concern the Isaq, their only concern was that they not be equated with a people that were viewed as inferior.

13 The third phase of pre-independence political activity in Northern Kenya has more direct connections to the Shifta War In May 1943, the innocuously named Somali Youth Club was founded in Mogadishu Four years later, branches were opened in Wajir, Mandera and Isiolo The club changed its name to the Somali Youth League (SYL) Membership was primarily Somali and more specifically, Herti Large numbers of non-Somali Northerners, such as the Burji and the Borana, were also drawn to the SYL by a seductive and progressive manifesto that included promises to fight for better educational and health facilities. The paucity of schools and hospitals in the region was as much a concern in the 1940s as it is today; the roots of social and economic marginalisation ran very deep There was a political edge to some of the League's other objectives For instance, SYL leaders sought to "foster Islam" Although no further information was available as to what would be done to foster Islam, colonial officials came to view with a great deal of suspicion any efforts to increase the profile of Islam in the colonies

3 For a fuller account of the Isaq campaign against the poll tax see E Turton The Isaq Somali Diaspora and Poll-Tax Agitation in Kenya 1938 – 41' (1974) 73 *African Affairs* 325 – 346

14 Finally and most critically, the SYL championed the unification of all Somali populations in the Horn of Africa As controversial as the issue of Somali unity would prove in later years, in the 1940s few concerns were raised by the SYL's stated objective of bringing all Somalis together into some kind of geo-political arrangement It may well have been that administrators hundreds of miles away in Nairobi did not take the League seriously

15 War British Foreign Secretary During a 1946 meeting held to negotiate the fate of colonies belonging to the defeated Italians and Germans, Bevin suggested the creation of a union of Somali territories in Kenya, Somalia and Ethiopia Naturally, British officials would be responsible for governing the new territory The Bevin Plan, as it was known, was quickly dismissed, with the Ethiopians raising the most objections Ethiopia would not countenance losing the Somali-dominated southern regions of Ogaden and Haud The entire plan was dismissed as a naked and shameless attempt to extend British influence in the region Nevertheless Bevin had hit upon a nascent Somali nationalism that could not easily be ignored A decade later arguments about a Greater Somalia would resurface with a ferocity that would result in the Shifta War

16 In the interim, the SYL branches in Kenya busied themselves with more local campaigns While presenting itself as a social, charitable and quasi-religious organisation, the League's activities from 1948 onwards were more overtly political SYL leaders began to advocate non-compliance with colonial policies, regulations and laws They urged followers not to take orders from government-appointed headmen All matters relating to Somali affairs (marriage, disputes, debt, etc) would instead be handled by SYL-approved appointees

17 The elaborate colonial boundaries that restricted the various communities and their cattle to prescribed areas were also targeted by the SYL, who called for a return to more traditional land use patterns Alarm bells went off when news reached Nairobi that the League was seeking to recruit Somali *askaris*, policemen and youths and subject them to basic paramilitary training organised by the former King's African Rifles (KAR) By the early 1950s, when talk of Koranic oaths emerged from Isiolo, Garissa and other Northern towns, colonial administrators had had enough The Somali Youth League was declared a threat to security and proscribed It is not immediately clear what happened to its leaders and organisers Some of them might have fled to Somalia where they continued to issue pamphlets and treatises that were occasionally smuggled into Kenya for distribution There is also some evidence that League devotees in Isiolo attempted to revive the organisation through an affiliated group known as the Somali Youth Association Again, the colonial officials would have none of this and the Somali Youth Association was refused registration

18 By the late 1950s, the Somali Youth League was most certainly in decline Its place at the helm of Somali nationalism in Kenya had been taken over by the Northern Province People's Progressive Party The NPPPP, as it was popularly known, forms the final link in the chain of events leading up to the Shifta War As with most other currents in the history of Northern Kenya, the impulses that inspired the formation of the NPPPP originated in Somalia proper In 1960, officials in British Somaliland sprung something of a surprise They suddenly declared British Somaliland, the predecessor of modern-day Somaliland, independent A few days later, British Somaliland was united with the Trust Territory of Somalia (formerly Italian Somaliland) to form the Somali Republic Administrators in Kenya, Djibouti and Ethiopia were caught off guard because they had received no notice about a move that would effectively revive the Bevin Plan.

19 An article in the Somali independence constitution articulated the imperative of achieving "the union of Somali territories by legal and peaceful means"[4] The new state of Somalia adopted a flag in the centre of which was a five-pointed star symbolizing the union of five areas Italian Somaliland, British Somaliland, French Somaliland (Djibouti), Ethiopia's Ogaden Province and Kenya's Northern Frontier District

20 In a speech to the United Nations, Ali Sharmake, the president of Somalia, went even further and declared that "[our] neighbours are Somali kinsmen whose citizenship has been falsified by indiscriminate boundary arrangements, so how we can regard our own brothers as foreigners?"[5] These pronouncements from the newly-independent state of Somalia revived long dormant aspirations in Northern Kenya Within months, the NPPPP was up and running Headquartered in Wajir, the party was led by Wako Happi and Maalim Stanboul Happi and Stanboul made it clear that their primary objective was secession from Kenya Their message was wildly popular and the party quickly attracted Somali and non-Somali members from throughout the region Somali populations in Nairobi were drawn into the cause by an NPPPP affiliate organisation known as the National Political Movement

21 How a small, isolated and rural party came to present such a fundamental challenge to Kenya's territorial integrity has as much to do with its fortuitous timing as anything else The NPPPP came to prominence precisely when outgoing British

4 Ahmed Issack Hassan North Eastern Province and the Constitutional Review Process Lessons from History http //www braissac com/northeastern_constitution_review_proocess html Accessed 9th January 2012

5 Ahmed Issack Hassan North Eastern Province and the Constitutional Review Process Lessons from History http //www braissac com/northeastern_constitution_review_proocess html Accessed 9th January 2012

administrators and incoming Kenyan ones were engaged in a series of important conversations about political arrangements for self-governance and, eventually, independence. An NPPPP-backed delegation was present during the first Lancaster Conference in 1960 and through its spokesman, Abdirashid Khalif, reiterated Northern Kenya's intention and desire to be part of Somalia. The delegation returned to Kenya and continued to support the idea of a greater Somalia. At the second Lancaster Conference of 1962, the NPPPP scored something of a victory as the Colonial Secretary agreed to the establishment of a Northern Frontier District (NFD) Commission to establish the level of support for secession. That Commission travelled extensively throughout the Northern region, hearing witnesses and collecting memoranda. In all, the NFD Commission's hearings were attended by nearly 40 000 people, with 134 of them making oral submissions and another 106 depositing written ones. Of the data it received, the NFD Commission concluded in its report:

> The areas in which we found the people supporting the Somali Opinion are the biggest total in population and size ... we found that the people there almost unanimously favour secession from Kenya of the NFD when Kenya attains Independence, with the object of ultimately joining the Somali Republic, but they want the NFD to have a period under British authority in which to build up its machinery of government so that it can join the Somali Republic as self-governing unit.[6]

22 The only exceptions were sections of the Burji, Borana and other non-Somali populations around Moyale. For the NPPPP, the Commission's findings were all the proof they needed to make the final push for independence from Kenya.

23 Secessionist hopes were severely dashed by what has been characterised as a betrayal by the British. The Colonial Secretary was simply not prepared to preside over such a fundamental re-drawing of Kenya's territory only a few months before independence. Moreover, the British seemed to believe that Kenya was capable of developing and functioning as a nation that could cater to diverse ethnicities, cultures and religions. In language that foreshadows subsequent debates about the status of Northern Kenya, the Colonial Secretary insisted that Kenya

> is a country which depends for its future on being able to recognize people of different races and prove it is capable of providing a home where people of different races can live honourably and amicably.[7]

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6 In Nene Mburu *Bandits on the Border: The Last Frontier in the Search for Somali Unity* (2005) 98.

7 From Ahmed Issack Hassan 'North Eastern Province and the Constitutional Review Process: Lessons from History' http://www.braissac.com/northeastern_constitution_review_proocess.html Accessed 9th January 2012.

24 And so the Commission's findings were shelved. The only concession that the British made to northern aspirations was to re-organise the area into a province. With this, the Northern Frontier Province became the seventh and largest province in Kenya, which entitled it to greater resources and attention from the centre The reasoning was that this would somehow pacify the secessionists' demands for greater autonomy

25 Meanwhile, politicians from both the main political parties (KANU and KADU) completely rejected the idea of ceding any territory Oginga Odinga spoke for many when he thundered before a 1963 meeting of the Organisation of African Unity (OAU) that "we shall not give up even one inch of our country to the Somali tribalists and that is final"[8] Jomo Kenyatta was even more scornful of the NPPPP and its objectives In a widely quoted statement attributed to the first president of Kenya, Mzee Kenyatta is reported to have told the secessionists to "pack their camels and go to Somalia"[9] At an inter-African meeting, the first President of Kenya said those in Northern Kenya who want to hold a referendum on the issue could "vote with their feet" Consequently, the NPPPP decided to boycott voter registration and all other preparations in the lead-up to the General Election The boycott drew the same contemptuous response from Nairobi If anything, by this point, positions had hardened on the idea of majimbo (federalism) as well Best described as a loose federal system that envisioned a certain degree of self-governance for the seven provinces, majimbo was championed by one party (KADU) and rejected by another (KANU) KANU's arguments eventually won the day, Kenya was to remain a highly centralised state governed from the centre

26 For many NPPPP members and supporters, the second half of 1963 was a deeply unhappy time In June, Kenya became self-governing As most citizens were celebrating this important milestone, pressure was being applied to the secessionists Stanboul, Happi and other NPPPP luminaries had already been arrested and internally exiled By the end of the year, matters had degenerated further with the NPPPP abandoning the idea of reaching a solution through peaceful and political means The party, with support from Somalia, set up the Northern Frontier District Liberation Army (NFLDA) and staged a number of attacks on government institutions and officers A short two weeks after Kenya gained its independence on 12 December 1963 President Kenyatta declared a State of Emergency and a crackdown on the Shifta insurgency began

8 From Daniel Branch *Kenya Between Hope and Despair 1963 – 2011* (2011) 30

9 See Ahmed Issack Hassan North Eastern Province and the Constitutional Review Process Lessons from History http://www.braissac.com/northeastern_constitution_review_proocess.html Accessed 9th January 2012

27 The Commission was struck by the overall portrayal of the people of Northern Kenya as removed - literally and figuratively - from the excitement, optimism and pride sweeping across the rest of the country as self-government and independence approached Part of the reason for Northern antipathy was most certainly the widespread anxiety about the unresolved and pressing issue of secession

28 Commission witnesses also alluded to much deeper and more fundamental factors Some inhabitants of the region were already so far removed from colonial rule that independence held no meaning for them In some cases, people were completely unaware that such a momentous political change was even taking place Dayow Ibrahim Mohammed described himself as being "in the bush" when independence was achieved His frank assessment was that he and his kin "did not know much" about what was happening beyond the immediate radius of their families, livestock and homesteads [10] This dissociation from mainstream political life in Kenya is instructive for any effort to understand the marginalisation that continues to be experienced by the inhabitants of Northern Kenya As fighting commenced and the war progressed, the sense of Northern Kenya as a neglected and ignored region became even more acute.

Legal Framework

29. Scholars of Northern Kenya have rightly paid a lot of attention to the legal environment in which the war was conducted One of the most extraordinary characteristics of the Shifta War was the latitude given to the security forces to, essentially, behave as they pleased When President Jomo Kenyatta proclaimed the State of Emergency on the 24 December 1963, he set in motion a process that would give almost unlimited powers to the government and the military in Northern Kenya

30 Concerns about insecurity and civil unrest (occasioned by the prolonged resistance described above) meant the region had always been handled quite differently from other parts of the country During the colonial period, Northern Kenya was administered using the Special District (Administrations) Ordinance and the Outlying Districts Ordinance of 1902 Movement in and out of such Special Districts as the NFD was tightly controlled with a pass system Anyone wishing to visit the NFD had to apply for a pass and more often than not, these

10 TJRC/ Hansard/ Public Hearing / Wajir/ 19 April 2011/ p 45

applications were flatly turned down The only people granted freedom of movement were military personnel. The 1902 Ordinance was followed in 1933 and 1934 by the Stock Theft and Produce Ordinance and the Special Districts (Administration) Ordinances, respectively.[11] Cumulatively, these Ordinances gave colonial administrators the power to arrest, restrain and detain members of "hostile" tribes, including the Somali

31 Preparations for independence further demonstrated the State's preoccupation with insecurity and threats from the north Section 19 of the Independence Constitution provided that the Governor-General

> may, by regulations which shall be published in the *Kenya Gazette*, make such provision as appears to him to be necessary or expedient for ensuring effective government or in relation to the North Eastern Region and without prejudice to the generality of that power, he may by such regulation make such temporary adaptations, modifications or qualification or exceptions to the Provisions of the Constitution or of any other law as appear to him to be necessary [12]

32 The President was thus given the enormous power to amend the Constitution (at least as it applied to the North Eastern Region) unilaterally through regulation Section 19 morphed into Section 127 of the Republic of Kenya's Constitution, resulting, as some commentators have put it, in a situation whereby the President could rule Northern Kenya by decree When the State of Emergency was declared, the Preservation of Public Security Act was activated allowing the President to impose curfews and to create a buffer security zone between Kenya and Somalia People could be shot on sight or arrested or have their cattle confiscated if they were found within the five-kilometre buffer security zone As the war progressed, additional laws were passed that tightened the screws even further An amendment of the Preservation of Public Security Act enlarged the Government's emergency powers by removing all existing legislation relating to parliamentary control over emergency laws and the laws relating to public order Existing constitutional provisions were repealed and replaced with what has been described as a "blank cheque" for the President of Kenya, who was now permitted to "at any time by order in the *Kenya Gazette* to bring into operation generally or in any part of Kenya, part III of the Preservation of Public Security Act or any part thereof"[13]

11 Ahmed Issack Hassan Legal Impediments to Development in Northern Kenya http //www braissac com/legal_impediments_to_developement_in_northern_kenya html Accessed 2nd November 2010

12 Ahmed Issack Hassan Legal Impediments to Development in Northern Kenya http //www braissac com/legal_impediments_to_developement_in_northern_kenya html Accessed 2nd November 2010

13 Ahmed Issack Hassan Legal Impediments to Development in Northern Kenya http //www braissac com/legal_impediments_to_developement_in_northern_kenya html Accessed 2nd November 2010

Socio-Economic Policy in Support of The War

33 The government also developed a handful of socio-economic policies intended to work in tandem with the military, security and legal efforts to tackle the Shifta. Rather less attention has been paid to these policies, but for the Commission they were important in understanding the history of violation of socio-economic rights in the region In 1964, through the Ministry of Economic Planning and Development, Kenya published its inaugural National Development Plan The 840 000 dollars allocated to Northern Kenya reflected the desperate lack of investment in the province Livestock, the mainstay of the northern economy, received the lion's share of the allocation, with huge sums set aside for boreholes, paddocks and improved veterinary services Schools and health centres were also scheduled to receive money to help redress such shocking imbalances as the fact that in 1963 there was not a single secondary school in the whole of the North Eastern Province

34 In 1966, a very important shift occurred among leading policy makers and thinkers The notion of development for development's sake in Northern Kenya was put on the back burner What replaced it was the idea of development as a function of war As the military campaign floundered, men like Tom Mboya (who was then Minister of Economic Planning and Development) began to suggest specific development initiatives as a direct response to the government's obvious inability to contain the Shifta and to neutralise the support that militants received from the local communities In other words, the connection was made - albeit belatedly - between secessionism and economic neglect in Northern Kenya

35 Recognising that government policy would have to change to win over hearts and minds of the people of the North, the government in 1966 embarked on a flurry of carefully chosen projects over and above those outlined by the development plan of 1964 In February, for instance, a standard one classroom for thirty students was symbolically built in a *'Balambala'* shop that once belonged to Maalim Stanboul, the now exiled leader of the NPPPP[14] Ever-present film and newspaper crews further underscored the fact that most of these activities were undertaken as much for their propaganda value as they were for their contribution to a carefully structured development agenda

36. Another development policy that also appears to have been driven by security and military concerns was or, as it is sometimes known, *'manyattarisation'* The term *villagisation* begins to appear in policy documents on Northern Kenya in the

14 Balambala is a small town

mid-1960s. It refers to the placement of ordinarily nomadic populations into model villages where modern animal husbandry, health and education techniques would be taught.

37. Many who testified before the Commission rejected this utopian reading of *villagisation*. The descriptions provided by these witnesses were more reminiscent of the protected villages created throughout Central Kenya some 15 years earlier by the colonial authorities *Villagisation* during the pre-independence Emergency was a disruptive process that cannot by any stretch of imagination be described as progressive. Thousands of people were herded into stockade compounds surrounded by barbed wire and spike-filled trenches. A single, tightly-monitored gate controlled access all in the name of protecting villagers and their occupants from alleged Mau Mau attacks

38 Despite these precautions, extensive research has shown that the principal threats emanated from inside the villages themselves, as squalid and violent conditions gave rise to murders, rapes and assaults committed in the main by the very home guards charged with protection Some of the testimonies presented to the Commission on the *villagisation* programme in Northern Kenya during the Shifta War were eerily reminiscent of the descriptions of the camps created during the Mau Mau period. Like the colonial officials before them, Kenyan authorities were absolutely wedded to *villagisation* as the blanket solution to the twin problems of unrest and poverty And so it was that even at a time of limited finances, overstretched budgets and perennial shortfalls, *villagisation* programmes in the North were the beneficiaries of healthy tranches from Treasury In 1967, over a million dollars was sent *villagisation's* way [15]

39. What the government got in return for its large investment in *villagisation* is difficult to say Some villages (Balambala, Ijara and Modogashe in greater Garissa) have been described as safe havens in a region badly affected by Shifta attacks on civilian populations

40 Other villages (Garbatulla, Moyale and Isiolo further west and north of Garissa) had reputations for unrestrained brutality Some estimates suggest that only about a fifth of Northern Kenya's population were resident in the government-controlled villages If these figures withstand further scrutiny and research, it would be impossible to classify *villagisation* as a success, either in isolating civilians from the Shifta or as an engine of modernisation.

15 Nene Mburu, *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005) 157

Fighting The War

41. The declaration of a State of Emergency on 24 December 1963 marked the formal beginning of an unconventional armed conflict about which very little is known As previously mentioned, the Shifta period has attracted very little scholarly attention and so it was not easy for the Commission to construct a master narrative [16] The secrecy enveloping some of the military operations carried out during the war stands in the way of openness and transparency Attempts to gain access to relevant documents in the possession of the Kenya government met with limited success The Commission was able to gain access to diplomatic dispatches from the United States and the United Kingdom, though such dispatches obviously come with their own biases and other limitations Despite this difficulty in accessing written documentation, certain facts are well within the public domain

42 As soon as the State of Emergency was announced, operational orders were issued to the 1st, 3rd and 5th Battalions of the Kenya Rifles These battalions were the post-colonial successors to the infamous Kings African Rifles (KAR). They have a long tradition of service in Northern Kenya and were regularly deployed for so-called pacification operations as well as normal tours of duty. The 7th battalion, which is more commonly associated with modern security operations in the north, was not formed until 1968 and so did not feature in the Shifta War

43 For the newly independent Kenyan army, the Shifta War was a first test of the abilities of the newly independent armed forces The war also became something of a rite of passage as an entire generation of Kenya's military officers was defined by its experiences of the war Some of them (Joseph Ndolo and Jackson Mulinge, for example) went on to careers at the very highest levels of the military partly based on acts of bravery and leadership evidenced during the campaign against the Shifta [17]

44 Most accounts of the war characterised it as compromised by personnel, terrain and finance [18] The cost of the war provided an early shock Air support alone for the first few months cost close to 130,000 British pounds [19] It was a staggering amount that was partially offset by 250,000 pounds of emergency and technical aid from the United Kingdom The shortage of fighting men was also a consequence of a cash-strapped military From the outset it was common for the army to draw General Service Unit (GSU) servicemen, regular and administration policemen into joint operations

16 The main texts on the Shifta War is Nene Mburu *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005)
17 See First Honours List, *The Kenya Gazette* Vol LXIX – 28a (1st June 1967) 594a – 594g
18 Nene Mburu *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005) 139
19 Timothy Parsons *The 1964 army mutinies and the making of modern East Africa* (2003) 82



Hostile terrain in Northern Kenya

45. The immediate problem of a lack of personnel was solved in the short term, but in the months and years ahead, this impromptu marriage with the police forces would lead to breakdowns in command, control and discipline that severely compromised the government's ability to take on the Shifta effectively. Little could be done to mitigate the inhospitable terrain of Northern Kenya. Fighting started after particularly heavy rains in November and early December 1963. The entire landscape was rendered impassable. When the rains stopped, the heat and the dust returned. Retired Colonel Frank Muhindi, who saw action in Garbatulla near Isiolo, described the conditions as intolerable, especially when soldiers had to march for miles on foot.[20]

46. For all its problems, however, the Kenya Army was a conventional force. The Northern Frontier District Liberation Army was not. For starters, command-and-control structures within the NFLDA were diffuse. There were two fairly separate factions within the NFLDA. The first was active in a wide swath of territory north of Wajir and could count on the support from Ethiopian-based renegades. Membership of this faction was dominated by the Garre, Murulle, Ajuran and Degodia clans. The second faction's operational area was the vast flat plains south of Wajir inhabited by such Darood groups as the Ogaden. Sitting in Mogadishu was a small cohort of Somali National Army generals and police officers who occasionally issued various operational commands and developed strategy. Distance from the theatre of war prevented those in Somalia from having a direct and immediate influence on events on the ground, although they were responsible for the supply of some arms and,

20 TJRC/ Hansard/ Public Hearing / Nairobi/ 24 June 2011/ p. 3

later on, mines The most fundamental unit of the NFDLA was a small guerrilla cell that consisted of 25 to 30 men who shared kinship on - at the very least - a sub-clan level These cells were loosely grouped into battalions of about 600 fighters that fell under the command of ethnic Somali defectors from the Kenya Army and police Once again, however, these battalions were loosely organised Staged, large-scale encounters between the NFLDA and the Kenya Army only begin to feature in the later months of 1964

47 This loose organisation and fluidity made the NFLDA a difficult target to pin down In the early weeks of the war, the Kenyan military seemed confused about the nature of the threat posed by the NFDLA fighters One of the first things to throw the Kenyan command into a panic was the defection of Somali men with military experience Fearing further defections and even mutiny, the decision was made in 1964 to remove all Somali soldiers from the province and send them to other parts of the country Some argue that this denied the army of the local expertise necessary to take on such a slippery opponent As it was, the Kenyan military charged into Northern Kenya lacking cultural and language skills necessary to gather intelligence from residents or to win hearts and minds over to the government's cause The NFLDA's hit-and-run tactics also proved effective against the Kenyan military Guerrilla cells roamed freely and independently launched small raids and engaged the security forces in impromptu, unplanned skirmishes

48 The guerrillas seemed to melt in and out of the bushy undergrowth at will, while conventionally trained forces were much less nimble and quick, particularly at night when most of the raids were staged as the NFLDA engaged them in rudimentary psychological warfare Anecdotal evidence indicates that some Kenyan soldiers were reluctant to pursue NFDLA fighters for fear of genital mutilation and forced circumcision [21]

49. It was a gruelling strain on the soldiers who served in the Kenya military Although the Commission did not hear direct testimony on this particular issue, the psychological strain caused by service in Northern Kenya was demonstrated by the powerful testimony of Fred Obachi Machoka [22] A popular Kenyan radio and television personality over the past three decades, in the 1970s Machoka was a young serviceman who undertook several tours of duty in the North Eastern Province He spoke at some length about the pressures of tracking down and engaging with former Shifta fighters He describes himself as suffering from some kind of post-traumatic stress for which he has never been treated Unable

21 Nene Mburu *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005) 147
22 TJRC/ Hansard/ Public Hearing/ Nairobi/ 18 May 2011/ Nairobi/ p 55

to continue, Machoka left the army a broken man, unwilling (until his testimony before the Commission) to discuss publicly his experiences

50. In 1967, the course of the war changed considerably with the announcement of Operation *Fagia* Shifta (Operation wipe out the Shifta). Operation Fagia Shifta was conceived by the army as a major counter-offensive against the Shifta, who had enjoyed considerable success in 1965 and 1966 Guerrilla attacks continued to frustrate the Kenyan military In addition, the Shifta began to deploy landmines throughout Northern Kenya The landmines were rumoured to have originated from the United Arab Emirates (UAE) and found their way to Kenya through Somalia Randomly placed and difficult to detect because of a then-innovative plastic casing, the mines wreaked havoc Scores of army vehicles were destroyed by the explosives and an unknown number of soldiers killed Unintended targets – local traders and other civilians – were also victims of the landmines The mines severely limited the ability of the army to patrol the region in search of the very fighters who were laying the explosives

51 After months of frustration, the army eventually emerged with an ambitious plan to combat recent Shifta gains One of the measures proposed by Operation *Fagia* Shifta was the creation of incentives to civilians to engage in de-mining. Small payments were made for all mines turned in to either the police or the military This proved to be a popular measure amongst traders who had lost trucks and merchandise to the explosives Operation *Fagia* also saw the launching of more carefully and closely-coordinated patrols supported by expanded air patrols The Ethiopians were also drawn into the conflict with the signing of a defence pact that dismantled support and protection that the Shifta had been receiving from their kin in Ethiopia A determined push was made to convert prominent religious, business and political leaders to the government position Large *barazas* were held throughout the province during which the secessionist cause was roundly condemned Last, but not least, amnesty was offered to former and active Shifta fighters

52. By the middle of 1967, this multi-pronged operation started to yield results Valuable intelligence about guerrilla leaders and tactics was received from surrendering Shifta fighters Military planners used this intelligence to pursue the few remaining cells still involved in active combat The demise of the Shifta was further hastened by a growing rift between the southern and northern factions The northern faction of Garre, Ajuran, Degodia and Murulle turned in arms and landmines in huge quantities, leaving the southerners on their own. By October 1967, the war was effectively over as Kenya and Somalia finally signed a memorandum of understanding Mediated by the then President of Zambia, Kenneth Kaunda, the

memorandum marked the end of formal Somali support for the Shifta Money, supplies and technical support that used to flow freely from Mogadishu to fighters in Kenya stopped With such an essential conduit shut down, the Shifta were only able to stage a few lone and incoherent attacks Surrenders occurred at a fairly steady rate of about 15 a week and in the six months between October 1967 and April 1968 about 450 fighters turned in their weapons The most critical provisions of the memorandum required Somalia to renounce all claims to Kenyan territory By the time that the Somali President and Prime Minister visited Kenya in late 1967, it was clear that they were no longer actively pursuing the secession of northern Kenya Similar declarations by the Somalis were made to the Ethiopians regarding the Ogaden

53 The Shifta War has recently been described as a "small" and a "dirty" war that, according to official estimates, resulted in the death of about 2 000 people [23] Several witnesses before the Commission believed that the Shifta War reinforced the foundation upon which the long history of violations and atrocities in Northern Kenya had been built

54 Because of the direct connection made between past and present injustices, the war is a live issue among the people of Northern Kenya Scores of people flocked to the Commission eager to share what had happened to them and their families during the Shifta War Entire communities submitted memoranda to the Commission outlining their version of events The problem facing the Commission was not the quantity of sources, but their quality Almost half a century later, witness memories are fuzzy and sometimes thin on specifics Those interested in further details will most certainly have to carry out additional inquiries For now, setting out the broad trends and recurrent patterns will have to suffice In the case of the Shifta War, these patterns and trends are marked by brutality, excessiveness and violence, with massacres and allegations of massacres, popping up with stunning regularity

'The time when misfortune befell us':[24] Violations from the frontline

55 Because the Shifta War was fought on so many fronts (legal, economic and military), the stories presented by witnesses were also sprawling and multi-faceted Even so, a handful of violations dominated the submissions For the Commission, these violations defined the Shifta War, they represented the things that have stuck in peoples' memories and the things that they want others to know about this period

23 Daniel Branch *Kenya Between Hope and Despair 1963 – 2011* (2011) 27
24 TJRC/ Hansard/ Public Hearing/ 14 April 2011/ Garissa/ p 4

56 While reports and allegations of mass killings feature prominently and are the focus of this particular chapter, it is important to establish the relationship between mass killings and other violations In other words, as extraordinary and unusual as mass killings are, they are the wholly predictable products of environments that foster many other atrocities Mass killings, particularly during the Shifta period, belong to a large cluster of other gross violations such as rape, abduction and torture

Daaba: Villagilagisation and poverty

57. There has long been a tendency to characterise all Shifta experiences as undifferentiated What the Commission found, however, was significant sub-regional diversity Witnesses were very anxious that we understood that their histories were specific and varied The Borana people of Isiolo, for instance, have a special name for the Shifta War years Daaba The simple translation of Daaba is "when time stopped"[25] The term itself gives some sense of how profoundly the Shifta War affected the region The notion of Daaba encompasses the entire period of forced settlement brought about by the policy of villagisation Villagisation was implemented in Isiolo from about 1965 to 1967 with compounds set up in Garbatulla, Merti and Modogashe [26] Not enough data has emerged to make very reliable contrasts and comparisons between Isiolo and protected villages in other districts such as Garissa and Mandera. But from the evidence received, it does seem that the people of Isiolo were exposed to a more aggressive and destructive form of villagisation than most

58 One of the reasons that Isiolo may have been the focus of such a determined anti-Shifta campaign was the 1963 assassination of two senior government officials by suspected bandits Daudi Dabaso Wabera, the first African District Commissioner of Isiolo and Galma Diida, a government-appointed chief from a prominent and wealthy Borana family Wabera and Diida were gunned down in a dramatic ambush near Modogashe in June 1963 Even though the killings took place a few months before the declaration of the State of Emergency, they marked Isiolo District as an area of particularly intense and high-level Shifta activity

59 The testimony of Dura Nuya, an elder from Garbatulla, suggested that even the process of committing people to villages was a violently disorganised one. In his case, he was beaten and taken to a protected village without the knowledge of his parents

25 Godana Doyo and Hussein Golicha DAABA Historical accounts of the People Pastoralism and Poverty among the Waso Community (June 2002)

26 For a detailed map of this part of Northern Kenya see http://reliefweb.int/sites/reliefweb.int/files/resources/F5F8EDE05525D825C125729D00503ABA-wfp_AGR_ken060228-b.pdf Accessed 30th January 2012

> 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. 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 [27]

60 Nuya got off far more lightly than another neighbourhood boy caught up in the same incident and who Mzee Nuya saw at the camp

> The young man, who was a son to a neighbour, had bloodshot 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 [28]

61 Such narratives contradict the claim that these villages were places of peace and progress and reinforce the view of them as brutal, chaotic detention camps Hussein Sheikh Adan Golicha, an Isiolo resident with long-standing interests in the history of Daaba, testified before the Commission [29] Golicha readily admitted that there are large, gaping holes in the data For instance, it has never been possible to generate a census showing the number and the profile of people held in the Isiolo camps In the absence of such numbers, Golicha emphasised the importance of understanding the impact of restricted spaces on people whose existence was predominantly nomadic One of the observations that Golicha has made over many years of research is that Daaba may have resulted in a sharp upswing in mortality rates His estimates are that at least 700 people died during Daaba Estimated deaths per family in Daaba and the common cause of death are given as Modogashe Camp (1 1 men per family, Merti (1 6 men and Garba (1 6 men) Women were 0 4 and children 0 4 in Modogashe, Merti (1 2 women and 0 7 children and Garbatulla (0 9 women and 0.8 children) [30]

62 While only a rough estimate, this claim of 2,700 deaths in the Isiolo camps alone is an important one, as it is much higher than the official government number of 2 000 dead throughout the northern region during the Shifta period Golicha's numbers are based on the argument that most of the war's victims were not in fact victims of direct encounters with the military Instead, he included those individuals who may have died as a result of the conditions imposed on them by Daaba; hundreds of people may have died from malnutrition, poor health and general illness visited upon them in the villages The much-trumpeted modern health care and progressive medicine promised in the *villagisation* policy never materialised Indeed, camp administrators were hard pressed to provide even the most basic services

27 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Isiolo/ p 59
28 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Isiolo/ p 59
29 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Isiolo/ p 2 – 15
30 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Isiolo/ p 4

63 General accounts indicate that dysentery, pneumonia and malaria frequently swept through the camps Epidemics of highly contagious, tuberculosis presented particular problems and quarantine areas ("tuberculosis manhattans") were created in the compounds. Starvation was a serious problem The only food on offer in the camps was *ugali*, the stiff maize-based porridge that many Northerners found unpalatable and unfamiliar As Hassan Liban plaintively explained it, "they gave us *ugali* and we could not eat it"[31]

64 For security reasons, livestock were only allowed to use thin belts of pasture surrounding the camps As a result, milk and meat yields plummeted, depriving those in the camps of much needed nutritional variety Nearly all villages had makeshift graveyards where the bodies of the dead were unceremoniously deposited.

65 As the camps were gradually shut down towards the end of 1967, people were released to return to their homes For Garbatulla elders, this long-awaited moment of freedom marked the beginning of an even more difficult period during which the full impact of Daaba began to be felt [32] After so many months confined in the villages, these former inmates could not really say where "home" was Unlike Central Kenya, where detainees were systematically released back to their villages and communities, the nomadic peoples of Isiolo (and elsewhere in the north) found themselves stranded They had been displaced A slow but inexorable drift towards the towns began to take place Uncertainty about where to go and what to do forced many people into urban centres such as Isiolo The elders' depiction of town life is bleak. People started to live unstructured lives characterised by urban poverty, substance abuse and trauma

> [They] could only find employment as watchmen or night guards or prostitutes Many started chewing *miraa* (khat) as a way of obliterating memories for some, life was never the same again many people complained of pain, headache, depressed mood and of death and dying [33]

66 Disbandment of the camps did not, therefore, mean a return to the predictability of pre-village life, an irreversible chain reaction had been set off that nobody could control

67 The idea of Daaba as a total and unwelcome rupture between the past and the present was brought up again in subsequent discussions about what the elders describe as forced conversion to Christianity The complete failure of the government to provide any services to the people it released from the camps provided an opportunity for

31 TJRC/ Hansard/ Public Hearing/ 26 April 2011/ Mandera/ p 9
32 *Dying an Invisible Death and Living an Invisible Life A Memorandum by Garbatulla Elders* February 2011 TJRC/ISL/1
33 *Dying an Invisible Death and Living an Invisible Life A Memorandum by Garbatulla Elders* February 2011 TJRC/ISL/1

others to step into the void In Isiolo, the task of caring for thousands of sickly and confused former inmates fell largely to Christian missionaries who set up stations in Merti, Garbatulla and Modogashe Although many locals appreciated the feeding and health centres, there were underlying suspicions about the missionaries' motives Numerous questions were asked about orphaned children and those, as Dura Nuya's testimony showed, who were separated from their parents by missionaries

> And Garbatulla was never the same again as generations were wiped out and children were ferried in missionary vehicles to schools in Meru and Isiolo [34]

68 One topic overshadows all others in discussions with local residents about the post-Daaba era the loss of livestock The heat and emotion raised by this topic extends far beyond Isiolo, nearly all Northern witnesses and other participants in the Commission's process returned to this theme time and again For example, witnesses testified of how government agents strategically killed livestock to hasten the misery of the locals

> During this time when we had the *Shifta* War, the Kenyan authorities believed that any camel herder camel milk can sustain the lives of the people for a long time so the soldiers were actually killing the camel and human beings in the same manner[35]

69 Indeed, the story of livestock losses is a complicated one, but Golicha's testimony and research proved useful His central claim is that livestock herds in Northern Kenya were almost completely obliterated by Daaba and the war He estimates that between 1963 and 1970 the camel population of Isiolo declined by a stunning 70 percent An even sharper decline of 90 percent was recorded in cattle and small stock (such as sheep and goats) Golicha's figures seem to originate from a 1971 United Nations Development Programme (UNDP) and Food and Agricultural Organisation (FAO) study [36] Similar trends were found in Garissa District, where the losses were in the region of 93 percent for camels and 68 per cent for cattle, sheep and goats

70 Golicha's research and testimony provided a number of explanations for these extraordinary statistics The Preservation of Public Security Act had established a buffer zone along the Kenya-Somali border in which livestock could be confiscated (and people shot), no explanations and justifications had to be given, as people and domestic animals simply did not belong in this security area Losses that occurred hundreds of kilometres away from the buffer zone cannot be explained away using the Preservation of Public Security Act The brutal reality of the war was that animals were at once targets and unintended casualties of military tactics The most dramatic evidence of the deliberate waging of war on the civilian

34 *Dying an Invisible Death and Living an Invisible Life A Memorandum by Garbatulla Elders* February 2011 TJRC/ISI /1
35 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 18
36 See study details in Richard Hogg The New Pastoralism Poverty and Dependency in Northern Kenya (1986) 56 *Africa Journal of the International African Institute* 320 – 333

population through their animals came from further north in Moyale. Witnesses from the minority Sakuye community - which shall be discussed shortly - spoke of disturbing widespread poisoning of their animals It is such a well-known story that has been passed down from one generation to the next such that even relatively young people like Councillor Alio Adupo of Moyale recite the details

> The only food these people could get was maybe when they slaughtered a camel, but the camels were injected with poison and anybody consuming it, his or her body swelled and died at the end of the day [37]

71 Hassan Ali's evidence was almost identical and specifically pins responsibility on security officers

> **Leader of Evidence:** You did indicate that some people were given poisoned meat Is what you wrote true? Do you know about this?
>
> **Hassan Kuno Ali:** It is true When they came, they injected the animal with poison They then slaughtered the animals and gave the meat to the people When people ate the meat, they slept and could not wake up They died
>
> **Leader of Evidence:** Who poisoned the meat?
>
> **Hassan Kuno Ali:** It was the police and the army personnel [38]

72 Archival material from the Foreign and Commonwealth Office of the United Kingdom suggests that the Government of Kenya was indeed poisoning water sources as a way of limiting the movement of people and their herds and enabling security forces to patrol smaller and more contained areas [39]

73 Claims of poisoning and the deliberate withholding of water have resurfaced in discussions about subsequent security operations in Northern Kenya, such as Wagalla These appear to be tactics all too commonly used in government operations in the Northern region

74 Hassan Kuno Ali's experience exemplified the tactics used during the operation He described to the Commission the appalling conditions they were subjected to by the security officers

> People were dumped together at one place Some were killed by rain and some died of the poisoned meat Those who were very weak, like me, were left in the rain There were women and children We had no animals Our animals had been taken away. So we were brought here We were told to walk As we walked, the police beat us up Those who could not walk properly were beaten and killed on the way The old people who could not walk were left to die as we were being taken to Gurar [40]

37 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Moyale/ p 59
38 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Moyale/ p 50
39 CAB 21/5284 (1965) "Military Assistance to Kenya in North Eastern Region " 29 May 1964 (indicating British Government interest in negotiating for Kenyan abandonment of "the more repressive and unpalatable features of the operation (e g Evacuation from Isiolo and poisoning of wells" in return for British military assistance) FO371/178534 British Military Aid to Kenya Shifta Raids from Somalia 1964 from Nene Mburu, *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005) 149 170
40 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Isiolo/ p 50

75 Several witnesses drew attention to a heavy-handed strategy that involved the shooting of animals during security operations From the point of view of the security agents, camels could and often were, loaded with guns and supplies for the Shifta and therefore were legitimate targets As told to the Commission,

> There was a mass operation from the border, starting from Kiunga The soldiers were being led by somebody whose name I cannot really remember I think he was called Godhana Instructions were given that all camels be finished because the Somalis or Shiftas were using the camels to carry their loads or as means of transport The camels were within the state of Kenya They were not along the border They were just coming from Garissa That was why they were killed [41]

76 Equally upsetting for the residents of this region was the large-scale confiscation of livestock also during security sweeps of one sort or another Testimony suggests it was fairly common for government officers to arrive in villages and to leave with cattle, sheep, camels and goats Owners were never told what happened to their animals Nor were they ever compensated for their losses Many suspected that livestock was sold and the profits used to line the pockets of the military and civilian officials

> Animals 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 [42]

77 The 80 to 90 per cent decline in livestock reported by Golicha suggests that the actual number of cattle lost was huge Some witnesses tried to quantify the total amount of the loss

> The livestock that was found in the villages was confiscated by the authorities, transported and shared amongst themselves The weak ones were shot dead *en masse* 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 Kenya Shillings 2 billion [43]

78 These estimates are just for Isiolo The figures for all of Northern Kenya are bound to be higher Further complicating the picture was a prolonged drought in the early 1970s The end result was what Golicha has described as the reduction of an entire generation of Northerners from relative prosperity to "penury and chronic famine" in just a few years The sudden disappearance of thousands of animals dealt the economy of Northern Kenya a severe blow Studies from the early 1970s estimate that family resources (food, livestock and money) had been at least halved by the war Witnesses spoke of lost opportunities as education was put on hold or abandoned all together

41 TJRC/ Hansard/ Public Hearing/ 12 April 2011/ Garissa / p 4
42 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Isiolo/ p 18
43 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Isiolo/ p 14

79 Daaba presents a slowly unfolding, primarily economic catastrophe that is quite different from the dramatic explosions of violence so characteristic of mass killings For the people of Isiolo, in particular and Northern Kenya, in general, however, Daaba is the more important cause of deaths emanating from the Shifta War. The Commission both recognises and acknowledges the depth of the losses caused directly and indirectly by the forced confinement resulting from the villagisation policy At the same time, however, the Commission maintains that while Daaba is a very specific and painful consequence of the war, its full impact only becomes clear when villagisation is connected to other violations and atrocities of the Shifta period

The Sakuye and the Shifta War

80 The Sakuye are a minority and marginalised community within a region inhabited by people who describe themselves as minorities and marginalised Their unusual ethnic origins place them right at the edge of most stories about Northern Kenya Most anthropologists lump the Sakuye together with the Rendille, another small community also believed to have formed several centuries ago as a result of interactions between the Borana-Oromo groups from the north and Somalis from the west Although they speak Borana, the Sakuye are distinct from the Borana and the Rendille and have their own unique social and religious norms, including worship of a supreme being known as Waaq However, prolonged exposure to Islamic beliefs of their more numerous and powerful neighbours has meant that most Sakuye are now Muslim Numerical weakness has put the Sakuye in an extremely precarious position. 2009 Census figures place the total Sakuye population at about 28,000 [44] With such a small number, the Sakuye live in relative obscurity One would be hard-pressed to argue that the Sakuye have had any political and cultural relevance outside their corner of Moyale - a tiny location known as Dabel

81 Their small population defined the Sakuye experience during the Shifta War as well A count in 1969 estimated the Sakuye population to be around 4,700. A review of the literature has produced no evidence that the Sakuye, unlike the more politically active populations of Wajir, Garissa and Isiolo, played any part in either formulating or supporting the secessionist agenda There is also no direct indication of Sakuye contributions to the fighting forces Despite their having no obvious role in the campaign and lacking the numerical weight to present any serious threat, the Sakuye nevertheless became the focus of intensive anti-Shifta assaults The first step was villagisation Like the Isiolo Borana further south, the Sakuye were herded into the so-called protected

44 *Population by Ethnic Affiliation* see http //marsgroupkenya org/census/?data=ethaf Accessed 14th February 2012 Historically, there has been a certain degree of undercounting of the Sakuye Less nuanced censuses from the late 1960s and 1970s have sometimes categorized them as Borana

villages in and around Moyale It was a rough and ready process that in typical fashion paid little attention to Sakuye property and well-being

82 Witnesses testified that the military applied some kind of scorched earth policy, destroying everything in their wake as Dabel was cleared of its inhabitants

> Those people were pushed from Dabel up to Moyale they were pushed all through to that stretch of Gula Location All the houses were burned and even the best business people as of that time everything that I have mentioned happened at the Dabel Location [45]

83 Witnesses testified that the Sakuye also suffered the usual loss of livestock on a grand scale By the end of the war, the Sakuye were in the same miserable situation as most other communities in Northern Kenya They were, in essence, destitute

> All the camels and cows they had were taken by the government and the Sakuye community was left bankrupt, they had nothing So many things happened when they were in those camps For example, their wealth vanished, poverty dawned on them and death visited them The leader who could talk on behalf of the community was arrested and jailed There was no way anybody could be asked why he said this or that So, the poor Sakuye people just died like that There is no record to show how many people and animals died because the government never wanted to know anything of that sort of thing They only cared about making their operation successful [46]

84 The Sakuye also experienced extensive loss of life while in the protected villages The government drove the Sakuye even further to Somalia

> People from that community died until the government decided to push them to Somalia and a majority of them died along the way There is no record to show how many people and animals died because the government never wanted to know anything of that sort of thing They only cared about making their operation successful It is the same government that ordered the soldiers to push these people to Somalia by trekking Nobody has ever known the number of the people who died on the way When the poor Sakuye people arrived in Somalia, they were not taken in as ordinary refugees They were just taken as ordinary people who had been in that country and nobody cared for them but remember that they came from a country which was independent - Kenya [47]

85 We were 18 women and I can even show you the houses where we were put The soldiers locked the doors of the houses and they took us as their wives [48] In many respects, the Sakuye experience of the Shifta War can be described as fairly typical On the particular issue of sexual violence against women, however, Sakuye experiences

45 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ IMoyale / p 8
46 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 4
47 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 4
48 TJRC/Hansard/Women s Hearing/Wajir/19 April 2011/p 7

take a much more drastic, extreme and unusual turn When the Commission began to explore the general question of sexual violence in Northern Kenya there was concern that a number of religious and cultural considerations would limit the work the Commission would be able to carry out on this important topic When investigations, research and data collection began, however, the extent to which both women and men from this traditionally conservative region came forward to speak about such intimate and painful issues surprised the Commission It may well be that the desire for the truth to be known and for justice to be pursued trumped both cultural and religious sensibilities Several middle-aged women who were violated during the early 1960s came forward to share their stories

86 The testimonies and evidence of such highly motivated respondents from Sakuye and beyond gave the Commission the material with which to make assessments about patterns and prevalence of sexual violence in Northern Kenya, particularly during the Shifta period A number of important trends emerged from the Commission's data Most fundamentally, among the statements recorded with the Commission, rape, attempted rape and other forms of sexual violence were the sixth most common violations reported as taking place during the four-year war fought in Northern Kenya. The Commission also found that of the five perpetrator groups identified as responsible for sexual violence by those who recorded statements with the Commission, the military was named as being responsible for the largest proportion of incidents The police were a close second The Commission was, therefore, able to link violations with perpetrators

87 The information available to the Commission is less clear about the actual circumstances under which sexual violence took place. Witness testimony suggests all number of scenarios Women out herding animals would be set upon by military men out on patrol[49] Other assaults took place during security operations which might have involved, for instance, security officers storming into *manyattas* in search of Shifta fighters and those giving them refuge The Commission heard how people were frequently subjected to severe beatings as they were forced out of their homes It is entirely possible that rapes occurred at the same time Due to a relatively small sample, the Commission also found itself unable to arrive at a broad-based understanding of soldiers' attitudes and actions towards the issue of sexual violence In general, military officers and security operatives from the Shifta era as a whole proved to be a somewhat reticent and elusive lot, willing to shed light on certain topics but suddenly forgetful on others. One of the officers

49 Recent research in Wajir indicates that women (and young women in particular) who are traditionally charged with the herding of small livestock such as sheep and goats currently represent more than 80% of all reported rape and sexual assault cases The reason for this is quite simple women and girls in this position are isolated and vulnerable See Gladys Mwangi and Guyo Jaldessa, *An Assessment of Sexual and Gender Based Violence in Wajir District North Eastern Kenya* New York Population Council, January 2009

who testified before the Commission was Colonel (retired) Frank Muhindi who served as a Platoon Commander in Garbatulla in 1965. The retired colonel, it must be emphasized, spoke entirely in his own capacity, he did not appear before the Commission on behalf of the Kenya army Colonel Muhindi denied hearing about sexual assault of local women by military officers

> **Leader of Evidence** When we were in that part of the country we were told that women were sexually assaulted by security officers Did you receive such reports?
>
> **Col (retired) Frank Kariuki Muhindi** No I did not All military persons or policemen knew that the repercussions would be drastic if they were confirmed to have done that The repercussions would be very severe [50]

88 When pressed further, Colonel Muhindi conceded that sexual assaults may have taken place but that they would have been committed by isolated, aberrant officers and not therefore characteristic of the military as a whole

> **Leader of Evidence** Would it surprise you that we had reports from women that there were many incidents of brutal rapes against women who would be on their way to attend to basic needs?
>
> **Col (retired) Frank Kariuki Muhindi:** I would not deny that there would be such incidents However, I can assure you that if a military person or a policeman was discovered to have been involved in that kind of activity, they were severely punished because that would be outside our code of conduct There were specific instructions that that should not happen We are human beings and it may have happened [51]

89 Colonel Muhindi's testimony alludes to the existence of a military code of conduct and subsequent investigations into breaches of that code The Commission was unable to establish if, when and how any such investigations took place What the Commission arrived at, however, was an appreciation that the military would have been highly unlikely to accept responsibility for all occurrences of rape and sexual violence in Northern Kenya Colonel Muhindi's testimony indicates - and evidence collected by the Commission corroborates - that the Shifta fighters themselves also committed violence against women

> Some of these incidents were even inflicted upon them by their own people You have Shifta men and they have hunger for women [52]

90 What the Commission uncovered amongst the Sakuye, however, was an incident that challenges the prevailing official view that sexual violence during the Shifta War was infrequent, isolated and unofficial The Commission's investigations in the Sakuye stronghold of Dabel located a small group of now elderly women

50 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p 9
51 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p 10
52 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p 11

with extraordinary tales of extreme sexual violence and abduction. The women eventually travelled to Moyale to speak publicly and frankly before the Commission about their ordeals Their stories are detailed but they are, unsurprisingly, bereft of specific dates and locations.

91 In April 1965 (or thereabouts), a contingent of about four army trucks arrived in Gula, a settlement of about a dozen *manyattas* located some distance away from Moyale What happened next has remained imprinted on the victims' memories, nearly half a century later The Gula men were taken away Where they were taken is unclear, but it seems that they may have been taken to a police station nearer Bute, a small urban centre south-west of modern-day Moyale Between 15 and 30 women from the village were also ferried away to a place known as Dhidhanani [53] Not much is known about Dhidhanani, save that it was close to a water pan and may have been the location of a military encampment. The women were kept in Dhidhanani for a number of days; some accounts say three and others say five During that time, they were raped multiple times by multiple men

92 The rapes were extremely violent and the Commission witnesses did not shy away from describing them in detail Mama Halima Martille, now an elderly woman but at the time a young girl, remembers very clearly what happened to her.

> Men sat on my head and legs I could not look left or right Some were even putting soil in our private parts saying "Fill with soil" They filled us with soil and left us We are human beings We did not die, but we removed the soil and went away We were smelly and dirty as a result of what they did to us [54]

93 Although most of the women have long since died, there are still a few survivors who corroborate and support each other's stories Mama Zainabu Hiyesa's story was almost identical to Mama Hartille's

> One soldier held my right hand and the other one held my left hand and another held my left leg They just raped us They did not see us as dead but they just raped us for six hours This was until midnight At some moment they left us for a minute and then other people raped us For the first five days, four people were unable to wake up [55]

94 Halima Ado met the same fate as the other Gula women

> I can say truly that there were four trucks and they took us for five days I was raped You can look at my leg I have some scars which occurred when they were trying to rape me I was strong I was fighting, but they stepped on my legs One was holding my head down They tried to pierce me with some for five days they were raping us They only gave us

53 May also be spelt as "Ndhidh Adhani"
54 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 33
55 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 31



A woman at a Community forum convened by the Commission.

one hour. We were not able to sit or bring our...I am sorry to say this, but I have seen a donkey do that, but not a man. They were forcing us to do things that I have never seen. They would beat us. That is what the government did to us[56]

95. At the end of the three to five days, the women were released. Injured and traumatised, their lives were changed forever. None of them sought any treatment other than local medicinal and herb washes. Many of the women attributed their subsequent inability to conceive to injuries sustained during the attack. The Commission was, unfortunately, unable to investigate in detail the actual physiological damage done to the women. So many years after the event, such investigations would require a level of specialised medical inquiry that was not available to the Commission. One thing is absolutely certain, however: the women continue to suffer today from post-traumatic stress. The delivery of their testimonies given during the Commission hearings veered from one extreme to the next: cold detachment, on the one hand and overwhelming emotion on the other.

56 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p. 36

96 The impact of these rapes on the Sakuye was profound Community representatives explained to the Commission that in the wake of the assault, the decision was made to leave Kenya altogether and seek safety and refuge in Somalia Some accounts of the relocation recast the move as entirely involuntary, with government soldiers accused of forcing the Sakuye to flee. The journey was a harrowing one as families were separated and people died along the way. The Sakuye then found themselves living in Somalia as refugees trying to rebuild their lives in, ironically, the very country that has itself sent hundreds of thousands of refugees to Kenya. The Sakuye would remain in Somalia for nearly three decades until an apparent plea for them to return home was issued by President Mwai Kibaki soon after he took office in 2002 [57] Very quickly, the Sakuye ran into another problem they were unable to prove Kenyan nationality and so were not issued with identity documents The matter was mentioned in Parliament in June 2004 when a Member of Parliament, Dr. Guracha Boru Galgallo, sought to find out why more than 100 returnees had had to endure nearly two years of so-called "vetting" to establish their origins [58]

97. The Sakuye returnees had to prove their Kenyan citizenship Citizenship is the foundation upon which many other rights (the right to vote, the right to education and employment, the right to health, the right to own property, etc) rests Inhabitants of Northern Kenya find it very difficult to acquire birth certificates, passports and, above all, national identity cards that function as proof of citizenship in almost all facets of Kenyan life The vetting process to which the Sakuye were subjected upon their return involved applicants presenting themselves before a local vetting committee that usually consisted of a District Officer, a registration officer from the National Registration Bureau, chiefs, village elders and intelligence officers The purpose of these committees was to determine the nationality of the applicant and eligibility for an identity card

98. There was no legal basis for this vetting procedure Nevertheless it has become *de facto* policy and practice at the National Registration Bureau. Despite various legal challenges, vetting remains. Northerners are generally required to present a staggering variety of documents to the registrars and the vetting committees More often than not, these are documents that the applicants simply do not possess, such as letters of allotment, title deeds, electricity and water bills, as well as letters of employment Applicants are also routinely asked to produce their parents' and grandparents' identification papers It is a continuing source of both anger and dismay that applicants in other parts of Kenya do not generally have to meet this burden of proof

57 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 7
58 *Kenya National Assembly Official Record* (Hansard) 30th June 2004 2249 – 2250

99 It can and undoubtedly will be argued that one incident in one small settlement cannot be taken as representative The Commission was of the view that it is impossible to discount the possibility that the events of Gula and Dhidhanani were not replicated elsewhere Indeed, the Commission collected enough data and heard enough first-hand testimony to suggest that it was more than likely that sexual violence against women was a frequent occurrence during the Shifta War Moreover, sexual violence was frequently accompanied by abduction, torture and killing on a broad scale The military's reluctance to address the allegations of sexual violence committed by their officers makes it difficult for the Commission to analyse the structural and other conditions that made such violence possible The Commission would have benefitted from a more candid discussion of these issues from the military, especially since the testimony of Shifta War veterans, such as Col Muhindi, suggests that the mechanisms existed within the military for the investigation of sexual and other crimes Like many analysts of the Indemnity Act of 1970 (which grants amnesty to Kenyan security forces for crimes committed during the Shifta War) the Commission believes that the Indemnity Act itself was both a tacit and overt admission of the existence of a broad raft of very serious violations, including sexual violence

100 Meanwhile, the Sakuye victims continue to live a precarious existence Husbands and relatives shun the women on account of the mistaken (but common) belief that they somehow collaborated with their violators It would not be an exaggeration to describe their lives as both helpless and hopeless The women feel completely abandoned by both the state and the wider society Mama Hiyesa described the women as "cows who have been running and crying for such a long time that they can neither run nor cry any more"

Massacres During The Shifta War

101 The third and final theme the Commission chose to highlight with respect to the Shifta War is mass killings. The issue of mass killings during the Shifta War presented the Commission with the familiar but daunting problem of limited and sketchy data. Faced with the above limitation relating to data, the Commission directly analysed the personal stories, reminiscences and testimonies provided through statements and hearings about this very difficult issue It is primarily these primary sources that provide the basis for the Commission's analysis of mass killing during the Shifta War

102 An additional challenge faced by the Commission in analysing mass killings related to the manner in which the war was fought As discussed above, the difficulty with

the Shifta War revolved around the central players On the one hand, there was the Kenyan military, a traditional fighting force with all the usual trappings of a modern army at war On the other hand, there were the highly unconventional Shifta forces that included within their ranks some men with paramilitary experience (as soldiers, regular and administration police and so on) Most Shifta fighters, however, were ordinary civilians Also associated with the Shifta were non-fighting civilians who provided food, shelter and intelligence Another less frequently mentioned group consisted of those who claimed that they had been forced to join (or otherwise support) the Shifta against their will Most residents of Northern Kenya, however, describe themselves as non-actors whose only interests lay in keeping themselves and their families safe from both the Shifta and Kenyan military forces The heart of the problem for the Commission was to disentangle these separate but intertwined groups and to assess the extent of their roles in mass killings

103 The first issue of the nature of the Shifta forces was easiest to resolve The Shifta tended to operate in small units of about 25 to 30 men who staged guerrilla-type skirmishes that typically produced a fairly small body count per encounter Preliminary analysis of materials held at the Kenya National Archives reveals that the typical run-in between Shifta and the military ended with two, three or four insurgents dead Crucially, there is little reference to army fatalities and casualties, suggesting that the Shifta tended to be on the losing end of these encounters It was relatively rare for the Shifta to engage in the kind of large-scale battles that would typically result in a larger loss of life

104 One such encounter took place near Mandera in April 1967[59] Eight hundred insurgents took a stand against the military and fierce fighting left 40 dead Over the course of the next few days, a further 24 were killed This represents one of the very few occasions during the entire campaign when battle-related fatalities were in the double digits

105 The typical incident, based upon testimony provided to the Commission, involved the arrival of security forces in a given village or *manyatta* Residents would then be asked any of a number of questions relating to the insurgency Had they seen any fighters in their area? Were they harbouring any Shifta? Or feeding them? Did they have any information on imminent raids or attacks? A search would then be conducted. Depending on the response, security forces would either leave empty-handed or rampage through the village Those unfortunate enough to witness such rampages have been left with the memories of terrible scenes During hearings in Wajir, Ibrahim Dayow Mohammed described the events in Hadado in 1966

59 Hannah Whittaker Pursuing Pastoralists the Stigma of Shifta during the Shifta War in Kenya 1963 – 1968 (2008) 10 *Eras*



Community members at a Commission forum.

> The most shocking day for me was in 1966 when the Kenyan army came to Hadado. The military came to us in more than 30 trucks and they surrounded us. They did not ask us anything. They opened fire on us without any concern. They killed women, men, children, old men and animals. Nothing was left. I remember relatives who were there, most of them died, but only a few escaped. The most painful thing is that I saw my father, Dayow Mohammed Ali..... I also remember Hussein and Mohammed were killed during that time. Three of my brothers died there. These were Ahmed, Jilo and Hassan. When I remember that day, I feel like a dead man. It was the most shocking experience of my life. The worst thing was I could not report this incident to anybody. Some of our animals were all killed. Others were taken away from us. Houses were burnt. How did they expect us to continue living? I slept in the bush for three days. I was shocked and did not know what to do. That is the worst experience I had in my life.[60]

106. The Commission heard similar stories from witnesses further north in Mandera border town:

> In June 1964 there were killings of innocent citizens and their livestock was forcefully taken away. The livestock composed of 500 camels, 1000 cattle and 5000 sheep and goats. Seven people were killed, that is, Salat Osman Aligal; Isaak Ibrahim Osman; Mohamed Ibrahim Osman; Ilow Abagubow; Adam Balaya Adawu; Ibrahim Musa Malishe; and Issak Abdow Abdikadir Abudalahi Hussein of Wante, Godha.[61]

60 TJRC/ Hansard/ Public Hearing/ 19 April 2011/ Wajir/ p. 45
61 TJRC/ Hansard/ Public Hearing/ 25 April 2011/ Mandera/ p. 5

107 The stories in Mandera were further corroborated by witnesses to the Commission Guliye Musa Mohamed, one of the witnesses, described the inhuman conditions they were subjected to

> We were beaten Those other two people were not beaten like us I was thoroughly beaten because I was strong This was a very traumatising experience Sometimes they would tie my legs At times, I could feel pain in the head They would tightly hold my testicles Pull my penis. They would tie it I never thought the penis could be pulled like that There was an SSP from the police who gave orders that I be burnt to death Sometimes I was electrocuted I had undergone so much pain The Ogaden people heard about the suffering I had undergone when they were taken to a concentration camp They used to take fathers and taken the daughters away"[62]

108 Commission witnesses described innocent civilians going about their normal activities and then somehow getting caught up in a whirlwind of violence far beyond their control and understanding

> How can a person who was taking care of his camels be a Shifta? He has no gun, *panga* or axe He does not even have a knife So how can that person be a Shifta? Forty four young men were killed at a place called Afkar without being questioned They did not have any guns or arms Their camels were drinking water at a borehole and they just died like that [63]

109 The Commission was informed that even places of worship offered no sanctuary. In 1967 (the exact date and month are unknown) – administration police burst into Jamia mosque in Isiolo in apparent pursuit of suspected militants At the end of the raid at least seven people lay dead Sheikh Ahmed Nassir witnessed the entire scene

> At that time, I was a Borana teacher at a primary school which has been elevated to a secondary school I was a teacher there in 1967 During lunchtime, I used to come to Jamia mosque which is the biggest in town One day, when I was almost getting out of the mosque after the afternoon prayers, the Kenya military officers entered the mosque We were almost eight people Before we got out, those officers came in front of us The soldiers sprayed bullets at us I fell down, pretending that I was shot and the remaining seven died I was the only survivor I ran [64]

110 Another witness, Hassan Sheikh Omar, lost his father in Jamia Mosque Like Sheikh Ahmed Nassir, he describes a disturbing and tension-filled scene

> When people were praying, my father was not in Jamia mosque for the initial congregational prayers He came to the mosque quite late He went there and started praying and then the Administration Police (AP) officials sent by the District Commissioner came there They sat outside the mosque When they saw the army going inside the mosque, they went back to the DC They killed everybody [65]

62 TJRC/ Hansard/ Public Hearing/ 26 April 2011/ Mandera/ p 44
63 TJRC/ Hansard/ Public Hearing/ 19 April 2011/ Wajir/ p 7
64 TJRC/ Hansard/ Public Hearing/ 10 May 2011/ Isiolo/ p 22
65 TJRC/ Hansard/ Public Hearing/ 10 May 2011/ Isiolo/ p 26

111. In Garbatulla, the Commission encountered a slightly different pattern There most killings seemed to take place in or around the protected villages For whatever reason, villagisation was much more volatile in Garbatulla than in other parts of the region Witnesses and statements repeatedly refer to "The Day of Killings" in Garbatulla [66] The details are thin simply because no one can be certain about the day, month or even the year But all indications are that the Kenya Army was responsible for a particularly violent incident that took place in the camps in response to an attack on a convoy of military trucks between Modogashe and Garbatulla On the morning of the killing, the army swept through the camp Witnesses describe soldiers jumping out of trucks and indiscriminately opening fire Men and boys out with their animals were shot in the back and legs Women described the burning of huts, beatings and rapes How many people died on this day will never be known But a large number of people must have been killed, given the ferocity of violence described

112 Even though he admits that his own understanding is limited, Golicha proved to be one of the Commission's most important sources on the disturbing and elusive issue of the day of killing in Garbatulla

> I would like to mention one of the biggest happenings in Daaba It was called 'Guyaua' which means "The Day of Lamentations" On that day, the calls '*Ua! Ua!*" (Kill!, Kill!) 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 [67]

113 Golicha continued

> 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 Shifta were taken in military vehicles, specifically the Garbatulla situation, people were shot and our respondents saw the remains we actually saw bones at a place called Taiboto of the people who were killed [68]

114 As with the Gula rapes previously described, 'The Day of Killings' triggered a mass exodus of Isiolo residents to Somalia Like the Sakuye, many Isiolo people found themselves unable to obtain proper documentation when they returned to Kenya. The effects of a long-hidden mass killing in an isolated camp have thus been incredibly profound and long-lasting

66 Also sometimes referred to as Day of Ua' or Guyaua which means "day of lamentations "in Oromo
67 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Isiolo/ p 4
68 TJRC/ Hansard/ Public Hearing/ 9 May 2011/ Isiolo/ p 9

115 Garbatulla was also the location of yet another mass killing that deviated somewhat from the script in that there was a certain amount of selection of victims The story of this particular killing was told to the Commission by Adano Diba, currently a resident of Moyale but originally from Garbatulla In 1967, Diba was just seven years old, but he clearly remembers a local meeting (*baraza*) presided over by the various administration and security officials The experience of testifying before the Commission was extremely emotional for the doctor, but somehow he managed to compose himself enough to share his memories of that difficult day

> On that day, people were called together for a *baraza* by administration officials I happened to be in the crowd The security and administrative officials started calling names from a list People were called to the dais and I saw my father among them When his name was called, that was the last time that I saw him As a child of seven years, I was not following the proceedings but when I went back to where I lived, I remember telling people who were around me that I saw my father among the group that was called I was then told that he had been killed by security forces [69]

116 Many years later, Diba would learn that his father's name was on the list because he was suspected of being a supporter of Shifta His father's elder brother - also labelled a Shifta - was somehow spared a similar fate Like so many other victims and survivors of such killings throughout Northern Kenya, Diba could not reconcile such descriptions with the man that he knew and loved

> My father was a herdsman tending goats, sheep, cattle and camels From what I remember, I had never seen him with a gun, even when the security forces took all our livestock, except two camels He was always by my side and I lived with him up to the day of his death [70]

117 Diba was unable to say whether his father's inclusion on the list was the consequence of any proper investigation Indeed, if the broad pattern from other parts of Northern Kenya holds true in Garbatulla, the Commission regards it as highly unlikely that any such inquiry took place Informants were quite regularly used by the military to gather intelligence about local Shifta plans and movements However, their usefulness seems to have been compromised by the fact that their information was frequently tainted by what one Wajir District Commissioner described as "the usual tribal animosity and blood feuds" [71] What Diba's case illustrates is that not all mass killings in the region were randomly executed, there appears to be a class of mass killings where the victims were selected and killed according to some kind of criteria The Commission was not at all convinced that the military criteria for the selection of men like Diba's father are founded on anything other than vague

69 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 55
70 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 57
71 From Hannah Whittaker 'Pursuing Pastoralists the Stigma of Shifta during the 'Shifta War' in Kenya 1963 – 1968' (2008) 10 *Eras*

suspicions and fairly random associations That is certainly the perception of Diba and others who suffered similar losses in Northern Kenya

118 While mass killings are the focus here, it is important to acknowledge that individual extra-judicial killings and murders took place at a high rate during the same period. A Balambala resident's story is fairly typical in that he was witness to what he described as the sudden and unprovoked shooting of an unarmed herdsman

> Looking far east to the field, a man with two goats appeared and a group of soldiers had passed by just before I saw him When they were like 200 steps from where I was, I heard gun shots The man whom I saw with the two goats was already down on the ground dead [72]

119 More often than not, men were the targets of such random shootings but women were also caught up in them as well, a fact that makes it even more difficult to attach military and tactical legitimacy to some of these killings Speaking *in camera*, an Isiolo man described the discovery of his wife's dead body near a watering point [73] She had apparently been shot dead by a passing military patrol It is difficult to imagine under what circumstances a solitary young woman watering her animals could be a legitimate military target

Assigning Responsibilty

120. The nature and circumstances of mass killings during the Shifta War presented the Commission with the extraordinarily difficult task of assigning responsibility In most instances, the hurdles were insurmountable A defining characteristic of the mass killings of Northern Kenya is the anonymity of both victim and perpetrator. The soldiers ambushing the wells and villages of Northern Kenya were just as unknowable as those being ambushed

121 As the Commission discovered from its hearings, investigations and statement-taking, half a century has essentially wiped away the names, ranks and other details that could have helped identify particular individuals Fading memories, however, was only one of the obstacles faced by the Commission on the particular issue of identification The Indemnity Act of 1970 protected those acting on behalf of the state during the Shifta War from any form of accountability in incidents involving harm to victims or damages to their property, it also precluded any form of inquiry into the events during that period Thus there are no contemporaneous investigations available into the events described by the witnesses who testified before the Commission

72 TJRC/ Hansard/ Public Hearing/ 14 April 2011/ Garissa/ p 3
73 TJRC/ Hansard/ In-camera Hearing/ 10 May 2011/ Isiolo/ p 19

122 In the absence of the identification of specific individuals or even organisations, the Commission had to paint a much more general picture of whom or what organisations are responsible for the atrocities described Firstly and most obviously, there are the security forces In addition to the regular military and the General Service Unit (GSU), a specialised paramilitary wing of the Kenya Police was also involved, though its role was initially a supplementary one Serving in the military or the GSU during the Shifta War became a stepping stone, many officers who served in Northern Kenya eventually rose to the very highest ranks of Kenya's armed forces It is a well-known fact of Kenyan military history that the seeds of Kenya's military elite were sown in Northern Kenya It is these men and the institutions they served that bear ultimate responsibility for the conduct of the Shifta campaign, including all the crimes, atrocities and violations perpetrated as part of that campaign

123 The Commander of the Kenya Army during the Shifta War was (then) Brigadier Joseph Ndolo Brigadier Ndolo's military career came to a sudden and ignominious end in July 1971 when he resigned in the wake of a coup plot uncovered a few months earlier[74] The prosecution of those accused of involvement in the coup attempt revealed a link to Major-General Ndolo, who by that time had been promoted to the rank of Major-General (unprecedented for a Kenyan African) and the Chief of Defence Staff To the surprise and shock of many, a series of testimonies revealed that Ndolo not only knew about the planned coup, but also had assured the plotters of military success Once this became public, his position at the very apex of Kenya's combined defence forces became untenable, he had to leave

124 The Commission found absolutely no connection between the implosion of the Major-General's career and the war. The Shifta campaign was probably the high water-mark of Ndolo's military service. Lavishly commended for "maintaining the Kenya Army at the highest pitch of operational efficiency as well for the training of fighting units", at the end of the war, Ndolo was awarded the Chief of the Order of the Burning Spear.[75] As Commander - and a highly regarded one at that - the Major-General could not claim ignorance or a lack of responsibility for the conduct of his troops in the plains and deserts of Northern Kenya This conclusion does not mean that the finer operational details of every single mission carried out during the war rested with Ndolo The overall tenor and tone of the campaign, however, was formulated by and flowed from the army high command Foot soldiers and patrol men did not create their own operational orders Those orders were the result of careful planning sessions held, literally and figuratively, in Ndolo's office As was clearly established by

74 Documentation of this attempted coup is limited For a copy of a Hilary Ngweno article see http //www marsgroupkenya org/multimedia/cache/cache_c21f969b5f03d33d43e04f8f136e7682_9003c1b45d3605e00f541e2326c7b4ec accessed 25th February 2012

75 From First Honours List the *Kenya Gazette* Vol LXIX – 28a (1st June 1967) 594a

the Nuremberg and Tokyo Tribunals after World War II, commanders are ultimately responsible for the actions of their subordinates

125 When Ndolo resigned in 1971, he was replaced as Chief of Defence Staff by Brigadier (later Major-General) Jackson Mulinge Like his predecessor, Mulinge belongs to the group of those with direct responsibility for the conduct of the war As Lieutenant-Colonel, Mulinge led the 3rd Battalion of the Kenya Rifles into the war. Mulinge was much closer to battlefield action than Ndolo and won much respect for the way that he handled himself in the theatre of war

> He has spent more time in the operational area than any other senior officer, never relaxing in his efforts to attain peak military efficiency and bring the Shifta to battle Despite numerous difficulties, he has remained indomitable in spirit, setting for the Army a magnificent personal example of smartness, loyalty and devotion to duty [76]

126 The Commission's references to Mulinge and other top officials should not be seen as ignoring the great personal sacrifices made by military men as they defended Kenya against what was a threat to its territorial integrity Such sacrifices and contributions to the defence of the nation cannot be used to minimize responsibility for violations of the laws of armed conflict and other gross human rights violations As is often the case, individuals who are involved in gross human rights violations may also have made positive contributions to their community and nation We thus distinguish between efforts to evaluate the overall character of an individual and efforts to evaluate specific actions or omissions of an individual It is the latter that is the focus of the Commission and not the former In many ways the Kenya Army today is a much-changed institution Current military officers probably feel quite distant from the policies and strategies of their predecessors The question of responsibility, however, is one that still has to be addressed and sought at the very highest levels

127 The police were also involved in the Shifta War They too need to be called to account, even though the police did not feature as regularly and as prominently as the army in most witness accounts presented to the Commission The police, it appears, played a somewhat specialised role They occupied the space between civilians and the military What this meant in the field was that when, for instance, a military patrol approached a *manyatta*, the police accompanied them and were the ones charged with questioning and interrogating its residents Retired Colonel Muhindi confirms this operational practice

> If you found people away from these *manyattas* then you became suspicious and you had to interrogate them to know what they were going Normally as military we were accompanied by the police and the police did the duty of interrogating them [77]

76 From First Honours List the *Kenya Gazette* Vol LXIX – 28a (1st June 1967) 594a
77 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p 8

128 Based on evidence and testimonies presented to the Commission about operations in Northern Kenya, it does not appear to be the case that the police restricted their activities to interrogation The interactions between security officers and civilians during these operations were highly charged, chaotic and violent affairs that often ended in bloodshed. The unpredictability surrounding these encounters makes it difficult to dismiss the police from scenes of violence simply on account of their technical and formal designation as interrogators Police culpability indeed becomes quite clear when one examines the convincing evidence that the interrogations conducted by the police were little more than extended and brutal torture sessions

129 The General Service Unit (GSU) of the Kenya Police came up almost as regularly in Commission hearings and statements as the army itself One of the claims repeatedly made in Northern Kenya is that the GSU was "banned" from the region in the 1970s, 1980s and 1990s on account of crimes and atrocities committed during the war When pressed, however, witnesses were unable to provide the Commission with any meaningful details about GSU activities The unit's official history was also unhelpful, only confirming that the unit did indeed serve in Northern Kenya between 1964 and 1967 under the command of one R J Angel, a senior superintendant of police [78] The GSU is widely described as the most militarised and best trained wing of the police force, specifically charged with "special operations and civil disorder" What this meant within the context of the Shifta war remains something of a mystery Given their paramilitary training, however, GSU officers probably played much more of an operational role than the regular police

130. The Commission also paid very close attention to the role of the civilian administrators of Northern Kenya during this period The general assessment is that civilian administrators played an important role alongside members of the security forces in a number of areas, including the controversial villagisation policy that has been examined in detail elsewhere in this chapter Villagisation was above all, a policy driven by the imperatives of the war and the need to contain and control a nomadic population. The provincial and district administrators were the ultimate supervisors of these camps, although provincial and district authorities may not have been involved in the planning of every single raid or incursion into protected compounds Indeed, it is altogether possible that they had very little (if any) knowledge of the operational side of things Nevertheless the civilian administrators were part and parcel of the State apparatus responsible for the creation and maintenance of these camps

78 The General Service Unit http //www.kenyapolice.go.ke/general%20service%20unit.asp Accessed 26th February 2012

131 Diba's account of his father's death in Garbatulla suggested that, in some cases, administrators may have played a more direct and ominous role in the death of an unknown number of civilians To recap, Diba's father was shot dead in Garbatulla with several other men What was so unusual about this incident compared to others described to the Commission was that before the shooting, a public meeting was held in the town and a list of names read out The named men were then loaded onto trucks and driven some distance out of town before being killed Diba's testimony suggested that administration officials may have convened the *baraza* and even read out the list of names of those to be killed If true, civilian authorities facilitated the killing of large groups of probably innocent people The Commission noted, however, that Diba's account was exceptional and was not repeated anywhere else in the region As a single incident, it could not be described as part of a broader trend or policy

132 Some of the angriest and most emotional testimonies heard by the Commission were from bereaved family members unable to understand why disciplinary or legal action had never been taken against individual officers responsible for the death of their family members These testimonies were challenging for the Commission They indicated that expectations were very high that the Commission would be able to deliver a highly personalised form of justice This is unlikely to happen Quite aside from the continuing uncertainties surrounding the Indemnity Act, there is the dilemma of not being able to identify those directly responsible when only the scantiest of details are available The nicknames, first names and aliases that witnesses and survivors gave in evidence could not be used to initiate specific searches for individuals or to recommend prosecution

133 The Commission was thus only able to assign responsibility at a general level and concluded that the security forces were involved in committing brutal atrocities against the civilian population in Northern Kenya

134 Finally, in addition to the State security forces, the Shifta themselves also committed atrocities The Commission found the Shifta fighters difficult to document The sense today is that because the movement was so thoroughly defeated, stigma attaches to anyone who would publicly acknowledge having associated with the secessionists or to admit having fought with them Even so, the Commission unearthed certain reluctance on the part of the general public in the region to condemn the fighters A number of witnesses portrayed them as fairly harmless

> **Leader of Evidence:** Kenyan soldiers were killing indiscriminately Would the Shifta cause any harm to the people or it was only the Kenyan soldiers that would cause harm? Were the Shifta also involved in the killings or destruction of property?

Mr Ibrahim Dayow Mohammed: The Shifta never used to kill people They would ask for food, eat and leave That is what the Shifta would do They never used to kill people.[79]

135. Others had much more menacing stories to tell Edwin Jilo of Moyale lived in an area prone to Shifta attacks As Jilo, described them, these attacks were extremely violent

> The first *manyatta* that was attacked was called Kochore By that time, it belonged to the Guracho Sacco of the people There was another *manyatta* called Rabale I think by then it was in Oda Location It was attacked by the Shiftas and 20 people were killed and 30 injured Some of those who were injured could be present here Women were raped, men castrated and camels shot It was difficult for us to take our camels out in the open [80]

136 This account of a Shifta raid, with its extreme and indiscriminate violence against the civilian population, echoed many of the accounts summarised above of raids by the security forces The overall story of atrocities during the war against civilians cannot be told without some consideration of Shifta responsibility Commission research on the issue was not detailed enough to allow for a fuller exploration Of the 788 instances of war-time extra-judicial killings and murder reported to the Commission, only two identified members of the Shifta forces as responsible The statistics collected on sexual violence suggest a similar trend, with just 2 per cent blamed on Shifta fighters The Commission believed that as small as these numbers were, if the incidents involved crimes and atrocities as serious as those outlined by Jilo, then they needed to be further investigated. It is possible that supporters of secession refused to report atrocities committed by Shifta forces

Mass Graves, Burial Sites and Forensic Possibilities

137 With official and unofficial claims of between 2 000 and 7 000 dead, the Commission had to confront the issue of what had happened to the bodies of the dead Concerned residents wanted the Commission to establish what had happened to all of those bodies Research and evidence suggest various answers Nene Mburu's description of the protected compounds pointed to the digging of crude graves just beyond the thorn fences encircling the *manyattas* [81] These graves would have accommodated the bodies of those who died of natural causes, such as disease or old age, albeit at the elevated rate occasioned by the poor conditions in the camps. But as has been discussed, the protected villages themselves were the scenes of astonishing violence, including mass killings It is, therefore, likely

79 TJRC/ Hansard/ Public Hearing/ 19 April 2011/ Wajir/ p 45
80 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 37
81 Nene Mburu *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005) 220 – 221

that the victims of such incidents would have been buried in and around the compounds Indeed, during a field visit to Garbatulla on the May 12 2011, the Commission was shown the location of several very large graves apparently containing hundreds of bodies

138 The Commission lacked the capacity and specialist pathological expertise to carry out any investigations into the bodies buried at Garbatulla and other sites However, it recognised the need for proper excavation and forensic investigation The Commission recognised the enormity of such a task, considering the possibility of thousands of bodies being in a state of advanced decomposition The issue of identification posed an even more daunting challenge, given the prohibitive costs of DNA testing on such a scale One way out of this dilemma would be to conduct a number of preliminary searches and mapping of sites throughout the country using surviving locals who may know the sites and the people buried in them In Moyale, for instance, the Commission heard testimony from Abdullahi Laffa, a former administration policeman who claimed to have precisely such knowledge

> The dead bodies were thrown into mass graves in three different locations The first one was below the Kilta Hill, the second one was at the old road at Odha and the third place is on the way and I cannot remember the exact name It was a government directive to get all the Sakuyes on allegations that they were Shiftas I inquired about the killings and why government vehicles were carrying the corpses, but the then DO asked me to stop being nosy and stop prying into those operations Approximately 20 to 30 persons died Ministry of Works vehicles would carry the corpses and dump them.[82]

139 Another witness, Councillor Alio Tepo Apudo, substantiates this claim of the existence of mass graves, asserting

> These mass graves, at that time Sakuye did not have people who were free and could bury their people anywhere they wished, because all their leaders were in prison But the official information we have, the mass grave is just near the big mosque, according to the information that I know and I have Because there is no individual person of Sakuye who could do that, because the government would be able to release a public works vehicle to be able to carry out the operation this was done in two main areas, one area is called Kausera or Kaushaba and the other area is at the old mosque that is where the mass burials were done[83]

140 Time is running out The war broke out nearly a half a century ago The number of direct witnesses and survivors able to direct and assist in such inquiries are few and dying out Therefore, a real sense of urgency needs to inform any forensic undertakings

82 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 15
83 TJRC/ Hansard/ Public Hearing/ 30 April 2011/ Moyale/ p 7

War's End - October 1967

141 The signing of a Memorandum of Understanding in Arusha, Tanzania on 28 October 1967 between the governments of Kenya and Somalia marked the formal end of the war Then Zambian President Kenneth Kaunda mediated talks between Kenya and Somalia, resulting in the announcement of a ceasefire and a gradual winding down of hostilities

142 Finally, in April 1968, all - and this was a critical distinction - large-scale military operations in Northern Kenya came to an end Diplomatic relations between the two countries were restored and later in 1968 Kenya hosted President Sharmarke and Prime Minister Egal of Somalia on a full state visit to Kenya

143 Events in Northern Kenya do not normally form part of the mainstream narrative of Kenyan history and the Arusha MoU does not elicit much interest outside of Northern Kenya Commission witnesses in the region thus demonstrated detailed knowledge of an otherwise obscure event The Commission was left with the impression that there was a great deal of ambivalence among the peoples of Northern Kenya about the Arusha MoU and the cessation of hostilities Most civilians were quite happy for the war to end as they had routinely been caught in the crossfire between the military and Shifta fighters While the Arusha agreement offered the chance of a return to a simple pre-war normality for some, for others it opened a humiliating chapter in the region's history Although most Commission witnesses did not describe themselves as secessionists - the collapse of Somalia as a coherent state over the past 20 years makes that an unrealistic position to adopt They blame the Arusha agreement for the incorporation of their region into a hostile, unwelcoming Kenya

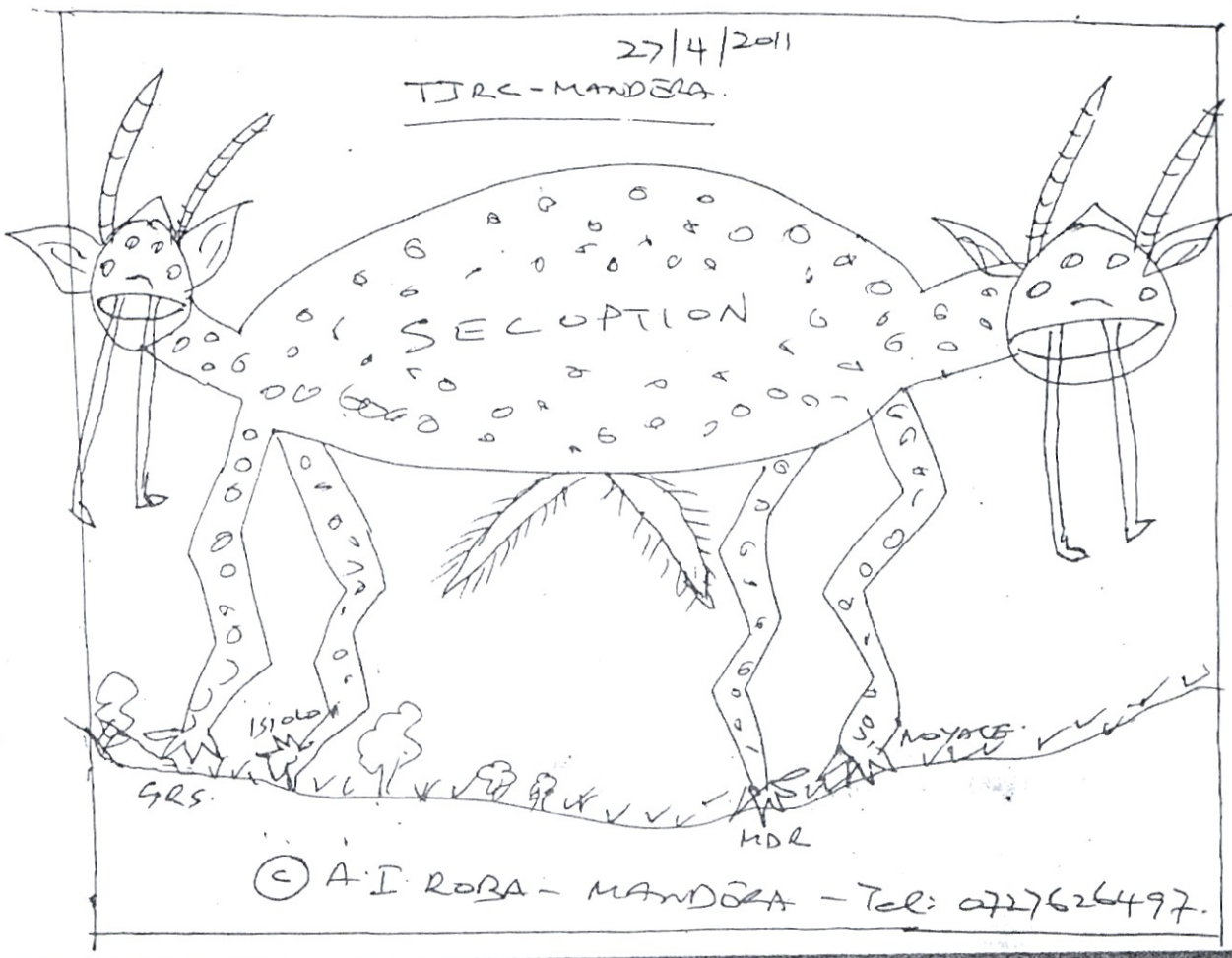
144 Some Commission witnesses complained that they had no idea what was decided during the bilateral negotiations between Somali and Kenyan government officials that led to the Arusha agreement Suleiman Mahmud Isaak of Mandera said "The contents of the agreement were not revealed to the people of the NFD" [84] Isaak went on to argue before the Commission that as the two governments buried the hatchet, very little concern was paid to the priorities of ordinary people and that, if anything, they continued to be "punished" for their stand during the war [85]

84 TJRC/ Hansard/ Public Hearing/ 25 April 2011/ Mandera/ p 3
85 TJRC/ Hansard/ Public Hearing/ 25 April 2011/ Mandera/ p 4

145 Testimonies such as Isaak's support the view that the Shifta War was primarily a proxy war between Somalia and Kenya and that without the logistical support of Somalia it could not be sustained At the same time, it underscored the point that the formal end of the Shifta War did nothing to address the anxieties (under-development, neglect and discrimination) that drove them to demand autonomy and secession and that made them susceptible to Somali influence and support

146 Northern Kenya remains today a politically marginalised, culturally unfamiliar and geographically distant territory seemingly doomed to play host to some of the very worst of the Kenyan state's excesses Defeated, divided and poor, the people of the region presented the Commission with a complex mix of victims and perpetrators with unresolved historical grievances

147 Put together, these elements would create a combustible and unstable foundation for the post-Shifta era Such an unstable mix continues today, complicated by more modern developments, such as the emergence of Al-Shabaab and other similar militant organisations Deliberate interventions by the State to acknowledge, address and correct past injustices and neglect would go a long way to reverse this historical legacy



The animal which is only found in Northern Kenya

(TJRC/Hansard/Public Hearing/Mandera/27 April 2011)

'Thank you very much Commissioners for coming here to listen to our views. Whatever you have been listening to from yesterday, I thought of putting all those things into a diagram. This is a picture of an animal which is only found in northern Kenya. It cannot live in cold places. It lives in hot and dry places. It is a very large mammal. One leg is in Garissa and the other in Mandera. The other leg is in Isiolo and the other one in Moyale. So, it is as large as that. It has two heads and each head takes one other human being. This animal, for your information is security and corruption. Each head takes one person per day in normal circumstances, if it is not disturbed.

For your information each head rotates. Each head has four eyes. This animal is 48 years old and has three children. The first born is 15 years old. It counts its years differently. So, we shall just take it like that. If I may explain, it is 15 years of Kenyatta regime, 24 years of Moi regime and eight and a half years of Kibaki regime. So, you will find that this animal is called 'security and corruption'. You will find that in this region, there are many soldiers. There are Kenya army camps, Administration Police, and regular Police. On top of that we have people called 'homeguards' and their work is to maintain security. I wonder who is fighting with us. I have not seen that enemy. So, security people have turned into wild animals and started eating human beings. So, for the last 48 years, it eats two adults per day times 365 days. That is about 35,000 people and it is not disturbed. But if it disturbed it can cause massacres.'

CHAPTER



Unlawful Killings and Enforced Disappearances

Table of Contents

Massacres	149
Introduction	149
Historical Antecedents	152
Kedong Massacre: Valley of Death	153
Giriama Massacres: Death by the Sea	156
Kollowa Massacre: Dying to Believe	159
Mau Mau Massacres	163
Lari Massacre: The Night of the Long Knives	164
Hola Massacre: Of Conspiracies and Cover-Ups	171
Massacres in North Eastern	180
Bulla Karatasi Massacre	193
Wagalla Massacre	221
Malka Mari Massacre	367
A Massacre of Children: Turbi Massacre	375
Revenge Massacre: Bubisa Massacre	382
Massacres in the North Rift	410

Murkutwa Massacre, Marakwet 411
Lotirir Massacre 420
Loteteleit Massacre (28 April 1988) 428

Political Assassinations 430
Introduction 430
Definition and Context 432
Pio Gama Pinto 436
Tom Mboya 440
Josiah Mwangi Kariuki 446
Robert Ouko 455
Crispin Odhiambo Mbai 474
Conclusion 476

Extra-Judicial Killings and enforced Disappearances 477
Introduction 477
Definitions 478
Context 482
Episodes of Extra-Judicial killings and Enforced Disappearances 487
Colonial Period 487
President Kenyatta's Era (1963-1978) 492
President Moi's Era 495
Killings during Electoral Periods 518
State Responses 541
Responsibility of Main Actors 546

Massacres

Introduction

The history of Kenya is replete with horrific accounts of massacres committed by state security agencies in what they traditionally call security operations. Most of these massacres have been committed in Northern Kenya, particularly in North Eastern Province and in the North Rift Section 5(c) of the TJR Act, therefore, specifically required the Commission to investigate massacres as part of its broader mandate to establish an accurate, complete and historical record of gross violations of human rights committed in Kenya from 1963 to 2008

1 The term 'massacre' was not defined in the Act, nor is the term defined in Kenyan or international law It was left to the Commission to elaborate an appropriate definition for a massacre

2 In developing a definition, the Commission considered several issues First, it looked at popular references to the term 'massacre' This included consideration of testimonies of people affected by a security operation or an attack the aftermath of which they considered a massacre The Commission also considered references by the media While it is difficult to determine cause and effect, the use of the term 'massacre' by the media influences public discourse around an event People are more likely to refer to an incident as a massacre if that is how the media first reports the incident

3 Secondly, the Commission considered the work of academics and institutions that have dealt with the subject of massacres The simplest definition of the term massacre is found in the dictionary The Oxford Advanced Learners Dictionary defines a massacre as 'the killing of a large number of people, especially in a cruel way'[1] This seemingly simple definition highlights one of the contentious issues inherent in defining the term 'massacre' How many people must be killed for an incident to qualify as a massacre? One scholar has observed that

1 Oxford Advanced Learners Dictionary International Students Edition 8th Edition

> a massacre implies the death of several people, although it is impossible to specify a minimum figure There is nevertheless a difference in magnitude between the series of 'small-scale massacres' such as those that took place in Algeria or Colombia, and a very large-scale massacre such as in Rwanda [2]

4. A United Nations commission conducting an inquiry on human rights violations after the Guatemalan Civil War defined massacres as a mass killing resulting in three or more deaths This numerical threshold is considered by many experts as too low.

5 While it is clear that the number of deaths is an important element in defining massacre, the numbers alone cannot adequately distinguish a massacre from a 'normal killing' To define massacre, therefore, one needs to look beyond mere numbers A commonly used definition of massacre that is not dependent on a specific numerical threshold was developed by Jacques Semelin According to Semelin, the term massacre refers to

> a form of action, usually collective, aimed at the elimination of civilians or non-combatants, including men, women, children or elderly people unable to defend themselves The definition may also include the killing of soldiers who have been disarmed [3]

6 The definition adopted by Semelin raises the issue of the connection between armed conflict and massacres Semelin's definition appears to assume that massacres only happen within the context of an armed conflict However, historical examples from Kenya and other countries indicate that killings which people describe as massacres can be perpetrated in relatively peaceful times For Kenya, save for the killings committed during the Shifta War, most of the killings that are described as massacres occurred during peace time Armed conflict can create conditions that engender massacres, since it radically reduces human relations to that of friends and enemies Hence, a massacre can be looked at from different perspectives as an extension of armed conflict, as in the case of mass killings during the so-called 'Shifta War' (1963-1967) or as an extension of political conflict

7 More importantly, Semelin's definition includes an element of intent. He considers a massacre as 'a form of action, usually collective, aimed at the elimination of civilians or non-combatants' The dictionary definition quoted above did not include the element of intent, but did suggest that to qualify as a massacre, the killings must occur in a cruel way Therefore, the accidental killing of a large number of people would not qualify as a massacre under Semelin's definition, although if the accident led to a particularly painful or cruel form of death, it might qualify as a massacre

2 R Gellately & B Kiernan (2003) The Specter of Genocide Mass murder in historical perspective (2003) 13
3 Semelin Jacques (2007) Purify and Destroy The political uses of massacres and genocide p 323

8 Thirdly, the Commission looked to international criminal law, international human rights law, and international humanitarian law for guidance in developing a definition of massacre As already noted, the term 'massacre' is not defined under international law. Depending on its context, however, a massacre may qualify as a crime under international criminal law or international humanitarian law, or as a violation under international human rights law

9 Massacres are often confused with the international crime of genocide While genocide may be committed by way of a massacre, many massacres do not meet the strict legal definition of genocide The definition of genocide under the TJR Act is consistent with the definition of genocide under international law A massacre can only qualify as genocide when it is evident that the perpetrators of the massacre killed the victims specifically because of their ethnicity, religion, nationality or race This 'specific intent' requirement of genocide is often difficult to prove Whether there is evidence of such specific intent with respect to any of the massacres investigated by the Commission is a point that is discussed later in this report

10 A massacre may also qualify as 'crimes against humanity' The definition of crimes against humanity provided in the TJR Act is consistent with the international law definition and requires a 'widespread or systematic attack directed against any civilian population' In addition, the massacre would need to be conducted by individuals who had knowledge of that widespread or systematic attack While massacres are often directed against a civilian population – and that is certainly the case for the vast majority of massacres investigated by the Commission – it is often difficult to show that a massacre is part of a widespread or systematic attack directed against such a civilian population

11 A massacre may also sometimes be described as a war crime To qualify as a war crime a massacre needs to be committed as part of, and linked to, armed conflict, whether that armed conflict is international or non-international Finally, a massacre will always qualify as a violation of a fundamental human right – in this case, the right to life Deliberate killing by state agents without due process and not in self-defence violates the right to life The TJR Act defines 'killing and severe ill treatment of any person' as a gross human rights violation All massacres thus violate the right to life of the victims and may violate other fundamental human rights (for instance, the right to be free from torture and cruel, inhuman or degrading treatment) However, not all killings qualify as a massacre

12 Having considered the above issues and approaches, the Commission developed a simple definition of the term 'massacre' that does not establish a precise

numerical threshold and one which is contextual to Kenya In this regard, the Commission defined a massacre as the deliberate killing of several members a particular targeted group on a single occasion While there have been many massacres in Kenya, the Commission focused on a just a few due to strictures of time. Firstly, the Commission focused on massacres committed during the colonial period (Kedong Massacre, Kollowa Massacre, Giriama Massacres, Lari Massacre, and Hola Massacre) Secondly, the Commission focused on massacres committed in Northern Kenya (North Eastern Province, Upper Eastern and North Rift) This was in recognition of the fact that Northern Kenya has been the epicentre of massacres and gross violations of human rights. In this regard, the massacres documented here are as follows Bulla Karatasi Massacre, Wagalla Massacre, Malka Mari Massacre, Turbi Massacre, Lotirir Massacre, Murkutwa Massacre and Loteteleit The Chapter on Shifta War deals with massacres committed during the Shifta War

Historical Antecedents

13 Massacres have occurred throughout the history of Kenya. While they increased during and as a result of colonialism, massacres predate the colonial period In the 19th century and at the start of the colonial period, the hinterland witnessed a series of extremely bloody inter-ethnic and intra-ethnic attacks that left scores of victims in their wake The so-called 'Maasai Wars' of the 1840s, 1850s and 1860s are but one example of internal unrest that resulted in the killings of large populations as various Maasai groups went to war with each other over territory, pasture and succession Further west, the Kenyan countryside was also characterised by intensive conflict between the Kalenjin, Wanga, Kisii and Luo Once again, killing on a large scale was the outcome Lack of documentation makes it difficult to put a number on the actual loss of life

14 These massacres occurred just as Arab, Swahili and European traders began to lay claim to parts of Kenya Caravans that crossed Kenya as various emissaries of the British Empire tried to work their way inland were both the cause and subject of violence The presence of the caravans was undeniably provocative Joseph Thompson, renowned for his early exploration of Maasai territory, observed that in the early 1880s, hundreds of men were frequently lost in the attempt to open up the Kenyan hinterland to missionary, economic and eventually imperial activity [4] Despite the frequency and intensity of these episodes, those interested in Kenya's past have been unable to explore them in any great detail There is no way to know

4 J Thompson *Through Maasai Land – A journey of exploration through the snow clad volcanic mountains and strange tribes of eastern equatorial Africa* (1887) 455

how many lives were lost as a result of what were undoubtedly heated encounters between the invaders and the invaded

15 In the late 1880s, Kenya was placed under the control of the Imperial British East Africa Company (IBEAC) The company had been granted a charter in 1888 which gave it the right under British law to administer and develop the territory as it saw fit On 1 July 1895, administrative control passed from the IBEAC to the Foreign Office and the East Africa Protectorate was formed In 1902, there was another transfer of responsibility from the Foreign Office to the Colonial Office, with the transformation of present-day Kenya (except for the coastal strip) into a British Crown Colony

16 Kenya's new status as a colony had important implications Kenya was placed under a professional and modern bureaucracy that would align it with other parts of the British empire The British insistence on the three C's of colonialism – commerce, civilization and Christianity – also meant that previously neglected local populations were drawn into the net of European influence, which involved coercion and also resulted in bloodshed Colonisation opened fresh horizons for mass violence to occur on an unprecedented scale The British advance inspired indigenous populations to take up arms and resist the imposition of new social and political norms As in other parts of the British empire, colonial officials in Kenya became experts in implementing a policy of 'divide and rule' Differences between different communities were ruthlessly exploited in order to further colonial agendas Some communities were designated allies and others enemies, previous alliances were discarded and new ones forged All of this made for a volatile and unpredictable environment prone to outbreaks of extreme violence

Kedong Massacre: Valley of Death

17 The 'Kedong Massacre' (hereinafter referred to as 'Kedong') is the first properly documented large-scale killing in Kenya's colonial history Kedong may seem too distant and remote to be relevant to the issue of modern-day massacres To a certain extent, it belongs to a bygone era of lawlessness and adventurism that could not easily be replicated today However, Kedong's importance stems not from the actual events of 26 November 1895, but from its illustration of broader trends and patterns that recur with some regularity throughout the history of mass violence in Kenya

18 The central facts of the Kedong Massacre are that in November 1895, a large caravan consisting of about 1 100 men left Murang'a destined for the up-country station of Eldama Ravine. The caravan delivered supplies without incident and quickly turned around for the return journey Trouble struck when the caravan reached Kedong, a few kilometres outside Naivasha. The details of the various accounts differ, but it seems that the head of the caravan lost control of his men who kidnapped two young women from a Maasai manyatta Contemporary accounts are silent about what happened to the women, but they were almost certainly raped Despite numerous appeals from Maasai elders for the caravan to move on and to avoid any further provocation, some of the porters with the caravan tried to steal cattle and milk

19 Retaliation came swiftly On the morning of 26 November 1895, a group of Maasai came down from Mount Margaret and headed for Kedong where the caravan was based After a few initial skirmishes, the warriors set upon the unsuspecting porters with horrifying results. A total of 555 people were killed Most (456) of the victims were Kikuyu porters recruited from around Murang'a The rest were Swahili

20 Matters did not end there Andrew Dick was a hold-over from the IBEAC days who had stayed on in Kenya to operate a fairly successful transport and provisions business When news of events at Kedong reached him, Dick immediately recruited a French explorer, Versepuit, to assist him in pursuing the warriors responsible for the massacre Dick and Versepuit were warned to leave the issue to the relevant authorities, but they would have none of this They set off in hot pursuit The exact date is unknown, but at some point after 26 November 1895, Dick and Versepuit caught up with the apparently victorious party of Maasai celebrating their success Dick opened fire and killed approximately 100 of them on the spot Dick was eventually killed by the Maasai as he tried to escape

21 The initial attack on the caravan combined with the retaliatory attack by Dick and Versepuit, resulted in over 600 people being killed in a matter of days People who visited the scene were shaken to the core Dr Ansorge, a medical officer, wrote that 'by the way-side, bodies lay in some places by the dozen, where frightened and wounded men had huddled together in the vain hope of finding mercy or safety.[5]

22 Accounts written in the immediate aftermath are even more graphic One traveller who arrived five weeks afterwards observed.

> When I passed along the road there were skeletons everywhere The road itself was strewn with basket-work hamper lids (used in their donkey transport when moving to

5 WT Ansorge *Under the African Sun A description of native races in Uganda sporting adventures and other experiences* (1899) 50

fresh grounds), stooks, dressed leather garments – all loot It is interesting to note that the majority of the skeletons seen by myself were quite perfect, even to the first joints of their fingers and toes This showed clearly that while the vultures and ravens were able to deal with them, hyenas and jackals had not been numerous enough to do so [6]

23 While many colonial administrators were quite used to violence, the scale and intensity of Kedong still took them by surprise Their reaction was one that will strike most Kenyans as very familiar a commission of inquiry was established to investigate the causes and the circumstances of both the massacre and counter-massacre

24 The Truth Justice and Reconciliation Commission could not trace any direct documentation on the Kedong inquiry, but its findings have been circulated by secondary writers Members of the caravan initiated the cycle of violence when they abducted (and presumably raped) the Maasai women, and when they stole cattle and milk The Maasai response, however, was clearly disproportionate resulting in over 500 deaths While the Kikuyu and Swahili porters bore the brunt of the violence, the Kedong commission of inquiry concluded that they should be held responsible for provoking the Maasai into responding in the manner that they did

25 The apparent one-sidedness of the commission's findings as reported by secondary writers suggested that the entire exercise was a cosmetic one designed to somehow appease the Maasai, who had openly threatened to avenge the loss of their warriors during the retaliatory attack It has been argued that the British could ill afford to further antagonise such a powerful community and decided not to pursue the issue any further [7] Sure enough, within a matter of weeks, the British and Maasai would enter into a series of treaties outlining the safe passage of caravans and the railway through Maasai lands As part of these agreements, a buffer zone was created to protect the Maasai from future attacks by the members of such caravans.

26 There is much to learn from the Kedong Massacre It demonstrated that massacres are usually the product of long-running and deeply felt social and economic antagonisms In the case of Kedong, Maasai, Arab and Swahili relationships were obviously strained by the new economic forces unleashed by colonialism Massacres were also the product of the unplanned and the unexpected In other words, there was always an immediate trigger that set off the chain reaction of events that culminated in massive loss of life In the case of Kedong, the triggers were obvious the abduction (and probably rape) of Maasai women and theft of property That investigations were carried out and official commissions of inquiry created in the wake of mass killings came as no surprise, the instinct to find answers to difficult questions is deeply human The subsequent politicisation of

6 http //www britishempire co uk/article/sandersl/sandersindex htm (accessed 3rd November 2011)
7 AT Mason *Nandi Resistance to British rule 1890 – 1906* (1972) 164 179

such commissions was also far from unusual The very nature of mass killings made objective neutrality a difficult goal to achieve Kedong demonstrated the extent to which external concerns can find their way into the very heart of an inquiry and influence outcomes' in this case, the colonial government's desire to placate the Maasai in order to reach an advantageous agreement regarding future caravans and railways

Giriama Massacres: Death by the Sea

27. Kenya's colonial history witnessed a large number of mass killings that occurred in the context of colonial resistance This sub-section provides an account of the massacres committed during the Giriama Rebellion which took place between 1912 and 1914 Tales of this rebellion continue to be passed down from generation to generation The rebellion was unusually led by a woman Mekatilili wa Menza.

28 The first contacts between the Giriama and the British took place in the 1840s through the Church Missionary Society (CMS) mission in Rabai In 1890, another mission station opened further up the coast at Jilore Despite their best efforts over nearly half a century, CMS found it difficult to convert more than a few Giriama to Christianity The IBEAC was largely uninterested in Giriama territories as they did not seem to offer much commercial potential No development occurred outside the main urban areas of Mombasa and, to a lesser extent, Malindi

29 Initially, British administrators adopted the same detached approach to the Giriama as their predecessors Their main focus was on the pacification of larger and much more troublesome inland communities such as the Nandi. The transfer of Kenya's capital from Mombasa to Nairobi drew attention and resources inland As long as things remained calm, the British were happy to administer the coastal region indirectly using existing Arab-Swahili personnel inherited from the Mazruis, the former rulers of the coastal strip

30 Everything changed in 1912 when Arthur Champion was posted to the region as Assistant District Commissioner. He set up his headquarters at Mount Mangea [8]

8 Mount Mangea is approximately fifteen to twenty kilometers north-west of modern day Shimo la Tewa http //maps google co ke/maps?hl=en&rlz=1C1enKE415KE415&q=Mangea%2BKenya&gs_upl=5646l8725l0l109 39l20l11l0l0l0l9l1761l1105?l6 2 6 1l9l0&bav=on 2 or r_gc r_pw r_cp ,cf osb&biw=1366&bih=667&um=1&ie=UTF-8&er=XLK3TrH4NY-srAf-pvXnAw&sa=X&oi=mode_link&ct=mode&cd=3&ved=0CAwQ_AUoAg accessed 11" November 2011

Champion pronounced himself shocked by the lack of British influence on the Giriama He immediately set about bringing them under much firmer control One of his first priorities was to impose taxes on the Giriama The imposition of taxes was a common method by which the British forced Africans into the labour market In this particular instance, nearby large-scale rubber plantations (Magarini and Sokoke) were in danger of collapse on account of the refusal of members of the Giriama community to take up employment there

31 Public works in the area faced the same fate Early in his posting, Champion began a census and mapping exercise that would be used to determine who would pay tax and how much Champion immediately encountered resistance People would run and hide in the forests and bushes when headcounters were spotted Public works projects were sabotaged. A few taxpayers were added to the roll but their payments came not from wages from employment in the local labour market, but from Arab-Swahili money lenders Champion became more aggressive Huts belonging to tax evaders were burnt down and their livestock confiscated Stiff fines and prison sentences were imposed on more persistent offenders

32 The Giriama resistance was under the direct influence and inspiration of Mekatilili wa Menza, assisted by her son-in-law Wanje wa Mwadarikola Mekatilili was at this stage a seventy-year-old woman who had already shown a talent for activism When she was younger, her brother was kidnapped by Arab slave traders She spent many years organising small pockets of Giriama to hide away from slave traders Despite her age, Mekatilili took on Champion and the interests he represented In 1913 she organised a large meeting in Chakama, deep in Giriama territory near the Sabaki River The plan was to convince people to reject paying taxes and to resist the recruitment of Giriama men into the King's African Rifles (KAR), the main military instrument of the British colonial regime Champion was informed of the impending meeting and headed to Chakama When he arrived, there was a confrontation that resulted in one Giriama warrior being shot dead Some versions of the story suggest that Champion was hit in the face by Mekatilili herself and then, humiliatingly, forced to hide in a nearby granary with nothing to eat other than fermented *ugali* for several days Mekatilili fled into the forest The rebellion was on

33 The Giriama uprising employed guerrilla-style skirmishes during which warriors targeted the homes and properties of converts to Christianity and government employees They also cut telegraph lines On at least two occasions, however,

the Giriama were drawn into open encounters with the KAR It was during these encounters that mass killings took place. The first took place near Jilore that may have been a point of interest because it hosted a large mission station. About 1 000 Giriama were assembling when they were ambushed by a small contingent of KAR forces under the command of one Captain Carew Carew and his men opened fire Official reports list 30 fatalities and an unspecified number of casualties. Some Giriama would have succumbed to their injuries later and the death toll was thus probably higher than 30 KAR operations in and around Giriama country were characterised by a casual brutality There are accounts of, for instance, soldiers simply emerging from river banks and shooting at anything that moved, they made no attempts to determine whether they were firing at combatants or civilians There are also reports of KAR firing into the backs of fleeing civilians Seven were killed in this manner in a village known as Magogeni [9]

34 Details of another massacre came to light through Giriama legends The *Gohu* are Giriama elders respected for their ability to communicate with ancestral spirits Mekatilili was quick to recruit the *Gohu* to the rebellion She needed their authority to draw in wider members of their community More importantly, she needed their skills for the preparation of poisons, spells and potions for warriors as they went into battle As with many other African societies, the Giriama believed that their cultural and religious beliefs offered them protection against the Europeans

35 The *Gohu* quickly became central to the resistance Indeed after Mekatilili's capture (in either late 1913 or 1914) and subsequent detention in Kisii, the *Gohu* became the fulcrum around which the uprising revolved By the time Mekatilili escaped detention (again, the date is uncertain), the elders were central to the Giriama rebellion They thus became the target of the administration's military campaigns A British officer known locally as Mugamara summoned members of the *Gohu* for a meeting near Kilifi. That meeting turned into a bloodbath with several *Gohu* shot dead and their bodies apparently burned in a heap that also contained the remains of dead sheep and goats

36 What happened at Kilifi is so notorious not for the number of deaths but the *impact* that these deaths had. The Giriama were severely affected by Mugamara and his men attacking their spiritual elders The fact that the killings took place in a *kaya* caused even more distress

9 C Brantley *The Giriama and Colonial Resistance in Kenya* 1800 – 1920 121

37 *Kayas* are the spiritual or sacred places of the Giriama community They are clearings that are typically found deep inside a forest. Prayers and other religious ceremonies take place in *kayas Kayas* are also politically important as they are the places where significant decisions relating to governance and justice are made The desecration of this particular *kaya* and the burning of the others[10] were identified as key factors in forcing the Giriama into peace negotiations with the British at the end of 1914 The passage of time did very little to lessen Giriama pain even though the *kayas* were beautifully restored and recognised as a World Heritage Site by UNESCO [11] Ceremonies are regularly held to commemorate the loss of life in these sacred spaces, as well as the achievements of Mekatilili wa Menza [12]

38 Official estimates put the total number of Giriama killed during the entire uprising at 500 The behaviour of the KAR and its commanding officers pointed to an emergent pattern, many of the deaths occurred as a result of arbitrary and indiscriminate shootings [13] Nothing demonstrated this trend more than a shooting that took place in January 1915 after the British and the Giriama had agreed to a cessation of hostilities The KAR were sent up the Sabaki River to collect animals and money as a fine imposed on the Giriama as part of the peace treaty This turned into another bloodbath Instead of simply collecting what was due to them, the KAR stormed into villages with their guns blazing One patrol killed 19 people in addition to burning down 400 huts. Such were the tactics employed by the KAR during peaceful times

Kollowa Massacre: Dying to Believe

39 By the early 1920s, the Giriama, Bukusu, Kisii, Nandi and other communities that had taken up the military option had, to use the colonial description, been pacified Some fighting continued through the 1930s and the 1940s, but it was sporadic and limited to far-flung locations in Northern Kenya [14]

40 The absence of fighting should not, however, be taken as evidence of a lack of conflict Many of the tensions that gave birth to Kedong and the Giriama uprising were still present decades later If anything, fears and suspicions about the British intensified as the full implications of the colonial mission became obvious to the

10 There are nine *kayas* in all each representing a different Mijkenda community They were all destroyed during the rebellion C Brantley *The Giriama and colonial resistance in Kenya* 1800 – 1920 110 - 111
11 http //whc unesco org/en/list/1231 Accessed 10th November 2011
12 http //www mekatilili com/ Accessed 10th November 2011
13 Meinertzhagen
14 E Turton Somali resistance to colonial rule and the development of Somali political activity in Kenya 1893 – 1960 (1972) 13 *Journal of African History*

African people People who thought the European presence was only going to be temporary had to re-evaluate their positions as did those who believed that their lives would not be affected by that presence As the realisation that the British were in Kenya to stay sunk in, the context of violence changed, with clashes beginning to emerge over culture and ideas

41 The 'Kollowa Massacre' occurred for ideological reasons Kollowa itself is a small dusty settlement in the far west of Baringo District. Kollowa is a very remote place with the feel of an ungoverned frontier It is sparsely populated and has long suffered from security problems associated with the proliferation of small arms and cattle raids This semi-arid environment is occupied mostly by the Pokot people Other than a monument in the shape of a small dove and a cross on the site of the massacre, there is nothing about Kollowa to suggest the horrific events of six decades ago

42 The Pokot experience of colonial rule was dominated by marginalisation, poverty and insecurity The British made no secret of the fact that Pokot territories held few attractions for them They were far more interested in the valuable, fertile and well-watered fields of Trans Nzoia in the south that had been opened up to European settlement British attentions were also drawn to the Turkana, the northern neighbours of the Pokot, who between 1910 and 1918 staged a long and spirited fight against the imposition of colonial rule

43 The British were so pre-occupied with Trans Nzoia and Turkana that the Pokot were, at first, largely ignored Chiefs were not introduced until the early 1920s The first census followed a few years afterwards This is not to suggest, however, that the Pokot way of life was left untouched The irony of the situation was that even as the British neglected the Pokot, colonialism had a profoundly negative impact on the region A key problem arose from the annexing of Trans Nzoia for the exclusive use of European farmers This deprived the Pokot of their historic grazing areas and forced them further upwards into much drier and unproductive lands that could not support livestock This also pushed the Pokot into direct contact, and conflict, with their traditional enemies, the Turkana

44. Colonial administrators had a sudden change of heart in the early 1940s and transformed their attitude from disinterested neglect to high-handed interference While no single reason explained this shift, the British could no longer ignore the disastrous impact of European settlement in Pokot lands With Pokot herds squeezing into smaller and smaller acreages, administrators began to express alarm at the resulting environmental degradation

45 After some experimentation, the British eventually proposed livestock quotas as

the solution to overgrazing The Pokot would have to sell off their animals if they overshot the quota. In 1945, grazing schemes were introduced under the auspices of the African Land Development Board Grazing schemes were essentially a refinement of the quotas The government fenced off large tracts of land and constructed cattle dips and watering points For a small fee, vaccination of livestock was also provided A cap was set on the number of cattle that could be admitted into these government facilities, the remainder had to be sold or otherwise off-loaded Preliminary attempts were made to introduce the Pokot to settled agriculture as a way of weaning them away from the uncertainty of nomadic cattle rearing Farms were set up to demonstrate the proper techniques for growing bananas and other crops

46 It should come as no surprise that these innovations were poorly received by the Pokot, who were at their core, pastoralists The cultural, religious and economic value that the Pokot placed on cattle and other livestock was such that they were simply unable to accept the concept of not having too many animals Predictably, the new regulations were ignored as no self-respecting Pokot livestock owner would ever agree to the sale of the so-called extra animals

47 Some estimates have it that about 20 percent of Pokot-owned sheep, cattle and goats entered the government-sanctioned schemes This left the vast majority on the fringes where environmental degradation continued apace British efforts to seek a lasting solution to the issue of overgrazing failed Crop cultivation was also a non-starter The Pokot had no tradition of cultivation and there was very little uptake for the demonstration farms The farms fell into a state of disrepair and under-use almost as soon as they were opened to the public With the Pokot unwilling to accept the colonial vision of land use and the British determined to forge ahead, the foundations were laid for a major and potentially violent confrontation This is precisely what happened at Kollowa on 24 April 1950

48 The story of Kollowa Massacre revolved around an unlikely character known as Lukas Pkech, a former pupil at the Catholic mission school in West Suk Not much is known about Pkech's early life but it is assumed that his education gave him a certain amount of exposure to European ways and beliefs Pkech's name came to the fore at some point in the mid-1940s when he began to associate with and eventually became an adherent of *Dini ya Msambwa*, a religious movement that emerged amongst the Bukusu who occupy territories just south of the Pokot The movement was based on the visions and teachings of Elijah Masinde Like Pkech, Masinde was the product of a rigidly conventional Quaker mission education In the 1940s, Masinde declared himself prophet urging his people to abandon European customs and return to their traditional ways *Dini ya Msambwa* translates roughly

as "religion of ancestral customs" Masinde's message soon began to acquire more militant connotations. He called for the destruction of European property To protect them from bullets in their encounters with the British, Masinde anointed his followers with waters from a lake on Mount Elgon

49 Colonial administrators watched Masinde closely He was jailed in 1944 after being accused of interfering with the recruitment of men for employment While in jail, he was diagnosed as insane and sent to a mental institution This did not deter Masinde Soon after his release, he led a large group to Malakisi police station His goal was to break *Dini* members out of jail The police were waiting and in the resulting melee, shots were fired Eleven people died of their injuries. That incident marked the end of whatever tolerance the British had for *Dini ya Msambwa* and the colonial administration immediately declared it an illegal organisation Masinde was sent back to prison where he would remain for many years

50 Although *Dini ya Msambwa's* activities and impact were limited to a fairly small corner of Western Kenya, Lukas Pkech was somehow drawn into the movement's circle of influence By the late 1940s, Pkech was an ardent and active member of *Dini ya Msambwa* In August 1948, Pkech and 15 others were arrested and charged with belonging to an unlawful society They were found guilty and sentenced to 30 months hard labour After less than a year in custody, Pkech sensationally escaped from prison and returned to Pokot Far from going underground or keeping a low profile, he travelled the length of the countryside spreading a hard-line message Europeans and their ideas were not welcome among the Pokot

51. Pkech and his anti-colonialist sentiments found an appreciative audience in young Pokot men who felt particularly victimised by British attempts at redefining traditional notions of land and cattle ownership Like his mentor Elijah Masinde, Pkech eventually decided that words were not enough and that the British had to be taken on directly First attempts were limited to intermittent and small-scale ambushes of schools, police and mission stations After a few months of these sporadic raids, Pkech launched a spectacular plan He began to arm his followers with bows, arrows and other traditional weapons. On the morning of the 24 April 1950 he and around 300 men gathered in Kollowa to embark on what has been described as "a pilgrimage". The British were waiting for them. A violent confrontation ensued

52 By the time that the dust settled, the records indicate that 50 people lay dead, including Pkech himself and three colonial officers. In keeping with a broader trend in Kenyan history, however, the number of fatalities has been debated,

with few people agreeing on the final tally. Some versions of the Kollowa story put the death toll at over 1,000.[15] The fallout from the events at Kollowa was immense and far-reaching. The British were determined to exact punishment for the death of the three officers. Fourteen of the Kollowa survivors were tried, found guilty and hanged. A further group was found guilty and sentenced to 20-year terms. Finally, a fine of 2 000 head of cattle was handed down on the entire Pokot community.

53. Few other incidents in Kenya's history illustrate how mass violence can arise when people differ over fundamental ideas. At its heart, Kollowa is a clash over which vision should have prevailed in the region: the carefully controlled and managed one of the British, or the traditional, time-honoured one of the Pokot. Like the Giriama, the Pokot keep the memory of the massacre alive; a monument has been constructed on the site of the killings. Community elders have also signalled their intention to seek reparations from the British government.[16]

54. Above all, many people from the Pokot community claim that the massacre is the root of their continued marginalisation from mainstream Kenya. Their argument is that colonial attitudes towards the Pokot have carried on into the post-colonial era. The Pokot view their relationship with modern-day authorities as characterised by the same lack of respect and consideration for Pokot conventions. Reverend Simon Alew, Samson Akasile and John Luchakai speak for many others when they describe Kollowa as a sore that has never quite healed.[17] The Pokot draw a direct line between the rampantly indiscriminate behaviour of the security forces at Kollowa and the Chemulunjo operations of 1979 during which at least seven people were thought to have died at the hands of General Service Unit (GSU) officers as attempts were made to disarm the community of unregistered firearms.[18]

Mau Mau Massacres

55. At about the same time that the Kollowa Massacre happened, the 'Mau Mau War' also erupted in Central and Rift Valley provinces. The Mau Mau movement so dominates the study of Kenyan history that very few aspects of it remain unexplored. Nevertheless the movement, and the brutal response of the colonial authorities to it, occupies an important place in the trajectory of mass killings that stretches from the pre-colonial past to the present.

15 For instance, Asman Kamama, Member of Parliament Baringo East http://westfm.co.ke/mobile/index.php?page=news&id=2455
16 http://oaic.org/index.php?option=com_content&view=article&id=91&Itemid=111 Accessed 17th November 2011
17 See generally TJRC/Hansard/ Public Hearing/Kapenguria/ 14 October 2011.
18 Reverend Simon Alew, *Chemlunjo in 1979*, TJRC/KAP/002

56 The Mau Mau uprising peaked between 1952 and 1959. These seven years of intense and often brutal fighting witnessed a number of mass killings that fit the Commission's definition of massacre The choice of only two for consideration by this report—Lari and Hola—is not meant to denigrate or ignore the diversity of Mau Mau experiences Rather, the analysis of Lari and Hola is offered to illustrate specific trends and characteristics of mass killings that are, in turn, important for the understanding of subsequent massacres in Kenya's history

Lari Massacre: The Night of the Long Knives[19]

57 Somewhere in the region of 400 people were killed in Lari on the night of the 26 and the morning of the 27 March 1953.[20] It was the bloodiest incident in the entire history of the Mau Mau The number of people who died, as well as the manner in which they met their death, guaranteed Lari a unique chapter in Kenyan history Sixty years on, Lari continues to impact peoples' lives in very direct ways In some quarters, debates about responsibility, justice and compensation rage unabated.

58 While Lari falls just outside the Commission's temporal mandate, like all of the massacres discussed in this historical analysis, it plays an important part in establishing independent Kenya as a state deeply rooted in mass killings Because of the massacre, long-standing divides between victims and victimisers mean that even now some Lari residents do not speak to each other and harbour great resentments about their respective roles [21] For these reasons, it is important to have some understanding of the disturbing events that took place on this "night of the long knives"

59 Lari is a fairly typical Central Kenyan town which, from the late 1940s onwards, received hundreds of squatters evicted from the Rift Valley estates, also known as the 'White Highlands' Workers at the Uplands bacon factory on the outskirts of Lari were restless and hankering to strike

60 It was not all doom and gloom though As in other parts of the country, a good number of people prospered under the colonial system In Lari, this cadre included wealthy Kikuyu elders who owned and controlled large tracts of land

19 The 'Night of the Long Knives' is widely and popularly used to refer to events at Lari no further details on the origins of the phrase

20 There are no definite figures for Lari This estimate of four hundred is the product of a contemporary account written by an Irish lawyer called Peter Evans Most other accounts cluster around two hundred and two hundred fatalities David Anderson *Histories of the Hanged* (2005) 130

21 http //www trinityafer com/en/index php/news/5168 the-massacre-58-years ago-today-that-still-divides-lari kenya Accessed 29th November 2011

It also included Africans directly employed by the colonial administration as chiefs, headmen and the like, who were referred to by the local population as 'loyalists' The local chief's name was Makimei. Both he and his predecessor, Luka wa Kahangara, have been described as unrepentant loyalists and had been threatened by the Mau Mau Lari, therefore, became one of the first places where the British colonialists intensified their recruitment of so-called home guards men who had undergone basic training and who were usually called in to support the police and the army

61 A couple of factors distinguished Lari from its neighbours. From 1939, it had been the focus of a bitter and extremely divisive land dispute The dispute's origins lie in nearby Tigoni, which was an early centre of European settlement in the Highlands As land was alienated for settler use, the problem of what to do with the indigenous Africans presented itself In May 1928, Lari was proposed as a place to move the displaced Africans The 600 or so evictees were offered one-and-a-half acres of Lari land for every one acre they had held in Tigoni Some of the Tigoni elders held out for two acres Another group headed by Luka wa Kahangara agreed to the European terms and, in 1939, headed for Lari The move ignited a firestorm, with the hold-outs describing wa Kahangara and his group as traitors. He was also accused of all kinds of trickery in the distribution of Lari land People who were not provided for in the initial counts were mysteriously awarded allotments In the same way, legitimate claimants were disenfranchised The choicest plots (well-watered and close to transport links) all ended up in the elders' hands To make matters worse, Lari was *already* densely occupied and had been witnessing conflicts between the landed and landless

Dusk

62 The evening of the 26 March 1953 saw Lari home guards set off on their usual patrol The unpredictable security situation in Central Kenya meant that such patrols were critical About an hour into their rounds, the guards came across a badly mutilated body nailed to a tree The dead man was identified as a local loyalist At around 9 00pm that evening, the guards noticed that a number of huts were ablaze in the direction of Central Lari

63 As the guards turned around heading towards the fires it became clear that Lari was under attack It was close to 10 00pm by the time they arrived in the main village The scene that greeted their return was gruesome As they found 75 people had been shot, hacked, strangled, burned and beaten to death A further 50 people suffered severe injuries including slashed limbs that eventually had

to be amputated Others exhibited second and third degree burns. Women and children were among the dead and injured

64. This initial phase of the massacre was documented in graphic detail Sources of information included survivors who recorded statements that were later used in the Lari trials A handful of survivors were alive and available to speak to the press on the 58th anniversary of the Lari Massacre on 26 March 2011 Philomena Nduta and Jacinta Wairuiru spoke of masked armed men who were lying in wait - villagers mistook them for "black dogs" - for the home guards to go out on patrol.[22] The women described extraordinary levels of violence Attackers are said to have licked their *pangas* clean of their victims' blood A number of decapitations took place and the detached heads were triumphantly displayed

65 Because Lari is so close to Nairobi, journalists were quick to arrive and document the atrocities [23] While it is difficult to exaggerate the horrors of Lari, some scholars have characterised British coverage as luridly sensationalistic and tailored to the anti-Mau Mau propaganda market Within days, the story of Lari had been splashed across world media and Kenya's image as a happy-go-lucky European outpost was shattered Questions about the intruders could not be readily answered as victims were traumatised and the home guards arrived in Lari at the tail end of the ambush The guards pursued the attackers but by this point most had melted away into the surrounding darkness

66. Terrified survivors suggested that between five to six gangs consisting of 100 men each had carried out the attack Nobody could be sure who they were because their faces were masked It was clear though that the men came well prepared and were determined to inflict as much damage as possible They were heavily armed with an assortment of ropes, swords and spears Some were heard telling their victims that they were all to be "finished"

Dawn

67 The rising sun exposed a further 200 or so bodies strewn all over Lari and its immediate environs Dead men, women and children were everywhere in the bushes, in the rivers, in the streams and by the roadside The tiny local mortuary was groaning under the weight of scores of bodies A second massacre had taken place in Lari in the early hours of 27 March 1953 Little-known, little-discussed, little-acknowledged and yet undeniable, the perpetrators of this massacre were

22 http://www.the-star.co.ke/lifestyle/128-lifestyle/18591-the-night-of-long-knives-slain-colonial-chiefs-widows-recall-lari-massacre Accessed 29th November 2011

23 Selected original clips of contemporary coverage of Lari are available at http://www.britishpathe.com/record.php?id=30923

almost certainly home guards, reservists and police who may have been under the direct command of European police officers

68 A curious, almost oppressive, silence surrounds this second massacre Historians and various other interested parties have found it difficult to construct a firm chronology From the few details available, it seems that the conditions for the second massacre began at about 10 00pm the night before, shortly after the arrival of the home guards in Lari They rushed off in hot pursuit of the attackers, firing shots as they ran Eye-witness reports indicate that the gangs had largely disappeared by the time the guards arrived Sporadic skirmishes between home guards and the remnants of the gangs could not then have been responsible for the more than 200 bodies discovered on the morning of the 27 March 1953 Most of these people were more likely to have been killed later when the then Lari District Commissioner John Cumber ordered all male suspects rounded up Notwithstanding the fairly vague nature of Cumber's instructions, the home guards (who by this time had been joined by the police and reservists) combed through greater Lari Men, women and children were pulled out of their homes, beaten and killed

69. This version of events is corroborated, admittedly long after the event, by Kimani Njuguna who was interviewed by a *Daily Nation* reporter in March 2011 Njuguna recalled how he "lost ten members of my family when the colonialists struck the following morning, including my two parents and uncles"[24] He added "These raids were led by African home guards Colonial police went door to door searching for those suspected to have taken the (Mau Mau) oath, rounded them up and took them to police stations, where they were tortured, brutalised and killed."[25]

70 Lari's proximity to Nairobi meant that a number of people were on site to document and record the atrocities Kanigo Muchai, for instance, was a Kenya African Union (KAU) member who arrived in Lari very early that morning after receiving reports of upheaval from his associates in nearby Kiambaa He hid up in the hills to observe what was happening[26] He saw for himself the burning huts More importantly, Muchai claims to have witnessed people actually being shot He remained in Lari for a further three days, speaking to shell-shocked residents who confirmed what he already suspected mass killings at the hands of the security officers Muchai would later write that "in Lari there was a massacre on 26 March 1953, but most of

24 http //www trinityafer com/en/index php/news/5168 the massacre-58-years ago today that still divides-lari-kenya Accessed 29th November 2011

25 http //www trinityafer com/en/index php/news/5168-the massacre 58 years ago-today-that-still-divides-lari-kenya Accessed 29th November 2011

26 For further details on Muchai's trip to Lari see Marshall Clough *Mau Mau Memoirs History Memory and Politics* (1998) 157

the blood was on government hands'[27] The most convincing evidence, however, comes directly from the government itself A fortnight after the attack, an official statement was published in the *East African Standard* Short on specifics, the notice simply stated that "the security forces had killed 150 people alleged to have been involved in the massacre"[28] No further details, no official inquiries, no files, no arrests; the second Lari massacre simply slipped out of official discourse

The dead

71. The number of people who died in Lari will never be known The lowest estimates for the first episode are in the mid-70s This figure is based on a count apparently carried out by an independent lawyer, Patrick Evans Other estimates hit an outer limit of 120 The death toll from the second incident is even more difficult to establish because of the secrecy and the silence David Anderson suggests that for every one person killed in the first massacre, at least two were killed in the second This suggests the official death toll of 150 represents the lower end of the scale, with 400 given as a more reasonable estimation of the deaths involved, especially as it includes a number of people who reported their family members missing

72 The description of massacres often emphasise the indiscriminate nature of the killings. Lari deviated from this traditional script A survey of the victims of the first massacre showed that they were carefully targeted and deliberately chosen Nearly all the dead were relatives, dependents or associates of the Lari loyalist community One of the first people to be killed was wa Kahangara, the prominent government chief Two of his widows (the Philomena and Nduta mentioned above) somehow survived and subsequently provided the accounts that spoke to the attackers' determination not only to kill wa Kahangara, but to kill him in the most gruesome way possible.[29] The home guards themselves were out on patrol and so they too survived Their families, however, were among the first to be killed The killing of certain villagers and the sparing of others demonstrates an intimacy and knowledge of the victims that is not usually associated with the anonymity of a mass killing such as that of Kedowa Very little information has emerged about the victims of the second set of killings Government reticence at the time means that the victims' names were never recorded Indeed, Lari people received no official assistance whatsoever in the handling of hundreds of corpses. They were left to collect bodies from all across the countryside and to identify and bury them as best as they could

27 Marshall Clough *Mau Mau Memoirs History Memory and Politics* (1998) 157

28 David Anderson *Histories of the Hanged* (2005) 130

29 The widows describe Luka's beheading and the detachment of his limbs http://www.the-star.co.ke/lifestyle/128-lifestyle/18591 the night-of-long-knives slain colonial-chiefs-widows-recall-lari-massacre Accessed 29th November 2011

73. Survivors and descendants demonstrate that the passage of time has done very little to lessen the pain occasioned by the loss of so many people in such traumatic circumstances. Lari is in many ways as divided and fractured today as it was on the 27 March 1953, and along the same lines. People on either side of the Lari divide speak openly about the fact that six decades on, marriage between loyalists and Mau Mau families is strongly discouraged. People will even cross the street to avoid interacting with one another. Further contributing to the problem, no formal efforts have been made to honour the memories of the dead. The task of remembrance has been left to private individuals and groups, such as the Lari Memorial Peace Museum and Cultural Resource Centre that organises an annual prayer service.[30]

Lari trials

74. Some sections of the community may have drawn comfort and a sense of justice from the eventual hanging of 70 people found guilty of the Lari killings after a series of trials held in the months following the killings. For others, however, the Lari trials and their verdicts represent the very worst of victors' justice: rushed, partial and poorly considered.

75. Recent historical research and analysis supported the view that the Lari trials were, at the very least, ambiguous. The majority of the 2 000 suspects presented for trial emerged as a result of the dragnet cast over Lari just before dawn on 27 March 1953. To put this in perspective, the suspects were rounded up at the very same time that hundreds of others were shot to death - also as suspects. Because the second Lari massacre was only acknowledged in passing by the colonial government, the prosecutors for the Crown proceeded without any further investigation of the extreme brutality that accompanied the round-up. Some of the remaining suspects were identified by highly-traumatised victims of the mass violence. In a significant minority of the cases, the suspects were identified by children who were hauled before identification parades and asked to pick out the men responsible for the deaths of their parents, siblings and loved ones. Large groups of suspects were also indicted on the testimony of an individual witness. Machune Kiranga, a home guard who lost two children in the attack, submitted the names of 50 men he identified as having taken part in the slaughter. Despite the well-established timeline that puts the arrival of the home guards at the tail end of the carnage, Kiranga insisted that he had seen the 50 men kill his children as well as another man and set fire to a number of huts.

30 http://www.open.ac.uk/Arts/ferguson-centre/memorialisation/lari-memorial.pdf

76 The 2 000 suspects were funnelled into a criminal justice system that lacked the capacity to handle anywhere near such huge numbers The government was absolutely determined to respond firmly and quickly to the Mau Mau threat Within weeks of the Lari attack, Governor Sir Evelyn Baring fired off a detailed proposal to the Colonial Office in London proposing the establishment of Special Emergency Assize Courts in Nairobi, Githunguri, Nyeri, Nakuru and other areas experiencing Mau Mau activity All Mau Mau cases would be fast-tracked through these special courts In addition to establishing special courts, the proposal expanded criminal offences related to Mau Mau. For instance, it became a capital offence to consort with people likely to carry out acts of public disorder Lawyers appearing for the Lari suspects were up in arms over the looseness of the terms 'consorting' and 'likely', but colonial authorities were undeterred. By June 1953, these proposals had come into force [31]

77 Another troubling aspect of the colonial justice system was its vulnerability to settler pressure and other blatantly political forces Just before declaring the State of Emergency, Governor Baring wrote to the Colonial Secretary Oliver Lyttleton, privately expressing concern about the settlers' propensity for retaliatory violence [32] The settler community was so enraged by the events in Lari that an armed reaction was a real possibility as plans were made to hunt down the attackers The government found itself in the uncomfortable position of placating the settlers by giving in to their often outrageous demands A prominent settler leader, Michael Blundell, happened to be in London when the Lari Massacre took place He immediately rushed to the Colonial Office to make known the settlers' expectations that suspects would find their way to the gallows as soon as possible He suggested that magistrates be given the power to hear capital cases and that the appeals process be sharply curtailed. Astonishingly, Blundell represented the so-called 'minority progressive wing' of the settler community. Back in Kenya, most settlers called for the complete abolition of the appeals process and execution within 24 hours of conviction While colonial officials were able to resist the settlers' more extreme requests, the issue of speedy trials with limited options for appeal was incorporated into the Emergency Assize Courts

78 On 15 October – seven months after the massacre – twelve men were executed for the murder of one Penina Ikenya, the wife of a Lari headman Over the next few months a further 58 men would meet the same end Since then numerous attempts have been made to answer questions of guilt, innocence and motivation with limited

31 An early generation of human and civil rights lawyers including Chiedo More Gem Argwings-Kodhek and A R Kapila represented the Lari defendants For more Argwings-Kodhek and Lari see E S Atieno-Odhiambo and John Lonsdale *Mau Mau and Nationhood Arms Authority and Narration* (2003) 27 – 28

32 John Lonsdale Mau Maus of the Mind Making Mau Mau and Remaking Kenya (1990) 31 *Journal of African History* 409

success Overall, Lari illustrates the terrible complexity surrounding massacres in Kenya Such sudden and massive explosions of violence can rarely be attributed to one cause While Lari is undoubtedly a massacre related to Mau Mau, the social and economic forces that eventually tore the community apart pre-dated the emergence of Mau Mau itself Similarly, the crushing of Mau Mau and the end of the Emergency did nothing to resolve the fundamental social and economic tensions in Lari and left the community equally open to the possibility of further violence This is underscored by the continuing low-level animosity that still exists among the people of Lari The role of the colonial state in the Lari Massacre is easier to categorise State agents were among the perpetrators and state agencies were responsible for the staging of a legal process that almost certainly sent innocent men to the gallows The more lasting and insidious consequence of the state's behaviour during and immediately after Lari was the creation of a legal and political environment in which the suspension of civil and human rights were permitted to maintain security under the rubric of fighting, in this case, the Mau Mau This was a lesson that the post-independence Kenyan government would not easily forget

Hola Massacre: Of Conspiracies and Cover-Ups

79 Towards the end of the Emergency, another massacre took place in Hola, a small town on the banks of the River Tana Hola was most recently the headquarters of Tana River District During the Emergency, however, Hola was home to one of the camps in Kenya's infamous 'Pipeline' system of detention centres set up for the supposed rehabilitation of Mau Mau adherents On 4 March 1959, news of the death of 11 Hola detainees became public The men were said to have died after having "drunk from a water cart"[33] Readers were left to conclude that the water was somehow contaminated, a not unreasonable assumption with respect to the Pipeline's filthy and overcrowded camps Initially, therefore, there was nothing at all unusual in the report from Hola and nothing to cause any alarm Eight days later, however, would come the news that the men had not died as a result of drinking tainted water, but from blunt force injuries They had been beaten to death with clubs and heavy instruments

80 The killing of the 11 men was immediately dubbed 'The Hola Massacre' and 'The Hola Scandal' by the international media [34] In numerical terms, the Hola Massacre is completely overshadowed by Lari and the other mass killings that have been

33 For the press release in its entirety see *The Truth about Mau Mau State Murder in Kenya* http //www troopsoutmovement com/oliversarmychap6 htm Accessed 10th December 2011

34 *The Hola Scandal* http //www time com/time/magazine/article/0 9171 892578 1 00 html Accessed 10th December 2011

considered so far in this report Few other colonial massacres lay bare the politics of mass killings as starkly and as openly as Hola The politics of late colonial Kenya was such that a web of untruths and half-truths were spun around the killing of these 11 men Hola presents a unique opportunity to examine the colonial legacy of what is a dominant and recurrent theme in the story of massacres in Kenya - state attempts to minimise, cover-up or flatly deny their occurrence

81 From the outset, the official reaction to the Hola killings was characterised by an almost complete absence of openness and honesty The very first report to come out from the camp about the deaths was an elaborate one outlining how a group of 100 detainees were out digging irrigation trenches when they drank water from a water truck Two of them collapsed and died immediately after drinking the water The remaining nine were said to have died either on the way to or upon arrival at the hospital Not one word of this statement was true and its originator - a Mr Sullivan, the camp commandant - was well aware of this As with all cover-ups, success therefore depended on Sullivan's word remaining unchallenged

82 For a while, Hola officials were able to maintain the façade despite obvious evidence suggesting that the men had met a much more violent end None other than District Commissioner Willoughby Thompson found the death by contaminated water tale to be an "improbable" because when he visited the camp, he not only saw the corpses for himself, but also found scores of badly beaten men in extreme distress.[35] Sullivan's presentation of events at Hola nevertheless prevailed and found acceptance at the highest levels of the colonial administration Neither Governor Baring nor Colonial Secretary Lennox-Boyd deviated from this script, even though they were almost certainly in receipt of the findings of the initial autopsy that described the injuries suffered by the dead as "due to violence"[36]

83 Cracks began to appear in the foundation that Hola officials had built for themselves when results of the autopsy were leaked to Barbara Castle, a Labour Member of Parliament and a vociferous and persistent critic of the 'Pipeline' Castle immediately demanded that the Secretary of State table the inquest documents before the House of Commons Baring and Lennox-Boyd tried to neutralise Castle by releasing a second statement acknowledging the possibility of violent deaths They also announced the creation of a limited inquiry under the stewardship of Senior Resident Magistrate W H Goudie If the hope was that Goudie's inquiry

35 David Anderson *Histories of the Hanged* (2005) 326
36 Caroline Elkins *Britain's Gulag The Brutal End of Empire in Kenya* (2005) 345

would cool temperatures, a serious miscalculation had been made Goudie proceeded to Hola on 18 March 1959 to carry out on-site investigations His final report put to rest all notions of accidental or provoked deaths

> In each case, death was found to have been caused by shock and haemorrhage due to multiple bruising caused by violence There was no serious combined attempt by the detainees to attack warders and there was a very considerable amount of beating by warders with batons solely for the purpose of compelling them to work or punishing them for refusing to work [37]

84 Historians of Hola have uncovered and preserved the experiences of Hola survivors and have revealed a level of violence that Goudie was unwilling, unable or uninterested in including in his final write-up Paul Mahehu, for instance, spoke of broken skulls and splattered brain matter Even though it was written in the dry and distant tone of a detached outsider, the impact of Goudie's report was electric Energised Labour politicians leapt into action seeking the establishment of a more comprehensive public inquiry with the powers to look deeper into the running of Hola Camp

85 In a long and fairly convoluted series of events, Baring and Lennox-Boyd then attempted to stave off the possibility of more rigorous investigations into the Hola killings The British Prime Minister Harold Macmillan also became embroiled in the affair Part of Baring's offensive involved inviting the press to visit Hola They found a clean and orderly setup that contrasted sharply with the bloody hell-hole described in the aftermath of the massacre. This did nothing to pacify opposition Labour members and a growing number of politicians within the Prime Minister's own party, the Conservatives A full blown House of Commons debate was scheduled for the middle of June 1959

86 During an extraordinary and apparently fiery Cabinet meeting to prepare for the debate, a number of top officials, including Reginald Manningham-Buller, the Attorney-General, suggested that the entire Colonial Office be formally censured on the issue and that, if necessary, disciplinary action should be taken against Sullivan and any other "men on the ground" Despite the private acknowledgement by the Prime Minister that the Colonial Office was "a badly run office", no move was made to pin any kind of responsibility on Lennox-Boyd, Baring or any of their subordinates in the Colonial Office [38] The most that Macmillan would commit to was the creation of the so-called Fairn Commission that was mandated to generate recommendations and guidelines for the future management of the camps The Hola Massacre and

37 Caroline Elkins *Britain s Gulag The Brutal End of Empire in Kenya* (2005) 349
38 Caroline Elkins *Britain s Gulag The Brutal End of Empire in Kenya* (2005) 349

historical issues relating to the camps would not be touched; the Prime Minister went into the debate with this as a red line that he would not cross

87. In the face of such persistent attempts to rebuff all attempts to investigate Hola, one simple question must be asked why was the colonial government so determined not to reveal the facts about Hola? This is the same question that ultimately must be asked about all cover-ups It is important to understand what drives states to treat the truth with such reckless abandon In the case of Hola, the desire to cover up derived in part from the gradual realisation that the grand experiment to rehabilitate Mau Mau adherents through the 'Pipeline' had all but imploded Not only was there no rehabilitation, policies ostensibly developed for further rehabilitation instead spawned a murderous and abusive regime seemingly sanctioned by all levels of the colonial and metropolitan administration

88 There is a large body of literature dedicated to the study of rehabilitation [39] What this literature makes clear is that right from the beginning, colonial efforts at rehabilitation were destined for failure or, at the very most, limited success The policy itself began to come together at the beginning of the Emergency when thousands of men were rounded up because of their suspected ties to Mau Mau By the end of 1954, close to 52,000 men were in government custody.[40] The vast majority of these men were not considered hard-core Mau Mau militants who could be detained without trial under the Emergency orders Instead, they were described as low-level sympathisers and adherents of Mau Mau, men (and a few women) who might have taken an oath but whose support of the movement had yet to translate into anything more pro-active It was these men who became the focus of rehabilitation

89 The main goal of the entire process was to totally obliterate all things Mau Mau and remake these men into loyal, productive and trustworthy members of colonial society To achieve this, detainees were held in camps where they would be screened (in order to establish the full extent of their Mau Mau beliefs), cleanse them of their oath and expose them to honest labour in a development project of some kind Christian classes were on offer every evening Finally, the detainees would be released and returned to their home districts where monitoring would continue under chiefs and headmen The centrepiece of this 'Pipeline' doctrine was the setting up of a series of camps and centres dotted all over Kenya from Lokitaung to Lamu and Mageta to Mara.[41]

39 For a review of this literature see AR Baggallay Myths of Mau Mau expanded rehabilitation in Kenya s detention camps 1954 – 60 (2011) 553 – 578 *Journal of Eastern African Studies*

40 Most of these men were rounded up during Operation Anvil of May – June 1954 Security officials swept through Nairobi and its environs in search of Mau Mau suspects For operational details see Anthony Clayton *The Killing Fields of Kenya 1952 – 1960* (2006) 21 – 32

41 For a map showing locations of the camps see Caroline Elkins *Britain s Gulag The Brutal End of Empire in Kenya* (2005) 150

90. On paper, the Pipeline's rehabilitation purposes read beautifully. Emphasising the voluntary nature of the work, colonial officials were able to avoid early concerns that they were acting in direct violation of the International Labour Organisation (ILO) conventions on Forced and Communal Labour.[42] It did not take long, however, for the harsh realities of the Pipeline to come bubbling to the surface and to put colonial officials on defensive footing. Severe overcrowding and the associated phenomena of cholera, typhoid and tuberculosis were commonplace. A single outbreak of typhoid in Manyani Camp (200 kilometres south of Hola) killed about 60 inmates. The much vaunted re-education classes crumbled under the sheer weight of the system and most of the teachers fell far short of the ideal espoused by the Department of Rehabilitation: "Christian, idealistic, practical, with a keen desire to help the Kikuyu to adjust themselves to the new conditions".[43] Most of the camp employees were basically trained staffers seconded to rehabilitation from prison departments as far away as Malawi and Tanzania. They showed no inclination or propensity for inspirational or rehabilitative work of any kind.

91. The worst product of the Pipeline project was a steady stream of dead and brutalised bodies that came to symbolise the entire process of rehabilitation. The question of torture is addressed in detail in the Chapter on torture in this Report. It is enough to note here that the issue of rising death rates was key to unlocking the Hola conspiracy. Death from infectious disease was an accepted feature of camp life. It was not something that colonial officials were proud of because it belied the whole notion of the camps as modern and carefully run. For the most part, camp administrators found it easy to maintain that they were always working to improve food, water supply and other facets of hygiene and sanitation. Much more difficult to explain were deaths that resulted from the beatings and torture inflicted on inmates by detention camp staff. That such beatings and torture were informed by deliberate and specific government policy was essentially indefensible.

92. A year into rehabilitation, it became obvious that the Pipeline infrastructure could not cater for tens of thousands of low-value detainees. The Colonial Office and the Kenya Administration then decided to make a very drastic change. Lesser value inmates would be released, leaving the Pipeline to concentrate on a recalcitrant population of about 30,000 detainees who had refused to either confess or to cooperate. In early 1957, both Baring and Lennox-Boyd signed off on a release form that set about 50,000 men free to return to their homes.

42 The ILO convention on Forced Labour states that people incarcerated without trial cannot be made to work. The convention on Communal Labour only allows communal labour for sixty days a year. For more on the colonial government and the ILO, see Caroline Elkins *Britain's Gulag: The Brutal End of Empire in Kenya* (2005) 117, 129 – 131

43 Caroline Elkins *Britain's Gulag: The Brutal End of Empire in Kenya* (2005) 148

93 What was not made clear is that at the same time, officials agreed on the adoption and implementation of drastic new strategies designed to break the resistance of the core group of so-called "black" detainees [44] Two new positions were created: Special Commissioner and District Officer in Charge of Rehabilitation. The Commissioner and his District Officer were, essentially, left free to take whatever measures they needed in order to get detainees to confess their oaths They reported directly to the Governor, which meant that no other administrators were privy to their plans and no one could ask them to make revisions or alterations of any kind "Monkey" Johnston and Terence Gavaghan were appointed Commissioner and District Officer respectively

94 Johnston and Gavaghan recruited a highly regarded prison officer from Mwea known as John Cowan and together they developed something known as the 'dilution technique' Dilution was the euphemistic term given to a process that involved gathering detainees into small groups, isolating them from the general camp population, and then physically beating them with fists, clubs, whips, bats or any other weapons at the wardens' disposal until they became submissive or confessed As crude as this technique was, it became the apex of Operation Progress sold by Gavaghan, Cowan and Johnston as the answer to continued resistance and indiscipline in the camps Dilution would be systematically applied throughout the Pipeline by groups of specially trained African guards overseen by European superiors

95 Dilution and Operation Progress marked an extraordinary hardening of the colonial position The Colonial Secretary was said to harbour concerns about the institutionalisation of violence and force It would take a series of legal refinements clarifying that the dilution technique was based on "compelling," not "punitive" force for the Secretary to eventually sign off on Dilution and Operation Progress With the benefit of hindsight, it is difficult to see how administrators ever thought that such brutal techniques would bear positive results Within a matter of weeks, reports about the excesses of Dilution began to filter out of the camps The sources were the detainees themselves who somehow smuggled out letters addressed to British Members of Parliament, the Colonial Secretary and even Queen Elizabeth The catalogue of abuse was stunning as was the apparent inability of officials to rein in the excesses of the supposedly well-trained enforcers of Dilution.

96. The death of Michuri Githumu encapsulates the many tensions surrounding the dilution policy Githumu died in early 1957 in Gathigirigiri Camp The cause of his death was a prolonged and severe beating supposedly administered by

44 The Rehabilitation Department used a colour-coded system to classify inmates with black representing the most un-cooperative and white representing those most willing to submit to the system

prison staff Both the Governor and the Colonial Secretary were made aware of the circumstances of Githumu's demise, but seemed fairly unmoved until the news hit London Once again, the redoubtable Barbara Castle was on the case She immediately wrote to the Colonial Secretary demanding further details The response was quintessentially evasive Lennox-Boyd wrote back to explain that no Europeans had been involved in the incident, as though that was the information Castle was seeking Eventually, charges of murder were laid against several "Rehabilitation Assistants" Some of the defendants were found guilty on the lesser charge of assault causing bodily harm and sentenced to a few months of hard labour During the trial, information about 37 other cases of assault at Gathigirigiri surfaced The Colonial Secretary accepted that the information was correct, but Operation Progress proceeded undisturbed This kind of violence was by no means limited to Mwea camp The much-used excuse that Mwea was an exception that could be blamed on a few bad apples cracked under the weight of similar occurrences in Athi River, Murang'a, Lokitaung and many other camps in the Pipeline

97. Part of the irony of the Hola Massacre was that it occurred at the same time that the colonial administration had essentially declared both Operation Progress and Dilution successes By 1959, officials were telling anyone who would listen that the number of detainees in the system was down to only a few thousand hold-outs, who would be speedily processed Once again, however, what the authorities proclaimed in public was much different than what they knew was the case in private Privately, the administration prepared to implement a harsher programme because the remaining detainees were seen as the hardest of the hard-core, men whose resistance had continued over many months and years Far from winding down, the Rehabilitation Department was actually intensifying and refining Dilution Hola stood at the centre of this final restructuring The infamous John Cowan of Operation Progress was assigned to Hola in early February 1959 and asked to find a lasting solution to the problem

98 Cowan arrived to find that the camp had already been divided into two separate spaces closed and open areas for the un-cooperative and cooperative inmates respectively All this was in keeping with previous policy So too were instructions to use a certain amount of force to compel inmates to work and to confess What was different about Hola was the chilling acknowledgement that people "might even get killed", but beatings should continue regardless until the desired results were achieved This was the policy that the colonial administration signed up to just days before the massacre took place And this was Hola's dirty little secret state-sanctioned assaults, brutality and, eventually, murder

99 Conspiracies and cover-ups are, over the long run, very difficult to sustain and so it was with Hola Although Macmillan, Lennox-Boyd and Baring were able to dodge the bullet of a formal inquiry, the cat was out of the bag. Too many people knew what had happened for the *status quo* to remain. It was simply no longer possible to continue with either Dilution or Operation Progress The further irony is that these two strategies, originally conceived to support the entrenchment of colonial rule in Kenya in fact played a large part in the final dismantling of British power The questions that arose after Hola were not the specifics of the massacre, but whether Great Britain could continue to represent itself as morally and ethically fit to run an empire. By the end of the year, both supporters and opponents had arrived at the same answer No Discussions then turned to the complicated but unavoidable issue of decolonisation

100 The Commission carefully combed Kenya's pre-colonial and colonial past to find mass killings that help provide context for mass killings after independence The difficulty with massacres is that in some respects they are so localised in their origins and dynamics that it is difficult to draw conclusions from one mass killing and apply them to another As has been explained, the causes and consequences of Kedowa are distinct from the causes and consequences of Lari

101 When, however, a country's history plays host to a series of violent massacres, serious attempts must be made to think about continuity and the particular elements that link one incident to another Clearly, competition is at the core of all the massacres presented here From Kedowa to Hola, what the Kenyan experience illustrates is that when two or more groups find themselves in competition over what they consider, rightly or wrongly, as an existential issue over which no compromise can be made, the potential for an explosion of mass violence is always present It is tempting to reach for firm and fixed understandings of "competition" but more fluid ones are more appropriate

102 The groups that have been examined here have competed over ideas, territory, and political, social and economic power with disastrous results Groups locked in such vicious struggles do not require much of a push to descend into such fatal encounters All it may take is a single spark such as the stealing of a goat, while the underlying competition was often the product of long-standing and deeply-rooted forces that even the warring parties may not fully understand, much less control Late 19th and 20th century Kenya and Kenyans were sucked into a global vortex of capitalism that impacted their lives in new, unexpected and

ultimately violent ways. The Arabs, Swahili and Maasai of the Kedong Massacre, for instance, can easily be seen as unwitting actors in a larger drama about the expansion of European trade into the Kenyan hinterland. Similarly, there are analyses of Mau Mau that understand the protagonists not as loyalists and rebels but as beneficiaries and losers in the economics of colonialism

103 The other connecting link among these massacres is the role of the state In each of the mass killings analysed here, the state is present The only issue up for debate is the breadth and depth of the state's presence Once again, the pre-independence massacres offer a broad spectrum On the one end is Kedowa, where the state distinguishes itself with a near total absence from the events of 26 November 1895 No state agents or emissaries were anywhere near Kedowa on that fateful day They only showed up much later to conduct investigations Yet it is not sufficient to simply conclude that the Kedowa Massacre excluded state actors The more provocative and potentially insightful line of inquiry asks What kind of state creates the conditions for the massacre of hundreds of innocent people to take place? In the case of Kedowa, a combination of negligence and ignorance seems to be most applicable State responsibility for massacres cannot therefore only be assessed based on the presence or absence of government officers

104 At the other end of the spectrum, the role of the state was much more visible and obvious From the time of the Giriama Massacre onwards, the state appears as the unapologetic perpetrator of violence King's African Rifles (KAR) officers, prison wardens and home guards and various other paramilitary forces have rampaged through Kenyan history, inflicting death, injury, and destruction on hundreds (if not thousands) of people. For the most part, these individuals appear to have acted with the full approval and knowledge of civilian colonial authorities Remorse and remonstration do not feature at all!

105 Other than the half-hearted prosecution of apparently deviant or errant officers, the history of massacres in colonial Kenya offers very little to demonstrate that the state accepted any kind of responsibility. Instead, state practice for years has been diminishment, deflection and, ultimately, denial Thus Kenya on the eve of independence was a blood-drenched state showing little or no willingness to tackle the wrongs of the past and entering the future with heavy historical baggage that would inevitably affect future events

Massacres in North Eastern

General Background

106 More than a decade after the 'Shifta War' ended, North Eastern Province was the setting for at least three violent security operations that resulted in the massacres and injury of tens of hundreds of people These incidents took place between 1980 and 1984, in Bulla Karatasi, Malka Mari and Wagalla

107 Bulla Karatasi, Malka Mari and Wagalla massacres stand at the intersection of a number of important political, economic and legal currents. The Commission was, however, most interested in understanding the relationship between security operations and mass killings in Kenya. In its simplest form, the Commission saw this relationship as direct and unmediated security-oriented operations have had the tendency to quickly degenerate into mass killings in Kenya since the very earliest days of the colonial state State attempts to contain and neutralise security threats regularly have resulted in an unusually large number of casualties The need to restore a sense of stability has often trumped all other considerations surrounding the sanctity of human life

108 The challenge the Commission faced when examining the mass killings in Bulla Karatasi, Malka Mari and Wagalla was the sheer number of analyses and readings that have been generated around these incidents for nearly 30 years Efforts to understand the killings have resulted in a stunning array of interpretations and explanations The Commission was convinced, on the basis of evidence, testimonies, investigations, and research, that a particular approach to security was the chain that linked Bulla Karatasi, Malka Mari and Wagalla to each other and to other mass killings in Kenya

Banditry and cattle rustling

109. The end of active military activities in Northern Kenya after the Arusha Agreement was signed by the governments of Kenya and Somalia, did not signal the onset of peace, far from it Indeed, the formal cessation of fighting ushered in a new and troubled era of local and sub-regional insecurity that would lead to the mass killings in Bulla Karatasi, Malka Mari and, most dramatically, Wagalla Research has identified various reasons for this tragic state of affairs As with most conflicts, the end of the Shifta War left thousands of former fighters with nothing to do. The government of Kenya did not seem to have a formal demobilisation programme The plan, such as it was, appeared to have consisted of former Shifta fighters reporting to the nearest

chief or government representative Fighters surrendered, but at a very slow rate, only about a dozen a week. The covert and underground nature of the Shifta force meant that it was difficult to speak authoritatively about its size Even so, it can be said with some degree of certainty that the few hundred men who complied with orders to surrender represented a minority The majority of former Shifta fighters resisted government attempts to get them to surrender This armed Shifta group formed the core of the debate about security in North Eastern

110 These elusive former Shifta were not easy to pin down Nene Mburu described them as "disgruntled" ex-fighters who were in effect armed and uncontrollable [45] With absolutely no prospects for employment or education, they quickly turned to banditry and cattle-rustling

111 Inter-clan relations also suffered as a result of these former fighters, who quickly transformed into a quasi-mercenary force available for hire during encounters against enemy clans With armed groups as participants, traditional clashes over territory, water and pasture degenerated into deadly encounters Elders and chiefs were powerless in the face of a new social order in which young men with guns were setting the agenda

The Ogaden War

112 In 1977, this already bad situation took a drastic turn for the worse with the outbreak of war between Ethiopia and Somalia While complicated by the Cold War politics of the time, the 'Ogaden War', as it came to be known, was rooted in the same soil as the Shifta War before it the desire of the government of Somalia to incorporate ethnic Somalis living in the Ethiopian province of Ogaden into Somalia proper Some residents of the Ogaden region of south-eastern Ethiopia supported the project [46] In July 1977, almost the entire Somali army crossed into Ethiopia to join forces with the secessionist Western Somali Liberation Front It was an audacious and provocative move that drew an immediate reaction from the central Ethiopian government of Mengistu Haile Mariam.

113 The two years of intensive fighting that followed resulted in the loss of more than 12 000 lives The war ended not only with Somalia's defeat, but also saw the beginning of the collapse of the Somalia state which descended into anarchy after President Siad Barre was ousted from power a decade later The Ogaden Liberation Front continued

45 Nene Mburu Contemporary Banditry in the Horn of Africa Causes History and Political Implications (1999) 8 *Nordic Journal of African Studies* 100

46 For detailed work on the background to and the conduct of the war see Joseph Nkaissery The Ogaden War an analysis and its impact on regional peace on the horn of Africa' at http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA326941&Location=U2&doc=GetTRDoc.pdf Accessed 3rd March 2012

its limited efforts at secession and engaged in skirmishes with the Ethiopian army The Ogaden War had a profound effect on Northern Kenya as well It triggered, for instance, the southward migration of refugees from the Ogaden, as well as the defeated Somali army troops into both Wajir and Mandera districts[47] Alongside the refugees flowed a current of sophisticated, illegal and unregistered weapons. When these weapons found their way into the hands of the disenfranchised and increasingly criminal former Shifta, the stage was set for serious instability.

114 It was important therefore for the Commission to establish how such instability manifested itself on the ground As has been mentioned earlier, it was difficult to get a full understanding of the role of former Shifta fighters, witnesses did not speak about them in very precise ways Many, however, testified about violations committed by civilian gunmen While it is impossible to be completely certain, it is possible to attribute a good number of these incidents to ex-Shifta The attacks were violent, random and seemed to serve no other purpose than to prey upon local residents The Commission heard a disturbing, but not particularly unusual, case in Garissa An Ijara family's hut was invaded by a gang of two gunmen After a brief struggle, the mother was shot dead The men attempted to rape the young women of the household but were chased away by the arrival of friends and neighbours alerted by their screams Nearly 30 years later, the family is still traumatised by the event as told by one of the surviving daughters

> My father was working for the government of Kenya by then During the time that my mother was killed, he was on leave and was in the house When he heard what had happened, he was shocked and became mentally disabled My two brothers also became mentally disabled They were the only sons that my mother had
>
> Later, nobody came to ask about what had happened to us Nobody bothered to know about the calamity that had befallen us I had to start taking care of the younger ones[48]

115 Such stories were a common feature of life in North Eastern in the 1970s and 1980s An already traumatised population was subjected to further bouts of violence and criminality

116 The state's response to the rising wave of insecurity during this period was weak and uncoordinated Many of these attacks did not prompt any kind of sustained police investigations, criminal charges or anything along those lines Generally, it was difficult for the police and local administrations to take action in response to every single raid The scale and frequency of the banditry, coupled with the large distances involved, made that kind of follow-up impossible Even so, the Commission's overall

47 Jennifer Hyndman A post-cold war geography of forced migration in Kenya and Somalia (1999) 51 *Professional Geographer* 104
48 TJRC/ Hansard/ Public Hearing/ 13 April 2011/ Garissa/ p 2

impression was that the government could have been more energetic in pursuing security for the residents of the region There is little evidence to indicate that even the most preliminary of efforts were made to address banditry and its impact on the civilian population The Ijara family, for example, has never had any interaction with government representatives over the death of their mother Again, it is highly unlikely that the Ijara case was exceptional

> Government reactions seem only to have become more focused when Shifta banditry began to engulf targets more closely associated with the government itself The government was only moved into action when the issues, targets and victims mattered to the state itself Organised poaching illustrates this approach

Poaching

117 Few things raised government temperatures more reliably than the Shifta-driven trade in ivory, rhino horns, leopard skins and other valuable animal trophies The 1970s and 1980s were characterised by a surge in such activity Poaching had, however, been a fact of the economic life of Northern Kenya even during the colonial period Somali hunters and traders created a formidable network that trafficked horns, tusks and skins through the Northern Frontier Districts (NFD) and to the coastal ports of Kismayu, Lamu and Mogadishu [49] An under-staffed and under-financed Kenya Game Department could do little to curb a trade that in the 1930s was valued at hundreds of thousands of rupees (the currency used at that time) The introduction of a series of hunting licenses and fines for non-compliance had very little impact Ironically, the very profitability of poaching was what eventually drove the poachers out of business Herds in Northern Kenya were severely depleted, leaving the hunters with little left to poach

118 The outbreak of the Shifta War in the 1960s had a chilling effect on the trade in game trophies Very little hunting could take place in an atmosphere of all-out fighting As soon as the war ended, however, the hunters returned to re-establish their networks The armed bandits spread throughout the region would prove to be their natural allies In the late 1980s, raiders and bandits from Somalia proper would also join the fray It did not take long for this new and highly aggressive breed of hunters and fighters to make an impact In the early 1970s, parliamentarians from Samburu, Isiolo, Marsabit, Meru and the Tana River Basin were up in arms at the sudden appearance of violent gangs of armed men in their constituencies' parks and game reserves [50]

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49 For descriptions see Peter Dalleo 'The Somali role in organized poaching in northeastern Kenya c 1909 – 1939 (1979) 12 *International Journal of African Historical Studies* 472

50 For an example of such exchanges see *Kenya National Assembly Official Record* (Hansard) 5 May 1970 201 – 202

119 With thousands of elephants and rhinos killed, conservationists began to speak openly about the complete disappearance of these animals from Kenya's ecosystems.[51] Anxieties surrounded the continued viability of Kenya's vital tourist industry. The export of violent poaching to other parts of the country triggered an outcry. With one outrageous attack after another on animals, tourists and game rangers, public anger at government inaction reached a fever pitch. Mr Kholkholle, the member of parliament for Marsabit South, spoke for many Kenyans when he questioned the ineffective response from the Ministry of Wildlife and the government as a whole:

> I am very surprised for the Assistant Minister to say that these poachers have automatic weapons and, therefore, probably his ministry is unable to deal with these people. If the government has dealt with Shifta, who were many in numbers and also very powerful, why not these few poachers?[52]

120 In early 1975, then Vice President Daniel arap Moi declared that "no effort will be spared to stamp [poaching] out".[53] Three years later, President Kenyatta banned all forms of hunting.

121 The second branch of Shifta violence to elicit a reaction from the government was violence aimed directly at government employees, property, installations and the like. Like poaching, such attacks were depicted as intolerable. During the war, strikes against the government were, of course, deliberate. The post-war situation was much more opportunistic. Government convoys, for instance, were a favourite target. If the raiders were lucky, the cars might be carrying civil servants' salaries. So it was in 1989 in Hulugho, a tiny Garissa town, when three policemen were killed while transporting the payroll. While not unusual, such incidents had the capacity to both shock and anger the administration. And as Hulugho again shows, fairly determined attempts were made to track down bandits involved in such incidents.

External threat

122 Another element of the security equation in post-Shifta Northern Kenya was external. Long, porous borders and shared ethnic identities have long meant that the region's connections to Somalia and southern Ethiopia go far beyond the superficial. Indeed, deeply held beliefs about Somali identity and the Somali nation were at the core of the war. The end of the war put an end to Somalia's territorial ambitions in Kenya. It

51 See for instance David Western 'Patterns of Depletion in a Kenya Rhino Population and the Conservation Implications' (1982) 24 *Biological Conservation* 147.

52 *Kenya National Assembly Official Record* (Hansard) 14th June 1972 75.

53 Quoted in John Tinker 'Who's killing Kenya's jumbos?' (1975) 22 *New Scientist* 452.

did not, however, mark the end of informal border crossings of family members and those related to the booming trade in *khat*, the mildly narcotic leaf grown in Kenya and exported to Somalia More ominously, there were always groups of fighters ready to cross the border in one direction or the other to lend support to their clan members in times of conflict with their clan enemies There is enough anecdotal evidence to suggest that a good number of the poachers who wreaked such havoc on Kenya's wildlife were Somali nationals with reputations for being expert hunters. The catastrophic collapse of the central government in Somalia, and the subsequent influx of hundreds of thousands of refugees and militia men into Kenya, started in 1991 The war between Somalia and Ethiopia in the 1970s further contributed to insecurity in the region A torrent of arms and refugees were sent southwards into Kenya by two years of intensive fighting

123 Top-level administrators and civil servants in Nairobi were well aware of these troubling developments up north James Stanley Mathenge, the Permanent Secretary for Internal Security in the early 1980s, monitored the region closely in the wake of the Ogaden conflict

> We knew the issues which concerned the people on a day-to-day basis We knew that immediately after the Ogaden War, there was a lot of influx of people from Ogaden to this area That influx created pressure, particularly in Wajir[54]

An endless emergency

124 As already noted, Government responses to events in Northern Kenya was weak and uncoordinated They were half-hearted in some cases and fast-moving in others But this description does not adequately explain the entire spectrum of government reactions to the complex security situation in Northern Kenya. Many of the issues affecting Northern Kenya find their roots in the Shifta War The link is strong, obvious and incontestable as the construction of a legal framework that effectively placed the entire region under a state of emergency demonstrates

125 Collectively, the Preservation of Public Security Act, North Eastern Province and Contiguous Districts Regulations Act of 1966 and the suspension of sections 386 and 387 of the Civil Procedure Code set Northern Kenya aside as a special and entirely different region that could be governed directly by presidential decree Restrictions were placed on movement in and out of the province, a burden that has never been imposed on any other region of the country The suspension of the Civil Procedure Code was accompanied by the assigning of judicial powers to military and administrative officers. Broad powers of arrest and detention were

54 TJRC/ Hansard/ Public Hearing/ 15 June 2011/ Nairobi/ p 14

also conferred on the military. It was an extraordinary and highly unusual state of affairs that was the focus of many embittered submissions to the Commission

126. The end of the Shifta War did not result in the lifting of the emergency. The end of the war only meant the cessation of fighting and not the restoration of civil liberties so radically stripped away by emergency legislation If anything, the state's position with respect to the region hardened with the passage of the Indemnity Act on 5 June 1970 This, as the Commission heard, was another Northern Kenya-specific piece of legislation that was, and still is, highly resented in the region as it shields the crimes of government agents and military officers from legal inquiry and accountability "Militarised" is a word often used by residents to describe the resultant situation To the extent that militarised refers to a situation in which military priorities define and dominate civilian ones, this is a term that the Commission also found useful The continued state of emergency in Northern Kenya has attracted a good deal of scholarly attention. While the Commission benefited from the various exchanges and analyses, the situation may be explained simply The government's assessment of the security situation in the region was the basis upon which the state of emergency remained intact until 1991

127 The Commission also examined in great detail other components of the security infrastructure of Northern Kenya Under Kenya's old system of provincial administration, all provinces were required to develop an 'Internal Security Scheme' The scheme was a fairly routine document periodically produced as a means of providing guidelines for exceptional emergency and security situations These schemes were then shared across all the different provinces and districts, creating in the process a national template for internal security The Commission was provided with an Internal Security Scheme for North Eastern Province compiled by Benson Kaaria, who served as the Provincial Commissioner between 1980 and 1984 [55] In testimony, Kaaria explained the document in precisely these terms. a "standard" manual that he compiled soon after taking office in April 1980 [56]

128. The Internal Security Scheme might have been a routine document, but for the Commission it was a vital one because of the light it shed on a number of key issues. The scheme began by clearly defining events and circumstances that constituted an emergency.

> Internal unrest and organised aggression by Somalis either within or outside the province, aided by other tribes who prophesy the same religion for political reasons or any other cause,

55 Benson Kaaria *North Eastern Province Internal Security Scheme* Kenya National Archives (KNA)
56 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 11

Lawlessness and civil disobedience amongst the Somalis who still pursue the secessions,

Unrest and lawlessness stemming from inter-tribal or sectional disputes between the Somali themselves or inter-racial or Trade Union disputes,

Large scale raiding by Somalia/Ethiopia Nationals,

Organised and large scale banditry promoted by grievances, criminal activities or any other cause,

General uprising involving violence and destruction of property,

Civil disobedience.[57]

129 All the usual government anxieties about security are reflected in this document, with large-scale raids by Somali and Ethiopian nationals, ex-Shifta, criminal elements and inter-clan conflicts featuring most prominently

130 The document spells out exactly what was expected of the armed forces Traditionally, the Province was home to three Kenya army companies based in Mandera, Wajir and Garissa Garissa also functioned as the army's territorial headquarters The regular police and administration police were deployed throughout the region, from the provincial down to the divisional and location levels Both the police and the military were listed under what the scheme describes as "resources" available for deployment in case of an emergency There were, however, key procedural differences The police were part of the stock response No special regulations or procedures were required to activate them other than a direct request to police headquarters in Nairobi (channelled through the Provincial Security Committee in Garissa) for extra policemen, as required by the particular operation

131 While military forces were fully integrated and factored into the Internal Security Scheme, their actual deployment and mobilisation was more complicated. For starters, the military could only be called up "in aid of the civil power"[58] Military involvement was not automatic, it had to be specifically requested by the civilian authorities for back-up and assistance This had important implications for determining who was in charge of a particular operation Once a request for military assistance was deemed necessary, it was forwarded to the 'Operations Room'[59] The Operations Room was located in the police headquarters in Nairobi and seemed to act as a clearing house for security issues nationwide The normal procedure was for all requests for military assistance to be "passed" to the President As that happened, the ministers for Home Affairs and Defence would be informed,

57 Benson Kaaria *North Eastern Province Internal Security Scheme* p 2 KNA
58 Benson Kaaria *North Eastern Province Internal Security Scheme* p 3 KNA
59 Benson Kaaria *North Eastern Province Internal Security Scheme* p 3 KNA

as would the Armed Forces Commanders and the Commissioner of Police The scheme specified that any alterations to the original request also needed to be channelled through the Operations Room Requests for withdrawal of the military had to follow the same route.

132. When, however, the emergency was what the scheme described as "sudden and urgent", the formalised procedures just described were abandoned in favour of a much more speedy approach [60] In such cases, either the District or Provincial Commissioner could ask any commander of any branch of the Armed Forces in the area for assistance The request was immediate and direct, with no engagement of the Operations Room The scheme makes it clear that in such cases, the commander on the ground was the ultimate decision-maker about the extent and duration of his troops' involvement until such a time as he was able to speak to his superiors It was a responsibility he assumed, as the scheme specified, regardless of his rank

133 While the scheme served as yet further evidence of the importance of the military to the internal security of the province, it also described a command-and-control structure that was run almost entirely by civil servants Sitting at the very top was the Provincial Security Committee made up of the Provincial Commissioner, the Provincial Police Officer and the Provincial Special Branch Officer The District Security Committee occupied the next tier and it comprised the same officers, but at the district level, that is the District Commissioner, the District Police Officer, and the District Special Branch Officer Military representatives were included on the committees as and when necessary The chain of command described in the scheme was again a fairly simple and straightforward one Concerns, decisions and queries from the District and Provincial Security Committees made their way upwards to the Kenya Security Committee, the National Security Council and the President. Thus decision-making and control by civil servants was controlled by the centre, even in such a militarised province as North Eastern

134 As will also become clearer in subsequent discussions, there was yet a further distribution of powers and responsibilities between the District and Provincial Security Committees There were certain decisions that could only be made at either the district or provincial level For instance, the power to move people in an emergency lay with the District Security Committee and Internal Security Schemes generated at the district level

> Depending on the nature of the emergency, it may be necessary in order to protect life, to concentrate part of the population in certain areas and this possibility must be considered in District Schemes [61]

60 Benson Kaaria *North Eastern Province Internal Security Scheme* p 4 KNA
61 Benson Kaaria *North Eastern Province Internal Security Scheme* p 6 KNA

135 Because it shed rare light on the administration of a security-obsessed and somewhat secretive province, the Internal Security Scheme was a critical document analysed by the Commission to establish of the link between the government security apparatus and the killings As investigations into Bulla Karatasi, Malka Mari and Wagalla continued, the Commission found itself moving away from an interest in the mere existence and content of internal security schemes and to the more fundamental question of application the scheme as it worked in practice

Development and security

136 Like many before them, post-war administrators and officials linked security and development in a direct, causal and reciprocal relationship in which security fostered development, and development increased security The opposite, of course, also applied in that a lack of development could increase insecurity

137 By any measure, the social and economic situation in Northern Kenya after the war was grim The chapter on the Shifta War has described at length the multi-dimensional and disastrous impact of the war on the region Villagisation - a policy ostensibly introduced to both secure and settle nomads into permanent compounds with modern health and social facilities - failed miserably These protected villages instead became centres for extreme brutality and violence The imposition of sedentary ways of life on a nomadic people and their animals had an equally devastating effect on animal husbandry Confined cattle keepers were no longer able to care for animals in their traditional and environmentally appropriate manner Inevitably, limited access to water and pasture in the villages and large-scale confiscation and killing of livestock by security forces led to an alarming decline in livestock It came as no surprise to the Commission that many witnesses and respondents felt that the development of the region was frozen in time Ibrahim Ali Hussein, a former Member of Parliament for Wajir West, testified that just one school was added to his constituency during the entire period of the war This brought the number of schools in the constituency to two, with the first having been constructed in 1948 by the British colonial government [62]

138 Former Permanent Secretary for Internal Security James Mathenge was among those who believed that increased resources and spending on roads, wells and hospitals was the answer to eliminating the underlying causes of conflict

> I wanted to solve a security problem and my solution was to put development The more development you put, the less insecurity you get If I give people in North Eastern a lot of water, there will be less movement of cattle I improve the grazing and roads so that they can sell their ng'ombe (cows) quickly when drought appears I have solved it Security

62 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 48

must protect life and property, but, please the permanent issue is to provide more schools and infrastructure in North Eastern These are the permanent issues [63]

Political transition

139 The period under consideration here overlaps with the death of President Jomo Kenyatta and Daniel arap Moi's ascendancy to the presidency in August 1978. Even though Northern Kenya is distant from the political centre, the changeover from Kenyatta to Moi had important consequences for the region These consequences were at once both stylistic and substantive. President Kenyatta's stance towards Northern Kenya could perhaps best be described as unsympathetic Many of his public pronouncements reflected this lack of interest Early on, he dismissed the secessionists as "hooligans" and people who "go raiding here and there"[64] President Kenyatta was also reported to have told the secessionists to "pack their camels and to return to Somalia" This statement is often repeated in the region as evidence of the first Kenyan president's disdain for the Somali and other inhabitants of the province

140. The end of the war appeared to do nothing to soften his attitude towards the region The public insults and scorn he previously heaped on the Shifta were simply transferred to the poachers and illegal hunters who, as has just been discussed, were widely taken to be Somali Few witnesses who appeared before the Commission had anything kind to say about President Kenyatta Many blame him personally for some of the bleakest years in the region's bleak history As one speaker in Wajir put it, Kenyatta "finished us in the wilderness"[65]

141 President Moi's ascent to power was initially characterised by a different tone With his early calls for hard work, discipline and nationhood, the new president seemed to be setting the stage for a much more united country focused on the ever-important issue of economic growth It was an inclusive approach that, in theory at least, created room even for those on the margins There were a number of other signs that suggested a much higher political profile for the region during the Moi years In 1979, the President nominated Hussein Maalim Mohammed to Parliament After he ran and won the race for Garissa Central constituency in 1983, Maalim was appointed to the Cabinet. With this, Mohammed became the first Northerner (and first Muslim) to serve as a minister Mohammed went on to win elections in 1988, 1992, 1997 and 2002

142. As Maalim Mohammed was consolidating his position as the most powerful elected politician in Northern Kenya, his older brother General Mohamud Mohammed was completing his own astonishing rise through the ranks to become Chief of

63 TJRC/ Hansard/ Public Hearing/ 15 June 2011/ Nairobi/ p 16
64 From Hannah Whittaker Pursuing Pastoralists the Stigma of Shifta during the Shifta War in Kenya 1963 – 1968 (2008) 10 *Eras*
65 TJRC/Hansard/Public Hearing/Wajir/18 April 2011/p 49



North Eastern legislators meeting with the Commission on historical human rights violations in their region.

the General Services of the Armed Forces of Kenya. It is widely acknowledged that the appointment of General Mohammed to the highest military office in Kenya was a reward for acts of loyalty and bravery during the suppression of the 1982 coup attempt. As the head of the Kenya Army, General Mohammed commanded battalions that fought through the streets of Nairobi and eventually reclaimed the Voice of Kenya (VoK) - the precursor of the present Kenya Broadcasting Corporation (KBC) - headquarters and other key installations from the mutinous soldiers. The dominance of the Mohammed family has given rise to complaints about nepotism and favouritism. In a region riven by clan-driven conflicts and competition, the Ogaden clan (to which the Mohammed brothers belong) were seen to enjoy Moi's patronage at the expense of other clans, such as the Degodia and the Ajuran. Anxieties about Ogaden dominance were compounded with the gradual ascent to prominence of Mohammed Yusuf Haji, a long-term administrator with a long record of service in Western and Rift Valley provinces. In 1997, he was eventually appointed commissioner of the largest province in the country. It was an immensely powerful position that eventually propelled him to even greater political heights as an elected Member of Parliament and to a number of Cabinet positions, including his most recent post as the Minister of Defence.

143. Like Kenyatta, Moi had to address disruptive and destabilising influences from Somalia. As Moi took power in 1978, the Ogaden War was ending with the ejection of invading Somali troops from southern Ethiopia. Kenya felt the impact of the war primarily through the influx of thousands of refugees and weapons. Somalia

then began a slow but steady march to collapse [66] After 22 years of increasingly repressive military rule and near-economic ruin, a coalition of opposition generals came together to topple President Siad Barre The clan-based nature of this coalition, however, worked against long-term unity, and soon after Barre's ouster, the groups turned against each other A catastrophic civil war broke out, driven largely by vicious fighting between heavily armed clan militias bankrolled by warlords seeking to control the territory

144 Kenya took several direct hits from the ensuing violence with fighting in Somalia occasionally spilling over into border towns, such as Mandera and El Wak [67] The scale of the refugee flows triggered by fighting within Somalia itself was unprecedented Thousands of desperately vulnerable men, women, and children fled Somalia for Kenya where they were placed into hurriedly constructed refugee camps, such as Dadaab. Two decades on, the crisis in Somalia still rages on, and with a population of nearly half a million, Dadaab is now easily one of the largest refugee camps in the world, and continues to grow.

145 With so many guns circulating in Somalia, it was only a matter of time before some of these weapons found their way into Kenya Long, porous borders and the unregulated movement of people created the ideal environment for the extensive smuggling of firearms by small-time traders and middlemen who made a good living from the contraband The guns were sold freely in the towns and settlements of North Eastern A good proportion of these guns ended up in Nairobi and other parts of the country where they were used to commit various crimes There is no real way to quantify the number of weapons that arrived in Northern Kenya from Somalia. A Human Rights Watch report estimated that there were 40,000 guns in the region in the year 2002.[68] It is difficult to overstate the wide-ranging and devastating impact the presence of weapons had on life in Northern Kenya. Ordinary inter-ethnic and inter-clan conflicts were transformed into deadly encounters. An *imam* (Muslim preacher) interviewed by Human Rights Watch bemoaned the fact that people were no longer interested in traditional forms of conflict resolution, all disputes were instead resolved with the brute force of the gun.[69]

66 There is large body of literature dedicated to the study of the collapse of the Somali state Part of it is summarized in Lidwein Kapteijens The Disintegration of Somalia A Historiographical Essay (2001) 1 *Bildhaan An International Journal of Somali Studies*

67 A thorough and comprehensive assessment of the impact of the break-up of Somalia on Kenya's borders can be found in Ken Menkhaus, *Kenya Somalia Border Conflict Analysis* (2005) at http://www somali-jna org/downloads/Kenya-Somalia%20 Menkhaus%20(2) pdf accessed 12th March 2012

68 *Playing With Fire Weapons Proliferation Political Violence and Human Rights in Kenya* (2002) at http://www hrw org/ reports/2002/kenya/accessed 12th March 2012

69 *Playing With Fire Weapons Proliferation Political Violence and Human Rights in Kenya* (2002) at http://www hrw org/ reports/2002/kenya/accessed 12th March 2012

146. President Moi reacted sharply to the rapidly degenerating situation. He dismissed those fighting for power in Somalia as "an international crime syndicate ranging from drug barons and religious extremists to international fugitives'.[70] In 1999, Moi stunned the United Nations High Commission for Refugees and other associated bodies with the demand that all Somali refugees be removed from Kenya immediately.[71] He made the announcement during a tour of Wajir, a district that he described as suffering greatly as a result of the insecurity wrought by the arrival of the refugees. Moi also asked the local administration to deal firmly with any refugees they found sneaking out of the camps and into local villages and towns. He followed this up with a ban on trade between Somalia and Kenya.[72] The reasons given were security-oriented, with the President arguing that guns and criminals were being smuggled into Kenya under the guise of legitimate trade in *khat* and food. Moi's apparently stalwart and resolute defence of the people of North Eastern Province against the malign influence of Somalia yielded political rewards. The region became what is known in Kenyan discourse as a "KANU zone" on account of its regular and overwhelming backing of Moi and his party, the Kenya African National Union. In the 1992 General Elections, for instance, KANU's share of the vote in the province stood at a staggering 78 per cent.

147. A central irony of the region's continued support for KANU is that the years when KANU was at its zenith were also characterised by a series of controversial security operations that have, in turn, become almost synonymous with the equally controversial history of massacres in Kenya: Bulla Karatasi, Malka Mari and Wagalla.

Bulla Karatasi Massacre

It was a place of death

> In the place called Bulla Kamor where we lived, we learnt about the violence that was going on at 7.00am. Houses were being burnt and we heard the commotion due to the skirmishes. The violence reached us at noon. Our house was burnt at that time and we ran away. Our last-born was with my husband then. They hit my husband with the butt of a gun and he told them to stop that. They hit him on the shoulder and spinal cord. The children ran all over. I had a small child then. I ran away and I was told to come back. They said that they wanted to beat me up. But they disagreed among themselves. Some said that it was wrong to kill me. That is how I was rescued. I was told to run to Garissa town. In the first call of prayers in the morning, we were told to come out of our houses. We went to Garissa primary school grounds. It was a place of death. People were beaten up, tortured and killed. My son was brought to me when I was there. There were dead bodies.

70 *The Sunday Times*, 28th November 2001
71 See 'Kenya's Moi orders Somali refugees back home' 4th May 1999 at http://reliefweb.int/node/46572 accessed 12th March 2012
72 'Kenya bans trade with Somalia' 30th July 2001 at http://news.bbc.co.uk/2/hi/africa/1464503.stm accessed 12th March 2012

> At 1 00pm, women and children were allowed to return. Those who were left there were only Somalis I could not even get water to give the children I left them under a tree and went back, only to find that the father was among the people who were killed by the police I witnessed his body being put in a car They threw the dead body into the river Men were in the field, while women and children were at home The women were raped, girls were crying for help and no one could help them Some people died and those who did not die were released after three days The issue is very painful It affected very many people Many women were raped We give thanks to God that some people survived [73]

148 This testimony is from Fatuma Abdi Anshur, who was caught up in a security operation that resulted in what came to be popularly known as 'Bulla Karatasi' or the 'Garissa Gubai Massacre' Bulla Karatasi refers to the *bulla* (village) in Garissa town that was badly hit by a security operation carried out in Garissa in November 1980 The Commission received more than 40 statements from individuals who were affected during this security operation

149 On the morning of 9 November 1980 Fatuma and other residents of Garissa's villages remember waking up to scenes of great confusion as their usual routines were interrupted by the stormy arrival of policemen, administration policemen and army officers The police were the easiest to identify on account of their instantly recognisable uniforms It was not immediately clear to Fatuma what these security personnel were after As she explained in her testimony, the sudden appearance of the uniformed men was baffling "We were not expecting anything. It just happened. It just happened unexpectedly" [74] The security officers were on a rampage, beating up everyone as they flushed them out of their huts Ahmed Sheikh Mohamed, for instance, remembers been beaten up mercilessly.[75]

150 Residents of the villages soon noticed smoke, their homes were on fire. Fatuma's own hut was razed to the ground by the flames. She would later find out from neighbours and friends that in some parts of Garissa fires had actually been burning since about 7.00 or 8 00pm the previous evening Witnesses closer to the action provided explanations for the fires security forces were setting houses alight It also emerged that houses were burned down in the full knowledge that people might still be inside them The recollection of Hawa Waheliya was that security officials locked doors from the outside and then set them on fire "They were locking the houses from outside and burning them ruthlessly with people inside them" [76] Anyone caught on the inside was either burnt or suffocated to death Kiosks, shops and commercial holdings were not spared either as property worth hundreds of thousands of shillings went up in flames. Some people like

73 TJRC/ Hansard/ Public Hearing/ 12 April 2011/ Garissa p 36 37
74 TJRC/ Hansard/ Public Hearing/ 12 April 2011/ Garissa p 36
75 TJRC/Statement/41007
76 TJRC/ Hansard/ Public Hearing/ 12 April 2011/ Garissa p 43

Abdia Abdi Somo ran to the Garissa police station to seek refuge but he was turned away [77] He then rushed to the mosque where he spent the night Back in the village, his house and properties were burnt to ashes He remained internally displaced for one year.

151 As the fires spread, the women of Garissa's *bullas* were subjected to sexual attacks Reports of rape came to the surface through women like Waheliya who heard or knew directly of women who had been violated in this manner by members of the security forces In the three decades since the operation, some of the women who were attacked have told detailed stories of rape, gang rape and extreme violence carried out by police and army men seemingly unconcerned about detection, consequences or punishment With the rapes came the attendant traumas, with a number of women alluding to long-standing gynaecological and obstetric conditions that they attributed to the attacks visited upon them in 1980 Medical attention, either in the immediate aftermath or later on, was not an option for many of the victims Rape in a traditional and conservative society like that of Garissa in 1980 carries a stigma, and thus violated women fully expected a certain degree of social isolation from their families and loved ones, and often did not seek medical help

152 Many survivors of the security operations developed mental illness Dubai Olow Dege's wife was pregnant during the operation She suffered massive shock that left her with a mental illness after she was beaten up by police officers [78] Another survivor was seven months pregnant during the operation She miscarried after she was beaten up by security officers [79]

153 Because the security forces entered the villages armed with guns, an already bad situation quickly got worse Shooting broke out and people were either deliberately shot or caught in the crossfire. Fatuma's husband was the victim of such a shooting The melee and general chaos made it impossible for her to establish the circumstances of his shooting Her husband's body was eventually disposed of in the nearby River Tana Others have told similar stories of burned and bullet-ridden corpses simply being tossed into the river Hawa Waheliye remembers that 'If a person died, the body was taken and thrown into the river' [80] Such bodies were ultimately untraceable Waheliye recalls that in a neighbouring house, 7 people were killed and their bodies were carried away in a 'government vehicle' [81]

154 While this was happening, residents were also being directed towards Garissa primary school Torches, spotlights and microphones were used to herd people

77 TJRC/Statement/39433
78 TJRC/Statement/41018
79 TJRC/Statement/41041
80 TJRC/Hansard/Public Hearing/Garissa/12 April 2011/p 41
81 TJRC/Hansard/Public Hearing/Garissa/12 April 2011/p 43

in the direction of the school's playing grounds Planes were also heard flying overhead. Once in the school, the residents were surprised to find out that most of them could not leave. Instead they were held at the school for a further three days and nights. Exceptions were made for women, children, the elderly and the sick. Conditions at the school got steadily worse. No provisions had been made for either food or water A missionary came to the field with a few bottles of water, but they were quickly snatched up, forcing some people to drink their own urine in order to quench their thirst. There are reports that several people might have died within the school grounds either from the heat, exhaustion or hunger.

155 After the third day, the people were released and told to return to their homes Wahaliye could not and would not return to her *bulla* She left Garissa and moved nearly 100 kilometres away to Dadaab. Some moved even further beyond into Somalia [82] Like other women widowed as a result of Bulla Karatasi, Fatuma embarked on a life of struggle and sacrifice to care for her children Life would never be the same again for those who had been beaten up, assaulted or bereaved in Garissa in November 1980. Fatuma described her situation in the following words

> It was a difficult venture My children were very young then and it was quite difficult I tried my best and a man called Hajj Athan Kundhe helped us with shelter I was advised to sell *miraa* I survived the hard way It was difficult raising children without a husband It is difficult to be a single parent, but I tried my best My husband had advised me earlier to let them stay in town where they could survive I took that advice and God helped me I educated them, but I did not get any help apart from Haj Athan Kundhe We did not get much help from the government or other institutions [83]

156 Another victim, who was hit with the butt of a gun, indicated in his statement that following the incident he "was in bed for three months since they hit me with the gun and until now I have that problem which prevents me from doing any work"[84] Moreover, he added "I constantly become depressed whenever I remember that incident"

157. For many survivors of the Bulla Karatasi Massacre like Fatuma, the grounds on which Garissa primary school remains to them what it was in 1980. a place of death Others remember that dark November as a 'frightening and harsh' period [85]

82 TJRC/ Hansard/ Public Hearing/ Garissa/12 April 2011/ p 4
83 TJRC/Hansard/Public Hearing/Garissa/12 April 2011/p 40
84 TJRC/Statement/31573
85 TJRC/Statement/41041

Genesis of the security operation

158 The rationale for the Bulla Karatasi operation dates back to early November 1980 to a place known as Liboi Liboi was in 1980 the same as it is today. a small town in Garissa District just 20 kilometres west of the border with Somalia On 4 November 1980, national newspapers reported the shooting to death of District Officer Johnson Welimo [86] Welimo was caught in an ambush as he rode in a vehicle from Liboi to Garissa on official duties The attack on Welimo was a classic North Eastern one, with armed men melting out of the bushes, opening fire and then melting back into the bushes There was no way to trace the attackers or to interrogate their motives The whole incident was chalked down to that most convenient of catch-alls the Shifta On the 8 November 1980 Provincial Commissioner Benson Kaaria called a public meeting in Baraza Park to address the issue of insecurity His assessments of the region and its inhabitants were uncompromising and blunt During the Baraza Park meeting, Benson Kaaria was in his typically combative form With members of the Provincial Security Committee, District Security Committee and various heads of local government departments in attendance, Kaaria did not mince his words The gathered Garissa residents were warned that their apparent shielding of and co-operation with Shifta bandits would not be tolerated by the administration

159 Newspaper reports of the *baraza* indicate that in addition to the general warnings about growing impatience with the perceived links between the public and Shifta, the Provincial Commissioner intimated that the government was well aware that the Shifta had, to use his word, "collaborators" among the local population [87] Kaaria went on to state that certain responses were available to him Protected villagisation, a relic of the Shifta past, was one option

> There is a demand that the people of Garissa produce the Shifta gangsters and an ultimatum that unless the Shifta is produced, the government will have no alternative but to round up all Somalis and put them in restricted villages [88]

160 He was also reported as saying that he was in a position to withdraw food aid and livestock services Instructions were also issued to stop the digging and maintenance of boreholes A 14-day ultimatum was issued to those who might be harbouring or otherwise assisting the Shifta Kaaria warned his audience that the leaders and people of the Province "had gone too far" and were "playing with fire" in their continued provocation of government [89] He then went on to issue another of those statements that has gone on to live in the memories of many Northerners' "Since you are 678

86 'District Officer Shot dead by Shifta *The Standard* 4th November 1980
87 Report Shifta Somalis Ordered *Daily Nation* 10th November (1980) 5
88 State Acts on Shiftas *Sunday Standard* 9th November (1980)
89 Report Shifta Somalis Ordered *Daily Nation* 10th November (1980) 5

000 people in the province, all of you would be eliminated and Kenyans would be left living in peace"[90] Garissa folk left the *baraza* with those words still ringing in their ears. "We will shoot to kill, PC warns", blared the following day's newspapers[91]

161. Civil servants also attended the *baraza* They were privy to more detailed information about the fighting talk emanating from their superiors David Rabasi is a former government employee of the Ministry of Works who has spoken to the press about some of the events surrounding Bulla Karatasi[92] Rabasi's version of the story has it that Benson Kaaria had mentioned intelligence he had received about impending Shifta attacks·

> The PC told us that they had received intelligence reports that there would be Shifta attacks Apparently, the Shiftas had written to him personally and informed him they would strike but they did not indicate where they would strike[93]

162 This notion of an advance warning from the Shifta is something that Kaaria himself vehemently denies His testimony before the Commission was that he had received no such information[94]

163 Within hours of the public meeting, the threats of an attack had turned into a grim reality Mama Wanjiru's was a local Garissa bar popular with civil servants. On 9 November 1980, Rabasi was at Mama Wanjiru's enjoying in the company of friends and colleagues[95] At around 8 00 pm that evening, their routine was rudely interrupted when a side door burst open and at least three heavily-armed and possibly masked men entered the bar Rabasi clearly remembers shots being fired into the air This was then followed by a round of gunfire aimed directly into the bar The gunmen left almost as quickly and mysteriously as they had arrived In their wake they left four men dead They were later described in the press as senior civil servants from the Kenya Wildlife Service (KWS) and the Ministry of Works[96] Three others later succumbed to their injuries

The operation

164 Within the hour, news of the shooting of the civil servants had reached both the Garissa District Security Committee and the Provincial Security Committee, which swung quickly into action Kaaria described what happened next

90 State Acts on Shiftas' *Sunday Standard* 9th November 1980
91 We shool to Kill PC Warns' *Sunday Nation* 9th November 1980
92 Civil servant who witnessed Garissa Massacre speaks out' 11th March 2011 at http //www propertykenya com/news/1436640-civil-servant who-witnessed garissa-massacre-speaks-out Accessed 14th March 2012
93 Civil servant who witnessed Garissa Massacre speaks out' 11th March 2011 at http //www propertykenya com/news/1436640 civil-servant who-witnessed garissa-massacre-speaks-out Accessed 14th March 2012
94 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 25
95 Rabasi s account gives the 4November 1980 as the date of the attack on Mama Wanjiru's but this is incorrect based on account of the date of the baraza addressed by Benson Kaaria 8 November 1980
96 Shiftas kill Four Civil Servants *Daily Nation* November 10th 1980 p 1

> On receiving this information, both the District Security Committee and the Provincial Security Committee held an emergency security meeting to assess the situation It was then decided that the bandits must be pursued An operation order was to be drawn in order to flush out the culprits We prepared an operational order, rounded up all the adults and took them to the open primary school for interrogation and screening in order to know who the perpetrators were [97]

165 The police and the administration police swung into action almost immediately The involvement of the army was not immediately evident By the time that Fatuma and Wahaliye woke up the next morning, the operation was actually several hours old

166 In addition to the operational orders for the pursuit of the gunmen, a curfew was also imposed Kaaria invoked the power of the Preservation of Public Security Act, Cap 57 to announce an absolute clampdown on all movement between 7 00pm and 6 00am The curfew was not limited to Garissa alone, Wajir and Mandera districts were also subjected to the same restrictions Concern about possible incursions from Somalia was the reason given for the province-wide curfew.

> The PSC was of the view that maybe that was one of the attacks aimed at the Kenya government by the Somali militia from across the border If so, the incident could have occurred simultaneously in both Wajir and Mandera districts In order to contain the situation, the movement of civilians had to be curtailed somehow in the whole province [98]

167 Kaaria spoke to a reporter from the *Daily Nation* soon after the shooting His remarks appeared in the following day's edition It was clear the PC was furious at what had happened the night before He accused Garissa locals of providing cover for the bandits despite calls for cooperation issued at Baraza Park Somalia came in for harsh criticism as Kaaria accused remnants of the secessionist movement of trying to sow discord in Kenya itself

> They seem to want to kill the people who are working so hard to develop this part of Kenya This means we are now back to the 1963 situation whereby the Somalis thought that a large part of our country belonged to them [99]

168 He followed this up with a final flourish that was in essence a re-working of Kenyatta's infamous "pack your camels and go back to Somalia" remark The Kaaria version was that those residents with loyalty to Somalia should pack up and leave

169 The field at Garissa primary school became the site of a large-scale screening exercise proposed by the District and Provincial Security Committee as operation orders were being drawn up on 9 November 1980 Male adults were the ostensible targets of the interrogation to gather information about the identity, whereabouts

97 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 5
98 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 5
99 Shiftas kill Four Civil Servants *Daily Nation* November 10th 1980 p 1

and movements of the raiders By noon on 10 November 1980, it became evident that a number of women and children had been caught up in the dragnet. A number of civil servants, including Rabasi, found themselves at the field as well Government employees, women and children were released soon after Kaaria and his team arrived to tour the grounds The rest were to remain there as questioning continued. Special Branch officers and the police were seen to be at the forefront of the actual questioning and handling of civilians There was also a military presence of some kind Rabasi recalls seeing a number of military men dotted through the field They were heavily-armed but had no direct interactions with the gathered men Their "mean-looking faces" were a source of great concern not least to Rabasi himself He also spotted four military personnel carriers strategically parked at the corners of the field

170. After his tour of the field on 10 November 1980 Kaaria issued yet another statement that was reported in the newspapers of 11 November 1980 [100] There was no sign of any softening of the government position If anything, Kaaria intensified the crackdown, with the disbandment of the provincial, district and location committees that were so central to administration He reiterated that the government would not tolerate any form of what he referred to as "terrorism and banditry" The screening continued with scores of men all individually subjected to a barrage of questions about the said terrorism and banditry Even as conditions deteriorated due to the lack of water and food, the men would remain detained at the field until the exercise wound down over the next couple of days

Main state actors

171 As discussed earlier, security operations require permissions and authorisations These permissions are key determinants of how, when, and by whom an operation is to be carried out What Bulla Karatasi quite clearly demonstrated was that these permissions and authorisations were generated at the District and Provincial Security Committee level in Garissa itself Kaaria's testimony was unequivocal on this particular issue the decision to conduct the rounding up, holding and screening operation came out of a joint District and Provincial Security Committee meeting held less than an hour after the shooting in the bar No go-ahead or green light was needed or sought from Nairobi or from anywhere else. All approvals required to launch the operation were local In this sense, Bulla Karatasi provided a text book example of an operation executed in accordance with the guidelines set out in the province's Internal Security Scheme or, as Kaaria sometimes referred to it, the [Security] Charter As described above, the charter identifies both the Provincial

100 Thousands Rounded Up' *The Standard* 11th November 2011 1

and District Security Committees as the central decision-making bodies of most operations These committees had been vested with the powers to craft whatever responses were deemed necessary to combat even fairly serious emergencies and internal security situations

172 The Commission has thus far represented the District and Provincial Security Committees as marching together in lockstep and bearing equal responsibility for the planning and execution of the Garissa operation After all, the members of the District and Provincial Security Committees sat in the same emergency meeting convened immediately after the shooting in the bar Under further questioning and somewhat circuitously, however, Kaaria revealed a critical divergence the Provincial Commissioner was not bound by the Security Charter The District Commissioner was As he put it[101]

> **Leader of Evidence** So it was not a binding document on the DC
>
> **Benson Kaaria:** Not on the PC but on the DC
>
> **Leader of Evidence:** The DC was not bound and he could act outside of this scheme?
>
> **Benson Kaaria** My understanding is that he could not It has never happened [101]

173 It is not clear whether this also applied to the rest of the Provincial Security Committee and the District Security Committee

174 Kaaria's testimony could be taken to suggest that the charter placed a particular and specific load on the District Commissioner and the District Security Committee Kariuki's submissions flowed along very similar lines in creating the impression that while the two security committees worked very closely together, many (if not most) of the initial calls about the need for an operation were actually made by the District Security Committee alone Decisions and assessments generated at the district level then flowed up the administrative chain to the Provincial Security Committee and beyond

> **Leader of Evidence** Therefore, in terms of defining whether there was insecurity or whether there was need for an operation, those were decisions that would be made by your ministry
>
> **G.G. Kariuki:** It does not work that way When a situation has happened like it happened in Garissa that time, it is the local security committee and the officers in charge of maintaining law and order to immediately decide which direction they want to take to stop whatever incident which was against the law and also an incident which was against public security

101 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 12-13

Leader of Evidence When you talk about the local security body, in this instance you would we be talking about the District Security Committee (DSC)?

G.G. Kariuki: That one evaluates day-to-day business of security nature You must appreciate that the Government only anticipates that something may happen and sometimes it does not happen The criminals do not report that they are going to attack at a certain time You should appreciate that all actions are taken immediately after an incident has occurred

Leader of Evidence After the local DSC analyses a situation, do they respond to the situation or are they required to consult a higher office?

G.G. Kariuki: No more security action is taken immediately if something has happened [102]

175 Further responses from the former minister continued to stress that, more often than not, it was the District Security Committee that occupied the core of the average security operation

Leader of Evidence Thank you, Sir Because we have said that when it is normal the District Security Committee can make a decision and respond to the situation that appears to suggest that there are situations that are not normal?

G.G. Kariuki Which ones are not normal? I did not get you!

The Commission Secretary You said that when there is a normal situation, and there is a normal security issue, then the District Security Committee will be able to respond to the issue So, in my thinking, then there are issues that you would define as not normal security issues

G.G. Kariuki The District Security Committee is in charge of the entire maintenance of law and order in that district That is the job of the security committee I am using the word abnormal to mean, if it is a bigger crime that they are unable to control, they ask for assistance from their seniors outside the district [103]

176 The presence of the Provincial and (especially) the District Security Committees as the primary decision-makers in Bulla Karatasi provided evidence of the displacement of other organs and individuals Kariuki was at pains to de-link himself from both the decisions and actions of the two committees. Both Kaaria's and Kariuki's testimonies suggested that even the President of Kenya was left largely on the sidelines as the Provincial and District Security Committees quickly mobilised security forces to track down the raiders of Mama Wanjiru's bar The president's permission was not required and was not sought to launch the part of the operation that concerned itself with the rounding up, confinement and screening of citizens at Garissa primary

102 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 18
103 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 19

school. The president's permission was only needed for the imposition of the curfew. And even then, as Kaaria's testimony indicated, it was the security committees that determined whether the curfew was necessary and then sought what appeared to be fairly technical approvals from the president:

> In order to contain the situation, the movement of civilians had to be curtailed somehow in the whole province. The PSC felt the need to invoke the Preservation of Public Security Act, Cap 57, which provides for an imposition of a curfew order. I was then mandated by the PSC to seek the approval of the Head of State to declare a curfew in the whole province, which I did and the Head of State gave a nod. I made the order that limited movement from 7.00pm. to 6.00am until further notice.[104]

177. Kariuki presented a similar description of President Moi's role in the Bulla Karatasi operation. The president was only involved after decisions and logistical details were tabled at the district and provincial levels:

> When the District Security Committee advises the Provincial Security Committee that the situation warrants a curfew so that they can deal with the situation effectively than normal, the PC has two persons to inform or seek authority or concurrence, that is the president, and sometimes they can ask the minister what they think. They have the authority to do all these things in terms of maintaining law and order. But in this case the provincial commissioner did not seek permission from me but he got it directly from the president. In fact, even with the President, it is kind of consultation. Before the provincial commissioner and others impose a curfew, they have to seek concurrence from the president.[105]

178. The president's formal role seemed to be limited to signing off on the curfew orders as requested by the security committees. He, however, continued to engage in a more informal and more political capacity. President Moi dispatched Kariuki to Garissa along with several other senior political figures and charged them with fact-finding and explaining the government stand. As the British correspondence also indicates, the president was also busy on the diplomatic front as he lashed out against Somalia, whose leaders he held responsible for Shifta attacks and raids. Because few (if any) of the interactions between the president and the Provincial and District Security Committee have ever been published, it is difficult to say whether the president ever returned to the issue of Bulla Karatasi at a later point.

179. Another component of Bulla Karatasi relates to the issue of military participation. The charter on which the operation was based created room for military involvement in what were otherwise classified as purely civilian affairs. The Internal Security Scheme

104 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p.5
105 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p.30

specified that the Kenya Army companies based in Garissa, Wajir and Mandera could only be drafted into an operation at the request of the District or Provincial Security Committee Such requests had to follow an elaborate and hierarchical path that wound all the way up to the Ministry of Defence headquarters in Nairobi. Exceptions could be made in emergency situations, but even then there were strict procedures to be followed Kaaria strenuously denied any involvement of the military in the Bulla Karatasi operation. Kariuki was more circumspect, but was unwilling or unable to say if the military had been involved Their recollections and testimonies suggested that military officers were not present as people were flushed out of their homes and herded towards the school. Kariuki and Kaaria also denied claims and refuted testimonies to the effect that army men were responsible for patrolling the perimeter of the field and ensuring that nobody left or escaped interrogation

180 Statements received from victims of the security operation strongly suggest that the military participated in the operation A victim indicated that he could generally identify the perpetrators because 'they were military men because I saw them wearing their uniform and also using military vehicles'[106]

181 Despite the denials and uncertainty about a military component in the operation, the commander of the Kenya Army flew to Garissa the day after the operation Major General John Sawe was part of the so-called fact-finding mission that arrived from Nairobi It is difficult to see what would have necessitated the Major General's presence other than some level of military involvement in the operation. The highest ranking officer in the Kenya Army would not have gone to Garissa to investigate and assess, as it were, the non-participation of his men If anything, the history of Northern Kenya suggests that it was unusual for the military *not* to be involved in such security operations There may have been something of a lull in the decade and a half between the end of the Shifta War and Bulla Karatasi, but the continuing state of emergency and the overall security situation in the province no doubt meant that Kenya army companies in the North were at a high state of alert and ready to be incorporated into an operation at a moment's notice This was more likely to have been the case with Bulla Karatasi than not

182 Collective punishment was a key component of the Bulla Karatasi operation The operation, conceived in the wake of the raid on the bar, cannot be described as targeted or investigation-driven The police had no suspects and they had no names. They developed no profile other than the ubiquitous Shifta As the Commission established, however, the problem facing the people of Garissa was that they were all classified by the administration as either Shifta or Shifta supporters This meant

106 TJRC/Statement/31569 See also TJRC/Statement/31573 TJRC/Statement/41042

that the entire population of the town was assumed to be somehow responsible for the actions of a handful of rogue and criminal gunmen. And it was on this basis that men, women and children were indiscriminately collected onto the field at the primary school. A sifting of sorts took place at the playing fields. Non-Somalis, such as Randiki, who had been caught up in the swoop were apparently allowed to leave, the assumption of course being that their very ethnic identity was a marker of their ignorance of and innocence in the entire affair. Women, children, the sick and elderly were also released following Kaaria's tour of Garissa Primary School.

183 This left a cohort of men of Somali origin who were subjected to a screening and interrogation process conducted by the police and the administration police. Special Branch officers spearheaded the questioning of the people caught in the indiscriminate dragnet thrown over Garissa on the night and the early morning of the 9 and 10 November. None of the witness testimonies suggested anything other than a crude sweep through Garissa's *bullas*, streets and alleys. The collective and undifferentiated approach applied to Garissa residents was a hallmark of the Bulla Karatasi operation.

The stage for a massacre

184 Localised decision-making, military involvement and collective punishment were the three components of the Bulla Karatasi operation that created the conditions for a massacre. While it was not been possible to quantify the number of people injured and killed at Bulla Karatasi in any meaningful way, it was nonetheless possible to think about the conditions which might have given rise to killings on the scale suggested by witness testimonies and other descriptions that have come out of Garissa over the past three decades. The highly localised decision-making process used for the Bulla Karatasi operation could be somewhat problematic, even though locally generated decisions can, in some respects, be highly responsive to local conditions.

185 Provincial and district administrators on the ground were in a position to immediately tackle emergency situations that required quick responses. Because the district and provincial security committees were largely autonomous, their members could assemble operations and responses without being slowed down by a need to consult or communicate with their colleagues in Nairobi. It could also be argued that these Garissa-based officials were best placed to assess the security needs presented by emergencies in their areas. They knew the terrain, issues, personalities and challenges better than an official in distant Nairobi. Notwithstanding the obvious logistical advantages of locally-driven security operations, the fact that the Bulla Karatasi operation was conceived and carried out with little initial involvement from

Nairobi raises the question of whether that autonomy and isolation created the pre-conditions for mass violence and mass killings.

186. With limited input into the discussions and the overall decision-making on security operations, district and provincial officials were essentially left free to react as they saw fit with little apparent guidance or accountability. The security committees were more like self-regulating bodies, unfettered by a system of checks, balances and inputs that might have resulted in a focused, targeted, restrained, and, ultimately, more effective response to the shootout in the bar This self-contained and localised approach was also highly personalised and placed ultimate and sole responsibility for security operations into the hands of a very small group of administrators with a particular approach to security matters With Bulla Karatasi, this group of administrators was led by Benson Kaaria, who adopted a particularly harsh approach to local security issues With Kaaria and a small cohort of like-minded colleagues setting the security agenda in Garissa, it was not surprising that the security committees reacted the way they did that November night

187 The presence of the military in Bulla Karatasi was yet another factor that made it more likely that the operation would result in mass violence and killings. There were two reasons for this (1) training and reputation, and (2) the secretive nature of military activities in Northern Kenya

188 First, military forces are not trained and equipped to undertake civilian policing operations As has been discussed at some length above, the history of the military's entanglement with the people of Northern Kenya was characterised by episodes of large-scale violence that may have resulted in the loss of thousands of lives Witness testimonies dating back to the Shifta period suggest that of all the security personnel - the police, administration police, General Service Unit (GSU) officers and the military - it was the military that the people feared and resented the most Army officers from that period were rarely described by the people of the region as anything other than brutal and uncommunicative, men who seemed uninterested in fostering any positive relationship with the local populations With the end of the war, Kenya Army companies returned to their barracks in Wajir, Garissa and Mandera Their reputations amongst civilians, however, remained intact

189. Second, a cloak of silence had been thrown around army activities in Northern Kenya The Indemnity Act had made research concerning the Shifta War extremely difficult The Commission's experience was that the post-war years were similarly protected by a culture of military secrecy and non-disclosure that proved difficult to surmount And so it was with Bulla Karatasi If army officers are responsible for any deaths during this period in Garissa, their involvement was firmly hidden

within an institution that lacked a tradition of openness Investigations, reports and assessments of the operation were inaccessible. The operational orders would give the clearest indication of the scope of the role assigned to the Garissa-based military forces But the operational orders were unavailable. There was thus no way to establish what was expected of the officers. Also unknown was whether any officers were disciplined for disobeying what orders they may have been given

190 Notwithstanding the unwillingness of the military to reveal information about an operation conducted over 30 years ago or perhaps because of that unwillingness, it was not difficult to make an educated guess regarding the consequences of an operation that may have been carried out by officers who were, and continue to be, shielded from public scrutiny and accountability With no apparent means of holding them publicly to account for their actions, the possibility that such officers might adopt an aggressive and belligerent approach to a particular mission cannot be dismissed The army's portrayal of itself as a modern, professionally-trained fighting force is inconsistent with soldiers rampaging through Garissa as reported by some witnesses If military documentation and evidence had been made available to the Commission, it would have been possible to provide a more accurate assessment of the army's role in Bulla Karatasi In the absence of such material, however, an assessment of military involvement in civilian operations must be based on witness testimony and on educated speculation based in part on a previous history and tradition of excesses and brutality

191 The third and final component of the Bulla Karatasi operation was collective punishment, which is the factor most likely to have ensured that an operation resulted in mass violence and killings As described above, collective punishment during Bulla Karatasi took the form of an indiscriminate and violent circuit through Garissa by security forces Hundreds, and possibly thousands, of people were wrenched from their homes, made to march to the primary school and held there Later on it emerged that all the residents of Garissa were being considered as sympathisers, if not suspects, in the bar shooting The indiscriminate rounding up of scores of frightened people provided the conditions for a massacre to take place with the slightest of provocations As a victim of the operation observed: "They were saying they were looking for the bandits, but they killed innocent citizens"[107]

Post-operation

192 The initial operation launched on the night of the shooting at Mama Wanjiru's did not yield any quick results as the attackers were not caught. The interrogations at the field, however, produced a well-known name Abdi Madhobe Madhobe

107 TJRC/Statement/11278

was described by the police and the administration as a notorious Somalia-born gangster and poacher with extensive connections to the criminal underworld. On the other hand, Madhobe was portrayed in a very different light by some sections of the local population He emerged from some accounts as an almost virtuous, legendary figure whose life in crime sought to avenge his alleged castration at the hands of policemen who had caught him with illegal ivory [108] Madhobe's image as some kind of Northern anti-hero was only enhanced by his apparent escape from police custody several times Because Madhobe was so well known, it did not take very long for reasons behind the shooting to emerge Madhobe and the Kenya Wildlife Service (KWS) officers that he was meant to have killed are described in popular accounts as trading in illegal ivory When a deal turned sour, a short-changed Madhobe went looking for his former partners at Mama Wanjiku's with fatal results. Madhobe was not suspected of having anything to do with the shooting of District Officer Welimo in Liboi at the beginning of November

193 Once Madhobe's name had emerged, the screening and interrogation halted The attention of the police and Special Branch then turned to his capture and prosecution Little is known about what happened next Some sources suggested that Madhobe was eventually captured and jailed, but made a sensational escape He then is rumoured to have returned to a life of crime and violence before being killed by game rangers as he attempted to row across River Tana

194 On Friday 14 November 1980, the still shaken and traumatised residents of Garissa were summoned back to Baraza Park The occasion was yet another public meeting The guests of honour this time round were highly placed officials from Nairobi The Minister of Internal Security, G G Kariuki, a Minister of State in the Office of President, Nicholas Biwott, an Assistant Minister in the Office of the President, Justus ole Tipis, a nominated Member of Parliament, Ezekiel Bargetuny, the Commissioner of Police, Ben Gethi, and Major General John Sawe, the commander of the Kenya Army.

195 Described by subsequent newspaper reports as wearing "traditional Somali attire", G G Kariuki was the first to address the audience [109] His speech started out optimistically enough The ban on the distribution of famine relief food would be immediately lifted because it was causing "unnecessary hardship" for the people of the region. Another hopeful note was struck when he announced a relaxing of the curfew in Garissa and a complete lifting of restrictions further afield in Mandera and Wajir He also instructed the police not to harass residents on account of the curfew Attempts would be made to assist those who had lost their property to the fires

108 See for instance Congratulations for killing the bandit' http //duqow stormloader com/massacre html Accessed 11th March 2012
109 Famine aid to continue *Sunday Nation* 16 November 1980 1

196 It did not take very long, however, for the mood to shift and for the officials to begin addressing the recurrent themes of insecurity in North Eastern Kenya Bargetuny promised "execution" of Madhobe Biwott struck an equally combative note when he assured potential trouble-makers of a tough government response

> If we find that the peace our president has so firmly blended in our midst is threatened by a person or persons, we shall move in full swing and crush that element wherever it may be [110]

197 By the time that Kariuki told the "Doubting Thomases" in the crowd that they were free to leave Kenya, the message was incontrovertible The government was in no mood to entertain or tolerate any further unrest

The count

198 The shadowy and undocumented nature of the Garissa operation makes it difficult to quantify the dead, the injured and the assaulted No official counts have emerged in the over three decades since the event In the absence of a contemporary count, what has emerged are differing estimates

199 One end of the scale is represented by people like Randiki, who believe that as many as 3000 people may have died in Bulla Karatasi Randiki's impressions are based on what he saw on the night of 9 of November 1980 and what he has heard since When the shooting in the bar had stopped, Randiki somehow found his way back home In keeping with the timeline, about an hour afterwards Randiki heard gunshots and loud screams from his neighours' compounds and beyond This was followed by announcements on a public address system ordering people to leave their homes and make their way to Garissa primary school Between his home and the school, Randiki claimed to have seen scores of dead bodies all over the streets and alley ways of the town As he described it, "we were literally jumping over human bodies lying in pools of blood on the way to the stadium It was the most horrific sight I have ever seen "[111] Randiki also believed that scores of bodies were either thrown into the river or hurriedly incinerated He claimed that bodies disposed of this way might have accounted for the bulk of the 3 000 dead While Randiki speaks of such a high death toll, he never saw any bodies other than those he said he almost stumbled over as he ran towards the primary school during the initial stage of the operation After his release from the school grounds he tried to establish the whereabouts of some of his missing friends and colleagues He went to the Garissa mortuary but found nothing Not only were his friends nowhere to be seen, but the mortuary itself had not received any new bodies at all

110 Famine aid to continue' *Sunday Nation* November 16th 1980 4

111 Civil servant who witnessed Garissa Massacre speaks out 11th March 2011 at http //www propertykenya com/news/1436640-civil-servant-who witnessed-garissa-massacre-speaks out Accessed 14th March 2012

200 At the other end of the spectrum lies the testimony provided by Kaaria, who claimed that nobody was killed as a result of the operation. His claims were apparently based on inquiries and investigations carried out after the initial operation and the screening. Kaaria believes that the Provincial and District Security Committees must have produced a report but he did not remember what it said, other than that no deaths occurred as a result of the operation.[112] Kaaria said he knew of no bodies that were disposed of either in the river or elsewhere. He also had nothing to say concerning the possibility that people may have died later from their injuries during the operation The former PC's testimony ended with the final observation that he received no reports of rape or any other sexual violence Again, this was based on a report compiled by the security committees, but not recalled in any great detail by Kaaria The only aspect of the operation that Kaaria confirmed as appearing in the post-operation report was the burning down of houses, huts, kiosks and shops But he blamed the fleeing criminals, not the security forces The Commission was unable to locate a copy of such a report

201. Other estimates indicate that the number of people killed was not as high as that suggested by Randiki and neither was it as low as that claimed by Kaaria As shall be discussed shortly, the British High Commission and the British Foreign and Commonwealth Office developed a keen interest in monitoring the security situation in North Eastern. Correspondence was sent back and forth between Nairobi and London as diplomats tried to understand the confusing and potentially dangerous situation One cable mentioned the Member of Parliament for Wajir East, Mohammed Sheikh Abdi, as a source of the middle-of-the-spectrum estimate of 300 people dead [113] The letter did not explain how Abdi arrived at this figure It was not even clear where or when this claim was made Even so, 300 has since become the number that is most widely attached to Bulla Karatasi It is also the number that the Commission heard most often in Garissa itself from witnesses and statement givers'

> In November 1980, the worst massacre took place in Garissa County That was Garissa Gubai Massacre It was the worst massacre Almost 300 people were killed and others went missing [114]

International reaction

202 As news about events in Bulla Karatasi filtered out, Nairobi-based foreign representatives began to make their own assessments of what they were hearing and reading Kenya's historical ties to Britain meant that British diplomats were particularly quick to write to London about Garissa Initially their primary concerns

112 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 23-25

113 Breton (British High Commission Nairobi) to Raferty (Foreign and Commonwealth Office Nairobi), November 1980 PRO/ FCO/31 2864

114 TJRC/ Hansard/ Public Hearing/ 12 April 2011/ Nairobi/ p 4

seemed to revolve around the implications of the operation (and the Shifta attacks that preceded them) for the perennially touchy and problematic relationship between Somalia and Kenya. If the British reactions can be taken as representative, Bulla Karatasi first appeared on the international radar as a foreign affairs concern and not as a human rights one. At the time British diplomats were almost certainly speaking to Kenyan political and intelligence insiders and the impressions they developed were of a Kenyan government pre-occupied, if not obsessed, with the idea of continuing Somali aspirations on Kenyan territory:

> The Kenyans firmly believe that there is an organised fifth column among the Kenyan Somalis who are dedicated to bringing the province under the umbrella of the 'Greater Somalia' concept which is enshrined in the Somali constitution.[115]

203. Correspondence from the first few months of 1980 suggest that the British were willing to present themselves as an arbiter of sorts as tensions continued to simmer between Somalia and Kenya. It was a role they had assigned themselves since 1977 when a Somali delegation visited London on a fence-mending mission in the wake of the Ogaden war. The cables portrayed Kenyan officials as open to the idea of either British or American intervention:

> The Kenyans would naturally welcome anything we could do to persuade the Somalis to renounce their claim on Kenyan territory. We keep in very close touch with the Americans on all these matters and I have no doubt that Kenya's relations with her neighbours will be addressed during President Moi's current visit to Washington.[116]

204. While the British appeared eager to assist, Kenyan reactions to the Somali threat were characterised as "unduly suspicious".[117] This, the argument went, led Kenyan officials to factor Somali government involvement into raids and attacks that were simple robberies.

205. In the lead up to Bulla Karatasi, British analysts expressed increasing concerns about the impact of Kenya's approach to the Somali nation on its own ethnic Somali populations. This represented something of a variation on the more geo-political concerns that had dominated discussions up to that point. The British found these developments alarming and worried about the implications on growing insecurity in Northern Kenya and other regional issues:

> Our own plans were knocked on the head by the conclusion on the 31st of the 10-year Kenya/Ethiopian Cooperation Treaty during President Moi's visit to Addis Ababa and a certain hardening of Kenyan attitudes towards Somalia illustrated by the harsher treatment of ethnic Somalis in Kenya.[118]

115 PRO/FCO/31.2864
116 Robson to Luce and Aspin, 20th February 1980. PRO/FCO/31.2864
117 Jarrold, 10th June 1980. PRO/FCO/31.2864
118 Jarrold, 10th June 1980. PRO/FCO/31.2864

206 Once again, however, there appeared no particular interest on the part of the British to delve further into the "harsher treatment" of ethnic Somali There did not appear to have been any attempt to push for explanations from the Kenya government about its handling of its Somali populations. Even in the days and weeks after Bulla Karatasi, a detailed picture of what had happened in Garissa did not emerge British correspondences seemed to draw mainly from the same newspaper sources available to the public These were presented without much commentary and analysis.

207 While some of their work could easily be described as routine, the British High Commission in Nairobi excelled at creating and maintaining contact with important political personalities And so it was that in the wake of Bulla Karatasi, British diplomats were able to speak directly to President Moi as early as 11 November 1980, only hours after people were first rounded up and taken to Garissa primary school. The British Minister for Africa, Lord Luce, found the President in a trenchant, unforgiving mood occasioned, once again, by an understanding that the Somalis had something to do with the Shifta attacks in Liboi and in Garissa Luce's reporting of the meetings gives some sense of the President's stand

> Moi started off the talk with a strong denunciation of the Somalis whom he said were masters of deception He said that recently the Ethiopians had crossed a corner of Kenya without the knowledge of the Kenyan authorities to attack Somalis in the Ogaden The Somalis were now taking their revenge against the Kenyans He was convinced that the Somalia government was behind the Shifta attacks and was worried that public opinion would become increasingly critical of United States military co-operation with Somalia [119]

208 Moi's outrage filtered downwards According to further communications, the Kenyan High Commissioner in London displayed similar impatience with the Somalis

> The Kenyan Ambassador, normally fairly relaxed, said his government had "proof" that the Somali Government had been involved, but would not be drawn on the nature of that proof [120]

209 The British did not seem entirely convinced by the Kenyan arguments surrounding Somalia's involvement in these particular Shifta attacks Their line continued to be that Kenyan dealings with the Somali were grounded more in fear and exaggeration than anything else As November drew to a close, British correspondences on Bulla Karatasi gradually petered out. Diplomats ended their assessments of the episode on very much the same note with which they had begun, namely, emphasising the need for greater understanding and cooperation between Kenya and Somalia Joint Kenyan and Somali border patrols were proposed but they never materialised The Somalis showed some enthusiasm, but Kenyan officials would hear nothing of it

119 Internal Security in North East Province 11th November PRO/FCO/31 2864
120 Internal Security in North East Province 13th November PRO/FCO/31 2864

They understandably, given the history between the two countries, flatly refused to give the Somalis access to such sensitive and contested territory

Deflections and denials

210 Thirty years on, many of the personalities involved in Bulla Karatasi are either untraceable or dead Benson Kaaria and G G Kariuki are among the few people still available to speak directly to the events of November 1980 The Commission received submissions from Kaaria and Kariuki on 14 June and the 17 May 2011, respectively And it is from their testimonies that the Commission reconstructed recurring strands of deflection and denial that have long characterised state and official treatment of Bulla Karatasi

211 These two were mentioned as the government officials who headed the operation In his testimony before the commission Mohamed Ibrahim Elmi singled them out,

> In October, 1980, the worst massacre took place in Garissa County That was Garissa Gua Massacre It was the worst massacre Almost 300 people were killed and others went missing Women were raped and killed and some of the people ran off to the neighbouring country, Somalia These massacres have been extended to the divisional level The operation was headed by the former provincial commissioner, Benson Kaaria and the then Minister for Internal Security, G G Kariuki[121]

Another witness singled them out too

> In 1980, after the death of a district officer who was killed by bandits at Daadab, a curfew was imposed in the North Eastern Province by the then Minister of State, Internal Security, Hon G G Kariuki, and the curfew order was implemented by the former Provincial Commissioner of North Eastern Province, Mr Benson Kaaria [122]

Benson Kaaria

212 Benson Kaaria was asked to testify before the Commission because he was the Provincial Commissioner of North Eastern Province in 1980 when the Bulla Karatasi incident took place. Kaaria is one of a handful of officials who were directly involved in decision-making on this particular operation He has long had a reputation for plain speaking and directness And on some of the issues surrounding Bulla Karatasi, he lived up to his reputation

213 The former PC was blunt about his public pronouncements in the lead up to the operation itself Kaaria stood by the controversial threat to confine all Somalis to restricted villages if they did not turn in gunmen and raiders He made these remarks at the Baraza Park meeting held after Welimo's shooting in Liboi but before the

121 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 4
122 TJRC/ Hansard/ Public Hearing/ 25 April 2011/ mandera/ p 6

Madhobe raid. Kaaria maintained that it was necessary for him to take such a firm line because of overriding suspicions about civilian support and protection for the Shifta "I had", he said, "to give a terse statement to the people, and it worked"[123] Not only did Kaaria stand by the necessity of the statement, he was also unequivocal that both the Internal Security Scheme and the Preservation of Public Security Act gave him the power to make good on his threat and actually put people into restricted compounds

Leader of Evidence Now when you said that you had the power to put them into restricted villages, were you referring to the power that you had under the Internal Security Scheme?

Benson Kaaria Yes, and in relation to the Preservation of Public Security Act It had provisions

Leader of Evidence For rounding up people and putting them into villages?

Benson Kaaria Yes it had happened before [124]

214 Kaaria also admitted making the controversial comment ordering disloyal elements to relocate to Somalia. It was a variation of the "pack your camels" remark that has been attributed to President Kenyatta

Leader of Evidence There is a statement that says that Mr Kaaria said that those residents whose loyalty was in Somalia should pack and go Do you recollect saying that?

Benson Kaaria That is true If you did not want to be under the Kenya government, you could pack up and go elsewhere This was a warning to people who would understand [125]

215 Along very similar lines, the former PC confirmed that he was prepared to carry out large-scale security operations that could potentially result in the loss of life

Leader of Evidence There are other remarks that are attributed to you again at that baraza You said in the end "since you are 678 000 people in that province, all of you would be eliminated and Kenyans would be left living in peace" Do you recollect making those remarks?

Benson Kaaria That was taken out of context If you finish people, whom do you rule? You would remain with empty land

Leader of Evidence So what exactly did you say?

Benson Kaaria I said that action would be taken by the government

Leader of Evidence Did you state exactly how many people the action would be taken against?

123 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 15
124 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 15 –16
125 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 17

Benson Kaaria: I did not. I do not even know whether they were exactly that number.

Leader of Evidence: Did you, during that baraza, indicate that action taken would resort into loss of life?

Benson Kaaria: Yes[126]

216. Kaaria's confirmations give some sense of the official thinking in the immediate run-up to the operation. And while Kaaria cannot speak for all administrators, his position at the very top of North Eastern officialdom could be taken as fairly representative. Officials were in no mood to entertain any further security breaches. Their language and intentions demonstrated a certain resolute determination to get to the bottom of the Shifta issue in Garissa and its environs.

217. Kaaria did not contest the general objectives and shape of the operation. He confirmed that an operation did indeed take place on the 8 November 1980. That operation was prompted by the raid on Mama Wanjiku's bar and the subsequent decision by the District and Provincial Security Committees to immediately pursue the bandits. The rounding up and confinement of Garissa residents were adopted as the primary means to that end. Again, these were not issues that Kaaria regarded as controversial in any way; he embraced them in their entirety. Both his statement and testimony before the Commission confirmed this.

218. The former PC disowned a number of comments attributed to him by newspapers. One of the remarks that Kaaria disowned was a "shoot to kill' threat apparently issued at the Baraza Park gathering. The *Sunday Nation* newspaper of 9 November 1980 carried a front page story headlined 'We will shoot to kill, PC warns'.[127] Kaaria's testified that he did not recall issuing a "shoot to kill" threat. He also claimed not to remember threatening to withdraw government food and famine relief supplies from North Eastern Kenya. The same explanation, total lack of recall, was given by Kaaria for another stern warning that the people of the province and their leaders were "playing with fire".[128] On some operational specifics, Kaaria also drew a blank and claimed either not to know or to remember a number of details that the Commission regarded as vital.

219. For instance, he did not know how many people were rounded up, taken to and held at Garissa primary school. All he could say was that when he went to the grounds the next day, he found the field "half filled" with people sitting down

126 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p. 17
127 'We Shoot to Kill, PC Warns' *Sunday Nation* 9th November 1980 1
128 'We Shoot to Kill, PC Warns' *Sunday Nation* 9th November 1980 1

on the grass [129] The former PC also was unable to say either when the rounding up of residents had started or when it had finished. The Commission was struck by the contrast between the lucidity of Kaaria's memory on some issues and fogginess on others Three issues elicited particularly sharp denials from him First, he denied any army involvement in the operation Kaaria claimed that only the police and the administration police were involved in flushing people out of their homes and shepherding them to the school grounds In direct contrast to Randiki's claim that both army men and vehicles were present at the school and were responsible for somehow making sure that people remained within the field, Kaaria's insistence was that no military officers were at the scene Not only were they not at the school, he testified, they were also not involved in any other aspect of the operation

220 Second, as has been mentioned above, Kaaria was certain that the Bulla Karatasi operation did not result in any deaths He denied that there had been any shooting He also disagreed with the testimony of others that bodies were thrown into River Tana Kaaria was certain that not even livestock had been lost during the operation.

221. Third, Kaaria also dismissed all evidence and reports about rape His testimony was that no rapes took place and that no rapes were ever reported In so doing, Kaaria's was a disturbing attempt to set aside a substantial body of evidence that outlined the occurrence of a number of rapes and attempted rapes

G.G Kariuki

222 G G Kariuki's testimony was defined primarily by his attempts to distance himself from the main centres of decision-making in the operation Authorization and planning for the operation came from the District and Provincial Security Committees While he had been informed of the raid on the bar by the Commissioner of Police, Kariuki testified that his ministry nothing to do with the chain of events that followed

> **Leader of Evidence** So, when you received this report from the Commissioner of Police, as the minister, what action did you take?
>
> **G.G. Kariuki** They had already taken action The Provincial Security Committee had already taken action, they had imposed a curfew which would run from 5 00pm to 6 00am in the morning [130]

129 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 20
130 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 20

223 In defining the District and Provincial Security Committees as responsible for the operation, Kariuki gave a limited and modest explanation for his subsequent appearance in Garissa a couple of days afterwards

> All I was to do was to go to Garissa and for a fact-finding mission to understand what had happened and what action had been taken That is what I did and I went there the following day [131]

224 Despite the minister's insistence on the autonomy of the security committees, Kariuki's first order of business when he arrived in Garissa was to attend a Provincial Security Committee meeting. Even there, however, the former minister emphasised his outsider and observer status, underscoring that he was only there to receive updates As a result, Kariuki's testimony displayed a certain level of disinterest in and ignorance of the finer details of the operation He appeared to know nothing of the personalities involved in the operation and seemed not to care about the result of the operation The impression he gave was that he returned to Nairobi none the wiser about events in Garissa

> **Leader of Evidence** Did you, for instance, seek to find out who was in charge of the operation, how many officers had been assigned to do that operation and what their instructions were?
>
> **G.G. Kariuki** I cannot remember who was in charge of that particular operation, but the person who was in charge of the district or the Provincial Police Officer (PPO), were supposed to be on charge, it was their responsibility
>
> **Leader of Evidence** Yes, Sir I am just trying to imagine, on your flight back to Nairobi, you would want to be settled in your mind that the people you have left in Garissa will handle the situation well That is the reason I am asking you whether you sought to satisfy yourself that based on the situation on the ground, adequate arrangements had been made to deal with the situation
>
> **G.G. Kariuki** Yes As far as they were concerned, the arrangements which had been made to deal with that matter were sufficient I was given to understand that it was effective Mark you these are the people trained to do this kind of job and the minister is not trained to deal with situations like the security ones
>
> **Leader of Evidence:** Okay What did they share with you that assured you that the measures taken would be effective?
>
> **G.G. Kariuki** I am not sure whether you are asking relevant questions because I have already said that I was satisfied and I was given to understand that whatever measures which had been put in place were capable of dealing with that situation [132]

131 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 20
132 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 21-22

225 As with Kaaria, Kariuki denied all knowledge of any killings, deaths or rapes On the question of military involvement, which Kaaria strongly refuted, the former minister was more circumspect in that he did not confirm or deny military participation. Instead, he emphasised that it would not be unusual or unprecedented for the military to be involved in such an operation The history of Northern Kenya was that the military and the police often launched joint operations·

> **Leader of Evidence** Thank you very much Mr Kariuki, when we were in Garissa, the witnesses who came before us mentioned that the military and the police were involved in this operation I just wish to seek to confirm from you that when you got the briefing you advised that the military was participating in the operation and the police were also to participate in the operation
>
> **G.G. Kariuki** That issue should not come up because before 1963, the military and the police used to do joint operations in the area So, I assumed they were doing the same So, I did not get confirmation whether the army or the police did this work together, but it was in my mind that even before independence, the military and the police used to do operations together
>
> **Leader of Evidence**· So, in fact, we can conclude that when you were in Garissa on 9 November 1980, there was nothing suggested to you that either the military or the police were not involved in this operation? There was no contradiction and, therefore, you understood that as had been the position from 1963, this operation was conducted in the same manner and with the same people?
>
> **G.G. Kariuki** That would depend on whether the police are not able to control the situation May be they could get support from the army in those areas not in the other areas, but the whole of Northern Frontier Districts, and that was before Independence There were a lot of threats from our neighbours and the job of the military is to maintain international boundaries and make sure that our boundaries are secure and the police deal with internal law and order In an area like that one, the operations sometimes could be held jointly I cannot just remember when and what kind of operations took place during a certain period where the army was invited [133]

226 Kariuki presented himself during his testimony as a sort of official emissary whose only responsibility in Garissa was to listen and speak to the people and then explain the government position And that, according to the minister, is exactly what he did

> **G.G Kariuki**. We were to be introduced by the PC and then the local politicians were there Before the minister who was in charge of the whole programme stood to speak, others had already spoken, right from the local people to the administration and the politicians who might have been there And then finally, I took over the platform

133 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 21-23

Leader of Evidence Thank you Mr Kariuki Would you remember the address or the statement made by any of the other persons you were and really what it was that you were communicating to the people at the baraza?

G.G. Kariuki I think there were two issues here The local people were very concerned of their security and what they said was happening from the armed forces They said that the armed forces were harassing people who had not committed any crime That was the local people's stand and then the provincial commissioner and others would say what they were doing and what had brought that kind of menace Then the minister would come and give a government statement after having listened to all the issues given by everybody, he just stands and speaks what he thinks would be the Government policy [134]

227 The former minister also emphasised the largely political nature of this job and what was expected of him during times of insecurity

The Minister for Internal Security works under the direct control of the President You will appreciate the President will not have come to Parliament to answer questions regarding security problems in some areas The main job of the minister is to make sure that he satisfies Members of Parliament and the country at large that what happened, the government has taken action in the manner that he would have explained to Parliament or to any other invitation which he may have required to be given the same answer This is because it is not within the docket of the Permanent Secretary or the Commissioner of Police to go to public meetings to explain what happened It is the minister who appears to carry the responsibility of talking to the masses or the public [135]

228. When he was asked to clarify what government policy was in this particular instance, Kariuki was reticent and would not be drawn on the issue He provided no comments or insights on the contents of his speech, which was widely reported in local newspapers That reporting suggested that Kariuki had made a hard-line address very much along the lines of Kaaria's remarks at Baraza Park the day before, warning Garissa residents that the government was prepared to take tough measures against the Shifta and their supporters Newspaper reports made it clear that the minister had also arrived at a fairly detailed understanding about what had taken place in Bulla Karatasi For instance, he is reported to have suggested that the government would consider compensating the owners of properties destroyed in the fires

229 In front of the Commission, however, Kariuki retreated He claimed not to remember what he had said during the *baraza* and only admitted to giving general assessments of the security situation:

The government position is from the minister himself having listened to all the sides So you just explain to the people what you have heard and from the government side you have to give confidence to the people and give them hope, that if the government

134 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 25-26
135 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 19-20

finds anybody harassing them for no reason, the government would take action It was up to the government to maintain peace and make sure that criminals do not hide in their midst So, such kinds of statements are what the minister normally gives to the people [136]

230 As his testimony continued to unfold, the former minister distanced himself even further from the operation He claimed that even the name 'Bulla Karatasi' was new to him and that he had never visited it during his tour of Garissa or at any time since then He never heard Bulla Karatasi spoken of elsewhere or ever read about it in any kind of report, official or otherwise The only other action that Kariuki was prepared to acknowledge was a subsequent phone call made to the Provincial Security Committee for a quick update on post-operation Garissa.

We communicated to find out what was happening We did this by telephone "We are just calling you to say that we have done A, B, C and D" but we also continued cautioning them "It must be done the way you are doing it, in terms of making sure that people are not harassed Look for the criminals and do not harass ordinary persons" [137]

231 When asked to clarify what he meant by 'A, B, C and D', the former minister was unhelpful, pointing the Commission instead in the direction of the Provincial Security Committee and the PC himself

Commissioner: You have called the conversations that you had 'A, B, C and D" I am just wondering what the details of the conversations that you were having with the PC are when he told you that there was a certain action they were taking

G G Kariuki: I do not know whether you will actually get anything from me to that effect, because at the time I started talking here, I said that the PC would sit down with you, together with his committee, and explain to you what had happened I have said what I told them So, any other conversation may not be [138]

232. Kariuki's submission emphasised the limited nature of his and his ministry's involvement in events at Bulla Karatasi He passed on nearly all responsibility for the operation towards the District and Provincial Security Committees that were also reticent to speak openly about what did and did not happen that day in November. Yet, he was the minister in charge of internal security with political responsibility for all matters relating to internal security in the country It is utterly disturbing that he did not and still does not see that the political responsibility for a security operation and the consequences thereof rests, in the first instance, with the minister in charge of internal security.

136 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 26
137 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 30
138 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 30

Wagalla Massacre

> During that short period that we stood there, what I saw and what has remained very distinctly in mind today is a pile of bodies to my right and two naked people carrying yet another body to put on the pile [139]

233 By far, the 'Wagalla Massacre' of February 1984 is the most spoken about massacre in Kenya and represents a tragic story of how a government can turn against and massacre its own citizens. According to one victim of the excesses of the security operation, '[t]he government that should protect us ate us like a hyena eats a goat'[140] The Commission conducted its hearings in Wajir on three separate days in April 2011. Commissioners also had an opportunity to visit Wagalla Airstrip, the site of the Wagalla Massacre. At the site, survivors demonstrated how they were treated during their detention at the airstrip in February 1984.

Background

234 The Wagalla Massacre must be understood in the broader context of clan relations in Wajir, and North Eastern Province in general, and the politicisation of these relations.

Clan relations in Wajir

235 Wajir District is dominated by three main clans - the Ajuran, the Degodia and the Ogaden. The Garre and Murulle are also present in Wajir, but in smaller numbers. Clan issues among the Somali are complex and have been the focus of much historical and anthropological attention as scholars have sought to understand how a people united by ethnicity and religion have fallen out so spectacularly over clan identity.[141] Somali clans are best described as the largest possible grouping of families, sub-clans and lineages who claim a common ancestry.

236 There are six distinct Somali clans: the Darood, Isaaq, Hawiye, Dir, Digil and Rahanwayn. While the Ajuran and the Degodia are generally understood and referred to as separate clans, they are in fact sub-clans of the larger Hawiye clan. The Ogaden are a sub-group of the Darood. Sub-clans are further divided by a caste-like system that determines such issues as marriage and access to land and political power. In a further complication, clan identities are neither fixed nor immutable. Dominant clans have a long tradition of absorbing weaker and more subservient ones. Entire clans can and have been known to define and redefine themselves

139 TJRC/Hansard/Public Hearing/18 May 2011/p. 4.
140 TJRC/Hansard/Women's Hearing/Wajir/19 May 2011/p. 3.
141 For a detailed discussion on the formation and evolution of clan identity amongst the Somali, see Lee Cassanelli, *The Shaping of Somali Society* (1982).

primarily for economic and political reasons Recent research argues that both the Ajuran and Degodia have since the 1980s been engaged in an intricate pattern of cultural association and disassociation with Borana communities in neighbouring Marsabit, Moyale and Isiolo districts.[142]

237. The clan is particularly important in the context of nomadic culture, particularly among people who live in harsh environments, because it is the people's most valuable asset, especially in times of uncertainty. In nomadic culture, clan identity is "the last refuge one uses in order to safeguard one's life and property".[143] Clan identity in Somalia was strengthened after the country collapsed in 1991, it is possible that state neglect and marginalisation of ethnic Somalis in Northern Kenya had a similar impact

238 However, critics of clan-based analyses of Somali society have argued that the clan is a colonial construct that has tended to benefit the political elite who use clan identity to advance their own political and commercial interests They argue that Somali society should not be viewed through the prism of clan identity or clan competition but rather should be seen as a consequence of uneven development Some Somali academics refer to clan as an "anthropological fossil" that is not part of traditional Somali identity but a legacy of the colonial strategy of "divide and rule" They argue that ethnic Somalis are culturally homogenous and are identified as members of the Cushitic race in the Horn of Africa, each genealogical group (often referred to as clan) does not have a distinct history that distinguishes it from other Somalis Somali identity is thus "a product of several mutually constitutive forces whose roles are historically and socially contingent"[144] These forces include language, genealogy, Islam and a customary social contract known as *Xeer* Over time, new forces and elements were added to Somali identity, while others were de-emphasised.

239 Though there is a certain cultural fluidity to clan identity, ideas about territory are much more fixed In other words, there is a very clear understanding that clans are meant to occupy certain areas and not others This is most certainly the case in Wajir District, which has been carved up between the Ogaden in the south, the Ajuran in the north and west, and the Degodia in the east and west. The sub-clans are seen as being bounded to their assigned areas and, as shall be discussed shortly, transgressions of these boundaries have been the primary causes of serious and prolonged conflicts in Wajir

142 Gunther Schlee Brothers of the Boran once again On the fading popularity of certain Somali identities in Northern Kenya (2007) 1 *Journal of Eastern African Studies* 417 435

143 Elmi A.A (2010) *Understanding the Somalia Conflagration Identity, Political Islam and Peacebuilding*, London and New York Pluto Press

144 Samatar, A I "Debating Somali identity in a British Tribunal The case of the BBC Somali Service" *Bildhaan*, Vol 10

240. It is curious that such classically nomadic people should so strongly tie themselves to such fixed understandings of territory. As with so many other aspects of Northern Kenya's present, explanations must be sought in the colonial history of the region. When the British created an administrative outpost in Wajir in 1912, they encountered various groups who called the area home, including the Ogaden sub-clan known as Mohammed Zubeir, who were concentrated in and around Wajir town itself. It is difficult to be precise about inter-clan relationships in early colonial Wajir. The main reason for this is that the British (and therefore their records and historians) were much more preoccupied with the broader theme of Somali resistance to the arrival of colonial rule.

241. Recent research suggests, however, that clan interactions during this era were probably characterised by tension and bouts of intensive violence over the perennially troublesome issues of access to pasture and water. Competition in Wajir was particularly intense as the various groups – the Boran, the Ajuran, the Degodia, and the Darood – jockeyed to access the Wajir wells that offered a permanent source of water in an otherwise parched land.[145] These groups went back and forth in battle as they had done for many generations; the presence of the British did not fundamentally alter the long-standing patterns of inter-clan conflict.

242. As the British tried and failed to stamp their authority over Northern Kenya, it became increasingly obvious to them that the incessant cycles of clan violence were to blame. In 1934, they came up with a solution in the form of the Special Districts Ordinance (SDO). The SDO, in both its colonial and post-colonial incarnations, has been described as the centrepiece of Northern Kenya's security framework. The SDO is usually highlighted for its establishment of Northern Kenya as a closed district requiring special permits for outsiders to move in and out of. What many people do not realise, however, is that the ordinance also created ethnically bounded blocks of land and territory that continue to fuel inter-clan conflict in Wajir and beyond. British administrators in the late 1920s and early 1930s thought long and hard about possible remedies for the fighting. They decided that they needed to physically separate the various clans as best as they could. The district ordinance went on to create a number of internal borders designed to limit interaction. The main division was a north-south divide that separated the Somali from the Oromo. This is the so-called "Somali-Galla" line that was drawn east of Moyale and west of Wajir and ended up in the vicinity of Garissa. The primary objective of this line was to create a buffer zone between the Somali and non-Somali Oromo peoples, such as the Borana.

145 For more on the Wajir Wells and conflicts surrounding them, see Gufu Oba. 'Colonial Resource Capture: Triggers of Ethnic Conflicts in the Northern Frontier District of Kenya, 1903-1930s" (2011) 5 *Journal of Eastern African Studies* 505, 534

243 Lands on the Somali side were then carved up even further A sliver of territory north-west of Wajir town was allocated to the Ajuran To their immediate east were the Degodia, and just south of them both were the Ogaden. Territory in and around Garissa and Mandera was similarly divided up The SDO referred to the resulting zones as "tribal grazing areas". The boundaries were strictly enforced. People caught on the wrong side of their prescribed areas could be fined up to 10 percent of their herds With the benefit of hindsight, it is difficult to see how the British expected that this scheme would work with people who had no real understanding or experience of borders or restricted spaces

244 Indeed it did not take very long for the solution - tribal grazing areas - to turn into the problem as the different clans sought to access their traditional patches of land and water regardless of the new restrictions and boundaries It did not help that the boundaries themselves were "imprecise in breadth and length"[146] The issue of enforcement was also fraught with difficulties as a skeleton staff of overworked district administrators and so-called 'tribal policemen' attempted to patrol hundreds of kilometres Worse, it appears that the 'tribal boundaries' might even have been responsible for rapid environmental degradation in a region that was already dry Obsessed with the notion of over-crowding and unwieldy animal herds, colonial administrators became convinced that strictly-managed 'tribal grazing areas' would temper soil erosion and ease pressure on vegetation It took only a few seasons, however, for it to emerge that the bounded grazing areas were having a disastrous impact Pastures that were previously allowed to rest and recover as herds moved from one region to the next were now exposed to round-the-clock use The results were inevitable. steep and rapid environmental decline that continues to plague rangeland management in Northern Kenya to date.[147]

245. Upon independence in 1963, the whole idea of bounded areas was abandoned, with officials blaming this particular policy for over-grazing and for fostering conflict over disputed borders Northerners were instead advised to prepare for land adjudication whereby the only boundaries the government would recognise would be those defined by individuals and groups that had bought land and had registered titles Land adjudication, however, never arrived in Northern Kenya due to a number of reasons that are addressed elsewhere in this report [148] What is important to understand is that far from dying the natural death that the post-colonial government predicted, the idea of bounded

146 Nene Mburu *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005) 63

147 For an overview of current approaches towards the management of livestock and pasture in Northern Kenya see Guyo Haro Linkages between community environmental and conflict management experiences from Northern Kenya (2005) 33 World Development 285

148 See Chapter on Land

ethnic territories grew even stronger. Politicians of all backgrounds were at the forefront of championing the notion that certain lands and natural resources (such as water and pasture) belonged to certain peoples and that all others were intruders.

246. In Wajir, debates about land, territory and boundaries are conducted almost entirely along clan-based notions of ownership and entitlement. The modern history of the district is such that none of the clans – major or minor – can be described as content with the ethnic geography of Wajir. Further, evidence and testimonies presented to the Commission suggested that all the Wajir protagonists felt deeply aggrieved. The Ajuran community submitted a memorandum detailing their long-running concerns about the situation in which they found themselves on account of clan conflict and ethnic boundaries in the district.[149] Their main issues seemed to stem from a belief that the Ajuran were the original owners and occupiers of most land in Wajir. The Ajuran date their claims all the way back to 1700 AD, when they apparently first appeared in Northern Kenya after a series of complicated wars in a part of Somalia known as Benaadir. The community represents itself as honouring the Somali tradition of *Shegat* that entails hosting outside clans in need of help, protection and patronage.

247. This, Ajuran elders argued, was how the Degodia ended up residing in what were traditionally and rightfully Ajuran lands. In language that portrayed the depth of their anger, the Ajuran memorandum went on to accuse the Degodia of "instigating fracas and mischief" and generally abusing their hosts' generosity and hospitality.[150] The colonial grazing areas that have been described above as unworkable and poorly thought out were welcomed by sections of the Ajuran community, who saw them as restoring (and recognising) something close to their original claims to Wajir lands. The Ajuran also seemed to be grateful for the protection that colonial security offered them against Degodia incursions from Somalia and Ethiopia.

248. Degodia representations of their place in the district's history were dominated by similar feelings of loss and unfairness, especially due to the treatment handed out to them by the Borana along the Isiolo-Wajir district borders. Because the Ajuran also speak the Borana language, Degodia discourses on Ajuran identity tend to emphasise these affiliations with non-Somali groups.[151]

149. *Memorandum on Past Injustices Submitted to TJRC by the Ajuran Community of Wajir County*
150. Memorandum on Past Injustices Submitted to TJRC by the Ajuran Community of Wajir County, 3.
151. See Gunther Schlee, 'Brothers of the Boran once again: On the fading popularity of certain Somali identities in Northern Kenya' (2007) 1 Journal of Eastern African Studies 424 425.

249 The Commission came to understand that none of the clans seemed entirely pleased with their lot in Wajir, all felt aggrieved by the continued fissures and tensions. Similarly, none of the communities seemed entirely convinced by either colonial or post-colonial responses to the continuing story of inter-clan conflict The decision to dismantle the tribal grazing areas in 1963, for instance, proved deeply unpopular with a number of clans, including the Ajuran. They argued that the removal of the colonial systems of fines and restrictions allowed Degodia herdsmen to move into Ajuran grazing grounds As Ibrahim Ali Hussein, the second Member of Parliament for Wajir West constituency and an Ajuran, put it, the Degodia were "roaming at will throughout" the district.[152] Even as the region was struggling under the weight of the Shifta War, the issue of inter-clan unrest bubbled away until it reached a boiling point.

250 Archival material from Wajir indicates that by 1970 the Ajuran community – led by the MP Ibrahim Ali Hussein – had had enough of Degodia incursions. A letter was written to the Office of the President and to Provincial Commissioner John Mburu, asking for the "tribal grazing areas" to be reinstated and for "intermingling" between the clans to be prohibited [153] For Ibrahim Ali and his Ajuran constituents only a return to the security of colonial boundaries could stem the tide Hussein's letter briefly mentioned that a government team had been sent to Wajir in 1969 to re-investigate the issue of "tribal grazing areas" No further evidence of such an inquiry appeared in the correspondence At any rate, Mburu's response firmly shut the door on the revival of the grazing areas as they were in the government's view the source of tussles over land and livestock The PC warned Hussein and "his people" that they had to reconcile themselves to the reality of official policy

> You and your people need to come to terms with the fact that land will only be owned by groups with registered titles and legally defined boundaries This is the way that government is using to control movement from one area to another Groups will be assisted in keeping out intruders [154]

251 Mburu was of the opinion that the re-organisation of land tenure systems in Northern Kenya would happen fairly quickly as both the Ministry of Lands and the relevant county councils were at an advanced stage of sorting out the "modalities". The Ajuran and the Degodia were advised to wait a little while longer, a new age was dawning. However, that new age did not dawn The process of land adjudication did not take place in Northern Kenya The

152 Ali Ibrahim Hussein to Office of the President 2nd October 1970 Somali Border Affairs and Independence Administration File Wajir Registry

153 Ali Ibrahim Hussein to Office of the President 2nd October 1970, Somali Border Affairs and Independence Administration File Wajir Registry

154 J G Mburu to Ibrahim Ali Hussein 12th October 1970 Somali Border Affairs and Independence Administration File, Wajir Registry

implications of this failure for the region were immense It meant that one of the main causes of clan conflict was not addressed The inhabitants of Wajir and other districts were essentially left to sort out access to land, pasture and water among themselves This hardening of community positions on access to resources took place against a backdrop of weapons proliferation and political unrest in both Ethiopia and Somalia

Politics and clan relations

252. Research indicates that the 1970s and early 1980s in Wajir were characterised by the slow but inexorable politicisation of inter-clan conflicts and tensions An inverse relationship began to emerge between the decline in security and the rising role of politics and politicians. At independence, only three constituencies existed in Wajir Wajir East, Wajir West and Wajir South From the outset, Wajir South was an Ogaden stronghold, no other clan has ever represented the constituency Similarly, Wajir East was traditionally Degodia Wajir West was much more contested and complicated The constituency was carved out of territory the Ajuran regarded as theirs And sure enough Abdi Nur Ali, the first independence era Member of Parliament for Wajir West, was an Ajuran So too was Ibrahim Ali Hussein, who won the seat after the second 1969 General Election

253 While Ajuran hegemony appeared secure in those early years, several Ajuran elders (including Ibrahim Ali Hussein) now charge that the Degodia were engaging in all manner of political mischief and fraud aimed at capturing Wajir West The Degodia were said to have used "young and carefree ladies" to befriend and compromise local Ajuran chiefs who were then replaced with Degodia ones Others were said to have resorted to bribery to secure government posts. By the time that Hussein wrote to Mburu in 1970, many of his concerns transcended the more basic issue of tribal grazing lands. Hussein accused the government of showering the Degodia with favours and official jobs He also stated that the Degodia were reaping numerous political benefits from the appointment to the Cabinet of Honourable Khalif (the winner in the 1969 race to represent Wajir East) as an Assistant Minister for Housing

254 Mburu's rejoinder could not have been more unsympathetic He brushed aside Hussein, saying that the Ajuran were simply jealous that the Degodia had earned government recognition as well as political and economic power purely on merit and through hard work.[155] Mburu's reaction demonstrated a worrying trend administrators in Northern Kenya were unable to grasp the

155 J G Mburu to Ibrahim Ali Hussein 12th October 1970 Somali Border Affairs and Independence Administration File Wajir Registry

depth of local concerns about clan competition and conflict They were far too quick to view these issues as either petty or irrational As shall be discussed shortly, this was an approach that was to serve Wajir poorly as the district hurtled towards the Wagalla Massacre

255 The 1974 General Election resulted in victory for another Ajuran candidate, Abdullahi Abdi Noor. Five years later though, the Ajuran establishment was shocked with the election of Ahmed Khalif Mohammed of the Degodia community as the representative from Wajir West It was at this point that clan conflicts in Wajir became overtly political. It was an important turning point Stung by the loss, the Ajuran emerged with a long list of complaints about the political conduct of the Degodia At the top of that list were complaints about the wholesale importation and illegal registration of Degodia kinsmen from Ethiopia and Somalia Accusations of bribery and undercover payments were also levelled against the Degodia campaign machine in Wajir West

256 The foundations were laid for pitched battles that combined three explosive elements clan, resources and politically-driven conflicts With Wajir more polarised than ever, Mohammed went on to recapture the seat in the election of September 1983. On this occasion, the Ajuran response to electoral defeat went beyond mere political sniping

257 The Garre were a minority Wajir clan who sometimes voted in a bloc with the Degodia against the Ajuran In 1983 the Garre supported the incumbent Ahmed Khalif Mohammed. This supposedly earned them the wrath of the Ajuran who apparently embarked on an orgy of retaliatory violence in those parts of Northern Wajir with significant Garre populations [156] The Ajuran were also said to have hit out at the Degodia in a series of raids and attacks peppered throughout the district. When the Garre and the Degodia responded, Wajir West descended into all-out violence

258 Wajir in the early 1980s was one of the most unstable parts of Kenya. The district has been blamed for plunging much of Northern Kenya into almost total anarchy a full decade before the break-up of neighbouring Somalia Yet the Commission found that an awkward silence hovers over this time Few witnesses came forward to discuss the period and the impact that inter-clan and political violence had on their lives and livelihoods. Wajir stories tended to cluster around much more high profile issues, such as the Shifta War and Wagalla Massacre

156 For descriptions of Garre/Ajuran violence see Abdulwahab H Korre & D A Hassan The Gharri Experience in Northern Kenya available at http //www africanewsonline com/The%20Gharri%20Experience%20In%20Kenya htm Accessed 13th March 2012

Antecedents to the Massacre

259 Wagalla Massacre was the final product of a series of events that happened over a period of about one year preceding the massacre itself The antecedents leading to the massacre are described below

Wajir in 1983: Restless and troubled

260 A number of administrative and official documents paint a detailed picture of life in the district in the six to eight months leading up to the Wagalla Massacre Most of these files were drawn from the government registry in Wajir The Commission also heard testimony from Joshua Matui, the District Commissioner in Wajir between 1982 and 1985 Indeed, Matui was the author of many of the documents used by the Commission in constructing its narrative The broad and basic impression created by the documents and Matui's evidence was that Wajir was explosive As Matui took office in October 1982, he immediately realised that the situation was volatile and complicated

> I have stated that I was posted to Wajir as a District Commissioner in October 1982 When I arrived there, I found a district which was in turmoil due to clan conflicts and clashes When I enquired why they are fighting and why people were stealing each other's livestock and killing each other, I was told that primarily, the clashes were due to watering facilities, grazing facilities and even parliamentary seats [157]

261. Nobody seemed safe or immune from the violence The year before Matui took office, a District Officer had been shot dead in Wajir Coincidentally, at that point Matui was serving as the District Commissioner in Kisii, the home district of the slain officer Matui received the body and assisted in the funeral and burial arrangements, little knowing that within a matter of months he too would be in Wajir

262 Matui detected a sudden spike in the violence in March 1983 By that time the fighting was largely retaliatory in that a single attack could spawn several revenge attacks The violence had acquired a life of its own The DC admitted that he felt helpless in the face of tit-for-tat raids His testimony was that of a powerless onlooker unable to impact the cycle of violence

> The administration used to campaign by holding public *barazas* using clan elders, but it was very tedious work because the clan elders would undertake to the government and tell them that, actually, they would cease fights However within a very short time, you would hear that very many people from one clan had been killed [158]

157 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 5
158 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 6

263 No investigations or follow-ups were possible for the simple reason that Matui and his team were apparently overwhelmed by the steady stream of dead bodies

> We were advised by leaders that there was no point in taking the dead to the Wajir District Hospital for post mortem examination because, already, we knew that they had died of gun wounds [159]

264 By the same token, the police seemed unable to make any arrests Attackers were generally nameless and faceless men who could not be identified by victims And yet somehow it was always clear that the raiders came from an enemy clan Although the entire district was unsettled, Wajir Town and its environs were especially vulnerable on account of a large and diverse population Reports of violence in other parts of the district would trickle into Wajir and tempers would, as Matui put it, "flare," bringing people out on to the streets in demonstrations that sometimes turned ugly [160]

265 Matui's testimony and the documents unearthed by the Commission both point to a steady deterioration in inter-clan relationships and security in Wajir throughout 1983 By September, things were approaching crisis point, with three armed groups – the Degodia, the Ajuran and the Garre – carrying out raids against each other Matui commented on the emergence of militias controlled by and attached to the various clans These militia groups were often heavily armed with weapons coming from Ethiopia and Somalia, the entire region was awash with guns after the Ogaden War The militia escalated the violence to unprecedented levels Early November brought something of a reprieve after a series of peace meetings were held in Moyale with Ajuran, Degodia and Garre elders After apparently admitting to hosting Degodia militia in their fight against the Ajuran, the Garre stepped back a little from the main action Garre militia seemed to heed their elders' calls to rein in their attacks on the Ajuran This meant that the violence was now limited to the Degodia and the Ajuran

266 Whatever optimism Matui may have had on account of the Garre withdrawal quickly turned to despair Days after the Moyale meeting, Ajuran fighters launched a daring attack on 18 Degodia *manyattas* in a remote part of Wajir known as West Eldas One man died and 2 000 camels were stolen

267 Matui's assessment was that the raid was fuelled by Ajuran anger at the revelation that the Degodia had been fighting them while impersonating the Garre. Matui realised that the ferocity of the West Eldas attack would trigger a response He did not have to wait long for this to happen On 11 November 1983, militiamen turned up in Eldas at the home of a prominent Ajuran elder and KANU official The fighting

159 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 6
160 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 6

that followed left the man dead along with five female members of the household. Approximately 1 000 cows, sheep and goats were also taken. On 16 November 1980, Matui wrote to the North Eastern Provincial Commissioner Benson Kaaria, explaining the deaths in Eldas.[161]

268. The details were graphic. Matui described how officers who visited the home encountered a blood-drenched scene. Two babies were found still latched onto their dead mothers' breasts. Degodia militiamen were believed to have been responsible. Matui portrayed himself as shocked and shaken by the killings. On 22 November 1983, he summoned Ajuran and Degodia elders to the Wajir Court, pleading with them to stop the violence and the killings:

> When those babies were collected, they were found suckling their dead mothers. I think it was as a result of that episode that I asked them whether they have ever heard of babies suckling dead mothers. I asked them: "Why are you killing each other? If it is stealing, you could steal livestock from each other but surely, spare the lives."[162]

269. The elders seemed responsive and committed themselves to a formal peace ceremony – *Subein* – and to halting the hostilities.

270. Meanwhile a number of Degodia leaders met in Wajir, ostensibly to prepare for the *Subein*. Pledges were made to deal firmly with Degodia luminaries seen to be instigating violence. The *Subein* was an elaborate affair full of cultural and religious symbolism. Seven lambs were slaughtered, with the manner of their deaths ritually interpreted for good or bad tidings:

> We were told that if the elders from both sides were genuinely after peace and if they were genuinely true to what they were seeking then the seven lambs would die on the right side. For sure, those seven lambs went and died on the right hand side and there was jubilation. The people said: "We have now started peace".[163]

271. The Ajuran agreed to return the 2 000 camels stolen from West Eldas. The Degodia promised to pay 'blood money' to the relatives of the family of six also killed in Eldas. The solemnity of the occasion and the promises made by both communities gave Matui hope that Wajir's troubles were drawing to a close. However, he worried that despite their public pronouncements, the Degodia were privately insincere about calling off their fighters. He even commented on their reluctance to handle the Koran during the *Subein*, which in effect reduced the potency of their oaths and promises. Meanwhile, the Ajuran did not appear to be doing anything to help the situation. As of 15 December 1984, the 2 000 camels that were meant to be returned to the Degodia were instead driven northwards towards Buna and Moyale. The failure to

161 Districter to Provincer, 16th November 1983 District Intelligence File, Wajir Registry
162 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p.6
163 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p.6

return the camels was a sore point. Matui remembered that a Degodia woman had apparently been heard saying that "the work of the Ajuran would be to bury their dead as long as they continued milking the stolen camels from the Degodia".[164]

272. December also brought news of the apparent arrival in Wajir of perhaps as many as 500 Degodia fighters from Odo, a part of Ethiopia already suspected of supplying Degodia politicians with illegal voters These fighters were said to be under the command of a "notorious" Shifta commander called Bulbul [165] Notwithstanding the *Subein*, the attempts to recover cattle and pay blood money, it seems that Bulbul and his men were preparing for a major offensive in the northern part of the district Most correspondence about Bulbul's group was coded, so it was not possible to decipher it in its entirety It was quite clear, however, that major security concerns surrounded this incursion [166] At the same time, there were intelligence reports about the return of Ajuran fighters and herdsmen from neighbouring Eastern Province They were also believed to be preparing for a major showdown with the Degodia Matui was of the opinion that both clans were waiting for the end of the November and December rains to resume hostilities

Wajir in early 1984

273. The year 1984 in Wajir begun on the same note as the end of 1983 as yet another round of clan-based raids, attacks and murders were entered into district records Almost without fail the victims were described as Ajuran and the perpetrators as Degodia On 29 January 1984, an Ajuran woman travelling between Wajir town and Eldas was violently raped, beaten and left for dead after the two attackers first asked her what clan she belonged to Two days later – on 31 January 1984 – another Ajuran woman had her house broken into by armed men who stole money and property On the same day, five camels were stolen near another Wajir settlement known as Griftu Such incidents continued into February 1984 On 3 February 1984, Yusuf Ali Omar, a 50-year-old Ajuran man, was shot dead at a village known as Tula just outside Griftu Four other people were injured in the attack and a number of camels stolen by the gunmen This was followed on 6 February 1984 with a raid on another small Ajuran settlement in the Griftu area Three armed men beat up the villagers and stole four camels On 9 February 1984 news broke of the killing of one man and six women in a village known as Yukho The Yukho raid also resulted in the injury of two other people and the shooting dead of a number of camels The Yukho raid defines the 'point of no return' in the march towards Wagalla

164 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 6
165 Districter to Provincer 7th December District Intelligence File Wajir Registry
166 Districter to Provincer 7th December District Intelligence File Wajir Registry

274 Matui described his main task in Wajir as "cooling the temperatures" in a district that was super-heated by clan conflict, violence and tension He represented himself as having very little time to do anything else Despite the enormity of the problem, he described himself as being up to the task Even so, his options were fairly limited Matui travelled through the district convening public meetings (*barazas*) during which he urged the warring Wajir communities to put down their weapons and to concentrate instead on livestock, health, education and other development issues But as the former DC himself described it, these public meetings were thanklessly tedious and ultimately yielded very little. Within days or weeks after a *baraza*, fighting would break out again and Matui would find himself back where he started Matui also tried to approach elders, opinion leaders and others he believed had some kind of influence over the fighters Here again his efforts and energies seemed misplaced as some of the elders seemed as baffled and as powerless as he was

> I would like to say that even the clan elders at one point were confused as to who was actually perpetuating those killings because amongst themselves they would say "There would be no further killings', and yet after a day or two there would be an attack [167]

275 Documents examined by the Commission suggested that an important shift took place in August 1983 with the tacit acceptance that public *barazas* and consultations with elders would no longer be enough to tackle the rapidly worsening situation. Matui decided to take a broader, more consultative approach to the matter He wrote to the heads of all government departments in Wajir and asked them to submit ideas on how to tackle insecurity in the district [168] Matui explained that this was something that the District Security Committee (DSC) was already thinking about, but that he was very interested in hearing what others outside the security committee had to say on the matter He sifted through the responses he got from the field and compiled them into a single document he titled *Suggestions and Recommendations for Wajir District Security*

276 *Suggestions and Recommendations for Wajir District Security* was a key document for understanding the Wagalla Massacre It raised questions about when the operation at Wagalla was planned While the document has been infused with a number of meanings over the years, it needed to be understood in context, as a product of its time When the District Commissioner compiled the document, what was uppermost in his mind was the violence sweeping through Wajir in and around the middle of 1983 *Suggestions and Recommendations* is a curious compilation, a mix of the practical and the aspirational A theme that runs through the entire

167 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 10

168 J K Matui to All Department Heads 24th August 1983 District Intelligence File Wajir Registry

document is that insecurity in Wajir was caused by a lack of loyalty to Kenya, not only on the part of the gunmen, but also on the part of the general population as a whole. One of the items on Matui's list was a "concentrated and ruthless" programme designed to "instil" Kenyan Somalis (and specifically the residents of Wajir) with a sense of patriotism.

277 It is difficult to see how a ruthlessly instilled sense of patriotism could be described as patriotism Matui's suggestions included jamming Radio Mogadishu's signals which would force residents to listen to the Voice of Kenya instead. Patriotic music and programmes would be featured and listeners would also have to communicate in Kiswahili, the national language, instead of local dialects At the same time, however, the DC proposed continued engagement with both Somalia and Ethiopia He did not want Kenya to disassociate herself from neighbours that had such a direct influence on her internal affairs

278 Matui was also an enthusiastic supporter of some kind of affirmative action He called for national schools to set aside a quota for ethnic Somali students from North Eastern Province Along similar lines, he wanted to see more investment and resources in local schools, health and social facilities Matui was in essence revisiting the relationships between security and development that had dominated discourses in and about Northern Kenya for at least half a century.

279 Despite his obvious appreciation of the social and cultural roots of insecurity, DC Matui was well aware that the persistent and pervasive nature of the violence also required pragmatic interventions One of the proposals floated in *Suggestions and Recommendations* was an expanded role for the military The military, the document read, would need to "work more closely" with the police and the administration police Another suggestion and recommendation was that the military be given powers of arrest in operational areas These proposals were not novel or unprecedented, the military already enjoyed such powers under the Preservation of Public Security Act The only other reference to the state of the security forces in Wajir in 1983 came in July 1983 when in response to a query from Matui, the Inspector of Administration Police clarified that 500 of his men were stationed in the district.[169]

280. The document *Suggestions and Recommendations* was sent to PC Benson Kaaria a fortnight after its compilation [170] As far as the Commission could tell, nothing much was done with the document and its recommendations for the next

169 Inspector of Administration Police to Matui 19th July 1983 Internal Security File Wajir
170 *Matui to Kaaria 14th September 1983* District Intelligence File *Wajir Registry*

couple of months. Matui returned to the day-to-day business of running his troubled district He did not appear to have taken any further steps towards the development of a specific operation during this period

Disarmament

281 Illegal weapons have circulated in Northern Kenya for many years, with predictably disastrous results for the region The Shifta, militia and other criminal elements have been able to acquire sophisticated weapons with minimal trouble and expense Wajir was no exception to this general rule Soon after taking up office in late 1982, Matui was faced with the issue of easy access to guns and other kinds of firearms which were, quite literally, providing ammunition for clan and political conflicts in the district

> I also realised that there were very many illegally acquired firearms among the clans You could easily get firearms from neighbouring countries and each clan more or less had its own organised groups which had guns [171]

282 Matui made it clear that ridding Wajir of guns was a top priority for him and the District Security Committee Indeed, this was the priority throughout the province He described "systematic campaigns" designed to collect illegal arms from residents The typical campaign consisted of calling people to a *baraza* and appealing to them to hand over guns to their local chiefs, policemen or any other suitable government representative

283 In early August 1983, the District Security Committee flexed its powers under the Preservation of Public Security Act and attempted to confiscate Ajuran, Degodia, Gabbra and Garre animals as a way of coercing these communities to surrender their armouries [172] The security committee was outfoxed by large Garre herds moving northwards into Ethiopia Ultimately, the success of such campaigns depended almost entirely on securing the cooperation and goodwill of the people It was thus vitally important for the DC to win the hearts and minds of the public Given the seriousness of the situation in Wajir, Matui convened a number of public *barazas* from the beginning of his tenure. He did not appear to have enjoyed much success By the middle of 1983, Wajir was more violent and gun-riddled than it had ever been before.

284 In mid November 1983, a large and prominent Ajuran family in Eldas was killed Even in a district used to extreme violence, the murder of these seven people convinced

171 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 5

172 From *Wajir DSC Brief to KIC During Its Visit to Wajir District on 8th February 1984* 1st February 1984 2

Matui of the need to launch a much more energetic and determined round of disarmament The following month, on 16 December 1983, Maalim Mohammed, the Minister of State, and easily the most senior and prominent politician in North Eastern Kenya at the time, arrived in Wajir During a well-attended rally that some residents described as the largest that they had ever seen, the minister delivered a single and direct message to the people of Wajir Surrender your weapons and hand in your guns. He gave the residents 10 days in which to respond to the appeal The firm and unprecedented nature of the announcement gave Matui and his team some hope of an enthusiastic response. Unfortunately, it was not to be

285 Mohammed's deadline for the surrender of the weapons expired on 26 December 1983 Matui and his team then assessed the level of compliance The Ajuran had surrendered 11 guns The Degodia had surrendered just one For a district that was supposedly awash with weapons, this haul of just a dozen guns was a major disappointment The DC could not hide his frustration His suspicion was that the very same clan elders that the government was depending on to lead their individual communities into surrendering their armouries were, in fact, doing precisely the opposite "There were some leaders who were discouraging their fellow men from surrendering their guns"[173] By January 1984, the District Security Committee in Wajir had had enough of people they referred to as "known instigators of tribal feuds" The committee once again invoked the Preservation of Public Security Act to detain four prominent Degodia leaders seen as obstacles to disarmament

1 Abdi Sirat Khalif (Former Member of Parliament),
2 Mohamed Ali Noor (Chairman Wajir County Council),
3 Omar Ali Birik (former Councillor of Wajir County Council), and
4 Ahmed Elmi Daudi [174]

286 These four individuals were detained at Wajir police station for the maximum 28 days permitted by the Act The hope was that this would spur the wider community into compliance [175] Matui accepted that the clans may have been reluctant to hand in all their guns for legitimate and valid reasons Men out with livestock were frequently armed to protect them and their animals from cattle rustlers; they would have been reluctant to part with their weapons without other guarantees of security Even so, Matui was clearly expecting a much more enthusiastic response and so, quite clearly, was the provincial administration On 27 December 1983 Benson Kaaria and the entire Provincial Security Committee (PSC) announced an extension for the handing in of weapons The new deadline was set for 21 January 1984

173 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 17
174 Names drawn from *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the issue* 15th March 1984 p 7
175 From Min5/84 , *Minutes of the North Eastern Provincial Security Committee Meeting Held in the Provincial Commissioner s Office on Thursday 26th January beginning at 2 30 p m* 28th January 1984, p 4

287. Matui described the subsequent response as "poor". The District Security Committee assessed the situation in the third week of January. The Ajuran had surrendered a further 15 firearms. The Degodia had surrendered seven. Over the course of the disarmament period then, the Ajuran handed in 26 guns and the Degodia handed in 8. The total number of guns yielded from Wajir was thus 34. It was a disappointing result from a district believed to hold, at the very least, hundreds of weapons.

288. There is no doubt that the Degodia emerged as the villains in the eyes of the government in the faltering story of disarmament in Wajir. Security officials were far from impressed with the total of 8 guns handed in on their behalf. To make matters even worse, the Degodia were blamed for the parade of criminal incidents described above, with nearly every one of them involving serious gun violence. Matui was personally dismayed at their conduct and general demeanour:

> The Degodia appeared completely unconcerned. The Ajuran were being convinced easily by the government to surrender their firearms, unlike the Degodia who were very difficult.[176]

289. If the Degodia were the villains in government's eyes, then the Ajuran were the victims. They were portrayed as a community who had obeyed the government directive even though this had apparently exposed them to further attacks from the Degodia:

> The Ajuran were openly blaming the government for its failure to offer them protection for their lives and their property, especially after they had heeded the government's appeal to surrender their firearms which they would have used to protect themselves against the Degodia-instigated criminals.[177]

290. To make matters even more complicated, Provincial Security Committee minutes indicated that by late January 1984, concerns about the Wajir Degodia were beginning to spread to other parts of the province:

> In view of the widespread influx of Degodia tribesmen from Wajir to various places, the PSC advises that when Degodia tribesmen infiltrate other people's areas, they should be driven out. Apparently the Degodia tribesmen appear to be the aggressors virtually against all other tribes and nobody appears to like them.[178]

291. At around the same time, brief mention was made of large numbers of Ajuran who had crossed into neighbouring Eastern Province, and who were also being pushed back to Wajir. A company from 7 Kenya Rifles (7KR) had apparently been part of that effort.

176 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p.16
177 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p.11
178 Ex-Min. 14/84 Influx of Degodia Tribesmen from Wajir into Garissa. Minutes of the North Eastern Provincial Security Committee Meeting Held in the Provincial Commissioner's Office on Thursday 23.2.84. at 10.00 am.

> While the PSC Eastern commends the efforts of the Marsabit DSC in driving out the Ajuran tribesmen back to Wajir District, the North Eastern PSC wishes to record that the effort of the CO 7KR in driving out the Ajurans from the Eastern Province side should not escape a mention [179]

292 All these groups were being forcibly driven back to a district wracked by drought and instability

293 By the end of January 1984, the attempt to disarm the Degodia had all but collapsed The Provincial Security Committee was kept informed Discussions in Garissa about the situation ran along precisely the same lines as in Wajir in that the Ajuran were cooperating and the Degodia were not

> The PSC noted with appreciation that the Ajuran group has co-operated with the security forces and this has made it possible for the recovery of 31 firearms and a number of assorted ammunitions This move is very encouraging Contrarily (sic), Degodia have proved very adamant in surrendering of arms. The PSC pointed out that apart from refusing to surrender the firearms, they are concealing and harbouring destructive elements who are constantly harassing the Ajuran They have not shown any willingness to co-operate with the security personnel [180]

294 The Provincial Security Committee's discussion of Wajir ended with an important recommendation

> Consequently the PSC recommended that to realise effectiveness, stiffer measures should be deployed against the Degodia Action Wajir DSC [181]

295 In early February, the Wajir District Security Committee raised the stakes The decision was made to shut the Degodia and their herds of livestock out of accessing wells and watering holes in Wajir District Along with the detention of the four prominent Degodia leaders earlier in January 1984, the closing off of the wells was intended as a collective punishment that would speed up compliance with the earlier order to disarm

> As part of surrender of firearms, the DSC suggested that those suspected to be in possession of illegally acquired firearms were reluctant to surrender them They further thought of another punishment whereby they were not allowed to have access to watering points, which is very important in a place like Wajir and nearly all of North Eastern Province [182]

179 Ex-Min Marsabit DSC Held on 16 11 83 as a follow-up to Ex-Min 130/83 Northern Eastern Residents in Eastern Province Minutes of the North Eastern Provincial Security Committee Meeting Held in the Provincial Commissioner s Office on Thursday 23 2 84 at 10 00 a m

180 Ex-Min 3/84 (ii) Tribal Tension Between Degodia and Ajuran in Wajir Minutes of the North Eastern Provincial Security Committee Meeting Held in the Provincial Commissioner s Office on Thursday 23 2 84 at 10 00 a m

181 Ex-Min 3/84 (ii) Tribal Tension Between Degodia and Ajuran in Wajir Minutes of the North Eastern Provincial Security Committee Meeting Held in the Provincial Commissioner's Office on Thursday 23 2 84 at 10 00 a m

182 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 5

296. The closing off of the wells was something that many Wajir residents remembered because it took place at the height of a crippling drought. Abdi Ismael Hilowle's memories are particularly sharp because he worked with the Ministry of Livestock at the time and so the issue fell under his docket:

> I happened to go to the police officer in charge at the division and inquired on what was happening. He told me these are orders which have come from the Divisional Security Committee, which was not in his jurisdiction. That is why he deployed his *askaris* to go and stop the community from accessing water. I had nothing to say because the orders were from above. I had to do my level best to get any assistance that I could get for the community. This was because I was living in a government camp which is almost as large as this site where we are at Red Cross Hall. It had water which was being pumped from the wells in that area. It had enough water taps all round with my subordinate staff living in the area. I told my colleagues to be a bit lenient and give water to the community that is coming right from the bush. Approximately 300 wells were closed for the Degodias. All the people were running away saying that they had been denied access to water.[183]

297. With hundreds of people and animals roaming the Wajir countryside in search of water and few arms being turned in, a process originally intended to pacify and secure the area ended up having precisely the opposite effect. Wajir was unstable, the Ajuran and Degodia remained as divided as ever and the government position was hardening. Worse was to follow.

February 1984 Security Operation

298. February has always been a difficult month in Wajir. The rain and cooler weather of November and December give way to unrelenting heat. Wajir residents usually have to brace themselves for days and weeks of very uncomfortable conditions. February 1984 was even more uncomfortable and difficult than usual. The rains had been poor and drought stalked the land. Temperatures were soaring in more ways than one. With the failure of disarmament, continuing clan tensions, and government intransigence, the district was a literal and figurative tinderbox waiting to explode. This is precisely what happened between the 8 and 14 February 1984 in an extraordinary week for Wajir. The Commission pieced together the events of those seven days by examining a range of previously classified material. It was not an easy story to tell and its production was fraught with difficulty. Nonetheless, it is hoped that its telling will shed light on one of the most troubling episodes in Kenya's history.

Main Actors

299. The week in Wajir between 8 and 14 February 1984 was characterised by intensive interactions involving a number of important people and committees from the overlapping and sometimes confusing world of internal security in Kenya during

183 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Nairobi/ p.36

the 1980s While some of their names may be familiar their functions are particular to the time period under consideration.

District Security Committee

300. District Security Committees are a standard feature of the internal security arrangements of all districts in Kenya The membership of the District Security Committee was unchanging and consisted of the District Commissioner, the OCPD (Officer Commanding Police Division) who was the ranking police officer in the district, and the District Special Branch Officer, who was the ranking Special Branch officer in the district Because North Eastern was what is known as an "operational area", the officer commanding the Army Division was also a member of the District Security Committee. The function of the District Security Committee was clearly spelt out in the Security Charter

> To keep under regular review measures for the maintenance and review of law and order in the provinces and districts, to meet normally once a month for this purpose, and to refer to the Provincial Security Committee concerned or to the Kenya Security Committee as appropriate any problems in the internal security field, which, in their view requires attention and cannot be solved locally. Subject to the overall control of the President advised by the National Security Council, the direction of an emergency in a province or district lies with the Provincial or District Security Committee [184]

301 The Wajir District Security Committee was in a state of flux in February 1984 and in the months that followed Matui, the District Commissioner, was on leave He had not taken annual leave since he arrived in Wajir in October 1983. The first person to hold brief for Matui while he, as he put it, "enjoyed" a much-needed break on his small farm in Eastern Kenya, was Mr Godow,[185] his District Officer. Godow, however, was described by both Kaaria and Matui as frail and sickly In the third week of January he came down with malaria It was at this point that Mr Manasseh Tiema, who was an Administrative Officer in Garissa, was sent to Wajir Tiema arrived in Wajir on 24 January 1984 and served as the acting District Commissioner throughout the operational period Matui returned briefly to the district in February but left shortly afterwards for a short course in the United Kingdom Upon completion, Matui took up his post again until December 1984 He was then replaced by David Mativo

302 Another member of the District Security Committee in Wajir in 1984 was Mr Wabwire, the OCPD Major Mudogo was the officer in command of the Kenya Army company in Wajir The District Special Branch Officer was a Mr Kibere, though there is some question as to whether he was actually in the district throughout the week in question His deputy, Mr Mbole, may have stepped in at some point

184 Benson Kaaria *North Eastern Province Internal Security Scheme* p 8
185 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 6



Some of the government officials who were in office at the time when Wagalla massacre took place appearing before the Commission.

Provincial Security Committee

303. The Provincial Security Committee (PSC) mirrored the District Security Committee (DSC). Its membership consisted of virtually the same officials serving at the provincial level and based in Garissa. The PSC's functions and tasks were identical. The committee was headed by Provincial Commissioner Benson Kaaria, the long-serving administrator with many years of public service. Kaaria also had the dubious distinction of direct involvement in at least one other large security operation in North Eastern Kenya - Bulla Karatasi.

304. The exigencies of the security situation in North Eastern Province meant that the Deputy Provincial Commissioner was also a member of the PSC. Alexander Njue had held that post since July 1981. The Provincial Police Officer (PPO) was Mr Aswani but he was absent for most of that week. His place on the committee was taken by his deputy, Mr Gaturuku. The Commanding Officer of 7KR Battalion headquartered in Garissa was Lt Colonel Frank Muhindi, who was a long-serving army officer with many years of experience in Northern Kenya. He was also a member of the PSC. The Provincial Special Branch Officer sat on the committee as well. Mr Okello was the usual occupant of that position but he was also away on leave during February. His deputy, Mr Joseph Muthui Ndirangu, filled in for him after having recently been transferred from Rift Valley Province.

Provincial and District Intelligence Committees

305. The Provincial and District Intelligence Committees were closely related to the District and Provincial Security Committees. Membership was similar to the security committees The Provincial Intelligence Committee, for instance, was headed by the PC The PPO served as the secretary The Provincial Special Branch Officer (PSBO) was a member of the Intelligence Committee as well [186] Provincial Intelligence Committees have been described as being "led" by the PSBOs, in that their intelligence reports were used to structure meetings This distinguished them from PS meetings, which were run and set by the PC

306 The other unique characteristic of the Provincial Intelligence Committee was that their meetings were never minuted and rarely recorded. Members simply met before the Provincial Security Committee and discussed anything in the Special Branch Officer's briefing that had security implications If necessary, recommendations and proposals were carried into the main security committee meeting Provincial Intelligence Committee members have described their role as 'advisory' [187] District Intelligence Committees played the same function at the district level

Kenya Intelligence Committee

307 The Kenya Intelligence Committee (KIC) was another intelligence-related body that was involved in Wajir during the week of the 8 to 14 February 1984 Unlike the District and Provincial Intelligence and Security Committees which were somewhat straightforward (in composition and function), the functions and powers of the Kenya Intelligence Committee are more difficult to establish. The colonial predecessor to this committee may have participated in the processing of intelligence and information that went on to form the core of anti-Mau Mau policies The committee seems to have retreated in importance in the decade or so after independence Whether it made any contributions to intelligence efforts during the Shifta War is unknown The Kenya Intelligence Committee of the 1980s was described as an intelligence gathering body by James Stanley Mathenge, the Permanent Secretary in the Office of the President in charge of Internal Security and Provincial Administration at the time As the PS, Internal Security and Provincial Administration, Mathenge served as the head of the Kenya Intelligence Committee This was an *ex officio* position, meaning that the PS also served as the head of the KIC

186 In the 1990s, membership of the Provisional Intelligence Committee was re-drawn to include the Provincial Criminal Investigation Officer and (eventually) the Military Commander in charge of the particular region Under General Tonje, Kenya was divided into two military command regions Eastern Command and Western Command In this new system North Eastern Province fell under Eastern Command From TJRC/ Hansard/ Public Hearing/ 8 June 2011/ Nairobi/ p 45

187 TJRC/ Hansard/ Public Hearing/ 8 June 2011/ Nairobi/ p 67

308 The rest of the committee consisted of a small and fairly select group of people Permanent Secretaries drawn from the ministries of Information, Foreign Affairs, Defence, Home Affairs, the Director of Intelligence, the Commissioner of Police and the officer in charge of Intelligence in the Army In February 1984 the persons occupying those posts were Mr Gituma, Ambassador Bethuel Kiplagat, Mr Muliro, David Mwiraria, James Kanyotu, Bernard Njinu and Brigadier (later General) Joseph Raymond Kibwana, respectively

309 In a fairly convoluted arrangement that Mathenge laid out before the Commission, the KIC had its own secretariat (but no actual office) housed within the Office of the President Secretariat staff included the Deputy Security Finance (Mr Kamenchu) and the Deputy Secretary Security (Mr Mwangovya) who acted as secretary and scheduler, respectively From Mathenge's description, it appears that the committee's primary role was to receive intelligence and, if and when necessary, to give advice and suggestions that were then passed up to two more senior bodies the Kenya Security Committee and the National Security Council (NSC) Minutes of meetings of the Kenya Intelligence Committee acquired by the Commission confirm that it often made suggestions to other relevant security organs While the KIC does not appear to have had direct operational powers, there is no question that it was an important and influential body in the national security structure of the time

310 It is useful to understand the Kenya Intelligence Committee as a counterpart to the District and Provincial Intelligence Committees described above Mathenge and other members who appeared before the Commission emphasised the committee's advisory role, actual implementation rested with the KIC It must also be remembered, however, that in another replication of the Provincial Intelligence/Provincial Security Committee divide, all the members of the Kenya Intelligence Committee were also members of the Kenya Security Committee Their respective ministers were members as well and the committee was chaired by the Vice-President and Minister for Home Affairs In February 1984, the Vice President and chair of the Kenya Intelligence Committee was Mwai Kibaki (who would later become President) The National Security Council sat at the apex of the security pyramid in Kenya at the time It was made up of the President, his ministers, the Director of Intelligence, the Commissioner of Police and the Chief of General Staff

7th Kenya Rifles Battalion

311 In February 1984, the Kenya Army battalion based in North Eastern Province was the 7th Battalion Popularly referred to as 7KR, the battalion was a relative newcomer to the region It was only created in 1968 and so had not participated in the Shifta

War, unlike the 1st, 3rd and 5th battalions. The battalion was headquartered in Garissa under the Command of Frank Muhindi.

312. Three companies were stationed in Garissa, Wajir and Mandera; each company had an officer in command. Major Mudogo was in charge of Wajir and Major (now retired Brigadier) Phillip Chebet commanded the company in Garissa. A Major Kamau was in Mandera.

313. The second in charge of the battalion and a few remnants were "in the rear", back in Nairobi at Lang'ata Barracks. Platoons, which are smaller, were also available to be deployed when and where needed throughout the province. Battalions were rotated in and out of the province every six months or so. In March 1984, 7KR left Garissa and was replaced with 3KR; an old North Eastern hand.

Seven dreadful days in February 1984

An eye-witness account, Mohamed Ibrahim Elmi
(TJRC/Hansard/Public Hearing/Nairobi/18 May 2011/p.)



At the time I was a nursing officer in charge of TB, Manyatta dispensary. During the week of the operation, I was doing night rotation and in charge of the District Hospital. This was Thursday 9 February, 1984. I was on night duty at the hospital which is adjacent to the police station and the police lines. Sometime, between 2.00am and 3.00am there was a police alarm which is usually a signal to call all policemen to duty. I know it because I was brought up in the police lines. A lot of movement of vehicles, followed until morning. On Friday, 10 February, 1984, that is that morning between 7.00am and 8.00am having handed over my duties, I was passing in front of the police station and found a lot of men being kept outside and being herded into lorries. At the very moment when I was passing by with colleagues from the hospital, my elder brother, Hassan Ibrahim Elmi, who was a retired police officer, was being put on one of the lorries. I stopped to ask why. The officer was rude and told me to go away. However, I persisted and managed to talk to my brother. He was able to give me the keys to his shop, which I took to his family to be able to open the shop.

One of the staff, Abdi Ibrahim, who was walking with me, was a night watchman at the hospital. He chose to go ahead while I engaged the police and my brother. Later in the day, I learnt that he was picked up on his way home and taken to the airstrip where he died. I

continued to walk home and found different people in small groups. I learnt that my other elder brother, Ugaz Ibrahim, was among those who were also picked up. There were soldiers and KANU youth wingers all over the place identifying male Degodias. On being asked to identify themselves, anyone who said that they were Degodia were arrested. By mid-morning, most people were aware that the soldiers were looking for Degodias and were not identifying themselves as such any more.

However, a few KANU youth wingers and some local chiefs continued to identify some men. On that Friday, I learnt that similar operations targeting the Degodia were taking place in all the adjacent trading centres as far as Buna and Modogashe, which are hundreds of kilometres away. Anyone who was identified as such was picked up and taken to the airstrip. There were reports that herders who had brought their animals to watering points were also picked up and the livestock left without people to herd them. Some livestock were taken by some security forces. In a number of trading centres, herders were refused access to water. Women and children were beaten up very badly. On the whole of that Friday, people continued to be brought from all over Wajir to the airstrip. By the end of that day, we witnessed a lot of lorries with additional military personnel said to have come from Moyale, Mandera and Garissa, join the operation.

On Saturday, 11 February, 1984, the operation continued. It was particularly bad in Bulla Jogoo in Wajir town, where all non-permanent houses called herios belonging to the Degodia were torched and burnt down. That was when women were raped. I distinctly remember that a disabled person was burnt in one of those houses. My colleague at TB Manyatta dispensary, Sister Annalena Tonelli, went to remove the remains for burial on Sunday morning. Three Degodia men who were remaining in town stayed hiding for the whole of this period.

On Sunday, 12 February, a public baraza was called by the acting District Commissioner, Mr Ndiema, in which he asked among many things for those whose houses were burnt to go back to where they came from. At the time, it was understood that he meant people should leave Kenya and go to Ethiopia.

On Monday, 12 February, I learnt that on the previous day, a number of those who were kept at the airstrip had escaped and many of them had been killed. The story I was told was that a security team visited the airstrip and the majority of the people learnt that they had no hope of surviving. They were told that all of them would die until they brought back the guns. In their desperation, people started running away. A number of the wounded came into town. I first saw people in the morning at the hospital brought by the headmaster of Sabule secondary school, Mr Ibrahim Wude. Sabule is on the side of Wagalla in the town. Many students went out and helped some of the people they saw. After I saw this man, there was information going round that people had been released, which later proved to be false. Sister Annalena and I went to see the DO, Central, whose name I do not remember, and told him that the people had been released and that a lot of them were wounded and that we wanted to provide assistance. He offered to accompany us.

We went to the airstrip while he was preparing to join us. I remember it was mid-morning. As soon as we went up to the gates of the airstrip and got out of the vehicles, the soldiers at the gate looked at us a bit bewildered. It took them a few seconds to realise that we

were there During that short period that we stood there, what I saw and what has remained etched very distinctly in mind today is a pile of bodies to my right and two naked people carrying yet another body to put on the pile On the left side of the field, I saw a young man who ran to a water bowser, where water was leaking and flowing to the ground Two soldiers came from two different directions with sticks, beat him up like an animal until he ran back to the crowd at the centre of the field

By then, the military officer in charge ran up to us and started asking us why we were there Sister Annalena said that we had been told that people had been released and we were coming to help them He asked Who told you that? At this point, it dawned upon me that I had put the sister at risk So, I told him that I was the one who told her and that I was a member of the International Red Cross Actually I was a member of the local one But I said this to give her some protection I said that I had heard that information from injured people who had come to the hospital. When we said that we had come to look for injured people, I remember him saying that then he would give us soldiers to accompany us and to bring back those people because they had escaped At that point, the DO Central arrived, which I believed is what saved us The army officer quarrelled with him telling him that he did not know what he was doing They all cocked their guns and told us to leave the place and we left That DO was very pained and upset I believe he was a very good man

When we reached town, we learnt that there had been a breakout and many people were shot while attempting to escape We also learnt that many were wounded and were hiding in the bush So, we went back later that day scouting for those who were injured during the escape of the previous night We moved around the area I remember we were joined by two Norwegian volunteers I remember in particular, there was one man we found sitting under a shade who was naked, whose legs were burnt up to the knees His story was that as many people came off the lorries they were told to remove their clothes A number of these clothes were put aside and set on fire They were told to step on them This is how he got burned We took him to the hospital

As we were searching, we came across many women These women were moving around carrying water and looking for their loved ones We spent the whole of that day combing the bushes and collecting injured people, especially those identified by some of the women But it was not easy because people were running away from vehicles In my view, many people died that day

On 14 February, between 4 00am and 5 00am - I cannot remember exactly, I was woken up by one of my brother's children to say that my elder brother Hassan, the ex-policeman, had come home. I went there and he told me how he got off the lorry on the Wajir-Mandera road, somewhere not far from Wajir town He told me that all the people who were alive were put in lorries and taken to different routes The vehicles were moving very slowly because their lights were off So, he managed to lower himself down with the help of another ex-policeman He was totally naked and walked all the way to his house I ran to Sister Annalena's compound and we went off to the route that he mentioned and started picking people You might want to know why I kept going back to Sister Annalena

This is because she is a foreigner and that accorded her some protection, and, of course

she was also a very brave woman. We stopped public vehicles and they helped us to collect and bring people to the hospital. We took the very injured to the hospital, which quickly became very full. At the time, the hospital had only one male ward. We took the rest to her compound for treatment.

We mobilised the hospital staff to start treating them. Some volunteered to work even day and night. They were many, but I want just to mention a few. These were Dabo Diriye, Anashiago is deceased, Dabar Abdi, the Medical Office of Health at the time was called Jawor, Sister Panasero and many other nurses. By the end of Tuesday, both the hospital's only male ward and Sister Annalena's compound were full of sick and injured people who had been beaten. On the same day, between 10.00am and 11.00am, by then we had collected most of the ones on the Wajir-Mandera road. I remember there was an international delegation from the leader of Red Cross Societies, Switzerland led by C.E. Aquest. They were visiting the local branch. I believe this visit was organised earlier and they had somehow managed to get through the net. The security was determined to control the visit. They were taken from the airport to the DC's office and not allowed to see anything. However, Sister Annalena went with me to the DC's office. She went in to the meeting and told the visitors that there are a lot of people dying and that we needed assistance. When she called me, she heard the DC saying that was not true. I believe those sisters were taken back to the airport without interacting with the people in the town.

While I was waiting outside in the car, I was confronted by the OCPD, Mr Baobera, who insisted that I remove the Red Cross emblem that we had put on the vehicle which we did afterwards. In the late afternoon of the same day, we got word that another group of survivors had been dumped along the Wajir-Moyale road at a placed called Dela. We got a guide and left with two vehicles. One was driven by a Norwegian aid worker accompanied by Ahmed Jele and Ibrahim Khamisi. The other was driven by Annalena Tonelli, myself and the guide. The guide was very good and he managed to make us avoid the roadblocks and eventually we ended up on the main road of Moyale at a place after the roadblocks when it was getting dark. After a while, we picked up an elder who was among those who had been dumped there. He had survived and tried to walk back to the road. He explained to us how the site looked like and in his description, there were dead people there. We went there and found in the first week dead bodies before we reached the main place. As we parked our cars with their doors open, two military vehicles came to us. The soldiers asked us for directions. I remember them asking us where Eldas was. They were wearing masks, more like handkerchiefs on their noses. They told us to remove our vehicle from the road so that they could pass. They went ahead and as they passed, there was a stench coming from the lorries. We later learnt that they were the ones dropping the dead bodies and one of the sites not far from that area was visited by the senior investigating officer from Nairobi, Superintendent Amarati. We went ahead and eventually brought back 16 people alive in our vehicles, although one of them died on our way back. We saw many dead bodies in that general area. At that point, we were only interested in rescuing people rather than counting dead bodies. We came back and took the injured to Annalena's compound for treatment. The one who died was buried at Annalena's compound. One of those who survived out of those 16 is now a councillor in Wajir and he is called Abdullahi. I know of some who died later on Wednesday 15 February 1994.



On the following day, we went to Girftu Eldas in that general direction, because we were told that people who were dropped in that area walked in that general direction. We told the public that it was safe and people could be brought to the hospital. By then, many people had joined the rescue. After we came back, we went to Wagalla that afternoon through a back route because the main roads of the town were also blocked. We went back behind the fence on the other side of the airstrip where a lot of people who had been shot had been scattered around the place. We spread out into the bush to look for bodies with the intention of burying them. They were all over and very many. At that point, we decided that because there was a lot of disbelief in that part of the town, that we should carry some of the bodies into town so that they could be buried there. There was total denial by the police that anything was happening even at that point. Ex-police Sergeant Bashe who had a pick-up, volunteered to drive the bodies from Wagalla through town to the Catholic compound of Sister Annalena. Commissioners, you might wonder why Muslims were driven to a Catholic compound but at the time, it looked the only safe place because people were not being allowed to bury the dead. Because the bodies were decomposed, the vehicle could only carry about twelve of them.

They were driven and we deliberately did it in the police station until they were eventually buried at Annalena's rehabilitation centre compound. On Thursday, 16 February, the following day, we returned with grave diggers and buried the rest. We dug one mass grave and started pulling some of the bodies there. However, by then, it got dark and so we agreed to finish the work the following day. This time round, we decided to go through the main road because it was dark. There were several of us in two vehicles but they had set up several ambushes and right at the entrance of Wagalla town, we were ambushed, beaten thoroughly and taken to Wajir police station.

We spent the night in the cells and we were released the following morning without any charges. We were not allowed to go back to Wagalla to continue the burials, which was left for others to do. Those mass graves remain unmarked behind the airstrip. Now, comes the period of cover-up where people are continuously being killed. By the middle of the week beginning February 13th, we were overwhelmed at the hospital. Because of the high volume of supplies that we asked from AMREF, they did not have enough and I am told they went to the Ministry of Health (MoH). I am told the MoH wondered why they were asked for this high volume of supplies. I learnt from Dr Nancy Caroline who was the head of medical wing of AMREF at the time that the Ministry of Health had to ask for clearance from the Office of the President (OP) to send the supplies. At this time, OP stopped them, including getting supplies for Sir Michael Wood who was the founder of AMREF, I am told they mobilised a number of European countries to come to Wajir to assess the situation but this was blocked.

They reached Habaswein but they were forced to turn back. So, a lot of people died weeks and months after the operation for lack of adequate supplies. It was some time before any outsider was allowed to come to Wajir, mainly Red Cross, AMREF and Oxfam and even then, they said they were there because of the drought. Every move of theirs was covered by the Special Branch. Weeks after the operation, Dr Daba Abdi and some other hospital workers and I were arrested and taken before the District Security Committee. The questions we were asked were largely geared towards finding out my knowledge of things and I got again from one of the corporals who arrested me that they would check what I knew and if I knew too much I would be detained or the worst could happen. This was another good officer. Therefore, I was generally truthful about what I described to them and I would have displayed the numbers that I saw. Subsequently, I was told by the nomadic pastoralists that a team of soldiers went out and poured chemicals on the dead bodies that completely decimated them and even the bone structure. That is why it was subsequently hard to find them.

Superintendent SP Amariati was sent from the Criminal Investigation Department (CID) Headquarters in Nairobi to carry out the investigation almost a month later, which could hardly be independent. I remember organising a number of people to see him to give their testimony at Annalena's rehabilitation centre. I remember bringing my elder brother, the ex-policeman. I sat through the first preliminary parts when he was asking my brother's opinion on what were the numbers at the airstrip by the second day when everyone had been brought in. As someone who was used to estimating crowds, my brother said that he thought they were up to 5,000 people. To this day, the people of Wajir have never seen a report of that investigation.

The government has continuously denied that a massacre took place. However, in October 1992, just before the elections, the former President Moi indirectly admitted it by promising to set up a Wagalla Trust Fund. I attach three sample letters sent to ten persons. I was one of them and the local Member of Parliament, A.D.M. Amin, who were supposed to be members of the trust fund. After the elections, the fund was never established. It is this during this period that we were rescuing people and, therefore, heard a lot of testimonies of survivors on the kind of things that had happened to the people at the airstrip. There were those who were burnt, beaten up and sodomised. They had no food and water all through that period. The worst thing is that, that day at 3.00pm, there was a water bowser which was just pouring water into the ground and nobody was being given any. Clubs, sticks, machetes and gun butts were used. On Sunday, the people who broke out were shot. Here are some of the stories that have stuck with me over the years. The testimony of Hassan Gure who is currently a DLPO in Rhamu, Mandera and how he survived during the breakout is very telling. He says whichever way he ran, bodies were falling around him as they were shot. Then there is the story of the hospital watchman whose Maasai machete was used by an infamous sergeant whose name kept coming up.

He killed him and many others using his machete. The sergeant was so brutal that he killed very many people. There is a captain who put a pistol in people's mouths and blew their heads up. There is the story of a young man, and this one is still alive since I saw him recently on Sunday, when he could not hold his thirst any longer. He pretended that he had a gun and led them back to town to their homes, went in, drank water, came out and said: "I do not have

a gun and take me back at which point they took him back to the airstrip"

The story of that particular young man showed how desperate people were His family was very upset with him for bringing the soldiers to their home because then they did worse things at their home. That shows you the desperation. Another was the murderous stint of a soldier who beat up a young man with the butt of his gun and got tired and then just decided to catch him and bite him He had a bite mark on his left arm I believe that young man joined the Kenya Army a few months later Then there was the story of many civil servants picked up from their work places who died there and whose families had to contend with the fact that their departmental heads were told to declare them as having absconded from duty Then there is the story of the many people who have not been found even today Rumours circulated for months after the massacre which gave people hope that their loved ones would still be alive somewhere My brother, Hugas Ibrahim Elmi, is one of those whose bodies have never been found

My recommendations are that in my view, that was a systematic, well-planned operation which was well covered-up later To date, no serious investigation or inquiry has been done until this process. I and the people I represent were affected by this incident seek the following First and foremost, to know the truth and, therefore, urge all those who were involved to come forward and testify to this Commission so that once and for all we can close this chapter Two, an additional judicial inquest to carry out an in-depth investigation, something we have been asking from the courts since 2005 The purpose is to establish precisely how many people died, what happened and at what point To date, it is impossible to establish the exact number of people who died I would like to give the example of an old man who was visiting his son who had come from abroad and was returning to Mandera The bus stopped there and he slept in a lodging He was picked up from there and he died there There were many people who were picked up from faraway places or towns and so it is very difficult for the elders to know exactly how many people died Thirdly, we want justice and justice can take many forms and, therefore, that is what we ask for We ask for reparations both general and individual We ask for memorialisation to ensure that events like those never happen anywhere in Kenya again, as the motto of the Commission says 'Never Again!'

On a personal note, I would like to say that Sister Annalena did extraordinary things Without her, many lives would have been lost She has since died Apart from ways to remember her service to humanity, I would like her to be posthumously cleared of the false allegations that I am aware of that were made by the district security committees as part of their cover up by telling the headquarters that she was a spy and all that I can without doubt under oath say that Sister Annalena was very forthright and did her things very professionally She was interested only in service For the many years until she died, I have known her She had refused to talk to journalists She told me that she would talk to only the proper authority I wish she was alive today to talk to this Commission She had told her story to the ASP who had come and, therefore, I was very sure that she was there to serve and help the sick A year after the massacre and when her work permit came to an end, she was declared a persona non grata and given 24 hours to leave the country – a callous decision that caused her great pain as well as suffering to the children and patients for whom she was caring

Wednesday 8 February 1984

314. On the morning of 8 February 1984, a large military aircraft took off from Nairobi's Eastleigh Airport and headed for Garissa before landing at Wajir's military airstrip at around 9.00am. On board were guests from Nairobi and Garissa. The Kenya Intelligence Committee and the Provincial Security Committee members were in town on an important trip that had already been postponed at least once before. The visit was originally slated to take place from the 28 to 1 December 1983.[188] This earlier trip had been cancelled on account of numerous scheduling difficulties. Eventually new dates were agreed upon and as a result both committees were represented in their entirety.[189] The visiting delegation was met by the District Security Committee under the leadership of the acting District Commissioner, Mr Tiema.

315. A former military officer recounted receiving a delegation from Nairobi at Wagalla airstrip on 8th February 1984:

> When I was a corporal in the military, I was told on 8 February that there were some intelligence people from Nairobi who were coming. So, I took a Land rover Registration No. 04 KA 89. I was told to go to the airstrip to take Brigadier Kibwana. When I reached the airport, I found Brigadier Kibwana and the Battalion Commander who was then Francis (Frank) Muhindi I saw them when they were alighting from the flight; they were with Mr (Bethuel) Kiplagat and the DC, Garissa.[190]
>
> From the airport, which was also sometimes referred to as the 'Forward Operation Base', the team was driven to the DC's office, which sits in a dusty complex in the centre of the town. The DC's office proper, which would ordinarily have been used, was too small for the entire delegation, so everyone was ushered into the much larger boardroom just opposite.

316. Signing the visitor's book was (and continues to be) part of the routine for all visitors to government offices in Kenya. And this is what the delegation did when presented with the book by Tiema, Gituma, Kibwana, Kiplagat, Mathenge, Mwiraria and Njinu all signed in as members of the Kenya Intelligence Committee. Aswani, Kaaria, Muhindi and Ndirangu all appended their signatures as members of the Provincial Security Committee. The others present who also signed the visitor's book represented a number of departments and government offices which, at first glance, appeared to have very little to do with either security or intelligence. They included Mr Kinyanjui of Land Adjudication; Mr Okumu, the Chief Aerodromes

188 Notification of this trip was circulated through PC Garissa to DCs Garissa, Mandera and Wajir KIC *Visit to North Eastern Province* 16th November 1983, District Intelligence File Wajir Registry

189 Confirmation of the new trip dates was made during the Provincial Security Committee meeting of 26th January 1984. See Min 6/84, *Minutes of the North Eastern Provincial Security Committee Meeting Held In The Provincial Commissioner's Office on Thursday 26th January Beginning at 2.30 p.m.*, 28th January 1984, p. 4 – 5

190 TJRC/ Hansard/ Public Hearing/ 19 April 2011/ p. 27

Engineer, and Mr Kiwura from Kenya Posts and Telecommunications Corporation.[191] The reason for their presence would become clearer as the meeting unfolded

317 Following a few preliminary comments from Mathenge and Kaaria, Tiema then stood up to present a report prepared specially for the meeting The Commission acquired a copy of this much-talked about but elusive document [192] As with so many other issues surrounding Wagalla, understanding the contents of the brief required understanding the prevailing situation in Wajir at that time.

318 The brief was initially produced and compiled on 1 February 1984 by the District Security Committee and while the document was signed by Tiema, he did not actually prepare it as he had arrived in Wajir only a week earlier He thus lacked the local knowledge necessary to assemble such a document The actual compilation of the brief was thus left to other members of the DSC under the direction of David Matui, who was described by Mr Tiema in his testimony as the substantive District Commissioner [193]

319 The end product was a far-ranging overview of the security situation in Wajir on a constituency by constituency basis. Wajir South was described as "extremely quiet" on account of the fact that the constituency was occupied by just one clan the Ogaden [194] Wajir East was seen as more problematic because of the apparent prevalence of Kenyan, Somali and Ethiopian bandits in transit through it on the way to Wajir West and back Wajir West itself was represented as nothing less than the main stage of inter-clan and inter-ethnic conflict The grim series of attacks, counter-attacks and failed peace efforts in Wajir West were covered in detail by the brief

320 After describing the security problems in the region, Tiema's presentation went on to cover the issue of short and long-term solutions to insecurity in Wajir The short-term picture presented to the Kenya Intelligence Committee (KIC) was of a District Security Committee hampered in its fight against insecurity by old and dilapidated equipment The KIC was informed of the need for new radios, a mine-plated Mercedes lorry, a Land Rover, and a water truck While the committee was not empowered to purchase such equipment, the Commission established that it could and did regularly pass requests like this on to the relevant government authorities The next section of the document consisted of a long analysis of the main causes of banditry in North Eastern and possible solutions The entire discussion was presented under the heading *Recommendations for Long-Term Policy*

191 The list is drawn from Mwangovya K I C Secretariat to Department of Defence Ministry of Foreign Affairs, Ministry of Home Affairs Ministry of Information and Broadcasting Commissioner of Police Director of Intelligence Department of Defence *KIC Tour of North Eastern Province* 24th May 1984

192 *Wajir DSC Brief to KIC during its Visit to Wajir District on 8th February 1984*, 1st February 1984

193 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 11

194 *Wajir DSC Brief to KIC During Its Visit to Wajir District on 8th February 1984*, 1st February 1984 1

to Eradicate Banditry Activities in the Province.[195] The District Security Committee identified three main causes of banditry as:

i. Political or ideological

ii. Tribal animosity and

iii. Robbery for personal gain which is perpetuated by the poverty of the province.[196]

321. The solutions presented during this meeting on 8 February 1984 were, essentially, a close re-working of proposals that had been generated six months earlier in August 1983 when District Commissioner Matui had written to his officers asking for their views on insecurity. That document was titled *Suggestions and Recommendations for Wajir District Security* and it was sent to Kaaria in September 1983.[197] It may have been sent to Garissa again in November of that same year when Kaaria wrote to his district commissioners asking them to prepare briefs for the upcoming Kenya Intelligence Committee visit. Whatever the case, *Suggestions and Recommendations for Wajir District Security* was clearly the inspiration for *Recommendations for Long-Term Policy to Eradicate Banditry Activities in the Province.* The proposal for a "concentrated and ruthless effort" to instil patriotism remained intact; Kenyan Somalis had to be made to understand that they had to tune into, both literally and figuratively, the Voice of Kenya instead of Radio Modagishu. The proposal to build more and better schools and other social interventions were also included. New proposals not in the earlier documents were also included, such as an energised recruitment drive to sign up new members for KANU, the ruling political party, and the banning of Somali currency.

322. All of this added up to a long presentation by Tiema which, for reasons that will be discussed in a subsequent section, was handily forgotten and only partially remembered by almost all surviving members of the KIC, the PSC and others who were present at the meeting in Wajir on 8 February 1984. What followed next was a discussion of some sort on the issues that had been presented in the brief. Tiema estimated that the meeting could have taken several hours; it may have stretched from ten in the morning to about three in the afternoon.[198] The meeting was not minuted in the formal sense. Two reports were written afterwards. The Commission had copies of both, but they only gave a fleeting, general sense of the discussions and exchanges that took place.[199] The Commission was unable to

195 *Wajir DSC Brief to KIC During Its Visit to Wajir District on 8th February 1984*, 1st February 1984, 8

196 *Wajir DSC Brief to KIC During Its Visit to Wajir District on 8th February 1984*, 1st February 1984, 8

197 *Matui to Kaaria, 14th September 1983*, District Intelligence File, *Wajir Registry*

198 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p.40

199 The two reports are Mwangovya K.I.C Secretariat to Department of Defence, Ministry of Foreign Affairs, Ministry of Home Affairs, Ministry of Information and Broadcasting, Commissioner of Police, Director of Intelligence, Department of Defence *KIC Tour of North Eastern Province* 24th May 1984 and Paul Murimi to Director of Intelligence, *KIC Tour of North Eastern Province* 16th February 1984.

establish whether the presentation itself or subsequent discussions touched on the fact that the District Security Committee had shut down the wells, though it would be odd for this not to be raised given that most of the briefing and thus most of the meeting focused on banditry and insecurity in the area and what steps had and should be taken to increase security in the area

323 When the meeting ended, the group went on a tour of development-type installations in and around Wajir Brigadier Chebet of the 7KR company in Garissa, who was providing security for the delegation, clearly remembered this particular part of the programme

> Yes, I remember after the briefing, the DC took the KIC to tour some of these projects. I remember two or three places which we visited or took the team and one was a borehole which was stalled There was a problem with the engine and I remember when the team got there, they were asking the question why the engine had not repaired so that the locals could benefit from the water Another place we went was the KPLC (Kenya Power and Lighting Company) generating station, where there were two or three generators, one was functioning and it was directed that the other one be repaired [200]

324 The third stop involved inspection of what are known as the "police lines," which house police and administration police The lines were apparently in poor condition and police welfare was suffering as a result The DC served lunch back at the military base This was in the late afternoon Immediately afterwards, the KIC, the PSC and their entourage flew out of Wajir for an overnight stay in Mandera

Thursday 9 February 1984

325 Thursday morning found the Kenya Intelligence and Provincial Security Committees in Mandera following a familiar schedule. a briefing from the district security team and a tour of various development projects, including a recently inaugurated irrigation scheme on the banks of the River Daua

326 In Wajir itself, however, things were anything but ordinary as the District Security Committee held an unscheduled meeting convened to discuss an unusual situation the murder at six that morning of six people in a village known as Yukho by a group identified as "ten Degodia armed with firearms "[201] The news took several hours to reach Wajir itself but once it did, district authorities reacted with speed

200 TJRC/ Hansard/ Public Hearing/ 7 June 2011/ Nairobi/ p 6

201 See Min 16/84/i *Minutes of the Special DSC Wajir Meeting held on 9/2/84 in the District Commissioner's Office Starting at 3 00P PM* 9th February 1984 p 2

Once again, the Commission benefitted from the location and emergence of a number of documents and evidence that have enabled the construction of a fairly detailed narrative. The narrative begins with the minutes of the DSC meeting of 9 February 1984 compiled by Mr Wabwire, the OCPD who was acting as secretary. Tiema, Wabwire, Kibere, Mudogo and Situma started their deliberations at 3.00pm. Tiema wasted no time in explaining why they were there:

> The chairman informed the members that the purpose of calling for the meeting was to review the security situation to keep ourselves well informed of the situation as it was now in the district. He expressed his pleasure in the way members get things done and the consultation they have continued as they arise and asked them to continue with that spirit. The members agreed wholesale with the idea and observation.[202]

327. Before moving to the main focus of the meeting, Tiema also "thanked the members for their contribution for the brief to the KIC" the day before. With that out of the way, the DC then went on to list the incidences of robbery, rape and murders visited upon the Ajuran and blamed them on the Degodia. The killing six days earlier of a 50-year-old Ajuran man in Tula was mentioned, but the most immediate reason for the committee's concern were the early morning murders:

> And today (9/2/84) at about 0600hrs an Ajuran manyatta at Yukho was again attacked by ten Degodia bandits who were armed with firearms, rounded up everybody in the manyatta and killed by firearms (a) Ahmed Ibrahim (b) Hassan Mohammed Sori (c) Abdia Huka (d) Tume Idhow (burned to death in her hut) (e) Muhia Hassan (f) and Habiba Hussein all female adults. The total number shot dead in this incident were six and all were Ajurans. Three camels were shot dead and three aerials burnt to the ground. The following were injured (a) Abdi Karim Ibrahim and (b) Abdi Aziz Mohammed, both admitted at Wajir District Hospital. Two empty cartridges were collected from the scene[203]

328. The sentiments expressed by the District Security Committee made it clear that they had had enough of this litany of violence attributed to the Degodia:

(a) Degodia tribesmen have become unnecessarily troublesome by killing innocent lives despite the warning by the Minister of State in the Office of the President Hon Hussein Maalim Mohammed on the 16/12/83 to stop killing and stock raids followed by a series of barazas by PC N/E appealing to them to surrender arms and live in harmony

(b) At the end of the ten days given for Degodias and Ajuran to surrender firearms, Degodia had surrendered only one rifle and two rounds of ammunition. Ajurans had surrendered six rifles and 74 rounds of ammunitions. And as at

202 See Min 15/84, *Minutes of the Special DSC Wajir Meeting held on 9/2/84 in the District Commissioner's Office Starting at 3.00P P.M.*, 9th February 1984, p. 1

203 See Min 16/84/ii, *Minutes of the Special DSC Wajir Meeting held on 9/2/84 in the District Commissioner's Office Starting at 3.00P P.M.*, 9th February 1984, p. 2

the time of this meeting, Degodia had surrendered eight rifles and Ajurans 25 rifles [204]

329 It was at this point that the District Security Committee decided to act:

After discussion it was resolved that

(a) An immediate joint operation of the Kenya Police, Army and Administration Police be mounted to be commanded by the OC 'A' (COY 7KR) to spread all over the district to look and arrest the brutal killers of the incidents as per this

(b) Since the killers identification would be difficult as they (killers) could mingle up with their relatives, sympathizers and harbourers, it was resolved that all the Degodia tribesmen be rounded up and interrogated with a view of identifying the killers [for] prosecution

(c) Since this exercise is a big one, the security personnel in the district will not be able to cover it adequately, the OC 'A' COY 7KR and OCPD were asked to request for manpower from their respective superiors [205]

330 The District Security Committee also addressed the issue of the so-called inciters of violence

The DSC has the view of extending the detention of the four inciters of violence earlier detained namely

(a) Abdi Sirat Khalif

(b) Mohamed Ali Noor

(c) Omar Ali Birik

(d) Ahmed Elmi Daudi

And the following new inciters of violence namely

(a) Garey Omar Dore

(b) Hussein Ali Shoda

(c) Abdi Subdow Noor[206]

204 See Min 16/84/iii *Minutes of the Special DSC Wajir Meeting held on 9/2/84 in the District Commissioner's Office Starting at 3 00P PM*, 9th February 1984 p 2

205 See Min 16/84/iii, *Minutes of the Special DSC Wajir Meeting held on 9/2/84 in the District Commissioner's Office Starting at 3 00PM*, 9th February 1984 p 2 – 3

206 Mr Abdi Subdow Noor appeared before the Commission on the 19th of April 2011 in Wajir

(d) Mohammed Ali Shoda

(e) Daudi Shibil

(f) Isack Ali Shaoda

(g) Hussein Bure Noor

331 All these done under section 11 (I) (b) of the preservation of public security (North Eastern Province and contiguous District Regulations) for interrogation [207]

332 The meeting ended at 4 50pm With Major Mudogo, the officer in command of the 7KR company in charge of all the operational details, the Wajir District Security Committee moved into action

333 An hour later, at about 6 00pm, communication ("a signal") was sent to Mr Aswani, then the Garissa PPO The signal sent details about the situation in Griftu and requested reinforcements for the operation The Commission's reconstruction of what happened next draws heavily from the testimony of then Provincial Special Branch Officer Joseph Ndirangu [208]

334 The Kenya Intelligence Committee and the Provincial Security Committee members landed in Garissa from the Mandera leg of their trip between 6 00 and 6 30pm in the evening of the 9 February The delegation gathered for a dinner hosted by PC Kaaria As people were milling around waiting to have dinner, the signal arrived in the Garissa Operation Room from Wajir It was addressed to Aswani, who then passed the information on to Kaaria, Ndirangu and the rest of the members of the group who were involved in security in a fairly informal fashion, no meeting of the Provincial Security Committee was held at this point

335 As Ndirangu explained it

> **Joseph Muthui Ndirangu** The briefing from the PPO was on individual lines We did not make it a security meeting or a meeting at that time because we were congregating for a meal Therefore it was relayed to us on individual lines So he told me about the signal from Wajir calling for reinforcement and that there was an attack somewhere in Griftu I think he could have done the same to
>
> **Leader of Evidence** That is all I needed to know How was the message conveyed? Did he just walk up to you and tell you individually or were you all seated at table and then he shared?

207 See Min 19/84/III *Minutes of the Special DSC Wajir Meeting held on 9/2/84 in the District Commissioner s Office Starting at 3 00P PM* 9th February 1984 p 3

208 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 6 and TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/

Joseph Muthui Ndirangu No, it was not a meeting because obviously the people who were in that dinner were not all security men There were other people. Therefore this was conveyed to us individually [209]

336. The rest of the group seemed to carry on with their meal Those members of the delegation who were not part of the security establishment did not seem to have been told about developments in Wajir. It seemed unlikely that no mention of an unfolding operation was made even in passing during the dinner, but members of both the Provincial Security and Kenya Intelligence Committees maintained that this was indeed what happened According to their testimony, they enjoyed their meal in apparent ignorance of what was happening some 200 kilometres up the road If the testimony of many of those who attended the dinner is to be believed, the intelligence committee was supposedly kept out of the loop even as the situation got steadily more serious

337 At 8 20pm, a signal was sent from Garissa to Wajir That signal read

> All Degodias plus stock in Griftu division plus adjacent divisions will be rounded-up and will be treated mercilessly, everybody plus stock will be confined in the area No mercy will be exercised You will get more instructions from this HQ in another two days time No nonsense will be accepted Further instructions will follow on the relief of the stock Report progress daily"[210]

338. While Kaaria and Ndirangu both confirm that this signal was indeed transmitted, it seemed that they were far from happy about its overall tone and content Kaaria's testimony before the Commission was that the signal represented the personal views of the individual who sent it Aswani, the PPO And so when Aswani told Kaaria and the other members of the Provincial Security Committee about the signal, there was some disquiet and - for the first time that evening - they came together for an impromptu discussion Kaaria wanted the signal revised His concern was that its sentiments needed to be toned down

> **Benson Kaaria** On the evening of the 9th the PPO told me that he had sent a signal to Wajir who had told him that they were going to have an operation When he showed me the signal, I thought it was very strongly worded It said that they were going to mount an operation covering all men, women and animals We met as the PSC and revised the signal We said the operation should not include wives, children and animals

209 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 5 - 6

210 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue*, 15th March 1984, p 8
From Min5/84 , *Minutes of the North Eastern Provincial Security Committee Meeting held in the Provincial Commissioner's Office on Thursday 26th January beginning at 2 30 p m* 28th January 1984 8

Leader of Evidence: When did you hold the meeting?

Benson Kaaria: We did not meet as such. We agreed because we were together. We said we must revise.[211]

339. So the signal was revised. The new one read:

> All Degodias in Griftu Division and surrounding areas will be rounded-up. Women, children and animals not affected. Deputy PPO is visiting with further instructions.[212]

340. The signal was revised but not transmitted that evening; it was eventually transmitted near dawn the next morning, twelve hours after the earlier one and a few hours after the operation had already commenced. The only other signal issued that evening was again sent by Aswani requesting the deployment from Mandera and Garissa to Wajir of police and military reinforcement (of about 100 men).

Friday 10 February 1984

341. In 1984, Abdulrahman Elmi Daudi was a corporal with the Kenya Army.[213] He testified that on the first day of the operation he was awakened by Captain Njeru Mugo, an officer with the 7KR company based in Wajir. The wake-up call on 10 February 1984 came early, at around 3.30am. By 4.00am, the men were boarding vehicles and driving down the road towards Wajir town. On arrival in Wajir, they were joined by administration and regular policemen. Daudi and his army colleagues were stationed near Bulla Jogoo, a Wajir neighbourhood, and given strict instructions that nobody should move inside or outside it. Dozens of witness testimonies and statements from Wajir further confirm that by 6.00am the operation was well underway.

342. Once again, a very consistent pattern emerged from the scores of survivors in and around Wajir who remember that day very clearly. People woke up to noise and general commotion. Uniformed police and administration policemen were on their doorsteps and in their compounds demanding to know to what clan they belonged. The experience of Abdi Ismael Hilowle, then a government employee and resident of Griftu, was typical:

> On the 10th at around 5.00am in the morning, some askaris came to my house where I was living in a government camp. They knocked on the door. I asked my wife to go and see what was happening on the door. She came and told me that there were a lot of askaris standing in front of the house. So, I came out dressed in only one *kikoi* and a

211 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p.48

212 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue*, 15th March 1984, p. 8.

213 TJRC/ Hansard/ Public Hearing/ 19 April 2011/ Wajir/ p.20

bed sheet wrapped on my shoulders and asked the askaris what the problem was They asked me "Are you Degodia?" I told them unfortunately, this is not a place where we keep tribes This is a government quarter and we harbour all tribes. There are Kikuyus, Kambas and Somalis of all clans, among other people So, it is not only Degodia who are staying here [214]

343 Hilowe did not reply directly to the question of whether he was Degodia He was then bundled into a lorry and driven to Griftu Division police station The Provincial Security Committee had been silent overnight Their last communications were the two signals sent on the evening of 9 February 1984 At 8 40am the following morning, the PSC transmitted a message requesting officials in Wajir to scale back and tone down their operations

All Degodias in Griftu Division and surrounding areas will be rounded-up Women, children and animals not affected Deputy PPO is visiting with further instructions [215]

344 As has just been mentioned, this particular signal was crafted on 9 February 1984, but it did not go out for several hours Another signal travelled in the opposite direction Tiema sent a message to Garissa again outlining events in Griftu He also gave some kind of update on the progress of the operation Unfortunately, there was no time stamp on Tiema's Garissa-bound signal It may have been sent as a reply to the 8 40am communication from the PSC revising the operation If that were the case, Tiema would not have that much to report other than the early morning round-up and initial transfers to Wagalla Airstrip

345 But that was not all Tiema's signal of 10 February 1984 contained another astonishing detail that introduced a new element to the operation, which was incompatible with the request to scale the operation downwards Tiema signalled his intent to "push Degodias back to their traditional grazing grounds" [216]

346 There were other channels of communication flowing between Wajir and Garissa on 10 February 1984 Joseph Ndirangu, the Provincial Special Branch Officer in Garissa, testified that he received a number of signals from Mr Kibere, his Special Branch counterpart in Wajir. Ndirangu's recollection is that Kibere's messages were in themselves vague and non-specific Other than the fact that an operation was underway, those who testified before the Commission suggested that few details emerged from Wajir that Friday.

214 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 36

215 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue*, 15th March 1984, p 8

216 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue* 15th March 1984 p 8

> After I learnt of the operation, we continued talking with him [Mr Kibere]. However, he was just reporting that there was no progress and that they had not recovered any firearm[s]. He did not say the details of the operation or the outcome of the interrogation. That was on the 10th.[217]

347. A clarification needs to be made. When Ndirangu said that he and Kibere were "talking" what he actually meant was that they were exchanging coded radio calls:

> I stated that communication in the North Eastern Province at the time was very poor because we depended very much on radio calls. Most of the information, especially on secret matters, was coded. It was just not transferred like that. It was coded to give security to the message because there were interceptions from neighbouring countries. Also some people had some gadgets for intercepting communication between the security forces on the ground.[218]

348. During all of this, the Kenya Intelligence Committee was still present in Garissa until the middle of the morning of 10 February 1984. A three-way Kenya Intelligence Committee, Provincial Security Committee and Garissa District Security Committee meeting had been scheduled. All of the participants who testified maintained that not a word was spoken about the unfolding situation in Wajir. The delegation was then flown back to Nairobi, with the Provincial Police Officer escorting them back as the situation in Wajir was escalating.

349. Meanwhile, back in Wajir itself, residents were caught up in a bewildering whirlwind. Other than security officers patrolling the streets, nobody seemed to know what was happening and why. After the shock of being awakened and ferried away from his home in Griftu, Hilowle found himself at the police station surrounded by scores of equally mystified and, by then, increasingly frightened men. Hilowle was somewhat fortunate in that as a government employee, he had non-Somali friends and colleagues, including the officer in charge of the police station:

> The OCS (Officer Commanding Station) who was there told me to sit down. He told me to sit down and that there was no problem. He told me that it was a government order that had come from Wajir and above. I sat down because we knew one another. I had to join my colleagues and sit there. The OCS gave us a brief speech because he also knew most of the traders who were there, some of the workers who were there, and most of the local residents who were living there who had all been removed from their houses at night. He said: "My colleagues, I cannot help you today. There is something somewhere. You will all go to Wajir and there is something that will be clarified to you. Screening will be done and you will be screened there."[219]

217 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p.76
218 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p.4
219 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p.37

350 Far from being over, Hiiowle's woes had just started Members of the Degodia community from Griftu town and beyond were loaded back up on to the trucks. Destination Wagalla

351 Wajir town itself was developing into something of a flashpoint Bulla Jogoo, one of the larger Wajir neighbourhoods, was amongst the first targeted by security personnel Testimony from Corporal Daudi confirmed that he and his unit encircled Bulla Jogoo long before sunrise. Combing through Bulla Jogoo proved difficult for reasons that the Commission was not able to pin down, it may have been the more densely populated and more urbanised nature of the setting While there was nothing peaceful or orderly about the rounding up exercise as a whole, in Bulla Jogoo it was especially traumatic Bulla Jogoo experienced some of the worst excesses of the Wagalla operation, including a number of violent rapes and sexual assaults, on the morning of 10 February as security forces surrounded the area and evacuated the men, leaving the women behind, exposed and vulnerable Bulla Jogoo was also unique in that direct and traceable orders were given by Major Mudogo to set fire to private huts and other property [220]

> It was particularly bad in Bulla Jogoo in Wajir town where all non-permanent houses called *herios* belonging to the Degodia were torched and burnt That was when women were raped I distinctly remember that a disabled person was burnt in one of those houses [221]

352 A female victim recalls the situation during that dark February

> We all suffered terribly because we did not have any huts where we could sleep There was no shop where we could buy anything and there was no hospital or station where we could give statements or report to The women were bleeding and all we could do to the injured men was put some glucose on their tongues and we could see them dying right in front of our eyes [222]

353 Security personnel entering Bulla Jogoo were apparently unable to flush people out of their homes as quickly or as efficiently as they had hoped Major Mudogo gave residents until two in the afternoon to dismantle their huts and leave Bulla Jogoo Any huts found standing after the deadline would be burnt down. And this is exactly what happened, with tragic results At least one death of a disabled person occurred as a result of huts set alight in Bulla Jogoo with no regard as to whether these huts were occupied or not The injuries and financial losses caused by the Bulla Jogoo fires can only be estimated

220 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 9

221 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 4

222 TJRC/Hansard/Women s Hearing/Wajir/19 April 2011/p 3

354. Most accounts heard by the Commission suggested that by mid-morning of 10 February, Wagalla Airstrip began to fill up with scores of men from Wajir, Griftu and beyond. Some might even have arrived earlier. Hilowle, whose sharp memory and ability to remember details made him an invaluable witness, estimated that the truck that he was travelling in must have reached Wagalla at around 7.30am. While today Wagalla, for many, is a place of great sadness and unspeakable memories, in February 1984 the District Security Committee settled on Wagalla as the nerve centre of the entire operation for coldly practical reasons:

> The choice of Wagalla Airstrip was decided because we did not have any other secure place where those people could be put. We thought that since Wagalla was a fenced ground, it would be suitable.[223]

355. Children - though not as many as older men - were not spared either, as one witness who was a young boy at the time of the massacre recounted:

> In fact, it was at 4.00pm when I was first taken to Wagalla Airstrip. By then I was very young; just after primary school. So, I cannot exactly estimate or know the exact number but I can remember people being brought every day and the number increasing day and night. Lorries were just ferrying people and bringing them to Wagalla Airstrip. People increased every minute and every hour.[224]

356. There had been some talk about taking the men to the army camp. Major Mudogo apparently was in favour of that as a location. The other members of the District Security Committee rejected this suggestion, choosing Wagalla instead because, as Tiema explained it, "it is neutral and it is not a military facility and it looked secure because it is fenced."[225] "Suitable" is a relative and highly subjective term. The men gathered at Wagalla found it to be a forbidding location completely lacking in even the most basic of amenities. There were (and still are) no structures of any kind at Wagalla airstrip. No preparations of any kind had been made for the airstrip to receive hundreds of men. There was little for them to do other than sit and wait to see what would happen next; they sat there for hours:

> There was nothing we could do, but just to go there on the ground. We were kept on the murram stones. We were told to stay there and we stayed there for the whole of Friday on that murram. There was a lot of sun, no water, no food, no shade, nothing was there. We sweated there. To make it worse, the sun was very hot at that time. We stayed there the whole day.[226]

223 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p.32
224 TJRC/ Hansard/ Public Hearing/ 19 April/ Wajir/ p. 17
225 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p.41
226 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p.37

357. By his own admission, Tiema did not arrive at Wagalla until about five in the evening of this first day He was accompanied by the OCPD, Mr Wabwire He claimed that they found about 500 men gathered there The detained men had apparently been arranged by sub-clan and area of origin The District Commissioner spoke to them:

> On the same day of 10 February 1984 at around 5 00pm, I visited Wagalla Airstrip where people were gathered and grouped into their clans by security agents I addressed them and emphasised the reasons why the operation had to be carried out and what was expected of them and left them under the security men there [227]

358. The men were clearly in a very difficult situation on the evening of Friday the 10th They had not been provided with any food They had not been given any water They had no idea when they were going to leave. They knew nothing about the fate of their families they had left behind that morning A lucky few had been released from the airstrip on the promise that they knew and could show the security officers where weapons had been hidden Two guns were retrieved in this way Screening and interrogation continued into the night

359 After the men were taken to Wagalla Airstrip, the soldiers took the opportunity to torture, rape and sexually violate women and girls who had been left behind in the villages

> When they had picked all the men they could find, they took them to the airstrip and the soldiers came back to us They told us that they were now our men We do not know their names or where they came from, but they came and picked up all the women though I cannot recall the exact number No woman was spared, all the beautiful girls were each raped by ten or more men, others by three and others by seven Some women ran away and some were killed in the incident or at the wheels of the trucks I was also a victim, I had just come out of labour and others who were pregnant gave birth prematurely I can remember that no woman or girl was spared [228]

360. A victim of gang rape told the Commission the following horrific tale

> On the same day, Wednesday, the soldiers came back Hundreds of girls were asked "Do you want your men back?" They said "Yes" Every little girl or woman was taken away They told us to follow them so that they could show us where our men were So, when we went with them to Makaror, the soldiers turned on us when we reached the place called Makaror and said "Today, there are no men for you We are your men" No woman was spared They did not care whether some were pregnant They did not care when some women told them they were about to give birth They did not care that some women were old Every soldier came They were so many soldiers They were uncountable There were no prostitutes those days, so these men were sexually starved

227 Mr Tiema *Personal Statement* 28th March 2011
228 TJRC/Hansard/Women s Hearing/Wajir/19 April 2011/p 2

By then, I was nine months pregnant They raped me again and again until my unborn child came out Twenty women who were raped died I saw them with my own eyes Some women resisted them They struggled with them and because of that struggle, they were beaten to death During the night, the place became a camp for only women to be raped The dead bodies were taken away We do not know where they took them [229]

361 Surai Abdille Gurre was a little girl in 1984 She remembers that after the men were taken to Wagalla Airstrip, the soldiers returned to the villages where they indiscriminately attacked the women and burnt down their homes

I was at home in Griftu when our brothers and husbands were all taken on a Friday night On Saturday, many soldiers came and they found my sick mother and I seated outside Five soldiers came with a match box and they torched my mother's house While I was taking out the mattresses, five men caught me and threw me next to a big stone As I was crying, another one came, tied my mouth and covered my face [230]

362 For Fatuma Jele, her experience of the operation and the violations she witnessed are etched in her memory She recalled close friends who were subjected to unspeakable atrocities

Many people died in Wajir and I cannot forget since I personally knew them Among the women who were arrested and tortured was Markabo, who was pregnant with twins and she was stepped on until she miscarried There was also Habiba who was newly-wedded She cannot give birth now because of the way she was violated I was next to Markabo and Habiba and I cannot forget them [231]

Saturday 11 February 1984

363 The flow of information between Wajir and the outside world appears to have been reduced to a trickle on 11 February The District and Provincial Security Committees appear to have retreated into near total silence The only people who seemed to be in touch with each other were the Special Branch Officers Ndirangu in Garissa and Kibere in Wajir Ndirangu claimed that he and his counterpart were signalling but they were not signalling about the operation. According to Ndirangu, "other intelligence issues were coming in" [232] The reason for this appeared to be that, according to the Special Branch, nothing of note was happening at Wagalla [233] The operation had apparently reached some kind of impasse with no further weapons being turned in and no new information being received on the recent spate of killings in Griftu The team in Wajir had, in Ndirangu's view, nothing to report

229 TJRC/Hansard/In-Camera Hearing/Wajir/20 April 2011/p 4
230 TJRC/Hansard/Women's Hearing/Wajir/19 April 2011/p 5
231 TJRC/Hansard/Women s Hearing/Wajir/19 April 2011/p 7
232 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 8
233 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 8

We would ask and they would tell us "No we have got nothing material to report" We used to get information that "We have not achieved anything as per what they had told us As per their intention, they had not got anything material [234]

364 In another twist, Kibere seemed to have left Wajir right in the middle of the operation Ndirangu had no explanation as to why that happened He speculated that Kibere might have had a sick child in Garissa. His place was taken by a Mr Mbole who it seemed continued to brief Ndirangu along very much the same lines until the 12th of February

365 Although the official channels of communication appeared to be quiet, the Commission received testimony from a number of people to suggest that by 11 February, the men at the airstrip felt that they were in grave danger. Evidence from Hilowle painted a picture of a situation that actually started degenerating on the night of 10 February and into the morning of 11 February Tiema and Wabwire departed from the airstrip on the evening of the 10th and left the men in the hands of junior army and police officers Unsupervised, the security officers set about inflicting further pain and humiliation

In the evening at around 5 00pm, an army officer whose name I have forgotten, plus all his soldiers came there We were told to sleep on our stomachs on that soil There is murram and soil on Wagalla Airstrip We were told to sleep on that sand Everybody was told to sleep on his stomach In the night, there was a lot of torture When people requested for water or something of the kind, the soldiers would clobber them Some were hitting us with stones I think you all know the Maasai *panga* is normally sharpened on both sides The soldiers could just use these weapons on you without any mercy We were told to sleep on bricks which were on the soil They were walking on us as if we were the hard ground This happened until early in the morning [235]

366 By Saturday morning, it was clear that things were going to get much worse The security men present began to strip the men of their clothing

Commissioner We have heard that when people were brought there, after one or two days, they were stripped of their clothes Do you remember what happened after the first and the second day?

Mr Isaak Abdi Noor Yes

Commissioner You arrived there on Friday, then after a period of time all your clothes were taken away Do you remember when that happened? Was it immediately when you got there, or was it after a day or two?

234 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 8
235 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 37

Mr Isaak Abdi Noor: No! Some people were made to strip their clothes on Saturday. But almost all people were stripped off their clothes on Sunday.[236]

367. The men of Wagalla were half-naked on the airstrip for most of Saturday. Their torsos were bare. Thin sheets of cotton covered their bodies from the waist downwards. In essence, they were almost completely exposed to the heat and the sun of Wajir in February. The Commission also learned that by this point (that is, by Saturday morning) no food or water of any kind had been provided. This meant that the men had received no nourishment or liquid for more than 24 hours. The Commission heard testimony that people held at that airstrip resorted to drinking their own urine. A witness who testified remembers seeing his father drinking his own urine:

> So I left in the evening and I went there; *I saw my father drinking his own urine*. The soldiers saw me carrying my father and they shot me.[237]

368. Another witness recalls:

> There is a story of a young man, and this one is still alive since I saw him recently on Sunday, when he could not hold his thirst any longer. He pretended that he had a gun and led them back to town to their homes, went in, drank water, came out and said: "I do not have a gun and take me back... at which point they took him back to the airstrip."[238]

369. There continued to be no food or water whatsoever until the evening of the 11th when Tiema finally made arrangements for supplies to be sent to the field:

> I instructed my acting DO1 to get two bags of maize, one bag of beans and take them to the assistant chief, Wagalla, to have it cooked for those at the airstrip together with water. We had to use a water bowser from the police. He came and assured me that the instruction had been carried out. We got the foodstuff from National Cereals and Produce Board store in Wajir.[239]

370. Yet, even when the water bowser had been brought to the Airstrip, the soldiers and policemen restricted access to it. Mohamed Elmi remembers a man being brutally beaten when he tried to access it:

> On the left side of the field, I saw a young man who ran to a water bowser where water was leaking and flowing to the ground. Two soldiers came from two different directions with sticks; beat him up like an animal until he ran back to the crowd which was at the centre of the field.[240]

236 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p.17
237 TJRC/ Hansard/ Public Hearing/ 19 April 2011/ Wajir/ p. 7
238 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p. 8
239 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p.6
240 TJRC/Hansard/Public Hearing/Nairobi/16 May 2011/p. 4.

371 These three bags of food (90 kilos each) were meant to feed a crowd which, due to continuous inflows on Friday and Saturday, had swelled to at least 1,000 Tiema's involvement with the operation on this particular day was limited to the provision of food He did not visit the field to see if there had been any developments overnight at the airstrip. He also did not find it necessary to check on the operation during the afternoon. The explanation he provided was that he was receiving updates from Wabwire that there was little progress, no guns were being turned in and no information was emerging In his mind, therefore, no trips to the field were warranted

372 Small numbers of people were being released from the field throughout the operation at the discretion of the commanders and the security personnel On Friday, some people were let out on the promise that they would lead officers to guns By Saturday, that particular conduit had been shut down because the security men found that people were "playing tricks" and had no useful information on the location of firearms [241] From then on, the only people allowed out were those with some kind of personal connection to the commanders Everyone else had to stay put and wait to see what the night of the 11th and the morning of the 12th would bring

Sunday 12 February 1984

373 The penultimate day of the operation was characterised by a sudden and tragic surge in levels of violence A public *baraza* was held in Wajir that Sunday morning The Member of Parliament for Wajir West, Ahmed Khalif, was in attendance as were a large group of Wajir locals eager to establish what had happened to family, friends and loved ones they had last seen 48 hours earlier Tiema described to the Commission how he addressed the assembled crowd

> On the 12th of February 1984, I held a big baraza at the stadium near the DC's office which was attended by the late Hon Ahmed Khalif and councillors and explained to them the purpose of the operation, and assured them that those who had relatives rounded up, they would be released I welcomed the late Hon Khalif to address the baraza and emphasise the same to the public [242]

374 Few were likely to have been convinced by Tiema's assurances, levels of anxiety were far too high Those who attended this *baraza* also remembered Tiema's visit and his address Their testimony suggested that the DC's remarks might have been much more aggressive than he portrayed them as being Some remember him as telling the people whose huts had been burnt down that they would have

241 Maluti to Kaaria *Report Regarding the Recent Operation which resulted to rounding up of Male Degodia adults at Wagalla Airstrip from 10 2 84 to 13 2 84* 27th February 1984 p 3

242 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 6

to go back home, that was interpreted as a threat to return them to Ethiopia or Somalia [243]

375 As soon as the public meeting was over, Tiema and Wabwire left and headed the nine miles up the road towards the airstrip The two men were accompanied by the acting District Special Branch Officer, Mr Mbole Kibere, who had earlier on in the operation been in contact with Ndirangu, had by this point departed for Garissa Why Kibere left Wajir right in the middle of such a crucial operation was unclear At any rate, these members of the District Security Committee drove to the airstrip in the DC's familiar and instantly recognisable Land Rover The purpose of the trip was to assess the situation Tiema himself had not been to the airstrip since the first day of the operation and had received nothing other than verbal updates from the police and the army

376 His arrival at the field triggered a rapid succession of events that have long muddied understandings of what did and did not happen at Wagalla At its most basic, Tiema's version of events was straightforward he arrived at the field, there was some kind of commotion in the crowd, the security commanders asked him to leave and he left That essentially was and continues to be his story three decades on

> At around 11 00am, I accompanied the OCPD and the DSBO to assess the situation but when the crowd saw us they started shouting They were agitated somehow Those who were sitting stood up and started shouting in their vernacular and the security men told them to sit down Some obeyed and others did not obey, they refused They started running in different directions and the situation became chaotic With such confusion going on, I was advised to leave the ground and left security agents to handle the situation However, I later learnt that some people lost their lives in the course of that stampede I think the visitors who were there can bear me witness This is the report that I had [244]

377 All this, by Tiema's estimate, happened very quickly, in less than five minutes it was all over He said he was later told by the District Special Branch Officer (DSBO) that a total of 57 people had died as a result of what he described as "the stampede" and other events associated with the broader operation [245]

378 Since Tiema claimed that he was absent when Wagalla finally exploded in violence, the Commission tried to obtain from him further details about what he saw and heard in those crucial minutes while he was actually there Tiema's memory, however, was far from specific He remembered seeing 500 to 800 men Some of them were apparently in a state of undress because their clothes had

243 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 4
244 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 6
245 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 24

been torn, but he did not recall that any were completely naked He accepted that there might have been people within the crowd who had no clothes on. Pots and various other cooking implements were strewn all over Armed military men were clearly visible among the civilians

379 The former District Commissioner's description of the men's demeanour was once again based on a fairly fleeting assessment In his view, they were "tired and desperate"[246] Their mood apparently seemed to change as Tiema approached them. The men surged forward They seemed angry Under further questioning, Tiema revealed that he had seen people break out of the main cluster and run towards the fence

> Those were people who were trying to run away and the security shouted to them to stop running away because they realised that they were going towards the fence so that they can sneak out before we finished the exercise [247]

380 It is an important detail that severely tested Tiema's claim that he was away from the field as the military and police attempted to handle a quickly evolving security situation

381 The recollections of men like Hilowle and others who were detained at the airstrip were in part consistent with, and in other parts very different from, the version presented by Tiema The Commission's impression was that the late night and early morning of 11 and 12 February respectively, were just as difficult as that of the previous day. If anything, things might have become even more violent

> On 11th, we were still sleeping on the sand The sun was hot. We were not wearing any clothes, we were not given food or shelter They continued beating us up, slashing us with knives, *pangas* and hitting us with *rungus* This went on throughout the night At night, soldiers hit us with big stones I remember someone called Mohammed Jilo who was well known in Wajir He asked them "Why are you playing with us? Are we not Kenyan citizens? Why are you doing this to us? Are you not government soldiers? Are you not Africans like us? Why are you mistreating us? Two soldiers took a very big stone and started hitting him with it The man was smashed on the ground [248]

382 Hilowle did not remember the arrival of Tiema on the 12th. He did remember the arrival of a group of uniformed administrator-types but he did not recognise Tiema This was perhaps not surprising as Tiema was new to the district Hilowle said that upon seeing these government officials, some sections of the crowd started singing the National Anthem This account was corroborated by Bishar Ismail Ibrahim, a former chief in Wagalla, who testified as follows

246 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 43
247 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 30
248 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 38

> In the morning of 12th, again, the DC and his team came back. I was not accompanying them in an official manner, but I was, again, following them while I was not in uniform. I just wanted to see what my friends were going to do to my location. I am a practical witness. When they went there, the people there stood up and sang the National Anthem. I could hear them. They stood up and sang the National Anthem, expecting sympathy from the security committees. They expected that they would be assisted.[249]

383. The appeal to nationalism and patriotism did not, however, work. Instead chaos broke out. What Tiema euphemistically referred to as a stampede, others termed as a shooting that took place as the men rose and approached the DC for answers. According to Hilowle, the bullets flew out of nowhere; people tried to run towards the fence:

> Since it was the third day and there was no alternative, people started jumping and running away. Half of the people stood up and started running away. The soldiers started firing at us. So many people were killed with bullets. So many of them started rushing and they were put on the wires which surrounded Wagalla Airstrip.[250]

384. Bishar Ismail Ibrahim seems to have been some distance from the main action. Nonetheless, he claimed he was close enough to hear OCPD Wabwire issue specific instructions to the soldiers: "Anybody who is not seated should be shot" and they left. So, there followed shooting here and there, without control.'[251] When the gunfire died down, Hilowle counted ten dead bodies. How many people died is one of the most vexed, contentious parts of the Wagalla story. Most victims and survivors are clear in their minds that the shooting resulted in many more deaths than those initially reported by the District Special Branch Officer and more than the official tallies resulting from subsequent government assessments of Wagalla. Their explanation was that the shooting was prolonged; nobody remembered hearing any orders for soldiers to stop shooting.

385. The hours following the shooting proved difficult to reconstruct on account of the secrecy and confusion that surrounded them. In essence, Wajir seemed to shut down even further. Kaaria and Ndirangu in Garissa claimed that no operation-specific signals arrived in Garissa at the Provincial Security Committee level. As Ndirangu explained it, he was in the very unusual position of receiving signals that had nothing to do with the actual operation itself. There was, however, one important exception to the overall rule of non-communication. It appears that messages were getting to Garissa through army channels.

249 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p.22
250 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p.38
251 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p.22

386. On the evening of 12 February, Colonel Frank Muhindi, the commanding officer of the 7KR battalion stationed in Garissa, was approached by an officer with some startling news

> So, the officer, whether he was a duty officer or whoever it was, came to the club and he sent for me I went out and I met him, and he told me, "Sir, I think that something has happened in Wajir, but I do not know the details"[252]

387 Colonel Muhindi remembered quickly going to the army base and trying to get hold of the officer commanding the unit in Wajir, Major Mudogo Unable to reach him, Muhindi then approached Kaaria with the news

> I went back to the club and I called aside the PC, Mr Kaaria, and I told him that "I have heard something from one of our officers and I do not know how to take this information, but I think that things may not be okay in Wajir"[253]

388 News about Wagalla seeped out of Wajir on the evening of the 12th but in a manner that was unofficial and incomplete

389. After his visit to the airstrip was cut short, the whereabouts of the District Commissioner were unclear Tiema's own testimony provided almost no clarification as to where he went and what he did All that he testified about this critical period was that he was aware that some men were taken away from the airstrip on the 12th When asked for further details he said that the men were transported back to their homes

> **Tiema** On the morning of the 13th and some were taken away on that same day of 12th when I visited there
>
> **Leader of Evidence:** Mr Tiema, when you said they were taken away, who took them away and by what means?
>
> **Tiema** We had some military vehicles which were to be used because the DO did not have transport facilities But the police and military vehicles helped to transport those people back to their respective areas[254]

390. Testimony from the airstrip suggested that there was indeed a great deal of movement on the field following the shooting Hilowle was not among those to be released that evening He was instead left at the airstrip where he claimed to have witnessed the loading of dead bodies on to trucks. His testimony was that the survivors themselves were sent to collect the bodies of their clansmen and put them into military vehicles that then drove off

252 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p 21
253 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p 21
254 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 18

> At around 8 00pm or 9 00pm, those people who could walk were told to come and collect all the corpses which were around there Vehicles were brought and all the corpses were ferried to the bush [255]

391. Hilowle was not in a position to say how many bodies were loaded onto the trucks or how many trucks were loaded up with bodies The Commission spoke to a former army corporal who claimed that he drove people to the field on the first and second day of the operation He seemed not to have been involved in any of the transport on the 12th so he was unable to shed any light on the movement of men and bodies that Sunday night

392 The Commission's assessment was that for the third night in a row, the men at Wagalla had to endure extraordinarily difficult conditions There was no talk of replenished supplies This meant that the men had to make do with the meagre provisions of maize, beans and water that Tiema had sent to the airstrip the day before Because Wagalla Airstrip was effectively sealed off, no news could filter in or out, this undoubtedly heightened the levels of anxiety as nobody was in a position to send news about fatalities that had occurred as a result of the shooting The Commission heard no testimony and received no other evidence that the injured were attended to in any way Above all, the men at Wagalla remained at the field overnight in the custody of the very security personnel who just hours before had shot, killed and injured scores of their clansmen One can only imagine the distress this must have caused for the survivors

Monday 13 February 1984

393. Monday 13 February brought with it a flurry of activity Garissa became a centre of action as the Provincial Security Committee wondered and then worried about the continued lack of communication from Wajir As Ndirangu outlined in his testimony, although the District Special Branch Officer was signalling, his messages relayed no information about the operation itself Officials in Garissa testified to the Commission that at the time they had no idea how the operation was progressing Kaaria explained the Provincial Security Committee's position as of the morning of 13 February

> We did not remain updated because the DSC Wajir decided to put us off We do not know for what reason, but we did not know what had transpired, how they arrested people, where they had taken them and the action they were taking until after two days [256]

255 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 38
256 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 49

394 Come Monday morning the Provincial Security Committee felt, as Ndirangu put it, "forced by circumstances" to organise a fact-finding mission to Wajir to establish what was going on. Ndirangu, Gaturuku and Colonel Muhindi, the acting Provincial Special Branch Officer, Provincial Police Officer and the Commanding Officer of the 7KR Battalion, respectively, were assigned the task Kaaria remained in Garissa No invitation or plea for help was issued from Wajir, Garissa officials emphasised that the mission emanated entirely out of concerns about the lack of communication, as well as the alarming but general alerts sent out by the army

395. The Commission established that there were actually two fact-finding missions to Wajir on Monday 13 February. One mission was headed by Ndirangu, and another by Colonel Muhindi After a slight delay that pushed their departure from Garissa into the late morning or early afternoon, Ndirangu remembered flying with the now deceased Gaturuku and one other officer They landed at the military airbase where they were met by various members of the Wajir administration: Tiema, Wabwire, Major Mudogo and Mbole The visitors from Garissa were then taken to a small office within the complex A short meeting followed Ndirangu's testimony was that it was during this meeting that a nervous-looking team explained what had been happening in Wajir since 10 February when information about the operation had last been signalled

> We just asked them to brief us on what was on the ground They looked panicky and you could tell from their faces that there was something wrong. That was the time they disclosed that the DSC had gone to Wagalla Airstrip and there was a stampede Some prisoners tried to escape through the wire fence, some of them were coming towards the DC and his team with stones and, as a result, there was fire We fired at them and 13 people died [257]

396 District officials also spoke about the ongoing clearance of the airstrip and the return of the men The need to investigate further was obvious and Ndirangu and his colleagues apparently made it clear that it was important for them to visit the airstrip itself The District Security Committee, however, was of a different view and ruled this out Ndirangu's recollection was that the Tiema-led team was adamant that going to Wagalla was not a good idea

> We wanted to go to the field and see for ourselves but they discouraged us completely. They told us that the field was not good, and if we went there, we could also escalate the violence that had already been experienced At the same time, the people who were there had already made the place worse The place was not conducive for us [258]

257 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 11
258 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 12

397. The Commission pushed Ndirangu to explain how junior officers were able to redefine the entire fact-finding mission by insisting that Wagalla was out of bounds. The former Special Branch Officer maintained that the safety and security argument presented by the Wajir District Committee won the day: Wagalla was too unsafe and too insecure to access. Moreover, Wagalla was presented as an operational area where considerable weight was attached to the opinions of those on the ground. In the end, the group from Garissa did not go to Wagalla. Instead, they overflew the airstrip and peered out of their windows at the scene below:

> **Leader of Evidence**: So when you looked down from the aeroplane, what were you able to see at the airstrip?
>
> **Joseph Muthui Ndirangu:** As a person, I only saw the security men's cordon along the fence. I saw some clothes and fabrics hung on the fence, but I did not see human beings, that is, those who had assembled there. When we talked in the aircraft, most of us confirmed the same, but there was only one who said he saw some people, but we had already passed the airstrip.[259]

398. And after that, according to Ndirangu, they flew back to Garissa. The other mission was carried out by Colonel Muhindi who had independently decided the night before that he was going to travel to Wajir and thus informed PC Kaaria. On the morning of the 13th Muhindi set off for Wajir determined to establish contact with Major Mudogo. Other than the military pilot, Muhindi was travelling alone. He arrived at the Air Force base several hours before the Ndirangu group, which by its own admission left Garissa much later than originally planned. The Commission believed that Wajir's civilian administrators had no knowledge of or control over Colonel Muhindi's visit because it was an entirely military affair. Muhindi was picked up at the base by a military Land Rover. Captain Njeru Mugo, who Muhindi describes as Major Mudogo's deputy, accompanied him. Unencumbered by the security concerns that would curtail Ndirangu's mission later on, Muhindi drove straight to Wagalla.

399. He arrived to find a raw and disturbing scene. By his estimate between 70 and 100 men were still being held at the airstrip. They were half-naked: bare torsos on the top and light sheets of cotton covering them from the waist downwards. They were lying on the ground. There were clear signs of violence; pools of blood dotted the runway. Muhindi did not speak to any of the men. Instead, he described their situation as desperate:

> **Leader of Evidence:** Did you talk to the people who were lying down there?
>
> **Col (rtd) Frank Kariuki Muhindi:** They were traumatised. It was a sight that you would not want to see again. They were weak and traumatised.[260]

259 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p.13
260 TJRC/ Hansard/ Public Hearing/ 24June 2011/ Nairobi/ p.30

400. Muhindi was also told, presumably by Captain Mugo, that a number of people had been killed although he did not see any dead bodies at the airstrip The colonel described what he saw as "disturbing" And yet, nobody seemed able or ready to fill him in on the details Captain Mugo could not provide any answers

> **Leader of Evidence:** When you were seeing all this, you were with Captain Mugo. Did you ask him to explain to you why people were lying naked and why there was blood?
>
> **Col (rtd) Frank Kariuki Muhindi:** He could not explain to me why people were in that situation because he might not have been there that morning or the situation the previous day may have been different. The only thing that I asked is how those people were being looked after [261]

401. The only others at the airstrip were the policemen who appeared to be standing guard over the premises They too proved unhelpful There was no sign of Major Mudogo, the one person Colonel Muhindi really wanted to see because he was, after all, in overall charge of Wajir But Mudogo was nowhere to be seen Incidentally, Captain Mugo remains silent on the issue of his own involvement in the operation Commission witnesses have portrayed him as one of the more aggressive and more prolific interrogators who might even have been involved in torture at the airstrip Njeru Mugo has also been identified by witnesses as the person responsible for cordoning off Bulla Jogoo

402 The major's absence was troubling because it was clear that only he was in a position to provide the answers and explanations Muhindi was seeking

> I was sad because he was not on the ground and yet he was my right hand man. So obviously his brief to me on how they planned the operation and how they determined that it should be executed, I would have appreciated if it was him briefing me That would have been helpful to me At that point, I actually felt bad [262]

403 It is not clear why Major Mudogo was unable to meet with Colonel Muhindi The suspicion is that he was engaged in the disposal of the dead Two officers, Lieutenant Chungo of the army and Inspector Wachira of the police, were identified as being involved in the burial of bodies in and around Wajir.[263] It is possible that Mudogo might have been supervising or somehow assisting in this Colonel Muhindi denied direct knowledge of the burials although he does admit that this is something that Mudogo might have been involved in Once again, however, the colonel's primary issue was that Mudogo was unavailable to answer his questions

261 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 29
262 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p 28
263 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the issue*, 15th March 1984, p 13

> The reason I was sad when I could not communicate with my officer commanding, Major Mudogo, is because he is the one who would have told me how they disposed of those bodies, but I did not get him.[264]

404. Like Ndirangu and his team would a few hours later, Colonel Muhindi left Wajir with only a partial understanding of what had happened at Wagalla, and flew back to Garissa. For the men who had remained on the field overnight, the morning of the 13th brought some measure of relief as the operation began to wind down. After limited releases on the 12th, Wajir administrators stepped up their attempts to evacuate people from the airstrip. Tiema's testimony was that the operation was formally terminated on the 13th of February and the District Security Committee's attention turned to clearing Wagalla. Military and some police vehicles were used for this because the district office had no transport to speak of. Not everybody left in this way.

405. The Commission heard evidence suggesting that some people might have left of their own accord. In 1984, Mohammed Ibrahim Elmi was a young nursing officer who was caught up in the Wagalla operation from the outset when he saw men, his own family members included, being loaded on to trucks parked outside the police station.[265] He attended Tiema's *baraza* on the 12th. On the morning of the 13th, Elmi was at the hospital when some Wagalla wounded began to drift in assisted by teachers and staff members from nearby Sabunley secondary school. He came to understand that these were people who had somehow escaped from the airstrip either that morning or the night before. Whatever the case, they had not departed Wagalla on the military vehicles arranged for that purpose.

406. It was clear to the Commission that as the trickle out of Wagalla turned into a flood, district officials were no longer able to control or contain information about what was happening. As the word spread, civilian, private and non-state actors started to play a much greater role. One such actor was Sister Annalena Tonelli, an Italian missionary who had been based in Wajir for 15 years. Her work revolved around the tuberculosis ward (popularly known as TB Manyatta) of the district hospital, as well a small rehabilitation centre for the physically disabled. She was clearly a much-loved figure within the region on account of her dedication to the less fortunate members of the community. She also seemed to enjoy the support of both the provincial and district administration, with the Provincial Security Committee donating 50 000 shillings to her centre at the end of 1983.[266]

264 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p.30. Mohamed Elmi would years later become the Member of Parliament for Wajir East and Minister in the Coalition Government (2008-2013).
265 TJRC/ Hansard/ Public Hearing/ 18 May2011/ Nairobi/ p.3
266 Provincial Commissioner to Wajir, 24th November 1983, District Intelligence File, Wajir Registry

407. All this changed with the Wagalla incident. On the morning of the 12th of February, Sister Annalena apparently collected the body of the disabled person who had been burnt to death on the first day of the operation as Bulla Jogoo was surrounded by Njeru Mugo and his men.[267] As wounded men streamed into the hospital on the 13th, Sister Annalena sprung into action. According to Elmi, who was with her at that point, she rushed to the district headquarters where she met with an unnamed officer who agreed to take them to the airstrip to assess the injured.

408. Mohamed Elmi did not recall what time they got to Wagalla. As with Colonel Muhindi, they arrived to find that the airstrip was still active and populated by an assortment of victims and guards. Because Elmi remembered seeing a number of bodies in a small pile, the Commission's assessment was that he and Sister Annalena must have been at the airstrip early on the morning of the 13th. They were almost certainly there before Muhindi was; the colonel claimed he saw no dead bodies at the time of his visit and concluded that whatever bodies might have been there had already been removed.

409. The other impression created by Elmi's testimony was that of squabbling and disunited officials jostling to manage the airstrip. The District Officer who accompanied Elmi and Sister Annalena found himself in a dangerous standoff with the security officials. The issue at hand was an apparent plan to go after some of the people who had escaped from the airstrip. The DO disagreed with this suggestion vehemently:

> The army officer quarrelled with him telling him that he did not know what he was doing. They all cocked their guns and told us to leave the place and we left. That DO was very pained and upset. I believe he was a very good man.[268]

410. By the time that Elmi and Sister Annalena turned around and went back to town, they saw evidence of a full-blown search for survivors. Women carrying plastic containers filled with water were combing the countryside around Wagalla looking for their loved ones. Isaak Abdi Noor, a witness, was found sitting on the side of the road exhausted, hungry and confused. Noor and others like him were then taken to the Wajir District Hospital and, as the hospital filled up, to Sister Annalena's rehabilitation centre. Elmi remembered staff and facilities being completely overstretched as patients continued to arrive with serious injuries. Among those in most immediate need of treatment were men suffering from burns to their legs caused by the setting alight of piles of discarded clothes.

267 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p. 4
268 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p. 5

411. Releases from Wagalla were stepped up on the 13th but the Commission heard evidence that not everyone was set free then. A number of people would remain at the airstrip for the fourth consecutive night. Abdi Ismael Hilowle was one such unfortunate person. He testified that he was simply held there and not allowed to leave on the 13th as others were ferried away from the airstrip. Hilowle described himself as being completely helpless and hopeless at that point. He had no idea when his ordeal would end.

Tuesday 14 February 1984

412. Tuesday the 14th was characterised by a flurry of activity on several fronts. A series of declassified minutes gave the Commission a good sense of the official perception of events in Wajir and in Garissa. At 10.30 in the morning, members of the Wajir District Security Committee assembled at Wajir police station. This was the first time that Tiema, Wabwire, Situma, Mudogo and Mbole met formally since the 9th of February. Tiema opened the proceedings:

> The chairman informed the members that the purpose of the meeting was to review the action we have taken on the security situation and make a follow-up of the operation as per the meeting held on 9/2/84 and make observations.[269]

413. What followed was a meeting that, if the minutes are accurate, was unable to speak plainly and directly about what had happened at Wagalla just hours before. Committee members described the operation as ongoing in that three people were still being held by the police and assisting them with interrogations into criminal activity in Wajir. Three hundred and seventy eight men had apparently been released on the 13th of February after being cleared because they had no useful information. No mention was made during the meeting of the number of weapons acquired from the operation. Even so, Tiema and his colleagues called the operation a success.

414. The only hint that something may have gone wrong in Wagalla and that Wajir was in fact in a state of crisis came towards the very end of the meeting when the District Security Committee talked about the prevailing security situation:

> The security situation is still violative (sic) and there are two possibilities. Degodias retaliating...will hit back at either Ajurans or civil servants. We are keeping very close surveillance in case of any eventuality.[270]

415. The security committee's resolutions also demonstrated continuing concerns about matters in Wajir, as well as awareness that tensions were still very high. District officials were also clearly anxious to prevent any flare-ups and to remain on an emergency footing:

269 Min. 21/84., *Minutes of the Special DSC Wajir Meeting Held on 14/2/84 in the OCPD's office starting at 10.30 AM*, 1.
270 Min.24/84., *Minutes of the Special DSC Wajir Meeting Held on 14/2/84 in the OCPD's office starting at 10.30 AM*, 2.

> After discussions, it was resolved that -
>
> The operation to continue aimed at arresting the murders who killed the seven Ajurans and injured many others who to date have not been traced
>
> Reinforce police posts and AP camps so that they may be able to deal with any situation which may arise
>
> The patrols to continue in the areas occupied by Ajurans and Degodias [271]

416 The meeting ended one hour later Tiema and his colleagues appeared to have left the police station without once discussing the dead and the injured, the conduct of the forces, the escapees, Muhindi and Ndirangu's mission, or indeed any other issue relating to the specific operation in Wagalla It is possible that the committee spoke about such matters and that these discussions were not minuted Tiema's testimony was also vague and lacking in details about the security committee's activities in the days and hours following the operation All he could confirm was that at some point the district security team had met to compile a report that was subsequently sent to the Provincial Commissioner

417 Officials in Garissa adopted a much more direct approach to the news coming out of Wajir Muhindi's and Ndirangu's return prompted the convening of two extraordinary meetings. The first was a meeting of the Provincial Security Committee that included Kaaria, Muhindi, Gaturuku, Ndirangu and Njue in the Provincial Commissioner's office from 8.45am. It was followed three hours later by a joint meeting of the Provincial Security and the Garissa District Security Committee.[272] The Garissa meetings differed from their counterparts in Wajir.

418. Minutes of the two Garissa meetings clearly indicated a determination to discuss the operation in much greater detail than their district counterparts They had, after all, been in what Ndirangu described as a "blackout" since the 9th of February The PSC was thus playing catch-up They spoke of the many months of Ajuran and Degodia tension that the DSC identified as giving rise to the need for an operation Of course these were not issues that were entirely new to the provincial authorities, they had been kept abreast of unrest in Wajir from November onwards What was new about the meeting of the 14th was the frank assessment that indeed action had to be taken

> The Degodia tribesmen were becoming aggressively hostile and the situation was reaching alarming proportion and something had to be done to quell it [273]

271 Min 25/84 , *Minutes of the Special DSC Wajir Meeting Held on 14/2/84 in the OCPD s office starting at 10 30 AM*, 2

272 The members of the Garissa District Security Committee were Mr Lidambisa, Major Chebet, Mr Muthun and Mr Joel the District Commissioner Officer Commanding 7KR the OCPD and the DSBO respectively *From Minutes of a Special Joint PSC/Garissa DSC Meeting held in the Provincial Commissioner s Office on Tuesday 14th February 1984*, 1

273 Min 13/84 , *Minutes of the North Eastern Special PSC meeting held in the Provincial Commissioner s Office on Tuesday 14th February 1984* 2

419 The other thing that was new was the charge that the Degodia were apparently targeting civil servants for assassination "confirmed reports also indicated that the Degodia were planning to extinguish some civil servants by assassinating them".[274] This information presumably came from Wajir and was absorbed into the broader justification for the operation This reference to assassination of civil servants could only be dated the 14th of February, no reference or evidence of plans appeared in any of the evidence and testimonies before this date

420 Much of what the PSC discussed on this Tuesday was, however, broadly familiar PC Kaaria and his team showed the same level of concern for post-operation security in Wajir as the District Security Committee The irony was that an operation intended to dampen and pacify clan tensions in fact increased them tremendously In the hours and days afterwards, Wajir was judged as ready to explode into open warfare between the Ajuran and Degodia Provincial authorities came up with a number of measures designed to complement those generated in Wajir itself

The PSC can foresee the danger of major conflict between Degodia tribesmen and the Ajuran on one hand, and bitter feelings against the civil servants on the other The PSC, therefore, feels that besides exhaustive investigations into this incident being carried out, the following measures should in addition be taken.-

i Address civil servants and warn them against unescorted safaris by armed personnel and unnecessary movement in case of an attack by Degodia bandits in retaliation

ii Consider transferring all Degodia and Ajuran Kenya Policemen and Administration Policemen should the situation so warrant

iii Maintain extra vigilance in the event of the Degodia bandits striking in retaliation to avoid further loss of life of innocent citizens and any nature of retaliation

iv DSC Wajir to be on alert and ensure that there is no unnecessary movement particularly after 6 00pm

v Continuous operation should be stepped up with the increased reinforcement of

100 extra men already drawn from Mandera to assist

a) 45 extra men from Garissa to assist in this operation

274 Min 13/84 *Minutes of the North Eastern Special PSC meeting held in the Provincial Commissioner's Office on Tuesday 14th February 1984*, 2

b) 1 Army Platoon from Moyale also reinforcing the troops on the ground.

c) 1 Army Platoon from Garissa also reinforcing the ongoing operation

421 The Commission heard directly from Major Chebet and Colonel Muhindi on the last point: the reinforcement of security and army personnel in Wajir. They both remembered this quite clearly and remember mobilising troops in Garissa for this very purpose

> **Leader of Evidence:** I will go directly to where it says "One Army platoon from Garissa also reinforcing the ongoing operation" Were you aware of this one army platoon?
>
> **Retired Brigadier Phillip Chebet:** Yes As a member of the DSC Garissa, I was aware
>
> **Leader of Evidence:** You were aware of this one army platoon that had to go and reinforce the operations in Wajir? So why were they going to reinforce the operation? What were the reasons for the PSC to seek reinforcement in Wajir yet we have an able team of armed officers also in Wajir? Why would they seek reinforcement from Garissa and Mandera?
>
> **Retired Brigadier Phillip Chebet:** I remember that after the unfortunate incident, the fear of some was that reprisal from the community might step up or might escalate and they needed troops to stabilise the situation Also, take note that the operation was still ongoing in the mopping up of the arms which were in the possession of the locals So, that was one of the aims of reinforcing the police in the region It was just to stabilise the situation and not for any other operation This is precisely what they were doing [275]

422 Back in Wajir itself, it was clear that by the 14th of February that the entire district was in a state of flux occasioned primarily by the combined escape and release from the airstrip of detainees that started the day before The District Security Committee seemed to melt away after their meeting, the Commission found nothing to shed any light on what they did that afternoon In terms of coordinating a rescue mission, Tiema and company were *de facto* replaced by the young medic Mohammed Elmi and Sister Annalena Tonelli On the 13th they were at the frontline of caring for the injured By the 14th, that role had expanded considerably to include searching for survivors, and more gruesomely, the dead

423 Elmi's recollection of the 14th was that early that morning, even before dawn, he received news of missing friends and family who had been simply deposited on the main Wajir-Mandera road by a slow-moving truck driving with its lights off The trucks were laden with half-naked, hungry and traumatized men who by that point

275 TJRC/ Hansard/ Public Hearing/ 7 June 2011/ Nairobi/ p 8

had spent nearly four nights at the airstrip Elmi ran to Sister Tonnelli's compound with the news They commandeered a number of private and public vehicles and set off down the road in search of survivors who they took back to the District Hospital and Rehabilitation Centre for treatment A few hours later, word came in of more survivors even further away near a place called Dela Once again, Annalena and Elmi mobilised this time with the assistance of a local guide They attached a Red Cross emblem to their car and headed off in the direction of Dela

424 Elmi testified that the drive towards Dela yielded 16 survivors whom they brought back to Wajir with them One of them was very badly injured and did not last the journey, he died along the way and was buried in Sister Annalena's compound Elmi also reported to have seen evidence that the disposal of dead bodies was still continuing His testimony was that as they stopped at a road block, two military vehicles pulled up beside them and asked for directions to Eldas Elmi immediately smelt the overpowering and unmistakable stench of death

> As we parked our cars with their doors open, two military vehicles came to us The soldiers asked us for directions I remember them asking where Eldas is They were wearing masks more like handkerchiefs on their noses They told us to remove our vehicles from the road so that they could pass They went ahead and as they passed there was a stench coming from the lorries We later learnt that they were the ones dropping the dead bodies and one of the sites was not far from that area [276]

425 At some point (perhaps after the initial early morning drive towards Mandera and before the Dela mission), Sister Annalena and Elmi went back to the District Commissioner's complex where they had another heated encounter with unnamed officials It seemed that a delegation from the Swiss Red Cross happened to be in Wajir on the 14th It was, according to Elmi, a pre-arranged visit designed to familiarise the Swiss with activities of the local branch The visitors (one of whom Elmi named as a C E Aquest) was apparently received at the airport and driven to the DC's offices for a meeting They were not allowed to make a wider tour of Wajir by security officials who were by then in complete control of their schedule and movements Sister Annalena was then meant to have burst into the meeting uninvited with the dramatic announcement that "a lot of people were dying" and that assistance was needed [277] It is unclear what happened next Elmi described an abrupt ending of the meeting and the immediate return of the Swiss back to Nairobi

426 The most heartfelt accounts of the 14th of February came from men such as Hilowle, who were finally released from Wagalla after nearly four days and four nights trapped at the airstrip in the most challenging of circumstances At the

276 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 6
277 TJRC/ Hansard/ Public Hearing/ Nairobi/18 May 2011/p 6

end of it all, Hilowle's release was a strange anti-climax. As night fell, he was simply ordered into one of the army vehicles and dropped on another of the roads leading out of Wajir He was found in shock and hungry by Sister Annalena and Elmi. They took him back into town, dressed the wounds on his legs, gave him some medicine and then sent him home. He found his wife and family in an abject state. They had heard nothing from or of him since the 9th of February With all manner of stories swirling around Wajir, his family was in a state of trauma.

427 The difficulties facing those who were fortunate to survive Wagalla was illustrated by Hilowle, his return home signalled the onset of a series of problems and misfortunes that he linked directly to the operation Part of his home was destroyed during the round-up Money and personal belongings were also stolen Hilowle's injuries were much more serious than was initially thought The need for extended treatment kept him in hospital for another three months In the end, however, all that Hilowle could do was express gratitude for the miracle of his survival Many of his friends and his clansmen had not been so lucky According to a female victim:

> We do not have houses because they were burnt down and we have been poor from the day of Wagalla up to now We have not had any assistance from the government We were stigmatized and we were told that we were "the rape women" We did not get married and even the daughters we bore before are also stigmatized They are suffering because of that [278]

428 Another female victim remained disabled due to the injuries she sustained during the operation

> They cut my leg, burnt part of my house and asked me about Wagalla The Kenyan soldiers cut off my leg, injured my sister and killed my mother My sister and I were in hospital for five months and you can even see the leg that was cut Since that day, I am crippled and it is the government that did this to me [279]

278 TJRC/Hansard/Women's Hearing/Wajir/19 May 2011/p 3-4
279 TJRC/Hansard/Women's Hearing/Wajir/19 May 2011/p 4

'What happened to us, I have never heard of it anywhere else'

(Women's In-Camera Hearing, Wajir)

We were the people who were born in the town and who witnessed what happened. Since I was raped, I have never gone back to that place. Before that, my mother and father never used to go outside our house to drink water. We were living in a very peaceful state. It was after the night of Friday that everything changed. According to our Somali culture, the night before Friday is like a holiday. We feel happy to welcome the holiday. We were in a very happy state because of that. On that day, at 5.00am, I came out of the house to warm bathing water for my husband and the men who were sleeping outside so that they could go for prayers. When I was trying to light fire, and I was holding a matchstick, I turned behind and saw soldiers. They shouted at me: "*Wewe!*" When I realised what was happening, the men were already inside the house.

They went to where the men were sleeping. My husband Adan Abdulla, my father Keynan Abdi Hassan, my brother Adan Keynan, a cousin called Mohammed Harif Keynan and my two maternal uncles who came from a place called Afmadhur, who were visiting at that moment, were all among the men who were in the house. The men were all picked up. They requested: "At least let us pray before you take us," but nobody listened to their plea. They were taken out of the house. Each one of them was lifted and thrown into the back of the truck like sacks of potatoes. Every hut around us experienced the same thing. No man was left. No man could hide as we were not expecting this kind of attack. Had we known, we could have hidden them, even if it meant throwing them into wells, so that nobody could find them. We could even have told them to run into the bush, but we were not expecting this kind of thing.

So, early in the morning at about 6.00am, every man was taken away. We kept seeing men being taken away from all over the place from 6.00am to 6.00pm. Others were picked up from one place. The men sustained injuries and some were bleeding and you could see blood flowing out of the trucks. All these men were taken to an open field. They kept coming to collect men between Friday, Saturday, Sunday and Monday. These men were not given any food or water. Nobody could dare take food or anything to them. If they saw you taking a bottle of water to the men, they would pick you up and take you to the field too.

They tricked us because we would not have allowed them to take away our men. They told us that this field was meant for aeroplanes that would help us export our cattle and livestock. So, we allowed them to construct an airstrip. We were not aware that they were preparing the field for the aeroplanes to come and pick our men and people. After Saturday and Sunday, they brought a truck full of water. By this time, these men were hungry and dehydrated and anyone who drank the water dropped dead because it was poisoned. Nobody knew that at that time, but later on people told us about it. We, ladies did not know that the water had been laced with poison. The men who escaped later on testified and told us that story. So, in the field some men were told to remove their shirts and hot stones were placed on their backs. The ground had very hot sand because it was very dry. It was a very hot day.

After this, there were very many dead bodies and men were in a desperate situation. On Wednesday, the bodies were collected. On the same day, Wednesday, the soldiers came back. Thousands of girls were asked: "Do you want your men back?" They said: "Yes." Every little girl or woman was taken away. They told us to follow them so that they could show us where our men were. So, when we went with them to Makaror, the soldiers turned on us when we reached the

place called Makaror and said "Today, there are no men for you We are your men"

No woman was spared They did not care whether some were pregnant They did not care when some women told them they were about to give birth They did not care that some women were old. Every soldier came They were so many soldiers. They were uncountable There were no prostitutes those days, so these men were sexually starved By then, I was nine months pregnant. They raped me again and again until my unborn child came out. Twenty women who were raped died I saw them with my own eyes

Some women resisted them. They struggled with them and because of that struggle, they were beaten to death During the night, the place became a camp for only women to be raped The dead bodies were taken away We do not know where they took them

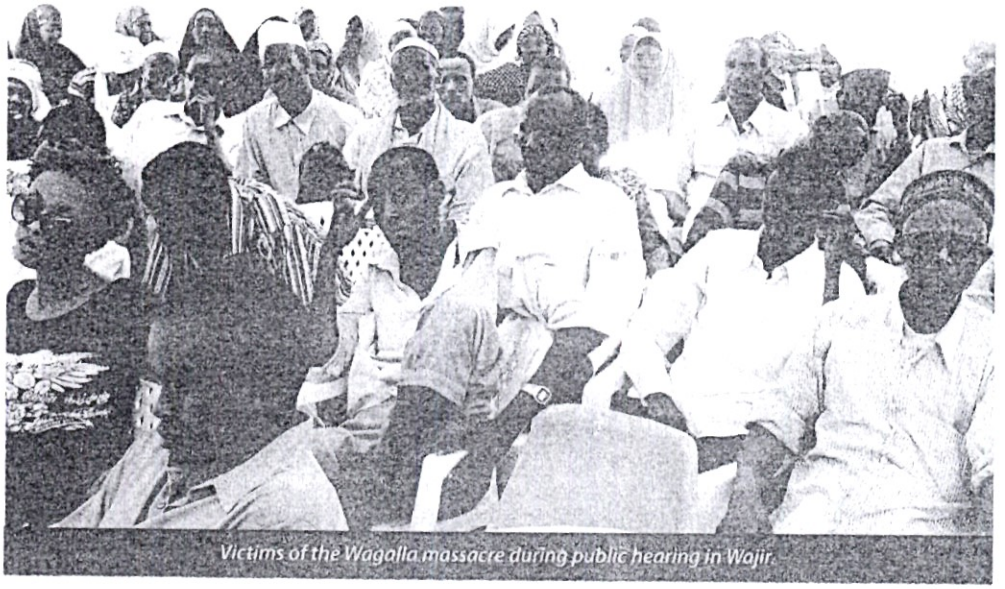
The men's bodies were taken to Moyale One day, as I was travelling to Godhane, which is across the border, I saw two trucks full of skeletons A man pointed out that to me and said "Those are the bones of the Degodia men." They were also taken to a place called Bandu, which is close to Marsabit There is another place called Sahara close to Mandera There is also another place called Wajirbora Our bones were thrown in these places What remained were the huts Nobody questioned whom they belonged to They just took petrol and set them on fire We were not intelligent Those days, women were very poor, but today the state of women has changed I can see that we are able to write By then, the Degodia women were in a desperate state Even the Kikuyu women sympathised with us Other Kenyan ladies came and cried with us They donated to us clothes when this calamity befell us

[.] We could not help ourselves We were absolutely helpless All I could see was my father who was cut into pieces My father and brother were on top of each other Both were dead They died in a very bad way We were just watching No tear could drop out of my eyes that day Today, I can cry because there is a change in the situation of women We did not get any help that day We did not get someone to help us

We lost wealth and relatives, but still we are alive today We did not feed on the dead bodies or the carcasses The government "ate" us that day

About three months after that incident, we were eating the bark of trees by scratching the top parts and eating the inner parts, because we could not come to town since we were afraid We could not even access health care because they would ask "Where are you taking this injured *Shifta*?" If we told them that our people were massacred in Wagalla, they told us "You go away" I personally remember I went seven times to the police station They locked me up in prison seven times After my child came out prematurely, I screamed I was shocked I was mentally disturbed I was screaming hysterically every time, so they took me to prison and said that I needed help They took me to prison and sent me back after seven days They had a name for us "wolves or hyenas" They said we did not have any people They said we were just roaming around in groups aimlessly So they called us "the crazy pack of hyenas"

As to the calamity that befell us, only God can answer us We were born in Kenya I have never seen any other flag other than the Kenyan flag I am 67 years old I used to drink a bottle of milk which I used to buy for 50 cents in those days Today if you need a bottle of milk, you buy it for KSh100 I have lived for that long What happened to us, I have never heard of it anywhere else When we heard about the TJRC we were frightened because we thought that you would identify those of us with injuries and information and then we would be put in prison But when we heard that ladies are part of the TJRC, we felt better because we knew the compassion of women



Victims of the Wagalla massacre during public hearing in Wajir.

Back in Nairobi

429. The Commission found that events in Nairobi over the Wagalla period tended to reflect the confusion in Wajir and, to a lesser extent, Garissa. The impression of limited and sporadic interaction between Nairobi and the province dominated the evidence gathered by the Commission. Submissions from former members of the Kenya Intelligence Committee painted a picture of near-total silence between their Nairobi-based committee and those based in Wajir and Garissa from the 9th of February onwards. This appeared strange to the Commission as the start of the operation coincided with the KIC's grand tour of Northern Kenya. The group insisted that they had heard nothing of the Wajir District Security Committee signalling its intention to carry out the operation beginning on the 10th. They maintained that they spent the evening of the 9th enjoying a pleasant dinner arranged by their host, PC Benson Kaaria.

430. Because the KIC members claimed that they had not heard and knew nothing of the operation, they also claimed that they had no news of the events that were taking place as they flew back to Nairobi on the 10th. Again this was despite the fact that they were accompanied all the way to the capital by Aswani, the Provincial Police Officer and the first Garissa person to receive a signal about the District Security Committee's plans for Wagalla. Even after they returned to Nairobi, the members claimed that they remained ignorant of events in Wajir. They testified that they were told nothing either as individuals or in their professional capacities. The testimony of David Mwiraria, the then Permanent Secretary in charge of Home Affairs, was that he only heard of Wagalla through newspaper reports that surfaced weeks afterwards.[280]

280 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p. 54

431 The Commission found evidence that news about Wagalla reached Nairobi much faster than Mwiraria and his colleagues claimed in their testimony. Moreover, at least one member of the national intelligence service was aware of the operation from its outset, that is from the 10th onwards In 1984, Brigadier Joseph Kibwana was the Director of Military Intelligence, and thus a member of the Kenya Intelligence Committee. Kibwana was part of the large group that embarked on the tour of Northern Kenya As with all other members of the team, Kibwana's testimony was that he knew nothing of Wagalla as the operation began on the 9th of February But Kibwana parted company with the rest of the KIC in that he clearly stated that he was told about the start of the operation on the 10th after arriving at Moi Air Base in Nairobi

> **Commissioner** Can you recall when the first time was that you heard about the Wagalla Massacre?
>
> **General Joseph Raymond Kibwana.** When we landed at the Moi Air Base on our return, I would have been briefed by the duty officer at the military intelligence
>
> **Commissioner** What would that date have been?
>
> **General Joseph Raymond Kibwana** That would have been on the 10th, I believe
>
> **Commissioner** On the 10th of February you would have been briefed on the initiation of that operation Is that correct?
>
> **General Joseph Raymond Kibwana** I would have been briefed on the outcome of the operation [281]

432 The briefing was given by the duty military intelligence officer who met Kibwana at the airport What this meant was that information about the operation had also been funnelled through army channels to the Department of Defence (DoD) headquarters in Nairobi Kibwana underscored what the Commission established through Colonel Frank Muhindi's testimony. the army had its own reporting systems for what Kibwana described as "all incidents that had any military connotations"[282]The Directorate of Intelligence appeared to have been well aware of the operation from the 9th onwards Paul Murimi, a senior intelligence officer who also travelled on the Kenya Intelligence Committee trip, testified as much

> **Commissioner** If I assume that the Directorate had received intelligence beginning from the 9th, 10th, 11th, 12th February and whatever, every day from Wajir through Garissa, would I be right?
>
> **Mr Paul Murimi** Yes

281 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 73
282 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 74

Commissioner: In that case, this being a very important development in Wajir, a big operation, would that reach the desk of the Director or Manager?

Mr Paul Murimi: It would![283]

433. For the Commission, the implications of this were that certain military and civilian authorities in Nairobi were kept in the loop about events in Wajir from the 9th onwards. The extent and depth of the briefings that they received, however, remain hidden. The minutes of the Provincial Security Committee meeting of the 14th is important as it indicated that Kaaria subsequently notified the Permanent Secretary in the Office of the President, James Mathenge, of the Wagalla operation. Mathenge's testimony differed from this narrative. He said that he heard the news from Parliament. The Wajir West Member of Parliament had apparently rushed to Nairobi to attend the Tuesday session. Mathenge was mistaken because the 5th Parliament was on recess from its first session and did not return for the second session until the 20th of March. It was thus unlikely that he could have been informed through that route.

434. In Nairobi news about a large operation in Wajir set off a chain of events. Another fact-finding team was rapidly assembled. This time round the team consisted of (mainly) Nairobi officials quickly put together, it appears, after consultations among the military, the Office of the President, and the police. The team was a high profile one and included the highest ranking military officer in Kenya, the Chief of General Staff General Jackson Mulinge. Like many military officers of a certain generation, Mulinge participated in the Shifta War and knew the region well. Also on the team was a Deputy Commissioner of Police, Mr Gatui. Mulinge and Gatui were joined by Kaaria and a representative of the Provincial Criminal Investigations Department.[284]

435. As with the previous trips the mission had one overriding objective, and that was to find out what had happened in Wajir. The composition of the team meant that the previously elusive members of the District Security Committee (who were last heard from on Monday the 13th of February) were required to put in an appearance and lead the tour of the operational area. Highlights included a stop at the army base. From there the group went to the Wagalla Airstrip itself. The airstrip stood empty and there was no sign of the hundreds (and possibly thousands) of men who had been held there for several days and nights. There was, however, in Kaaria's description, incontrovertible evidence that something quite disturbing had taken place at Wagalla:

283 TJRC/ Hansard/ Public Hearing/ 16 June 2011/ Nairobi/ p. 22

284 There is some confusion about the representation from the Provincial Criminal Investigations Office. Paul Kingori is listed in the minutes as having been part of this team as the Provincial Criminal Investigations Officer. His evidence was that following last-minute orders from Nairobi, he was replaced with a Mr. Ombati. See Min. 20/83, *Minutes of the Special North Eastern Provincial Security Committee Meeting held in the Provincial Commissioners Office on Wednesday 15th 1984 beginning at 9.30*. Also, TJRC/ Hansard/ Public Hearing/ 9 June 2011/ Nairobi/ p. 27

Leader of Evidence What did you find at the airstrip?

Benson Kaaria We found the airstrip We found the side of the fence which was broken and we could see traces of footprints in the runway

Leader of Evidence Inside or outside the enclosure?

Benson Kaaria: Inside the airstrip there were traces of maize and beans scattered

Leader of Evidence On plates or on the ground?

Benson Kaaria: On the ground [285]

436 That marked the end of the trip The team did not seem interested in assessing any other aspects of the operation and its impact Kaaria, Mulinge and company did not, for example, visit the district hospital to inquire about the injured and the wounded They also made no inquiries into the fate of the dead Once they were told by the District Security Committee that the bodies had, in their words, been "dumped", nothing else happened They did not visit the sites and indeed did not ask to visit the sites [286] Instead, they flew back to Nairobi through Garissa Kaaria went directly into a late night emergency meeting of the Provincial Security Committee, during which the latest developments in Wajir were discussed

437 Only a handful of people outside of government circles knew about Wagalla during these early days The main reason for this was a lag in the reporting of the incident in the papers and other local media. This meant that Nairobi was curiously silent in the days and weeks after the operation, there was no public hue and cry and no commentary Witnesses testified that attempts were made to send medicine and other humanitarian supplies from Nairobi to Wajir Elmi stated that requests for assistance were sent to AMREF (African Medical and Research Foundation), more popularly referred to as the Flying Doctors These requests in turn triggered something of a tug-of-war in Nairobi pitting AMREF, the Ministry of Health and the Office of the President The problem, it seemed, was that the large amount of supplies needed in Wajir required permissions and clearances These clearances were not processed If anything, it appeared that they may have even been rejected Aid workers trying to get to Wajir were apparently stopped at roadblocks in Habaswein One hundred kilometres south of their destination, they were forced to turn back

438 Documents obtained by the Commission from the government of the United Kingdom shed additional light on these early efforts to provide relief to the victims of Wagalla In a series of reports and meetings, representatives of AMREF, Oxfam, and other relief agencies began to report on the situation in Wagalla These reports

285 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 53
286 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 53

were kept secret from the Kenya government for fear that the presence of foreign aid organizations on the ground would lead to further restrictions on their ability to address what was immediately clear was an emergency situation In these early reports, the aid agencies stated that they had seen 700 to 800 bodies that had been dumped in the bush, and that on 14 February, approximately 3 500 people had flooded the local hospitals and other medical facilities Almost immediately the hospitals were ordered not to treat the injured, the medical facilities were ordered to evict any Degodia who had sought treatment, and the mission sisters were ordered to provide no medical treatment on penalty of the mission being burnt down [287]

439 The aid agencies documented an alarming picture of a medical and humanitarian disaster

> A body count revealed 1 400 dead so far, 472 of which were known by name and ID number to AMREF This resulted from body counts 10 days ago Many had been obliterated in fires and many had died since The total count could be double Taking the average number of dependents as 5, which was conservative, at least 7 000 people were without support, without homes, without water and without livestock A medical examination of those children being fed at missions, that is the most fortunate children, showed at least one-third were dangerously close to starvation

440 Nancy Caroline was an American doctor who worked with AMREF In a dramatic turn of events, she resigned from the organisation in order to side-step the ban She then somehow organised for a charter plane filled with food and medicine to fly from Nairobi to Wajir She remained in Wajir for two weeks assisting Sister Annalena in the provision of emergency care The Commission was unable to determine the exact dates of Caroline's extraordinary mission, but the assumption was that it must have taken place soon after the operation itself, because, as Elmi described it, she was subject to close surveillance by still suspicious intelligence and police officers Aid and relief workers were not admitted back into Wajir until May 1984 when an extended drought necessitated the staging of a large-scale humanitarian mission

Reporting Wagalla

441 In stark contrast to the Bulla Karatasi operation that was reported within hours, it took about three weeks for the Wagalla story to hit the newspapers It was a lapse that was part of the wall of silence that had slowly but inexorably been constructed around the operation Wagalla, to put it simply, was weakly reported particularly by the local press who latched onto the events long after international correspondents One of the first reports about the operation was filed by United Press International (UPI) The report was a fairly basic one and did not delve into details

287 Confidential Briefing by AMREF attached to Tel 106 of 29 March 1984 paragraph 5

> Two local officials charged today that soldiers and policemen shot, bludgeoned and burned to death at least 300 people among more than 5 000 forced to lie naked outdoors for five days without food or water The two officials, Sugal Unshur, a town councillor, and Abdi Sheik, a member of the Kenyan Parliament, said more than 1 000 **Degodia** tribesmen were taken into the bush by security forces after the massacre and were missing and feared dead. They accused security forces of dumping bodies in the bush to conceal the incident in the Wajir District, about 320 miles northeast of Nairobi Mr Sheik said police arrested an Italian missionary, Annalena Tonelli, who searched the bush for survivors for several days The Italian Embassy said it was investigating
>
> A Norwegian Embassy spokesman said aid workers in Wajir had reported charges similar to those by the two local officials The staff of at least one foreign embassy has sent medical supplies to the area for the injured, said a diplomat who asked not to be identified A spokesman for President Daniel arap Moi said the government had "no comment at this time" on the charges Mr Sheik and Mr Unshur said the massacre occurred from February 10 to February 14 as part of an apparent government drive to wipe out the 140 000- member **Degodia** tribe, which is of Somali origin, because of past links with Somali guerrillas [288]

442 The Kenya government reacted swiftly to this piece through the *Kenya Times*, a newspaper owned and operated by the ruling party, KANU. The government line was aggressive, accusing both the foreign press and their sources in Wajir of mischief and falsehoods As reported by Reuters

> The official newspaper of Kenya's ruling party said today that some local politicians and the foreign press had exaggerated and distorted reports of a purported massacre by security forces in northeast Kenya "It is regrettable that some local leaders and the foreign press have set it upon themselves to distort the truth about the situation in **Wajir,**" The *Kenya Times* said in an editorial On Wednesday a councillor for the area accused Kenyan security forces of killing at least 300 people last month in **Wajir** township, a desert region inhabited by ethnic Somalis Referring to local leaders and foreign reporters, the newspaper, owned by the Kenya African National Union party, said "They have deliberately exaggerated the magnitude of the conflict and made false claims" The newspaper criticized local politicians for bringing the purported incidents to the notice of foreign journalists, saying that they had blown up a minor quarrel and that Kenya's enemies abroad would use the information for destructive purposes [289]

443. As far as the Commission could tell, the story then went back underground for the next three weeks Discussion of Wagalla became unavoidable on the 21st of March when Ahmed Khalif, the Member of Parliament for Wajir East, made an extraordinary and charged appearance in Parliament Members of the 5th Parliament returned from recess on the 20th of March The first seven days of new sessions of Parliament

288 UPI, "2 Kenyan Officials Make Massacre Charges" The New York Times 1st March 1984
289 Reuters, "Kenyans Assail Press for Massacre Reports," The New York Times, 3 March 1984

are usually dedicated to the fairly routine debate of the presidential address, with each member allocated ten minutes to speak When Khalif's turn came, he plunged straight into the Wagalla operation Before his stunned colleagues - many of whom would be hearing of the operation for the first time - he described what had taken place in Wajir more than a month earlier

> I would like to take the opportunity of this brief period given to me to talk about some very serious matters that have happened in my constituency and Wajir District as a whole From the 10th February, up to the 14th February, the security forces, that is the police and the military, arrested more than 5 000 men and put them into concentration camps where all the people were stripped naked and kept there for five consecutive days being persistently denied water and food They were all nude or stripped naked
>
> Mr Deputy Speaker, Sir, during this time those people who tried - in keeping with their religious obligations - to say their prayers they stood up - because they were all forced to lie on their bellies - were shot dead [290]

444 Khalif went on to detail the dead

> Mr Deputy Speaker, Sir, those people were killed through beatings, shootings, and some of them were burned alive Now, I have a list of more than 300 people, including a former Member of this House, who was among those people who were killed He is a former senator and also a former Nominated Member Twenty civil servants were among those who were killed, former members of the Civil Service like chiefs were among the people who were killed [291]

445 With his remarks, Khalif ensured that the story of the Wagalla massacre rocketed from obscurity to front page news The following day, Khalif's descriptions of the operation were reported by all the local newspapers "Kenyan security forces accused of mass-killing" headlined the *Daily Nation* [292] The papers also reported the reactions that Khalif's submissions elicited among members of the house Charles Muthura said the statement was irrelevant because it was not a response to the presidential address Others asked Khalif to substantiate his claims The then Vice-President and Minister for Home Affairs Mwai Kibaki asked for substantiation that people had been stripped naked The *Daily Nation* also reported that yet another Member of Parliament, Parmenas Munyasia (Kitui West), demanded that Khalif attach a name to his description of "the person" who had 'threatened to wipe out the whole population of the Somalis" [293] That was, of course, a thinly veiled reference to Kaaria and comments made four years earlier during the Bulla Karatasi operation [294] Khalif had also presented a number of photographs in the House showing the dead, the injured, the security forces and their vehicles These were not reproduced in

290 *Kenya National Assembly Official Record (Hansard)* 21st March 1984 44 – 45
291 *Kenya National Assembly Official Record* (Hansard) 21st March 1984 45
292 Kenyan security forces accused of mass killing *Daily Nation* March 22nd 1984
293 Kenyan security forces accused of mass killing *Daily Nation* 22nd March 1984
294 State Acts on Shiftas' *Sunday Standard* 9th November 1980

the newspapers. It was, however, obvious that in Parliament at least, Wagalla was now an open and live issue. The *Daily Nation* reported Khalif's intention to seek the establishment of a committee to investigate the operation more fully

446 Exactly a week later, Wagalla was back in the news in an even more sensational fashion. On the 27th of March, the Minister for Defence and Internal Security in the Office of the President appeared in Parliament to present a ministerial statement in response to Khalif's claims of the 21st of March. The national newspapers gave Justus ole Tipis' statement prominent coverage under the headings "57 killed by troops in Wajir" in the *Daily Nation* and "59 killed in violence" in *The Standard* [295] The importance of ole Tipis' appearance in Parliament cannot be downplayed For the Commission it and his subsequent appearance a few weeks later represented one of the government's most complete statements on Wagalla to date, and formed the foundation of most official representations of the operation over the past three decades Ole Tipis began his statement in Parliament by claiming that the government

> "Does not and will not condone any acts of lawlessness or atrocities whether by bandits, individuals or ill-intentioned persons against the humble, peace-loving and law-abiding citizens of this nation"[296]

447 With this as an introduction, the minister went on to supply the by now familiar explanation for the start of the operation the troubled state of inter-clan relationships in Wajir West, in particular, and Wajir District in general Once again, it was not difficult to pick up on the depiction of the Ajuran, Degodia and Gurre as engaged in an unending cycle of violence, driven largely by political interests

> Ethnic squabbles and rivalries have been a common feature in North Eastern Province and Wajir District in particular Some leaders from that area, particularly during the life of the last Parliament, appear to have specialised in perpetuating clannism for their own selfish ends This was clearly evident during the last Parliamentary Elections when the Ajuran clan was virtually driven out of a constituency to pave the way for an easy victory of a candidate from the Degodia clan Such are the tribal politics in some parts of the North Eastern Province [297]

448 Ole Tipis sketched out a history of failed *barazas*, piecemeal disarmament, and spiralling crime where the Ajuran featured as victims and the Degodia, more often than not, were the aggressors The killing of six Ajuran near Griftu on the 9th of February was presented as the last straw that finally prompted the district authorities to take action

295 57 killed by troops in Wajir – Tipis *Daily Nation* 28th March 1984 1 and 59 killed in violence – Tipis' *The Standard* 28th March 1984 2

296 Ministerial Statement Loss of Life-Government Operations against clashes between Degodia and Ajuran Somalia *Kenya National Assembly Official Record* (Hansard) 27th March 1984 146

297 Ministerial Statement Loss of Life-Government Operations against clashes between Degodia and Ajuran Somalia *Kenya National Assembly Official Record* (Hansard) 27th March 1984 147

As a result of repeated tribal feuds between the Degodia and the Ajuran tribes and the consequential loss of life in Wajir District of North Eastern Province, the government found it necessary to intervene and restore peace and order The operation by the security forces was mounted, as a result of which a number of illegal firearms were recovered and it was necessary to question several suspects.[298]

449 Those expecting to hear more about the actual details and specifics of the operation were disappointed, as the minister's statement addressed none of these issues Instead the minister gave only a three-tiered explanation about the operation's outcomes Firstly, ole Tipis gave the number of dead as 57 which was, in his words, "far less than the number alleged," presumably by Khalif and other interlocutors Secondly, he stated that the government did not condone any "excessive force" that might have been used during the operation Thirdly, ole Tipis explained that force had nonetheless been necessary on account of resistance, violence and negative attitudes encountered from the people rounded up during the operation Ole Tipis informed members that the government's findings were based on already complete investigations and a subsequent report The minister ended on a stern note and reiterated the government's commitment to the maintenance of law and order.

450 Other than *The Standard*, which put the death toll at 59, the newspapers presented relatively straightforward accounts of the minister's statement without any commentary or editorialising What the articles could not capture, however, was the intensity and heat of the debate that followed the minister's statement On the same day that ole Tipis presented the governmeht's version of events at Wagalla, Khalif returned to Parliament (as promised) with further information on the 300 victims about which he had spoken the week before Khalif read out a list of 20 names of civil servants apparently killed during the operation He also formally tabled the photographs of the airstrip

451 It was all too much for the representative from Wajir East, Honourable Abdi He rose the next day to make an impassioned submission about the hundreds of people who had, in his description, been butchered He said that he was capable of producing the skeletons of the dead to prove the killings Abdi also said that 600 people were still missing His comments provoked a firestorm as members of Parliament took issue with their colleague's claims and charges The Minister of Labour at the time, Dr Robert Ouko, asked Hon Abdi to clarify whether he was claiming that the statement presented by the minister was written by the same

298 Ministerial Statement Loss of Life-Government Operations against clashes between Degodia and Ajuran Somalia *Kenya National Assembly Official Record* (Hansard) 27th March 1984 147

people he was accusing of murder. Ndolo Ayah, the acting Deputy Speaker, urged Hon Abdi to be cautious and to substantiate his claims. An Assistant Minister in the Office of the President, Isaac Salat, went further and demanded that Abdi withdraw his remarks as well as apologise for them. The session ended with the Member for Wajir East neither withdrawing nor apologizing.

452 Sitting through the entire exchange was ole Tipis He remained tight-lipped and only spoke several hours later to complain about the press coverage of his ministerial statement on Wagalla [299] Specifically, he took the *Daily Nation* to task, accusing the paper of misrepresentation He was particularly upset with the introductory paragraph which read.

> Government security forces killed 57 people in Wajir District in an operation to quell tribal feuds and take possession of illegally acquired arms, Mr Justus ole Tipis said yesterday [300]

453 The minister's issue seemed to be that he had neither claimed nor implied any such thing His explanation was that 57 people had been killed in the course of the operation and that their deaths were the result of excessive force and not deliberate intent He alerted his colleagues to what he had actually had said·

> The government does not condone the excessive force which might have been meted out during the operation However, during the exercise of questioning, resistance and violence on the part of the suspects were encountered and in the course of the encounter 57 people were killed [301]

454 Ole Tipis had harsh words for the *Daily Nation*, which he described as having a long history of "putting words into the mouths" of parliamentarians.[302] The minister clearly felt that the Wagalla episode required much more sensitive and diligent reporting

> Since the situation there is so very serious and very bad, indeed we expect that what we talk here is correctly reported, truthfully with fairness on either side I hope we will get the Chair's guidance and protection, especially when a matter of such magnitude and seriousness, affecting the lives of our people, is misreported and the Press tries to mislead the general public and instilling into their minds that the government is part of these killings [303]

299 Correction of Newspaper Report on a Ministerial Statement *Kenya National Assembly Official Record* (Hansard) 28th March 1984 250
300 57 killed by troops in Wajir – Tipis , *Daily Nation* 28th March 1984 1
301 Correction of Newspaper Report on a Ministerial Statement *Kenya National Assembly Official Record* (Hansard) 28th March 1984 250
302 Correction of Newspaper Report on a Ministerial Statement *Kenya National Assembly Official Record* (Hansard) 28th March 1984 250
303 Correction of Newspaper Report on a Ministerial Statement *Kenya National Assembly Official Record* (Hansard) 28th March 1984 250

455. The *Daily Nation* reported Ole Tipis' remarks but did not retract or correct its original article [304]International coverage of Wagalla was faster-moving than local coverage The Commission also found that international coverage was much more victim and impact-oriented An article from the *Philadelphia Inquirer* of 8 April 1984 clearly illustrated this tendency Robert Rosenthal, the staff writer, put together a detailed piece that was quite clearly constructed around sources with direct, first-hand knowledge of the operation, if not actual survivors and eyewitnesses The article contained all the elements of the Wagalla story, beginning with the pre-dawn roundup of Wajir residents and their transfer to the airstrip

> A 34-year old man Rahman, a teacher of Arabic and the Koran in Wajir, said he was sleeping in a house he shared with two other teachers when, at 3 00am, there was a heavy pounding on the door
>
> When the door was opened, police barged in and dragged the men outside to an open area where hundreds of other men squatted in the darkness, surrounded by soldiers and police Rahman was interviewed weeks later in the Eastleigh section of Nairobi where many Somalis live He said that at 7 30am on February 10, the Degodia men in Wajir were put into army trucks and driven nine miles to an airstrip at a place called Wakala (Wagalla) (sic) [305]

456 Based on the interview with Rahman, the article also provided a detailed description of events at the airstrip itself

> "The people at Wagalla were business, religious (teachers), students and bush people We were all together," said Rahman "An officer told us that we would soon know why we were there and that if we did not turn over our guns, we would be buried where we sat"
>
> The men - he estimated their number to be 4 000 to 5 000 - sat all day in the sun without food or water

457 Rosenthal's account continues

> That night, according to many of those interviewed, the soldiers ordered the Degodia men to lie on their stomachs Those who refused to do so were beaten with clubs and rifle butts The soldiers began walking on Degodias, and when they found men with money or watches, they stole them, the witnesses said
>
> They said that some who resisted were dragged off, clubbed to death, shot or stabbed with bayonets
>
> "When it was dawn," Rahman recalled, "people got up and started praying and asking why they were kept in such a situation The army commander came and said, 'Sit down and we will tell you why you are here' Then they asked us to reveal who had guns" "Later, as the day became very hot, the soldiers told all people to take off their clothes Some

304 Tipis statement on killing is criticized *Daily Nation* 29th March 1984 5
305 Kenyans Recount Army Massacre *Philadelphia Inquirer* 8th April 1984

were religious people and refused Those that refused, they came with kerosene and poured it on them and set them afire When the people saw what was happening to the religious men who refused, they started screaming and praying to God"[306]

458 The article dismissed the government's estimates of the number of dead and instead suggested that over 1 000 people may have been killed in the operation *The Inquirer* went further to describe ole Tipis' statement of the week before as "oblique"

> But last week a high-ranking member of the cabinet seemed to offer an oblique justification for what happened Justus ole Tipis, the minister of state in the office of the president, told the Kenyan parliament that the various Somali clans in the northeast had been warring and squabbling, and he cited the Degodia as particularly troublesome [307]

459 Rosenthal's piece included the emerging suspicion among the Degodia that the operation was planned long in advance

> A Degodia clan leader said he did not know the reason for the killings but that he thought the operation had been planned Five days before the massacre, he said, the army closed many of the wells around Wajir to the Degodias, forcing them to a central well near the town and making it easier for the army to round them up The clan leader discounted the killings of Ajuran women and children as a catalyst for the operation, saying that nothing happened that had not happened before [308]

460 Aid workers and missionaries quoted by the author offered yet another depiction of Wagalla as an operation gone terribly wrong

> Aid officials and missionaries familiar with what happened in Wajir believe that a security operation aimed at interrogation simply got tragically out of control They blame the poor training of the troops and officers and the inherent tribal and racial differences between the Chinic Somalis and black Kenyans who come from areas far south of Wajir [309]

461 *The Inquirer* article was detailed, specific and far from bashful about its assessment of the operation The Commission was in no doubt that government officials would have seen it and would have felt the need to react to it Two days after its publication, Justus ole Tipis returned to Parliament He had an important ministerial statement to make on Wagalla Ole Tipis' statement of the 12th of April was considerably more detailed than that of the 27th of March Not only did the minister supply new details about the security situation in the run-up to the operation, but he also, for the first time, tackled the context of the operation itself In this, ole Tipis' April presentation was unprecedented

306 Kenyans Recount Army Massacre *Philadelphia Inquirer* 8th April 1984
307 Kenyans Recount Army Massacre *Philadelphia Inquirer* 8th April 1984
308 Kenyans Recount Army Massacre *Philadelphia Inquirer* 8th April 1984
309 Kenyans Recount Army Massacre *Philadelphia Inquirer* 8th April 1984

> The operation started on Friday, 10th February 1984, at 0004 hours and covered the following areas: Elben, Dambas, Butehelu, Eldas, Griftu and Bulla Jogoo. The operation was composed of the army, police and administration police. At Bulla Jogoo, the security forces surrounded the area at 0500 hours. The residents were given an order to leave their huts, but they refused to do so. However by 1400 hours, the order had not yet been complied with and the commander gave the order for the huts to be destroyed. Three hundred and eighty-one male adult Degodia were rounded up and collected and transported to Wagalla Airstrip which is nine miles west of Wajir Township for screening and interrogation.[310]

462. Ole Tipis continued with his statement providing what for Parliament would have been largely unknown information about the circumstances of the killing of the 57 people:

> On 12th February 1984, the Wajir Acting District Commissioner addressed a baraza at Wajir Township and explained to the residents what was going on to avoid panic. After the baraza the District Commissioner visited the airstrip, in the company of the Officer Commanding Police Division (OCPD), to view progress of the interrogation. When the District Commissioner was leaving, part of the crowd started shouting, moving toward him and others attempted to escape. During the stampede, confusion arose and in the melee fire was opened and 29 people died of gun wounds or were trampled upon.
>
> During the operation, the security forces met resistance and 28 other persons were killed. This brings the death toll to 57 persons dead.[311]

463. The minister's statement attracted considerable press attention, particularly from the very paper that he had so roundly condemned a couple of weeks earlier. Out of the detailed historical material that the minister provided as context, the *Daily Nation* started by giving prominence to a single issue: political dissonance in Wajir District:

> The general security situation in Wajir District is politically motivated and leaders have involved themselves in divisive strategies planned along ethnic considerations. This was revealed in a government statement issued last night by the Minister of State in the Office of President, Mr Justus ole Tipis, as a result of investigations into the violent incidents that resulted in loss of life and destruction of property in Wajir District, early this year[312].

464. The *Daily Nation*'s article then went on to capture what ole Tipis and the government were proposing as solutions to the problem of insecurity in Wajir:

> And in order to ensure that law and order in the district is maintained, Mr Tipis told Parliament the following measures would be taken:

310 *Kenya National Assembly Official Record* (Hansard) 12th April 1984 819
311 *Kenya National Assembly Official Record* (Hansard) 12th April 1984 820
312 'Wajir troubles political – Tipis' *Daily Nation* 13th April 1984 1

> The government will select six elders from each section and meet at Wajir with the aim of bringing about reconciliation and stop the wanton loss of life and property
>
> Any lawlessness in the district will continue to be dealt with firmness as armed bandits will not be handled with soft gloves
>
> The solution to the security of Wajir lies squarely in the hands of the leaders Old rivalries must be changed to co-operation and understanding.
>
> The government will continue to give relief in the form of medicines and food to families in need, special care will be taken to look after the aged and children [313]

465 Perhaps to ensure that there were no further misunderstandings about their reporting, the paper reproduced the minister's statement in its entirety. This article of the 13th of April 1984 represented the end of the immediate and contemporary coverage of the Wagalla operation Ole Tipis' statement presented a certain finality that put a lid on public discussions for another decade or so As the ten-year anniversary approached in 1994, individuals and groups slowly began to come forward to talk about further investigations.[314] Others debated the broader issues of clan and ethnic strife in the region.[315] There were occasional reports and articles in the press but nothing else It would take another few years before Wagalla became an issue that the Kenya media would speak about with any kind of regularity

Investigating Wagalla

466 Ole Tipis' presentations, statements, and reports in Parliament in March and April were based on a series of government-initiated investigations into the Wagalla operation The Commission found it vital to develop a clear understanding of the sequence of these investigations, the investigators, and their findings on account of their centrality to government perceptions and understandings about Wagalla over the past 30 years. Simply put, these investigations have come to form the foundation of almost everything the government has said about Wagalla since 1984; they cannot be ignored The Commission identified five discreet investigations and inquiries undertaken during February and March 1984 into the events at Wagalla It was also given access to a remarkable internal inquiry undertaken by the military concerning the events of Wagalla, prepared in direct response to the creation of the Commission

313 Wajir troubles political – Tipis *Daily Nation* 13th April 1984 1

314 '15 leaders defect from Kanu over massacre' *Daily Nation* 12th January 1992

315 See for instance Arrest inciters of Wajir clashes *Daily Nation* July 15th 1993 Also 'Clan not to blame for Wajir clashes' *Daily Nation* August 10th 1993

Inquiry by Colonel Muhindi

467 Colonel Frank Muhindi's arrival in Wajir on the morning of the 13th of February has already been discussed at some length previously in this chapter As the officer in overall command of 7KR Battalion in North Eastern Kenya, the colonel was, the Commission believed, the first outsider to visit Wagalla after the shootings of the 12th His early morning flight was prompted by information he was receiving through military channels that continued to function even as the District Security Committee shut down communication from the 10th onwards By his own admission and testimony, Colonel Muhindi had been furnished with only the barest of details by his sources His information was, as he put it, "scanty"[316] This meant that Muhindi's inquiries were unstructured, he did not go to Wajir with a clear understanding of the people with whom he needed to speak, questions he needed answered, or sites he needed to visit Indeed, Muhindi's efforts to understand what happened at Wagalla were almost entirely derailed by the absence of Major Mudogo, the officer in command of the army unit and the man in overall charge of the operation at Wagalla In effect, Muhindi seemed to have only one source in Wagalla Captain Njeru Mugo

468 The temptation exists, therefore, to dismiss Muhindi's excursion to Wajir as irrelevant This would be true except for the fact that, notwithstanding the various shortcomings of his investigation, Muhindi was conducting his inquiries as the operation was ongoing Civilians were still being held at the field, waiting to be transported back to their homes Speculation is rife that the reason Mudogo could not be traced was because he was busy disposing of the dead bodies Unlike some of the investigators who arrived later on, therefore, Muhindi's encounter of Wagalla was unvarnished and unedited, because nobody knew he was visiting, nothing had been moved around and nothing had been altered The Commission was also of the opinion that the briefing he received from Mugo was equally unprocessed.

469 In contrast, the Commission believed that the more sanitised official District Security Committee version of events began to be put together and streamlined during the committee meeting of Tuesday the 14th of February Muhindi's unannounced arrival at the airstrip meant that he may have been given a less polished and, perhaps, more authentic version of events After several hours in Wajir, Muhindi flew back to Garissa, carrying important information and impressions of the operation. He had been told, for instance, that people died in the operation and the circumstances in which they had died, he saw for himself pools of blood and other evidence of extreme violence He was also aware that

316 TJRC/ Hansard/ Public Hearing/ 24 June 2011/ Nairobi/ p 21

the military had been involved in most (if not all) aspects of the operation, starting with the rounding up of the men. It was also clear to the colonel that army officers, led by Mudogo, were also actively engaged in post-operational activities, such as the disposal of dead bodies and return of survivors to their homes The informality of Muhindi's inquiry did, however, pose a number of challenges for the Commission. Principally, it appeared as if the colonel did not produce a written report As such, there was no paper trail to follow and study The Commission only has Muhindi's testimony that he came back and gave an oral briefing to Provincial Commissioner Kaaria He presumably would also have passed his findings onwards and upwards to his military superiors

Inquiry by Joseph Ndirangu

470. Joseph Ndirangu, the Provincial Special Branch Officer, and Gaturuku, the Deputy Police Provincial Officer, left Garissa either late in the morning of the 13th or early in the afternoon of the same day Either way, they would have left after Muhindi did. Ndirangu described himself as even less informed than Muhindi as he set off The signals he had been receiving from his men on the ground (Kibere and later Mbole) since the 10th of February were unrevealing, there was nothing in them concerning the progress and outcome of the operation. Ndirangu and Gaturuku were dispatched to the district by Kaaria with direct instructions to find out what had been happening in Wajir over the weekend. Like Muhindi, Ndirangu and Gaturuku were provided with an aircraft to make the short flight between Garissa and Wajir

471 Their reception, however, was markedly different Where Muhindi arrived anonymously and was driven straight to the airstrip, Ndirangu and Gaturuku were met at the military airstrip by Tiema and Wabwire, and this put an end to any plans to visit the airstrip The Wajir officials portrayed Wagalla as unstable, possibly dangerous, and thus off limits to outsiders Tiema and Wabwire immediately ruled out a visit to the site Instead, Gaturuku and Ndirangu were directed into a small office within the complex for what Ndirangu himself described as a "not so long meeting"[317] Incidentally, Mudogo was also present, presumably back from whatever mission that had kept him from meeting with Muhindi earlier that day

472. In Ndirangu's estimation, a "panicky" Tiema gave a quick run-down of events at the airstrip. By now the Wagalla chronology was beginning to coalesce into a solid, unchanging narrative revolving around certain key events There were, of course, the origins of the operation that were located in the many months of clan tension and violence in Wajir and the failed disarmament This was followed

317 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 11

by the operation itself that consisted of the initial round-up and transportation to Wagalla that started on the 10th of February. Ndirangu was aware of all of this because he had been receiving regular signals. The burning question then became what happened once the men were gathered at the airstrip; this was the issue that needed to be addressed. Tiema's explanation was that the men had been questioned by security forces on the twin issue of guns and crime in the district. When the District Security Committee paid a visit to the airstrip to assess progress, some kind of commotion, "a stampede", broke out.[318] As a result, a number of people were killed.

473. Ndirangu's trip seemed to yield more details than Muhindi's. He was told that the stampede was triggered by the fact that some of the men were apparently carrying stones and approached the district officials in a supposedly hostile fashion. Ndirangu also emerged with a more detailed version about the number of people killed and the manner in which they were killed. At that point - that is, on the afternoon of the 13th - the District Security Committee gave the total number of dead as 29. Thirteen of those 29 were apparently shot during the so-called stampede that occurred as a result of stone-wielding men. The remaining 16 were an entirely new category of dead people that was discovered in the aftermath of the shooting. As district officials explained it, these 16 people had died between the 11th and the 13th of February from dehydration and prolonged exposure to the sun and the heat. Ndirangu also came away from Wajir with an understanding that a total of four weapons had been surrendered during the operation.

474. There is little doubt that Ndirangu's excursion was in many regards a useful one. His findings fed directly into the Provincial Security Committee discussions. The decision to send military reinforcements to Wajir was no doubt based on the Special Branch Officer's assessment of the situation. Once the briefing was over, Tiema and his officials once again declared Wagalla as out of bounds. Ndirangu boarded his plane and headed back to Garissa. His plane made a cursory flypast over the airstrip. As they peered out their windows, they saw clothing strewn on the surrounding fences. The Commission found it disturbing that the junior officials of the District Security Committee so completely overruled their superiors in this matter. Ndirangu and Gaturuku clearly wanted to visit Wagalla and recognised the importance of such a visit, but they seemed powerless in the face of the District Commissioner's insistence that they stay away.

475. While the Commission accepted that the airstrip may still have been volatile on the 13th, Ndirangu's and Gaturuku's inability to visit the location of the subject of their

318 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p.11

inquiry was unusual, especially since there seemed to have been no discussions, not even preliminary ones, about securing the airstrip for a possible tour The Commission wondered whether it ever occurred to the provincial officers that their district counterparts may have been keeping them away from the airstrip for entirely different reasons. Once again, Ndirangu's own account of his trip gave no indication that he believed anything other than the District Security Committee's assessment of the operation. No outsiders, independents, civilians, victims or survivors were spoken to Ndirangu's was a singly-sourced version of events imbued with all the problems inherent in an investigation built around limited data sourced from interested parties

Inquiry by Benson Kaaria and Joseph Mulinge

476. Benson Kaaria and Joseph Mulinge arrived in Wajir on the 15th of February for the third in a series of fact-finding missions into Wagalla This particular trip was prompted by Muhindi's and Ndirangu's return to Garissa and an assessment that the situation on the ground in Wajir was 'very serious'[319] After the pivotal Provincial Security Committee meeting of the 14th, Benson Kaaria sent word to the Permanent Secretary in the Office of the President in Nairobi and arrangements were quickly made for travel to Wajir the next day The chronology of the visit is described above Like Muhindi and Ndirangu before them, the Mulinge-Kaaria group flew into the Air Force base Unlike Muhindi and Ndirangu, they were received by the full DSC, including the previously elusive Major Mudogo Their first stop was the Wajir Army Camp where brief discussions were held From there, they drove the nine miles up the road for a site visit

477 The Commission's reservations about the Mulinge-Kaaria excursion were similar to those expressed about the Muhindi and Ndirangu trips While Mulinge and Kaaria were guided around Wajir by apparently cooperative, open and helpful district officials, the Commission continued to be disturbed by the fact that no efforts were made to expand the scope of the investigations beyond the security committee There was, even with such seasoned and experienced men as Kaaria and Mulinge, an extraordinary lack of interest in alternative and unofficial versions of the operation Victims and survivors were never approached The wounded and injured men lying in Wajir District Hospital were not asked what they had seen or heard Instead, Kaaria and Mulinge went back to Nairobi (via Garissa) seemingly happy with the assurance that Tiema and his team were well on their way to containing the situation in Wajir If Kaaria harboured any doubts or suspicions about the story told to him by Tiema on the 15th of February, his testimony before the Commission did not reflect them

319 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 49

478 There was, the Commission established, an incremental quality to the inquiries In other words, each trip to Wajir uncovered fresh information It may even be that none of the investigating teams were ever given the complete story Minutes of a special Provincial Security Committee meeting held immediately upon Kaaria's return from Wajir revealed details that had not been shared with either Muhindi or Ndirangu One of the issues that only came to light after the Kaaria visit was the disarmament of administration and regular police of Degodia origin because the authorities feared they were planning to assassinate senior civil servants, and thus questions were raised about their loyalty

> As the tensions were mounting rather high, and the DSC having had information that the Degodia tribesmen were scheming a secret plan to assassinate some leaders in the province, including senior civil servants using our own security personnel, the DSC decided to disarm the Administration Policemen and Kenya Policemen and some 52 Administration Policemen and 7 Kenya Policemen were disarmed [320]

479 News of the disarmament jolted the Provincial Security Committee into immediate action. The provincial authorities were anxious that the disarmed men not be seen to "lose face" in the community, thereby triggering further unrest [321] They quickly engineered a massive swap of 200 Somali and non-Somali police between Garissa, Mandera and Wajir in order to disguise the fact that only Degodia officers had been disarmed

480 Why district officials withheld this information from Ndirangu and Muhindi was unknown, particularly given the obvious security implications Perhaps they felt that it was too sensitive a topic, or perhaps disarmament was simply overlooked in the rush to explain other aspects of the operation This omission was yet further evidence of the piecemeal nature of the investigations carried out in the immediate aftermath of the operation It was also a demonstration of another tendency that had serious implications for the Commission's work events as complex and as layered as the Wagalla Massacre rarely result in straightforward, unidirectional accounts, even from primary witnesses and participants

Inquiry by Joshua Matui

481 The arrival of Joshua Matui marked an important shift in attempts to understand and investigate the operation at Wagalla Matui had been last seen in Wajir in December 1983 as he tried, largely in vain, to enforce the order for disarmament Eventually he left the district on his scheduled annual leave and was in early 1984,

320 Min 22/84, *Minutes of the Special North Eastern Provincial Security Committee Meeting held in the Provincial Commissioners Office on Wednesday 15th 1984 beginning at 9 30*

321 Min 22/84 *Minutes of the Special North Eastern Provincial Security Committee Meeting held in the Provincial Commissioners Office on Wednesday 15th 1984 beginning at 9 30*

by his own testimony, enjoying a much-needed break on his farm in Eastern Kenya Wajir in January and February was very much in the hands of Tiema, the acting District Commissioner, and the other members of the District Security Committee Matui submitted a statement to the Commission indicating that he heard and knew nothing about Wajir over the month that he was away

482. The first indication that all was not well at his work station came on the 14th of February when he was picked up from his home and driven to the Office of the President in downtown Nairobi He was then told that he would be travelling immediately to Wajir via Garissa He was taken to Moi Air Base where a chartered aircraft awaited him He still had no idea why he had been recalled from his leave and was being asked to return to Wajir at such short notice Only in Garissa was he brought up to speed by Provincial Commissioner Benson Kaaria there had been an operation in Wajir and it had gone badly wrong Matui was thus returned to duty [322] The District Commissioner found his station in turmoil. His graphic description was that Wajir "smelled of blood"[323] His officers openly welcomed his return Some expressed the sentiment that if he (Matui) had been in charge, the operation would not have unfolded as it had "Bwana DC" they said "if you had been around, we know this would not have happened"[324]

483 Over the next few days Matui re-acquainted himself with his traumatised district, trying to establish what had happened while he was away His main sources of information seemed to be Godfrey Mate who briefly stood in as DC during the immediate post-operation period, and Mr Godow, the officer whose malaria-induced absence from duty led to Tiema's posting to the district. These briefings were informal and oral and that was the case until the 25th of February when a signal was received from Garissa A furious Provincial Security Committee demanded a written report. Minutes of a meeting held on the 23rd of February revealed the extent of their anger at the lack of documentation:

> The Provincial Security Committee could not apprehead (sic) why the District Security Committee decided to keep the authority uninformed of the incident, until when the PSC visited Wajir on Monday The Provincial Security Committee demands a detailed written incident report on what went wrong and why the report was kept "secret" to the District Security Committee alone [325]

322 Confusingly however Tiema continued to be referred to as the acting District Commissioner until May 1984 when he was sent a signal instructing him to proceed on leave

323 JPK Matui TJRC Research 13th May 2011

324 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 23

325 Emphasis their own Ex-Min 2/84 Minutes of the North Eastern Provincial Security Committee Meeting Held in the Provincial Commissioner s Officer on Thursday 23rd February at 10 00 a m

484 It was at that point that Matui was informed that no briefs or reports had been written, much less transmitted, over the entire period

> That was when I asked Mr Mate if they had not been briefing the Provincial Commissioner on a daily basis, because it appeared that he was asking for a detailed report from us as to what actually happened and what led to the Wagalla Operation and how the operation was conducted He told me that he was told by Mr Tiema that things were happening so fast that they were unable to instantly brief the PC even when I passed at Garissa to see the PC, he did not have those details and that was the reason he sent me a signal demanding for a detailed report [326]

485 Shocked by the turn of events, but anxious to comply with Kaaria's demand, Matui then began work on what was in effect the first official written report on Wagalla from the field [327]The resulting document tread the same territory as its unofficial and oral predecessors in that Matui located the origins of the operation in the volatile and violent state of clan interactions in Wajir

486 The report covered the long-standing conflicts associated with the Ajuran-Degodia-Garre triangle in great detail, reflecting the central preoccupation of Matui's tenure The District Commissioner's write-up of the murders, rapes and shootings in the weeks and days leading up to the operation were equally detailed, and provided new information about some of the victims and the loss of property The access that Matui had to the minutes of the special District Security Committee meeting held on the 9th of February also allowed him to report, for the first time, the actual discussions that led to the decision to stage the operation As far as the Commission could tell, the DSC also stopped forwarding its minutes to Garissa, Matui's capture of their deliberations became vital reading for Kaaria and his team

487. The Commission found little new information in Matui's version of the operation itself In essence it was a representation of the standard Wagalla story of roundup, confinement, a stampede and then shooting The only exception was a far more detailed description of events in Bulla Jogoo, which was for the first time identified as a special target of the security forces

> Another aspect of the operation to look for firearms was to strip the huts or *herios* of the Degodia at Bulla Jogoo in Wajir Town We had known of armed people coming to town and getting shelter in some of those huts as they belong to their clansmen Owners of these huts were given to strip their huts of their grass so as to show that they do not

326 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 19

327 Matui to Kaaria *Report regarding the recent operation which resulted to rounding up of male Degodia adults at Wagalla Airstrip from 10 2 84 to 13 2 84* 27th February 1984

have firearms hidden in the grass Those who complied with the orders did not have their huts burnt, but those who disobeyed the orders had their huts burnt down All these punitive measures where part of the *operation to search for the murderers and recover the illegally acquired firearms* which were being used to take the lives of innocent people from another tribe.[328]

488 Matui made no mention of the dead body collected from Bulla Jogoo by Sister Annalena on Sunday the 12th of February Like the others before him, he gave the total number of dead as 29 the 13 shot and killed as a result of the stampede and the 16 victims of sunstroke and dehydration Matui's report also discussed post-Wagalla Wajir This attempt to analyse the broader impact of the operation made his report unique, none of the other investigators expanded their inquiries to address this issue The conclusion that the DC reached was, however, a rather depressing one Wajir in the days and weeks after Wagalla was as riven by ethnic violence and crime as ever Matui listed a number of incidents where once again the Degodia were the aggressors and the Ajuran and government installations were the victims

1 On the night of 21/22 February 1984 at a place 10 miles east of Buna towards Ajawa, Degodia bandits attacked an Ajuran manyatta and killed five people, injured one, stole 150 goats, eight camels, with all the *herios* of the manyatta, only a child survived the onslaught in that Ajuran manyatta.

2 On the night of 22/23 February 1984 an attack at Ajawa Caompa where 20 bandits attacked the AP Camp at night from 11 30pm to 1.00am

There was no casualty among our men but the bandits broke into two houses and stole some 200 shillings cash, sugar and other shop good and books This was a direct confrontation with a government institution and can be interpreted as the beginning of a systematic revenge against the government [329]

489 Matui ended his report by describing it as the "bitter truth" of the Wagalla operation as told to him by Tiema and all the other members of the Wajir District Security Committee [330] For the Commission, however, the real weight of Matui's report lay in the fact that some of his information and material came from beyond the DSC In speaking to non-DSC members, such as Godow and Mate, Matui expanded the range of voices contributing to the Wagalla story

328 Matui to Kaaria *Report regarding the recent operation which resulted to rounding up of male Degodia adults at Wagalla Airstrip from 10 2 84 to 13 2 84* 27th February 1984 4

329 Matui to Kaaria *Report regarding the recent operation which resulted to rounding up of male Degodia adults at Wagalla Airstrip from 10 2 84 to 13 2 84* 27th February 1984 4 5

330 Matui to Kaaria *Report regarding the recent operation which resulted to rounding up of male Degodia adults at Wagalla Airstrip from 10 2 84 to 13 2 84* 27th February 1984 4

490. The Commission believed that Matui may have been one of the first government officials to start thinking beyond the confines of the DSC version of events. The Commission also believed, however, that the nature of the reporting process was such that Matui was not able to include his personal impressions. And so the DC could not evaluate and assess the actions and decisions of the people in charge of the district. He could not express then the kind of sentiments he openly expressed to the Commission. In his testimony, 27 years after the event, he acknowledged that certain mistakes were made during the operation, and that he would have done things differently if he had been in charge:

> In all sincerity, I think that something went wrong during the operation. The operation was not done professionally. Firstly, what I would say is that, if I were there, I would have insisted that those suspects be fed and be given water. I would have insisted on that! I would have insisted that those people be fed as they are being interrogated. But I was not there![331]

491. Provincial Security Committee minutes do not say what happened to Matui's report once Kaaria received it. The Commission suspected, but could not confirm, that the report was sent to the Office of the President.

The Etemesi-led inquiry

492. On 23 February 1984, the then Chief Secretary and the Head of the Civil Service Jeremiah Kiereni appointed a committee charged with the task of investigating "the circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue".[332] While the Chief Secretary was the convenor, according to James Mathenge, the Kenya Intelligence Committee had an occasion to meet beforehand on the issue of investigating Wagalla.[333] Mathenge himself framed the actual terms of reference. This committee and the report it produced represented the pinnacle of the government's attempts to investigate the Wagalla operation. The committee was chaired by John Etemesi, the Provincial Commissioner of Eastern Province, which had also had a long history of insecurity, ethnic violence and the proliferation of weapons. The other members were Mr Serem from the Police, and Colonel Thirimu and Major Githiri of the Kenya Army. Unlike the previous groups who had visited Wajir and inquired into Wagalla fairly casually, the Etemesi committee had formal and detailed terms of reference:

1. To look into the background of the incidents which have caused restlessness in Wajir.

331 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p.23-24

332 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*. 15th March 1984. 1.

333 TJRC/ Hansard/ Public Hearing/ 15 June 2011/ Nairobi/ p.22

2 To scrutinise the instructions given to the Wajir DSC by the North Eastern Province PSC regarding the incidents which took place in Griftu Division between 3rd and 9th February 1984.

3 To scrutinise all the details of the operational orders which took effect from 10th February 1984 and look into how the same were carried out and by who[m]..

4 To identify the officers responsible for the welfare of the prisoners while under interrogations and in particular who was responsible for the supply of food, water and shelter

5. To look into the methods applied during interrogation.

6 To establish the cause of death of the 29 people and the manner in which the bodies were handled and disposed of.

7 To gather and analyse any other relevant information related to the incident [334]

493 Etemesi and his team were also asked to

> Make concrete conclusions on all matters pertaining to the incident and recommend any action to be taken on those responsible for any misconduct or omission The Committee was also to propose, if necessary, any changes in the present operational procedures [335]

494 The Commission found out that from the outset the Etemesi-led inquiry was different from its predecessors Its terms of reference more than suggested that previous investigations were seen as lacking and limited and that a much more rigorous approach was needed Etemesi and his team had a much better understanding of the outstanding and contentious issues and were thus able to structure their inquiry accordingly

495 The outcome was a report that was not only much more detailed than its predecessors, but also much more probing After a quick (and conventional) assessment of the underlying ethnic and political situation in Wajir District, Etemesi zeroed in on the critical issue of the actual operation Etemesi uncovered the trail of signals that emanated from Wajir and Garissa on the 9th and the 10th of February He even attached copies of the actual signals to his report As directed by the terms of reference, the team then directed their attention to the situation on the field itself He uncovered facts that no witnesses in the present - Tiema, Kaaria and others - spoke about candidly'

334 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 1 2

335 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*, 15th March 1984 2

The Committee on questioning the DSC on how the prisoners were fed, the DSC clearly admitted that the 381 Degodias rounded up at the airstrip were neither given food nor water These were some of the punitive measures applied to force them to talk and to surrender their illegal firearms The prisoners unfortunately, in spite of all the measures applied, were very uncooperative It is due to this attitude of the prisoners that all comforts were denied [336]

496 Further probing of the DSC produced an elaborate account of the interrogation process

Due to the large number of people rounded up, the DSC explained that it was not possible to apply the normal interrogation procedures, hence the people were dealt with as a group, that is in sub-sections The interrogation was communal The prisoners were made to strip completely naked and to lay head down on the sand They were also subjected to physical beating These measures coupled with the denial of water and food was meant to force the people to surrender their arms or give the names of the group of 10 bandits who killed the family of six at Griftu This unfortunately did not work [337]

497 The Committee dug further What they came up with next was a completely new death count Before Etemesi, the figure in circulation was the District Security Committee-originated one of 29. Thirteen were identified as having been shot on the 12th as a consequence of the reported stone-throwing incident The remaining 16 were described as having been found dead on the morning of the 13th as the men were being organised for travel back to their home areas Etemesi came up with a further 28 deaths directly attributable to the operation The breakdown for those deaths was given as 15 bodies collected and buried by Sister Annalena in her compound, 12 bodies left in the bushes, also by Sister Annalena, and one body buried in a public cemetery

She currently has a total of 15 bodies buried in her compound These are The cripple burnt in the manyatta, two (2) others who died in the hospital and twelve (12) more who she says she collected from the vicinity of Wagalla Airstrip These are however not among the 29 killed and disposed of by the security forces

Sister Annalena also claimed that she had left twelve (12) other dead bodies under a tree approximately 4 miles from Griftu This it is suspected were those who were weak and died on the way after being released from the airstrip [338]

498 This revised death count was the direct result of an expanded inquiry that included, as Etemesi put it, "quiet side-line investigations" with unofficial sources [339] And in

336 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 11

337 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 11

338 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 13

339 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984, 14

this regard, no source was more important than Sister Annalena The story of the 28 additional victims came entirely from her According to the Etemesi report, there was a further sub-set of four deaths that may or may not have been included in the final tally. These four people died in circumstances that the Committee (and the Commission) have seen as shrouded in mystery.

> On the night of 11th/12th February 1984, four prisoners were alleged to have died at Wagalla Airstrip and were taken away to an unidentified area The DSC has also not admitted this fact neither have they clarified whether the four were among the 29 confirmed dead [340]

499 Once again, this information came to light as a result of the team's use of "side-line investigations" The Etemesi Committee also spoke to the Medical Officer, Dr Jawuor, at the Wajir District Hospital As a result of this interview there was, for the first time, a specific picture of the injured and their treatment

> Dr Jawuor confirmed that there was no alarming number of casualties at the hospital during the period of the incident He said that there were only 30 in patients out of which 20 were normal patients filtered in through the casualty department Among them seven had bullet wounds, five were Ajuran shot at Griftu by Degodias and two were Degodias All the seven patients had been brought in by Annalena [341]

Jawuor continued:

> The Doctor also confirmed that only three people died at the hospital Two died out of broken ribs and one due to a bullet wound on the leg The other four patients at Annalena's place had cuts on the face, hand and thighs only They were treated and discharged [342]

500 With Etemesi exploring issues that Kaaria, Muhindi and company ignored, even more layers were added to an already complex story It emerged, for instance, that one of the things that the District Security Committee did was to take identification cards and other important documents from the men held at the field Even as Etemesi conducted his inquiries, those documents had not been returned

501. A large section of the Etemesi report was dedicated to evaluating the district and provincial authorities' performance during the operation Once again, this served to create a document that was very different in both tone and content from previous writings on Wagalla Indeed, some of the observations made about some of the officials involved were unusual in their frankness. The District Security Committee came in for special condemnation

340 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 17

341 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 14

342 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 14

> The Committee also observed that, after the shooting incident, the DSC did panic and the Acting DC, Deputy DSBO and OCPD immediately left the area without due concern of what was happening. This cowardly move and lack of any sense of responsibility left the situation to get out of hand, since only junior officers were left in the area, i.e. Army and Police Sergeant.[343]

502. Etemesi also criticised Tiema and his group for the lack of expertise and organisation:

> The Committee also observed that most of the DSC officers lacked the operational experience. This possibly accounts for the poor planning and execution of the operation. The officers also unfortunately did panic and over-reacted at the airstrip. This fear, panic and confusion made the officers unable to verify what took place at the airstrip and how many people died.[344]

503. The members of the Provincial Security Committee were not spared either, and were taken to task for their "vague, harsh and unprofessional" conduct during the operation.[345] Etemesi's findings and assessments were later used to discipline both district and provincial officials for their action (and inaction) during the operation. The Commission took this as further evidence that the Etemesi report carried much greater weight than any of the earlier attempts to investigate Wagalla. Of course, it was not lost on the Commission that the Muhindi, Ndirangu and Kaaria versions were authored by people who were directly involved in the operation and thus may have had something to hide. Nor was it lost on the Commission that even the Etemesi report, which was investigating one of the single worst human rights violations committed by the government during the period of the Commission's mandate, may also have been designed to highlight the responsibility of some individuals and institutions and downplay that of others.

504. The Etemesi report was completed on 15 March 1984 and submitted to Jeremiah Kiereni, the Chief Secretary and Head of Civil Service. James Mathenge also received the document. Two things seemed to happen next. First, it seemed that the report was absorbed into the Office of the President for review and circulated among the various ministries and arms of government that, according to Mathenge, were the primary consumers of the report. After editing and extracting the more contentious sections regarding the conduct of the provincial and district officers, the Office of the President produced a slimmed down and tamer version of the report for the minister to deliver in Parliament. Ole Tipis' presentation of April 13th was in essence a presentation of the Etemesi report, although it was not referred to as such. Secondly, as Mathenge explained in

343 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*, 15th March 1984, 18.

344 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*, 15th March 1984, 16.

345 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*, 15th March 1984, 15.

his testimony before the Commission, the report was studied closely for its conclusions and disciplinary recommendations. The Etemesi report stands out for its blunt, even brutal, observations of the conduct of the provincial and district officials Little wonder that it was a document which, 30 years on, Benson Kaaria claimed he had never been given access to

> **Leader of Evidence** Now in terms of the details of the operation, are you saying that after Mr Etemesi prepared this report, you have never seen the final report?
>
> **Benson Kaaria** No This is the first time that I am seeing it
>
> **Leader of Evidence** This is the first time you are seeing it?
>
> **Benson Kaaria** Maybe he had to hand it over to the Office of the President which had appointed him before circulating to us [346]

505 The process of transferring and demoting district and provincial officials as per Etemesi's recommendations started shortly after the report was published By April and May most of the officers had already been dispatched to other posts outside the province Once again, for the Commission the almost wholesale adoption of Etemesi's suggestions served as an indication of the power and the weight of the report, as well as the high regard in which it was held within the government The Commission found no subsequent attempts by successive governments to re-visit the Etemesi report until the time of its creation In other words, Etemesi's findings have, until quite recently, never been seen as open to revision or questioning, they were, in the Commission's view, treated with a finality that made successive governments impervious to repeated calls for further investigation By centring responsibility at the district committee and, to a lesser extent, provincial committee level, the Etemesi report succeeded in keeping the focus on those officials on the ground with immediate responsibility for the massacre, and away from those higher up who may have known about, or even ordered, such an operation

506 The failure of any other official body to undertake an investigation made the Etemesi report immune to criticism The Commission took particular note of Parliament's inability to establish any kind of inquiry into the operation When Khalif appeared in Parliament on the 21st of March with the news about Wagalla, he pleaded with his colleagues to establish a probe into his allegations that more than 300 people had been killed in the most desperate and brutal of circumstances

> Mr Deputy Speaker Sir, I have submitted a Motion to the Speaker of the National Assembly, and it should be with the Sessional Committee This Motion is seeking or requesting the House to elect a probe committee to establish the truth of my

346 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 60

allegation I have said that and I hope that this Motion is going to be given priority by the members of the Sessional Committee because this matter is very grave, it is very urgent [347]

507 Khalif openly expressed his fear that his efforts would be, as he put it, "frustrated," especially by "Members of the Sessional Committee in the House" who would ultimately determine the shape and form of any probe committee His fears were justified As the Commission has already established, many of Khalif's submissions raised hackles with several members of Parliament, some of whom accused him of not following proper parliamentary procedures More fundamentally, there were concerns about the veracity of his claims and the overall authenticity of his information and material The photographs he tabled as evidence of the carnage were openly questioned by a number of his colleagues, including the Minister for Internal Security Justus ole Tipis, who charged that the images had somehow been "taken from different angles" and were not in fact true pictures of the scene [348] Khalif tried to counter the accusations levelled against him with further evidence and documentation On the 28th of March, he returned to the House with a list containing the names of 300 people killed during the operation, he read out the names of some 20 civil servants None of this would sway his colleagues, the accusations of unreliable and possibly doctored evidence remained

> Order Mr Khalif! You had an opportunity here of speaking at length and producing the documents you produced Now what Mr Tipis said was that after looking at the pictures, he saw that those pictures were one picture taken from one angle That is what he saw, but you are not going to revive that whole issue again [349]

508 Khalif struggled to counter these accusations but to no avail The Speaker had had enough, and made a ruling that would shut down all discussion on the matter "No, I do not think that we should continue with this issue, next, order" And that was that There was no further discussion of Wagalla in Parliament for another 16 years There was no discussion of establishing a probe committee, and no semblance of a debate On 18 October 2000, Nahashon Muchiri, the Member of Parliament for Kasarani, rose to ask the following questions of the Minister of State in the Office of the President

(a) How many Kenyans were detained in March 1984 at Wagalla Airstrip after being arrested by the security forces and what offences had they committed,

(b) Whether he was aware that some of the detainees were shot dead by the Kenyan security forces,

347 *Kenya National Assembly Official Record* (Hansard) 21st March 1984 46
348 *Kenya National Assembly Official Record* (Hansard) 4th April 1984 458
349 *Kenya National Assembly Official Record* (Hansard) 4th April 1984 459

(c) What action has been taken to punish the security officers involved in the killings?[350]

509 An Assistant Minister (in the Office of the President), William Samoei Ruto, was present to supply the following answers to those questions:

(a) Three hundred and eighty one (381) people were detained at Wagalla Airstrip in Wajir District in 1984. They were arrested and detained pending screening of those in possession of illegal firearms and those involved in banditry activities.

(b) I am also aware that some of the suspects were shot dead when they tried to attack the security personnel with the intention of escaping from lawful custody

(c) Since the officers then at the District Security Committee (DSC) were charged with the task of maintaining law and order in the district, no criminal charges were preferred against them.[351]

510. Ruto's response was greeted with both anger and scepticism in the House, with members clearly disagreeing with the Assistant Minister's response The main issue, as it turned out, was the re-opening of Wagalla to the kind of investigation that would resolve outstanding questions and controversies Professor Peter Anyang' Nyong'o, then a nominated Member of Parliament, captured the prevailing mood

> Mr Temporary Deputy Speaker Sir, it appears to this house that the Wagalla Massacre, as Hon (Elias Barre) Shill said, is an incident which is very difficult to wipe out of the memory of the society as well as the conscience of the government The Assistant Minister has said before this House that the government regards this incident as very unfortunate, and that it was not properly treated Since the government is on the defensive, and people have been wronged and, we as a House are looking for justice, why is it difficult for the government to establish a commission of inquiry to look into this matter?'[352]

511 Nyong'o went on to specify what such a commission should look like

> The commission of inquiry should be composed of people who can stand in between the government and the people of Wajir District to establish exactly what happened, so that justice cannot only be done but seen to be done [353]

350 *Kenya National Assembly Official Record* (Hansard) 18th October 2000, 2188
351 *Kenya National Assembly Official Record* (Hansard) 18th October 2000 2188
352 *Kenya National Assembly Official Record* (Hansard) 18th October 2000 2190
353 *Kenya National Assembly Official Record* (Hansard) 18th October 2000 2190

512 Ruto stood firm and unyielding from the position that the government had held for the past 16 years The Wagalla operation had already been investigated to the satisfaction of the government by the Etemesi team

> Mr Temporary Deputy Speaker Sir, in good faith, in February 1984, indeed a committee was appointed to investigate the circumstances that led to that incident It was that committee that, that particular incident was in fact for Mr Temporary Deputy Speaker Sir, I was saying that indeed a committee was appointed then In fact, it was that committee's [recommendation] that the then North Eastern Provincial Commissioner (PC) be dismissed from government service
>
> I think it was not possible for the government to take any more drastic action than what was taken then because the provincial administration personnel in that area then were facing threats on their lives from the perpetrators of insecurity incidents I believe the best was done out of that situation [354]

513 The exchange between the Assistant Minister and other MPs ended on a premature and entirely unsatisfactory note for those interested in re-opening Wagalla The Speaker shut down the debate and moved on to the next question The Etemesi report's status as the primordial source of government information and investigation on Wagalla remained intact

Military board of inquiry

514 As the Truth, Justice and Reconciliation Commission (TJRC) was being established in 2009 to investigate, among other things, the Wagalla Massacre, a board of inquiry was established within the military to undertake an audit of those issues involving the military that fell within the Commission's mandate Despite a number of attempts, the Commission was never able to secure a full copy of the report of that board of inquiry It is possible that the TJRC was to receive the report, or at least a summary of its contents When the Commissioners paid a courtesy visit to the Kenya Defence Forces (KDF) a presentation had been prepared for us Ambassador (Bethuel) Kiplagat (the TJRC Chairman), then left the room with the officer in charge to have a private conversation, after which the presentation was cancelled

515 Although the Commission never received a full copy of the report prepared by the military in preparation for the Commission's work, it did secure a copy of that section of the report devoted to the Wagalla Massacre [355] It is a remarkably candid document, at times acknowledging clear violations of the rights of the residents

354 *Kenya National Assembly Official Record* (Hansard) 18th October 2000 2190

355 The section of the report provided to the Commission is titled Wagalla Incident – 1984 and consists of pages 42-46 and paragraphs 100 to 120 of the larger report

of Wajir, suggesting strategy for dealing with the Commission's inevitable inquiry into the matter, and concluding with lessons learnt

516 The military board's narrative was similar to that of the earlier inquiries: a brief history of the conflict between the Degodia and Ajuran; the efforts to disarm both clans, and the ensuing operation that resulted in a number of dead There were three significant, and for the Commission important, differences between this narrative and all of the previous ones made available to the Commission. First, the report for the first time introduced national security as an element of concern that gave rise to the operation Second, and related to the first point, the report for the first time introduced two additional institutions as players in the Wagalla saga the National Security Council (NSC) and the Kenya Intelligence Committee (KIC) Third, the report was candid and up front about how the operation was conducted in a way that violated the constitutional and human rights of the Kenyan citizens caught up in it

517. In the background to the analysis of the Wagalla Massacre, the report quickly noted the national security concerns raised by the conflict between the Degodia and Ajuran, recording that "[t]he rivalry between the two clans was threatening national security because of the foreign Degodia militia that had infiltrated Wajir West from Somalia following the events in that country "[356] The report then sets out in detail how the highest levels of the national security apparatus of the government was brought to bear on this problem

> [T]he National Security Council (NSC) held a meeting in Nairobi in Jan 84 where it was decided that all male Degodia be disarmed by force The NSC further resolved that the NEP Security Committee (NEP SC) study and forward recommendations as to how this was to be realized On 25 Jan 84, the PSC met in Garissa under the chairmanship of Mr Benson Kaaria PC NEP to consider the requirements of the NSC The Acting Wajir DC Mr M M Tiema was charged with the responsibility of carrying out the operations The Kenya Intelligence Committee (KIC) accompanied by the PSC NEP visited Wajir on 8 Feb 84 where they were briefed on [the] security situation in the district during their NEP tour
>
> On 9 Feb 84, A Special Wajir DSC was convened at Wajir DC's office under the chairmanship of the Acting DC The meeting resolved to carry out an operation with the objectives of disarming the Degodia and force them to provide names of bandits who were committing crimes in the district Once the operation was authorities, it began in earnest on 10 Feb 84 at 0400 hrs and it involved the Police, the Administration Police and the Armed Forces The operation covered Elben, Dambas, Butehelu, Eldas, Griftu, and Bulla Jogoo villages [357]

356 Army Board of Inquiry, "Wagalla Incident – 1984" para 101
357 Army Board of Inquiry, pp 42-3 para 103

518. The Commission was unable to confirm the above version of the events leading up to the massacre. Despite repeated requests, the Commission was never given any minutes of the meetings of the National Security Council. It did receive selected minutes from the DSC, PSC, and KIC meetings around the time of Wagalla, but even those were in places missing pages or were otherwise incomplete. There are, however, some indications in the minutes made available that support this version of events. For example, minutes were received of a meeting of the PSC held on 26 January 1984 in which the PC noted that proposals developed by the PSC on long-term policy to address armed banditry had been circulated to the recipients of the PSC minutes.[358] In addition, as discussed below, the Commission obtained the briefing paper used by the DSC to brief the KIC on security matters in the region, which is consistent with the version of events disclosed above.

519. From this report, it appears that the NSC originated the idea of forcibly disarming the Degodia. The specifics of the operation were then developed by the PSC and DSC, and the KIC was then briefed on the upcoming operation when it took the unprecedented step of leaving Nairobi and meeting on site with the local DSC and PSC. While the Commission was not given access to documents that could either corroborate or refute this version of events, the Commission noted that it would be unusual for such a large operation, involving different branches of the security forces and different branches of the military, to be undertaken without authority and coordination at the national level.

520. In addition to filling in some of the information regarding the higher authorities involved in the operation, this report candidly assessed which parts of the operation were conducted consistent with the law, and which parts violated the law. The report noted, for example, that while the existing laws at the time permitted detention without trial,

> holding the detainees at the airstrip without food and water violates the constitutional protection against inhumane and cruel treatment which is non-derogable. Furthermore the use of gunfire which ended in fatalities when the detainees were unarmed contravenes the Constitution.
>
> The indiscriminate burning of manyattas by the security forces to compel the inhabitants to move to the airstrip was in violation of the constitutional protection of private property. The indiscriminate burning of manyattas was not based on any evidence of possession of firearms.
>
> The operation by the security forces was in violation of the provisions of the Universal Declaration of Human Rights, which protects against inhumane treatment and arbitrary deprivation of property.[359]

358 Minutes of the North Eastern Provincial Security Committee Meeting Held in the Provincial Commissioner's Office on Thursday, 26 January 1984, Beginning at 2:30 P.M., B.6/Vol.VI/21, Min. 3/84(i).

359 Army Board of Inquiry, pp 45-6, paras. 114 -116.

521. While the earlier reports indicated some missteps by members of the provincial and district administration, this more recent report for the first time evaluates the effects of the operation on the rights of the victims The Etemesi report, for example, criticized the unprofessionalism of those involved in the operation, the lack of clear operational guidelines, and other problems related to the implementation of the operation as it related to its success At no point did the Etemesi report, or any of the previous reports, indicate that the rights of those affected may have been violated, much less that any efforts should be made to compensate or otherwise provide reparations to such victims

522. Finally, the Army Board inquiry notes that "[t]here is need to harmonize the evidence to be given to the TJRC with other security agencies as the disparity affects the credibility of the evidence"[360] It was not clear to the Commission what was meant by "harmonizing" the evidence There may of course be value in different agencies and witnesses comparing their notes and assisting in their recollection and reconstruction of events that occurred almost three decades ago There is, of course, a fine line between such efforts aimed at unearthing a more accurate truth about the past, and efforts to create a common story of the past that may brush over or suppress certain inconsistencies or other facts in a way to conceal the truth of what happened As the Commission notes below, there was other evidence suggesting that some of those involved in the Wagalla operation attempted to harmonize their evidence in a way that distorted or even hid the truth

The Wagalla dead

523 Sitting at the heart of the Wagalla story is the still painful issue of the loss of life. For survivors and victims alike, no other aspect of the operation generated as much sorrow and anger And as the Commission tracked down documents, pored over reports and heard testimonies, it became increasingly clear that the one question that most people wanted addressed was, quite simply how many died in Wagalla? While the question is simple and straightforward, the answer is not As with Bulla Karatasi and Malka Mari, the Commission's inquiries uncovered wildly different understandings of the Wagalla dead

Fifty seven (57)

524 The official death toll for the Wagalla operation has been given as 57 While it is clear that the death toll was greater – even the recent military inquiry puts the toll at least 300 and perhaps as high as 1,000 – the government has never officially revised the figure of 57. The Commission went to great lengths to understand the

360 Army Board of Inquiry p 46 para 119

origins of this number as well as the controversies surrounding it. The official toll of 57 dead was the outcome of inquiries and investigations carried out during February and March 1984. For the Commission, the fact that it took several weeks to compile this number was an early indication of the difficulties inherent to the issue of the Wagalla dead.

525. Part of the difficulty seemed to be that 57 is actually a composite number that consists of 57 people who died in different ways, at different times and at different locations. The testimony of Tiema was that the first people to die at Wagalla were the 13 people shot dead as a result of the so-called stampede that took place on Saturday 12 February 1984. These 13 would have died on the spot in full view of the security forces (who, obviously, carried out the shooting) and the hundreds of others detained at the field for disarmament and interrogation. Theirs was in essence a very public and open death even though they have remained anonymous; the Commission was unable to identify them by name. From the 12th onwards, the situation surrounding the dead became much murkier and more difficult to understand. Monday the 13th brought with it the discovery of a further 16 bodies. The discovery was recorded in the Provincial Security Committee minutes of the 14th:

> After the rounding up of male persons at the airstrip, it appears that those rounded up and taken to the airstrip were exposed to the 'harsh heat of the sun' for far too long, resulting in some 16 people dying because of sun stroke between 11th, 12th and 13th February, 1984, reportedly without the DSC immediately knowing that some people had died. [361]

526. The Etemesi report of March 1984 repeated the story of the discovery:

> The DSC explained that on Monday 13th February, 1984 as the crowd was being sorted out so that they could be transported to their respective areas, a total of 16 other dead bodies were discovered to the surprise of everybody. The DSC could not verify as to how or what may have been the cause of the death. It is however believed that they may have died as a result of dehydration, hunger and excessive exposure to the sun.[362]

527. The officially acknowledged death toll stood at 29 for two more weeks. The Commission understood this from a number of sources including, most notably, Matui's report of 27 February. The former DC fell in with the dominant line out of Wajir, maintaining the breakdown of 13 shot dead and 16 succumbing to the deprivations at the airstrip.

528. The arrival of the Etemesi team in Wajir at the end of February led to a drastic revision of the Wagalla dead. In a sequence of inquiries and field trips described above, Etemesi emerged with an estimate of 57 dead. The 28 extra deaths were products

361 Min.13/84., *Minutes of the North Eastern Special PSC meeting held in the Provincial Commissioner's Office on Tuesday 14th February 1984*, 2.

362 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*, 15th March 1984, 12

of what were described as "quiet, side-line investigations" beyond the confines of the District Security Committee officials In this regard, Sister Annalena was a key source. It was only through her that Etemesi came to learn of the additional fatalities She had personally buried 15 victims in the grounds of the rehabilitation centre. Of those 15, 12 had died close to the airstrip itself and had been carried back into town for burial. Two others had died in the hospital and one was burnt to death in Bulla Jogoo Sister Annalena apparently left a further 12 bodies out in the bush and knew of one other person who had died and was buried at the hospital. All these added up to the 28 dead that were eventually incorporated into the final total of 57

529 The Commission had serious reservations about this figure, with concerns rooted in the security committee's history of non-disclosure before, during and after the operation While Etemesi's findings had been processed and represented as definitive, the report itself was much more circumspect and reflected the sense that more than 57 people may have died Four deaths in particular left the Etemesi team stumped Almost all accounts of the Wagalla dead began with the shooting that took place on 12 February and the killing of 13 people on the spot But Etemesi uncovered little-known and barely-mentioned killings that took place the day before On the 11th of February (or very early on the morning of the 12th) four people died in the most mysterious of circumstances

> On the night of the 11th/12th February, 1984 four (4) prisoners were alleged to have died at Wagalla Airstrip and were taken away to an unidentified area The DSC has also not admitted this fact, neither have they clarified whether the four (4) were among the twenty-nine (29) confirmed dead [363]

530 While very little is known about them, these four deaths are pivotal to the Wagalla chronology The Commission believed that the deaths were probably the cause of the shooting on the 13th Tiema's arrival on the field on the morning of the 13th sparked a reaction from men who, in the Commission's view, had either seen or were aware of these four initial killings The Commission agreed with the Etemesi team that these four deaths were almost certainly the reason that the Wajir District Security Committee officials stopped communicating with Garissa

> The committee also learned reliably that there was no communication between PSC and DSC between the night of 11th to 13th February 1984 morning when the PSC less the PC decided to visit Wajir to find out the progress of the operation The committee suspects that this lack of communication could have been caused by the sudden death of the four prisoners on the night of 11th February, 1984 [364]

363 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 17

364 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 17

531. The actual cause of the deaths remains unknown. The Commission, however, heard numerous and graphic testimonies about violent beatings inflicted by the security forces from the outset of the operation. Nothing was said about the disposal of these bodies. The enduring question for was whether these four bodies were included in the death toll of 29 presented by the Wajir officials. And if they were not, the District Security Committee total must go up to 33. This, in turn, would revise Etemesi's total upwards to 60.

532. The fate of 18 civil servants is also unresolved and presented reasonable grounds for the immediate upward revision of the official death toll to 78.[365] As Hilowle's experiences indicated, a number of Degodia civil servants and government employees were also included in the swoop. Protestations of innocence fell on deaf ears and they found themselves at Wagalla along with everyone else. Nobody seemed to know what happened to them next. Some, like Hilowle, survived the operation and returned to their families. Matui's testimony also spoke to the detention and subsequent release of a number of civil servants:

> **Leader of Evidence**: Now in the briefing you were given, were you advised that civil servants from the Degodia community.
>
> **Mr. Joshua Peter Matui:** I was aware that some civil servants were detained for some time, but I think that they were later released. In fact when I reported, I recall a certain teacher came to my office and he was briefing me and he was breaking down every time he was narrating to me what had happened. So I know some civil servants who happened to be from the Degodia community were gathered at the airstrip.[366]

533. By the third of week March, however, questions began to be asked about the whereabouts of 18 men who not had been seen either at home or at work since the start of the operation on the 10th of February. The issue was discussed by the Provincial Security Committee:

> The PSC now learns from reliable sources that 18 civil servants from Wajir are missing since the incident. The DSC should carry out a thorough investigation to identify the officers concerned; whether they had actually died or might have defected for fear of their lives. They should also identify them and their respective ministries.[367]

534. All other civil servants had earlier on been warned to be vigilant and not to travel without extra security.[368] No protections of any kind were extended to Degodia

365 Secondary writing claims that a total of 55 civil servants were reported missing from work in the days and weeks following the operation. The Commission has not, however, seen the documents upon which this claim is based. S. Abdi Sheikh, *Blood on the Runway: The Wagalla Massacre of 1984* (2007), 109.

366 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p.25

367 Ex-Min. 26/84 (i), *Minutes of North Eastern Provincial Security Committee Meeting held in the Provincial Commissioner's Office on Monday 26th March 1984 commencing at 10.00 a.m.*

368 Min 13/84, *Minutes of the North Eastern Special Provincial Security Committee Meeting Held in the Provincial Commissioner's Office on Tuesday, 14th February 1984 beginning at 8.45 a.m.*

employees and so they were caught up in the Wagalla whirlwind with apparently disastrous consequences. Despite conducting the most thorough of all the Wagalla investigations, the Etemesi team did not seem to pick up on the disappearance of these 18 men When the Etemesi report was submitted in the middle of March, no mention was made of them.

535 On the 27th of March, Khalif made an emotional appearance in Parliament during which he read out the names of the still-missing employees He also listed the departments that they were attached to. The Wajir District Security Committee, which had been asked to look into the issue, seemed not to have made any progress And as of the 25th of April, the Provincial Security Committee in Garissa was in the dark

> The PSC is still awaiting for the DSC report on government officers allegedly missing, whether they have been identified, and their respective ministries/departments and confirmation whether they actually died or whether they ran away for fear of their lives [369]

536 Like the four people killed on the 11th of February, these 18 civil servants have disappeared without a trace and without any evidence as to what happened to them If they were indeed killed and buried, nobody has ever come forward to say where Conversely, none of these men came forward to confirm that they were alive and well Subsequent writings on the Wagalla incident have described the efforts of Ibrahim Khamis Adan and Ali Noor Yussuf to access their fathers' terminal dues [370] Their fathers, who were Ministry of Health and Wajir County Council employees, were apparently among the 18 listed as having disappeared in the wake of the operation The ministry and county council were said to have accused the men of desertion and consequently refused to pay out what was owed to them Adan and Yussuf made no headway whatsoever, as they were unable to supply details on the time and manner of death Had this case moved forward, the State Counsel might also have been forced to respond to family members' demands for answers As it stands, however, Adan and Yussuf's proceedings seemed to have ground to a halt in early 1985 without any further information emerging

537 The difficulty in establishing what happened to the 18 civil servants and the four people killed on the 11th of February exposed the void at the core of the Wagalla operation the failure to identify, count and document. The District Security Committee made no attempts whatsoever to process the victims and the injured

369 Ex-Min 38/84 *Minutes of North Eastern Provincial Security Committee Meeting held in the Provincial Commissioner's Office on Wednesday 25th April 1984*

370 S Abdi Sheikh *Blood on the Runway The Wagalla Massacre of 1984* (2007) 100 – 101

There was no register as a point of reference or information. The Etemesi team bemoaned the absence of such records:

> The committee also observed that the officers should have struggled to get the details; that is the names of those arrested and the dead. This would have greatly assisted to authenticate any future allegations.[371]

538. The Commission found it difficult to understand the failure to perform such a basic administrative function. Etemesi described panic and confusion within the District Security Committee. The first priority it seemed was the disposal of the bodies followed by clearing of the field; compilation and completion of lists came a distant second:

> **Leader of Evidence**: Were you also able to confirm the numbers of the people who died while attempting to leave the camp?
>
> **Manasseh Tiema**: I did not confirm the number and that is why I said I heard some people lost their lives but eventually, we got the whole list of the figure of the people who died during the operation. It was compiled by the Special Branch officers.[372]

539. How the Special Branch Officers, Kibere and Mbole went about compiling the list can only be guessed at. The Commission learnt that the men at the field were stripped of documentation and so it was impossible to carry out formal identification. There was no sense that the security committee list took any account of people who might have died later on from their injuries. There was no indication that anyone from the Special Branch (or from the DSC for that matter) consulted with either the district hospital or Sister Annalena's rehabilitation centre which, as Etemesi later showed, housed a significant number of victims. Kibere and Mbole's only sources of information were most likely to have been the very same security personnel responsible for the killings in the first instance. Over the following weeks and months, Tiema himself seemed to accept that there were shortcomings with the list and that there may well have been victims uncaptured by the official counts. Once again, however, the former District Commissioner placed himself at some distance from the controversy surrounding the numbers with the claim that he was too busy to carry out any further investigations:

> **Commissioner**: Did you subsequently learn before you were transferred that the figure could be higher?
>
> **Manasseh Tiema**: I did not have time to move out of the office to know what happened. I said it was a very busy moment or period of giving reports for various incidences and so forth, and the situation was not calm.[373]

371 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*, 15th March 1984, 16.

372 Hansard/ Public Hearing/ 16 June 2011/ Nairobi/ p.19

373 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p.25

Three to four hundred

540. Fifty seven dead is the lowest number on the spectrum of the Wagalla dead as understood by the Commission The middle of the spectrum is represented by estimates ranging from between 300 and 400. These are estimates that appear with some regularity in writings, analyses and secondary sources One such source is Rodolfo Stavenhagen's report of the situation of human rights and fundamental freedoms of indigenous people Stavenhagen visited Kenya at the end of 2006 and wrote of Wagalla

> The 1984 Wagalla Massacre in Wajir stands as the worst episode of human rights violations in Kenyan history In the course of three days, security forces detained, tortured and brutally killed many hundreds of Degodia Somali While the government recently acknowledged the loss of 360 lives, other sources interviewed by the Special Rapporteur estimate that there were 2 000 to 3 000 victims

541 Another prominent and often cited source that treads the same territory is the 2003 annual report of the Argentinian Forensic Anthropology Team Members of that team were in Wajir in September 2003 and later wrote

> The government officially claimed that they had taken "necessary action" against "inter-tribal fighting" and had killed 57 people In October 2000, the government raised that number to 381 [374]

542 What these and other sources all have in common is that they are based on the understanding that in October 2000, the government officially adjusted the Wagalla death toll from 57 to 381. The Commission found no evidence whatsoever of such an adjustment Instead what it uncovered was a clear trail of misreporting that had in turn given rise to incorrect analyses and interpretations

543 As already discussed above, on the morning of Wednesday the 18 October 2000, William Ruto Samoei stood to answer a series of questions relating to the Wagalla Massacre What followed was a heated debate driven primarily by frustration in the House at the government's failure to investigate Wagalla further in light of continuing controversies raging around the Wagalla dead Under a persistent and determined line of questioning, Ruto presented the government's stand which, as the Commission found out, came directly out of the Etemesi report

> Mr (Adan) Keynan What we have heard is deliberate misinformation. It is unfortunate that 15 years down the line, first of all, the government has not established any Commission of Inquiry to find out exactly what happened Secondly this did not happen the way that the Assistant Minister is reporting The people who were killed were over 5 000 Their skulls are still lying at Wagalla Airstrip

374 Kenya *EAAF Annual Report* (2003) 113

Mr William Samoei [Ruto]: I confirm that 13 people were shot dead at that particular incident but in total, 57 and not 5 000, as the Hon Member is alleging, died as a result of that exercise [375]

544 Moments later, Ruto was back on his feet with yet another submission on the Wagalla numbers

I still maintain that 57 people died as a result of that incident Indeed 13 people were shot dead and the rest died from excessive sunshine [376]

545 At 8 20pm that evening, the BBC News website published a story under the heading "Kenya admits mistakes over 'Massacre'"[377] The item, a brief one, reported the Wagalla debate that had taken place only a few hours before

The Kenyan government has for the first time admitted making mistakes 16 years ago when hundreds of ethnic Somalis were killed in the north-east of the country A Kenyan minister in the Office of the President, William Ruto, told Parliament that 380 people had died in what's been called the Wagalla massacre, which took place during a drive by the security forces against shifta bandits Previously, the government had said that only 57 people had died The parliamentarian who raised the issue, Ellias Barre Shill, said the minister was trying to avoid crucial questions as he charged that more than 1 000 ethnic Somalis were victims of the killings

546 The Commission found that this BBC report was the prime source of the incorrect claim that the government officially changed the death toll from 57 to 381 *Hansard* records from the 18th of October quite clearly show that Mr Ruto made no such revision He stuck to and indeed repeated Etemesi's long-standing estimate of 57 dead Furthermore, the BBC website was the first and only news outlet to report Ruto's contributions to the debate in this manner No local newspapers repeated this claim when they went to press the following day The *Daily Nation* portrayed the debate as heated and disbelieving of the minister's submissions but made no mention whatsoever of 381 dead

Mr Ruto told the House that 381 suspects were held 'to be screened for gun-holding", but he angered members when he said 13 of them were shot dead and a further 44 died in the ensuing commotion.'[378]

547. What the BBC did report accurately was Ruto's admission in Parliament that the operation had not been handled correctly

The chronology of events that led to this unfortunate incident speaks for itself The arrest and rounding up of those people and their presence at Wagalla Airstrip was as a result

375 *Kenya National Assembly Official Record* (Hansard) 18th October 2000 2189
376 *Kenya National Assembly Official Record* (Hansard) 18th October 2000 2190
377 Kenya Admits Mistakes Over Massacre' 18th October 2000 available at http://news.bbc.co.uk/2/hi/africa/978922.stm Accessed 25th June 2011
378 'Wagalla issue causes uproar in the House *Daily Nation* 19th October 2000 17

> of earlier events that had taken place, that is the fighting between the clans in North Eastern Province Subsequent appeals by the government that all those involved in that fighting should surrender firearms were not heeded Some of the members, especially the Ajuran community, did surrender their arms. But the Degodia community refused adamantly The DSC did take action I do admit that the way that the operation was handled did not meet the security requirements then It was unfortunate I do admit that incident was unfortunate [379]

548. The BBC story was never corrected, clarified or retracted. It was also never subjected to scrutiny, the BBC and the BBC Somali service in particular have a reputation for solid and reliable coverage of the region Indeed, sections of a community of activists and advocates that developed around Wagalla have even described the BBC Somali Service as sympathetic to their cause.

> Yalahow and others continued with petitions and media attacks on the Kenyan government employing especially the services of BBC Somali Service, which was and still is sympathetic to the coverage of the issues in the Somali-dominated North Eastern Province of Kenya [380]

549 Press releases were crafted around the BBC story and it passed unchallenged and unverified [381] The story continues to sit on the internet as an easily accessible source of information on Wagalla For the Commission, the BBC story represented a clear instance of rushed and somewhat careless reporting. Even so, the story resonated and gained traction mainly because it fell in line with previous estimates about the number of people who had died at Wagalla Khalif was one of the initial and most consistent proponents of a position that held that the operation had resulted in about 300 deaths Khalif stuck to this number since his first appearance in parliament on the 21st of March 1984 Through Khalif, 300 became a baseline figure of sorts that was integrated into such early writings on Wagalla as Amnesty International's Annual Report of 1985 [382]

550. During hearings in Wajir, the Commission heard testimony that also placed the death toll in the low to mid-hundreds Osman Noor Abdille is a life-long resident of Wajir who in February 1984 found himself on the Wagalla frontline A Degodia from Bulla Jogoo, Abdille somehow escaped transfer to the airstrip He spent Friday, Saturday and Sunday in hiding and in fear that he too would be caught and sent to Wagalla From Monday the 13th February, he was co-opted into Sister Annalena's attempts to retrieve the dead and the injured He worked alongside Elmi who he described as a distant relative Abdille spoke of seeing and counting

379 *Kenya National Assembly Official Record* (Hansard) 18th October 2000 2188
380 S Abdi Sheikh *Blood on the Runway The Wagalla Massacre of 1984* (2007) 100
381 Omar Abdi, At Last the Kenya Government Admits the Wajir Massacre Occurred" Kenya-Somali Community in Canada, October 2000 from Kenya *EAAF Annual Report* (2003), 113
382 *Amnesty International Report 1985* (1985) 55 – 56

193 bodies spread out over a number of locations, including Sarmanta in Griftu and in Tarbaj The specificity of his count came, he says, from grouping the dead bodies into batches of 25 to facilitate the taking of the photographs that Khalif attempted to table before Parliament in March 1984

> Then we looked for the dead bodies Abdirizak told me to put the dead bodies in 50s So, after we arranged 50 bodies, Abdirizak said that if I take 50 bodies in one photograph, they would not fit in [the frame of] one camera So, he said that we arrange and put them in 25s in one snap shot I tried to arrange the dead bodies putting them in rows and Abdirizak was taking the snap shots of the bodies We got 193 bodies I tried to arrange the bodies in 25s we arranged 193 bodies and then we started taking snapshots [383]

551 The pictures that Abdille said he helped to take were later discredited as staged by disbelieving parliamentarians The fundamentals of Abdille's story have, however, remained constant he personally knows of 193 dead

552 Most recently, the Wagalla Foundation Trust has emerged with an estimate of 475 dead [384] The trust divides this estimate into two sections The first section consists of a list of 335 people who were said to have died between the 10th and the 14th of February These 335 were primary victims of the operation itself The second section consists of 140 people who died from injuries and medical ailments attributed to Wagalla The foundation's estimates spring from a deep and intimate knowledge of both Wajir and Wagalla, as well as a direct experience of the operation as both victims and survivors

553 The conundrum for the Commission was the continuing insistence that the total number of people rounded up during the operation was just 381. The first note of a specific number of detainees, 381, appeared in the minutes of the PSC meeting of 15th February [385] The number of detainees remained unvaried through the various reports and investigations including the Etemesi-led inquiry

554 Three hundred and eighty one detainees cannot be reconciled with estimates of several hundred dead, either the death toll was lower or the number of detainees was higher The Commission received testimony to easily support both possibilities Fifty seven is of course the long-standing and much discussed official death count The notion of just 381 men rounded up was consistently challenged by witnesses and survivors who gave estimates of 3 000 to 4 000 people crammed into the field In Wajir itself, the Commission heard from Abdulrahman Elmi Daudi, a former army corporal, who remembered hundreds of men arriving at the airstrip by foot and in

383 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 61-62

384 *Families and Survivors Wagalla Massacre Lists of Victims* 29th March 2012 TJRC-NAIROBI

385 Min 20/84 *Minutes of the Special North Eastern Provincial Security Committee Meeting held in the Provincial Commissioners Office on Wednesday 15th 1984 beginning at 9 30*

military vehicles from the morning of the 10th of February onwards [386] Elmi's claim was that he was part of the unit that flushed scores of men out of Bulla Jogoo. Tellingly, Elmi described the round-up as a continuous process that spilled into Saturday

555 For the Commission this raised the spectre of an ever-burgeoning operation that grew larger with time. Thus 381 men may have been brought and counted at some point on the first day of the operation but that number almost certainly increased with further influxes Certainly by Sunday the 12th even Tiema was of the view that there were "between 500 and 800" men at the field [387] This was at least double what was presented as the official number of detainees

One thousand plus

556. At the top end of the Wagalla scale lie estimates that begin at 1 000 and climb upwards to 3 000, 4 000 and even 5 000 One of the more prolific and persistent purveyors of this position is S Abdi Sheikh's *Blood on the Runway The Wagalla Massacre of 1984* Sheikh writes of 5 000 dead in Wagalla alongside a much larger group of victims, survivors and family members

> More than five thousand of them (Degodia) were dead, injured, or unaccounted for Four thousand widows and more than fifteen thousand orphans [388]

557 Sheikh's estimates hail from a long tradition of estimates that have always given the number of Wagalla dead in the thousands Such figures have been in circulation for very many years This number - though not with exactness - was corroborated by a witness to the Commission in the following manner

> I remember bringing my elder brother, the ex-policeman I sat through the first preliminary parts when he was asking my brother's opinion on what were the numbers at the airstrip by the second day when everyone had been brought in As someone who was used to estimating crowds, my brother said that he thought they were up to 5 000 people [389]

558 A *Philadelphia Inquirer* article from the 8th of April 1984 was among the first to state that more than a thousand people had died

> On February 10, in the town of Wajir, Kenyan government forces killed more than 1 000 members of the troublesome Degodia tribe, according to members of the tribe, missionaries and relief workers [390]

559. *The Inquirer* piece rested on a number of sources Information was drawn from American missionaries who had apparently visited Wajir in late March and early

386 TJRC/ Hansard/ Public Hearing/ 19 April 2011/ Nairobi/ p 23
387 TJRC/ Hansard/ Public Hearing/ 17 May 2011/ Nairobi/ p 17
388 S Abdi Sheikh *Blood on the Runway The Wagalla Massacre of 1984* (2007) 84 – 85
389 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 8
390 Kenyans Recount Army Massacre *Philadelphia Inquirer* 8th April 1984

April and were told of widows and families of the disappeared numbering about 1 200 Rosenthal, the author of the article, also cited a Wajir teacher called Rahman who had fled to Eastleigh, the predominantly Somali section of Nairobi that hosted a large number of Wagalla survivors

560 The report from the missionaries appears to come from a report compiled by Dr Michael Wood and Dr Nancy Caroline of AMREF It appears that as early as 16 March 1984 that Dr Nancy Caroline had visited Wajir during her leave Her visit was unauthorised and apparently unknown to the government In that report Dr Caroline concluded that at least 1 400 had been killed as a result of the operation, and an additional 7,000 were homeless and destitute. The missionaries were more concerned with facilitating relief to the survivors in Wajir, and thus were careful not to go public with the information they had compiled Instead AMREF and the other relief agencies decided to try to secure an audience with President Moi to both share with him the information and urge him to facilitate the provision of relief to the survivors President Moi was at the time in Mombasa, so a meeting was instead secured with the then Vice-President and chair of the National Security Committee, Mwai Kibaki

> In the President's absence in Mombasa, Dr Wood of AMREF had seen Kibaki He had given Kibaki Dr Caroline's report and had emphasised that AMREF had not been and would not go to the press Their aim was to help with the relief and not to generate criticism of Kenya Kibaki had been grateful for the report as he did not know the details of what had happened He thought that Moi would wish to see Wood Moi is out of town until the evening of 27 March and no summons has yet come Wood had asked Kibaki for permission to mount a relief effort Kibaki had said he thought permission would be given but this would depend on the President The agencies are standing by and are ready to launch both an appeal and instant relief from 28 March if authorized [391]

561 Also in Eastleigh were people who Rosenthal described as Degodia "clan elders" They provided additional information not only on the operation itself but on the broader questions of planning, as well as motives and consequences

> A Degodia clan leader said that he did not know the reason for the killings but that he thought that the operation had been planned Five days before the massacre, he said, the army closed many of the wells around Wajir to the Degodias, forcing them to a central well near the town and making it easier for the army to round them up The clan leader discounted the killings of Ajuran women and children as a catalyst for the operation, saying that nothing happened that had not happened before He said that the government's closing the wells cost the Degodia thousands of camels, cattle and goats, the basis of wealth and prestige in the region [392]

391 Tel No 106 of 29 March 1984, from Howe para 3 FM FCO 291742Z Mar 84
392 Kenyans Recount Army Massacre *Philadelphia Inquirer* 8th April 1984

562 Rosenthal did not name the Degodia elder who was one of his primary informants but the Commission believed that he might have been spoken to Councillor Abdullahi Unshur from Wajir Town East Ward Unshur was a well-known and apparently vocal figure in local Wajir politics. In the days and weeks after the operation, Unshur seemed to have developed into something of a spokesman for sections of the Degodia community In so doing, Unshur came to the attention of the District Security Committee as an agitator of sorts determined to cultivate the post-Wagalla tensions that Matui described in his report

> Despite the operation, Degodias people have continued to cause breach of peace Already the Degodias have threatened to severely revenge against the Ajurans, Ogadens and government senior civil servants, especially during the forthcoming April rains[393]

563 Etemesi's team came across as suspicious of Unshur They characterised his motives and activities as questionable

> The committee also during its quiet side-line investigations found out that there are currently a lot of rumours and exaggerations about the incident It is apparent that some Degodia elders are ready to go to any extreme to capitalise on the incident, mainly to tarnish the good name of the government Most vocal is Councilllor Abdullahi Unshur of Wajir Town East Ward, who has since left for Nairobi Councilllor Abdullahi, with the assistance of Sheikh Abass Adan Musa, are believed to be compiling a list of all people who allegedly died as a result of the incident [394]

564 Like Matui before him, Etemesi then portrayed Wagalla as being spun and modified for largely political reasons.

> The committee also found out that the general situation in Wajir District is purely politically-motivated The local leaders have involved themselves in these divisive political strategies mainly planned on clan basis. This should be discouraged This incident is currently being interpreted as a political move by Ogaden and Ajuran leaders to finish Degodias Hon Minister Maalim Mohamed and Hon Ahmed Abdi Ogle Member of Parliament for Wajir South are being directly implicated as they are Ogadens [395]

565 In July 1984, Unshur was discussed by the PSC Levels of discomfort and concern had escalated because it seemed that by this point Unshur had published and distributed a pamphlet giving figures of 1 000 dead and 5 000 rounded up PSC members urged immediate investigation of both the pamphlet and Unshur

> The meeting discussed the *Kenya News* pamphlet of April 1984 Issue No 3 It is a very subversive and damaging pamphlet It alleges that about 5 000 men who included ordinary wananchi, businessmen, religious leaders and even civil servants were rounded

393 Matui to Kaaria *Report regarding the recent operation which resulted to rounding up of male Degodia adults at Wagalla Airstrip from 10 2 84 to 13 2 84* 27th February 1984 4

394 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 14

395 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*, 15th March 1984 14



TJRC staff visiting the mass graves at the site of the Wagalla massacre in Wajir.

up, stripped naked and forced to lie on their bellies under the hot sun by our Security Forces. It also talks of 1 000 people missing and believed to be dead. The author of the article is said to be Councillor Sugal A Unshur of Wajir, who gave the information in the form of a press release. The DSC Wajir should interview this councillor and he should state the source of his information about the 1 000 people who are "believed to be dead". If any offence is disclosed against him then appropriate action should be taken.[396]

566. The Commission found no evidence to indicate that the Wajir District Security Committee investigated Unshur. The councillor himself went on to solidify his reputation as an energetic champion of the Wajir Degodia until his death in either 1993 or 1994. However, the issue of his material and information on the magnitude of the Wagalla operation has never been interrogated, evaluated or verified. In the three decades since the operation, there have not been explorations, investigations or inquiries that could serve to prove or disprove Unshur's claim of 1 000 dead. In other words, there is no forensic material of any kind to support any part of the Wagalla dead spectrum. From the lowest official estimates of 57 to the intermediate ones of 400 to the highest of 1,000-plus, all the Wagalla numbers are bereft of the kind of physical or biological evidence that could act as verification.

567. The failure to carry out any kind of forensic work is a curious one, particularly since the location of the supposed burial sites has been known since 1984. The Etemesi report was clear about where some of the bodies had been deposited:

396 Min 91/84, Minutes *of North Eastern Special PSC Meeting Provincial Commissioner's Office Tuesday*, 10th July 1984.

A total of 20 bodies were thrown into the bush near Korodile 100 miles north-west of Wajir Town while the other 9 were buried at an area 6 to 10 miles from Wagalla Airstrip on the way to Griftu [397]

569 The majority of the 28 bodies credited to Sister Annalena's search and rescue efforts were also found in and around Griftu It would have been an obvious starting point for any mission to retrieve remains that could in turn have gone towards quantifying and - for the sake of the families - identifying the Wagalla dead. The hundreds or thousands dead that have also been associated with the operation would have needed to have been disposed of somehow The numbers alone suggested the existence of several large sites; sites which even after so many years could present forensic potential Once again, however, no formal or sustained attempts seemed to have been made to locate or otherwise map the graves

569, Meanwhile, time is running out A very small and decreasing group of middle-aged men are the only ones with actual knowledge of the grave sites This group includes Osman Noor Abdille, who has testified about photographing and burying some of the 193 bodies discovered from the 13th of February onwards as the operation was called off and as survivors started streaming back to Wajir with news about the dead and the injured. Abdille represents the very last of a generation of participants, survivors and witnesses able to give such direct input Urgency therefore needs to inform any plans that would require his input on possible locations to explore and excavate

570 It will never be possible to be definitive about the number who died at Wagalla because of the closed nature of the operation and the deliberate attempt to conceal bodies and evidence While the Commission believed that forensic investigations were still possible, the passage of time and the almost certain degradation of the sites meant that such investigations might not yield the specific and concrete results that the victims and survivors both demand and deserve The TJRC fully acknowledged the unsatisfactory nature of this outcome for families who still have no idea what happened to their loved ones, including that of the parliamentarian Elmi

Then there is the story of the many people who have not been found even today Rumours circulated for months after the massacre which gave people hope that their loved ones would still be alive somewhere My brother, Hugas Ibrahim Elmi, is one of those whose bodies have never been found [398]

397 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 13

398 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 9

The photographs

571. Several accounts of the Wagalla dead make reference to photographs of some of the dead bodies Abdille's testimony was that he was directly involved in the taking of a series of pictures in and around Wagalla and beyond The circumstances, as Abdille explained, were dramatic as he and his partner, a man known as Abdirizak, sought to document the scene to avoid being detected by the authorities

> Abdirizak and I were told to leave town and take the vehicle and a camera, so that we go and get photographs of the bodies which were thrown in the countryside We were to come with photographs that were to be used as evidence or to be shown to the international community Three of us were told to bring as many photos as possible We looked for a camera but we did not get a camera to buy We went to the American volunteer teachers who were in Sabunley and also those from Norway helped us Norway is the only country in the world that reacted to what happened in Wagalla We went to the American volunteer teachers and got different cameras and there was one that could take 48 photos The issue was that if the police saw you with the camera, they would have killed us We got three cameras from them We asked women who brought milk to town to help us to hide the cameras in the container Then I put water on the car We decided to cheat the police that this was water that we were taking to the people living in the outskirts Then we met with the ladies who we had given the cameras Then we looked for the dead bodies Abdirizak told me to put the dead bodies in 50s The bodies were there for 9 days and so parts of the bodies had been eaten by vultures and hyenas I tried to put the head onto the other parts of the body After we arranged 50 bodies, Abdirizak said that if I take 50 bodies in one photograph, they would not fit in one [frame of the] camera So, he said that we arrange and put them in 25s in one snap shot I tried to arrange the dead bodies putting them in rows and Abdirizak was taking the snap shots of the bodies We got 193 bodies I tried to arrange the bodies in 25s [399]

572. The Commission believed that the idea to take the pictures came from Sister Annalena, the Norwegian volunteer, and others involved in the search, rescue and retrieval of the bodies But it was not possible to ascertain when the pictures were taken and if they were all taken in the same location. It was also not established about how many pictures were taken The story of the pictures' distribution is equally dramatic. Still fearing discovery, Abdille and Abdirizak waited for several days before taking action They first hid the pictures and negatives in a torch that had the batteries removed. They then had to find a way to leave Wajir without raising suspicion

399 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 61-62

> For six days, our car could not come to town We sent somebody on a donkey cart to bring us petrol because if we came to town, we would have been arrested We had to hide the cameras and the photos We were told to take the photos to Ahmed Khalif who was in Nairobi We gave out the photos to Ahmed Khalif and he then took the photos to Parliament He took the photos and said that they were documents of Parliament We tried to process the photo Abdirizak and I took a torch and removed the batteries and put the negatives into the torch and then we went somewhere, there was a car that ferried goats, so we hid the torch inside that lorry and that is how we took the photos to Nairobi [400]

573 Abdille also described efforts to get the pictures to consulates and diplomatic missions.

> We were hiding in Nairobi He [Ahmed Khalif] gave the photos to a man and they were processed Then the embassies in Ethiopia were given the photos That is how the world knew about Wagalla [401]

574 Other sources suggested a different scenario whereby the pictures and written documents were somehow smuggled out of Wajir by Sister Annalena herself to people like Barbara Lefkow, the American diplomat's wife Eventually, the pictures got to AMREF's Flying Doctors Service well known for its work in remote and inaccessible parts of Kenya At AMREF the pictures came to the attention of Nancy Caroline, a specialist in emergency medicine and the agency's chief medical officer In a sequence described above, Caroline then began to organise for medicine and other supplies to be sent to Wajir, and arranged an unofficial visit to Wajir

575 This report describes the ambiguous reception that the photographs were given in Parliament when Ahmed Khalif attempted to table them in March 1984 Some members dismissed the images as staged The pictures themselves then seemed to disappear entirely Unable to table them before Parliament, Khalif appeared to have simply held onto them as part of his own personal records and documentation As far as the Commission could tell, it appears they were never shared with newspapers or any other media outlets or if they were, the newspapers declined to publish them

576 The Commission, however, saw and acquired two images of body dumps in Wajir in 1984. The pictures came to light as a result of recent interest and research into the life and work of Sister Annalena Tonelli and Dr Nancy Caroline [402] Dr Caroline died in 2002 Her personal papers and records are housed at the Schlesinger Library at Radcliffe College, which is part of Harvard University in the United States And it is from her collection that the following pictures were drawn

400 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 62
401 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ Wajir/ p 62
402 Karen Smith *Massacre in Wajir 1984 Western Relief Organizations Clash with Government Authorities in Post-Colonial Kenya Geographies of Volunteerism and Philanthropy II Association of American Geographers 25th February 1984 New York City*



Source: *Nancy L Caroline Papers 1905 - 2005, Schlesinger Library, Radcliffe University*



Source: *Nancy L Caroline Papers 1905 - 2005, Schlesinger Library, Radcliffe University*

After the operation, reverberations and repercussions

577. Formally, Wagalla came to an end on the 13th of February 1984. The reverberations and repercussions of this extraordinary operation unfolded several weeks, months and even years later, and were felt in Wajir and beyond. As with the build-up to the operation and the operation itself, the story of Wagalla revolves around a small number of actors that the Commission followed and analysed.

District Security Committee

578 When the Etemesi team was formed towards the end of February 1984, it was asked to make specific recommendations based on its investigations and findings:

> The Committee should hence make concrete conclusions on all matters pertaining to the incident and recommend any action to be taken on those responsible for any omission The Committee was also to propose, if necessary, any changes in the present operational procedures [403]

579 And so the team embarked upon its inquiries with this in mind Occupying as it did a place at the core of the operation; the Wajir District Security Committee became the subject of Etemesi's conclusions and, eventually, a number of recommendations As has been explained above, Etemesi and his team did not shirk away from making frank assessments of the DSC's conduct and decision-making

580 Tiema and his colleagues were blamed for a number of serious failures Most fundamentally, Etemesi found the operation to be poorly conceptualised and even more poorly implemented

> In view of the security situation in Wajir, currently worsened by the numerous Ajuran/Degodia conflicts coupled with the large number of illegal firearms, with the uncooperative attitude of the Degodia, the committee observed that the need to carry out the operation was done in a hurry Due to this fact, there was no time to write any detailed operational orders [404]

581 Etemesi further described the impact of the lack of operational orders

> Due to the lack of proper orders, no specific instructions were given to the subordinate commanders, hence nobody was responsible for any specific action Delegation of responsibilities should have been more specific especially on the control, guard-system and interrogation at the airstrip It is due to the lack of these details that the situation got out of hand and the unfortunate incident occurred at Wagalla Airstrip The system of interrogation used at the airport left a lot to be desired and was very unprofessional [405]

582 In addition to the operation's structural deficiencies, Etemesi could find nothing exemplary in the behaviour and demeanour of the officers in charge of the operation.

> The committee also observed that most of the DSC officers lacked the operational experience This possibly accounts for the poor planning and execution of the operation The officers also unfortunately did panic and over-reacted at the airstrip This fear, panic

403 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 2

404 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue*, 15th March 1984 15

405 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984, 15

and confusion made the officers unable to verify what took place at the airstrip and how many people died [406]

583 Etemesi's raking of the District Security Committee ended in his description of the Wajir group as "cowardly" and irresponsible for their abrupt departure from the field in the wake of the shooting

> The committee also observed that, after the shooting incident, the DSC did panic and the Acting DC, Deputy DSBO and OCPD immediately left the area without due concern of what was happening This cowardly move and lack of any sense of responsibility left the situation to get out of hand, since only the junior officers were left in the area, that is the Army soldiers and Police Sergeant [407]

584 Upon its completion in the middle of March 1984, the Etemesi report was absorbed into the Office of the President Then Permanent Secretary in the Office of the President James Mathenge clearly remembered receiving the document and studying it for its recommendations

585 The centrality of the District Security Committee to the action meant that it could not escape Etemesi's gaze As such, Tiema and his men featured prominently in the recommendations

> To avoid any adverse effect the incident may have on the locals and the civil servants, the committee recommends that small-scale transfers be effected The officers, especially Officer Commanding Army Unit at Wajir – Major Mudogo, Acting DC Mr Tiema and OCPD Mr Wabwire should be given severe reprimand departmentally [408]

586 Simply put, the DSC members had to leave on account of their failures during the operation itself as well the destabilising impact that their continued presence might have in Wajir These recommendations had been presented to, and found agreement with, President Moi himself In a telegram dated 29 March 1984, the British High Commissioner noted

> Moi said that those involved [in the Wagalla Massacre] had greatly exceeded their authority and the operation had got out of control MPs had greatly exaggerated the scale of the trouble and the numbers of deaths but this did not excuse what had happened He particularly criticized the Provincial Commissioner Benson Kaaria and said that a number of people involved would be removed and replaced [409]

406 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 16

407 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 18

408 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 19

409 Tel No 431 of 29 March 1984 to Priority FCO from Allinson

587 In fact the donor countries who had met a number of times concerning the provision of relief aid to Wajir after the massacre had been informed of the Kenya government's reaction to the massacre

> The officials responsible would be punished, but privately in order not to provide ammunition for those in North Eastern Province who sought to undermine the Kenya government [410]

588 And so it was that on the 4 May 1984, Tiema received a signal from Nairobi through Garissa instructing him to leave Wajir The Commission saw a copy of this document, which states

> Divspec Wajir for Districter Instruction from Rais stop acting Districter to proceed on leave with effect from today 4th May stop message from Provincer stop [411]

589 While there is much about the operation itself that Tiema did not seem able to remember, his memory of the signal and the circumstances under which he left Wajir was lucid and sharp

> **Commissioner:** You received the signal at 2 00pm on 4th May?
>
> **Manasseh Tiema** By 3 00pm on the same day, my successor had arrived with his luggage, ready to take over the station
>
> **Commissioner:** You left 12 hours later at 3 00am, were you given more time before you left or were you just required to leave?
>
> **Manasseh Tiema** I was not given any time I was just told to leave that same day [412]

590 Tiema attributed his hurried departure from Wajir to the arrival the next day of a top government official Minister of State in the Office of the President Justus ole Tipis He speculated that his presence might have proven awkward because of his role in the operation

> I do not know whether it was done for me to give way for them to perform the necessary investigation or if they felt that my presence there would not give them access to the information they wanted As I said, there was a high ranking officer who was supposed to come the next day and I was not supposed to be there when that person came That was why I had to leave before sunrise [413]

591. What followed next were 12 months of what Tiema portrayed as mental anguish and deep confusion because, as it turned out, he received no additional communication of any kind from his employers He remained at home in limbo And although he still received his monthly pay, he heard nothing further about his fate

410 Tel No 457 of 10 April 1984 to Immediate FCO from Allinson
411 Provspec Garissa for Provincer NEP Divspec Wajir for Districter Wajir 4/5/84
412 TJRC/ Hansard/ Public Hearing/ 18 May 2011/ Nairobi/ p 35
413 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 34

> My salary was not stopped It was coming and I was taking it uncomfortably. I was subjected to psychological torture somehow Here I am staying idle at home and being paid with no reasons being given why I should be at home when I should be on duty It went on for almost a year [414]

592 Just as suddenly, after twelve months and just as his leave ended, Tiema received news of a new posting

> After my leave I was instructed to report to the Provincial Commissioner Nyanza Province for deployment When I reported, I was posted to Kisii District as the District Commissioner, Manga Division [415]

593 The Commission believed that Tiema's 12-month stay was occasioned by continuing uncertainty within the Office of the President as to what to do with him Etemesi had quite clearly recommended transfer and "severe reprimand departmentally" for Tiema and the rest of the District Security Committee [416] Even so, there was a certain hesitation at taking more drastic action against Tiema, in particular, who was increasingly portrayed as a novice administrator lacking in operational experience Etemesi had already intimated this.

> Whenever possible, career background and operational experience should always be put in consideration whenever postings of officers to the operational areas are being done [417]

594 The discussion continued at the Office of the President As Mathenge explained, it appeared that eventually it was decided that Tiema could return from his forced leave The reasons given once again seemed to revolve around his inexperience and his overall suitability for the Wajir posting

> Tiema was suspended and later on his case was reviewed This was a person who was put in a job and was very new to it He was not an operations officer and we chose the position of getting him out the area and later posted him to Nyanza He ended up in Kisii [418]

595 What the Commission found so unusual was the fact that government had made no contact whatsoever with Tiema during the period of his forced leave No officials ever explained his predicament to him Even more puzzling was the fact that no one ever returned to Tiema for additional information or evidence, even as debates and controversies flared up over Wagalla in the weeks and months following the operation Officially, Tiema never spoke formally to anyone ever again about the Wagalla tragedy

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414 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Wajir/ p 22

415 *Further Statement by Manasseh Binka Tiema* 28th March 2011 TJRC Nairobi

416 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 18

417 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984 20

418 TJRC/ Hansard/ Public Hearing/ 15 June 2011/ Nairobi/ p 24

> I did not get into any official conversation with anyone and even privately, I was shying away from talking about this matter with people not within the service We would chat with those who were in the service, but it was an informal chat [419]

596. There was a single exception which Tiema was unable to put an exact date on Some time after being posted to Kisii, Tiema was asked to travel to the Office of the President in Nairobi

> After I had been reinstated and posted to Kisii District , that is when I was called by the District Commissioner, Kisii and he told me that I was required to report to somebody in the Office of the President by the name Hola, about the incident that took place in Wajir I went to see M Hola and he took me to the AG's Chambers and that was where we met a State Counsel who talked to me and then told me I could go back to my station [420]

597 This summoning of Tiema to Nairobi may well certainly have related to the case filed by Ibrahim Khamis Adan and Ali Noor Yussuf As explained above, that case fizzled out at some point in 1985 As with so much related to the Wagalla incident, Tiema went largely unheard, unseen and unnoticed for almost three decades

Provincial Security Committee

598 While the specific manner of the implementation of the operation origins lay in Wajir itself, the Provincial Security Committee was nonetheless pulled into the specific details of the Wagalla operation from the very outset when the District Security Committee signalled Garissa on the 9th of February with news about the intention to round up all Degodias for disarmament and interrogation What followed next was, as has been described at length, three days of almost no communication between the District and Provincial Security Committee Channels only opened up again between the two committees on 13 February Notwithstanding the very limited interaction between Garissa and Wajir, the Etemesi-led team concluded that the Provincial Security Committee had much to answer for the manner in which the operation had unfolded Indeed, it was this very failure to communicate regularly and explicitly with which Etemesi took issue

> The PSC should also be able to be held responsible for giving vague and unprofessional operational instructions The PSC should in future be in full control of the situation and should give proper guidelines and directives [421]

599 This "vague and unprofessional order" was the signal sent from Garissa to Wajir on the 9th of February This order was followed by another one the next day

419 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 36
420 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 35
421 *Report of a committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way government officials handled the issue* 15th March 1984, 15 19

Etemesi located the ultimate responsibility for limiting and defining the size of the operation within the Provincial Security Committee

> Due to the fact that most of the incidents had taken place in Griftu, the initial stage of the operation should have concentrated on the Degodias in that area and all Degodia elders who should have been forced to produce the killers of the family of six in Griftu However, this assessment, direction and decision making should have been exercised by the PSC [422]

600 For Etemesi, the Provincial Security Committee's failure to provide any such assessment, direction or definition meant that its members could not escape sanction And so it was that in April 1984, the entire PSC was sent on compulsory leave They never went back to Garissa Benson Kaaria met a very particular fate He did not go back to the service. Instead, he was deployed to the Post Office and Savings Bank In Kaaria's eyes, this was a demotion Chairmanship of a bank was in no way commensurate with the power, prestige and influence of heading a province James Mathenge makes the same point In all respects, Kaaria's deployment to the bank and subsequently to the Kenya Tea Research Foundation was a demotion It was not in that sense the transfer that Etemesi had recommended

> Mr Kaaria got more than that It was not a transfer but really a demotion The PPO was also demoted and the person from the Army was retired So I thought we went even beyond what the report was recommending [423]

601 To be certain, even today Kaaria still seems to find it difficult to accept his removal from office He continues to maintain that under the Security Charter and the Internal Security Scheme, the Wajir District Security Committee was in essence a self-starting, self-regulating autonomous body over which he had little (if any) control In this Kaaria returned to a theme and a point that he made emphatically during his submissions on the Bulla Karatasi operation in Garissa at the end of 1980 But with Wagalla, Kaaria was even more explicit: once the District Security Committee decided to launch the operation, the powers it enjoyed under the Security Charter meant that a process was set in motion that could not be stopped

> **Commissioner** Now I am asking you or I am assuming - correct me if my understanding is not correct - that if you or when you learnt about the operation that was undertaken on the night of the 9th and the morning of the 10th February, the rounding up of the Degodia at the airstrip, you had the power to change the operation and even change that operation, is that correct?
>
> **Benson Kaaria** No, I cannot [424]

422 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the issue* 15th March 1984 17
423 TJRC/ Hansard/ Public Hearing/ 15 June 2011/ Nairobi/ p 24
424 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 83

602 Kaaria painted a picture of an unstoppable District Security Committee, even in the midst of concerns, questions or doubts:

Commissioner What I am trying to understand is, if the DSC engaged in an illegal act then, if I understood you correctly before, you as the PSC had power to stop that act?

Benson Kaaria No

Commissioner You did not? You had no power over the DSC?

Benson Kaaria: No If I did that, I would dilute the authority of the DSC

Commissioner Okay

Benson Kaaria They would not be there.[425]

603 In later exchanges, however, Kaaria himself seemed to suggest that far from sitting helplessly on the sidelines as Wajir behaved as it pleased, both he (as the Provincial Commissioner) and the Provincial Security Committee could and did wield influence over the District Security Committee. The Commission heard this information through a line of questioning that began by asking Kaaria for his opinion on the Wajir District Security Committee's controversial shutting off of the wells and water to the Degodia in the days before the operation.

Commissioner: If this had come to your attention - they say that it started on the 5th of February, let us say on the 6th of February - if you were informed that the DSC had embarked on this, what would your reaction be to that?

Benson Kaaria I would have gone there and changed the order

Commissioner So you would have reversed that order and said "stop this"?

Benson Kaaria Immediately

Commissioner Because that would have been illegal in terms of so, is that you as the PC or is that the PSC?

Benson Kaaria As the PSC

Commissioner So the PC had the power

Benson Kaaria That is coming to the heart

Commissioner So you could reverse the

Benson Kaaria There is the softer one and a harsh one

Commissioner And the PC is the softer one?

Benson Kaaria Softer one

Commissioner That is the soft one So, using your softer heart, you had the powers to reverse a decision of the PSC?

425 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 84

Benson Kaaria Exactly

Commissioner That means a decision of the DSC on 9th of February, 1984, to round up all the Degodias and take them to the airstrip, you had the power to reverse that decision? Is that correct?

Benson Kaaria I would have reversed it on the spot

604 Along the same lines, in another exchange Kaaria also eventually seemed to accept that the two signals issued by the Provincial Security Committee on 9 and 10 February were not merely modifications of operational orders crafted in Wajir They were instead the very permissions and authorisations that allowed the operation to go ahead

Commissioner Is it true that the PSC sanctioned or sent a signal confirming that Degodia male tribesmen be arrested? You were correcting a previous signal which you thought was very

Benson Kaaria The first signal was wrong because it was not authorised by us, but by the PSC The second signal was to correct the other one

Commissioner Is it as a result of that signal that the operation occurred?

Benson Kaaria The operation was on It was the DSC that had mentioned what they would do

Commissioner: So it is you, Mr Kaaria and your team in the PSC that gave the final word to the operation?

Mr Benson Kaaria Yes, to say it should go on [426]

605 Notwithstanding his earlier testimony, it appears that Kaaria and the PSC had authority to affect operational decisions taken by the DSC This, for the Commission, was what put Kaaria in the Office of the President's firing line in the weeks and months following Wagalla the PC and the Provincial PSC had much more ownership than they were prepared to admit This superior authority to affect operations in the field did not stop at the PSC James Mathenge indicated that not only the PSC but other superior bodies could raise questions and even alter a decision to undertaken an operation

Leader of Evidence. When Mr Kaaria was here yesterday, he informed us that at that time, it was accepted that the DSC, in carrying out operations, had full authority In fact, no one could stop them in their tracks Can you confirm that this is how we were operating as a country? Now because the issue was raised by a PC and he says that once a DSC was in conduct of an operation, he did not think that he could stop them Actually his statement was that as even as the PSC, they were running an operation

426 TJRC/ Hansard/ Public Hearing/ 14June 2011/ Nairobi/ p 65

and no higher authority other than maybe the President could have stopped them. In 1984 was that the situation obtaining?

James Mathenge I think I have very clearly said that that was not the situation at the time The higher body could have an input The way things would go is that you would raise a question Why have an operation now? They will tell you the reason and you can go ahead You could also say that "it is not timely because of this and that" As a higher authority I have no means of swaying something with my junior Even if the law is supporting him to do it, it is good to be realistic

But in these times we are very flexible and pragmatic You take issues on the spot Even with that authority as a senior, I can improve that approach and do it differently[427]

606 Once again, the former Provincial Commissioner did not accept such apportioning of responsibility For him blame belonged in Wajir, with incompetent district officers who bungled the execution of the operation itself and also made a mess of post-operation formalities, such as reporting, documenting and handling of the dead

607 The closest that Kaaria came to embracing any kind of responsibility for events in Wajir was acknowledging the confusion and problems surrounding the signal sent on 9 February Kaaria testified that this signal was the product of one person and one person alone the Provincial Police Officer, Aswani Kaaria's version of events was backed up by the then Provincial Special Branch Officer Joseph Ndirangu, who clearly remembers how the signal came about

Leader of Evidence: When you heard there was to be an operation, what part did you play? Did you contact your colleagues at the district level maybe to know exactly what was going on or the kind of operation they were talking about?

Joseph Ndirangu I said earlier on that the report was received by the PPO, because most of the signals came through the PPO As he received this report, he acted swiftly, before even we met to discuss this issue [428]

608 Aswani then briefed Provincial Security Committee members individually about his actions (that is the sending of the signal).

The briefing from the PPO was on individual lines We did not make it a security meeting or a meeting at that time because we were congregating for a meal Therefore, it was relayed to us on individual lines [429]

609 The impression created by Kaaria and Ndirangu was of a rogue Provincial Police Officer roaming outside the PSC and dealing directly with the authorities in Wajir. Aswani and, more importantly, his operational orders, had to be brought back

427 TJRC/ Hansard/ Public Hearing/ 15 June 2011/ Nairobi/ p 23
428 TJRC/ Hansard/ Public Hearing/ 2 June 2011/ Nairobi/ p 75
429 TJRC/ Hansard/ Public Hearing/ 3 June 2011/ Nairobi/ p 5

into line with the overall sentiments of his colleagues in the security committee The Aswani-authored signal that envisioned the sweeping up of women, children and animals had, therefore, to be quickly revised

> **Benson Kaaria** On the evening of the 9th the PPO told me that he had sent a signal to Wajir who had told him that they were going to have an operation When he showed the signal, I thought it was very strongly worded It said that they were going to mount an operation covering all men, women and animals We met as the PSC and revised the signal We said the operation should not include wives, children and animals
>
> **Leader of Evidence:** When did you hold the meeting?
>
> **Benson Kaaria** We did not meet as such We agreed because we were together We said we must revise
>
> **Leader of Evidence:** All the members of the PSC were there? This was the night when there was the dinner at your house?
>
> **Mr. Benson Kaaria** Yes
>
> **Leader of Evidence:** We thought it was strong and did not convey the decision of the PSC It was an individual's view.[430]

610 For the part he played in the Wagalla operation, Aswani was also demoted

Kenya Intelligence Committee

611 Lack of involvement, detachment and distance were the overriding themes of the evidence received from the former Kenya Intelligence Committee (KIC) on Wagalla The members of the KIC who testified before the Commission were near unanimous in their testimony, *viz* the KIC tour was focused on development and not security, and as such the members of the KIC did not participate in any discussions related to security, much less anything touching on the security operation that would result in the Wagalla massacre The documents made available to the Commission, including those made available by some of those testifying, painted a much more complex picture of the purpose of the KIC tour of the area Not only the briefing materials provided to the KIC by the DSC during their meeting on 8 February, but also the minutes and summaries of the KIC tour produced by the secretary of the KIC indicated that the KIC tour was focused on development *and* security, and related matters

612 The Commission was struck by how many KIC members who testified tried to argue against what was clear in the documents concerning the purpose of their trip The harmonizing of their testimony became clear, however, when one of

430 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 48

the members testified that a number of them had met prior to their testimony to remind themselves of the events of over 27 years ago

> **Commissioner:** Thank you You have mentioned what you remember happened in 1984 and that your memory is completely erased That is understandable because it is 27 years ago You have had the benefit of seeing some of the documents that we have to refresh your memory You have also had an opportunity to speak with other individuals who were around at that time I am wondering if you could tell us about that process and how that helped you, particularly regarding the conversations that you had with other individuals who were around at that time How helpful was that in refreshing your memory?
>
> **David Mwiraria (the former Permanent Secretary in the Ministry of Home Affairs):** Quite honestly, the only document that I have looked at before today contained minutes of the meeting of May, 1984 We tried to get most of those other documents but we were told that they are still part of government secrets and have not been released to the public If I read some of the minutes, I can remember some of the visits but not all of them I must be very honest
>
> **Commissioner** Will meetings with other individuals help you to remember about the visits, the purpose of the visit and content of the visit?
>
> **David Mwiraria** Yes, they will
>
> **Commissioner** Would you mind sharing with us with whom you had those conversations?
>
> **David Mwiraria:** We met a few times to brief our lawyers and individuals would make contributions which helped some of us remember some things that we had forgotten completely
>
> **Commissioner** When you met with lawyers to brief them you would all meet together and speak as a group?
>
> **David Mwiraria** Yes [431]

613 It was clear from this testimony that many of those who testified before the Commission had met "a few times" to refresh their memories of things that some of them may have "forgotten completely" In fact the same counsel, Mr Kioko Kilukumi, assisted by Mr Elijah Mwangi, represented Mr Mwiraria and the following additional individuals: Mr A J Njue, David Mutemi, J K Kaguthi, D K. Mativo, J P Mwangovya, Benson Kaaria, Amb B A Kiplagat, John Gituma, James ole Serian, Gen (rtd) Joseph Kibwana, Major Phillip Chebet, Lieutenant Murungi, Joshua Matui, J M Ndirangu, and P N King'ori It was thus apparent to the Commission that many if not all of these individuals had met a number of times prior to testifying concerning their testimony

431 TJRC/Hansard/Public Hearing/7 June 2011 page 71

614. Mwiraria, for example, echoed the other members of the KIC that the purpose of their trip to North Eastern Province was limited to development Under questioning, however, he admitted that he had come to that conclusion only after having reviewed one set of minutes from May 1984 that provided a summary of the KIC tour that took place three months earlier, and based upon "the little I could remember"[431] As Mwiraria made it clear to the Commission, the little he could remember had been aided by the meetings he had attended in his lawyer's office with the other members of the KIC prior to the Commission's hearings

615 Curiously, the summary of the KIC tour dated 24 May 1984 and that was relied upon by Mwiraria and others to argue that the tour was limited to development issues itself refers often to issues of security For example, the report notes that the meeting with the DSC in Mandera "dwelt on the security situation in the district and the border area with Somalia and Ethiopia"[433] More importantly, and surprisingly given the testimony of Mwiraria and others, these same minutes described the briefing made by the Acting DC (Tiema) to the KIC in Wajir as focusing on "the security situation in the district"[434]

616 The Commission was particularly surprised that Ambassador Kiplagat in his testimony repeatedly insisted that the KIC tour was limited to development issues and did not have security issues in the region as one of its objectives It was not lost to the Commission, however, that earlier on when issues relating to his suitability as Chairperson of the Commission were raised, Ambassador Kiplagat said in a televised interview that "I doubt, I find it extremely difficult, no government worth its salt plans to massacre its people" In his testimony Ambassador Kiplagat insisted that he had very little memory of what had occurred more than 27 years earlier, and thus indicated that "[t]he only recollection I have is what is captured in the final minutes of our tour [the minutes collected in the 24 May 1984 document]."[435] It is presumably based on that document that Ambassador Kiplagat stated a number of times that "the objective of that trip as clearly stated, indicates that we were going there for development."[436]

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432 TJRC/Hansard/Public Hearing/7 June 2011 page 72

433 Mwangovya K I C Secretariat to Department of Defence Ministry of Foreign Affairs Ministry of Home Affairs Ministry of Information and Broadcasting Commissioner of Police Director of Intelligence Department of Defence *KIC Tour of North Eastern Province* 24th May 1984 page 2

434 Mwangovya K I C Secretariat to Department of Defence Ministry of Foreign Affairs, Ministry of Home Affairs, Ministry of Information and Broadcasting Commissioner of Police Director of Intelligence Department of Defence *KIC Tour of North Eastern Province* 24th May 1984 page 5

435 TJRC/Hansard/Public Hearing/ 6 June 2011/p 32 See also page 43 ("I do not remember I am using the Minutes to recollect ")

436 TJRC/Hansard/Public Hearing/6 June 2011/ p 36 See also page 42 ("to acquaint ourselves with the problems in North Eastern Province in terms of development and the welfare of the people ") 72 (the objective of the tour was development "the main emphasis was on welfare and development) 85 (the delegation went purposely to look at the possibilities of development in northern Kenya ")

617. As already noted, the same documents on which Ambassador Kiplagat insisted the Commission focus themselves on underscored how the KIC was briefed on security matters throughout its tour of the region, including during the meeting of 8 February in Wajir. Ambassador Kiplagat would simply not be drawn on when and if the Kenya Intelligence Committee ever even spoke about Wajir or Wagalla.

> **Commissioner** Was the Wagalla Massacre discussed in the March KIC meeting?
>
> **Bethwel Kiplagat** That we have to consult the minutes of the KIC meeting
>
> **Commissioner** How about April?
>
> **Bethwel Kiplagat** I say we can consult those minutes
>
> **Commissioner** Or even May, if we may put it that way
>
> **Bethuel Kiplagat** Let me repeat I think that it will be good if we can check the minutes of the KIC for those months and then we can confirm whether they were discussed

618. While Ambassador Kiplagat and others made clear that minutes of KIC meetings were taken, the Commission was never given copies of the minutes of any such meetings, nor was it ever given any minutes of the meetings of the National Security Council (NSC), including the NSC meeting in January 1984 where it was decided that all male Degodia were to be disarmed by force. Ambassador Kiplagat's referencing of minutes that were not given to the Commission and that may not even exist was unhelpful, if not diversionary.

619. The role of the KIC generally, and in particular with respect to the Wagalla operation, was thus difficult to pin down. Members of the KIC understandably had little actual memory of meetings that occurred almost three decades ago, though they were able to meet among themselves to discuss and confirm the little that they did remember. While the Commission was able to secure some of the minutes and other documents related to the operation, there are clear gaps, including no minutes from the KIC and the NSC other than minutes of the KIC tour compiled over three months after the fact. The testimony from other players in the Wagalla operation were not much more helpful. On the Provincial Security Committee's independence from the Kenya Intelligence Committee, Kaaria testified:

> **Commissioner** Does that also mean that you, as the PSC, and you as a member of the PSC had power to do anything and that could not be stopped by the Kenya Intelligence Committee? Or could the KIC come in and say to you, "Do not do that" or they would order you to stop that or "we think you should do this, but in a different way?"

Benson Kaaria The KIC would not do that

Commissioner What about the PS (Permanent Secretary) in the OP (Office of the President)?

Benson Kaaria For your information

Commissioner Would the PS in the OP do that?

Benson Kaaria He could plead with us to see whether he could assist, otherwise we would tell him, "Come and do it yourself" Things do not work like that! The KIC or the KSC cannot order the PSC to do something

620 Thus emerged the curious situation whereby the entire Kenya Intelligence Committee was sitting in Garissa with the Provincial Security Committee at the very instance that the operation was being put together and yet they were not briefed on the start of an operation to deal with the very security issues they had discussed with the DSC the day before

Commissioner When you were asked whether on 9 February 1984 you briefed the KIC what the PPO briefed you, you said it was not their business Why did you not brief them and yet they were with you at your home?

Benson Kaaria The signal said that the operation would be done tomorrow There was no need for me to tell all the members of the KIC when they were eating that the operation was to be done the following day We did not require anything from them because the operation was to be done in Wajir and those in Wajir had set it up, so they were to operate [437]

Commissioner You have already sent the recommendations on how to solve these problems on a long-term basis So this would have been just an element of that and you could have exchanged information or ideas to help them in approving that proposal

Benson Kaaria We did not brief them![438]

621. The documents provided to the Commission, however, suggested that at least the PSC viewed the KIC as a powerful force with respect to security operations When, after the Wagalla Massacre, a directive came down from the Office of the President requiring tighter control and coordination between security operations on the ground and the security establishment in Nairobi, the PSC both looked to the KIC to alter that directive or, in the alternative, to have the KIC take on the closer supervisory role

Min 54/84 Operation by Security Forces

The contents of the letter OP3/29A/IV/101 of 29th March 1984 were noted Whilst the PSC does not want to dispute the directive, it is worth recording that the operations by

437 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 97
438 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 97

security forces here are the daily routine and patrols have to be organized on a daily basis to search or track down bandits. Seeking for the approval of the Minister before an operation is mounted will seriously delay action, hence too late to save a situation The alternative would be to withdraw all the security forces and confine them to barracks The PSC requests the KIC to review the directive In the meantime the DSC requests clearance to continue with operations as before but to keep KIC informed of the progress of such operations.[439]

622 David Mwiraria, the former Permanent Secretary in the Ministry of Home Affairs, was a little more forthcoming in that he suggested that the Kenya Intelligence Committee may have formally been updated about the operation during their March meeting Mwiraria's testimony drew attention to another astonishing detail about the post-operation period no extraordinary meetings were ever held to discuss the extra-ordinary situation that was Wagalla The committee did not engage any other security or intelligence bodies on the matter Instead, Mwiraria described the KIC as having some tentative discussions but generally being content to let functionaries within the Office of the President handle the matter

David Mwiraria I do not remember calling an extraordinary meeting, but we talked about what action needed to be taken We needed to get full information and that is how the Permanent Secretary, Office of the President, had appointed a group to investigate the matter

Commissioner Even after one month, what did the KIC do?

David Mwiraria I think the KIC just confirmed the action of the Permanent Secretary

Commissioner What did they advise? They are the advisory body and here is something very tragic which had happened with national consequences, what advice did they give the National Security Committee?

David Mwiraria There I cannot say exactly what happened, but we would have advised that the matter be investigated quickly and a report given [440]

623 Some members encountered the operation outside the Kenya Intelligence Committee and through their, as it were, home ministries As the Permanent Secretary in the Ministry of Foreign Affairs, Ambassador Kiplagat would have been on the receiving end of international expressions of concern about Wagalla Articles in such newspapers as the *Miami Herald* and, more particularly, the *Philadelphia Inquirer,* had raised alarm about the operation itself and the resulting humanitarian situation Once again, however, the KIC's reticence and failures of memory prevented the Commission from making in-roads into Ambassador Kiplagat's handling of foreign missions seeking answers and explanations·

439 Min 54/84 Minutes of the Provincial Security Committee Meeting Held in the Provincial Commissioner's Office on Wednesday 25th April 1984

440 TJRC/ Hansard/ Public Hearing/ 7 June 2011/ Nairobi/ p 66

Leader of Evidence The other information that we have received is that as the PS, Foreign Affairs, you received a protest note from 19 foreign missions in the country Do you have a recollection of this?

Bethwel Kiplagat: I do not remember that

Leader of Evidence My assumption is that it is not a common occurrence for foreign missions to protest

Bethwel Kiplagat Did the 19 come to our office?

Leader of Evidence: There is an allegation that you received protest notes from them

Bethwel Kiplagat I do not remember

624 In fact in a private conversation between Ambassador Kiplagat and the British High Commissioner, Sir Leonard Allinson, on 25 June 1984, Sir Allinson noted

> Kiplagat said that he had felt isolated and ganged up against when not only the 10, but also all other major aid donors (save the US who had made separate representations) had made a joint demarche to him on the subject of the atrocities in Wajir and the need for relief in the area [441]

625 Ambassador Kiplagat may also have had to deal with Kenyan diplomats The Commission received information indicating that a number of them may have confronted Kiplagat - their boss - seeking direction on how to answer awkward questions that were coming their way This confrontation may have happened during the 1986 biennial conference that the Ministry of Foreign Affairs held for ambassadors That conference was attended by Zakayo Kamenchu, who travelled to Wajir as the Deputy Secretary Finance in the Office of the President He remembered Kiplagat's Wagalla briefing which, incidentally, contained a reference to the very letters of protest later denied

> **Zakayo Kamenchu** Some years later when I was in Foreign Affairs, Bethuel Kiplagat who was our PS briefed us on how we should be treating our people properly because this affects our image He was giving us an example of the Western bloc based in Nairobi who had called on him to protest about the Wajir Massacre
>
> **Leader of Evidence:** I believe as ambassadors you may have had very many issues to tackle I am very interested to know and to understand when Ambassador Kiplagat was giving you directions that we must treat our people well, what did you understand that to mean?
>
> **Mr Zakayo Kamenchu** The purpose of the Foreign Service of any country is to create a good image for that country So it was within his responsibility to tell us how we should create a proper image in the world community [442]

441 Teleletter dated 29 June 1984 from Sir L Allinson LZH NR 892/29
442 TJRC/ Hansard/ Public Hearing/ 18 May June 2011/ Nairobi/ p 28

Kenya National Security Council

626 As noted above, the internal report prepared by the military in anticipation of the Commission's investigation into, among other atrocities, the Wagalla Massacre, stated that there was a National Security Council (NSC) meeting in January 1984, "where it was decided that all male Degodia be disarmed by force."[443] This account of the planning of the operation suggested a coordinated effort involving the NSC, KIC, PSC, and DSC, with respect to addressing the increasingly severe security concerns in the region.

> The NSC further resolved that the NEP Security Committee (NEP SC) study and forward recommendations as to how this [the disarming of all male Degodia by force] was to be realized On 25 Jan 84, the PSC met in Garissa under the chairmanship of Mr Benson Kaaria PC NEP to consider the requirements of the NSC The Acting Wajir DC Mr M M Tiema was charged with the responsibility of carrying out the operations The Kenya Intelligence Committee (KIC) accompanied by the PSC NEP visited Wajir on 8 Feb 84 where they were briefed on the security situation in the district during their NEP tour On 9 Feb 84, a Special Wajir DSC was convened at the Wajir DC's office under the chairmanship of the Acting DC The meeting resolved to carry out an operation with the objectives of disarming the Degodia and force them to provide names of bandits who were committing crimes in the district [444]

627 As noted previously, despite numerous requests, the Commission was never given the minutes of any NSC meeting, including the meeting of 25 January 1984 The Commission did receive a copy of minutes of the PSC from 26 January 1984 Under the heading of *'Recommendations on long-term policy as a solution to the armed banditry activities'*, the minutes record

> The Chairman informed the meeting that the PSC proposals had now been circulated to the recipients of the PSC minutes [445]

628 This item referred to the minutes of a PSC meeting of 28 December 1983. The Commission never received copies of the minutes of the 28 December 1983 meeting of the PSC, even though it did receive copies of PSC minutes from November 1983 and January 1984 Despite repeated inquiries the Commission was unable to secure a copy of the minutes from the 28 December PSC meeting

629. In his testimony before the Commission, Benson Kaaria indicated that the minutes of PSC meetings were circulated to the KIC [446] It would appear from these minutes therefore that, pursuant to the NSC request for recommendations on how to disarm

443 Army Board of Inquiry "Wagalla Incident – 1984 " p 42 para 103
444 Army Board of Inquiry "Wagalla Incident – 1984 " pp 42-3 para 103
445 Minutes of the North Eastern Provincial Security Committee Meeting Held in the Provincial Commissioner s Office on Thursday, 26 January 1984 Beginning at 2 30 P M , B 6/Vol VI/21, Min 3/84(i)
446 TJRC/Hansard/Public Hearings/ 14 June 2011/ p 27

the Degodia by force, the PSC studied the matter, made some recommendations, and then forwarded those recommendations to, among others, the KIC. Without the missing minutes of the PSC, or any minutes from the KIC and NSC meetings, it was impossible for the Commission to determine both the content of the recommendations made and any action that may have been taken by the KIC or NSC based upon those recommendations.

New directives

630. On 25 April 1984, the Provincial Security Committee of North Eastern Province held its usual monthly meeting in the Garissa office of its chairman, PC Benson Kaaria. As discussed, this particular incarnation of the PSC was soon to be dismantled. Etemesi's recommendation that all officers involved with the operation be transferred was effected soon afterwards. By the next PSC meeting on the 23 May 1984, an entirely new cast of actors had been installed, with Amos Bore as the new Provincial Commissioner. The new PC saw the meeting of 25 April as marking the end of an era, not least because of the departure of Benson Kaaria, the powerful personality who had so defined life in the province for nearly four years.

631 Underpinning Kaaria's departure was an even deeper, more structural and ideological change that marked the demise of the near-legendary autonomy of District and Provincial Security Committees in North Eastern Kenya. That change was signalled by a brief and fairly innocuous-looking minute sandwiched between longer discussions about much more pressing discussions concerning continuing conflict between the Garre and Murulle further up north in Mandera District. The minute read:

> **Min 54/84 Operation by Security Forces**
>
> The contents of the letter OP.3/29A/IV/101 of 29th March 1984 were noted. Whilst the PSC does not want to dispute the directive, it is worth recording that the operations by security forces here are the daily routine and patrols have to be organized on a daily basis to search or track down bandits. Seeking for the approval of the minister before an operation is mounted will seriously delay action, hence too late to save a situation. The alternative would be to withdraw all the security forces and confine them to barracks. The PSC requests the KIC to review the directive. In the meantime the DSC requests clearance to continue with operations as before but to keep KIC informed of the progress of such operations.[447]

632. The Commission was unable to acquire the letter itself but heard testimony confirming its existence from James Mathenge from whose ministry, the Office of the President, it originated:

447 Min 54/84., Minutes of the Provincial Security Committee Meeting Held in the Provincial Commissioner's Office on Wednesday 25th April 1984.

> **Commissioner:** After the Wagalla Massacre, do you remember a letter from the KIC, actually from your own officer which directed the PC North Eastern Province not to conduct any more operations without the minister's approval Do you remember that letter?
>
> **James Stanley Mathenge** I remember that letter [448]

633 Even in the absence of the actual document, the Commission concluded that a simple and clear message was delivered to North Eastern administrators: all security operations had to pass through the Office of the President for authorisation and approval. Once again, it was not difficult for the Commission to detect Etemesi's influence in the new directive His report was just as clear about the team's discomfort with the Security Committees' unfettered ability to launch operations as and when they saw fit and the need for reform.

> In the case of any future major joint operation being conducted, which more often than not are inevitable, proper planning and detailed operation orders should be issued In case of emergency, this may be over-looked Details of any operation and decisions taken either by the PSC or the DSC should always be communicated to the next higher command As much as possible, standing operational procedures should be followed During operations, situation reports covering 12 hours duration and giving detailed progress and future intentions must be sent to the next higher HQ [449]

634. Embedded within the recommendation that notice of impending operations had to be given well in advance was the possibility that operations could be altered or even rejected, especially if, as in the case with Wagalla, they were seen as being poorly thought out Etemesi's report clearly spelt out the need for operations to adopt more stringent thresholds [450]

The aftermath

635 While larger Wajir can be said to have returned to normal, the same cannot be said of the community of survivors and victims For them things had changed completely and irrevocably A central concern of the government was that victims, targets and subjects of the operation, the Degodia, were to have 'their confidence in the government restored as a matter of priority'[451] But the government could not have anticipated the upheaval and instability that the operation itself had caused and the complexity involved in returning to a pre-operation normality

448 TJRC/ Hansard/ Public Hearing/ 15 June 2011/ Nairobi/ p 29

449 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue*, 15th March 1984 20

450 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue* 15th March 1984 20

451 From *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue* 15th March 1984 21

636 It appeared to the Commission that the government's central problem quickly became the restoration of trust and authority in a community of people who had experienced and witnessed government-authorized violence first-hand Wajir District officials who were overwhelmingly outsiders from other parts of the country could find few local allies Bishar Ismail Ibrahim, the Chief of Wagalla location, was dismissed from service on the 29 August 1984 after weeks of wrangling about the nature and content of his attempts to help Wagalla victims, survivors and residents [452] As he described them, his efforts were wide-ranging

> Immediately after 14/02/1984, multiple problems were witnessed in that a good number of breadwinners died Animals, which are the source of livelihood of Somalis died when water point places were closed and herders were kept at the airstrip It was also a time of droughts, there was not enough grazing pasture As the chief of the area, I foresaw that as a big problem The vulnerable groups that are women and children would die of hunger Therefore in order to overcome the problem, I instructed these people to come and settle in Wagalla with their portable huts and 401 families were settled [453]

537 Distribution of food aid in Wagalla put Bishar in even more trouble with senior administrators in the district

> Recently you have been known to make secret appeals for donations from foreigners who are operating within the district The donations are aimed at servicing the interests of a small section of people or your close relatives within your location You have even appealed for them to continue to settle in one area so that they may benefit from your secret deals To be more specific, on 26th May 1984 without prior permission or knowledge from your District Officer or this office, you secretly got a donation of four bags of maize and one bag of sugar among other things from a foreigner who is operating within the district The said foodstuff was transported to Wagalla with instructions that it must be divided at night and to R/Muhammed section to which you belong This annoyed residents of your location and motivated tribal tension As of now your people are very bitter as a result of this incident It is even going to be too difficult to unite them because they have realized you are not an honest chief [454]

638 Bishar was eventually dismissed from service "The foreigner operating within the district" was, Sister Annalena Tonelli and she too met a similar fate on account of her work in and with the Wagalla community. Sister Annalena played a key role in the search and rescue efforts that took place after the operation She was also central to the difficult issue of quantifying the dead While she was initially praised for her contributions, it was also clear to the Commission that the government was not

452 Malul to Ismail, Dismissal from Service 29th August 1984
453 Bishar Ismail Ibrahim Witness Statement 7th June 2011 TJRC NAIROBI
454 Male to Ismail Gross Misconduct 4th June 1984 2

entirely comfortable with the nature of her involvement. Etemesi recommended that she be put under surveillance

> The committee having noted the role Sister Annalena played in this incident wishes to recommend that her activities and her involvement in the TB Manyatta be observed [455]

639 By the end of March 1984, the Wajir District Security Committee had gone further and recommended that Sister Annalena be declared a security risk

> The PSC notes that the DSC has recommended that Miss Annalena who is running the rehabilitation centre be declared a security risk person but they have not given details of her anti-government activities since she started running the centre The DSC should do more homework rather than base their case on her stand in the recent Wagalla incident [456]

640. Sister Annalena had long been understood in the broader Wagalla literature as the person responsible for the internationalisation of the story In particular, she was said to have smuggled a list of the dead out of Wajir to the Nairobi-based wife of an American diplomat, Barbara Lefkow Lefkow then apparently used various channels to carry news of the operation to various international outlets. This, in turn, prompted the diplomatic hue and cry that put Ambassador Kiplagat and the Ministry of Foreign Affairs on the receiving end of a number of formal protest notes After a year of surveillance, Sister Annalena was eventually declared *persona non grata* and deported from Kenya

641 The Commission also found evidence to suggest growing government mistrust of yet another section of the Wagalla population the widows The District Security Committee's decision to secretly dispose of the bodies robbed the bereaved women of the opportunity to bury their husbands As the women sought answers, they were portrayed less as victims and more like rabble rousers using the disappearance of their husbands to make trouble for the government. In April 1984 the Minister of State Justus ole Sunkuli visited Wajir and was, according to Provincial Security Committee minutes, accosted by a number of such women

> The Members of Parliament for the area had responded well and were at Wajir to attend the meeting, but they had organised some four women to embarrass the minister by asking questions as to the whereabouts of their husbands arising out of the Wajir Wagalla incident The women have since been picked up for questioning. The DSC should establish whether there were other leaders involved and take necessary action

455 *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue*, 15th March 1984 21

456 Min 33/84 , Minutes of the Provincial Security Committee Meeting held in the Provincial Commissioner s Office on Monday 26th March 1984

Remorse

642 Many of the submissions received on Wagalla revolved around the victims' and survivors' need for expressions of remorse, sorrow and apology Mohammed Osman spoke for many in Wajir when he said "we want first and foremost an official apology I think that if I wrong you, the first thing is to tell you sorry"[457] The Commission found, however, that remorse, sorrow and regret were in short supply among many of the Wagalla story's central actors because of the association of these sentiments with responsibility, guilt and culpability for the operation and its conduct

643 Tiema apologised for the loss of at least 57 lives that emanated from an operation that was conceived and executed by him and the other members of the District Security Committee His feelings of regret extended to an admission that the operation could have been handled differently and could have had a different outcome

> The administrative approach would have been better where you talk to people, let them see the need for surrendering these firearms, tell them the reasons and then provide them with alternative protection That would have helped rather than going forcefully because maybe these weapons were buried and after we left, you took them out If we talked to them, they would have understood that a civilian approach could have been better than the armed and forceful approach [458]

644 As discussed above, however, Tiema placed a certain distance between himself and the shooting He maintained that responsibility for that part of the operation lay with security men under the command of Major Mudogo, security men whom he described as "serpents" His apology may stem from a sense that he was not a military man and that he had restrained himself and behaved appropriately even amidst the chaos The Etemesi document, however, suggested a different scenario in that Tiema's appearance may not have been as straightforward and as neutral as he has made it out to be Tiema may, in fact, have been engaged in taunting and threatening the men held at Wagalla

> The committee also learnt that when the Acting District Commissioner arrived at Wagalla Airstrip he went around the various groups, that is the sub-sections During this visit, he reiterated his earlier warning that if the people did not name the gang of ten who killed the family of six at Griftu or volunteer to produce their illegal firearms, they were going to remain at the airstrip indefinitely [459]

645 Like Etemesi, the Commission believed that the Acting District Commissioner's presence at the field was far more incendiary and provocative than Tiema was prepared to admit or accept In a sense, therefore, Tiema's apology was therefore

457 TJRC/ Hansard/ Public Hearing/ 18 April 2011/ *Wajir*/ p 15
458 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 44
459 *Report of a Committee appointed to investigate circumstances leading to the recent unrest in Wajir District and the way Government Officials handled the Issue* 15th March 1984 19

one that stopped short of acknowledgement. The former DC's apology was even further compromised by his description of the operation as a success on account of the retrieval of seven weapons from the men gathered at the airstrip

> **Commissioner** Do you in your view think that this operation was successful in getting arms from the communities?
>
> **Manasseh Tiema** It was successful because according to the firearms that were surrendered physically The response was okay. I saw the firearms at the police station and I think it improved the situation to some extent
>
> **Commissioner** Mr Tiema, that is despite the loss of lives?
>
> **Tiema:** I am very sorry for the loss of lives despite the fact that we were able to get most of these firearms from the wrong hands [460]

646 The Provincial Security Committee also described Wagalla as a success Indeed, this was the assessment made barely 24 hours after the operation was called off

> In the course of the interrogations, 4 firearms were surrendered by some of those who were being interrogated This was indeed commendable since the interrogations were yielding the desired results though the unfortunate incident regarding those who died in the entire process is regrettable [461]

647 Benson Kaaria continues to describe the operation as worthwhile If anything, the former Provincial Commissioner was typically forthright in his defence of the operation as successful That at least 57 lives were lost and only four firearms were recovered did not strike Kaaria as tragic and a sign of failure

> **Commissioner** Mr Kaaria did I hear you say it was a success?
>
> **Kaaria** After what they did, it was a success Other than the incident of people dying, it was a success
>
> **Commissioner** So, the operation was a success and the death of the people was an incident?
>
> **Kaaria** It was a success according to us They had achieved what they wanted. The other one was unfortunate [462]

648 Kaaria expressed sympathy for the overall loss of life during the operation but he would not be drawn into issuing an apology The former Provincial Commissioner was absolutely categorical on this He would not apologise because he had nothing to apologise for In this Kaaria returned to the underlying theme of all

460 TJRC/ Hansard/ Public Hearing/ 16 May 2011/ Nairobi/ p 23-24

461 Min 13/84 *The Degodia Defiance Tribesmen Defiance of Government Appeal to Surrender Illegally Acquired Firearms* Minutes of the North Eastern Special Provincial Security Committee Meeting Held in the Provincial Commissioner s Office on Tuesday 14th February 1984 Beginning at 8 45 am

462 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 69

his submissions and representations to the Commission Responsibility for the operation belonged not with the Provincial Security Committee, but with the District Security Committee

Commissioner Would you take full responsibility for the wrong things that occurred during operation?

Benson Kaaria I cannot Everybody has to carry his own cross

Commissioner In this case, who should carry the cross, Mr Kaaria?

Benson Kaaria The DSC Wajir [463]

649 The exchange continued and Kaaria consolidated his position as sympathetic but unapologetic

Commissioner You have no apologies about the deaths, do you have any Mr Kaaria?

Mr Benson Kaaria Even if I do, I cannot revive

Commissioner No! Do you have any?

Benson Kaaria I sympathise, it was very sad

Commissioner You have no apologies as a member of the PSC for having authorised an operation in which people died?

Benson Kaaria I cannot apologise

Commissioner You cannot!

Benson Kaaria On behalf of the DC, I cannot [464]

650 Ambassador Kiplagat began his testimony by acknowledging the enormity of the tragedy that occurred at Wagalla

> I would like to state here that the events that happened at Wagalla Airstrip on that fateful day, 8th February, 1984, can only be described as tragic, where human lives were lost It was, indeed, a great loss to the families But that loss was, not only to them alone, but it was a loss to the community and our country That loss was the loss of the whole of humanity [465]

651 This was, in fact, the strongest expression of condemnation of the tragic events of February 1984 that led to the death of over 1,000 people, not to mention that systematic rapes, killing of livestock, and destruction of homes and other property Yet even Ambassador Kiplagat could not be convinced that the government should apologize for the wrongs committed In questioning from three separate Commissioners, he danced around the issue

463 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 65
464 TJRC/ Hansard/ Public Hearing/ 14 June 2011/ Nairobi/ p 70
465 TJRC/Hansard/Public Hearing/ 6 June 2011/ Nairobi/ p 4

Commissioner: Do you think at the institutional level, the government should officially apologize because I believe they have not done so to date?

Amb Bethuel Kiplagat: It is good to look at the total picture to see what kind of response the government can make in that whole situation. We have to be very careful in what we do, so that we do not cause more problems So, I think it is important to see the bigger picture

Commissioner: So, do I understand that you are not sure whether the government should apologize? We will need to have a better understanding or a more sophisticated understanding of what the effect of that apology would be

Amb Bethuel Kiplagat Not necessarily, I have not said so However, we need to gather more information which will inform us on what we need to do

Commissioner Let me ask that question in another way What sort of information to your mind, would be sufficient to say that the government should apologize?

Amb Bethuel Kiplagat Let us continue receiving a lot of these documents so that we determine the truth and the facts as they happened It is possible that we will discover other documents which can throw greater light into this incident and know exactly what happened. So, I am being cautious Let us gather all the information and then with all the wisdom, we see what is it that we can do in order to heal all the people and to heal Northern Kenya

Commissioner: I apologize Maybe, I am beating this horse a little harder, but let me ask a similar question in a different way Let us take this as hypothetical If we find that 57 people died and seven weapons were recovered let us leave aside people harmed, people raped, people kept outside for five days in the heat and so on So, let us just say what we know, that, 57 people died and seven weapons were recovered That was done by the government We may not know exactly who from the government did it, but it was done by the government Given that situation, would you suggest that the government should apologize for the loss of lives?

Amb Bethuel Kiplagat: It was a terrible loss of lives The first thing is to determine who made the decision to carry out that operation So far, we have not yet done so I think it is absolutely essential to know which individual made that decision

Commissioner: I think we all agree with you on that point Assuming that, that body was a governmental

Amb Bethuel Kiplagat Then the government should apologize First and foremost, we should ask ourselves. Who made the decision to carry out that operation?

Commissioner So, I understand that if it was a government body that ordered the operation, then obviously, the individuals, the body involved and also the government should apologize? To your mind we do not really understand yet who did order it or who was responsible We need to keep our minds open with respect to where that specific apology at a lower level should come from But at the government level, which the question is and particularly where

Amb Bethuel Kiplagat For this case, let us wait Collect more information and with hindsight, let us look at it and see what specifically we need to do Something needs to be done; I am very clear in my own mind As I said here, that was a terrible tragedy

652 And,

Commissioner: Thank you very much Ambassador Kiplagat, for your testimony Just as a follow-up, you have been asked by Commissioner Slye whether you think the government should give an apology and you have answered that, there is need to understand the underlying causes of the Wagalla Massacre before a decision can be made and an unreserved apology can be given I just want to quote from the *Hansard* report, particularly the speech by the minister He said in Parliament, and this is in the record of Parliament, that the Wagalla operation was undertaken by the Army, the Police and the Administration Police I think that is a common ground Just as a follow-up question, if that were the case and these being security organs of the government, should the government apologize to the persons who lost their loved ones during this operation?

Amb Bethuel Kiplagat: We are in the process of collecting information We are doing that I am not saying that the government should not apologize, not at all But I think we need, first of all, to determine the person or the institution that made the decision to carry out that operation That I think is very vital Secondly, for us to have a global understanding of what was going on there I do not want just an apology, it is not enough We may have to do more after getting that information Maybe, we can do much more So I am expecting to do much more than just giving a simply apology

653 And,

Commissioner I recall Commissioner Ojienda had asked you if the government was responsible for the protection of its citizens and you said "yes", which is a good answer Now, when it came to apology, you said we should find out who did what, which is also good I am going to ask you if failure to protect the people - it does not matter the culprit, or who did it According to government figures, there were 57 deaths, property was destroyed, houses burnt and women killed and raped Does that non-protection of its citizens not warrant an apology from the Government?

Amb Bethuel Kiplagat Let me repeat, it is very important that we determine who was responsible for the decision to organize and carry out that event That must be done Again, as I have repeated, let us look at the complete picture and see what recommendation we can make which might even go beyond an apology

Commissioner: Criminal acts were committed by individuals, for which they are liable and there is no question about that I am talking about the general, political and legal principle that the government is responsible for the protection of the security of its citizens In this case, it failed miserably It has not done anything before to protect them, and to compensate them or apologize to them Is there a need for the

government to do something while we search for the people who ordered atrocities to be committed?

Amb Bethuel Kiplagat I believe this is why the TJRC was set up We can come up with proposals as to what needs to be done

654. It was sobering for the Commission to realize that almost three decades after the event, not only were those directly involved in the operation reluctant to apologize for what in the best of circumstances was a well-meaning operation gone terribly wrong, but that even those who acknowledged the event as a tragic crime against humanity were reluctant to recommend that the government should officially apologize to the survivors and their family members

655 Expressions of remorse and regret are no more forthcoming from higher and - indeed - the very highest levels of government and administration President Daniel arap Moi described the security operations of Northern Kenya, of which Wagalla was one, as successful "The security operations of Northern Kenya were successful and the region eventually joined forces with the rest of the country in nation-building" Little in the former President's responses to the Commission indicated any kind of concern for the conduct and outcome of Wagalla and Wagalla-type security exercises Instead, the former President portrayed operations as the natural, even inevitable, result of a difficult security environment

> The events leading to security operations are deeply related to the insecurity that characterised Northern Kenya following the Shifta insurgency in that part of the country There were many illegal arms in the hands of civilians who posed security threats Moreover there are clan rivalries which have caused many deaths [466]

856 The former President did not seem to share the Commission's concerns about the involvement of the military in operations involving civilians and the repeated propensity for such operations to result in mass killings His depiction and understanding of the forces was of disciplined, professional, carefully instructed and professional men at work

> Any security operations are often, as a matter of rule, handled in the most responsible and humane manner Instructions are often given to minimise loss of civilian lives I can assure you that there is no command that authorises cruelty, torture or even rape of civilians Security forces are cautioned to restrain themselves from such extreme action [467]

656. He also drew the Commission's attention to the collaborative nature of such operations with military and civilian authorities working together to respond to security situations

466 Daniel T arap Moi *My views to the Truth Justice and Reconciliation Commission* 21st May 2012, 15
467 Daniel T arap Moi *My views to the Truth Justice and Reconciliation Commission* 21st May 2012, 15

> The Armed Forces Act provides for the military to support internal police forces in emergency cases of insurgency, or extraordinary cases of threat of bloodshed and civilian security Where the threat has been confirmed as warranting support by the military, the military takes command and they operate in collaboration with the police and the paramilitary unit Civilian authority is the local provincial administration which chairs the District Intelligence Committee whose membership comprises of the Officer Commanding Police Division, District Intelligence Officer and the Officer Commanding nearest Military Detachment This committee evaluates the danger posed by a conflict and recommends remedial action [468]

657 The former President's positioning of himself in the Wagalla saga was non-committal He would not provide any specific information on how news about the operation reached him. Instead, he would only offer an overview about military channels of communication

> Reports of use of military reach the President through regular intelligence briefings Reports of military and police operations from Wagalla, Garissa Gubai, Malka Mari and Bagalla would have reached the President's office as a matter of urgency [469]

658 Through the testimonies of Major General Kibwana and Colonel Frank Muhindi, the Commission has established that news about the operation filtered out of Wajir through military sources who continued to signal even as other outlets collapsed into silence The difficulty was to establish precisely when the former President was told about Wagalla Clearly structures were in place for him to have been informed right from the 9th of February when the Wajir District Security Committee met and decided to stage an operation

659 The Commission did not, however, find any evidence to suggest that news about the intention to round up the Degodia made it to the highest level of government that day, though as noted, the Commission did receive some evidence that the events leading up to the operation began with the NSC During the operation itself, all the documents and the evidence made available to the Commission points in the direction of exchanges, and limited ones at that, between Garissa and Wajir and back The Commission believed, but cannot demonstrate, that President Moi may only have been brought up to speed from the 12th of February onwards when the field finally erupted in the gunfire that resulted in the deaths of at least 57 people His sources were most likely to have been military ones.

660 As of the 13th of February, the President may also have been hearing from Provincial Commissioner Benson Kaaria. The testimony of a former Minister of Internal Security was that it was common for Provincial Commissioners to bypass all other channels and simply speak to the President as and when they needed to. Even ministers were locked out of such conversations Silences surrounding communication have

468 Daniel T arap Moi *My views to the Truth Justice and Reconciliation Commission* 21st May 2012 15
469 Daniel T arap Moi *My views to the Truth Justice and Reconciliation Commission* 21st May 2012 15

also prevented the Commission from exploring what happened once the President received news of the operation Whether he responded with a set of instructions for the Provincial and District Security Committees was not established Nor was it possible to be definitive whether Moi himself was behind such high-profile interventions as the dispatching of General Mulinge to Wajir.

661 The former President's submissions did not suggest that he played a more direct operational role in Wagalla Instead he seemed to place responsibility for overall conduct and control of the operation in the hands of the district and provincial administrators In this, Moi clearly aligned himself with the likes of Mathenge and other top-level civil servants in the Provincial Administration and Internal Security The former President, therefore, did not portray himself as personally answerable for decisions made about the operation In his view, those responsible for Wagalla had been appropriately disciplined

> I am aware that certain disciplinary measures were taken against confirmed misdemeanour by public officers during those operations [470]

662 For the former President, only those officers directly involved in the shootings needed to apologise.

> If the commission has received credible evidence of deliberate and heartless actions by officers which exceeded the prevailing circumstances and led to grave violations, then the culprit should take personal responsibility

663 He also had nothing to offer on the issue of reparations

> "The question of reparations has never cropped up at least in my administration"[471]

664 If there is a central theme to the former President's thinking about the security operations of Northern Kenya, it is that he does not appear to understand them as problematic To the contrary, Moi seemed to view security operations as conduits for development because they allowed authorities to tackle impediments to the region's growth; and far from fomenting clan conflict, Wagalla actually created a foundation for more progressive and productive relationships between the different Wajir communities

> The whole saga came to a happy ending The different warring clans have forgiven each other I know this through their evident joint regional approaches to various issues of development [472]

665 For the Commission, it is shocking, disturbing and unbelievable that President Moi would describe an event that culminated in the loss of at least 57 lives as a saga that 'came to a happy ending'

470 Daniel T arap Moi *My views to the Truth, Justice and Reconciliation Commission* 21st May 2012 16
471 Daniel T arap Moi *My views to the Truth Justice and Reconciliation Commission* 21st May 2012 16
472 Daniel T arap Moi *My views to the Truth Justice and Reconciliation Commission* 21st May 2012 16

Malka Mari Massacre

The backdrop

666 Malka Mari is a remote location in what used to be Mandera district Little distinguishes Malka Mari other than a small Kenya Wildlife Service national park that is apparently home to relatively large concentrations of unique plant and animal life supported by a near-permanent supply of water from the nearby Daua River that flows along the Kenya-Ethiopia border Security concerns have meant that the park has gone largely unexplored and largely unvisited since its establishment in 1989. Wildlife experts have expressed concern about the fate of Malka Mari's elephant population because of its exposure to human threats such as poaching [473] But in the face of continuing worries about insecurity, little has been done either to develop the park or to engage in sustained conservation and protection activities

667. Malka Mari is also unusual for a colonial era-fort perched high on a hill overlooking the main settlement The fort was built to protect government troops in a part of the Northern Frontier District that the British found very difficult to bring under administrative control The fort came into play during the Shifta War when Malka Mari hosted a permanent military detachment Along with Buna, Gurar and Moyale where other army posts were also established, Malka Mari became part of the northern defense against shifta activity [474] Malka Mari fort was the location of an undocumented incident that may have taken place towards the end of the war As far as the Commission can tell, a number of military officers were attacked by shifta fighters Fierce fighting ensued The bullet holes in the old fort's walls bear silent testimony to a rare instance of a pitched battle between security forces and the shifta Mandera became one of the first districts to abandon the secessionist cause

668 Angered and dismayed by shifta attacks on the civilian population, Mandera elders and political leaders featured prominently in a delegation that visited State House to assure President Kenyatta of their loyalty and co-operation [475] However, Mandera did not reap much of a peace dividend from its conciliatory approach At the end of the war, the district found itself in the same dispirited circumstances as the rest of the region The economic outlook was bleak on account of widespread livestock losses Levels of investment in health, education and infrastructure were extremely low The onset of drought in the early 1970s further extinguished any hope of a rapid recovery. Mandera's proximity to both Ethiopia and Somalia presented the district with grave security problems particularly during the Ogaden War (1988-78) between the two countries. Mandera, like Wajir, was on the receiving end of a large

473 Patrick Omondi et al Managing human-elephant conflicts the Kenyan experience' (2004) 36 *Pachyderm* 80

474 Major HK Biwott 'Post-Independence Low Intensity Conflict in Kenya' (1992) at http //www globalsecurity org/military/library/report/1992/BHK htm Accessed 2nd March 2012

475 Nene Mburu, *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005) 163

and steady flow of refugees and arms As the Ogaden war wound down, raids and banditry began to emerge as the primary challenge to the overall prosperity and stability of the district

669 Once again, Mandera's location dealt it something of a double blow Bandits with connections to Somalia were active along one part of the border On another part there were incursions from southern Ethiopia, a region that has been described as 'apocalyptic' because of the frequency and intensity of the levels of banditry spawned by prolonged political instability and outright criminality with links to those across the border in Ethiopia. Mandera District was caught up in these currents It was a continuing source of distress and alarm for all levels of government Kenyan officials were also concerned about the frequency of Somali and Ethiopian troops criss-crossing Mandera in order to engage each other as the Ogaden issue rumbled on despite the formal end of the war According to a British cable, President Moi brought this issue up during the November 1980 visit of Lord Luce, the United Kingdom Minister for Africa.

> He said that recently the Ethiopians had crossed a corner of Kenya without the knowledge of the Kenyan authorities to attack Somalis in the Ogaden The Somalis were now taking their revenge on the Kenyans [476]

670 Mandera in the early 1980s was, quite clearly, vulnerable to a number of external security threats Internally, however, the district has been described as somewhat peaceful The different communities and clans maintained a steady co-existence that belied many decades of conflict and tension over pasture and water In years to come, competition between the Garre and the Murulle – the main Mandera clans – would drive the district to the brink of disaster [477] But in the 1980s their relationship was characterized by a functional (if not cordial) co-operation

In the shadows: Malka Mari Operation of 1981

671 Sometime in 1981, a security operation took place in and around Malka Mari. The undocumented nature of this operation is such that the Commission is not certain when this operation actually took place. The best guess is that the operation took place in 1981, but research and testimony have unearthed an array of dates from 1970 onwards. Nene Mburu, for instance, writes of the Malka Mari massacre of 1975 [478] Even Commission witnesses have not offered any clarity or consistency. Some appeared, for instance, to conflate Malka Mari with Bulla Karatasi

476 Internal Security in North East Province, 11th November PRO/FCO/31 2864

477 For details on colonial and post-colonial clan conflict in Mandera, see Ozonnia Ojielo Dynamics and Trends of Conflict in Greater Mandera Amani Papers May 2010 available at http //www ke undp org/index php/projects/amani-papers Accessed 4th March 2012

478 Nene Mburu, *Bandits on the Border The Last Frontier in the Search for Somali Unity* (2005), 244

> In 1980, after the death of a district officer who was killed by bandits at Daadab, a curfew was imposed on the North Eastern Province by the then Minister of State, Internal Security, Hon. G. G. Kariuki, and the curfew order was implemented by the former Provincial Commissioner of North Eastern Province, Mr. Benson Kaaria. This curfew led to the Mandera Massacre and the Malka Mari massacre of 336 persons.[479]

672 The Commission has settled on 1981 because this is the year around which most popular accounts of the operation cluster. It has not been possible, however, to specify a month, much less a specific day. Because the Commission—like many others with an interest in Malka Mari—is dependent on failing memories and fuzzy recollections, it accepts that it may never be possible to arrive at a more accurate understanding of when the operation actually took place. Most accounts of the operation begin with reports of bandits in the Malka Mari area.[480] When news of the bandits reached the security forces, a two-pronged operation was launched. The first stage consisted of giving chase to the bandits. Then the security agents turned their attention to Malka Mari civilians whom they accused of sheltering and supporting the bandits. It was at this stage that the operation was said to have degenerated into violence. Forces were said to have set upon the civilian population with a brutal determination as they sought information on the bandits' whereabouts. The security forces also asked the local population to surrender guns and other weapons.[481]Those who did not comply were dealt with ruthlessly. Men's skulls were said to have been crushed with boulders. Others were reported to have been hung from trees. Rape and other sexual violence were also said to have featured prominently. Mothers were said to have pleaded with soldiers to rape them instead of their daughters.[482] It is possible that an element of rounding up was also involved in the operation. Some Commission witnesses spoke of people from as far afield as Banisa, Takaba and Bute being caught up in some kind of swoop on the local population.[483]

673. Witnesses to events in Malka Mari are few and far in between. Their stories do not integrate into a single coherent narrative. The nature of the operation itself may have been such that it was difficult for people to develop a more coherent understanding of what happened. Even so, the remaining victims retain a strong sense of identity as a group of people who have collectively undergone a terrible ordeal. Malka Mari survivors from Banisa District wrote a memorandum to the Commission outlining the lasting impact the operation had on them.[484] Women

479 Sulemain Mahmud Isaak, *Verbatim Record of Oral Submissions made to TJRC* 25th April 2011 Youth Centre Hall Mandera, 6.
480 See for instance S. Abdi Sheikh, *Blood on the Runway: The Wagalla Massacre of 1984*. Nairobi: Northern Publishing House, 2007, 26.
481 *Memorandum presented to TJRC on Malka Mari Massacre* 16th February 2011. TJRC/MO460.
482 *Report of TJRC Research and Investigations Trip to Mandera and Wajir, 30th January - 12th February 2011*, 7.
483 From *Report of TJRC Research and Investigations Trip to Mandera and Wajir, 30th January - 12th February 2011*, 7.
484 *Memorandum on Malka Mari, Banisa District*, 28th March 2011. TJRC/M1355

raped and assaulted by security officers were shunned by their communities, some of them have never married as a result Others have suffered very serious injuries, including the loss of limbs

The count

674. Malka Mari is treated as a massacre because of the number of people who are said to have been killed during the operation. And yet the biggest unknown surrounding the issue of Malka Mari are the number of dead and, possibly, the disappeared. As with Bulla Karatasi, current estimates cover a broad range On the lower end are figures of between 60 and 70 dead [485] The upper end of the scale is at least 200.[486] It is difficult to say how authoritative any of these estimates are In the absence of verifiable and traceable source material, these estimates should be treated as signposts and signifiers of a death toll that is difficult to tell

675 In addition to the dead, Malka Mari witnesses also spoke about another category of victim people who they never saw again after the operation [487] Three decades later, the disappeared may now have to be thought of as deceased These presumed dead would need to be added to the overall death toll, as would those who succumbed to injuries they sustained during the course of the operation Once again, however, specific numbers of those who disappeared are unavailable

The sound of silence: Official reactions

676 Officially, the Malka Mari operation does not exist The Commission found no government documents, no reports, no investigations, no minutes, no briefing papers and no retired officers able to shed any kind of light on Malka Mari—and indeed—on any other operation in any part of Mandera in 1981 Simply put, there is no official acknowledgement of events at Malka Mari For the Commission, this represented a step backwards from Bulla Karatasi which, while also poorly documented, is accepted as an operation carried out by state security agents who were in turn carrying out operational orders drawn up by the Security Committees The absence of an official version of Malka Mari closed several lines of inquiry off to the Commission It was not possible, for instance, to say where and how this operation was planned With Bulla Karatasi, it was clear that security forces swung

485 Hassan Jelle Hussein a public commentator on Northern Kenya issues has said that 68 people were killed during Malka Mari See Kenya is there a Ray of Hope for the Northern Region?' East African Standard 6th February 2007 An International Centre for Transitional Justice research team has spoken to a witness who apparently counted 73 dead bodies Simon Robins To live as other Kenyans do A Study of the Reparative Demands of Kenyan Victims of Human Rights Violations (2011) 17 Available at http // ictj org/sites/default/files/ICTJ-Kenya-Reparations-Demands-2011-English pdf Accessed 4th March 2012

486 S Abdi Sheikh, *Blood on the Runway The Wagalla Massacre of 1984* Nairobi Northern Publishing House, 2007, 26

487 *Memorandum on Malka Mari, Banisa District*, 28th March 2011 TJRC/M1355

into action following decisions made at the district and provincial levels It also remains unknown what kind of operation was launched and whether it adopted the three pronged approach seen in Bulla Karatasi giving chase to the attackers, rounding up of civilians, screening and interrogation No light can be shed on the forces involved in the operation and the operational orders given to them

677 Searches of material from Kenya National Archives holdings were unsuccessful The Commission cast a wide net and combed through files from the early 1970s to the late 1990s looking for any reference to any kind of operation There was initial excitement about a Mandera District file containing monthly intelligence reports dating back to 1963 and continuing on up to 1992 This excitement quickly turned into disappointment when it emerged that the only information contained in the file was from 1992[488] The reason for this is that monthly intelligence reports were routinely destroyed every three months What this has meant is that a large cache of raw intelligence data has entirely disappeared. It is a loss that goes far beyond the immediate issue of Malka Mari Research and further inquiry into security and intelligence issues on, for instance, the Shifta War have also been seriously compromised by the destruction of such material There is another file which overlaps with KNA/PR/4/63 This file is KNA/PR/4/85 which contains monthly security reports from Garissa from 1980 to 1996[489] Once again however, the reality of the file was that it was dormant on the earlier years (that is the 1980s) and only partially active in later ones with sporadic and intermittent references to uneventful security patrols

678 The Commission's search took in a number of files generated at the provincial level in the hope that they might have captured pertinent correspondence between the Provincial Commissioner in Garissa and the District Commissioner in Mandera.[490] The pattern continued with total silence on the occurrence of a large scale security operation in Malka Mari With no official information the Commission is unable to identify those individuals responsible for the operation The District Commissioner in Mandera was not identified Neither were any of the other members of the District Security Committee The most obvious result of their continued anonymity is that they could not be asked to appear and testify before the Commission With Benson Kaaria, however, the Commission had the person in charge of the province if, and this is crucial, if the Malka Mari operation took place between 1980 and 1984 Mr Kaaria's testimony was that other than Bulla Karatasi in 1980 and Wagalla in 1984, no other operation took place during his tenure

488 *Mandera Secret Monthly Intelligence Report* 19th April 1963 to 3rd November 1992 KNA/PR/4/63
489 *Monthly Intelligence Security Reports* Mandera District 21st June 1980 to 10th April 1996 KNA/PR/4/85
490 *Security for PC Only* 7th December 1976 to 13th January 1981, KNA/PR/8/15 Also, *Security for PC Only* 16th March 1981 to 16th March 1982 KNA/PR/8/16

Leader of Evidence: Between 1980 and 1984, in your recollection, were there other situations within the province that would have required the conducting of an operation?

Benson Kaaria: I do not remember but as I can recollect there was none

Leader of Evidence: So, are you saying, as the PC, between 1980 and 1984 your region was peaceful and there was no need for an operation

Benson Kaaria: If it were not for these killings of the DO and the other officers, the province was peaceful [491]

679 The testimony and timeline of retired Colonel Frank Muhindi may support Kaaria's insistence that Malka Mari was an earlier operation Muhindi was a long-serving army officer who like many military men had become familiar with northern Kenya during the Shifta War Muhindi returned to the region for four months in 1979 as the second-in-command of the 9th Battalion of the Kenya Rifles which had a unit in Moyale Muhindi's testimony was very unclear and he seems to suggest two scenarios The first involved his and his battalion's participation in an operation near Malka Mari

> As the Battalion Commander in NEP [North Eastern Province], what I can say is that we have general operations and we had a unit in Moyale in Northern Kenya We carried out a large operation in Moyale where there was cross border conflict and internal ethnic clashes We used to believe that the local community was getting support from their kinsmen in Ethiopia I remember I went to a place known as Malka Mari where there was an attack on a Kenya Army unit, but I cannot remember the details I want to mention that Kenya Army lost soldiers in the course of duty, although I cannot remember the number They were killed by shiftas and it was sometimes difficult to distinguish whether the attackers were Kenyan shiftas or Ethiopian militia [492]

680 In the second scenario, Muhindi suggests that the operation did indeed take place but that neither he nor his battalion had anything to do with it.

Leader of Evidence: And you have said that there was an incident at a place called Malka Mari that resulted in loss of lives?

Col (Rtd) Frank Kariuki Muhindi: Yes

Leader of Evidence: While we were in the northern region, we did receive evidence from a number of witnesses who also spoke of this incident and their recollection is that the army again moved in and confined people in their manyattas and interrogated them Do you have a recollection of engaging in that operation?

491 Benson Kaaria *Verbatim Record of Oral Submissions made to TJRC* 14th June 2011 NHIF Auditorium Nairobi 26
492 Col (Rtd) Frank Kariuki Muhindi *Verbatim Record of Oral Submissions made to TJRC* 24th June 2011 NHIF Auditorium Nairobi 5

Col (Rtd) Frank Kariuki Muhindi: *Not at all.*

Leader of Evidence: Okay. You have said that the army unit was attacked and you are not clear whether it was by the Kenyan shifta or the Ethiopian militia?

Col (Rtd) Frank Kariuki Muhindi: That is correct.[493]

The Malka Mari dilemma

681. The nature of Malka Mari has presented the Commission with something of a dilemma. If an operation is undated, undocumented, unacknowledged and—above all—has resulted in an unknown number of dead, how can it still be said to have generated a massacre? For answers, the Commission returned to certain observations made in relation to Bulla Karatasi. Security operations in North Eastern were predisposed to result in mass violence. Three elements were identified as being responsible for this pre-disposition. The first was the Internal Security Scheme which gave Provincial and District Security Committees enormous latitude and powers of discretion to react to emergency situations. The second was the incorporation of military officers into civilian operations. The third element consisted of the collective punishments applied to entire populations regardless of questions of individual guilt or innocence. A fourth but entirely obvious element was that the challenging security environment in Northern Kenya (instability in Ethiopia and Somalia, weapons proliferation and so on) meant that operations were much more likely to be staged there than in other parts of the country.

682. Consensus has it that the Malka Mari operation took place in 1981. The Commission placed great significance in the timing. It is possible that Malka Mari was staged only a matter of months after Bulla Karatasi. The implications of this are that the administrative and operational infrastructure that may have permitted mass killings to occur in Garissa was unchanged. It is highly unlikely that the Internal Security Scheme would have undergone any modifications that could have, for instance, curtailed the District and Provincial Security Committees' ability to autonomously launch large-scale security operations. Committees in 1981 still held on to the power to respond to emergencies without referring to any other arms of government and administration; the Commission saw no evidence to suggest otherwise. Similarly, no adjustments had been made to rule Army officers out of civilian operations. Above all, it would have taken more than a few months to dislodge the generations-old attitudes that characterize all Northerners as potential or actual supporters of shifta. That stereotyping of the

493 Col. (Rtd) Frank Kariuki Muhindi *Verbatim Record of Oral Submissions made to TJRC* 24th June 2011, NHIF Auditorium Nairobi, 6 7.

Somali and other communities in Northern Kenya dates (at the very least) all the way back to the war. One account of Malka Mari suggests that the 200 men set upon were innocent herders who had no associations with bandits [494]

683. That there existed in Mandera the conditions for a large and violent incident draws most of its strength from the recollections and testimonies of witnesses who have not wavered from their central claim that an operation and a massacre took place in and around Malka Mari The collective memories of these people could not be dismissed simply because they lacked some of the details necessary to establish the occurrence of the killings

Further explorations

684 While the undocumented state of Malka Mari presents challenges, it also presents a number of opportunities for further research The main goal of such research would most certainly be to locate more detailed and specific information on events. Because of their age, Malka Mari witnesses, victims and survivors need as a matter of urgency to be interviewed Thirty years on, it is unreasonable to expect that people with direct connections to the event will be alive for very much longer Surviving administrative and security officers must also be included amongst those who require identification and interviewing An initial sweep through files and correspondences has indicated that considerable chunks of vital documents have over the years been regularly shredded or otherwise destroyed However, all may not have been lost It was regular practice for District Security Committees in North Eastern to share copies of their minutes and intelligence reports with other committees (within the province) as well as with committees in neigbouring Coast and Eastern Provinces, the rationale for this was that security issues sometimes crossed administrative boundaries It may thus be possible to locate Mandera-related security material elsewhere

685 Witnesses and survivors have also spoken about mass graves that may contain the bodies of Malka Mari victims Imole, Nulis and Kirwaheri in Northern Mandera have all been mentioned as places where bodies may be found. Once again, there is a need for speed The aging generation of witnesses who hold so many of Malka Mari's memories would also be helpful in locating such graves Such informants might also have further details on the specific circumstances surrounding the creation of the graves The burial sites might also allow for specialized forensic work

494 S Abdi Sheikh *Blood on the Runway The Wagalla Massacre of 1984* Nairobi Northern Publishing House 2007 26

A Massacre of Children: Turbi Massacre

Introduction

686 The Commission recognized that, over the years there have been various violent conflicts among the pastoral communities in northern Kenya that have led to the loss of hundreds of lives and gross violations of human rights. Marsabit, just like many other parts of northern Kenya, has been affected by these conflicts. The conflicts in Marsabit have pitted the Borana and Gabbra communities against each other, culminating in the Turbi Massacre of July 2005 where 95 people were killed and several others injured. Of these 95, approximately twenty were children killed within the grounds of Turbi primary school. Several hours afterwards, a further nine people were killed in revenge for the killings in Turbi. This killing of nine people is what is referred to as the Bubisa Massacre.

687 This section of the Chapter examines the nature, causes and impact of both the Turbi and Bubisa massacres with special emphasis on the experience of children. It will also make recommendations with the aim of preventing any massacre recurring between these pastoral communities of Marsabit district.

The context

688 Marsabit County is an arid and semi-arid region in the northern part of Kenya largely inhabited by pastoral communities. It is one of several counties that have been carved out of the old Eastern Province. Marsabit's neighbours are Turkana, Wajir, Moyale and Isiolo Counties. The administrative and commercial hub of the county is Marsabit town.

689 Marsabit residents speak eloquently yet bitterly about their lives in this very remote and difficult part of Kenya. A Borana elder, Mr. Abdikadir Kaaru Gullet, presented a memorandum on behalf of his community to the commission and testified to life of marginalisation characterized by gross violations of human rights. Like many others in Northern Kenya, Mr. Gullet traces the region's woes back to the colonial period.

> The colonial legislation eventually became the Kenyan law which is mentioned here. The outlined Restricted Districts Ordinance of 1992 became Cap 103 of the Laws of Kenya. This Act declared Northern Kenya a closed district. That is, movement in and out of the district was prohibited and was only possible with a special permit. It is only in this part of the country that one needs a visa to travel in and out as if we are in a separate country rather than Kenya. This naturally shows the attitude of isolation and separation vis-a-vis

with the rest of the Kenyans The former Northern Frontier Districts were administered under a regime of law that rendered them distinct from the rest of the Kenya colony. That had the effect of encouraging separateness of identity and nurtured a Kenyan outlook and attitude which turned out to be costly to Northern Kenya at the time of the emergency [495]

690 As will become clear, the story of the Turbi Massacre is one characterized by patterns of conflict and competition between the county's inhabitants A number of communities call Marsabit home. the Samburu, the Turkana, the Gabbra, the Burji, the Borana and Rendille It is also home to some Somali and Ameru traders and migrants The numerically dominant ethnic group in Marsabit are the Borana, who make up 60 percent with the remaining 40 percent shared by Rendille, Gabbra, Samburu, Turkana and Burji [496] The Samburu live in the South and have been in conflict with the Turkana The Gabbra and Borana share a language and cultural identity The Borana are found in both Kenya and Ethiopia The Turkana are affected by the conflict because some residents consider them to be immigrants into the county and their presence is often unwanted [497]

691 The massacre itself occurred in Turbi Location of Marsabit County Turbi is a small town located some 130 kilometres North East of Marsabit Town, and lies directly on the boundary between Marsabit and Moyale counties This boundary has been the source of much conflict, exacerbated by politicians from both North Horr and Moyale Like most settlements and urban centres in Northern Kenya, Turbi is rural and isolated The population is primarily nomadic, moving with their cattle in search of pasture and water. There is very little infrastructure, and the only visible structures are the *manyattas* Undeniably, Turbi area is one of the least developed in Kenya The roads are all dirt which turn into mud whenever it rains and become almost impassable Turbi witnesses painted pictures of poverty and deprivation for the Commission

> We do not have hospitals When women are in labour they are taken to Sololo, most of them die on the way We do not have any development worth mentioning The Government is not making any effort to help us Sometimes we take expired drugs because we do not know how to read the prescription We just put our hope and trust in God because no human being can assist us [498]

495 TJRC/Hansard/Public Hearing/Marsabit/04 May 2011/p 2

496 Report of the Intergrated Agriculture Development Consult (IADC) Assessment and consolidation Report on Existing Approaches and Best Practices in Cross Border Peace Building and Conflict Mitigation and Strengthened CSOs Across the Ethio-Kenya Border December 2009 p 15

497 Report of the Intergrated Agriculture Development Consult (IADC) Assessment and consolidation Report on Existing Approaches and Best Practices in Cross Border Peace Building and Conflict Mitigation and Strengthened CSOs Across the Ethio Kenya Border , December 2009 p 9

498 TJRC/Hansard/Public Hearing/Marsabit/5 May 2011/p 2-7

692 Since there are limited banking and other financial services, most of the residents' wealth is found in their camels, cattle and goats. Cattle raids are frequent in this area leading to a vicious cycle of raids and counter-raids The pastoralists are armed with modern rifles which they are quick to use in order to protect their cattle and themselves There is limited water, placing strains on both the people and their livestock The people share rain water with their livestock and wild animals The general perception in the area is that the government has neglected them because they are a minority

> We hear a lot about the Government, but we hear and see nothing concerning development in our area ad education, we are so backwards Since the animals were taken away, we are so poor and have a lot of problems Whenever they come and ask us about our experience I feel a lot of pain inside me I have only that and that is what I can say [499]

693 Ethnic, clan and community conflict are long-standing features of life in this particular part of Northern Kenya Marsabit's many peoples are locked in frequent and deadly conflict over pasture, territory, water and more recently political and economic power There are various cleavages but what powered the dynamics of the Turbi massacre is the rivalry between the two main groups, the Borana and the Gabbra

694. As has been established in other sections of this Report, there is often a retaliatory quality to conflict in many parts of the region The first incident in the long chain of incidents that eventually exploded in Turbi and Bubisa was marked by the killing of a Gabbra man at Turbi by members of the Borana community. In response, members of the Gabbra community stole 728 goats from the Borana A meeting was held in Turbi between Gabbra and Borana elders on September 6, 2002 to resolve the conflict The elders resolved that peace be maintained Two days later, on September 8, 2002, a follow up meeting took place at Sololo, Moyale District Administrators, members of peace committees, and opinion leaders from both Moyale and Marsabit districts attended The peace committees were asked to recommend compensation based on the Garissa declaration, as a result the Borana community was asked to pay 100 cattle in compensation for the one person killed, and the Gabbra community was to give to the Borana three times the number of goats they had taken Both parties opposed the peace committees' recommendation for compensation Other meetings were thus held on the 16th and 17th of September 2002 in Yabello, Ethiopia The two communities reinforced their commitment to peace and the situation temporarily calmed down

499 TJRC/Hansard/Public Hearing/Marsabit/04 May 2011/p 21

695 On the 17th of October, 2002, another meeting was held at Funnanqumbi (near Turbi) to seek solutions between the two communities No agreement was reached because neither of the communities was ready to pay compensation as recommended by the Peace Committee Thus, a resolution was passed restricting the sharing of resources between the two communities Borana living in Funnanqumbi were denied access to Turbi town and Gabbras were deprived access to Rawana and Waldaa water points, which are the nearest permanent water sources controlled by the Boranas Though calm continued after the passing of these resolutions, tension returned in November 2002 and continued throughout 2003 A year later, on December 22, 2003, a congregation of 6 prominent Gabbra leaders from Moyale undertook a peace campaign amongst the Gabbra in Turbi, Bubisa and Marsabit for a week Afterwards, these leaders held discussions with their Marsabit counterparts and organized a joint Marsabit and Moyale meeting on 12 February 2004 in Turbi This meeting did not take place because the Turbi people scuttled it claiming they had not been sufficiently informed, even though the Moyale Boranas had turned up in big numbers This meant that tension remained throughout 2004 and early 2005 There was no sharing of resources or exchange of animals throughout this period

696 In March 2005, the Gabbra and the Borana communities at Turbi and Rawana met with little external facilitation, though no resolutions were achieved. Finally, on May 23, 2005, the two communities at Rawana and Turbi reached an agreement The Gabbra people would return the 728 goats and the Borana would compensate the Gabbra for the dead person according to Borana law The Gabbras agreed and handed over the goats on 30 May 2005

697 However, the peace lasted for only two weeks On 5 June 2005, three out of five Ethiopian Boranas who were travelling amongst the Gabbras were killed near the Ethiopia border In a revenge attack Ethiopian Boranas invaded the Gabbras villages along the Kenya-Ethiopia border and stole animals The Borana leaders and the government condemned the actions and quickly recovered the stolen animals In the meantime, Ethiopian Boranas made peace with the Kenyan Gabbras and made a pact that the Gabbras would not attack the Kenyan Boranas in revenge Nonetheless three herds of Borana cattle were stolen from Marsabit and Hurri hills In addition, a Borana chief and his reservist were also shot dead Hence, some Boranas retaliated by burning Gabbra houses in Marsabit and killed a Gabbra The final trigger appears to be the killing of six Borana in their sleep around Forole, near the Ethiopian border

Turbi: 12 July 2005

698 Matters finally came to a head on the morning of 12 July 2005 started just like any other day in Turbi Mothers were preparing their children for school Others

were still sleeping, while teachers and standard eight pupils at Turbi primary school were about to begin their morning studies. During this morning routine the raiders, armed with sophisticated weapons and machetes, descended on the small village of Turbi. The attackers left a trail of destruction at the trading centre and the Turbi Primary school. They also burned to the ground most of the dwelling places (*manyattas)* in the village.

699. Turbi Primary School was the picture of normality with students deeply engrossed in their morning lessons. That was all to change very quickly. The Headmaster, Mr. Guyo Isacko, told news reporters that he had arrived at the school that morning when he heard shooting from the lower side of the village. When he went outside to check what was happening he saw armed raiders had surrounded the school. He quickly ran to warn the pupils in the lower classes to run and hide. Unfortunately the bandits followed the children. The Headmaster managed to hide himself in the bush as the raiders pursued the children into the villages.[500] The account of the schoolmaster was later reaffirmed during the Commission's hearings. Ms. Elizabeth Killi Talaso, who witnessed the raid and killings, recounted how nine pupils were shot and killed in cold blood as they huddled together on the dusty floor of the houses in which they had sought refuge.[501]

700. The school had about 294 pupils before the attacks. The nursery section had about 56. The school had 12 teachers in total. Of these Twenty two pupils were killed, twenty injured and fifteen school camels for the feeding programme and utensils were stolen. The raiders also stole relief food meant for pupils. One teacher lost twenty three camels. The attacks were highly organized.[502] Some students recognized the attackers as parents of some of their schoolmates and called them by name as they asked 'why are you killing us?'[503]

701. First, it is believed that the school was targeted because it was considered the heart of the community and thus the best target to have the greatest impact on the Gabbras. Second, it would appear that the attack on the School was planned. The Commission gained access to certain reports which indicate that three weeks before the attacks ten Borana children were removed and

500 Njeru M. (2005) ' Survivors tell of their battle with the raiders on how they cheated death' Daily Nation, July 14, 2.

501 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 8 and also TJRC/Hansards/Public Hearing/04 May 2011/p. 21 and also TJRC/Hansards/Public Hearing/05 May 2011/p.2

502 Marsabit conflict Assessment Report, 21st-28th July 2005, This was a report from a mission undertaken under the auspices of the National Steering Committee on Peace and Conflict Management (Office of the President) with the support of a consortium of NGO's. The mission was undertaken immediately after the Turbi massacre with the aim of carrying out an independent and objective assessment of the conflict situation in Marsabit District, P.35.

503 Njeru M. (2005) ' Survivors tell of their battle with the raiders on how they cheated death' Daily Nation, July 14, 2.

transferred from the school[504] This suggests that their parents might have known that an attack was imminent. Eighty pupils were orphaned as a result of the massacre Many of these "Turbi orphans," as they are sometimes called, have not been able to return to school A witness told the Commission that; 'The children who were left have no caretakers as their parents were killed'[505]

The Manyattas

702. Various witnesses narrated to the Commission how armed raiders surrounded the small clusters of huts known as m*anyattas* in Turbi on the morning of 12 July 2005 Starting from 5.00 a m onwards, the *manyattas* were attacked and their residents were shot or hacked to death by rifle and *panga*-wielding raiders Women and children were killed and livestock taken by the raiders Chakullisa Kayua, a woman who resides in Turbi and is a survivor of the massacre, testified before the Commission

> We were still sleeping because it was 5 00 am but the kids were up We heard gun shots and then we tried to put our children under the beds, so that they could hide I took the kids under the bed However, I feared that they might torch the house, I took the kids outside later We ran out and they tried to shoot us, but they were not successful At 9 00 am we were able to come back [506]

703 This account of Mama Chakullisa Kayua was similar to that of Ms Abdullahi Shongolo, who told the Commission that she first heard gun shots around 6 00 am, and they continued until 9 30 am Mama Elizabeth Killi Jirma Talaso recalled how raiders who masqueraded as home guards woke her up at around 5 30 am They asked her and her children to get out of the house if she wanted to be saved She however realized that they were masquerading and ran with her children into hiding Mama Elizabeth Killi Jirma Talaso in tears recounted how people were killed as she watched from her hiding place in the bush near her *manyatta* She told of the story of how an elderly woman who was in her 90s and a much loved lady by the people of Turbi was killed She also witnessed the killing of children who were still breast feeding She sobbed as she recounted watching an infant who was about six months old have his head smashed on a rock In addition, she told the commission about a woman who was killed while in labour despite the fact that the midwife was attending to her

504 Marsabit conflict Assessment Report 21st-28th July 2005 This was a report from a mission undertaken under the auspices of the National Steering Committee on Peace and Conflict Management (Office of the President) with the support of a consortium of NGO s The mission was undertaken immediately after the Turbi massacre with the aim of carrying out an independent and objective assessment of the conflict situation in Marsabit District P 35

505 TJRC/Hansards/Public Hearing/Marsabit/04 May 2011/p 21

506 TJRC/Hansards/Public hearing/Marsabit/04 May 2011/p 20

'There was a woman who was in labour pains and had a midwife known as Kardhoroba Sharavu This woman was killed there and then in that condition The mother of Sharavu is called Gudid Jaro who was also there Their children and husbands were with the animals out there They had run away The animals were taken away and the people who were injured and others who were unconscious were carried to the road We told the priest of Sololo that our people had been killed and asked him whether he could take the injured to the hospital, but he refused and proceeded on with his journey I sat amidst the people injured and dead people and cried I appealed to God to come to our mercy, so that justice could be done' [507]

704 The death toll of the massacre would have been higher had it not been for two administrations police officers and three home guards who put up a brave fight with the raiders before running out of ammunition Mr Mamo Godana Guyo described to the Commission how these two administration police fiercely exchanged fire with the raiders [508] The Commission was unsuccessful in its attempts to track these officers down in order to obtain their version of the events and recognize their dedication to the community It is quite clear to the Commission that their efforts need to be given formal recognition and commendation

705 Mr Mamo Godana Guyo narrated to the Commission how he saw his elderly father being shot and killed He also testified that his mother's house was filled with blood and was slippery such that he was unable to walk as four bodies of his relatives lay on the floor Among the bodies laying there was one of a young girl called Elema who was a standard four pupil Elema was not dead, nor was she shot, though she had been cut The witness together with his in-law rescued Elema, his mother, and others who were still alive Mr Mamo Godana Guyo further stated that the raiders took all their livestock near their homestead cattle, goats, donkeys, camels and even the dogs Mr Mamo Godana Guyo personally lost thirty camels He also testified that they counted seventy-two dead bodies lying on the ground The dead lay strewn all over the village They were only buried on the following day, 13 July 2005, in a mass grave, though some were buried in the homestead of the deceased persons This witness also stated that some bodies have never been traced to date [509] More than 100 people were wounded in the massacre but were not taken to the hospital because the raiders repeatedly returned to the village, mounting six sporadic raids throughout the day [510]

507 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 7-12
508 TJRC/Hansards/In-Camera Hearing/Marsabit/06 May 2011/p 12
509 TJRC/Hansards/In –Camera Hearing/Marsabit/06 May 2011/p 12
510 Mwangi O G 'Kenya Conflict in the Badlands The Turbi Massacre in Marsabit District' *Review of African Political Economy* NO 107 81-91

Revenge Massacre: Bubisa Massacre

706. On the afternoon of 12 July 2005 near a smaller trading centre called Bubisa, which is about 80 kilometres from Turbi, four children and six adults were killed They were all Boranas and were from Sololo parish They were members of a church group, catechists who had travelled together with their wives Among them there was Andre Abduba Wako, who survived but whose wife and child were killed during the massacre.

707 Mr. Andrew Abduba Wako testified before the Commission that the church group was travelling from Sololo parish in Moyale District to attend a family life leadership workshop organized by the Catholic Church in Marsabit town They were in Toyota Land cruiser belonging to Sololo Parish. The vehicle was driven by an elderly Philippine priest, Father Adrin Joseph Janito They had left Sololo around 7 30 am for Marsabit On reaching Turbi trading centre they found a dead body in the middle of the road People standing alongside the road signalled to the priest to proceed. The situation in Turbi was bad as there was so much tension and everyone was armed [511]

708 According to Mr Andrew Abduba Wako, when the priest's car reached Bubisa at round 12 00 p m, which is some 40 kilometres North of Marsabit and 80 kilometres from Turbi, they found the road blocked with stones There was a huge crowd of people who were armed with *rungus*, spears, sticks, *pangas* and guns who signalled for the priest to stop and asked him if he had any information about the Turbi students who were killed that morning When the priest answered in the negative, they asked him about the identity of the people whom he was carrying in his car and he told them that they were Christians from his Sololo parish They then said that, 'what they have done to our people at Turbi is what we are going to do to them now'

709. At that point, the priest was forced out of the car and the car keys were confiscated The road was blocked with stones and a lorry had blocked the road from behind At that point, the priest was ordered to step aside and Mr. Wako and the other ten people with whom he was travelling were forced out of the car, cruelly beaten and killed as the priest watched in horror Mama Fatuma Ali Jadesa, who lost her daughter in the Bubisa massacre, also reaffirmed this account of events as recounted by the Priest to her when he arrived in Sololo Mama Fatuma told the Commission that her daughter was travelling to Turbi that morning together with the priest when a lorry blocked the priest's car and her daughter together with the other passengers were stoned to death [512]

511 TJRC/Hansards/Public Hearing/Moyale/02 May 2011/p 2
512 TJRC/Hansards/In Camera Hearings/Marsabit/06 May 2011/p 15 -19

710. The attackers, however, thought that everyone was dead Mr Andrew Abduba Wako was in fact not dead, although badly injured He survived to tell the story of the Bubisa massacre Mr Andrew Abduba Wako testified before the commission how he narrowly escaped death·

> They used stones to try and finish us I was hit on the head I sustained a big cut on the eye My arm was badly injured Even my leg was broken My waist was also badly injured I was not born disabled My disability was a result of the injuries I sustained during that incident I became unconscious We were collected from there and taken to another place So, I was unconscious I did not know when I was removed from there and who removed me I even did not know the number of days I spent I just found myself, one early morning I heard birds singing and realized that it was in the morning My body was covered with stones When I looked around me, I found dead bodies I heard a young child crying but I did not know who it was At sunrise, I saw Government officers They started firing their guns I thought that the enemies had come back and tried to hide myself The officers approached me I lay still on the ground I could hear what they were saying but I could not stand up I heard the name "Balgaja" called out I then heard people speaking Bantu language I heard the name "Balgaja" called out repeatedly It was apparent that Balgaja was being interrogated I heard him being asked "Where is your wife and which is your child?" When I heard Balgaja respond, I raised my hand so that I could be seen From there, I was taken to Marsabit and then to Sololo Hospital'[513]

711 The Commission was able to establish that after the killings the dead bodies were put into the priest's vehicle and driven away into a bush towards Marsabit where they were dumped Later on they returned the vehicle to the priest whom they held captive all day and night. The attackers forced the priest to stay with the attackers at Bubisa until the next morning when he was picked by his superior Father Alex, who was the Vicar General, Marsabit Diocese, and sister Betta at around 9 00 am [514]

712 Witness accounts of the Bubisa massacre confirm that it was intended as a revenge attack against the Boranas by members of the Gabbra community to avenge the massacre at Turbi Ms Fatuma Ali Jaldesa shared this belief when she testified before the Commission

> 'I do not know, but I think it was because the Gabbra people were attacked I think they were travelling their way and they wanted to revenge That was why they stoned them to death'[515]

513 TJRC/Hansards/Public Hearings/Moyale/02 May 2011/p 3

514 These account has been abstracted from the formal statement made by Father Adrin Joseph Janito on 13 July 2005 at Marsabit police station

515 TJRC/Hansards/In-Camera Hearings/Marsabit/06 May 2011/p 15 -19

713. The opinion of Mama Fatuma was shared by another witness, Bishop Ambrose Ravasi, who informed the Commission in his testimony that Father Adrin Joseph Janito was spared because he did not belong to any of the warring communities. Bishop Ravasi also testified that the priest had informed him that before they were attacked and killed, the attackers had accused the church group of belonging to a community that killed their relatives in Turbi In addition, the priest informed Bishop Ravasi that he had been warned against speaking of what he had witnessed in Bubisa [516]

The response

714 When news started filtering out on that fateful morning that hordes of people, including school children, had been killed, the police displayed a casual attitude that left the journalists who kept seeking updates about the casualties perplexed [517] Ordinarily police officers are expected to move with lightening speed in response to cases of violence or insecurity Yet this was not the response in Marsabit Indeed the Commission learnt that it took more than twelve hours for the report of the Turbi massacre to reach Marsabit district headquarters In fact the then OCPD of Marsabit, Mr Amos Cheboi, confirmed that there were communication challenges 'communication was very poor and, therefore, we could not communicate with Marsabit or Isiolo"[518]

715 The Commission was also informed that officers in Marsabit had been overwhelmed at the time because they lacked adequate resources Mr. Cheboi disclosed that the entire Marsabit region had only one police vehicle He also testified that the OCS had no vehicle and the officers were able to only cover two places Forole and Aladi The OCPD also informed the Commission that Turbi location had no police station, it was served by Forole Police Station, which is approximately 40 kilometres away Turbi did however have an administration police camp, though with only two policemen [519] It was difficult for the two police officers to respond when Turbi was attacked given that they were grossly outnumbered To adequately address the attack they would have had to seek reinforcements from the Provincial headquarters or even from Nairobi, neither of which were feasible at such short notice

716 Residents in Turbi, together with their leaders, had warned the government that tension between the warring communities were building up in the district from January 2005, and that these tensions were due to the increase in sporadic killings more than the retaliatory attacks. These sporadic conflicts should have been seen

516 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 26
517 Daily Nation newspaper July 15 2005 p 8
518 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 37-54
519 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 37-54

by the government as early warning signals , thus enabling it to put in place conflict prevention measures and provide adequate security in the area Mr Amos Cheboi informed the Commission that there had been tensions in Marsabit since 2004 He also said that the police were informed that there would be attacks in Marsabit, especially in Forole and Aldai. The police therefore fortified Dukanao, Aldai and Forole, stationed one police vehicle in Dukano and Forole, and alerted the officers in Turbi because they had no police station there [520]

717 With hindsight it is difficult to understand why the police choose to provide increased protection to Forole and Aldai but not to Turbi This is even harder to understand given that the government had received information of an impending attack on Marsabit The fact that the provincial administration and the security intelligence apparatus were unable to detect that something was likely to happen in Turbi even after receiving reports on possible attacks in Marsabit is curious The Commission was told that, way before the massacre, there were rumours going round that there would be an attack, and the police were aware of those rumours Mr Mamo Godana Guyo told the Commission

> 'The Committee on Security and Peace had a meeting and they talked about the rumours that we would be attacked They told us that they would take the information to the police to be passed to the Government We thought that the Government heard and that it would help us, but nobody assisted us The person who told us about the rumour was from Marsabit His name is Issako Orto He told us that he wrote a letter to the security offices but we do not know if it was true We want you to follow up and find the truth'

718 Thus the utter disregard of the concerns raised by community leaders and residents of Marsabit to the state security apparatus was responsible for the failure to prevent, or even to be prepared for, the massacre

> 'In July, the school and manyattas were invaded and my son who was in class eight was killed Many children and women were murdered There was nowhere we could run to, so we stayed in the same place There were only two administration police men and Marsabit, Sololo and Moyale were very far so the rescue team could not come immediately The raiders stayed in our village up to 2 pm and eighty people were killed The plane that carried the soldiers came two days later and stayed in the hills and they saw the people who had been killed and the animals that were being driven away Nobody came to our rescue We asked ourselves why we were not rescued yet we were born in Kenya Just imagine 21 children were killed These children were supposed to be the future leaders of this country' [521]

719 Notwithstanding this general unpreparedness and lack of action on the part of the government, the two administration policemen who camped in Turbi and the six police reservists all put up a brave fight against the many raiders who invaded Turbi

520 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 37-54
521 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 2

village on the morning of 12 July 2005. The two AP officers were only identified to the Commission as Mr Welda and Mr. Sololo They fought with the raiders until they ran out of ammunition and then took off for the bush to protect themselves Two of the six police reservists were killed and another one injured during the fight, possibly because they were ill equipped

720. While the Turbi massacre was happening, the OCPD together with the District Security Committee were meeting in Isiolo, some 300 kilometres away, where they were hosting the Commissioner of Police. Mr. Amos Cheboi admitted to the Commission that the police took a long time to arrive in Turbi as they were far from the scene of the massacre and there were few police officers in the region Upon receiving information about the massacre, Mr Amos Cheboi instructed the OCS, who was at Marsabit town, to organise himself to leave immediately for Turbi The OCS left for Turbi with some police officers The OCPD also communicated with the Provincial headquarters in Embu and he was instructed to depart for Turbi They were supposed to travel by air to Turbi, but according to Mr Amos Cheboi it was taking longer to arrange air transport, so they decided to travel by road and arrived in Marsabit at around 2 00pm

721 When the OCS arrived in Turbi he immediately pursued the attackers and caught up with them at a place called "Benale" They fought and the OCS managed to recover some animals They also received reinforcement from officers from Moyale The OCS and the officers from Moyale tracked the raiders up to the border with Ethiopia Some of the officers then returned to Turbi with the recovered animals The remaining officers pursued the attackers Additional people joined the effort in Turbi, including the Provincial Police Officer and Deputy Commissioner of Police Since it was now getting dark, they postponed the operation to the following morning The following morning, the OCPD accompanied by other officers went to Moyale to inform their counterparts in Ethiopia about the raid and attack The Ethiopians promised them that they would search for the stolen animals The Ethiopian government ultimately recovered 30 camels, which were handed over to the Kenyan police [522]

722. On receiving news of the Turbi massacre, the Ministry of Internal Security dispatched security forces to the area to track down the bandits and restore peace to the region. Two thousand soldiers from the military, the general service unit, and regular and administration police were flown to Marsabit and the neighbouring districts to track down the heavily armed bandits Military and police helicopters were also deployed to enhance aerial surveillance and assist the ground forces [523]The

522 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 37 54
523 *Daily Nation* 14 July 2005 2-4

then Member of Parliament for Mandera Central, Mr Billow Kerrow, nevertheless criticised government efforts

> The use of military jets, tanks and helicopters may be a show of strength by the government, but it will not resolve the conflict What we need is a different show of strength by the government-one characterised by economic opportunities, better rangelands management, development of infrastructure, recognition of the pastoralist way of life and peace-building dialogue [524]

723 The residents of Turbi were also sceptical, emphasising that the security personnel were unlikely to arrest the bandits since most of them were believed to have crossed over into Ethiopia The state security forces are usually outwitted physically and psychologically in terms of target areas, escape routes, and livestock recovery Raiders usually plan their escape routes in advance, picking terrain that will pose the greatest difficulties for police officers This they do by ensuring that any pursuit must be on foot and therefore slow They also ensure the routes to use are unfamiliar to the police officers The raiders also always split themselves into different groups forcing the officers to separate or go after one band of raiders In terms of livestock, the raiders also play with numbers If for example, they took 2000 animals, they may decide to give back 200 back in batches of 50 animals to the police in order to discourage any further hot pursuit Again, when the police officer find the 50 animals they are forced to secure them or assign an officer to drive them back to the base Thus when the number of such recoveries the officers would have reduced and would consider any further chase unwise forcing them to stop pursuit instead of risking death or injury

724 While making a ministerial statement to parliament on the Turbi massacre, the then Minister for Internal Security, the late Hon John Michuki stated that by dusk of 12 July 2005 the security forces had killed ten of the bandits and recovered 5,000 sheep, 60 heads of cattle, 4 donkeys and 10 camels [525]

The church

725 On the afternoon of 12 July 2005, six catechists, two women and two children were killed at Bubisa apparently in revenge for the Turbi massacre The six catechists were attached to the catholic church in Sololo Parish in Marsabit District The catholic church condemned their killings Twenty-eight Catholic Bishops expressed shock at the killings and described them as barbaric The Commission was informed that the Kenya Episcopal Conference had sent a statement a day after the Bubisa massacre also condemning the killings The Kenya Episcopal Conference also urged the state to be more responsive to the needs of the residents of Marsabit and to

524 B Kerrow This massacre could have been averted *Daily Nation* 19 July 2005 9
525 Daily Nation 14 July 2005, 5

provide adequate security in the region The Bishops also urged residents of the affected areas to avoid ethnic hatred and conflict and instead preach and practice peace as a means of conflict resolution.[526]

726. Notwithstanding these reactions by the Catholic and other churches, many residents of Turbi and victims of the massacre blamed the church for its neglect on the day of the massacre. A very emotional witness, Ms Elizabeth Killi Jirma Talaso, testified before the Commission while sobbing that she had approached a catholic priest who was driving through Turbi to Sololo and requested him to take her injured and dying son to Sololo hospital. The priest refused She blames the priest for the loss of her son, who died in her hands

> 'I felt very bad I cried and said what I could not have said to the Father I told him the accident which actually happened to me, and cursed him, I wished that what had happened to me befall him too In the tradition of Christianity, I should not have said that, but it was out of the stress I was in at that time I also prayed later after that so that God forgave him and me too I do not know whether that father is still alive We happened to be in the same parish, but he did not help'[527]

727 Bishop Ambrose Ravasi testified before the Commission that the Catholic Church had helped the residents of Turbi bury the bodies of the dead people in Sololo and in Sueni according to the wishes of the family The church had also paid the medical bills of all those who were injured The church, in collaboration with the government, provided food to and constructed houses for the affected people Bishop Ambrose Ravasi pointed to the Gabbra Settlement program, which was started and run by the church In addition, the church had offered an apology to the survivors and those who had suffered from both the Bubisa and Turbi massacres The Church also sponsored a school and built a church in Turbi since there is a large group of Christians in Turbi Bishop Ambrose Ravasi testified that the church did not understand the causes of the massacre at Turbi and Bubisa The Church is of the view that the two massacres were not caused by any religious rivalry or conflict in the area The Commission heard no testimony, nor received any information, that would challenge that conclusion The Bishop testified.

> Even today, we are asking ourselves and wondering what caused the incident and why they killed so many people in Turbi Then they killed the Catechist who happened to be a Borana from Sololo who was passing through Turbi He was from the Gabbra community and he was headed to Bubisa where the Gabbra people settled Why they killed them is still not known up to today That incident was regretted very much and we insist that the truth of this matter be found'[528]

526 Daily Nation 16 July 2005 p 4
527 TJRC/Hansards/Public Hearing/Marsabit/05 May/2011/p 7-12
528 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 26

728 The Bishop also shared his disappointment that nearly seven years since the massacres there had not been any investigations into their cause To this end, the Bishop informed the Commission that the church has been working very hard to restore peace in Marsabit For instance, the Church has supported efforts to bring rival communities together to create a common understanding of the massacres, and thus opening the door for apology, forgiveness, and reconciliation The Bishop acknowledged that this was an uphill task which has not been successful for most of the residents It was Church's view that a thorough investigation of the massacres leading to holding those responsible accountable would assist the community in coming to terms with the massacres Subsequently, however, the church focused more on bringing healing to the local communities

> 'I do not think we did any report to the police or the authorities, but we carried out investigations As a matter of fact, in the Diocese, we have our own department which deals with such matters We have the Justice and Peace Commission They looked into the matter carefully, but it was a very delicate and dangerous situation Certainly, what we did was to convince the people to accept what had happened and which could not be changed Then we organized several meetings of reconciliation As a matter of fact, we did it in collaboration with the Government'[529]

729 Still, it was clear from the testimonies and other information provided to the Commission that the residents of the region, especially the survivors, were very bitter over the Church's failure to report and investigate the massacres Witnesses from the area also blamed the Church for failing to aid the police in their efforts to identify, arrest and prosecute the perpetrators of the massacres

730 The Catholic Church transferred Father Adrian Joseph Janito to the Philippines before the conclusion of the investigations of the Bubisa massacre The transfer of Father Janito rendered any investigations of the Bubisa massacre fruitless, and thus closed the door to any form of accountability for the perpetrators

731 Bishop Ambrose Ravasi informed the Commission that the Catholic Church and especially the diocese of Marsabit were saddened at the killing of the catechists because so much had been invested in their training The church had trained the catechists for three years Even up to the time of the writing of this report seven years after the massacre, the Church has not replaced the catechists at Sololo Parish This is attributed to the hard work, time and resources involved in their training, which makes it difficult to find volunteers to take on the position

529 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 29

The politics

732 With the coming into power in 2003 of President Kibaki's Government of National Alliance Rainbow Coalition (NARC) Kenya undertook an important transition toward establishing a truly democratic society committed to the protection of fundamental human rights There was hope that the repression that had so characterised past regimes would become a thing of the past. However, in the case of Northern Kenya things remained pretty much the way they have been since independence

733 Marsabit, just like any other part of northern Kenya, remains a major challenge in terms of security Since the advent of the NARC government, violent conflicts in Northern Kenya increased and took on new characteristics As a result, the new government has been accused of not doing enough to address the short and long term causes of conflicts in Northern Kenya as well as lacking an effective response mechanism to these conflicts when they occur The events surrounding the Turbi and Bubisa massacres can well illustrate the failure of the government to provide security to its citizens

734 Residents of Turbi criticized the government for failing to prevent the massacres Ms Shugli Korowa, a resident of Turbi and a victim of the massacre, testified that the government did not protect them against external aggression by the OLF attackers[530] The same sentiments were expressed bother witnesses who testified before the Commission For instance, one witness stated that the government failed to protect its citizen and failed to act despite reports by Chiefs and local leaders on the impending attack in 2005. This witness stated, 'Way before the massacre there had been rumours that there would be an attack The police were aware of those rumours but nothing was put in place to avert any attack on innocent women and children'[531] The Commission met with victims and survivors who were very bitter about the government failure to protect them against this brutal massacre even though it had been warned of an imminent attack Bitterly, and amongst sobs, a witness told the Commission

> Had the government acted on the warnings we would have been spared We were never before exposed to any massacre It was a sad day that we are still struggling to forget but never goes away[532]

735 Following the massacre, the state admitted that it was partly to blame for the killings that rocked Turbi and Bubisa on 12 July 2005 The then Eastern Provincial Commissioner Mr John Nandasaba acknowledged that the government did not

530 TJRC/Hansards/Women s Hearing/Marsabit/ p 37
531 TJRC/Hansards/In-Camera/Marsabit/06 May 2011/p 11
532 Testimony of Shuglis Alma Korowa

respond as quickly as possible. He stated 'the massacre would have been averted had the government acted on the information it had received'[533] The state's weak response to the massacre and failure to protect the citizens was also pointed out by one scholar who stated that

> The government, read police and military, can only respond after an attack, and quite often, the raiders outwit them More accurately, the security forces allow themselves to be outwitted by the raiders And once the heat dies off, leaders and government officials will go back to their usual routine, until the next incident occurs And that is where they are failing us'[534]

736. The Commission learnt that, way before the massacre, a local Member of Parliament had got wind of the imminent attack and called a press conference on 22 June 2005 at which he had accused some Marsabit politicians of using OLF to kill people and destroy private property He therefore pleaded with the Local Security Committee to send in the para-military General Service Unit to deal with the OLF issue Nonetheless the Provincial administration disregarded this plea The then Eastern Provincial Commissioner, Mr John Nandasaba is on record for acknowledging that, 'It is true that we were slow in responding to the request to send in the general service unit personnel and it is very painful'[535] The Commission noted that the Turbi massacre took place 20 days after the above-mentioned press conference which was held on 22 June 2005

737 The Commission also heard testimony on how the state had equally failed to focus on addressing the deep rooted hatred that has given rise to massacres in northern Kenya The state has failed to adopt effective conflict prevention and resolution mechanism Instead, the state has narrowly focused on military solutions to solve problems that require a more comprehensive approach This has led to disastrous consequences The manner in which the state responded to the Turbi massacre indicates a lack of capability to provide adequate security to the residents of the region, also illustrates the lack of basic infrastructure and personnel within the security forces in Marsabit Ms Abdullahi Shongolo, a resident of Turbi and a victim of the attack, testified that at the time of the attack there were only two Administration police officers in Turbi She stated, 'we felt that because our community is very small, then maybe that was why the Government was not helping us We are a minority group Maybe that is why the Government does not identify us as the real citizens of this country'[536]Another witness testified that at the time of the massacre many divisional administrative

533 Daily Nation 16 July 2005 4
534 A Marunga Address the root cause of violence Saturday Nation 16 July 2005 p 8
535 Ibid and also TJRC/Hansards/In Camera Hearing/Marsabit/06 May 2011/p 10-14
536 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p 5

offices within Marsabit District did not even have vehicles [537] Yet another witness testified before the Commission

> I was born in Turbi I live in Turbi, So, I am a Kenyan citizen However, we do not believe in the Government of Kenya because, at the time we were raided, there were only two police officers in the whole location These were Mr Welda and Sololo I may be illiterate, but I know that the Government has power I do not know why they did not help us I think they did not help us because our MP was in KANU and that is why we were not assisted I believe both the majority and the minority should be given equal rights The Gabbra people are few We want our voice to be heard The people who were murdered were around 80-90 years My dad was 85 years old when he died My father always used to lead us in the right path [538]

738 As civilians were being attacked in Turbi on the morning of 12 July 2005, President Kibaki was attending the opening of that year's Nakuru Agricultural Show He condemned the attacks as barbaric and sent his condolences to the families of those who lost their lives in the attacks ' as citizens who seek peace we condemn the attacks of innocent civilians'[539] The President also appealed for calm in Marsabit as the government was tracking down the perpetrators In addition he revealed that a team had bee n deployed on the ground to assess the situation and to ensure that injured Kenyans were provided adequate assistance [540]

739 Though the state acknowledged that it was partly responsible for the attack in Turbi, it defended itself against the allegation that the Turbi massacre was as a result of its gross negligence of Marsabit district and the entire northern region The state instead shifted the blame on political ethnocentrism. Following the massacre, the government said that it was aware of the hostility among the communities, particularly among the politicians, and emphasised that the conflicts were fuelled by political leaders in the area However, the then Member of Parliament for Saku constituency , Hon Abdi Sasura, accused the internal security minister of blaming the leaders unfairly. He said the minister had been misled by his officers on the ground 'the government should stop passing the buck if police have failed to do their work' This sentiments were also expressed by the then member of parliament for North Horr, the late Hon Bonaya Godana

> they are simply giving excuses for the massacre The government is aware of the activities that have been taking place in the district and it knows who has been working with foreign militias [541]

537 Kerrow B (2005) Death in Marsabit This massacre could have been averted Daily Nation July 19 9
538 TJRC/Hansard/In-Camera Hearing/Marsabit/06 May 2011/p 10-14
539 Daily Nation newspaper July 14 2005, p 3
540 Daily Nation newspaper July 14 2005 p 3
541 Daily Nation 14 July 2005

740. It was clear to the Commission that ethnic, political intolerance and hostilities among political leaders from the region contributed to the massacre. However, the state still bears some responsibility for the massacre because it failed to create and enhance social cohesion and consensus among leaders and residents of the various ethnic communities.

741. The state's immediate response to the need for ensuring security to the residents of Marsabit was minimal. The state only provided, alongside civil society organisations such as the Red Cross Society of Kenya, relief food to displaced persons. The state also failed to set up an emergency fund to assist the bereaved, displaced and those whose houses were burnt down by the attackers. The state was also blamed by another witness for failing to help him and other victims provide a proper burial for those killed.[542] In fact it is the view of the residents of Marsabit that had the state responded immediately and provided adequate security in the area, fewer people would have died, especially in the revenge or retaliatory killings at Bubisa. Ms Abdullahi Shongolo told the Commission that; 'we did not get any help. We were given maize by the NGOs. It is them who helped us. We did not get any help or support from the Government. We were dying because of them.'[543] The residents of Turbi expressed their bitterness and pain about the government during the Commission's hearings. This bitterness continued because even after the massacre in 2005 the government continued to ignore them. Mama Elizabeth Killi Jirma Talaso bitterly told the Commission:

> I asked him to look into our rights and look for ways and means of solving our problems. Since the DC left, we have not seen any Government agency or personnel, or any help from the Government. The next time we saw the Government was during the elections because people came to us looking for votes. When they came asking for votes, they were in aeroplanes, yet they were unable to recover our animals. They came and asked us to give them our votes, but we told them when our animals were stolen and we were killed, they never assisted; so, how could we possibly give them votes'.[544]

The search for justice

742. Since the Turbi and Bubisa massacres of July 2005, the victims, survivors and residents of Marsabit, together with their leaders, have been seeking justice, which has proven elusive over the years. The government has neither brought the culprits to justice nor put in place mechanism to avoid the massacres from recurring.

743. The Turbi and Bubisa Massacres are some of the worst incidents of human rights violations in modern Kenya. Although the government was not directly involved,

542 TJRC/Hansards/Public Hearings/Marsabit/04 May 2011/p.20-22
543 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p.3-6
544 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p.9

It has however been accused of complicity in the massacres by not providing security to residents in the region. On its part, the government has blamed political factors as the main cause of the massacre The Commission was told that the state began investigating the political dimensions of the conflict and, in the process three Members of Parliament from Marsabit District were summoned by police to record statements over the massacre These members of parliament voluntarily recorded statements but accused the state of political persecution and the police of planning to use them as scapegoats over the killings

The Bubisa Trial

744 Mr Patrick Mugo, the then Deputy CID officer, Eastern Province, was the investigating officer of both the Turbi and Bubisa massacre He testified before the Commission that he launched investigations into the Turbi and Bubisa massacres immediately upon arriving in the area He recorded various statements from victims and survivors of the massacre He also carried out a full sweep of the area which led to the arrest of many people, some of which were illegal immigrants who were then tried in the Magistrates court at Marsabit However, the Commission was not able to acquire any court files or documents in relation to that trial Mr Mugo also told the Commission that some other people were identified by the Turbi people as the perpetrators of the massacres, and those individuals were taken to court after the completion of the investigations But this witness never provided the Commission with any names of the accused person in relation to the Turbi massacre nor any proceedings of that alleged trial In fact he could not even recall the number of the case In view of that, the Commission finds it difficult to believe that there was any trial initiated at all over the Turbi massacre

745 On the Bubisa massacre, Mr Mugo informed the Commission that during the course of his investigations he came across the vehicle that was driven by the priest and that had carried the 10 people who were killed at Bubisa According to Mr. Mugo, the vehicle had so many stones inside, bloodstains and the windscreen was smashed As a detective, he therefore concluded that there was violence at the time of the massacre

746 After the conclusion of the investigations, a criminal trial was commenced Mr Mugo informed the Commission that this criminal trial was initiated against 3 people, the *Marsabit Criminal Case No 1753 of 2005, Mamo Wako and 3 Others*, which started on 5th August, 2005 The first accused person, Mr Mamo Wako, was the then chief of Bubisa while Mr Robert Guyo was the then Assistant Chief and Mr Galgalo Barile was the owner of the lorry that had blocked Father Adriano Janito's vehicle As discussed above, the police were never able to interview the eye witness, Father

Adriano Janito, because he was flown to Nairobi and thereafter repatriated to his home country of the Philippines Mr Mugo also recalled that during the course of his investigations he visited the congregation centre at Nairobi and recorded a statement with the police and the provincial conveyor Mr Mugo had informed the Provincial Conveyor that Father Adriano Janito's testimony and presence was very important for the investigation and any subsequent criminal trial But he was informed that the priest had left the country of his own free will

747 The Commission heard that Mr Mugo had contacted Interpol to help locate the priest, but they were unable to do so As of the time of the writing this report, Father Adriano Joseph Janito had not been traced Mr Mugo also told the Commission that upon the start of the criminal case he was transferred to Western province and handed over the file to the officer who replaced him He also recalled that he was called to testify in the trial at one time in Marsabit Magistrate Court, but the case never proceeded as the Magistrate was not sitting He later informed the Commission that he was told that the case had been withdrawn by the state under section 87 (a) of the Criminal Procedure Code, Cap 75 of the Laws of Kenya [545]

748 The case was withdrawn under section 87(a) of the Criminal Procedure Code, Cap 75 Laws of Kenya after Interpol informed the police and the investigator that it was unable to trace the priest The police and the investigators were of the opinion that even though there was one eyewitness, Mr Andrew Wako, who survived the Bubisa massacre, his testimony would not have been adequate to warrant a conviction since it could not be corroborated. They accordingly forwarded the file to the Attorney General who advised the DCIO to withdraw the case under Section 87(a)[546] of the Criminal Procedure Code, Cap 75 of Laws of Kenya While responding to a question asked by the Commission Mr Patrick Mugo clarified

> **Leader of evidence:** Thank you very much The second clarification is that you indicated that the case was withdrawn for one of the witness You also indicated that the sole survivor Andrea Wako also wrote a statement From your position as a senior officer, could this not stand as a direct eyewitness to hold the case?
>
> **Mr Patrick Mugo** My Lords, Commissioners, according to me, that statement could stand if you go by what is in Section 143 of the Evidence Act, where no particular number of witness are supposed to prove any fact But the rule of the court, the previous ruling and the precedent - even the High Court may say it is unsafe to convict on uncorroborated evidence In my opinion, I think that was why the Provincial Criminal Investigations Officer (PCIO), who took over from me, decided to seek the authority of

545 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 54-67

546 Section 87 of Criminal Procedure Code provides that In a trial before a subordinate court a public prosecutor may with the consent of the court or on the instructions of the Attorney-General at any time before judgment is pronounced withdraw from the prosecution of any person and upon withdrawal –
(a) if it is made before the accused person is called upon to make his defence he shall be discharged but discharge of an accused person shall not operate as a bar to subsequent proceedings against him on account of the same facts

the Attorney-General Even if it was me, I could do the same because why should I take a case which was not well corroborated?'[547]

749 Mr Amos Cheboi confirmed the account of Mr. Patrick Mugo He testified before the Commission

> The two witnesses gave evidence in court, but the eye-witness, that is Father Aldrin, after writing the statement, he went and we never knew where he was When he was writing his statement, he informed us he was going to Nairobi We were in dire need of him because he was the only witness who could give us information In the court, we could not proceed with the case without him After some time, we sought advice from the Attorney-General and he agreed that we could withdraw the case under Section 87(a) which can allow us also to re-arrest the suspects when Father Aldrin came So, that is how the case of Bubisa transpired'[548]

750 It is therefore the Commission's view that the Kenyan Government should have requested the cooperation of the Philippines government in tracing Father Adriano Joseph Janito It appears that the case against the accused persons for their alleged responsibility in the Bubisa massacre can still be re-opened This is because acquittal under section 87(a) of the Criminal Procedure Code, Cap 75 Laws of Kenya is not a bar to a subsequent trial

The impact

751 The Turbi and Bubisa Massacres have had very negative and severe impacts on the communities living in Marsabit, especially the Gabbras and Boranas. It is worth noting, however, that other than the two tragic massacres that befell Marsabit in 2005 and which attracted great attention, killings continue at a smaller but steady rate, and thus do not attract the same level of attention as the massacres The Commission's independent research, witness testimonies, and memoranda and statements submitted by residents, victims and survivors of the massacres, revealed several consequences of the massacres in Marsabit These include the loss of human life, property and displacements of large segments of the communities. The massacre also disrupted the socio-economic situation and increased hatred between the two warring communities, thus leading to restriction of movement and environmental degradation, especially around water points According to residents these restrictions and environmental degradation led to the loss of livestock, hence deepening poverty The Commission also established that the provision of food aid among the displaced groups resulted in an unprecedented level of dependency within the community

547 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 60
548 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 40

Loss of life

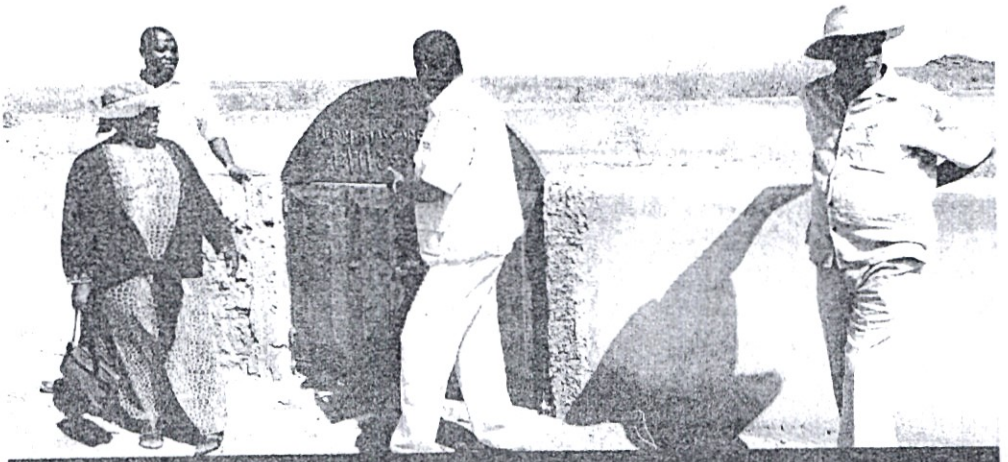
752. Life is sacred. Section 26(3) of the Constitution of Kenya, 2010 provides that every person has the right to life. No innocent person shall be intentionally deprived of their life except to the extent authorized by the Constitution or any other written law. The right to life is one of the most basic human rights. The fundamental nature of the right to life is also clear from the fact that it is non-derogable, meaning that it may not be abrogated even in time of war or other public emergency threatening the life of the nation.

753. It is speculated estimated that when 800-1000 raiders surrounded the small village of Turbi in Marsabit County, their aim target was to massacre the entire village. There are contradictory reports on how many people actually died. An official government assessment carried out by the Office of the President immediately after the massacre concluded that 50 people were killed and 25 injured. Newspapers reported 89 people killed and 46 injured, of which 10 of them were said to be close to death. The District Medical Officer in Marsabit, Dr. Mukiri Mukuria, was reported to have received ten adults and fourteen children as patients from Turbi.[549] Mr. Mamo Godana, a survivor of the massacre, testified that he had counted seventy two dead bodies on the ground on that fateful morning of 12 July 2005.[550] Mama Elizabeth Jirma Talaso told the Commission that over eighty bodies were lying on the ground and close to 100 people were injured.[551] It is therefore obvious to the Commission that the death toll in Turbi was between fifty and 100 people, but it is difficult to give an accurate number because some bodies were buried hurriedly in accordance with Islamic law.

754. Bubisa was different from Turbi. There is no uncertainty over the number of people who died. All agreed that ten people were killed in Bubisa: 6 men, 2 children and 2 women.[552] Mr. Andrew Abduba Wako survived with serious injuries: 'they used stones to try and finish us. I was hit on the head. I sustained a bit cut on the eye. My arm was badly injured. Even my leg was broken. My waist was also badly injured. I was not born disabled. My disability was a result of the injuries I sustained during that incident'.

755. The Commission spoke with victims and survivors of the two massacres who shared with the Commission fond memories of their dead relatives. Most of the victims of the massacre were women, children and elderly men. Mr. Mamo Godana Guyo, a resident of Turbi and who witnessed the massacre, testified:

549 'Kenya's killing fields', Daily Nation, 14 July 2005, p. 1
550 TJRC/Hansards/In –Camera Hearings/Marsabit/06 May 2011/p.11
551 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p.7-12
552 TJRC/Hansards/Public Hearings/Marsabit/05 May/2011/p.24-36



TJRC staff visiting the mass graves at the site of the Turbi massacre in Wajir.

> Then women and children ran away. There was a lot of fighting, but I had never seen men killing women and children before. I can say they killed the kids but we knew that the next generation, the commissioners of tomorrow, were them. For now I can say they are gone.[553]

756. Mr. Mamo Godana Guyo lost his father and several relatives in the massacre. He told the Commission that his father, a loving elderly man of 85 years old, was shot dead in the presence of his son as he tried to run away into hiding. Mr Mamo had very fond memories of his father. He told the Commission that the old man was their strength and used to lead them in the right path, and he used to give them advice on all issues of life. He affectionately referred to his father as a good father and a wise man.[554]

757. Elizabeth Killi Jirma Talaso, who lost her son during the massacre, recalled the reaction of the then Provincial Commissioner (PC) who had visited Turbi after the massacre. The PC told the residents that he had not seen such a massacre where women and children killed. She testified about the PC's visit:

> even if there are problems in a whole society, they had not seen people who come and kill children and women in labour pains; because children had been killed alongside their mothers. They had not seen that kind of massacre, even though they had been seeing wars; they were Kenyans born in Kenya but they had never seen that kind of a massacre. I was the one who spoke to the PC and I told him since Independence, I had lived in the country but I had not seen that kind of a problem before. I was born in Kenya and I had not seen such kind of a problem?[555]

758. The Commission witnessed the sorrow and pain that the victims of the Turbi massacre live in today because of the loss of their loved ones. During the Commission's public hearings, most witnesses relived the experience and could

553 TJRC/Hansards/In-Camera Hearings/Marsabit/06 May 2011/p. 12
554 TJRC/Hansards/In-Camera Hearings/Marsabit/06 May 2011/ p.10-12
555 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p.9

not help but break down during their testimony to the Commission. For instance Commissioner Berhanu Dinka empathized with the pain and suffering of Mama Fatuma Jaldesafor the tremendous loss in the death of her daughter and grandchild. The Commissioner had to interrupt the session and console Mama Fatuma while sending her for counselling by the Commission's staff. Mamma Fatuma Jaldesa's daughter and her child had travelled together with Father Adrian Joseph Janito to Marsabit when they were attacked and killed in Bubisa. Ms. Abdullahi Shongolo sobbed while recalling the memory of her son who was a standard eight pupil at Turbi Primary school. Her son boy was killed in the Turbi massacre at the primary school. Ms. Abdullahi Shongolo told the Commission through tears:

> My son was a very clever boy, Adano Tura, who used to help me all the time. On weekends, he used to fetch water and firewood for me. He was 14 years old. He used to help me in all the domestic chores and he used to do a lot of things for me.[556]

759. Many children were orphaned. This has increased their susceptibility to poverty and human rights abuses. Although the Commission received contradictory information on the actual number of orphans in Turbi, it is estimated that there are around 80 children who were orphaned by the massacre in Turbi alone. Many of these children have been traumatised and the government has neglected them and failed to provide counselling. It is thus the civil society organizations at both grassroots and national levels that have appealed to qualified counselling personnel countrywide to volunteer their services to the affected children.[557] The Commission was told by a witness that, 'we had a lot of problems supporting the poor people, and the orphans we had. The children who were left behind had no caretakers as their parents were killed'.[558]

Socio-economic impact

760. The impacts of the massacre in Marsabit on economic activities are many. They include reduction of farming activities, concentration of livestock in small areas where there is water and pasture, stock theft, looting and destruction of property, displacement of people, and highway banditry. The massacres have resulted in widespread poverty and have adversely affected human security. Hunger is often severe and can last for many months, thus increasing dependency on relief food which they receive from the state, civil society organizations, and other aid agencies.[559]

556 TJRC/Hansards/Public Hearing/Marsabit/05 May 2011/p. 7

557 Mwangi (2006) 'Kenya Conflicts in the Badlands': The Turbi massacre in Marsabit District', Review of African Political economy NO. 107:81-91, 83.

558 TJRC/Hansards/Public Hearings/04 May 2011/p.20

559 Mwangi (2006) 'Kenya Conflicts in the Badlands': The Turbi massacre in Marsabit District', Review of African Political economy NO. 107:81-91, 84.

761 Many of the residents of Turbi have been left destitute since the livestock, which are their only means of survival, were taken away during the massacre The people of Turbi, like other pastoralists, depend on livestock for sustenance and as their primary source of income and wealth Livestock allows them to acquire food and to educate their children In Turbi alone, almost 12, 000 animals were stolen out of which fewer than 50% were recovered [560] In fact the then OCPD of Marsabit District, Mr Amos Cheboi, testified that they only recovered 25 camels out of the suspected 6,000 stolen The high levels of poverty in Turbi are thus partly explained by the massive livestock raids during the massacre Mama Chakullisa Kayua, a victim of the massacre, told the Commission, 'Since the animals were taken away, we are so poor and have a lot of problems I have only that and that is what I can say'.[561] Mama Chakullisa's opinion was verified by many other witnesses to the Commission who identified the stock theft as the major cause of poverty in Marsabit and in particular in Turbi.

762. Apart from losing animals, Mr Denge Recha, a then police constable attached at Kilifi police station, also lost his job Mr Denge Recha had travelled to Turbi from Kilifi to attend to his family upon receiving news that there was a massacre in Turbi He lost his livestock during the massacre One day after the massacre he was informed by a police reservist, a Mr Wario Raga, that there was a vehicle that was ferrying goats which had been recovered by the police after the raid He was informed by this police reservist that his animals might be amongst those recovered On receiving this information Mr Denge rushed to the police station where he discovered that some of the goats bore his identification marks As he was identifying his animals, the OCPD for Marsabit, Mr Amos Cheboi, approached him and he identified himself as a police officer A fight ensured between the OCPD and Mr Denge

763 The Commission was shown a video clip in which the OCPD slapped his junior officer after Mr Denge accused his Senior of being bribed and of performing his duties with bias This was followed by a bitter exchange of words between the two officers Some officers intervened and Mr Denge proceeded to the report office to file an assault complaint against his senior He was instead arrested and put in the cell for a few hours under the instructions of Mr Amos Cheboi until the Provincial Investigating Officer, Mr Patrick Mugo, intervened Mr Denge was freed after a search was undertaken in his home to ensure that he did not have a fire arm as the

560 See Marsabit Conflict Assessment Report 21st 28th July 2005, This was a report from a mission undertaken under the auspices of the National Steering Committee on Peace and Conflict Management (Office of the President) with the support of a consortium of NGO s The mission was undertaken immediately after the Turbi massacre with the aim of carrying out an independent and objective assessment of the conflict situation in Marsabit District p 12 also Mwangi O (2006) Kenya Conflict in the badlands The Turbi Massacre in Marsabit District Review of African Political Economy NO 107 81-91 81 also Daily Nation 19 July 2005 3

561 TJRC/Hansards/Public Hearings/04 May 2011/p 20

OCPD had alleged The OCPD went on to lodge a complaint against Mr Denge with the Commissioner of Police which resulted in the termination of the services of the police officer, Mr Denge [562]

764. The Commission is of the view that Mr Denge Recha was not accorded fair treatment by both the OCPD and the Commissioner of Police He was not given a fair hearing in accordance with the rules of justice In fact, Mr Amos Cheboi was the complainant, prosecutor, and judge at the same time concerning the misconduct alleged against Mr Denge Recha It is interesting to note that according to the police standing regulations, Mr Denge could only initiate a complaint through the OCPD who assaulted him The entire process was stacked against Mr Denge and did not accord the officer an appropriate channel to lodge his complaint, thus violating the fundamental principles of fairness and the rules of natural justice

765 It appears that the Commissioner of Police acted hastily and failed to adhere to the regulations in terminating Mr Denge's services It is hard to understand why the Commissioner of Police only issued a warning against Mr Amos Cheboi, whose actions are suspect, and at the same time terminated the services of Mr Denge who had been subjected to harassment and assault by the same Mr Cheboi. Mr Denge was not even given an opportunity to appeal against the decision of the Commissioner of Police It is unfortunate that the complaint which had been launched by Mr Denge was never acted upon by any authority Mr Denge told the Commission a fact that was not denied by Mr Amos Cheboi

> So, after one and half months, I received a dismissal letter which stated that "Your service has been terminated because of disrespect to Mr Amos Cheboi" So, I wrote an appeal and I was told that I should appeal through the office of Mr Amos Cheboi who was the person who insulted me He is the person who recommended that I should be sacked and locked me up without taking me to any court for trial Up to now, as I am speaking, I have never got any reply of my appeal I was only told by other officers that my appeal had been rejected, although I did not receive that communication So, I felt that I had been denied justice'[563]

766 Mr Denge felt that he was mistreated and dismissed because he had implicated Mr Amos Cheboi in the conflicts in Marsabit He presented to the Commission a letter he had written to the Commissioner of Police about Mr Amos Cheboi's role in the conflicts The letter read in part,

> Sir, I being a resident of the district understand fully the likely root cause of the trouble boiling in my own district Indeed, the ammunitions used in attacking innocent villages

562 TJRC/Hansards/Public Hearings/Marsabit/04 May 2011/p 41-47 and TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 40-42 and also TJRC/Hansards/Public Hearings/05 May 2011/p 57-59

563 TJRC/Hansards/Public Hearings/Marsabit/04 May 2011/p 44

and resulting into havoc are being channelled and distributed into wrong hands illegally by dishonest officers I hereby kindly request the Police Commissioner to investigate on the issue of supply of excess ammunition to Marsabit Police Division and eventually the dangerous misuse by the area senior police officers, both the administration police and Marsabit Police Division [564]

767 Mr Denge informed the Commission that no action was taken from the police headquarters against Mr Cheboi The Commission gave Mr. Cheboi an opportunity to respond to the allegations made against him However, the Commission was unable to establish whether or not any action was taken against Cheboi

Fear

768 The Commission learnt that one of the greatest impacts the massacre has had on the people of Turbi is that they live in constant fear of additional attacks They have lost confidence in the government's ability or willingness to prevent or assist in the event of any attacks The residents have also lost mutual trust amongst themselves as they view each other with suspicion Children have been traumatized and most of them have not been able to go to school ever since the massacre These children are in dire need of counselling in order to be able to live their lives again normally Mothers have also been traumatized and most of them live in fear that they may lose their remaining children in another attack Mama Fatuma Ali Jaldesan testified before the Commission that since the massacre she has had a problem with her heart, it beats very fast and sometimes she is not herself because she thinks very much and she has developed ulcers

769 The Bishop of Marsabit Diocese, Ambrose Ravasi, also stated that people in Turbi live in fear and are suspicious of each other [565] This was also confirmed by another witness, who was testified in camera because he feared for his security Another witness told the Commission that because of the massacre and the sporadic attacks against them investors have kept away from Marsabit because they fear that they may be attacked at any time Thus fear of future attacks has directly effected economic development in the area.

Antecedents and factors leading to the Turbi Massacre

770 Marsabit County is populated by a diverse and dynamic group of people who have managed their lives through difficult climatic conditions and a history of conflicts A recent study identified that violent conflicts in Marsabit have been aggravated by loss of traditional authority, failure by the government

564 TJRC/Hansards/Public Hearings/Marsabit/04 May 2011/p 45
565 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 30

to understand traditional grazing boundaries, and the influx of automatic weapons.[566] In the course of public hearings and through the various statements and memorandas, the Commission established that the Turbi massacre was caused by boundaries demarcation (especially as it affects pasture and water points for livestock); the competition over natural resources between the Boranas and Gabbras; political factors, in particular misunderstanding between political leaders of the Borana and Gabbra communities; and external forces from neighbouring countries, particularly Ethiopia. The sections herein discuss each of these causes.

Boundaries demarcation

771. One of the major causes of conflict in Marsabit, including the Turbi massacre, is the demarcation of boundaries. The earlier district boundaries created by the colonial government have been changed over the years without the involvement of the local people. The concept of boundaries is alien to the people of Northern Kenya in general; territorial boundaries can hinder the development of pastoralist communities. In fact, many of the local languages do not have a word for boundary. Many people have criticized the government for failing to understand the traditional grazing practices of the pastoralists and creating boundaries without considering the peculiar lives and circumstances of the pastoralists.[567]

772. During colonial times, the British carved up Northern Kenya into ethnic territories. The main boundary was a north-south divide that separated the Somali from the Oromo. This is the so-called 'Somali-Galla' line that was drawn east of Moyale and west of Wajir and ended up near Garissa. Further divisions have occurred over the years. These demarcations have further divided communities along ethnic lines. The Borana for instance, were assigned the land triangulated southwards of Isiolo. The Rendille block was right below that, and so on until the whole of Northern Kenya was neatly fixed. These boundaries were strictly enforced. Fines of up to ten percent per herd were imposed on people who crossed these boundaries for grazing.[568]

773. At independence, Moyale was in Marsabit District but was later detached from Marsabit and made a district on its own. This demarcation created polarities between the Borana and Gabbra. Gabbra political leaders in North Horr insisted

566 Marsabit Conflict Assessment Report. 21st - 28th July 2005. This was a report from a mission undertaken under the auspices of the National Steering Committee on Peace and Conflict Management (Office of the President) with the support of a consortium of NGO's. The mission was undertaken immediately after the Turbi massacre with the aim of carrying out an independent and objective assessment of the conflict situation in Marsabit District, p.15.

567 NJeru M, ' Turbi raiders scaled down village attacks', Daily Nation, 20 July 2005 p 11.

568 Gunther Schlee, *Terntorialising Ethnicity: The Political Ecology of Pastoralism in Northern Kenya*. Max Planck Institute for Social Anthropology Working Paper, 2009, p. 8.

that Moyale ought to be in Marsabit while Borana leaders in Moyale claimed it ought to be a district on its own. Further, both sets of politicians have used disputes over the political administration of Forole and Turbi as a campaign tool. For instance the politicians in North Horr insist that Turbi is in Marsabit while their counterparts in Moyale claim it and allege that with the creation of Moyale as a district, Forole and Turbi should have formed part of the district. The Boranas in Moyale have alleged that powerful political leaders in Marsabit, especially the late Hon. Bonaya Godana, influenced the decision to retain these two towns in Marsabit District, and thus to be occupied by the Gabbras. It is also alleged that the Boranas wanted these areas so that their community will occupy the areas stretching from Ethiopia through Moyale and Marsabit up to Isiolo. An independent report commissioned by the government concluded that the attack on Turbi was intended to scare away the Gabbras so that the Boranas could occupy the land.[569]

774 In addition, the Commission was informed by the Moyale/Sololo Borana community that at independence the Borana community used to occupy Bunna and Bute towns which were later curved out of Moyale and put into Wajir District within the North Eastern Province. The Boranas expressed frustration with the government for using tribal grazing boundaries to establish political boundaries. The Borana view this as an injustice as they have been divided by the boundaries along tribal and clan basis for political reasons. The Boranas stated to the Commission this boundary demarcation ' was in favour of the then politically favoured and connected influential individuals in the system'.[570]

775 The issue of boundaries between Moyale and Marsabit, and between the Boranas and Gabbras, have been the subject of frequent discussions between these two communities. Nevertheless agreement has been difficult to reach. Boundaries are thus a source of continuous conflict between them. For instance, a week before the Turbi massacre, the Commission learnt that in a public *baraza* held by the Eastern Provincial Security Committee chaired by the Provincial Commissioner (PC) at Sololo on 16 June 2005, the issue of the boundary between Moyale and Marsabit was mentioned. A civic leader, a Councillor from Moyale whose identity was not revealed to the Commission, requested the provincial administration to clarify on which side of the border Turbi was. This leader stated 'we want you, bwana PC, to tell us whether Turbi is in Moyale or in Marsabit'.[571]

569 Marsabit Conflict Assessment Report 21st-28th July 2005. This was a report from a mission undertaken under the auspices of the National Steering Committee on Peace and Conflict Management (Office of the President) with the support of a consortium of NGO's. The mission was undertaken immediately after the Turbi massacre with the aim of carrying out an independent and objective assessment of the conflict situation in Marsabit District. p 15.

570 See the memorandum submitted to the Truth, Justice and Reconciliation Commission by the Moyale/Sololo Districts Borana Community historical injustices experienced between 1963-2008 in Moyale/Sololo dated 29.04.2011 p 1.

571 Njeru M. (2005). Turbi raiders scaled down village attacks. Daily Nation. 20 July. 11.

776 The Commission therefore is of the view that the demarcation of parliamentary constituencies as well as administrative boundaries is a source of tension between these two communities This tension erupts from time to time into violence The main issue causing the conflict in Marsabit is the demarcation of boundaries that ignore the intricate relations of the Borana and Gabbra communities in this area These communities perceive malice and bad faith in the demarcation of boundaries causing them to mistrust each other further, sometimes erupting into violence in which innocent members of both communities are killed

Politics

777 From the various witness statements and memoranda collected by the Commission, it is clear that Marsabit County politics influences the latest conflicts between the Gabbra and the Borana communities, and particularly the massacres at Turbi and Bubisa The competitive nature of politics has created the need to secure predictable voting blocs In the search for secure voting blocs, politicians have succumbed to the destructive notion of equating ethnicity with political support Politicians have thus resisted efforts to relocate to their districts ethnic groups who they perceive will not favour them in an election [572] Some in Marsabit indeed believe that political incitement is the leading cause of conflicts in Marsabit and that politicians have played a key role in disrupting peace and harmony by pitting the Borana and Gabbra against each other

778 The government has recognised the role that political ethnocentrism played in the massacres Long before the massacres, the government held a series of meetings with local leaders and their communities aimed at easing ethnic tensions in the area The then Assistant Minister for Internal Security, the late Hon Mirugi Kariuki, revealed that a series of meetings were held starting in January 2005 to defuse tensions among the clans in the region The government urged the participants to stop engaging in violence and instead to assist the state in restoring order in the region Following the massacres, the government acknowledged that it was aware of the hostility among the communities, particularly among the politicians, and emphasised that the conflicts were fuelled by political leaders in the area The late Hon Mirugi Kariuki noted,' we had done our part to bring them together but it does not appear to help'

779 In a ministerial statement on the Turbi and Bubisa Massacres to Parliament, the then Minister for Internal Security, the late John Michuki, pointed out that the atrocious acts were a culmination of ethnic and political hostilities and tensions that had been building up in the district in the previous months He expressed

572 Baseline Study of the Conflict in 7 Districts of North Eastern and Eastern Provinces of Kenya Northern Aid Camel Bell Limited (2004) p 14

concern that some leaders had been making irresponsible statements bordering on incitement to violence. The irresponsible statements, he said, had served to heighten tensions in Marsabit As a result, the state appealed to the members of Parliament and other political leaders to desist from making inflammatory, reckless and divisive statements The Minister further warned the politicians that the government would take action against politicians found to have incited violence even if they were Members of Parliament [573]

780. After the two massacres, members of Parliament for the region traded accusations over the perennial violence between the Borana and Gabbra communities, claiming that the killings were political. The Member of Parliament for the Gabbra, the late Hon Bonaya Godana, was accused by his counterparts for failing to condemn previous attacks by his Gabbra people against the Boranas Whilst responding to the accusations, the late Hon Godana blamed his fellow members of Parliament, claiming that they were actively involved in the violent conflicts He further said that it was important for the politicians to be investigated in order for the truth to be established His sentiments were later echoed by the Parliamentary Committee on Security, which also acknowledged the existence of hostile political differences among the area members of parliament when it held meetings with the Marsabit District Security Committees and the area members of parliament prior to the attack [574]

781 The Turbi and Bubisa massacres demonstrate clearly how politics has been used to cause conflict in this area Prior to the massacre, politicians incited the people in public meetings The Rendille and Borana communities allied against the Gabbras and the two sides started stealing livestock from each other, leading ultimately to the massacre a few weeks later This was confirmed to the Commission by top security officials Former Deputy Provincial Criminal Investigating Officer, Patrick Mugo and one time Marsabit Officer Commanding Provincial Division Amos Cheboi told the Commission that local leaders were the primary cause of the Turbi and Bubisa massacres The two testified before the Commission that different ethnic groups living in Marsabit County were hostile to each other and politicians exploited this by inciting their respective clans [575]

Resource use

782 The pastoralist communities traditionally managed and used communally resources such as land, pasture, watering points and hunting grounds The Boranas and Gabbras are traditional allies who speak the same language and share the same culture The Gabbras are camel people while the Boranas raise cattle but

573 Daily Nation newspaper 14 July 2005 p 5

574 Mwangi O Kenya Conflict in the 'Badlands The Turbi Massacre in Marsabit District' (2006) Review of African Political Economy No 107 81-91 p 87

575 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/ p 37-54 and also TJRC/Hansards/Public Hearings/05 May 2011/p 54-73

over the years have maintained a long-standing symbiotic relationship [with the Gabbra?] that includes mutual assistance during times of environmental stress. For example, during the long drought of 1999-2001, many Gabbra people migrated across the border and the two communities lived peacefully on the Borana plateau.[576] However, over the years alternative resource management methods have been introduced that conflict with these more traditional approaches. Such practices includes the review of boundaries, establishment of settlement schemes, and gazettement of forests and national parks which led to scarcity of pasture, watering points, and hunting grounds, thus heightening the competition over resources between the two communities.

783. There has also been a struggle over access to resources that are diminishing at a high rate because of climate change and the encroachment on pastoral lands by agriculturalists. Local communities thus often find themselves on a collision course as they negotiate for access to pasture and water. Increased population also puts more pressure on the dwindling resources, thus heightening conflicts, especially over water and pasture. Conflict increases during the dry spell when livestock tend to concentrate in the diminishing areas with water and pasture.

784. The question of boundaries is intricately intertwined with that of competition for scarce resources, particularly pasture and water. For example, a Councillor, whose name was not given to the Commission, claimed that his constituents developed the water point at Turbi, the primary school and other social amenities. These social amenities were later pushed out of his constituency by the previous Kenya African National Union (KANU) government through the influence of a local politician from a neighbouring community. The Councillor had stated; 'We are still bitter for having been thrown out of our area. It is common knowledge that it is us who developed the area and drilled the water hole.'[577]

785. Accordingly, the Boranas and Gabbras have been in conflict over access to the areas around Turbi and Maikona because they have ideal livestock pasture and several water holes. There has been a spate of resource based clashes in Marsabit since 2002. It was during this period that the District Commissioner (DC), Mr. Ali Mbwarali held a public *baraza* in an effort to restore peace. The DC is on record for having stated that: 'Your cattle, camels and goats mingle and graze together peacefully. Why can't you people do the same?'[578] After this public *baraza* the conflict and violence decreased and did not resume until early 2004 and 2005. These sentiments about ethnic conflicts and resources were also shared with the

576 Goldsmith P (2005) ' Kenya paying a high price for neglect' Daily Nation, 15 July 19.
577 Mwangi O. (2006) 'Kenya: Conflict in the 'badlands': The Turbi Massacre in Marsabit District, Review of African Political Economy NO. 107: 81-91, 89.
578 Goldsmith p (2005) Daily Nation 15 July, 9.

Commission during its public hearings by Elizabeth Killi Jirma Talaso, a resident of Turbi and a victim of Turbi massacre, in her oral submission before the Commmission Mama Elizabeth Talaso said

> 'I can remember that the PC from Embu came with our MP, Dr Bonaya Godana, and they sought to know our problems and why this had actually happened They asked that question and we told them we did not know what caused the problem as these people were neighbours, and we used water resources together We had been grazing animals together and their children and ours went to the same schools We asked our PC to dig into the root cause of this problem, look for the animals which had been taken away and see how they could compensate us for the lost lives The PC stood up and told us there was a problem in every place but they would look into the root cause of the problem'[579]

The Oromo Liberation Front (OLF)

786 Kenya has, for several years, been exposed to external forces that have ignored Kenyan sovereignty and have contributed to conflicts in Northern Kenya One such external force is the Oromo Liberation Force (OLF) of Ethiopia. The OLF started in 1973 with the objective of achieving autonomy or secession from the rest of Ethiopia The OLF lays claim to about half the state of Ethiopia and parts of Kenya as the traditional homeland of the Oromo

787 Research shows that the OLF remains an important influence in the communal conflicts in Northern Kenya The Borana and Gabbra who inhabit part of Northern Kenya share an identity with their Oromo relatives in Ethiopia, and members of both communities have supported the OLF, though the Gabbra do so only marginally, and even then quite reluctantly The Kenyan Boranas have closer links with the OLF and host them from time to time In turn, the OLF has been used by the Borana against the Gabbra The OLF itself has denied any role in the Turbi and Bubisa massacres The OLF asserts that the Ethiopian People's Revolutionary Democratic Front (EPRDF) exacerbated the ethnic conflict between the Borana and Gabbra communities of Oromo living on both sides of the Kenya-Ethiopia border to discredit OLF The OLF has stressed that it has neither strategic nor temporary interest in provoking Kenyans and their government, nor any motive to commit atrocities against relatives across the border even though some news media in Kenya have, allegedly, reported that it massacred innocent Kenyans in Turbi[580]

788 Nonetheless, witnesses testified before the Commission that the OLF had a permanent base in the hills of Marsabit, and that they harass people at will and extort resources from them by force These infractions have been tolerated by the population who otherwise feel impotent to do anything to stop it The Commission

579 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 9

580 Oromo Liberation Front (OLF) (2005) Liberating the Oromo People for Stability and Development in the Horn of Africa Available at http /www oromoliberationfront org/liberating%20the%20oromo%20people-DDA htm (accessed on 28 February 2012)

is of the view that the OLF was a factor in the conflicts experienced in Marsabit, and Moyale.

789 The Turbi massacre illustrates the role of the OLF in the conflict between the Borana and Gabbra Various witness from Turbi testified before the Commission on how the raiders from the neighbouring Moyale District, and also those suspected to be members of the OLF who were dressed in uniforms, attacked them on the morning of 12 July 2005 A survivor of the Turbi massacre told the Commission that the attackers were members of the OLF and were all Boranas Ms Elizabeth Talaso, a resident of Turbi and survivor of the massacre, testified that the raiders were speaking in *Borana* [581] This account was confirmed by another witness, Mama Hawa Tura, a resident of Marsabit who lost her son during the massacre Mama Hawa Tura told the Commission that the raiders were from the Borana community and came from the Ethiopian side The account of these witnesses was also confirmed by the then OCPD of Marsabit, Mr Amos Cheboi who told the Commission that,

> 'We were then informed that they would communicate to us We believed that the people who had attacked the people of Turbi had come from Ethiopia However, we came to learn later that the attack was mounted by the group known as 'OLF" That was what we communicated to the Government of Ethiopia, which assisted us very much I remember that on that same day, they returned 30 camels immediately we left Moyale'

790 The Commission also heard that a local Member of Parliament from Marsabit had received information about an imminent attack on the Gabbras by the Boranas, and had held a press conference on 22 June 2005 at which he had accused some Marsabit politicians of using the OLF to kill people and destroy private property He therefore pleaded with the Local Security Committee to send in the para-military General Service Unit to deal with the OLF issue [582]

Proliferation of small arms and light weapons

791 Marsabit County shares an expansive porous international border with Ethiopia The government of Kenya has been involved in three major interrelated armed conflicts in the Horn of Africa the between Kenya and Somalia, between Ethiopia and Somalia; and the current civil war within Somalia These armed conflicts have had a great impact on northern Kenya, resulting in the free movement of firearms and ammunition within the region and the conscription of young men to fight against an adversary The proliferation and easy availability of firearms and ammunition in northern Kenya, including Marsabit, as a part of these wars is a factor fuelling conflicts as well as cattle raids, murder and banditry [583]

581 TJRC/Hansards/Public Hearings/Marsabit/05 May 2011/p 8 *and also* Njeru M (2005) Survivor tell their battle with the raiders and how they cheated death Daily Nation 14 July

582 Njeru M (2005) Survivor tell their battle with the raiders and how they cheated death Daily Nation 14 July and also TJRC/ Hansards/In-Camera Hearings/06 May 2011/p 11

583 Report of the Intergrated Agriculture Development Consult (IADC) 'Assessment and consolidation Report on Existing Approaches and Best Practices in Cross Border Peace Building and Conflict Mitigation and Strengthened CSOs Across the Ethio-Kenya Border December 2009 p 17

Conclusion

792. The Commission concluded from its investigations and research that the Turbi and Bubisa massacres could have been minimized or even prevented if early actions had been taken by relevant authorities Although it is difficult to place entire blame on any specific authority, institution or individual, it is clear that politicians and politics played a major role in fuelling the animosity between the two communities involved in the massacre The nature of the Turbi massacre, in which more women and children were killed, indicates that the killings were both ethnic-based and political The attackers came from specific ethnic groups which were identified by witnesses as the Borana in the case of Turbi and the Gabbra in the case of Bubisa The attackers also included members of OLF who were working with the Boranas in Kenya, and in particular at Marsabit, to exact revenge against the Gabbras of Marsabit for aiding and abetting the Ethiopian government

793 However, it was clear to the Commission that the Turbi massacre was also a result of the state's failure to fulfil its basic functions and responsibilities in Marsabit The Commission established that the State did not provide meaningful security and development in the region While there were early warnings of looming violence in Marsabit, the government machinery including the security forces failed to respond in good time In fact it was plain to the Commission that the security forces are thinly spread and ill-equipped in Marsabit, and thus even if the advance warnings had been heeded it is not clear how well they could have defended against the attacks The government must therefore take full responsibility for its failure to protect lives and property in Turbi and Bubisa and for failing to create and enhance social cohesion between the Boranas and Gabbras of Marsabit both before and after the tragedy

Massacres in the North Rift

Background

794 Since time immemorial the Marakwet, Pokot and the Turkana have regarded each other as sworn enemies. Various factors have contributed to the tension and conflict between then which, factors have been said to include:

> intensified cattle rustling, proliferation of illicit arms, inadequate policing and state security arrangements, diminishing role of traditional governance systems, competition over control and access to natural resources such as pasture and water, land issues, political incitements, ethnocentrism, increasing levels of poverty and idleness amongst the youth [584]

584 Ruto Pkalya Mohamud Adan and Isabella Masinde Conflict in Northern Kenya A focus on Internally Displaced Conflict Victims in Northern Kenya *Intermediate Technology Development Group (ITDG)* (2003) pg 10

795 It is worth noting that cattle rustling is the greatest cause of fatalities between these communities Historically, these communities raided one another but the raids were controlled by the elders to ensure another's communities stock was not depleted and that such raids did not result in fatalities During that time, raids were meant to replenish a community's stock especially after their herds had been wipes out by a drought There were very few casualties as the weapons used then were the traditional ones (spears, knives and clubs) and that killing during raids was in itself a taboo

796 Over the years, cattle rustling have been commercialized with raiders stealing livestock with the intention of reselling them to the various slaughterhouses in various parts of the country The increase in population and the high demand of beef has meant that raids have been frequent and larger sections of communities have been targeted for raids to meet such demands The porous borders have facilitated trade in illegal arms which have been used in raid The inability of the government to provide security in the pastoralist areas have forced the communities to arm them in a bid to protect their livestock, their only source of livelihood Similarly, the raiders have been able to acquire sophisticated weapons to facilitate the raids The results have been that raids and counter-attack by communities have become bloody and has resulted in massacres as well as the loss and destruction of property.

797 The response of the government in the form of disarmament and security operations to weed out the criminal elements from these communities, had lead to more deaths The government has over the years been accused of the use of excessive force which has also led to deaths The Commission learnt that it is against such backgrounds that the Murkutwa massacre in Elgeyo Marakwet County and Lotirir Massacre in Pokot County, as will be discussed, took place

Murkutwa Massacre, Marakwet

It is a massacre; it is a national disaster. Where will my people go? What will they eat? Their houses have been burned down. This rustling will not end until an electric fence is built between the Pokot and the Marakwet.[585]

Background to the Murkutwa massacre

798 The Murkutwa massacre took place on the morning of 12 March 2001 when heavily armed Pokot raiders attacked the resident of Murkutwa location in Marakwet District According to the information received by the Commission, this was not the first time

585 John Marrimoi former Marakwet East Member of Parliament

the Pokot raiders were attacking the Marakwet Witnesses informed the Commission that since 1992, there have been many incidences of cattle rustling. They listed about 5 of the many incidences of cattle rustling. According to the information, Pokot raiders are said to have struck Liter and Tot areas on the dawn of 6 April 1992 and killed three people before leaving with unknown number of livestock The following day, 7 April 1992, the same raiders are said to have raided from Tot to Chesongoch killing 9 people and fleeing with unknown number of livestock On 13 May 1997, Pokot raiders attacked Murkutwa village killing 8 people who included teachers and pupils. Like in the previous raids, they fled with unknown number of livestock The raiders again struck on 25 December 1997, at Chechan Primary school killing 2 people and stealing unknown number of livestock According to other reports, over 40 people had been killed, over 10,000 families displaced and over 5000 livestock stolen, between April and May 1997 [586] Further, 11 people who included women and children attending a polio vaccinations exercises were killed by Pokot raiders on 24 October 1999 [587] A witness informed the Commission that the raiders also attacked children on their way to school He narrated how, in 1999, his daughter was shot dead while in school

> The attack took place in 1999 at the Toroko primary school The children had come to school and around 10 am, the Pokot raiders started shooting and chasing children out of the school My daughter ran to a nearby bush She was seen by the perpetrators then shot in the head by a bullet and an arrow on her arm [588]

799 According to Mr. Felix, 1999 saw many attacks by the Pokot on the Marakwet He listed the attacks that took place in that year as follows

> In 1999, our neighbours, the Pokot, invaded us and took away 5,000 herd of cattle, 1,021 goats and injured three people After three months, we were invaded again and they took away 509 herds of cattle, 600 sheep and goats and two people were injured The names of those injured were Messrs Michael Ndoluna and Limangel When they went to recover the livestock, two people, Messrs Paul and Lechal, were killed In October the same year, they again took property of the Endo Location, injured two and three killed people [589]

800. According to the National Council of Churches of Kenya (NCCK), there were a series of raids between the two communities that triggered the Massacre First, on 9 February 2001, the Pokot raiders shot dead a Marakwet administration police officer, Mr Joseph Beliangut, at Kapkobil as he rode on his bicycle It is said that this was meant to intimidate and scare the Marakwet people into leaving the green pastureland near the Kerio River for Pokot herdsmen to graze their animals This triggered a cycle

586 Kenya Human Rights Commission (1998) Killing the vote State Sponsored Violence and Flawed Elections in Kenya p 39
587 TJRC/Memo/M0087/p 2
588 TJRC/Statement/05514
589 TJRC/Hansard/Public Hearing/Eldoret/3 October 2011/p 41

of raids On 10 February 2001, the Marakwet youth staged a revenge attack in which they killed two children and injured several others in Cheptulei village of Chesogon Division in West Pokot The next day, the Pokot attacked the Marakwet area of Liter, killed a nine year old boy, Sammy Kiplagat and took off with the 12 goats he was herding Few days later, on 12 February, the Pokot struck again and this time killed two boys Kilimo Tomoluk (10 years) and Kipkemboi Limaruk (15 years) who were on their way to school A day later, on 13 February, the Pokot struck the Marakwet's Kaben village and killed two pupils [590]

801 The series of these ethnic attacks turned bloody when the Marakwet staged a revenge attack, on 14 February 2001, that left four Pokot and two Marakwet dead They also stole between 300-500 cattle during that attack The Marakwet youth are also said to have attacked a Pokot herdsman and injured him with poisoned arrow as a way of deterring the other Pokot herdsmen from grazing 'their' animals on the Marakwet territory along the Kerio Valley Unlike the previous years where Pokot elders would request the Marakwet for grazing land, the Pokot are said to have forced their way into the Marakwet's grazing land Apparently, the Pokot were grazing, on the Marakwet side, the cattle they had previously stolen from the Marakwet, a fact that is said to have greatly angered the Marakwet youth They also accused the Pokot of spying on them as they grazed only for them to later raid their animals [591]

802 The Marakwet raid on the Pokot, on 14 February 2001, is said to have been the trigger of the Murkutwa massacre Following the attack, the Pokot are said to have constantly demanded from the Marakwet, the return of the stolen cattle, threatening that in the event that the cattle were not returned, the Pokot would attack and kill Marakwet women and children Unfortunately, the Marakwet did not hid the demands and the Pokot made good their threats, hence the massacre

Guns at dawn: 12 March 2001

803 On March 12, 2001, a large contingent of Pokot raiders, estimated to be about 3000 people, armed with sophisticated weapons, invaded Marakwet villages (Kasang, Kacherturgut, Kirawi, Katemuge, Kakisegei, Kwenoi, Kaptul and Kakimoi) in Murkutwa Location According to various witnesses, the raid was well planned as demonstrated by the way the raiders carried out the attack They were organized as follows

i) There were those who moved with arrows and sticks driving animals whenever they were or saw These were escorted by armed raiders with guns

590 Raiding Democracy The slaughter of the Marakwet in Kerio Valley (2001) KENYA Human Rights Commission p 14
591 Raiding Democracy The slaughter of the Marakwet in Kerio Valley (2001) KENYA Human Rights Commission p 15

ii) There were those who burnt houses mainly and were armed with arrows, pangas and match boxes for torching These were also escorted by gun shooting raiders

iii) The third group consisted of looters This group never spared anything they considered precious ranging from sufurias, utensils, clothing, radios, chairs, stools and water gathering gallons and containers

iv) The fourth group consisted of those who were stationed at strategic positions All of them had powerful weapons and could see all the hideouts and identify caves and bushes were people had escaped to hide. This group is responsible for the death of young children, old men and women who were killed in caves and bushes while hiding This group also made sure that the raiders who had gone raiding in various directions had returned They remained in their places till all groups had returned and made sure that those were driving animals had gone for more than 2 kilometres from the scene of raids They had whistles that they used to call back or direct raids as they deemed necessary It is like the group was the commanding one They made sure that every raider had gone before disembarking from their positions and hence were the last to move or leave [592]

804 The locals were woken up by sounds of gunshots and the light and smoke from burning houses [593] Those who never heard the commotion and were still sleeping were burnt in their houses [594] Witnesses shared with the Commission the confusion that ensured and how many were killed as they tried to hide A witness stated

> It was around 5 00 pm, my father was at his home All over sudden he heard gunshots and saw houses burning Then he ran away The Pokot raiders followed him to where he hid himself in the cave and shot him five times in his stomach [595]

805. Another witness shared that her husband ' was sleeping in his house when he heard gun shots He came out [of the house] and then he was shot in the chest and died on the spot '[596]

806 Some of the residents tried to ran away but in the confusion, some ended up running in the direction of the raiders and therefore met their death [597] As indicated above, the raiders were stationed at strategic places and were able to see the villagers as they fled and as such there seemed to have been nowhere to hide as many villagers were shot at as they fled or at their hiding places Witness shared.

592 TJRC/Memo/M0087 TJRC/Hansard/ Public Hearing/ Eldoret/ 5 October 2011/p 44
593 TJRC/Hansard/ Public Hearing/ Eldoret/ 5 October 2011/p 44
594 TJRC/Hansard/Public Hearing/Eldoret/ 5 October 2011/p 44 TJRC/Hansard/Public Hearing/Eldoret/ 3 October 2011/p 41
595 TJRC/Statement/05530
596 TJRC/Statement/05534
597 TJRC/Hansard/Public Hearing/Eldoret/ 5 October 2011/p 44

It was around 11 am when gun shots were heard Then the old man [the witness's father] was at his boma [home] He took cover at a nearby bush When the raiders were running up and down looking for animals, they saw the old man and shot him in the stomach and he died instantly the raiders were shooting at whoever they saw and took animals [598]

807 Mr John Kipkore, who testified at a public hearing, stated as follows

Most of us were picked from the bush and brutally murdered These included old men and women of up to 85 years old and also children of even two months old So, those who did these acts were those warriors who had organized and positioned themselves strategically They were shooting almost everywhere to scare people [599]

808 The attack took about seven hours When the guns went silent, the villagers, who had survived by sheer luck, left their hiding places and started counting their losses The witnesses informed the Commission that many houses had been razed to the ground, unknown number of livestock Corpses were strewn all over Many of the bodies were had bullet wounds,, others had deep cuts while others were recovered in burnt houses burnt beyond recognition The witnesses confirmed having counted 43 bodies which included old men and women of up to 85 years old and also children of even two months old [600] The witnesses indicated that the most disturbing scene was the discovery of the body of female primary school teacher in a cave together with those of her 3 children Their bodies, which were riddled with bullets, were discovered nine days after in a cave where they had tried to hide from the raiders [601] The discovery was made after the villagers noticed birds circling the cave and going closer to the cave, they discovered a foul smell coming from the cave [602]

Assistance and response to the massacre

809 Witnesses informed the Commission that for the entire period of attack, the residents of Murukutwa location did not get any assistance They explained as follows

The Anti-Stock Theft Unit camp at Chesongoch, within the location, was surrounded by the raiders So, they could not offer any assistance They were locked in for about seven hours The raiders also made sure that all routes leading into and out of Murkutwa Location to the neighbouring locations were guarded So, we were not assisted [603]

598 TJRC/Stalement/05509
599 TJRC/Hansard/Public Hearing/Eldoret/ 5 October 2011/p 44
600 TJRC/Hansard/Public Hearing/Eldoret/ 5 October 2011/p 44
601 TJRC/Exhibit/Eld/007
602 TJRC/Memo/M0087/ p 3
603 TJRC/Hansard/Public Hearing/Eldoret/ 5 October 2011/p 44

810 The first people to arrive at the scenes of the massacre were the survivors of the attack. Soon thereafter, villagers from the neighbouring villages started streaming in. It is this latter group that assisted the survivors in retrieving bodies from the bushes and caves, where victims had been killed as they tried to seek refuge. They also assisted in taking the injured to the nearest hospitals.

811 The government's actions before, during and after the massacre was heartbreaking. Witnesses informed the Commission that prior to the massacre, they had informed the security agents in the area of ongoing attacks by the Pokot as well as about the threat of an impending major attack. Unfortunately, no action was taken. In fact, 3 days before the massacre, on 8 March 2011, the administration police officers stationed in the area, were recalled back to the Kapsowar District Headquarters. The government neither provided an explanation for the withdrawal of security in the location nor replaced the recalled officers. It was also curious that the officers were moved at a time when there was an impending attack. One would have expected the government to beef up security in the areas after receiving such information.

812 A report by the Kenya Human Right Commission on the Massacre also indicated that the police had been informed about the impending attack on the Marakwet by the Pokot but ignored the information.[604] "Further, days before the massacre, the field monitors of the Catholic Justice and Peace Commission (CJPC) in the region are said to have written a letter to the Police Commissioner alerting him that an attack was eminent because the Pokot leaders had been making inciting remarks. That notwithstanding, the security forces had been alerted by the Chief of Murkutwa Location chief about the planned raid and even confined barazas to alert the villagers about the impending attacks.[605]

813 The government is also accused of having trivialised the killings arguing that they were just the product of ethnic violence or tribal feud. Some of the state officers denied that the Pokot were responsible for the massacre. A cabinet Minister, Christopher Lomada is on record for implying that the real origin of the aggressors ought to be established because the 'Pokot had no quarrel with the Marakwet'. Other state officers were quick to pass judgment on the Marakwet people for what they called provoking the Pokot people by stealing and refusing to return their animals. The government's motive in denying these atrocities committed against the Marakwet people have been heavily criticized. The critics viewed

604 Raiding Democracy: The slaughter of the Marakwet in Keno Valley (2001) Kenya Human Rights Commission p 18
605 Raiding Democracy: The slaughter of the Marakwet in Keno Valley (2001) Kenya Human Rights Commission p 18

the government approach of denying the Murkutwa massacre as a strategy to humiliate the rebel Marakwet community thus forcing it to rejoin Kenya African National Union (KANU) party hence uniting with the Pokot community in the run up to the 2002 elections.[606]

814. In fact, some witnesses felt that the government had a hand in the attack. In a memorandum submitted to the Commission, the witnesses stated as follows:

> While searching for the bodies, the villagers and neighbours found empty cans of food stuff, army biscuit boxes which the raiders were using. Boiled yellow maize parked in small tins was also recovered. There were also spent bullet cartridges in the places were the commanders were stationed and at the scenes of dead bodies. Some of the spent bullet cartridges were labelled G.K.[607]

815. Even after the raiders left, the government did not send security officers to follow the raiders. The former President Moi expressed the same sentiments one month after this massacre. While addressing a public rally in the turbulent North Rift, President Moi had acted shocked that the police officers and the entire provincial administration were relaxed and careless in their work. The President had asked, "how come, animals could be stolen...and taken all the way to East Baringo without being noticed by Chiefs and their Assistants? Are the livestock airlifted?"[608]

816. Witnesses further stated that it was only after one week that government officers arrived at the scene led by the then Minister for Internal Security, Masden Madoka who is said to have brought some iron sheets and foodstuff. The witnesses indicated that substantial assistance to the survivors came from non-governmental organizations including the 'National Council of the Churches of Kenya, the Catholic Justice and Peace Commission, Red Cross Kenya, World Vision and many others.'[609]

817. The Commission was told that the government presence was seen in the location one week after the massacre. The Government sent some officers to the ground including the then Minister for Internal Security, Marsden Madoka with condolences to the victims. The Minister had disclosed that names of the bandits who had carried out the, massacre had been handed over to the government and he had promised to charge them in court of law for the crimes they committed. However, to the time of writing this report, no raider had been arrested.

606 Raiding Democracy: The slaughter of the Marakwet in Kerio Valley, (2001) Kenya Human Rights Commission p.16.
607 TJRC/Memo/M0087.
608 Raiding Democracy: The slaughter of the Marakwet in Kerio Valley. (2001) Kenya Human Rights Commission p.18.
609 TJRC/Hansard/Public Hearing/Eldoret /5 October 2011/p.44.

Effect of the massacre

818 Buildings in Murkutwa still have bullet holes, a constant reminder of the attack that saw 44 people of all ages massacred, 4 people injured, 316 houses burnt, many properties looted and destroyed, and over 5000 animals, the main source of the residents' livelihood, stolen [610] Witnesses shared with the Commission how, in addition losing family members and many being injured in the process, the massacre affected the community members who survived the attack, especially women and children They also stated the impact the massacre had on the economic activities in the region

819. With regard to how women were affected by the massacre, witnesses, through a memorandum submitted to the Commission stated as follows

> Many were widowed, many were left to support their children alone, some remarried and the children were left to support themselves There was a break in child bearing, women who remarried separated from their children, many were left homeless, many were deprived off their livelihood, and some were traumatized [611]

820 With regard to the effect the massacre had on the children, witnesses stated that many of the children were orphaned while were injured during the attack There are also many cases of child labour as children seek to fend for themselves Many of the children dropped out of school with some of them entering into early marriages as others resorted to prostitution

821 Witnesses also informed the Commission that economic activities in the location were affected Many if the survivors are said to have fled to safer areas including 'Kapsowar, Eldoret and ADC farms in Milimani'[612] As a result, businesses in Murkutwa were left unattended or closed down altogether Homes and farms were left unattended while livestock, the main source of the community's livelihood, were left to wander on their own Poverty levels increased as income decreased [613] Majority of the destroyed houses and businesses are yet to be rebuilt [614]

822 Investigations into the massacre are yet to be carried and the perpetrators brought to book The Witnesses however stated that the construction of the Queen of Peace Secondary School at Chesongoch by the Catholic Church serves as a memory of those who perished during the massacre. The institution has also been used to foster peace between the Pokot and Marakwet as students from both communities are accommodated there [615]

610 TJRC/Exhibit/Eld/007
611 TJRC/Memo/M0087
612 TJRC/Exhibit/Eld/007
613 TJRC/Memo/M0087
614 TJRC/Exhibit/Eld/007
615 TJRC/Exhibit/Eld/007

List of people Killed during the Murkutwa massacre

A Men

NO	NAME	SEX	AGE	VILLAGE
1	Kibor Kimwole	M	70	Kakisegei
2	Kihara Itok	M	72	Kakisegei
3	Chebelieny Kimore	M	70	Kakisegei
4	Mzee Kipchebelei	M	80	Kakisegei
5	Kabarer Kiptunyony	M	65	Kakisegei
6	Chewerui Kibor	M	65	Kakisegei
7	Nyengwesi Kipcheres	M	70	Kakisegei
8	Mathew Kirop	M	40	Katemuge
9	Samuel Kimatiya	M	25	Katemuge
10	Vincent Rono Bowen	M	23	Katemuge
11	Kemero Lokorpang	M	85	Kirawi
12	Amri Chemur	M	80	Kirawi
13	Chabasa Rotich	M	73	Kacheturgut
14	Jackson Chepkilis	M	50	Kacheturgut
15	Arap Tuga	M	50	Kacheturgut
16	Morshombu Yano	M	70	Kasang
17	Kipkanadogo Lotuman	M	65	Katieny

B. Women

NO	NAME	SEX	AGE	VILLAGE
1	Kobilo Chelimo	F	83	Kakisegei
2	Kobilo Mutyo	F	65	Kakisegei
3	Ko Chepchumba Alumo	F	70	Kakisegei
4	Talaa Muget	F	65	Kakisegei
5	Tula Chelanga	F	72	Katemuge
6	Sally Bowen	F	18	Katemuge
7	Tula Cherop	F	65	Katemuge
8	Gladys Kipchemeri	F	30	Kirawi
9	Nelly Kisang	F	27	Kirawi
10	Hellen Lochaa	F	38	Kirawi
11	Talaa Chebow	F	68	Kirawi
12	Kokimuitai Chebesa	F	70	Kacheturgut
13	Monica Siran	F	20	Kasang
14	Elizabeth Suter	F	25	Kasang
15	Leah Marko	F	32	Kakimoi
16	Talaa Chelanga	F	72	Katemuge

C. Children

NO	NAME	SEX	AGE	VILLAGE
1	Kibet Chesum	M	10	Katemuge
2	Elseba Bowen	F	16	Katemuge
3	Kipchumba Kipchemeri	M	6	Kirawi
4	Jemutai Kipchemeri	F	3	Kirawi
5	Kiprotich Kisang	M	3 months	Kirawi
6	Kimutai Kisang	M	3	Kirawi
7	Jepchumba Kibusa	F	7	Kirawi
8	Kipkosgei Karungu	M	13	Kacheturgut
9	Rutto Dominic	M	16	Kacheturgut
10	Kiplagat Komen	M	2	Kakimoi
11	Kimutai Marko	M	2	Kakimoi
12	Kiprotich Marko	M	3 months	Kakimoi

Lotirir Massacre

823. The Pokot border the Turkana to the North, Karamojong and Sebei of Uganda to the west and South West respectively, Trans-Nzoia district to the South, Marakwet to the South-East and Baringo to the East All those areas are home to pastoralists who, like the Pokot, are known to engage in cattle raids Accordingly, the Pokot have over the time been both attackers as well as victims of cattle raids Most of the time, such raids have lead to massacre of individuals as the raiders make away with the livestock In other cases, it is the security officer that have been deployed to restore order after an attack, who have ended up killing civilians

824 According to a memorandum submitted to the Commission, Joseph Thompson, a Scottish geologist and missionary, who is said to have been among the first European to meet the Pokot (then known as the Suk), is quoted as having described the Pokot, in his memoir, as 'strongly boned, ugly fellows very warlike and generally a match for the Maasai'[616] According to a memorandum submitted to the Commission by Pokot women, such description and stereotyping informed how the colonial administration as well as the post independent government viewed and has continued to relate with the Pokot[617] They also blamed such stereotyping to the injustices that have been meted out to the community including economic marginalisation, forceful acquisition of their land, insecurity

616 TJRC/Memo/M01206
617 TJRC/Memo/M01161

as well as constant harassment by the government in terms of numerous security operations that have seen the community members killed, injured and most of the time impoverished "[618]

825 The Pokot elders, in their testimony before the Commission, lamented that the government has failed in the provision of security to the Pokot exposing them to attacks by neighbouring communities both from Kenya and from neighbouring countries "[619] This has over the year prompted them to arm themselves in a bid to protect their persons and properties The elders took time to explain the history of insecurity in the area and how many guns have their way into the hand of civilians

> Insecurity in West Pokot District also finds roots in the area's history Closely related to the Karamojong in Uganda some Pokot people had not come within the effective ambit of modern government control until as recently as 1970 Prior to that, part of the present Pokot area was administered under the Upe County in Uganda The whole of what is now Kacheliba constituency fell under Ugandan administrative control from 1930 While under Ugandan jurisdiction, the Pokot were exposed to the instability endemic in that country and they learned to survive in the most extreme conditions The Pokot acquisition of illegal arms reached its peak during the later days of Idi Amin's regime and immediately after his ouster in 1979 The fall of Idi Amin led to the Karamojong and Sebei of Uganda acquiring guns that were used to attack and raid Pokot People Originally, the Pokot did not have guns Pokot by then were armed with the traditional bows and arrows spears and shields These traditional weapons could not measure upto the sophisticated machinery that their neighbours owned The government failed to protect Pokot and their property against the heavily armed Karamojong and Sebei (Pokot North) Pokot people realizing that their security was threatened, they resorted to buying guns to protect themselves and their property "[620]

826 The Pokot elders stated that levels of insecurity in the region worsened and this marked the beginning security operations as the government sought to disarm the Pokot to restore law and order in the region Accordingly, the first security operation is said to have been carried out in 1976 A witness, aged 70 years, in his statement, stated that the killing of a police officer who was following Pokot raiders is what triggered the operation He narrated as follows

> There had been an operation in December 1976 which had been prompted by the death of chief inspector Mr Ngisirei of special branch based at Kapenguria Police Station He was shot by the cattle rustlers around Nasokol Girls Secondary School while he was driving, pursuing the rustlers who had stolen some cows from Makutano township at night The officer died while being airlifted to Nairobi for treatment Kishaunet, Kapkoris and Chemwochoi locations were then declared operation areas to recover illegal guns The Rift Valley Provincial Police Officer (PPO), Mr James Mungai mobilized security forces to track down the rustlers The security forces rounded up 100 people around Kishiaunet and Nasokol indiscriminately, they were tortured, their

618 TJRC/Memo/M01208
619 TJRC/Memo/M1208 TJRC/Memo/M01158
620 TJRC/Memo/1201 TJRC/Hansard/Public Hearing/Kapenguria/14 October 2011/19

houses torched down, money and household goods pillaged Mr Mungai oversaw the process, during which security forces killed one old man Known as Mzee Siwanyang Loyolmoi [621]

827 The witness further narrated how, during the 1976, security operations, the villagers, including the professionals in the community were tortured He narrated his tribulation as follows:

> While all this was happening I was in Kisumu attending KNUT Annual General Meeting I was then the branch chairman for West Pokot district My family was harassed, my wife with a six months old baby, my aged mother and two brothers were all rounded up at home on 18th December 1976 and beaten up by the policemen, my house was ransacked and valuables taken away by policemen including money which was in the house and an expensive camera They were taken to Nasokol and interrogated the whole day, to disclose where the guns were kept They were released late in the evening I was picked up by four policemen from home on 29th December 1976 at 9 30pm after coming back from Kisumu The leader of the arresting team whom I knew by the name Mr Opindi who was either a corporal or sergeant from special branch section, he informed me that I was under arrest but did not disclose the offence I was taken to Kapenguria Police Station on the same night where I met Mzee Simeon Kitelapong from Keringet and Hon James P Korellach MP for Pokot East (Present Sigor Constituency) The three of us were driven to Kitale Police Station and remanded over night
>
> On 30th December 1976 we were separated from the MP and taken to Moi's Bridge before we were moved to Endebess Police Station on 1" January 1977 where the two of us were locked up for two days On 14 January 1977 the two of us were moved from Endebes Police Station which was a very dirty Police Station, we were physically stepping on human faeces whenever we were going to relieve ourselves while walking bare feet, because our shoes had been removed and kept at the report office We joined James P Korellach the (MP) at Kitale Police Station where after the usual interrogation about the guns and physical beatings we were taken to Moi's Bridge Police Station where we stayed for one day On 4th January 1977 the three of us were brought back to Kitale Police Station for further interrogation On 5th January 1977 we were released from Police Custody unconditionally, having been locked up in police cells for Seven (7) days and subjected to a lot of suffering It should be noted that Hon James Powon Korellach and Mzee Simeon Kitelapong are now both deceased [622]

828 Unfortunately, the government neither carried out corresponding security operations on heavily armed neighbouring communities nor guaranteed the provision of security to the Pokot. The result was that, the Pokot were left vulnerable to attacks and true to

621 TJRC/Memo/1201
622 TJRC/Memo/M1201

it, between 1977 and 1978, the Sebei from Uganda are said to have raided Chepolow and Kapulio Location in Pokot The raiders 'killed, maimed, destroyed property and escaped with thousands of cows, donkeys, sheep and goats' which the Pokot blame it on the government [623]

829 As expected, the Pokot in Kenya rearmed themselves at a time, April 1979, when the Pokot from Uganda are said to have looted Moroto Barracks and were being hosted by their brothers, the Pokot in Kenya The Kenyan Government responded, soon thereafter, by carrying out yet another security operation, referred to as, the Chemulunjo operation of 1979, where security officers, drawn from the GSU, were deployed in the Chepkopegh sub-location in Kipkomo Location, West Pokot District The security officers are said to have tortured the locals leading to the death of the following 9 persons 'Rurume Kachepkes, John Yokonyang Kiwarlee, Kadonyang, Yarakulow Pkowo, John Lonyangareng Ariangatom, Lomukel Kitido, Kedireng Matayo, Francis Yoponyang and Mrs Rurumee who raped by the officers and later died 'The security officers are said to have had 'Mazol Location Chief Mr Lokorion tortured, roped onto a GSU Land Rover, and dragged on the ground to death ' Further the security officers confiscated animals from the local, a case in point the taking of 2500 livestock belonging to a Mr Francis Yoponyang [624]

830. The Pokot elders informed the Commission that soon thereafter, in 1980, the Karamojong, realising that the Pokot had been disarmed, struck in what is known as the 'Tokodow raid' in which the Karamojong 'killed people, maimed many and escaped with thousands of cows, donkeys, sheep and goats '[625] The raids by the Karamojong and Sebei continued According to witness testimonies, the Pokot approached the government for assistance. The response by the government and the subsequent turn of events worsened the insecurity situation in the area

> The Pokot people on the Kenya side of the border appealed to the government for defence, and in 1980, the government responded by forming home guard units, which were presented with a number of guns This move was misinterpreted by the Pokot, however, as the go-ahead for them to acquire more heavy weapons, consequently, instead of the situation's being brought under control, it grew worse, reaching alarming proportions under control, it grew worse, reaching alarming proportions by 1983, when cattle-rustling in the area became widespread that it spilled over into the neighbouring farming areas of Trans- Nzoia District and upper parts of West Pokot [626]

623 TJRC/Memo/1161
624 TJRC/Memo/1206
625 TJRC/Memo/1158
626 The storm abates and several find themselves in the cold *Weekly Review* 22 July 1988 as attached to TJRC Memo/1210

Events that prompted the security operation

831 Witnesses confirmed that a previous raid in Uganda by the Pokot prompted both Uganda and Kenyan Government to take measures to curb the insecurity along the Kenya Uganda border According to the information received by the Commission, about 3000 Pokot raiders are said to have raided Kapchorwa, Bukwa in Sebei District, Eastern Uganda between 30 December 1983 to 1 January 1984 The raiders took away 2000 livestock, looted stores, shops, to avenge earlier raids by the Sebei Warriors [627] The raid was reported to the Obote administration and a series of meetings held to decide on the best way to deal with the Pokot. After a series of meeting between both the president of Uganda and the Kenyan president, a joint military operation to be carried out by the two governments was agreed upon The operation was to be overseen by the Kenyan government [628]

832 It is then that the government launched the greatest ever crackdown aimed at disarming the Pokot and restoring law and order in the region The crackdown was dubbed 'operation nyundo' Helicopters were used for about six months locating cattle rustlers, and stolen cattle, and searching for arms caches It is from the sound of the helicopters, lotiriri that the massacre that followed got its name During this massacre, many people are said to have been brutally killed and many injured by the state security agents carrying out the operation [629]

The massacre

833. Witnesses informed the Commission that over 50 security operations have been carried out in the regions but none of those had devastating effect as the 1984 security operation that resulted in massacre of people. This operation was carried out between 22 February and 22 May 1984 and coincided with the infamous operation at Wagalla

834 As is common with security operation in Kenya, the security agents that were deployed in the area were accused of gross violations of human rights including acts of torture, sexual violence and murders According to the witnesses, the government used heavy artillery and bombed the following areas in West Pokot District 'Kadam Hill, Achalau Hill, Lorusuk Hill, Kasei Hill, Chepyomot (Chelobol area) / Tarakit Hill; Kases; Alale, Nauyapong; and Kishiaunet'[630] the result was that many were killed and others maimed Those who were injured during this operation

627 TJRC/Memo/1206 TJRC/Statement/44322
628 TJRC/Memo/1206
629 TJRC/Memo/1206
630 TJRC/Memo/1206

Include:' Todosia Ng'olechom who became toothless after being tortured Keringet centre by Kenya Army; Kidom who was hammered a 6" nail at Kolongolo centre and died in hospital Kitale; and Kapelo Monges remained permanently lame after he was beaten at Kolongolo Market.'[631]

835. Commission heard that the security agents were targeting even those going by their daily chore. A witness shared how his brother was killed as he grazed his goats. The victim was resting under a tree facing in the opposite direction from where the officers stood. The officers are then said to have shot him at the back killing him on the spot. They then packed the goats in lorries and drove them to Kacheliba where they had set up a camp.[632] They killed adults as well as children.[633]

836. Yet another witness informed the Commission how the security officers surrounded their home and shot their father dead. This witness further confirmed that Chief Lomil was thrown out of a helicopter that was already airborne. He confirmed that many people were killed at the time and many sustained serious injuries. He further confirmed that the Army men were shooting from helicopters and spraying villagers with bullets.[634]

837. According to Rev. Simon Alew, the security agents subjected the local residents to torture and other degrading treatment. In explaining this in his testimony below, Rev Simon Alew indicated that the residents were subjected to 'communal punishment'.

Mzee Atoligole Losute became the first person to surrender his gun, but when he tried to raise the certificate, the helicopter dropped down and then he was told: Because you are a good person, we will take you round to be an example to other people. So, when that Mzee was flown off by the helicopter, his wives saw him go inside the helicopter and after going round, he was seen hooked or tied on his neck to the helicopter and then he was flown off and went round the helicopter and after about 30 minutes, that old man died. He was thrown away at the border of Kenya and Uganda.

631 TJRC/Memo/1208.

632 TJRC/Statement/44322. TJRC/Statement/443. 'The Storm abates, and several find themselves in the cold' Weekly Review, 22 July 1988, as quoted in TJRC/Memo/1210.

633 TJRC/Hansard/Public Hearing/Kapenguria/14 October 2011/p.13-14.

634 TJRC/Statement/34387; TJRC/Statement/41037.

'When he turned after surrendering, he was shot on the back and he died instantly. It was a cold blood killing'

If I may go direct to the operation of 1982/1984; this was the major one where the Government of Kenya led by former President Moi declared that the Pokot community should be disarmed. The disarmament turned into kind of a communal punishment. I am calling it a communal punishment because everybody, even if you were a peacemaker, a bishop or a professor; you were treated equally. So, if it was beating, you were all beaten. There were some people who were beaten and tortured. Over 25,000 herds of cattle were taken to Kacheliba Police Station. Over 10,000 cattle died in the same police station and the remaining 15,000 were just transported to unknown places.

When the Government went round to collect firearms, they announced that: *'If you surrender your gun, you will be given a certificate of confirmation.* People were informed that when the helicopter comes, you should raise that certificate so that they will know that you are a peaceful person and some people did the same. Mzee Atoligole Losute became the first person to surrender his gun, but when he tried to raise the certificate, the helicopter dropped down and then he was told: *Because you are a good person, we will take you round to be an example to other people.* So, when that *Mzee* was flown off by the helicopter, his wives saw him go inside the helicopter and after going round, he was seen hooked or tied on his neck to the helicopter and then he was flown off and went round the helicopter and after about 30 minutes, that old man died. He was thrown away at the border of Kenya and Uganda. Another person who was treated the same way was Mzee Achelo. When he raised his certificate to show that he was a peaceful person, he was sprayed with bullets by the helicopter and three others died at a place called Karamel in Nikunyau Division, which was a location then.

There was an assistant chief called Michael Among'utobotela who talked to the people as he was a mediator between the community and the Government. He tried to advise people to surrender guns to him at night and then he would give them to the Army men because the community feared being killed or being shot. So, the assistant chief, Mr. Among'utobotela, received the guns and he surrendered them to the General Service Unit (GSU) and the Army. When he turned after surrendering, he was shot on the back and he died instantly. It was a cold blood killing.

Mzee Chesirok Lotee was given an iron metal to chew it. He was threatened that he was going to be sodomized. He was told to lie down on his back and was thoroughly beaten. Then the army men took some sand and poured into his eyes. That old man is blind as we speak now. I do not know whether he is around here. But, maybe, for confirmation, if you want to see him, you may get him later.

I have some few pictures which show the victims of those who were affected by the said operations. If I may raise this picture here, it shows a man whose leg was cut off. He was shot and because there was no health facilities near; the only option was for the leg to be cut off.

There is another gentleman here who was suffering from epilepsy, but because of fear of the helicopter, he decided to hide himself. He entered into somebody's house and was caught by the disease while there and he got burnt.

838. The soldiers are also accused confiscating animals[635] which they either short dead, ate or sold Major Joseph Nkaissery (the then MP for Kajiado Central and Assistant Minister for Defence) is among the senior officers accused of selling thousands of cattle and transporting them using Kenya Army lorries to Kitale, Eldoret, Nakuru, and Nairobi [636] In some cases security agents starved animals , numbering approximately,30,000 cattle, that had been confiscated as a way of compelling their owners into surrendering guns All these actions are said to have been overseen by the area DC, a Mr Langat Mr Langat is also said to have fired from their jobs 36 chief and assistant chiefs, who he accused of conspiring with the raiders and being beneficiaries of the raids [637]

839 Witnesses narrated their experiences during the 1984 operation One such witness was Mr John William Lochakan, who served as chief in Alale Location, recalled

> The 1984 operation was a very serious one It was as if it was targeting me They wanted to kill me Those who were in the opposition wanted us to be taken away and they wanted us to die, so that they could take over The ordinary people cried *Our chiefs have gone* They really cried I was arrested in 1984 The operation started in Kacheliba in February and proceeded to other areas We thought it would be in Kacheliba alone, but it went on until Alale That is when they came to my place I had four wives and I had built my houses, so that they were in the same place They were four houses and they were iron sheet thatched houses I had my cows, sheep and goats, which were being taken for grazing Some of the big bulls were taken to Uganda for grazing At the time, I had gone for a visit They came to my place with a maroon vehicle and one which was for the police They had come from Nakuru Its colour was grayish This was the lorry which really hurt our place, there were two lorries
>
> When they came to my home, they removed everything The children were even sleeping on the cemented floor When I came back from my business, because I was selling gold - I started the business of selling gold and sometimes selling cows in the 1980s – I was warned not to use the normal route to my home So, I decided to go through the bush When I reached home, I found that the people had left home and gone to the hills, while the children had gone to the forest They (the soldiers) really looked for me and they really wanted to meet me Why? Just because of those things
>
> Then I went to the forest They sent people to come and look for me, but the hills and the bush were so thick So, we had to hide ourselves in the bushes and the hills When they army men came, they threw bombs at us, they searched for me in the bush and they would bomb that bush Up to now, those bombs are in the bush and we are waiting for the Commission, so that those bombs can be taken from that place because they can explode anytime and kill us At that time, all my cows went I lost all my 40 cows, I lost all my sheep, around 160 of them, I lost all my goats Those were around eighty and that was not very important I lost all my chicken

635 TJRC/Hansard/Public Hearing/Kapenguria/14 October 2011/14
636 TJRC/Memo/M01158
637 TJRC/Memo/M01158

> When my cows were taken away, and when I surrendered myself to the OCS, the OCS gave me a letter and asked me to take that letter to that place The DC had gone The DC made a call to the army "Just go and get hold of that man called John He has come to that place" So, I went out to where the children were The operation was coming to an end and the people were being told to go back to their homes

Impact of the Massacre

840 Like in the case of other massacres, the Lotirir massacre resulted in loss of life, severe injuries, and destruction of property as well as displacement Witnesses confirmed that they were also affected financially with many being

> unable to send their children to school and most children dropped out of school completely leading to,the current illiteracy rate of over 70% in the affected areas and the General illiteracy rate of 60% in West Pokot County[638]

841 Witnesses also informed the Commission that the massacre impacted negatively on education in the affected areas According to the witnesses, most schools were closed as people fled to safer areas Some of the schools closed included.

> Kanyerus Primary school which was low cost boarding Up to now not re-opened Schools now re-opened include Kopulio primary school, Nakuyen primary school, Tiyinei primary school, Kosia primary school, Karon primary school, Karameri primary school, Nauyapong primary school, Kasitot primary school, Kases primary school, Kalapata primary school, Sasak primary school among others[639]

Loteteleit Massacre (28 April 1988)

842 Like their neighbours, the Pokot and Marakwet, the Turkana too have been victims of cattle raids which have resulted in the massacre of their people The Turkana have been victims of attack by both local communities, mainly the Pokot, as well as raiders from neighbouring countries namely, Uganda, Southern Sudan and Ethiopia

843 During such attacks, many lives have been lost, many people severely injured and unknown number of livestock stolen. As will be demonstrated below, assistance from the government has not been forthcoming and sometimes it has been a case of the government offering too little too late

844 The Commission was informed that on 28 of April 1988, cattle raiders believed to be the Toposa of Southern Sudan and the Nyangatom of Ethiopia ambushed the

638 TJRC/Memo/M0367
639 TJRC/Memo/M0367

Turkana who had gone to water their animals at a watering point that was near a kraal The raiders are said to have sprayed with bullet the people watering their animals at the watering point The victims were not able to fight back since they had been ambushed and they could not match the weapons that the raiders had The raider surrounded the watering point and any of the victims who tried to run were shot dead After killing all the people at the watering point and driving their animals away, the raiders are then said to have proceeded to attack and raid the nearby kraals "[640]

845 The Commission heard that the attack lasted four days leaving about 290 people dead[641] and very many injured The Commission was not in a position to independently confirm the number of people who died during the massacre The witnesses lamented that the government response was wanting To begin with, at the time of the attack, the GSU officers stationed nearby did not come to the victim's rescue Further, the then Provincial Commissioner Yusuf Haji and the then area Member of Parliament, Mr Japheth Ekidor, only arrived at the scene four days after the incident The Provincial Commissioner is said to have been accompanied by some police officer who followed the raiders and managed to recover some animals, which were distributed amongst those who had lost their animals Unfortunately, the animals recovered were few to cover everyone The Commission learnt that among those who were killed included the entire family of Lowoyapua including Lowoyapua himself (a renowned medicine man in the region) as well as Eseken Natibakituk

640 TJRC/Memo/M0367
641 TJRC/Memo/M0367

Political Assassinations

Introduction

1 Kenya has lost some of its best and brightest to political assassination At the Commission's hearings in Kisumu, Phoebe Asiyo, one of the pioneer Kenyan female Members of Parliament was asked about her lowest moment in her political career She responded:

> I think the most difficult was when Tom Mboya was gunned down along Government Road That was the lowest in my life and, I guess, the life of many other people That was a man who gave all his life for this country He was one man who championed the sitting down in Lancaster House to discuss the Kenyan issue He was one man who asked the warring sections to stop war, he was the one who persuaded the British, I think, amongst all other people, that sitting down on a round table was, perhaps, the best option But that day, they shot him dead Up to today, nobody has told us why Mboya was killed That was the lowest in my life [1]

2 Similar sentiments were repeated again and again with respect to the many people who have died under mysterious circumstances since Kenyan independence. Pio Gama Pinto, Josiah Mwangi Kariuki (popularly known as J M Kariuki), Robert Ouko, Father Antony Kaiser, Bishop Alexander Muge, Crispin Odhiambo-Mbai, and many others A number of these deaths have been the subject of high profile investigations, in some cases they have been subject to repeated investigations Yet despite all of the investigations in these and other similar cases, the uncertainty concerning who was responsible for the killings and why specific individuals were killed is often as unclear as it was on the day the body was found

3 Given the failures of past investigations, the Commission was fully aware that solving any of the mysteries surrounding these deaths would be difficult and challenging Nevertheless, the Commission gathered information, undertook research and investigations, and solicited testimony to understand the context in which such killings took place, the circumstances and thus probable causes of such killings; the impact of such killings, particularly on the family and friends of the victim, and the failure of investigations to solve the mystery of why a person was killed and who was responsible The Commission has also identified

1 TJRC/Hansard/Public Hearing/Kisumu/14 July 2012/p 38

those individuals it thinks warrant additional investigation with respect to these assassinations.

4. Politically motivated killings have occurred under all three post-independence governments. During Kenyatta's administration, Kenya witnessed the highest numbers of political assassination. Although it cannot be statistically concluded that more people died during his reign than that of his successors, very famous and influential political figures died mysteriously during the period. As Onyango-Oloka asserts:

> The Kenyatta Regime is now largely recognized to have witnessed some of the worst forms of political repression, although the Mzee was treated as a benevolent and benign ruler, in the mould that fitted those leaders who came to power in the immediate aftermath of independence. After combining the powers of the prime minister with those of Governor General, Kenyatta became an Executive President and then embarked on neutralizing parliament as an effective watchdog, whereby crude and inhuman means such as assassinations were resorted to.[2]

5. Political assassinations reduced during President Moi's reign in power. President Kibaki's reign witnessed an even lesser number of political assassinations. But extra-judicial killings increased gradually over time and appear to have reached a peak during Kibaki's era.

6. The list of those targeted for political assassinations in Kenya is long, and contains individuals from diverse political and ethnic background. While such state-perpetrated or condoned atrocities have been committed against citizens, there has never been any form of official acknowledgement or even apology. Attempts to uncover the truth of these killings have repeatedly failed. The Ouko assassination is the most extreme in this regard, having been the subject of two commissions of inquiry, an investigation by Scotland Yard, and two separate investigations by the Kenyan police force. Moreover, there have been a number of arrests related to the assassination and two criminal trials. These numerous investigations have mostly increased confusion and uncertainty about what happened rather than providing answers. While it is the most extreme example, the Ouko assassination is not alone in being the subject of investigations that detracted from, rather than contributed to, truth and understanding about what happened and who was responsible. As a consequence, there is still the prevailing view among many Kenyans that the truth has not been uncovered, or perhaps, more accurately, that while the truth of the matter is known, there has been no acknowledgement of that truth either by those involved or by the Government.

2 J.Onyango-Oloka, "Unleashing the Skeleton of Truth, Justice and Reconciliation in Kenya: From the Outside Looking" in A Report of the Convening on Transitional Justice in Kenya, Revisiting Transitional Justice, a non Partisan and Non-Governmental Engagement –December 7 2007, Serena Hotel Nairobi, Kituo cha Katiba and Ford Foundation.

7 This chapter focuses on assassinations in order to: understand the context, circumstances and purposes of assassinations in Kenyan history; provide a narrative history of some of the most famous assassinations and extra-judicial killings including their historical context, and explore how to further justice in a way that can contribute to truth and reconciliation

Definition and Context

Definition

8 Political assassinations are a special type of killing defined by both the nature of the victim and the motive of the perpetrators While legal authorities differ over what constitutes a political assassination, we adopt here those elements that are common to most definitions

a) The killing

b) Of an individual with leadership or other symbolic importance

c) For the purpose of sending a strong political message

9 Assassinations are intentional killings Indiscriminate or accidental killings do not qualify as an assassination as they do not involve the specific intent to kill an individual The target of the killing must be someone who has, or is perceived to have, leadership qualities or other symbolic importance This character of the victim is tied to the motive, which is for a political purpose The Commission recognizes that many intentional killings can occur for a political purpose In fact many of the killings that were the subject of the Commission's hearings and investigations were politically motivated Assassinations are different in that they target a specific individual whose death, because of his or her status, will have a significant political impact. Such individuals need not be politicians themselves, although in many cases they are

10 Assassinations are different from extra-judicial killings (which is discussed in a separate section of this Report) in two fundamental ways First, extra-judicial killings are illegal killings committed by State agents On the contrary, a private non-state actor can commit a killing that qualifies as an assassination While a private non-state actor can commit murder, he cannot commit an extra-judicial killing unless he is acting on behalf of a State. Second, assassinations require a political motive, an extra-judicial killing is any illegal killing committed by a State regardless of motive

11 There is some authority that assassinations are subject to harsher condemnation than most other killings, thus underscoring the special seriousness of such killings The courts of the United Kingdom, for example, have upheld particularly harsh sentences of those convicted of attempted assassinations because they were attempted *assassinations* and not ordinary attempted killings.[3]

12 Assassinations sometimes refer to *inter-state* killings – in other words, the killing of the national of one state by the nationals of another state, or even by the government of another state This international aspect of assassinations is reflected in a number of international treaties that expressly prohibit such inter-state killings The prohibition found in the Charter of the OAU contemplates such an inter-state killing The language of the AU Constitutive Act is broader and includes *inter-state* and *intra-state* killings The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents prohibits the killing of heads of state, foreign ministers, and representatives of state or international organizations *when the target of the assassination is abroad* Thus the killing of such individuals within their own states does not trigger the Convention

13 The focus of this Chapter is not on *inter-state* assassinations, but on *intra-state* assassinations – in other words the assassination of Kenyans by other Kenyans, and often with the direct or indirect involvement of Kenyan government officials While it interpreted its mandate to include those inter-state assassinations condemned by international treaties, the Commission received no evidence suggesting the involvement of non-Kenyan citizens in the assassinations discussed in this Chapter

Context

14 While political assassinations have occurred in all regions of the world, Africa is the only region that includes an express prohibition against assassinations in an international treaty. Article III (5) of the Charter of the Organization of African Unity provides that

> The Member States, in pursuit of the purposes stated in Article II solemnly affirm and declare their adherence to the following principles unreserved condemnation, in all its forms, of political assassination as well as of subversive activities on the part of neighbouring States or any other States[4]

3 *Crown v Gill* (concerning conspirators in assassination plot against Rajiv Gandhi) *Crown v Al-Banna* (attempted assassination of Israeli ambassador by members of the Palestinian National Liberation Movement)

4 Charter of the Organization of African Unity 479 U N T S 39 entered into force Sept 13 1963

15. The Charter of the Organization of African Unity was replaced in 2001 by the Constitutive Act of the African Union, which also includes as one of the fundamental principles of the African Union

> Respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities [5]

16 This express reference to political assassinations may reflect the unusually high frequency of such assassinations in Africa in the post-colonial period, and the toll such killings have wrought in Africa Assassinations have been employed in most African countries since independence, marking, altering, or determining the course of political events in modern Africa Some of the most prominent assassinations in Africa since the era of independence include

a) Congolese Prime Minister Patrice Lumumba in 1961,

b) Sylvanus Olympio, leader of Togo, in 1963,

c) Hendrik Verwoed, the Prime Minister of South Africa, stabbed in Parliament in 1966;

d) Johnson Aguiyi-Ironsi, who was Nigeria's military head of state, and the Prime Minister, Sir Abubakar Tafawa Balewa, in 1966,

e) Ugandan Chief Justice Benedicto Kiwanuka in 1972,

f) the Arch-Bishop of Uganda, Janani Luwum, in 1977,

g) Steve Biko, South Africa's anti-apartheid crusader, killed in police custody in 1977,

h) Francois Tombalbaye, the President of Chad, in 1978,

i) President Murtala Mohammed of Nigeria, in 1976,

j) Liberian President William Tolbert Jr, during the 1980 military coup,

k) Egyptian President Anwar Sadat, shot during a military parade in 1981,

l) Thomas Sankara, the Head of State of Burkina Faso, in 1987;

m) Rifaat al-Mahgoub, speaker of the Egyptian parliament, in 1990,

n) Samuel Doe, the President of Liberia, in 1990,

o) Chris Hani, the leader of the South African Communist Party, in 1993,

p) Rwandese President Juvenal Habyarimana, killed when his plane was shot from the sky in 1994,

5 *Constitutive Act of the African Union* 1 July 2000 art

q) Ibrahim Bare Mainassara, President of Niger, in 1999; and

r) The Congolese President Laurent Kabila in 2001.

17. Tragically, this list is a very small sample of the political assassinations that have occurred in Africa since independence.

18. Political assassinations can serve multiple purposes. First, they can eliminate or weaken a political opposition that threatens the existing government or its beneficiaries. Second, they can be used to terrorize a population and thus act as deterrence to further political dissent and organization; it has been said that terror and assassinations are the mainsprings of despotic government. Third, they can be used to punish an individual who is perceived to have betrayed the establishment.

19. It is often the case that a particular assassination was committed with more than one of these purposes. That is certainly the case for many of the assassinations that have occurred in Kenya. Many scholars have explored these and other purposes of assassination, noting how the killing of political opponents has been deliberately deployed by leaders to consolidate their regimes and intensify their power since independence.[6]

20. The mere threat of assassination has and continues to play a pivotal role in the history of human politics, particularly in Africa. It has had a profound socio-economic impact upon all nations. Today, political leaders all over the world are routinely protected from motivated and opportunistic assassins. Nations adapt to this threat by implementing defensive strategies, which require the expenditure of time, effort, and resources.[7]

21. In addition to the assassinations discussed below, there have been assassinations of less well known individuals in Kenya. The Commission was informed, for example, of the assassination of members of the Kikuyu elite in the late 1960s who refused to participate in and support the then prevailing practice of oathing. These individuals were killed because of their political stand against oathing, and it is likely that those who killed them did so to send a strong political message to others who might have otherwise considered opposing the practice of oathing. There have also been assassinations of other well-known people, including Father

6 See for example works of Bienen, H. (1970). *Tanzania: Party transformation and economic development* (2nd ed.).Princeton, NJ: Princeton University Press; Lemarchand, R. (1972). Political clientelism and ethnicity in tropical Africa: Competing solidarities in nation-building. American Political Science Review, 66(1), 68-90; Rothchild, D. (1997).*Managing ethnic conflict in Africa: Pressures and incentives for cooperation*. Washington, DC: Brookings Institution and van de Walle, N. (2006). Meet the new boss, same as the old boss? The evolution of political clientelism in Africa. In H. Kitschelt & S. Wilkinson (Eds.), *Patrons, clients, and policies:Patterns of democratic accountability and political competition* (pp. 50-67). Cambridge, UK: Cambridge University Press.

7 Ronald F. White, '3 General Theory of Assassination' in *Assassination Research* Vol. 5 No. 1, 2007. p.3

Kaiser in 2000 While Father Kaiser's case is not dealt with here in any detail, the Commission notes that like the others discussed, it is a killing that has gone unsolved and thus may benefit from a more thorough, and objective, investigation than has been conducted to date The current Director of Public Prosecutions acted as the attorney of one of the suspects in the case. Given this conflict of interest we recommend that an independent prosecutor be established to determine the truth of Father Kaiser's killing and to determine whether enough evidence exists to prosecute any responsible individual

22 In researching these and other assassinations, the Commission was struck by the dearth of scholarly writing in Kenya on assassinations, either generally or with respect to specific cases The overwhelming majority of research on assassination appears in the west, particularly in the United States and the United Kingdom The Commission searched through the thesis and dissertation scholarly database in Kenya and found hardly any that dealt with the topic of assassinations generally, or with a specific assassination in Kenya This is perhaps not surprising African academics who have attempted to immerse themselves into assassination scholarship have often faced deportation, imprisonment or even death Given the numerous failed investigations into specific assassinations, given the common practice of the government shutting down or failing to make public any findings from such investigations, and given the mysterious death of some of those who have either had or sought knowledge of such assassinations, it is not surprising that most academics are reluctant to delve into the topic The impunity with respect to assassinations in the past itself ensures that no one will delve too deeply into the topic for fear of becoming the next victim of an unsolved murder

Pio Gama Pinto

23 A little over a year since independence, on 25 February 1965, Kenya suffered its first major political assassination The Pinto assassination demonstrates all of the complexities and tragedy of political assassinations in post-independence Kenya Its context included a global cold war that was mirrored in domestic political debates, a domestic struggle to consolidate power and narrow dissent, and a resort to violence to address political differences

Political context

24 The newly independent Kenyatta Administration had to grapple with myriad challenges after independence in 1963 Besides fighting illiteracy, lack of education, poverty and disease, the country was the target of ideological and strategic interests of the capitalist West and communist East during the Cold War Both

parties to the Cold War thus nurtured and cultivated ideological and political allies within Kenya At the same time President Kenyatta's government used many of the laws and institutions of the colonial government to minimize and even suppress dissent Those in President's Kenyatta's inner circle who had ambitions to succeed him utilized numerous mechanisms to neutralize political opponents One of the tools used in these early days, and ever since, was political assassination The first victim of political assassination to be weeded out through the barrel of a gun was Pio Gama Pinto

25 Pinto was a nominated member of parliament in Kenya's first government, and was among the few Kenyan Asians to face detention in colonial Kenya While Kenyatta leaned towards the west and capitalism, his Vice President, Oginga Odinga, was more sympathetic to the east and socialism Goldsworthy describes Pinto as 'Odinga's foremost tactical adviser and link-man with Eastern embassies" that bankrolled his socialist ideas' Indeed, it is reported that Pinto had organized a meeting between Odinga and a Chinese delegation that discussed Kenya adopting a more socialist path, entering into a defence pact with Kenya, and the possibility of using Kenya as a conduit for Chinese arms to liberation movements in Africa [8]

26 It was later alleged by the press that The Lumumba Institute, which Pinto headed, was teaching scientific socialism to party members (selected largely for their receptivity to such ideas) President Kenyatta did not take kindly to such activities, and in a series of speeches and statements attacked, among others, 'alien' ideologies and activities of traitors of KANU President Kenyatta asked Mboya to draft a policy on African socialism to counter Odinga's socialism It was to be tabled in Parliament in April 1975 When the Odinga group got wind of this move, they asked Pinto to write a counter draft to be tabled on the same day as Mboya's and mobilized parliamentarians to vote against the government [9] Had this plan come to fruition, it could have made Pinto the architect of the first parliamentary coup and thus the man closest to organizing a real political revolution in Kenya [10]

27 It was during the heat of these early debates about the direction of Kenyan economic and political policy that Pinto was assassinated He was shot outside his home in Westlands in front of his 18 month-old daughter, Tereshka Kenyans were shocked, and the possibility that this was a political assassination was immediately raised Vice President Joseph Murumbi sobbed openly Information Minister Achieng Oneko reacted to the news with 'No, no, no! Kenyatta must explain! He must explain!'[11] President Kenyatta, who retorted *"Bwana Waziri* do you think it is Kenyatta who has killed Pinto?" lamented that the country had

8 Kamau Ngotho *Daily Nation* June 20 2000 p 8
9 Kamau Ngotho, *Daily Nation*, June 21 2000 p 8
10 Kamau Ngotho *Daily Nation* June 21 2000, P 9
11 Kamau Ngotho *Daily Nation* June 18 2000 p 4

lost 'one of the conscientious workers for freedom who suffered many years in detention for his uncompromising stand in politics' Kenyatta asserted that his government 'will exert every effort to hunt down and bring to justice the perpetrators of this outrage'. Underscoring the widespread suspicion of a political murder, Oneko termed it a 'deliberate and cowardly move in what I believe to be a planned assassination' Joseph Murumbi resigned as Vice President to 'protest Pinto's murder and subsequent intrigue in Kenyatta's inner circle'.

Arrest and trial of alleged assassins

28 Following the assassination of Pinto, the Kenya Police mounted a massive manhunt for the three gunmen who it was alleged ambushed and murdered Pinto Two teenage suspects were arrested Kisilu Mutua, who was 18 years old, and Chege Thuo, who was then 19 During their arraignment before Supreme Court Justice, Sir John Ainley, they pleaded 'not guilty' to the murder Kisilu admitted he was near the scene when the shooting took place, having been paid to scare Pinto after his recent opposition activities in Parliament He testified that as he approached Pinto's house, shots rang out and he saw Pinto collapse in his car He testified that he was unable to see who had fired the shots

29 During the preliminary hearing, it was found that none of the ten fingers and palm prints found on Pinto's Saab car belonged to the two teenagers who were charged with what was being described as a 'well planned and efficiently executed' killing [12] It was also revealed that thirteen hours before his murder, Pinto had told his house servant, Waweru Ng'ang'a, that a man had been offered money to kill him A CID corporal told the court that the two had been sent to frighten Pinto by Ochola Mak'Anyengo 'because he had been interfering with his union' [13] When the trial ended, the three assessors found Kisilu and Thuo 'not guilty'.[14]

30 Although Chief Justice Ainley conceded that 'the case wears an unfinished aspect and that we may not have all who were involved in the crime before us', and while he was satisfied that Kisilu had not pulled the trigger, he nevertheless said that the young man could not have gone to Pinto's place without an idea of what was to happen He found him guilty and sentenced him to hang This sentence was later changed to a life sentence Thuo was however freed on grounds of insufficient evidence

12 *Daily Nation* April 10 1965 p 4
13 *Daily Nation* April 10 1965 p 4
14 Ibid

Theories

31 The trial and conviction of Kisilu did not put the matter of Pinto's assassination to rest Over the years, a number of theories have been put forward to explain the assassination Some have suggested that Pinto was killed by members of President Kenyatta's inner circle, while others speculated that Pinto was assassinated by neo-colonialist forces because he was viewed as an avowed Communist with links to the Mozambican liberation movement [15] A declassified cable from the US Department of State captures the breadth of the conspiracy theories that were being circulated in the period following Pinto's assassination

> Other rumours centre around resentment against Pinto as an Asian and speculate that he was killed because he was a major recipient of communist largesse who may have been holding out on money received, or tried to blackmail a high official, or was killed by the Chicoms [Chinese Communists] because he was moving closer to the Soviets or by Kikuyu who feared he was a threat to Kikuyu dominance [16]

32 Thirty five years after the Pinto trial, an investigation by the *Daily Nation* concluded that Kisilu, Thuo and a third man who disappeared, were peripheral players in the murder The *Daily Nation* asserted that Kisilu in fact did not kill Pinto, but was instead set up by the Directorate of Security Intelligence [17] According to the *Daily Nation*, the plan to assassinate Pinto began three years earlier A memo by the Kenya Intelligence Committee dated 13 December 1962 had labelled Pinto as a "man to be watched very closely" By 1965, Kenyatta felt threatened by Pinto's strong trade union base [18] Pinto's positioning as a substantial threat to the existing Government ultimately led to his elimination The subsequent cover up, according to the *Daily Nation*, included keeping Kisilu behind bars against numerous recommendations by the Prisons Review Board for fear of the dossier that he might spill on the Pinto murder [19] The Commission was unable to verify or disprove the allegations made in the *Daily Nation* report Indeed, although the Commission heard testimony on the assassination of Pinto, it was unable to discover any additional evidence that would shed light on any of the theories concerning Pinto's death As noted elsewhere in this Report, the Commission was not allowed access to many of the documents held by the Government that would have assisted in investigations such as this, including the archives of the National Security Intelligence Service

15 "RIGHTS-KENYA Tasting New Life after 36 Years in Jail *Inter Press Service News Agency* July 11 2001
16 Daniel Branch Kenya Between Hope and Despair *1963-2011* (2011) 46
17 Kamau Ngotho *Daily Nation* June 18 2000 p 4
18 David Goldsworthy *Tom Mboya The Man Kenya Wanted to Forget*, 1982
19 Kamau Ngotho *Daily Nation* June 18 2000 p 4

Aftermath

33. Pinto was the first of what was to prove to be many Kenyan politicians assassinated after independence At the time of his assassination, Pinto was 38 years old He was survived by his wife, Emma and his three daughters Linda, Malusha and Tereshka, the last of whom witnessed her father's killing when she was only eighteen months old Two years after the assassination, Emma and her daughters moved to Canada [20]

34 While Pinto's death continues to be shrouded in mystery, the Pinto Trust Fund was established after his death to benefit Emma and the children In September 1965 the International Organisation of Journalists invited Mrs Emma Gama Pinto to Santiago, Chile, to receive a posthumous trophy awarded to her husband for his contribution to journalism that furthered the liberation of African countries from foreign domination and exploitation [21] Many years later in 2008, the Postal Corporation of Kenya released a series of four stamps titled Heroes of Kenya, one of which featured Pinto [22]

Tom Mboya

Context

35 During the first decade of independence, Kenya had a very distinctive single-party dominant system Unlike many of its sub-Saharan neighbours, the country had laws permitting opposition political parties Moreover, the dominant party, the Kenya African National Unity Party (KANU) remained relatively weak It had no internal structures for resolving differences between members and forging a common party platform and thus had little role in interest articulation and aggregation, which are functions that parties in multiple-party and single-party systems often perform These responsibilities were carried out informally through the *Harambee* or pulling together system Additionally, KANU exercised little control over policy matters within the party. Most initiatives originated from the Office of the President, and then appeared on Parliament's schedule for discussion and implementation

36 KANU was a relatively weak organization, most of the power being increasingly concentrated in the Office of the President As earlier alluded to in the case of Pio Gama Pinto, it was dangerous to challenge the status quo or to appear to have ambitions for higher office It was in that context that Thomas Joseph Mboya

20 Meusburger Peter (2011) Knowledge and Space Cultural Memories the Geographical Point of View Heidelberg Springer pp 318
21 Vaz J Clement (1997) *Profiles of Eminent Goans Past and Present* New Delhi Concept Publishing Company pp 243
22 'Pio Gama Pinto (1927–1965)" Safari Africa Radio

became the second prominent politician to be assassinated during the Kenyatta administration, with repercussions that continue to be felt in Kenya today

37 Mboya's rise was meteoric Starting as a health inspector with the Nairobi City Council, he joined the Local Government Workers Union as secretary general and turned it into a formidable union He then turned to the Kenya Federation of Labour which he made into a quasi-political vehicle to fill the power vacuum left after key leaders were arrested during the freedom struggle before independence

38 Mboya was a key intellectual during the formative years of the country He played a major role in drafting Sessional Paper No 10 on African Socialism, through which Mboya believed he had finally arrived at a formula to solve the problems bestowed on the country by the colonial government It was while he was diligently working to implement this policy that Mboya was shot dead [23]

39 Mboya started a trade union-cum-political career that many envied, he was a good orator, skilled debater, efficient mobiliser, and extremely shrewd organizer who progressively built himself into a position where he was indispensable [24] Without his brilliance, it would have been difficult to push through the many government bills enacted during those early years of independence He was also KANU's chief campaigner in most matters, including general elections He was a member of the Presidential Commission on Trade Unions that led to the formation of the Central Organization of Trade Unions (COTU) in 1965, and was also a member of the Philips Commission that drafted the treaty on East Africa Cooperation two years later Before that, Mboya had made a name for himself organizing the famous student 'airlifts' to the United States, which resulted in about 1,000 Kenyans attaining higher education in the United States between 1958 and 1961

Political career

40 Mboya posed a challenge to the existing government and its supporters at three levels Firstly, his following in the trade unions and his childhood on a sisal estate on the borders of Machakos and Kiambu, which enabled him to converse colloquially in *Gikuyu* and *Kikamba* as well as in *Swahili* and *Dholuo* languages, meant that he was able to secure support from outside his own ethnically restricted sub-nationality. More than perhaps any other politician, Mboya had a Kenya-wide following and national appeal. Secondly, his international reputation and his close relationship with the American labour organizations dating from the 1950s, and his network of former

23 Ochieng *TheDaily Nation* 1969 July 7 p 8
24 Gathigira *Th eDaily Nation* July 7 1969 p 9

'airlift' students who had benefited from his patronage, meant that it was harder to isolate him as was done with Oginga Odinga and Bildad Kaggia by allegations of socialist tendencies. Moreover, as Minister of Economic Planning, Mboya had been instrumental in the drafting of Kenya's official statement of commitment to capitalism, misleadingly named "Sessional Paper on African Socialism". Thirdly, at the national level, Mboya appeared to threaten the dominate position of the Kiambu elite with his ability to appeal to Kenyan national solidarity.[25]

41. Many scholars have analysed the political dynamics of the early Kenyan government. It is in that political context that the reaction against Mboya, leading ultimately to his death, must be understood.

42. Goldsworthy posits two sub factions within KANU in order to understand the political dynamics of the time; KANU A and KANU B. KANU A was the formidable force or the 'inner group' but which was variously known as the 'Kikuyu group,' the 'Gatundu group', or otherwise the 'court,' and included Charles Njonjo and Mbiu Koinange who were all close to the President, and with them, Vice President Daniel Arap Moi as one of the few non-Kikuyu's in this faction. KANU B included Tom Mboya, and had support from Ministers of various ethnicities. In sum, Mboya had the backing of the Luo, Kamba, coastals and legislators from the north east.

43. Goldsworthy asserts that the Gatundu group's jealousy and fear of Mboya emerged at a private meeting of the full KANU parliamentary group in March 1968. This was the first time that the issue of Mboya was unambiguously discussed in such a large gathering and in the presence of Kenyatta himself. Subsequent leaked accounts reveal that it was the attorney general, Njonjo, who led the attack. Njonjo delivered an address full of aspersions against Mboya's ambitions and his American connections. Mboya argued back strongly.

44. In 1967, the government had set up a committee with Kenyatta's approval to propose a succession formula to replace the existing one, under which if the president died in office the assembly would elect a successor for the balance of his term. This formula had ironically been drafted by Mboya and Njonjo in 1964. According to Goldsworthy, the Gatundu group now feared that if Mboya were given an opening under these arrangements, he could mesmerize parliament and ensure his own election. In March, the government introduced a constitutional amendment bill providing that if the president died, the vice president would automatically succeed him for the rest of his term. Mboya's position was saved, however, by the genuine anger and resentment of almost the entire back bench of

25 Otiende 1969, P· 35; The Standard, October 14, 1969 and November 25, 1969; Goldsworthy 1982b, pp. 267-275. 284-285.

MPs at this further erosion of parliamentary power. Confronted by flat refusal to pass the bill, the government in April presented a revised version under which the vice president would succeed the president for six months after which there would be a national election.

45. Jennifer Widner[26] argues that the office of the President moved rapidly to amend the constitution in ways that would insulate Kenyatta from factional feuding and limit the chances that an official opposition party could secure a significant foothold in Parliament. The sixth and tenth amendments to the constitution, passed in 1966 and 1968 respectively, changed the political map. The sixth amendment gave the office of the President the power to detain individuals citizens without trial. The tenth amendment eliminated President Kenyatta's dependence on a parliamentary majority by replacing procedures for election of the president by Parliament with procedures for direct, popular election.[27]

46. Accompanying legislation terminated provincial councils, restricted independent candidates (candidates without official party affiliations) from running in local or national elections, made the legislature a unicameral assembly, and permitted press censorship. These laws all worked together to insulate the presidency from the battles within KANU and to hamper efforts to challenge the allocation of resources favoured by the Kenyatta government.[28]

47. Kenyatta himself appears to have condoned some of these tactics when he was persuaded they were necessary to preserve his government. Yet neither during this period nor later does it appear that Kenyatta offered blanket approval for such actions, although his control over members of his coalition varied greatly and prevents inference about his real views on the subject. In the early years, Kenyatta appeared sensitive to the possibility that opposition to restriction of political space would bring economic or social pressure to bear on his government.

48. In 1966, Kenyatta suffered a stroke. Njonjo and Moi, without consulting the cabinet, hurriedly put up a third version of the succession plan which retained the six month interim presidency by the vice president but reduced his powers in certain areas. Still concerned with combating Mboya as a possible successor, they added a completely new clause raising the minimum age of presidential candidates from 35 to 40. At the time Mboya was only 39 years old. On this point they miscalculated, for when Kenyatta recovered, according to Goldsworthy, he admonished both Njonjo

26 Widner, A. Jennifer. *The Rise of a Party-State in Kenya: From "Harambee!" to "Nyayo!"*. Berkeley: University of California, 1992. Online book found at http://ark.cdlib.org/ark:/13030/ft9h4nb6fv/ visited 12/2/13

27 Ibid

28 Mueller, "Government and Opposition in Kenya," p. 410

and Moi and asked them to withdraw the bill Nevertheless, Goldsworthy argues that Njonjo, Koinange and Mungai were still determined to get Mboya out of the way and they became increasingly desperate as Kenyatta's health deteriorated

49. By this point most analysts agree that a clear rift had emerged between Mboya and the Gatundu group, led by Njonjo. Recognizing this growing tension Mboya decided to back off In May 1965, a by-election was held in Gem constituency to elect a successor to Argwings Kodhek who had been mysteriously killed in a road accident Mboya both as party Secretary-General and as the sole remaining Luo minister at the highest level was naturally expected to spearhead the government campaign on behalf of its Luo candidate Mboya declined to get involved, and it therefore fell upon Mungai to lead the KANU campaign Mboya's unspoken message was, 'let them see what they can do without me'

50 The KANU candidate was defeated In the view of some analysts this incident was the final straw for KANU A, the factor that hardened them against Mboya once and for all The political tensions and struggle thus intensified, culminating in the assassination of Mboya in broad daylight in downtown Nairobi on the morning of 5 July 1969

Arrest and trial of alleged assassin

51 Nahashon Isaac Njenga Njoroge was arrested and convicted for Mboya's assassination Njenga had trained in Bulgaria as a mechanic but could not find work in Kenya Frustrated, Njenga became a youth winger and hired security guards for politicians in the city Shortly before Mboya was shot, Njenga had been arrested for carrying an illegal firearm He was however released on the condition that he acts as a police informer, providing information on politicians of interest to the government. Njenga was sentenced to death on 11 September 1969 by Justice Simpson [29] On 8 November 1969 Njenga was executed

52 Before he was hanged at Kamiti Maximum Prison, Njenga confessed to hangman Kirugumi Wa Wanjiku that he had the 'logistical support' of three senior police officers with whom he stalked Mboya on the morning of 5 July 1969 before he shot him When he was arrested the murder weapon was found in his house in Ofafa Jericho, Assistant Superintendent of Police, Joginder Singh Sokhi, asked Njenga, 'Is this gun that killed Mboya?" Njenga retorted. "Why don't you ask the big man? We did what we were told'.[30] Njenga's reference to the 'big man' is an oft-repeated refrain, convincing many Kenyans that the plan to assassinate

29 Kwendo Opanga, *Daily Nation*, July 17 1990 p 5
30 *Daily Nation* September 3 1969 p 1)

Mboya came from the highest levels of the government Little was done at the investigations stage or the trial stage to follow up on this reference to more powerful accomplices, fuelling further speculation of government involvement and cover up

The Aftermath

53 Mboya's death was mourned across the country In a poem, Macgoye asked pertinent questions about the death of Tom Mboya which led to so much distress in the land She asks a question for freedom, for "the hunters go unchecked" after they have taken away the freedom to live, think and act from a leader who promised to be extremely helpful to the poor who needed him most and to the nation

> Who calls him rich in worldly things?
> We knew him rich in peasant tongue,
> Thought in each language newly sprung
> and courtesy, the grace of kings [31]

54 The effects of the murder of Tom Mboya have lasted until today Specifically, it divided the Luo and Kikuyu communities in ways that are still felt today It resulted in demonstrations against President Kenyatta at Mboya's requiem service After the suspected assassin was identified as a Kikuyu, Colins Leys observed that 'the Kikuyu leadership responded by inaugurating a mass oathing programme among the GEMA tribes'[32] The subsequent banning of KPU in October 1969 and the detention of Oginga Odinga and other leaders without trial sent additional signals to the Luo ethnic group, furthering the divide between the two communities

55 The animosity between the Luo and Kikuyu communities broke out into outright violence during the visit of Kenyatta to dedicate the Russian Hospital in Kisumu During the visit, a large crowd of Luos reportedly menaced Kenyatta's security The security guards fired back in what later came to be known as the 'Kisumu massacre' The government accused KPU of being subversive, intentionally stirring up inter-ethnic strife, and accepting foreign money to promote anti-national activities The proscription of KPU returned Kenya to a *de facto* single party state Nyanza Province, like many other parts of Kenya, was virtually written off from 'national' development plans

31 Ibid

32 The initials GEMA means -Gikuyu Embu and Meru Association- an organisation created to advance the social and political needs of peoples descended from the mythological figure Mumbi the Gikuyu Embu and Meru peoples It was founded in 1971 by Njonqa Karume

Josiah Mwangi Kariuki

56 Like Tom Mboya, Josiah Mwangi Kariuki (popularly known as J M Kariuki) was another 'rising star' in Kenya politics.[33] He consistently advocated that the government guarantee a fairer distribution of the country's resources to all Kenyans Like Mboya, he was increasingly viewed as a popular alternative to President Kenyatta and his inner circle, and like Mboya and Pinto, his rhetoric threatened to weaken the economic and political benefits shared by the President's inner circle and its beneficiaries In March 1975, J M Kariuki was brutally murdered at Ngong forest in Nairobi.

57 According to David Throup, J M Kariuki was a threat to President Kenyatta because he was attempting to subvert Kikuyu sub-nationalism from within Whereas Mboya and Odinga as Luos had been compelled by their ethnicity to work from the outside and secure support by their populist rhetoric or trade union past, Kariuki was a former Mau Mau detainee and could challenge the authority of the Kiambu elite by mobilizing a populist Kikuyu following of discontented former Mau Mau Throup argues that

> In a conflict within the Kikuyu community, Kariuki threatened to mobilize the rest against Kiambu by emphasizing the unequal distribution of state resources, and to destroy the stability of the regime from within Kenyatta's political bailiwick Kenyatta, of course, had attempted to ensure that Nyeri and Murang'a benefited from development and welfare schemes as much as Kiambu, and that the Kamba, with their important position in the senior officer corps and in the army's ranks, and the Embu and Meru also prospered Political power, however, and the distribution of economic rewards and development measures was concentrated in the hands of loyal Kiambu Kikuyu While Murang a, Nyeri, Embu, Meru, Machakos, and Kitui had only one cabinet minister each under Kenyatta, Kiambu MPs occupied six key government ministries [34]

58. As President Kenyatta's health continued to decline, J M Kariuki was believed to have his eyes on the presidency His dashing style struck a powerful chord with the masses, but also earned him bitter enemies in Kenyatta's State House [35] Not only did he give generously to charity, but he was also known to have given the princely sum of Ksh 80,000 to a public cause at a time when the President's highest known donation was Ksh 3,000 to the Jomo Kenyatta College of Agriculture at Juja [36] His speeches were increasingly populist In 1973, on the 10th anniversary of Kenya's independence, President Kenyatta joyfully extolled

33 Charles N Mwaura "political succession and related conflicts in Kenya" A paper prepared for the USAID Conference on Conflict Resolution in the Greater Horn of Africa held at Methodist Guest House, Nairobi, 27-28 March 1997

34 David W Throup The Construction and Destruction of the Kenyatta State " in *The Political Economy of Kenya* ed M G Schatzberg (New York Praeger 1987) p 37

35 See The Daily Nation' of Thursday, 2nd March 2000 p 9 11

36 Ibid p 10

the country's achievements while J M Kariuki spoke elsewhere that Kenya had become a country of 10 millionaires and ten million beggars [37] According to a witness who spoke to the Commission

> On land distribution, J M Kariuki owned land in Nyandarua and bought a farm in Gilgil which he called Kanyamwe Farm However, he decided to share out the Ol Kalou land with the needy and he called upon other landowners to do likewise This worked seriously against him as the move was to be termed subversive and socialistic He organized his constituents and formed groups to raise money to buy land in Kamiti area but they were blocked He toured the country helping new groups to buy land and settle themselves on such land, thus posing a challenge to the Government on matters of settlement of the millions who were landless J M Kariuki came up with a statement on how Kenya had become a country of ten millionaires and ten million beggars This was seen as causing "actual bodily harm to the body of politics in the country and the time would be opportune he would be made to pay for it "[38]

59 In 1974, Kariuki was banned from addressing gatherings in colleges and rallies in his constituency His pistol was confiscated He thus resigned from office and became a back bencher The restriction went so far as to prevent a birthday celebration – road blocks were sent up on all roads leading to his house, and guests both domestic and foreign were forced to leave:

> The parliamentary term 1969-1974 was the roughest time for J M as he was making efforts to put many wrongs right He was deemed to be fighting the system and was accused of plotting to overthrow Kenyatta This raised the question of Kenyatta succession as the president was now approaching towards the 90s in age J M Kariuki was banned from addressing gatherings in colleges and in rallies in his constituency J M was still an Assistant Minister but even then he was banned from addressing his constituents In 1974 as the country was approaching a general election, the then District Commissioner, Mr Thuo had been given strict instructions to impose the ban He went even further and took away J M's pistol Whichever route or road the administration knew he would be passing, had a road block manned by the Kenya Police personnel J M found it very odd for a Government Minister to be treated this way while still in office He chose to resign from that post of Assistant Minister and joined the backbenchers in Parliament He gave reasons for his prompt action as being pushed too far However, he remained a candidate for his seat and even without campaigning, he won the 1974 general election with a landslide It will be unfair to forget one very important event of the family that was to celebrate James Kariuki's birthday at his home in Kanyamwe Farm at Gilgil The orders to the police and DC to ban all JM's gatherings were applied and the roadblocks were on all ways which led to Kanyamwe Farm All those who had managed to make it to the farm were ordered to leave Many foreign friends of J M and the Press were not spared The press reported the happenings but no one owned up Human rights, freedom, justice and family privacy were all abused and to this day, no healing has ever taken place The family had to bear the trauma "[39]

37 Ibid
38 TJRC/Hansard/Thematic Hearing on Political Assassinations/5 March 2012/p 9
39 TJRC/Hansard/Thematic Hearing on Political Assassinations/5 March 2012/p 10

60 J M Kariuki was informed of a plot against his life from colleagues in Parliament They asked him to seek audience with Kenyatta and give his side of the story concerning his 'people's revolt against the government' An organization called the Maskini Liberation Movement was formed, and leaflets were distributed bearing Kariuki's name A series of bombs rocked the city and police informers credited the Maskini Liberation Movement as responsible.

61 Kariuki became increasingly stressed by the state of affairs and was advised to take a rest by his doctors An Overseas Trade Corporation (OTC) bus he had booked to the Coast exploded killing 27 and injuring 100 Kariuki escaped after a friend, Isaac Macharia, dissuaded him from travelling at the last minute Later, Gethi asked Kariuki to explain his innocence regarding the city bombing to security chiefs 'in a friendly atmosphere', on the promise that he (Gethi) would protect him [40] On Sunday, March 2, Gethi went to Kariuki's home Gethi provided him with a pistol as protection Later, Gethi picked Kariuki from the Hilton Hotel where the two got into Gethi's car, leaving Karikuki's Mercedes at the parking lot It was 7 00 pm That was the last time J M was seen alive

62 An investigation by the Daily Nation in 2000 claimed that the Special Branch released a convicted bank robber, Peter Kinyanjui, alias Mark Twist, and bank robber Pius Kibathi, to trail Kariuki [41] The Daily Nation alleged that Gethi took Kariuki to the Special Branch headquarters at Kingsway House along Muindi Mbingu Street where he met police reservist Patrick Shaw, National Youth Service boss Waruhiu Itote, Criminal Investigations Department (CID) head Ignatius Nderi and Kenyatta's head of security, Arthur Wanyoike Thungu, who asked him about some 'missing foreign funds' when Kariuki was Kenyatta's private secretary and later Assistant Minister for Agriculture In the ensuing argument, Thungu punched Kariuki on the mouth, knocking out three of his lower teeth When Kariuki's body was later found, three lower teeth were missing, providing some corroboration for this version of events Provoked, Kariuki is said to have taken out the pistol he had been given by Gethi, but before he could fire Gethi shot him on the right arm 'to protect Thungu' [42] Three men brought in to testify about Kariuki's involvement in the city bombings were asked to handcuff him,[43] and Kariuki was forced to enter into the car of Ngong Ward Councillor John Mutung'u Kariuki's body was later found, without fingers and eyes gorged out in the Ngong forest Testimony presented to the Commission *in camera* is consistent with some of the findings of the Daily Nation investigation In particular the Commission was told that a car filled with GSU officers, including senior superintendent Kiarie, was found near

40 Ibid Ngotho 2000
41 Kamau Ngotho Daily Nation June 2 2000 p 9
42 Kamau Ngotho Daily Nation March 2 2000 p 9
43 Kamau Ngotho Daily Nation March 2 2000 p 11

the body of J.M. Those individuals were arrested, but were quickly released on the orders of OCS Lee Kinyanjui.

State cover-up

63. A number of incidents since the death of Kariuki point to a cover up with respect to his murder. First, the then minister of state in the office of the president, Mbiyu Koinange, declined an invitation by the Parliamentary Select Committee headed by Elijah Mwangale which was investigating the disappearance and death of J.M Kariuki. The minister neither attended the meeting nor sent any apologies for his failure to respond to the committee's written invitation. The then vice president Daniel Moi and attorney general Charles Njonjo accepted the invitation to the select committee. However, when the sub-committee visited the CID Headquarters, they were not allowed to inspect both the investigation files on the murder of J.M and the ones on the bomb explosions the day before the disappearance of J.M from Hilton Hotel.

64. Second, it is reported that after the Mwangale Select Committee started its work on the investigation, there was a lack of cooperation from the Kenya Police Force under its commissioner, Bernard Hinga. Mungai, who was the Senior Assistant Commissioner of police in charge of Rift Valley Province, where the body of J.M was found, and his junior officers were unwilling to disclose what they knew without the permission of their immediate superiors.[44] On the other hand, when the District Commissioner of Nyandarua, Thuo, appeared before the committee to be examined and give evidence, the report described his attitude as 'negative and hostile' forcing the committee to conclude that he not only did not tell the truth as he knew, but was also not a truthful witness.[45]

65. Third, witnesses with information on the disappearance of J.M were harassed, intimidated and tortured by members of the CID after being held in custody for questioning.[46] Witnesses called by the committee to testify on events at Hilton Hotel on the evening of 2 March 1975, were found to have passed through the hands of police and made prior statements, hence there was reason to believe that they were frightened to change what they knew when they appeared before the Committee. Police also refused to produce statements made by witnesses on the disappearance and death of J.M. Additionally, and as claimed by the police,

44 Ibid. see section 1.4

45 Report of the Select Committee on the Disappearance and Murder of the Late Member for Nyandarua North, the Hon. J.M. Kariuki, p. 1070

46 For instance, Mwithaga had claimed that Patrick Shaw, who had never had any formal training in the police work, was the chief inspector at the Kenya police reserve, was recruited by colonial government and yet worked together with other police officers Clark and Young were patrolling around Nairobi, harassing and beating up anybody who witnessed what happened at Hilton Hotel. For instance, one newspaper vendor who witnessed what happened to J.M at Hilton was beaten by Mr. Shaw and driven away. This could be a way of silencing the witnesses. See Report above.

the committee was not able to interrogate a material witness, as he had left the country and had not returned It later turned out he was actually in Nairobi at the time, a fact that was known to the police

66 Fourth, Inspector Henry Waga, who was the deputy to Inspector Kinyanjui, took charge of the investigation. He proceeded to the crime scene and collected the body without taking fingerprints or any photographs of the body in question The body was then taken to the City Mortuary, where it lay hidden from 3-12 March 1975 when the body was positively identified as belonging to J M Kariuki [47] Gunshot cartridges that killed Kariuki showed that they had been fired by a gun belonging to a member of the presidential guard Pius Kibathi, a criminal and police informer, was implicated in placing Kariuki's expensive watch inside the toilet of Makongeni Police Station three weeks after he went missing [48] It later emerged that Kibathi was to be the scapegoat for the assassination as part of being implicated as the police informer on the city bombings by Maskini Liberation Movement [49]

67 Fifth, to support the argument of a conspiracy to kill and cover-up J M Kariuki's assassination, a witness before the Commission stated when the wives of J M Kariuki and Members of Parliament went to view the body of J M Kariuki at City Mortuary not only were they denied entry into the mortuary but that the 'mortuary attendant' at the time was a known Special Branch official

> When we reached the City Mortuary, we were not allowed to enter except the compound It was now obvious that the Government had started a kind of self defence mechanism in fear of the truth that was now coming out One senior superintendent of police in charge of Nairobi CID and who was on leave found us there He knew many of us and he wanted to find out why we were all there It appeared he was also in the dark over this issue We told him we knew J M Kariuki's body was in the mortuary and nobody wanted to open the place for us to view that body, and there was one police officer from Parliament who had been attached to the Special Branch and who was identified by hon Grace Onyango and asked why he had a label of a mortuary attendant on his coat The special Branch officer attached to Parliament was now an attendant The senior superintendent of police was known as Mr Kibera So, he asked this attendant to open the place for us, so that MPs could view the body if it was true it was there He said he had instructions not to open for anybody.[50]

68 This suggests that the police had something to hide, or were being instructed to hide relevant evidence. Further, the Mwangale Committee was not allowed to read the investigation files from the CID investigations, which is a pointer to the fact that the CID may have had something to hide and was afraid the committee

47 Ibid 4 7
48 Kamau Ngotho in quoting Blundell A love Affair with the Sun 1994 Daily Nation, February 11 2002, p 11
49 Michael Blundell A Love Affair with the Sun 1994
50 TJRC/Hansard/Thematic Hearing on Political Assassinations/5 March 2012/p 13

would find out [51] Even more worrying was the fact that the public who were at the public gallery in parliament were not allowed to follow parliament proceedings by the speaker

69 Sixth, Silas Mburu Gichua, the then Nakuru Mayor, and other officials gave conflicting information to the Select Committee For example, Mburu claimed he was not in Nairobi on the day J M died, yet the committee had information to prove that he was indeed in Nairobi on that day Additionally, J M's watch was found at Makongeni police line, and yet no police person gave any information on how it had arrived there [52]

70 Seventh, the Select Committee was instructed by President Kenyatta to remove the names of specific individuals from the report, as reported to the Commission by a member of the select committee

> When we presented the report to the then President Kenyatta, as a matter of procedure and courtesy, we were doing so, so that we do not table the report in Parliament before he knew what the contents were I remember he looked at us and he was fuming But then we were able to develop some elementary psychology and cooled him down because I remember telling him "Mzee, throughout the time we sat in this Committee, nobody mentioned your name, nobody wrote to us with evidence containing your name and that having been the case, surely, it would have been witch-hunting to introduce your name in the report when you had not been mentioned But all the others we have mentioned here, Ministers and public officers, we have many documents which were sent to us by people as proof of their evidence Others came in person, recorded and stated what they knew about them" At that point, I remember Mzee looking at me and he felt convinced So, at least, we had time to discuss a few other things It is at that point he asked Mr Mwangale, the Chairman "Why do you have my Minister's name here and my bodyguard? These are in the Office of the President It appears if it had not been for politeness, then you would have put my name because leaving my name and putting these names here is the thing I am questioning you" Before Mwangale responded, Mzee cancelled those two names himself with his own pen and he asked Mwangale to initial the concurrence [53]

71 This dramatic interference in the committee's report was apparently minor compared to what some had been warned about

> I remember that Mr Shikuku had warned us before we went to State House because he refused to join us to go there Even Mr Seroney did not join us He had told us "It is better that you go a few of you because you may never return and if you do not return, we will tackle this issue outside here before we are also picked up [54]

51 Report of the Select Committee on the Disappearance and Murder of the Late Member for Nyandarua North the Hon J M Kariuki p 949

52 Report of the Select Committee on the Disappearance and Murder of the Late Member for Nyandarua North the Hon J M Kariuki p 1140

53 TJRC/Thematic Hearing on Political Assassinations/5 March 2012/p 17

54 TJRC/Thematic Hearing on Political Assassinations/5 March 2012/p 17

72 At the same time the President apparently mobilized political support against the committee and its report

> I remember the President staying in Mombasa some Members of Parliament and other dignitaries were being summoned to Mombasa to go and support the Government against our committee They would be given microphones on television to state how they stood by Mzee Kenyatta in that scenario This was meant to be fighting us [55]

73 The challenges the committee faced directly with the President translated into Parliament when they tried to table their report, as described by a member of the committee

> We were asked to stop and flash our fingers with the KANU salute This was high politics I sensed, therefore, that the system was at war with itself as to how to conclude this matter without it being affected adversely or otherwise Having realized this, when we went back to Parliament, I approached my chairman, Hon Mwangale, and I told him let us move quickly Let us table this report now even if it is for five minutes Mwangale tried, but the Speaker Mati refused to accept the move He said there is no hurry We can wait for another day or two He did not realize that we were sitting on a very hot bath I told Mwangale if he was not able to table it, he allows me to do so as his vice-chairman When Fred Mati refused us to table it, we had no choice but to wait for the Deputy Speaker, Mr John Seroney When the Speaker went for tea and Hon Seroney took the Chair, Mr Seroney read all the papers which the Speaker had left behind, but there was nothing about this move So, when Mwangale tried again table the report, Mr Seroney allowed him to do so He said since there were no instructions by the Speaker on this matter, he decided to exercise his authority as the Deputy Speaker The Deputy Speaker put the question to decide whether Mr Mwangale was in order to table the report and the House allowed it to be tabled Mr Mwangale was now allowed to table the report He moved the Motion and I seconded it [56]

74. Yet this maneuver that resulted in the report being tabled had immediate political consequences for those involved Again, as testified before the Commission by a member of the committee

> When we were voting for the adoption of this Report a number of Ministers stood up and spoke in the House in support of the Motion One such was Hon John Keen He was an Assistant Minister for Public Works He remarked and I quote "Since the hyenas of Ngong Forest did not eat the body of J M Kariuki, they should be honoured with EGH State medals and what have you" It is on the records of the House That evening, he was sacked as the Assistant Minister for Public Works On the day of voting for the report, Hon Masinde Muliro who was a Cabinet Minister and Hon Peter Kibisu, who was an Assistant Minister, voted for the adoption of the report In the evening or at round 6 00 p m , they had lost their positions in the Government [57]

55 TJRC/Thematic Hearing on Political Assassinations/5 March 2012/p 21
56 TJRC/Hansard/Thematic Hearing on Political Assassinations/5 March 2012/p 18
57 TJRC/Hansard/Thematic Hearing on Political Assassinations/5 March 2012/p 19-20

75 All the above reasons, point not only to the involvement of the state or its agents in the assassination of J.M Kariuki, but also its involvement in subsequent cover-ups

The impact

76. Kariuki's murder and the subsequent cover-up by government officials proved to be a greater threat to stability than was posed while he was alive "Kariuki's murder ignited the country University of Nairobi students rioted leading to the closure of the University

77 Macgoye narrates in *Coming to Birth* how the people never stopped to miss their elected but killed leaders They mourned and commemorated them She writes that

> J M Kariuki burst upon the scene as a martyr, and a paroxysm of grief ran through the city The skies were laden that April and it grew colder and colder

78 And pop music makers of the day, Kamaru and others, did not fear They asked President Kenyatta in songs in his mother tongue what happened to Kariuki The song went, 'People of our mother since Kariuki has died and he has not stolen or killed anybody He has died for being good and you ask yourself what you will die for a song I heard and which moves me still' President Kenyatta banned the song

79 A Tanzania band too commemorated J M Kariuki only for the song to be banned by the Tanzanian President, Mwalimu Julius Nyerere, upon the request of President Kenyatta The song goes

> *Kifo cha J M Kariuki*
>
> *Sisi watu wakenya tuna uchungu mwingi sana*
>
> *Eeh kariuki enda salama sisi tuliobaki tuko taabuni*
>
> *Sisi sote twajuasio kawaida, nasio cha halali*
>
> *Tunajua natunakungoja uriuli*[59]

80 While there is no question that the death of J M Kariuki had enormous political implications, what is often lost in the case of such high profile assassinations are the lingering effects of the death, and the narrative around the death, of a loved and revered family member The son of J M , Antony Kariuki, testified before the Commission

58 Ingham 1990 104
59 Song by Patrick Palicidia Western Jazz band 1976

We have lived in that dark place, unwittingly so But there is a vast difference between us and them, and it is that we are innocent and this situation was thrust upon us and they are guilty and they are the ones who were entrusted in us In talking about time, in your investigations and compilations, I want you to remember and this is on record- James' Time Piece which was earlier mentioned and we engraved it with his name after curiously looking for it and finding it at Makongeni Police Station [60]

81 He went further to say "The brutal murder of the late J M Kariuki denied us our inherent right to family, parental care and happy childhood, optimum education, health, welfare and reasonable standard of living, measurable or commensurate with our father's economic and financial ability"[61]

82 Antony's sister, who has tirelessly pursued the story of her father's assassination, poignantly recounted to the Commission its impact on her life

I was 11 years old I was in a boarding school in Eldoret We used to read newspapers every weekend That weekend, we had seen the article that J M is missing So, I was a bit concerned because I knew that it was not his habit to go anywhere without saying where he had gone I had also grown up knowing that there were people who did not like him So, when the news came that he died, that morning I was in the Convent School and the headmistress called me and she said "Remember, your father is missing They have found him but unfortunately he is dead" There was no counselling and so each one of us was forced to deal with our emotions and our feelings in our own separate ways That is why you heard my brother talking about depression and other social cycles that affected us I would like to confirm that I understood exactly what had happened to my father, even though I was 11 years old [ ] My biggest fear was that my mother would be next [62]

83 It is not only the fact of his death that has continued to effect the family, but the manner in which he was killed, and the stories that were propagated to explain, and cover up, the true motives behind his assassination

At the time of his death, the late Hon J M Kariuki was one of the wealthiest Kenyans, brightest politician and administrator He had many friends across the political divide and among the wealthiest and the poorest The family socialized with families of equal financial status and those who did not have Subsequent to the assassination of their husband, the first thing that happened is that their friends in the higher echelons of politics and finances started isolating them They were no longer welcome to the families of those who were wealthy for fear that they too would be victimized politically So, the first thing that happened to the family was isolation It looked like the Government of the day deliberately put fear in politicians and business people to keep away from the J M family with the exception of Mark Mwithaga and Waruru Kanja Those are the only true family friends who stood with the family through the difficult times [63]

60 TJRC/Hansard/Thematic Hearing/Political Assassinations/5 Mar 2012
61 Ibid
62 TJRC/Hansard/Thematic Hearing on Political Assassinations/5 March 2012/p 36 39
63 TJRC/Hansard/Thematic Hearing on Political Assassinations/5 March 2012/p 42

Robert Ouko

Background

84 President Daniel arap Moi's administration had its fair share of political assassinations The country had become a *de jure* single party state in 1982 after Parliament, under duress from the Executive arm of government, enacted a law that made *de jure* what had been a *de facto* single-party state Events in August 1982, when a coup was attempted by Kenya Air Force soldiers, were to change the political course of the country With the failure of the coup, President Moi acted to ensure that there would not be another challenge to his government by turning Kenya into a police state The secret police became a formidable arm of government, they became the ever present eyes and ears of the executive The security apparatus was systematically employed to eliminate 'dissidents' and any politicians who were a threat, whether real or imagined, to the government

85 One of the most gruesome events during this period was the assassination of Robert Ouko, the first major political murder during the Moi administration. Ouko was the MP for Kisumu Town and Minister for Foreign Affairs when he was reported missing on 16 February 1990, three days after leaving his Koru home near Kisumu His body was found badly burnt, but the face was recognizable His arms and legs had been smashed A bullet had passed through his skull There were no signs of struggle near Nyando River at the foot of Got Alila Hills where his body was discovered by a 13 year old boy When the grim news spread, people broke down, sobbing All public places closed shop in Kisumu

86. President Moi said that the partly burnt body was found 'in circumstances that at the moment, suggested foul play' The Police Commissioner, Philip Mbithi, said it was 'a cruel, inhuman and most bloody murder'

87 What follows is the Commission's best deduction of the events leading up to and including the murder of Robert Ouko We have devoted more attention to this assassination than to the others for two reasons First, the Ouko assassination has been the subject of investigation by all three branches of government (the executive, Parliament, and the Judiciary) as well as one of the world's oldest and most respected investigative bodies, and yet there is little clarity concerning who was responsible for Ouko's death or why he was killed Second, the chairman of the Commission is a witness to some of the events leading up to the assassination, and has himself been the subject of some of the inquiries around Ouko's death The controversies surrounding the chairman's conflict of interest in this matter

require us to be particularly thorough and forthright with respect to this particular assassination

88. The version of events below is based upon an analysis of the numerous investigations undertaken of the murder, including the investigation by Scotland Yard that was performed at the request of President Moi, and documents and testimony received by the Commission during the course of its work. In evaluating this information, the Commission gave slightly more weight to investigations and testimony collected contemporaneously with the murder than to those investigations and inquiries conducted many years, sometimes decades, after the events described

Ouko's Death

89 Ouko disappeared from his Koru farm in the early hours of 13 February 1990 A witness who appeared before the Commission and who had knowledge about the death of Ouko stated.

> Actually, it is the DC's vehicle in Nakuru which was brought so that he could recognize it and board, but when he tried to get in he saw strange people There was rumour going round that a helicopter was involved I tried to find out whether it was true but the two inspectors, Wekesa and Kinyanjui told me that they could neither confirm nor deny But, definitely, he was taken from Kisumu to Nakuru [64]

90 That afternoon, a herdsboy saw smoke around the Got Alila Hill, approached the area and discovered a human body on fire [65] He ran away to inform nearby villagers Although, for whatever reason, those villagers never reported the news to police, this information is nevertheless critical in establishing that Ouko was killed shortly after he disappeared After the initiation of an extensive official missing-persons search for Ouko, authorities eventually discovered Ouko's body just a few kilometres away from his home on 16 February 1990

91 Ouko had a broken right leg at the ankle, bruising on his body, a gunshot wound to the head, and his torso had been badly burned The burning had been contained so that his face was still easily identifiable, and there were a handful of items from his home to further ensure a positive identification Additionally, the 38 revolver found near his body was his personal state-issued weapon

92 One of the witnesses who appeared before the Commission stated 'the site was pathetic Some fire was still burning at the site and there was nobody to identify the

64 TJRC/Hansard/In-Camera Hearing/Nairobi/6 March 2012

65 John Troon "Disappearance and Death of Dr Robert Ouko EGH, MP Report" (28 August 1990), paragraph 38 (hereinafter referred to as Troon Report)

body. The body was very small and all the veins were not there His teeth had been removed His tongue was not there and only some part of the skull was there"[66]

93 Dr Jason Kaviti was the Kenyan state pathologist at that time He performed a cursory post-mortem at the scene and an actual autopsy in Nairobi He initially claimed Ouko's broken leg was due to the heat of the fire, then later attributed it to blunt force trauma[67] The actual cause of death was a gunshot wound to the head which, according to Dr Kaviti, was self-inflicted Between the state of the crime scene and Dr Kaviti's conclusions, the government quickly went forward with the story that Ouko had committed suicide

New Scotland Yard and the Troon Report

94 The announcement of Ouko's death was met with an intense public outcry Demonstrations and riots quickly followed based on the perception of a government cover-up, particularly once the theory that Ouko had committed suicide was propagated The idea that Ouko somehow broke his own leg, shot himself in the head, doused himself in petrol, and then lit himself on fire was too far-fetched to be believable Additionally, Ouko was an anti-corruption crusader who was popular throughout the country and beyond His death occurred on the heels of the deaths of other popular Kenyan public figures including J M Kariuki, and Tom Mboya The politically-motivated death of another popular politician perceived to be fair and incorrupt only served to increase the public uproar The government's response of arresting a handful of individuals for the crime of 'rumour mongering' did not accomplish its intended goal of intimidation, but rather further incensed the prevailing public mood

95 In order to placate the public, uphold the nation's international image, demonstrate transparency, and at least ostensibly to solve the crime, on 19 February 1990 President Moi requested that the New Scotland Yard commandeer the Ouko investigation from the Kenyan Police and Special Branch The idea was that in the eyes of the public, a neutral third-party would carry out a fair and effective investigation, and Moi promised to make their findings available to the public

96 On 21 February 1990, the team from New Scotland Yard arrived in Kenya The team was led by Detective Superintendent John Troon, and included Detective Inspector Graham Dennis, and Detective Sergeant David Sanderson from the Special Operation Branch of the International and Organized Crime Branch[68] They

66 TJRC/Hansard/In-Camera Hearing/Kisumu/16 July 2011
67 Troon Report paragraph 48
68 Jonah Anguka *Absolute Power The Ouko Murder Mystery*, Pen Press Limited (1998) page 70 (hereinafter referred to as Anguka)

were accompanied by Dr Ian West, a renowned forensic pathologist from the Home Office Dr West performed an autopsy that clarified that Ouko's death was not a suicide but conclusively a murder, and the investigation commenced

97 While investigating the death of Dr Ouko, New Scotland Yard's Detective Superintendent John Troon set out possible motives stemming from his investigation of two key events the revival of the Kisumu Molasses Plant Project and the February 1990 Kenyan delegation to Washington, D C

Molasses project theory

98 The history of the molasses plant dates back to the 1970s The project was seen as a turnkey agrochemical project undertaken between the Madhvani Group and the Kenyan government [69] According to Troon, there was evidence contained in the statement of John Reru that suggested that money being invested in the project by the then Minister of Industry, Mr. Nonjonjo, was for an unknown reason being either 'diverted' or overspent [70] Eventually, the money dried up and the project was abandoned Troon concluded that either corruption or mismanagement of funds explained the project's fate [71]

99 Troon further stated that in the same department at that time, and holding senior positions, were Mr. Nicholas Biwott and Mr Joab Omino.[72] This is significant because the revived project would later suffer from allegations of corruption involving these same two men

100 In 1987, Ouko, then Minister of Industry and Member of Parliament for Kisumu Rural, became deeply involved in the revitalisation of the project. Troon believed that Ouko's motivation for undertaking such a project stemmed from his hope of enhancing his political career and increasing jobs in the heavily unemployed area [73] It is noted that in late 1987 President Moi made a public declaration supporting Ouko in his endeavour to revitalise the project [74]

101 Ouko is said to have been actively involved in fighting corruption in the Kenyan government, and Troon was under the impression that Ouko sought a qualified European company 'with no misuse, by corruption or otherwise, of the finances to complete the project' [75] Ouko reached out to Mr Airaghi and Mrs Briner-Mattern,

69 The Risk Advisory Group Limited Executive Summary of the Report to the Parliamentary Select Committee Investigating the Death of the Late Hon Dr Robert Ouko Submitted on Behalf of the Hon Nicholas Biwott (November 2003) paragraph 2 (hereinafter referred to as TRAG Executive Summary)
70 Troon Report paragraph 145
71 *Id* at paragraph 146
72 *Id* at paragraph 145
73 *Id* at paragraph 147
74 *Id* at paragraph 148
75 *Id* at paragraph 149

company directors of BAK Group Switzerland The company was responsible for finding reputable European donor companies to undertake projects in East Africa

102 According to The Risk Advisory Group (TRAG), the company hired by Mr Biwott to investigate Troon's allegations regarding Mr Biwott's involvement in the assassination, BAK was not the reputable company it claimed to be While Troon found the Directors of BAK to be reputable and credible in his interviews with them, TRAG believed them to be disreputable opportunists According to TRAG's report, Mr Airaghi was a convicted criminal and Mrs Briner-Mattern was a temporary secretary Reportedly, Mr Airaghi was convicted in 1987 in a criminal court in Milan, Italy, of attempted extortion and sentenced to 2 5 years in prison and fined Additionally, "neither had a history in successful, legitimate, international finance [n]or agrochemical projects"[76] They reported that in November 1988, Otieno, who was the newly elected Minister of Industry, had stated in Parliament that BAK was a firm of "doubtful integrity"

103 Nevertheless, BAK introduced Ouko to two Italian companies who were interested in undertaking the feasibility study for commencement of the project Techint of Milan and Italcement of Bergami Meetings were held with Kenyan Government officials including then Minister of Finance, Professor Saitoti, then Private Secretary to the President, Mr Kiptanui, then Minister of Agriculture, Mr Mwangale, then Permanent Secretary to the President's office, Mr Letting, then Chairman of KANU, Mr Aringo, Dr Ouko, and Nicholas Biwott [77]

104. Mrs. Briner-Mattern states that after the initial contact, she, her partner, the delegates from Techint and Italcement, Dr Ouko, Mr Aringo, and Mr Bore visited the site of the plant at Kisumu According to Mrs Briner-Mattern, Dr Ouko had been authorized to sign the two offers presented by the Italian companies in order to commence work on the project [78]

Allegations

105 According to Troon, Mrs Briner-Mattern alleged that Professor Saitoti and Mr Biwott were among those who were against the project being revitalised and the project was then met with problems [79] She alleged that the opposition they faced was due primarily to 'commissions' that had to be paid She further alleged that there was a meeting in which the Chairman of the Pan African Bank in Nairobi, Mr Aslam, informed them on behalf of Mr Biwott and Professor Saitoti, that BAK and the Italian companies would be expected to pay commissions to certain individuals if they desired the project to move forward During a meeting with the Director

76 TRAG Executive Summary paragraph 2
77 Troon Report paragraph 156
78 *Id* at paragraph 157
79 *Id* at paragraph 158

of Techint, Mrs. Briner-Mattern stated that the terms of the commission were as follows: if Techint was awarded the contract, the company had to pay commissions on the total amount of the contracts Mr Biwott would receive 15%, Professor Saitoti 10%, Mr Mwangale 10%, Mr Kiptanui 5-10%, and Mr Aslam 5-10%.[80]

106 It is further alleged by Mr Airaghi, co-director of BAK, that the initial approach for commissions came from Mr Surtan, a Kenyan official from the office of the Vice President, who was also allegedly acting on behalf of Professor Saitoti and Mr Biwott However, Mr Surtan denied that this conversation ever took place.[81]

107. Both Mrs Briner-Mattern and Mr Airaghi stated that when they told Dr. Ouko of the demanded kickbacks, Ouko became very concerned and frightened, and urged them to be careful in their negotiations.[82] However, Ouko's reaction to this news could have been due to multiple reasons While Ouko could have been concerned about the corruption and potential danger of the situation, it is also noted that the 1988 elections were about to commence Ouko was running for office and in revitalising the Molasses Project he stood to gain an advantage against his opponent Therefore, Ouko had a personal stake in the continuation of the project and the quick completion of the negotiation phase

108 However, it should also be noted that after Ouko won the election, he maintained a strong interest in the project According to Mrs Briner-Mattern, he even made an official government visit to Italy to discuss government financing with the Italian authorities.[83]

109 Due to Ouko's continued interest in the project, Mrs Briner-Mattern stated that throughout 1989 and early 1990 she had been in contact with him by telephone and correspondence in relation to the Molasses Project and her allegations of corruption She stated and showed evidence that she had written personally to President Moi about these allegations and grievances, and while the letter reached State House, there is no evidence that President Moi received it personally.[84]

110 One of her grievances dealt specifically with the expulsion of Mr Airaghi from Kenya. On 15 March 1989 Mr Airaghi was arrested by immigration officers while on business in Kenya, and expelled from the country for allegedly interfering with government matters.[85]

80 *Id* at paragraph 159
81 *Id* at paragraph 174
82 *Id* at paragraphs 161 174
83 *Id* at paragraphs 164 165
84 *Id* at paragraph 166
85 *Id* at paragraph 175

111 Troon stressed that the relationship between BAK and the Kenyan government was one of dislike and mistrust. Mrs Briner-Mattern was allegedly denied an audience with President Moi in regards to her allegations. The relations between the two entities left BAK with very little credibility in Kenya.[86]

112 Perhaps for these reasons, Mrs Briner-Mattern continually reached out to Ouko and in time arranged for him to allegedly prepare a report corroborating her accusations for the President.[87]

113 Troon presented evidence that over the weekend before his murder, Ouko was seen carrying briefcases that were allegedly full of documents to compile a report laying out the allegations of corruption within the Kenyan government. Ouko reportedly hoped to hand the report over to the President within the week.[88]

114 However, the British investigators did not find these papers that may have been in Ouko's possession right before his death. Troon unwaveringly believed that some of these papers were removed on 16 February by police and/or Special Branch officers when they searched Ouko's Koru farm following his disappearance. However, all of the officers interviewed denied seeing or taking any evidence of the sort.[89]

115 Nevertheless, both Directors of BAK stated that at no time did they actually pay the bribes. They further stated that "because of their refusal to cooperate in respect of paying commissions, the Molasses contract did not materialise through them and their recommended companies."[90]

116 TRAG, on the other hand, found that the evidence presented by the Directors of BAK was inconsistent and, in fact, the directors "were prepared to offer bribes or facilitate the payment of bribes and that shortly before Hon. Dr. Ouko's death[,] Marianne Briner-Mattern threatened Dr. Ouko."[91] Additionally, the allegations of corruption related to the Molasses Project were supposedly already known to President Moi, and a copy of the report given to a third party. TRAG finds that "to kill a man to get copies of documentation already with independent third parties and to try to shut him up after he had purportedly already spoken to President Moi makes no sense at all."[92]

86 *Id* at paragraph 154
87 *Id* at paragraph 169
88 *Id*
89 *Id* at paragraph 171
90 *Id* at paragraph 176
91 TRAG Executive Summary paragraph 5
92 *Id* at paragraph 6

117 For these reasons, TRAG came to the conclusion that Troon's findings were unsupported by evidence, and that any connection between the timing of Ouko's death and the preparation of a report on the subject of government corruption is erroneous.[93]

118 Although Troon set out these possible motives, it must be stressed that he lacked direct evidence of Dr Ouko's killer's identity. In the interest of justice he strongly suggested that more work be undertaken in the investigation. Both TRAG and Troon pointed out that Troon was met with difficulty and silence in his investigation, and it is clear that witnesses were aware of more than they were willing to share, whether due to active intimidation or for other personal reasons [94]

Washington trip theory

119 From 29 January 1990 to 2 February 1990, a delegation of 84 Kenyans went on an unofficial visit to Washington, D C to attend the National Prayer Breakfast with President Bush and other world leaders Since it was not considered an official state visit, President Moi was unable to get a private audience with the President of the United States of America Ouko led a press conference and also met with some human rights organizations and US representatives on Capitol Hill

120 According to the Troon Report, Malacki Oddenyo, the Director of Administration for Foreign Affairs, told Ouko's brother Barrack Mbajah that Ouko had a private meeting with President Bush during the Washington Trip, and that President Moi was aware of this meeting [95] The meeting apparently caused a great rift between Ouko and Biwott, with Biwott sarcastically referring to Ouko as 'Mr President' and the two having public arguments in the presence of other delegation members According to Mbajah, Ouko was suspended from official duty, banished to Koru, had his passport confiscated, and was stripped of his official car and private security [96] A witness who appeared before the Commission equally stated that

> So [Dr Ouko] decided to prevail again to James Baker who was the Secretary of State at that particular time So, he had an audience with James Baker It was reported in the press and .. Bush finally accepted to meet President Moi But I wish he did not meet President Moi, because that is where [Dr. Ouko's] life started to disintegrate When President Bush met President Moi, the situation was ugly It was not good President Moi then took out his anger on Dr Ouko, claiming that Dr Ouko took him there to be ridiculed Then things started falling apart for [Dr Ouko] at that particular time [97]

93 *Id*
94 See Troon Report TRAG Executive Summary paragraph 2
95 Troon Report paragraphs 79-80
96 The Risk Advisory Group Limited Report to the Parliamentary Select Committee Investigating the Death of the Late Hon Dr Robert Ouko Submitted on Behalf of the Hon Nicholas Biwott (November 2003), page 117 (hereinafter referred to as TRAG Report)
97 Testimony of a Witness during TJRC In- Camera hearings in Kisumu on 16th July 2011

121 Furthermore, the Commission was informed that a note hastily written by Ouko on the night he disappeared was given to Ouko's maid to pass along to Ouko's brother Mbajah This note supposedly had the names of those with whom Ouko was to meet the night he disappeared, and included Hezekiah Oyugi, Nicholas Biwott, Jonah Anguka, George Oraro, Paul Gondi, and James Onyango [98]

122 Oddenyo, however, denied discussing the Washington Trip with Mbajah, or making any remarks regarding the status of the relationship between Ouko and Biwott [99] Troon noted that Oddenyo became very anxious when Troon raised the topic of the Mbajah conversation, and therefore found reason to doubt Oddenyo's credibility [100] In contrast, Troon found Mbajah very cooperative and believable, with the possible exception of his statements regarding Dr Ouko's note, given that fellow witnesses including Ouko's wife Christabel Ouko and maid Selina Were Ndalo denied the note's existence [101]

123 The Troon Report referred to another conversation that took place between Ouko's sister Dorothy Randiak and Permanent Secretary of the Ministry for Foreign Affairs Bethuel Kiplagat Randiak said Kiplagat told her there was a serious disagreement between Ouko and Biwott on the Washington Trip, that all was not well between the two, and that Ouko had flown back separately from the rest of the Kenyan delegation [102] Ambassador Kiplagat, on the other hand, denied that they discussed the Washington Trip [103]

124 To support the above alleged statements a witness who appeared before the Commission stated "when [Dr. Ouko] went back to his hotel room, Biwott said sarcastically How are you, Mr President? [Dr Ouko told me that] they almost fought It was bad Unfortunately for [Dr Ouko] he was now alone None of the 84 people in the delegation were with him because most of them were with the President Most of them were Ministers and he was alone" [104] Randiak also mentioned that before his death, Ouko appeared emotionally troubled after his return from the Washington Trip She was able to observe his behaviour through multiple visits and phone calls

125 With the aid of The Risk Advisory Group, Ltd , Biwott disputes Troon's Washington Trip theory TRAG first emphasized that Ouko was fighting with his brother at the time of his death,[105] and therefore this impacted Troon's assessment of Mbajah's

98 *Id*
99 Troon Report paragraph 82
100 *Id* at paragraph 85
101 Kenya Socialist "Cracking the Ouko Murder Mystery" 4 March 2004
102 Troon Report paragraph 97
103 *Id* at paragraph 98
104 TJRC/In-Camera Hearing/Political Assassination/Kisumu/16 Jul 2011
105 TRAG Report page 118

reliability as well as the likelihood of Ouko's note to Mbajah actually existing Moreover, in terms of Ouko's general apprehension after his return to Kenya, TRAG attributes this to his strained relations with his brothers as opposed to strained relations with his colleagues.

126. TRAG also provided statements from fellow delegation members that relations between Ouko and Biwott were not strained. Ambassador Kiplagat insisted that the delegation returned to Kenya as a cohesive unit, that they were together the entire duration in DC and that he neither witnessed Ouko having a private meeting with Bush nor exhibiting any tension with Biwott.[106] Chief of Protocol Moses Njuguna Mahugu raised the point that Ouko and Biwott shared a car the entire duration of the trip without incident [107] Kenya's Ambassador to the US and delegation host Denis Afande also confirmed that there was no tension between Ouko and Biwott [108]

127 In terms of Ouko's supposed banishment, they pointed to the fact that Ouko continued to act in his official capacity after his return to Kenya, attending meetings with President Moi and various ambassadors, and holding press conferences [109] Additionally, he had command over his official driver and bodyguards, and maintained contact with his personal secretary Lastly, after Ouko's death, his wife Christabel Ouko was discovered to be in possession of his passport, thus directly contradicting the theory that it had been confiscated [110]

128 One of the most important points that the TRAG report refuted is the alleged private meeting with President Bush, as Bush's personal diary had no such record of a private meeting with Dr Ouko [111]

129 Troon conceded in his report that the Washington Trip theory contained very tenuous facts, and that he essentially relied on witnesses describing the change in Ouko's demeanour that they observed before his disappearance, and their conversations with Ouko's colleagues after his death [112] The hearsay issue is a major impediment to the Ouko investigation, without the opportunity to observe individual credibility firsthand, it is difficult to favour one story over another TRAG's arguments are to be approached cautiously, as they were working for Biwott who is one of the prime suspects in the events leading up to Ouko's killing TRAG clearly had greater resources at their disposal than Troon, including the ability to obtain

106 *Id* at page 120
107 *Id* at page 122
108 *Id* at page 124
109 *Id* at page 127
110 *Id* at page 128
111 *Id* at page 125
112 Troon Report paragraph 142

witness statements from government figures that had previously rebuffed Troon, and the ability to access a wide range of documents, both at a domestic and international level The fact that a private company could obtain more information and documents than officials tasked with investigating the matter raises its own set of questions concerning official government cooperation with the multiple investigations undertaken

130 It is difficult to assess the credibility of the Washington Trip theory Most of the individuals on the trip either say that nothing eventful happened, or that they did not see anything significant, or that they cannot remember Even Ambassador Kiplagat, who was reportedly close to the Minister, says that he saw nothing untoward, though many of those who have investigated the situation felt that Ambassador Kiplagat was withholding information about the trip The Commission was unable to receive any additional clarity from Ambassador Kiplagat on these issues

131 In addition, the Washington Trip theory revolves around a private meeting with President Bush and Ouko that never actually occurred It highlights the observation that Ouko was in emotional turmoil before his death based on an argument with Biwott, although others either attribute this emotional turmoil to ongoing family drama, namely fighting with his brothers, or disavow that Ouko was suffering any type of emotional distress at all That this theory is rooted in Ouko's internal emotional state is especially problematic, since Ouko is the only person able to adequately describe that state, and he is deceased Nevertheless, there still may have been significant tension between Ouko and Mr. Biwott Ouko was greatly troubled by American perspectives on Kenya concerning corruption and human rights issues, which he was confronted with during the Washington Trip. In response, it is possible that he could have prepared an anti-corruption report, similar to the one he was purportedly developing under the Molasses Project theory

132 Moreover, jealousy is the exact emotion that seems to have caused the supposed Ouko-Biwott conflict, with the latter being jealous of the attention the former received Jealousy is an emotion that can be contained, but it may also come out viciously and unexpectedly It is very possible that Biwott was jealous of Ouko's status as a Kenyan favourite within international circles, a status that was enjoyed long before the Washington Trip, and he may have been particularly jealous of Ouko's successful performance at the press conference and President Moi's subsequent accolades. Ouko and Biwott may not have been publicly quarrelling on the Washington Trip, but it is entirely plausible that Biwott and others harboured a jealousy towards Ouko in terms of his political standing, and it is very possible that this jealousy, combined with other factors, led to Ouko's murder

Judicial Commission of Inquiry (Gicheru Commission)

133 A Judicial Commission of Inquiry was established in October 1990 to investigate the murder of Ouko It was suddenly disbanded in November 1991 The Judicial Commission purported to re-examine the Ouko investigation entirely, but essentially it just focused on the Troon Report. However, the Troon Report was intended to be instructive rather than definitive; while Troon focused on Hezekiah Oyugi, Job Omino, and Nicholas Biwott as his top suspects, he repeatedly stressed the need for further investigations Troon's report was rushed to completion from the then Kenyan Commissioner of Police Philip Kilonzo, and admittedly based on incomplete investigations [113] It was never made public as President Moi had promised Neither was the report of the Gicheru Commission ever made public

134 Stories differ on the reasons behind the dissolution of the Judicial Commission of Inquiry Some parties blame Troon's sudden return to the UK for the sudden conclusion (presumably his reaction to being poisoned and receiving numerous subsequent death threats),[114] while others steadfastly believe that the Commission was honing in on the true perpetrators and Moi ended the exercise because it was getting uncomfortably close to uncovering the truth

135 Immediately after the dissolution of the Commission, the investigation was once again entrusted to Kenyan law enforcement. Shortly thereafter, a handful of government officials were arrested, including Nicholas Biwott, Hezekiah Oyugi, Julius Kobia, George Oraro, and Jonah Anguka, among others [115] Save for Anguka, these individuals were subsequently let go after two weeks for lack of evidence, and efforts to resurrect some form of investigative commission were blocked for many years As for Anguka, he was acquitted of Ouko's murder in 1992, and fled to the US out of fear for his safety He was subjected to two criminal trials as the judge in his first trial unexpectedly died before a verdict could be reached

Parliamentary Select Committee (Sunguh Committee)

136 President Mwai Kibaki re-opened the Ouko investigation in 2003, with the hope of releasing a public report with findings Much like its predecessors, however, the Sunguh Committee encountered some serious obstacles By this time, according to the head of the Committee, over 100 witnesses had either died or disappeared, making investigation almost impossible There was dissension within the ranks of the Committee as well, with a number of members resigning over what they saw

113 Anguka page 76
114 The Telegraph "Kenyan Agent Tried to Kill British Detective" 24 February 2005
115 *Id* at page 150

as an unfair process Similarly to the Gicheru Commission before it, the Sunguh Committee also chose to rely heavily on the Troon Report, and Biwott again found himself to be a main target

137 In the interim time period between the two investigations, Biwott had been busy attempting to clear his name He attempted to get the New Scotland Yard to issue him an apology, he initiated a number of defamation suits, and he specifically hired The Risk Advisory Group Ltd (TRAG), a UK firm that specializes in international corporate investigations and business intelligence consultancy,[116] to discredit Troon's main theories and clear Biwott's name TRAG spent a number of years on this project, and Biwott invested a great deal of money into the compilation of the TRAG Report TRAG was able to access hundreds of pages of documents related to the Molasses Project and the Washington Trip, and compiled them in three bound volumes This formal report is a stark contrast to the Troon Report Troon was virtually unable to access any of these same documents, stemming from problems related to resource disparity and lack of government cooperation

138. Despite all the efforts poured into the TRAG Report, the Sunguh Committee disbanded in 2005 before it could come to any clear conclusion concerning who was responsible for the murder and whether Biwott was involved or not The Committee could not come to a consensus on issuing a final report, and their findings were never made public

The Witness Problem

139 One of the major impediments to any successful investigation was what author Jonah Anguka refers to as "convenient deaths," where key witnesses and other individuals related to the Ouko case either disappeared or died, usually under sudden and mysterious circumstances Included below is a list of actors in the Ouko case whose deaths have impeded further investigation [117]

140 Mohamed Aslam, then chairman of the Pan-African Bank, died on 18 November 1991 from a sudden-onset illness, right around the time he was due to testify before the Gicheru Commission regarding the Molasses Project, and specifically about the allegation that he had demanded a commission or bribe for his support of the Project The herdsboy who discovered Ouko's body, Paul Shikuku, disappeared and presumably died before he could serve as a key witness before the Gicheru Commission Oidho Ogalo, one of the Koru farmhands and one of

116 TRAG Report page 2
117 Anguka pages 219-229

the few individuals who was present the night of Dr. Ouko's disappearance, died an unexplained death around the same time as the proceedings of the Gicheru Commission. James Eric Onyango, a relative of Dr Ouko's who spoke with him via telephone on the night of the latter's disappearance, also died very suddenly and unexpectedly Similarly, Otieno Gor, who visited with Dr Ouko on the night of his appearance, died mysteriously as well

141 Martin Ochanda, a friend of Dr Ouko's who worked in the Special Branch, died in December 1991, after having been reassigned from Kisumu to Nairobi, presumably to keep him out of the Ouko investigation Then Superintendent of Police Joseph Mbogo was closely involved with the Gicheru Commission, and died in 1993 Joseph Otieno Yogo, Dr Ouko's personal driver and bodyguard, died in 1992 from a short illness, having served as a key witness for the Gicheru Commission Dr Ouko's own mother, Susan Aloo Seda, died mysteriously while the Ouko investigation was at its peak

142 After the Gicheru Commission was dissolved, Anguka's bodyguard Pius Omollo Ngwaye was taken into custody, suffered extreme physical abuse, and died shortly after his release Then Senior Assistant Commander of Police Nehemiah Shikuku Obati, who had spearheaded the arrest and interrogation of prime suspects Biwott and Oyugi, and was demoted to a junior position following his bold actions, died in August 1992 of alleged liver failure, although the circumstances strongly suggest he was poisoned Masinde Muliro, then vice chairman of the Forum for the Restoration of Democracy, died around that same time Muliro had shared a flight to London with Biwott, and the former had met with former Special Branch Inspector George Wajackoyah, who was very vocal in his theories of government involvement in Ouko's murder Upon his return to Kenya, Muliro suddenly collapsed at the airport and died unexpectedly

143 Hezekiah Oyugi, then head of Internal Security and one of the main suspects in Ouko's murder, had just agreed to testify before the Gicheru Commission before it suddenly disbanded Oyugi was arrested with a handful of other individuals, including Biwott, held for two weeks, and released for lack of evidence Shortly thereafter, Moi fired Oyugi in October 1991 Less than one year later, in August 1992, Oyugi died from a very rare brain ailment that could have been induced (There was a rumour circulating regarding a tape recording of Oyugi on his deathbed, in which he implicated certain individuals in the Ouko murder, but the details of the recording are unknown along with its whereabouts, and the recording's very existence is tenuous at best.) Despite over three decades of service to his country, the Kenyan government ignored Oyugi's death, rather than reward his service

with a traditional state funeral This ill-treatment may have been due to Oyugi's willingness to cooperate with the Gicheru Commission and thus being seen as a traitor to a government he was supposed to protect Alternatively, the government of Kenya may have seen Oyugi's death as an opportunity to place responsibility for Dr Ouko's death on one of the main public suspects, and thus put a stop to public scrutiny of the case once and for all

144 Justice Fidahussein Esmailji Abdullah, the judge at Jonah Anguka's trial, died suddenly in November 1993 He had been involved in a widely publicized trial in 1991 in which he was highly critical of the Kenyan police His death arrived on the heels of a speech that was highly critical of the Kenyan political system and the corruption therein Jonah Anguka was the only individual actually tried for Dr Ouko's murder, and the timing of Abdullah's death came just before a verdict was to be delivered This resulted in a mistrial The retrial resulted in an acquittal Anguka had been detained for just over two years Upon his acquittal he immediately fled to the US

145. Philip Kilonzo, the Commissioner of Police at the time of Ouko's death, died in July 1997 after having his beer poisoned at a bar in Matuu, Yatta This was an especially blatant poisoning because there were so many witnesses present, although the perpetrators are still unknown Dr Jason Kaviti, the pathologist for the government of Kenya, appeared before the Sunguh Committee in 2005 and renounced the Ouko suicide theory as completely manufactured He suffered a stroke in 2006, and died from health complications in October 2011 Lastly, Selina Were Ndalo, Ouko's maid and a key witness over the years, died in January 2012 after suffering from an unidentified illness supposedly related to a snakebite from the previous year After initial cooperation with Troon and other authorities, Ndalo was subject to such levels of intimidation and threats to her life that she essentially spent the rest of her years in hiding [118]

146 The difficulty in uncovering the identity of those responsible for Ouko's murder has been largely due to the lack of witness cooperation in investigative efforts We do not include this section to definitively state that all these witnesses have been murdered, although the frequency and circumstances behind these deaths is certainly suspicious and worth looking into Rather, what is equally important is the intimidation effect that these deaths have had on other witnesses, along with the general public, in creating a general atmosphere of fear and mistrust within the investigative process

118 The Nation "Selina Were s Death is Yet More Music to the Ears of Ouko Killers " 8 January 2012

Way forward

147. Since Ouko was murdered in 1990, the Kenyan people have continuously called for his killers to be brought to justice. Various attempts have been undertaken over the years, and all have subsequently failed Likewise, based on the limited information available before this Commission, we are unable to shed any additional light on the identity of Ouko's killers

148 It must be pointed out that the "justice" referred to in the Commission's title applies to both victims and perpetrators The late Ouko and his friends and family may not obtain the justice they deserve Nevertheless, it would be antithetical to the Commission's mandate to implicate an individual in this investigation where the evidence is lacking Still, it is fair to ask why the evidence is lacking, and there are numerous reasons to explain why

149 This investigation currently poses problems because it is a cold case, nearly 25 years have passed since Ouko's murder occurred. But even when the case was fresh, different forms of active obfuscation prevented a successful investigation

150 The previous section provided just a handful of individuals involved in the Ouko case that disappeared or died under mysterious circumstances Even those in positions of power were threatened with death, much like one Commissioner involved in the Judicial Commission of Inquiry, and Troon himself appears to have suffered at least one assassination attempt Oyugi's death, in particular, seems to emphasize that no individual was out of reach for those trying to cover up the identity of Ouko's murderers Likewise, his posthumous treatment suggests the government was willing to allow him to serve as a scapegoat for Ouko's death, as he was in no position to defend himself from accusations implicating him in Ouko's murder

151. Efforts to determine the cause of death of all those who have died have been obstructed by individuals like Dr Kaviti, who labelled Ouko's death a suicide and had since admitted to manufacturing similarly false reports [119] It would appear that the same corruption that Ouko decried in his lifetime has stubbornly maintained its hold throughout Kenyan society

152 The Kenyan Police and Special Branch officers involved in the Ouko case were for the most part ineffective in their duties and in many ways foiled any attempts at investigation Therefore, it can be said that at the very least the Kenyan police served in some sort of collaborative function with Ouko's killers, and they were

119 The Standard "The Man who Claimed Ouko Committed Suicide " 24 October 2011

almost certainly involved in the ensuing cover-up The New Scotland Yard mandate gave Troon and his fellow officers operational command over all investigations, with the authority to access any document and interview any witness they deemed necessary [120] However, rather than cooperate with New Scotland Yard, Kenyan law enforcement flouted their authority

153 The Ouko crime scene was not properly preserved for the arrival of New Scotland Yard and precious evidence was lost or destroyed, particularly tire tracks that might have provided further clues to the identity of the mysterious white car originally spotted by Ndalo. Additionally, as previously established, Ouko's home had been extensively searched, and Troon was never able to access the files and documents that had been confiscated from the Ouko home It was also clear that Ouko's phone was being monitored prior to his death, most likely by the Special Branch, but whatever numbers were dialed in that time period were expunged from Ouko's phone records [121] Information-sharing among police agencies was virtually nonexistent, despite the important fact that Ouko's bedroom phone was discovered off the hook after his disappearance, highly suggestive of the fact that the last person he talked to was either one of his killers or at least one of his captors

154 It also appears as though the police prevented a good deal of potentially useful information from reaching the New Scotland Yard team Part of this was accomplished by conducting parallel investigations contrary to the mandate, and not sharing information Also, officers would take statements from witnesses multiple times This tactic could have served a number of purposes, including exhausting witnesses and tricking them into contradicting themselves, and thus negatively impacting their credibility In addition, police could have been trying to coax a particular story out of people, and shaping the witness's narrative to square with their own interests Lastly, they could have been intimidating witnesses, and thus ensuring they would not want to cooperate with other investigators out of fear for their physical safety

155 This atmosphere of intimidation was widespread, and could even be felt in relation to the actions of the public inquiries into Ouko's murder All members of the Gicheru Commission were kept under police surveillance, presumably for their own safety, although this had the dual purpose of instilling fear in them This may be the reason why the Troon Report was so heavily relied upon Since Troon had already made some preliminary accusations, his investigation essentially became the foundation upon which others were built Troon had gone to the lengths of

120 Troon Report Mandate
121 Anguka pages 90-91

implicating certain people in his report, and his actions could not be undone by Kenyan officials, but those same officials were not obligated to delve any deeper than Troon's initial conclusions Taking action based on the advice contained within the Troon Report was safe because those actions could be attributed back to Troon, whereas taking the investigations further in an independent investigation might put those inquisitive parties in grave danger, as they would be acting on their own accord, and most likely against the interests of the state Likely due to the above reasons, high-ranking government officials who were most likely to know the circumstances of Ouko's death refused to talk to Troon

156 As far as the public inquiries were concerned, they did not add much to public knowledge of the circumstances around Ouko's death, and in many cases further confused the matter They were highly politicized, very costly and time-consuming, and were not allowed to fulfill their dual promise of truth and accountability During the time lapse between the Gicheru Commission and the Sunguh Committee, many parties suggested creating a new public body of inquiry, but these suggestions were never widely supported Neither the Sunguh Committee nor the Gicheru Commission resulted in a report that was made available to the public, though information from both inquiries has been linked to the press from time to time Thus the promise of a vigorous, objective, and transparent inquiry resulting in truth and accountability was never kept

157 Much as Dr Ouko had strived for during his lifetime, a spotlight needs to be shone on the pervasive problem of corruption within Kenyan society in general, and politics in particular The intimidation effect applies to all levels of society, and Troon remarked that the majority of Ouko's political colleagues were uncooperative and virtually none came forward and offered themselves for an interview, despite Troon's need to speak to members of the delegation that attended the Washington Trip [122] In this environment, it seems almost certain that Ouko's murder was committed for political advantage

158 The Commission has described the various evidentiary deficiencies in the Ouko murder investigations, and for those reasons we are unable to conclusively determine the guilty parties. Based on extensive research, we are, however, able to identify persons of interest, similar to what Troon did in his much earlier report.

159 Nicholas Biwott has been a primary target of the Ouko murder investigation for over two decades now According to Biwott, Troon had a personal grudge against him According to Troon, Biwott's name was frequently mentioned by key witnesses as

122 Troon Report paragraph 229

someone who had recently been at odds with Ouko, thus making him a logical prime suspect in the case These two versions of the Ouko story are inherently at odds with one another However, in all of Biwott's attempts to clear his good name (including hiring numerous lawyers and prestigious British consulting firms), it does not appear that Biwott has presented us with a convincing narrative to describe Ouko's fate His energies have been entirely invested in discrediting Troon's theories, yet it does not appear that he has provided a strong alibi for himself Additionally, all the energy that has gone into the personal dispute between Troon and Biwott has greatly diverted attention from the true focus of the investigation the murder of Ouko Many of Biwott's actions appear to have impeded a serious investigation into Ouko's death, and so for the various reasons listed above, we would recommend that Biwott be further questioned regarding his possible role in events

160 In addition to Biwott, former President Daniel arap Moi is a person of interest, and should be specifically questioned regarding the Molasses Project, as well as his inexplicable willingness to adopt and propagate the Ouko suicide theory While there is no credible evidence that the Commission has seen that Moi was directly involved in Ouko's murder, he must take partial if not full responsibility for the failure of all of the inquiries conducted during his Presidency

161 In addition, Dr Ouko's colleagues in the Ministry of Foreign Affairs should be further questioned due to the likelihood of their knowledge of important events leading up to Ouko's death Ambassador Kiplagat in particular should be further questioned, given his role in the Washington Trip theory as well as his more recent involvement with the Sunguh Committee and the allegation that he provided them with misinformation [123]

162 Additionally, efforts should be undertaken to acquire additional statements from BAK Group members, particularly in regards to TRAG's theory that Briner-Mattern was threatening Ouko with extortion just before his death Lastly, additional motives need to be pursued outside the limitations of the two theories outlined in the Troon Report A starting point can be looking at other suspicious circumstances that occurred around the time of Dr Ouko's death, but were not adequately pursued a warning that went out urging the Kenyan delegation not to attend the Washington Trip, a car accident that occurred just a few days before Ouko's disappearance, that could have been an initial attempt on his life; a strange woman placing calls to Ouko's wife and girlfriend and threatening their lives, looking into whether Ouko may have been poisoned, as he claimed to not feel well following the Washington Trip and left a speaking engagement early for health reasons, a renewed investigation into

123 The Nation Moment of Reckoning for Big Shots over Ouko Murder" 11 December 2010

the missing documents in Ouko's possession just before his death, particularly his diary, and a land deal that Ouko was then involved in, to name just a few There are a multitude of details surrounding Dr. Ouko's death and all of these avenues should be thoroughly considered by a new investigation

163 For the sake of national unity and settling a decades-old mystery that has hung over the country people like a dark cloud, the Commission encourages individuals to participate in good faith with a renewed investigation before the passage of time prevents an elucidation of the full truth and efforts to hold the perpetrators duly accountable

Crispin Odhiambo Mbai

164 Crispin Odhiambo Mbai's assassination underscores the reality that political assassination continues to be viewed as a legitimate tool of resolving political differences. The death of Mbai was unexpected, coming at a time of great optimism for Kenya the coming to power of the Kibaki Government which was accompanied by reformist optimism The political space during Kibaki's rule profoundly expanded the latitude of participatory democracy There was a more vigilant, powerful and free civil society Kenyans were more aware of their rights and there existed a healthy environment for political ambitions to thrive without antagonizing the powers that be No assassination of a major politician took place during the Kibaki regime, at least not one where there was evidence of involvement of the security forces. Yet Crispin Odhiambo Mbai was gunned down He was the Chairman of the Devolution Committee of the National Constitutional Conference at the time of his death

165 The killers of Dr Mbai, went into his house and shot him dead A witness who appeared before the Commission stated

> In the content of the story, the suspects detailed how they had been contracted by somebody and hired to go and do a job They met in Kawangware on the first day On the second day they were recruited to go and do that job They narrate how they met in Kawangware and how they went on the next day, and how they gathered themselves and eventually travelled in a matatu and went all the way to Dr. Mbai's house. They got out and found him in the sitting room He was sitting alone in his living room and when he saw them coming, he greeted them and said, "Can I help you?" One of them said that they had been sent and then he pulled out a gun Dr Mbai then jumped up to try to fight them off and threw a stool at them A scuffle ensued and the three of them managed to shoot him and then they left The same matatu they had used had now dropped people and come back, it did not have people and it was waiting there So, they got in and

drove off So, the police followed up this trail of events and arrested them My belief is that those suspects actually killed Dr Mbai I have no doubt in that [The suspects told] me that they killed another guy but they did not know who this guy was They were just told to go and that there was a job So, I was very curious They told me they were on a killing mission Since that was a confession they made to me in the environment of criminals, they also knew I was there as a thug or something and they were just chatting So, I believe they were the guys who did it but now why and how no prosecution has ever been undertaken, I have reall, not understood

166. Former Prime Minister Raila Odinga described the death as an 'assassination' Shocked Constitutional Review Chairman Yash Pal Ghai said it was suspected that Mbai was executed by hired killers "The Committee had made great progress There have been claims of threats, bribery and attempts to scuttle the review, it is possible that there were some who were not happy with its work and wanted to slow it down," he added Government Chief Whip Norman Nyagah was implicated, but denied the allegations from colleague Peter Owidi A witness who appeared before the Commission during the hearings stated

> We went to Kawangware towards Satellite where they said that they met with Mr Norman Nyagah We came to Adams Arcade stage where they said they waited They said that they were three of them but one of them was still at large I still remember one name because it has been long, that is, Gabbow He went to Tanzania and we had not apprehended him At Adams Arcade, those people showed us where they sat and the watchman, who was the first suspect, showed us where they sat He directed us to the house of the late On reaching the house of the late, that is the time, I knew that those were the real killers of the late Crispin Odhiambo Mbai They showed us how they operated from the house On reaching the house of the late on 26th, I was so much puzzled when they told us how they acted when they entered the house of the late that afternoon We told them "Please, just do what you did" They demonstrated exactly what they did That day, I concluded in my heart and said that those were the real persons who killed the late [124]

167 Moses Gitogo Mbuthi, Collins Ketore Kilel, alias Supa and Ramadhan Karume were charged with the murder Raphael Kapatasi alias Martin Chakava alias Gabo was also implicated while on the run The motives for the murder never came to light However by way of testimony that was adduced during the Commissions hearings, a witness stated

> The first suspect said that he was taken to Ngong Hills Hotel and met certain people whom he would not name He told us that he will never say who they were He only mentioned the former Member of Parliament, Honourable Nyaga That is why I said earlier that we went to Parliament because we wanted to know exactly where those

124 TJRC/Hansard/In-camera Hearing/Nairobi/6 March 2012/p 42
125 TJRC/Hansard/In-camera Hearing/Nairobi/6 mar 2012/p 18

people met He told us that after meeting at Ngong Hills Hotel, they went to the office of Norman Nyagah in Parliament The suspect called Collins Ketore was the one who used to work as the watchman at the compound of the late Crispin Odhiambo Mbai So, he had access to all places The suspect also said that he was actually taken to Norman's office by Honourable Joseph Nyagah, the Minister for Co-operative Development and Marketing. He was the one who introduced him to Mr Norman Nyagah [126]

168 Although Norman was implicated in the murder, efforts to get him by the Police to shed light on the matter were thwarted as stated by a witness who appeared before the Commission and said

> There was one day, I do not remember the exact date but I think it was on September, 2003, we went to Parliament Police Station to request for the office of the former Member of Parliament for Kamukunji, Mr Norman Nyagah By then he was the Chief Whip They did not allow us They totally refused and we had to write in the Occurrence Book at Parliament Police Station [127]

Conclusion

169 Political assassinations have occurred under each of the three successive governments since independence The motives associated with these assassinations have varied, from getting rid of political competition, weeding out ambitious politicians, and removing perceived "dissidents" of the government or those who posed as "threats" to power Evidence of state involvement and subsequent cover-ups is evident in the majority of political murders Propaganda and commissions of inquiry are often used as smokescreens to get to "the bottom of the matter," and often have the effect of masking the motives and faces behind the assassinations Prominent figures in government are said to be implicated Key witnesses into the assassinations disappear or die mysteriously No real perpetrators have ever been prosecuted, much less effectively investigated

126 TJRC/Hansard/In camera Hearing/Nairobi/6 mar 2012/p 19
127 TJRC/Hansard/In-camera Hearing/Nairobi/6 mar 2012/p 18

Extra-Judicial Killings and enforced Disappearances

Introduction

1 This chapter deals with extra-judicial killings (EJKs) and enforced disappearances (EDs), two violations which are expressly enumerated in the TJR Act as gross violations of human rights The Commission received information indicating that extra-judicial killings and enforced disappearances have been used as a repressive tactic against political dissidents and government critics both during the colonial era and in post-independent Kenya

2 This Chapter is a synthesis of secondary data and primary data that were available to the Commission Primary data was drawn from various sources, including individual statements submitted by victims in the prescribed form, testimonies made during public and in camera hearings (individual and thematic), interviews with key actors and experts, and memoranda submitted by individuals and groups We also examined relevant secondary sources including academic writings and reports by governmental and non-governmental actors/agencies

Methodology and limitations

3 A quantitative assessment of primary data (statements and memos submitted to the Commission) captures insightful trends as far as extra-judicial killings and enforced disappearances are concerned However, a much deeper exposure of the circumstances, antecedents, context, perspectives of the victims and adversely mentioned persons is required in order to establish an accurate, complete and historical record as is mandated by the TJRC Act In this regard, the analysis in this chapter will consider specially selected cases of EJKs and EDs and the in-depth interviews that were conducted by the Commission's Officials

4 There are, however, certain challenges as far as documenting extra-judicial killings and enforced disappearances are concerned One such challenge is the

unavailability of accurate records at police stations indicating the number of people reported to have been killed by state agents. This particular challenge has not only been experienced by the Commission but also by other human rights bodies that have made attempts to document EJK and EDs [1] Further, in most instances EJK and EDs occur in clandestine circumstances, and efforts are often made to conceal their occurrence Witnesses who are ready to come forward and testify on the subject are also difficult to find owing to fear of retaliation from the perpetrators

5 The Commission is also aware that the analysis presented here is based upon a limited set of data. While we draw upon some secondary sources, our primary information comes from the Commission's statement taking process, public hearings, investigations, and other direct solicitations of information The data was not based on a scientific sample Rather it is limited to information provided to the Commission by individuals who agreed to engage with the Commission This chapter therefore captures the reality of extra judicial killings and enforced disappearances as recollected by a cross section of Kenyans It provides a picture of the reality of these violations, but we do not claim that it captures a complete picture

Definitions

Extra-Judicial Killings

6. The term 'extra-judicial killings' is not expressly defined in an international treaty or in Kenyan law Both international and domestic law protect the right to life, though this right is subject to certain limitations The International Bill of Human Rights that consists of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) (and its Optional Protocol) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are all clear on the sanctity of life Domestically, the right to life was protected under section 15 of the Independence Constitution, and under section 26 of the 2010 Constitution

7. Murder is criminalized under the Kenyan Penal Code (section 203), and the Kenyan Criminal Procedure Code provides for special investigation by a Magistrate with regard to cases of murder (Section 387(1)) The crime of murder, however, does not fully capture the crime of extra-judicial killing As a crime committed by the state, extra judicial killing is particularly insidious The state is obligated to protect individuals within its jurisdiction from unlawful killings, yet extra-judicial killings

1 Kenya National Commission for Human Rights KNCHR Cry of Blood

are committed by the state itself, the entity that is tasked with preventing such crimes. Thus the common crime of murder does not adequately capture the full extent of the crime of extra-judicial killing.

8. At the international level, resolutions and other instruments of a non-binding nature address extra-judicial killings, specifically several United Nations General Assembly resolutions,[2] and a set of international standards on extra-judicial killings developed by the Economic and Social Council (ECOSOC).[3] The ECOSOC international standards were later adopted by the General Assembly[4]. Because of the seriousness with which extra-judicial killings are considered by the international community, special rapporteurs have been appointed by both the UN system (Human Rights Council) and the African Commission on Human and Peoples' Rights. Their function is to inquire into and address this issue together with states. In 2008, for instance, The UN Special Rapporteur on Extra-judicial, Summary, or Arbitrary Executions undertook an official fact-finding mission to Kenya.

9. Drawing upon these varied legal texts the Commission defines extra-judicial killing as a killing 'outside the boundaries of the law', that is, killing that is not judicially sanctioned or which is committed without the minimally required due process. An extra-judicial killing has three elements:

   a killing which is illegal under law and in most cases qualifies under domestic laws as murder;

   b. committed by government agents or with support or complicity by the government when committed by private citizens or groups; and

10. The following killings would therefore not qualify as an extra judicial killing: a killing resulting from a legitimate and proportional use of force in self defence by a private citizen or by law enforcement officials as prescribed by law;[5]a killing of a legitimate target in the context of armed conflict as provided by the laws and customs governing armed conflict (international humanitarian law).

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2 Res 35/172 of 15 December 1980 which was the first time the issue of Extra-judicial Killings was addressed in a specific resolution; Res 36/22 of 9 November 1981 invited members states of the UN to give their views and observations with regard to Extra-Judicial Killings; Res. resolutions 37/182 of 17 December 1982, 38/96 of 16 December 1983, 39/110 of 14 December 1984 and 40/143 of 13 December 1985 in which the GA strengthened its position against Extra-Judicial Killings; Res 41/44 of 4 December 1998 which condemned the various Extra-Judicial Killings that continued to take place around the world.

3 See Principles on the Effective Prevention and Investigation of Extra-Legal Arbitrary and Summary Executions. ECOSOC Res. 1989/65 of 24 May 1989

4 Res 44/162 of 15 December 198

5 See Generally the UN code of conduct for Law enforcement officials; See also the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials in a Report to the General Assembly, A/61/311. Which permits the taking of life in exceptional circumstances (where a life is threatened by the target of the state's law enforcement measures)

Enforced Disappearances

11 The definition of enforced disappearances in the TJRC Act is similar to the definition found in the Rome Statute of the International Criminal Court There are however some significant differences between the two definitions which we highlight here The TJR Act defines enforced disappearances as

> the arrest, detention or abduction of persons by, or with the authorization, support or any other form of deprivation of liberty committed by agents of the State or persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person which place such a person outside the protection of the law

12 The Rome Statute defines enforced disappearances as follows

> the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time

13 There are some significant differences between the definition provided to the Commission and that found in the Rome Statute Those differences provide insight into the special nature of the mandate provided to this Commission

14 First, the Rome Statute speaks of both the State and political organisations as entities capable of committing an enforced disappearance The TJRC definition pointedly does not include political organisations Thus although under international law one non-state actor could be found to have committed enforced disappearances, the drafters of the TJR Act clearly wanted to limit our inquiry with respect to enforced disappearances to those involving the State

15 Second, the Rome Statute speaks of a deprivation of "freedom" while the TJR Act speaks of a deprivation of "liberty." We do not think that this difference is significant

16 Third, the Rome Statute speaks of the refusal "to give information on the fate or whereabouts" of a disappeared person, while the TJR Act speaks of "concealment of the fate or whereabouts" of a disappeared person We think that concealment requires a greater showing of State intent to hide the whereabouts of an individual than the refusal to give information.

17 Fourth, and perhaps most significantly, the Rome Statue specifically includes an intent requirement, which is noticeably absent from the TJR Act In other words under

the Rome Statute one must show the specific intent to remove a disappeared person "from the protection of the law for a prolonged period of time" The TJR Act does not include such a specific intent requirement, though as we note above we think the requirement to show that the State "concealed" rather than merely refused to give information may require some showing of intent – in this case the intent to conceal, rather than the intent to remove an individual from the protection of the law

18 The term 'enforced disappearance' was coined to describe the practice of dictatorial military regimes in Latin America of 'disappearing' individuals by abducting, secretly imprisoning, and usually then killing their opponents and critics in the 1960s-80s Because individuals were "disappeared" as opposed to being publicly picked up by the state, the state could, and did, deny knowledge of the individual's whereabouts

19 Numerous instruments and declarations were adopted to address the crime of disappearances: the 1992 Declaration on the Protection of All Persons from Enforced Disappearance,[6] the 1994 Inter-American Convention on Forced Disappearance of Persons,[7] the 2006 International Convention for the Protection of All Persons from Enforced Disappearance (ratified by Kenya on 6 Feb 2007),[8] and most recently the Rome Statute of the International Criminal Court which punishes disappearances as a crime against humanity[9]

20 Drawing upon these international documents, and the definition provided for in the TJR Act, the Commission adopts a definition of enforced disappearance with the following elements

a deprivation of liberty, including through arrest, detention or abduction,

b the involvement of the state, whether directly or indirectly through acquiescence, and

c there is refusal of the state to investigate meaningfully the disappearance, or the state conceals the fate or whereabouts of the disappeared person

21. Enforced disappearance and extra-judicial killings often operate together An enforced disappearance often, although not always, results in the death of the individual disappeared In such cases the death is often a killing that qualifies as an extra-judicial killing Extra-judicial killings can be committed outside of the public eye, and the body of the victim concealed or destroyed In such cases, without clear evidence of the actual killing, the individual is said to have been disappeared

6 Declaration on the Protection of All Persons from Enforced Disappearance G A Res 47/133 U N Doc A/RES/47/133 (Dec 18 1992)

7 Inter-American Convention on Forced Disappearance of Persons art 3 June 9 1994 33 I L M 1429

8 International Convention for the Protection of All Persons from Enforced Disappearance G A Res A/RES/61/177 U N Doc A/HRC/RES/2006/1 (Dec 20 2006)

9 Rome Statute of the International Criminal Court art 7(2)(i) July 17 1998 2187 U N T S 90

22. The United Nations Manual on The Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions[10] recognizes that political assassinations, deaths resulting from torture, ill treatment, detention and enforced disappearances, excessive use of force, and executions without due process all fall under the definition of extra-judicial killings. The Commission recognizes that extra-judicial killings and enforced disappearances are two distinct legal categories, but also recognizes the close relationship between the two crimes.

23 Because of the close relationship between extra-judicial killings and enforced disappearances, the Commission discusses them together in this chapter We discuss the incidents, context and circumstances of both crimes together in order to demonstrate the relationship between the two crimes, the relationships among those responsible for both crimes, , and the similar contexts and events that lead to the commission of each crime

24 We do not directly address massacres, assassinations, and detentions here, though all three include incidents of extra-judicial killings and enforced disappearances. We devote separate chapters to each of these phenomena because of the frequency of the occurrence of each, the importance the public places on the history of each, and the unique circumstances that surround each in Kenyan history

25 For the sake of clarity and certainty, the Commission uses the terms extra-judicial killings and arbitrary executions/killings interchangeably The Commission also uses the terms 'enforced disappearances', 'forced disappearance' and 'disappearances' interchangeably

Context

26 The historical, social, political and legal context outlined in Chapter 1 provides the background in which extra-judicial killings and disappearances, among other gross human rights violations, have occurred in Kenya since 1963 For purposes of the subjects and case studies dealt with in this chapter, the following specific and broad contexts are worth noting It is also important to note with caution that the specific instances of extra-judicial killings and enforced disappearances have their own separate contexts which have are discussed in the respective sections of this chapter

10 U N Doc E/SUCsdha/ 12 (1991)

Historical context

27 Incidents of extra-judicial killings by state agents go back to colonial period The practice continued into the post-colonial period Research and investigations conducted by the Commission show that there is a common trend and pattern of state-sanctioned extra-judicial killings and enforced disappearances

28 The struggle for economic liberalization and democratic space during each of the succeeding regimes has led to a rise in social tensions which in turn created conditions fostering extra-judicial killings and enforced disappearances According to the Commission's data, the years 1982-5 saw the highest number of reported extra-judicial killings besides those during the 2007-2008 post-election violence A careful reading of the submitted information indicates that 1982 was the year when many people were killed following the unsuccessful coup attempt that year

29 The commission of extra-judicial killings in Kenya has also been noticed in the pursuit by state agents of alleged criminal organizations which directly or indirectly posed a threat to the stability of the state The Commission notes that killings of the suspects in these cases as opposed to arresting them appears to have been used as a timely and cost efficient method of addressing perceived security threats Two clear examples of this are the recent pursuit of the Mungiki and the colonial era conflict against the Mau mau Economic inequality, among other real and perceived grievances, led to the emergence of both the Mau mau and Mungiki (the latter drew some its inspiration from the former) of these groups While there is no question, given recent scholarship, that the reaction by the colonial state to the Mau mau was particularly brutal, we notice here, as in other areas of our mandate, that the post-independence state adopted many of the techniques and operating procedures of the colonial state, in the case of Mungiki a quick resort to the use of lethal force rather than a more traditional law enforcement approach

30 The use of excessive force against citizens has been a common theme running through Kenya's history In March 1924 for instance, Harry Thuku led a group of protesters who were members of his East African Association, in order to protest the reduction of African wages by a third More than 25 demonstrating Africans were shot dead by the police outside the Norfolk Hotel, and Thuku was deported to the island of Kismayu More contemporary examples include the Kisumu massacre of 1969, the shootings of Saba Saba riots in 1991, the killing of demonstrators during Tom Mboya's requiem mass and many others

Legal context

31. The legal system has been used and/or 'misused' to legitimize extra-judicial killings and enforced disappearances Successive governments have either enacted laws that enabled these violations or created systems which ensured that otherwise protective laws were either not followed or were conveniently ignored. Contextual analysis also indicates that the judicial system has at times been used to ensure that the legal system acquiesced in the commission of extra-judicial killings and enforced disappearances

32 The threat of employing oppressive laws and using the legal system to facilitate the commission of extra-judicial killings and enforced disappearances runs from pre-independence to date The colonial state enacted laws that legalized brutality, extra-judicial killings and detentions as well as those that ensured suppression of social, economic and political competition between the British and the Kenyans[11] As far as extra-judicial killings and enforced disappearances are concerned, certain laws allowed the use of brutal force and even the employment of state-sanctioned hanging (albeit at the expense of ignoring judicial guarantees) The fact that the death penalty and other laws continue to form part of the laws of Kenya has contributed to a culture that diminishes the sanctity of life, and thus contributes to an atmosphere that tolerates, and even encourages, the liberal use of force and, in extreme cases, extra-judicial killings

33 The current legal system is not sufficient to prevent extra-judicial killings and enforced disappearances Firstly, there are no specific laws that define the two violations precisely so that their perpetrators can be prosecuted Secondly, the inadequacy of Kenya's present laws act as enablers for extra-judicial killings and enforced disappearances The use of force by state security agents in Kenya is regulated by the Constitution, Penal Code, Police Act and the Force Standing Orders[12] The Criminal Procedure Code[13] defines the parameters within which force can be reasonably exercised What qualifies as legally permissible "reasonable force" is dependent on the amount and kind of resistance of a person towards the police during apprehension and the circumstances in which the offence was committed. The Police Act envisages these circumstances to include acts

11 Such laws include those relating to land dispossession of Africans the Master and Servants Ordinance and the Employment of Natives Ordinance of 1910 the Resident Native (Squatters) Ordinance, and the Resident Ordinance Imposing criminal sanctions for breach of contract by Africans among others

12 Constitution of Kenya Article 26 (1), Article 28, Article 29, Penal Code Section 18 Police Act Section 28 Police Force Standing Orders Appendix 51A

13 Section 21 (2) which states that if a person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, the police officer or other person may use all means necessary to effect the arrest (3) Nothing in this section shall justify the use of greater force than was reasonable in the particular circumstances in which it was employed or was necessary for the apprehension of the offender

incidental to 1) preventing escape of a person in lawful custody, 2) preventing rescue of a person in lawful custody, 3) preventing lawful arrest of a person having committed a criminal offence and 4) self- defense There is however inconsistency and a degree of ambiguity in these laws as well as their continued abuse which could lead, and has led to, the killing of unarmed suspects who did not pose any threat to the public[14]. In addition, we have received testimony concerning unofficial shoot- to- kill policies adopted by some of the security forces to disperse and contain violent groups Such policies if adopted obviously undercut the effectiveness of any attempt to regulate the use of force by law enforcement agencies

34 With regard to the permissiveness of the laws, the Penal Code, Section 82, authorizes police officers to do all things necessary for dispersing people in a riotous assembly The ambiguity of the term 'riotous assembly' has given the police leeway to use unnecessary, excessive, and even deadly force against civilians The commission in this regard observes that the use of deadly force by the police caused the highest number of reported deaths in 2007/2008 in comparison to the rest of the mandate years of the Commission Another example is when the police and the GSU took the matter personally after their colleague was shot in Mathare slums and killed over 30 people in less than six hours The justification of invoking the powers of GSU was that there was a riotous assembly

35 With respect to enforced disappearances the legal framework is also inadequate The Penal Code neither defines arbitrary deprivation of freedom, nor provides for a definition of enforced disappearance or missing person The crime of enforced disappearance is however mentioned in the International Crimes Act and in the TJR Act as a constituent of crimes against humanity The closest crimes the Penal Code covers are kidnapping and abduction [15] Kidnapping and abduction however do not apply to state action The Penal Code also includes wrongful confinement, which is a misdemeanor and carries a sentence of not more than a year in jail or a minimal fine of no more than Ksh 14,000 00 Wrongful confinement is also not defined, so it is not clear if enforced disappearance would qualify

36 Pursuant to the Criminal Procedure Act the police are responsible for conducting investigations into cases of persons who are missing and believed to be dead, wherever the death occurs including in police custody While this general obligation on the part of the police is appropriate for cases of missing persons that do not involve the government, in those cases of enforced disappearances (which

14 Africa Watch Report Kenya Taking Liberties The shool-to-kill Policy" 323
15 Sections 254 255 256 of the Penal Code

by definition do involve the government) imposing the obligation to investigate on the police is more problematic

Political context

37 The political aspects of EJK and EDs in Kenya are evident from the pattern of the commission of the violations to the frequent denials and cover-ups that impede investigation and prosecution The pursuit of justice for the victims of EJK and EDs is in almost all occasions blocked by powerful individuals who benefit from either the commission of the violation or in the non-pursuit of justice for those who are victimized

38 The political context of EJKs and EDs is also evident given that they often occur during elections years, such as 1992, 1997, 2002 and 2007 The occurrences of killings and disappearances during these periods are addressed elsewhere in this report

39 It has also been observed that there have been extra-judicial killings and disappearances which seem to have been used to further specific political ends, at times in combination with other abuses such as torture and illegal detentions

40 Political factors continue to be detected in some killings today in Kenya. For example, on 12 March 2001 the Pokot raided the Marakwet in the context of a dispute over grazing land, resulting in what has been called the Murkutwa massacre Although socio-economic differences between the two communities may have contributed to the conflict, the Commission heard from witnesses that there were also political factors that played a part in this massacre where over 51 people were killed[16] In 2001, the Marakwet were the first group of Kalenjin to be in the opposition against KANU Witnesses testified before the Commission alleging that the Pokot had been reinforced in order to attack effectively the Marakwet and to suppress them This allegation is accepted by much of the local community because the Pokots used sophisticated weaponry (guns) that it is assumed could only have come from the government One witness testified before the Commission that spent cartridges found after the Pokot attack bore the marks of 'GK' The Commission was unable to verify the veracity of this testimony

16 TJRC/MEMO/0087

Episodes of Extra-Judicial killings and Enforced Disappearances

41 A number of witnesses testified before the Commission about killings and disappearances they say were committed by state-authorities The Commission has chosen a few of the killings and disappearances mentioned in these testimonies The case studies have been chosen because they are prominent events that warrant investigation and discussion, or because they demonstrate a pattern of violations, or because they highlight the contextual and systemic factors that encourage such violations Using these criteria we discuss in the rest of this chapter the following EJK and EDs of members of anti-colonial movements, EJK and EDs during riots and riotous assemblies, EJK and EDs of anti-corruption advocates and whistle-blowers, EJK and EDs during security operations (North Eastern, North Rift Region, Mount Elgon and the Police Operation against the Mungiki), and EJK and EDs during the electoral periods of 1992, 1997 and 2007/8

Colonial Period

42 To understand better the occurrence of extra-judicial killings and enforced disappearances in post-independence Kenya, it is useful to briefly consider the history of these violations during the pre-independence period The circumstances under which these two violations were committed by the colonial government, and the manner in which they were perpetrated, resonate with practices in the post independence era

43 Extra-judicial killings and enforced disappearances during the colonial period were used by the colonial government in reaction to the anti-colonial rebellion

44 Recent historical studies document how the colonial government responded to the anti-colonial struggle during the 1950s through detentions in deadly labour camps, mass killings, executions following sham court trials, excessive use of force, and subsequent cover-ups The executions by the state at this time are described in various research records such as in Charles Hornsby[17] as follows

> 'A thousand were judicially hanged and many more were killed by troops in the forests There were Extra-Judicial Executions by police and Home Guard units The beating and torture of Kikuyu suspects was commonplace, and the Security forces murdered hundreds'

17 Charles Hornsby Kenya p 47

45 The effect of these violations continue to be felt today, over half a century later The families of some of those executed by the colonial government approached the Commission to request a formal recognition and acknowledgement of what they had suffered [18]

46 The codification of the laws that categorize and establish rules of engagement as far as wars of colonial domination are concerned (Additional Protocol II of 1977 to the Geneva Conventions of 1949) were not yet in force and were not recognized by the anti-colonial governments of the time including the British Government Nevertheless basic human rights standards, which at the time were properly recognized by the British Government through their support of the Universal Declaration of Human Rights of 1948 and their extensive participation in the post WW II Nuremberg trials, were conveniently ignored

47 To better understand the dynamics of extra-judicial killings in Kenya's recent history the Commission looks at the killings and disappearances that took place during the colonial period for insights into the the trends, patterns and entrenchment of extra-judicial killings in Kenya The tactics used by the British security officers of the time also shed light on the culture and practices inherited by the newly independent Kenya

48 The British Government declared a state of emergency on the night of 20th October 1952, which led to the passage of additional laws and regulations to combat and suppress the anti colonial movement Included in these laws were wide powers of detention

49 The Emergency powers also curtailed the rights provide for in the judicial system Magistrates were given the powers of Supreme Court judges to try offences such as oath administration, murder and assault Emergency Assize Courts and the elimination of preliminary hearings before cases were committed to the Supreme Court were also introduced [19] These changes had the effect of limiting the due process rights of individuals brought before the judicial system in the name of fighting the anti colonial struggle In fact trials were streamlined and often resulted in the execution of anti-colonial dissidents [20]

50. Executions became more common, and thus indirectly encouraged EJKs during this time The death penalty was expanded to apply to sabotage, illegal carrying or obtaining a firearm or other weaponry, certain oaths administration, and the aiding or supplying insurgent groups Following such expansion, the colonial

18 See statements of Kimathi's widow see the memo from Meru of General Baimungi
19 Antony Claylon The Killing Fields of Kenya p 14
20 Antony Claylon, The Killing Fields of Kenya p 14

government moved towards the entrenchment of the death penalty Little regard was thus given to the rights of suspects in capital cases. Mr Blundell, the leader of the settler community, expressed what was perhaps a common opinion during this period by the settlers

> 'He (Blundell) thinks in the present circumstances it would be better to hang an innocent African occasionally than to tolerate protracted legal proceedings.'

51. Emergency Assize Courts were approved in Kenya in July 12 1953 notwithstanding the concern expressed by Prime Minister Winston Churchill that the creation of such courts would lead to summary executions in Kenya [21] At the same time committal proceedings were removed which denied the accused the opportunity to know the nature of the evidence brought against him in court [22] In many cases convictions were based on confessional statements that were obtained from suspects who had been tortured [23]

52 The hanging of 71 individuals in response to the the Lari massacre is an example of the insidious impact of all of the aforementioned reforms The Lari massacre involved the killing of a number of Kenyans who had been cooperating with the colonial powers by members of the Mau mau A number of Mau mau suspects were arrested, and pressure mounted on the legal department to speed up the convictions and executions [24] Some at the time even suggested that the suspects should face martial law, which would allow mass executions through firing squad The hangings started on 15th October 1954 and went on unabated for some time At the end of this period a total of about 71 people were hanged for the massacre at Lari Many more hangings were carried out after this for Mau mau related offences Over 1,092 people were executed under this legal regime during the colonial period

53 This legal regime applied up until the last executions of those involved in the anti-colonial movement, including the famous Mau mau leader Field Marshall Dedan Kimathi Dedan Kimathi was convicted of violating African Arms Ordinance under which "Africans" were not allowed to carry arms without a special permit As a result of that conviction Field Marshall Kimathi was executed by hanging on 18 February 1957

54 The extra-judicial killings and enforced disappearances that occurred in colonial Kenya were committed in the context of anti-colonialism There was an inevitable concentration of killings and disappearances where there were threats of anti-colonial rebellion

21 See Anderson fn 86 and confirm p 154
22 David Anderson 'Histories of the Hanged 155
23 David Anderson Histories of the Hanged p 158
24 David Anderson Histories of the Hanged p 174

55. Killings in most cases therefore took the form of shootings during instances of demonstrations and riots, massacres, random shootings and deaths that resulted from the labour camps and screening centres

56 Extra-judicial killings sometimes happened under direct orders, and sometimes were on the initiative of an individual, but later commended by the government An example of the latter occurred at what was then known as the Ruthangathi home guard post, where a home guard by the name of Wamai executed two people suspecting them to be members of Mau mau This action was congratulated by the British officers as a job well done[25]. This pattern of events is similar to testimony we received in which the Kenyan police kill in suspicious circumstances members of a criminal organization such as the Mungiki, after which instead of the Police officer being punished, he is rewarded with promotions[26]

57 Another case of wanton killing during the pre-independence period is suffused with racism A colonial police officer killed a black Kenyan just because he was irritated by what he referred to as his grin! The same officer, in a bid to get information of the whereabouts of other Mau mau fighters pulled a shot at two other Kenyans at a police station [27]

58 Mass killings of Africans by the British were also a regular occurrence On one occasion, the colonial authorities executed 11 political detainees at Hola Camp as described in the chapter on Massacres

59 As far as enforced disappearances through illegal detentions, the Colonial government did not disclose to the families of the captured or detained the whereabouts of their loved ones[28]. Those who survived these years claim that their loved ones who disappeared during the emergency period have never been found This includes the many that were buried in unmarked graves

60 In order to suppress the Mau mau uprising, the Colonial Government engaged in various operations of abducting young men from their homes and taking them to detention camps Between the years of 1953 and 1960, the British Government maintained over 14 detention Camps in which detainees were kept in deplorable conditions.[29] It is alleged in other records that the colonial government maintained over 50 detention and labour camps and that in total between 150,000 and 320,000

25 David Anderson Histories of the Hanged p 297-8
26 Kenya National Commission for Human Rights KNCHR Cry of Blood
27 David Anderson, Histories of the Hanged p 300
28 See section on illegal detentions for an elaborate discussion of the kind of detentions that took place during this period
29 See section on illegal detentions for an elaborate discussion of the kind of detentions that took place during this period

Africans were detained in these camps [30]At these centers, the people were tortured and in many occasions killed

61 Some historians suggest that the entire operation against the 'Mau mau' led to the deaths of at least 14,000 Africans, 29 Asians and 95 Europeans [31] A further curious figure indicates that out of a classification of 5 ethnic grouping in Kenya (the people of Nyanza, Kikuyu(Embu and Meru), Kamba, other Kenyans and non-Kenyans), the Kikuyu constituted 46% in 1953 and later on only 28% by 1959 Comparative estimated statistics indicate that, assuming the percentages were constant, at least one million Kikuyus went missing between 1953 and 1959

62 The operation and pursuit of the Mau mau in whatever form it took, was expressed in the figure of one Ian Henderson. Ian Henderson was a Scottish-born police officer whose name is largely popular for his alleged role in quashing the Mau mau movement in Kenya as well as the capture of Dedan Kimathi During the colonial time, and specifically the period of the war against the Mau mau, he was tasked with leading the team that eventually macerated the Mau mau uprising. This team was State-sanctioned (Colonial State) and included The The King's African Rifles, the Kenya Police, the Tribal Police and the Tribal Police Reserve [32] Ian Henderson is acclaimed to have suppressed the Mau mau uprising which he boldly referred to as a 'terrorist' group In his account of the suppression which he published in a book called 'Man Hunt in Kenya'[33], he gives a description of the Mau mau freedom fighters which account is racist at its best

63 His mode of operation in dealing with this movement is indicative of a broader contextual picture of the entrenchment of state-sanctioned illegal killings of legitimate fighters for democratic causes in the name of suppressing criminal activities The attitude and operation mounted by him is also expressive of the general attitude that the Colonialists had against the Kenyan people The recognition of his work in Kenya, particularly in Kenya by the Government and the Queen in 1952 and the subsequent years commenced the entrenchment of extra-judicial killing and enforced disappearances as a mode of state repression His leadership and confirmation as an exemplary police officer, through the awards he received[34], spelt doom to the kind of state security operation that Kenya would later inherit from the British

30 David Anderson Histories of the Hanged p 5 Caroline Elkins Imperial Reckoning British Gulag in Kenya 91-232
31 Charles Hornsby, Kenya p 47
32 Ian Henderson, Manhunt in Kenya p 235
33 Ian Henderson, Manhunt in Kenya
34 Henderson was honoured by Queen Elizabeth II with the CBE 1986 George Medal 1954 (and Bar 1955) Queen Elizabeth Coronation Medal 1953 Mentioned in Despatches 1955 and Kenya Police Medal for Distinguished Services 1952 He was honoured by Government of Bahrain with Order of Bahrain 1st Class and Bahrain Meritorious Service Medal 1st Class

64 The killings that were conducted by Ian Henderson and the Colonial government were as immense as they were numerous Despite the actual killings of Kenyans in high numbers of about 300-400 per month[35], there was the despicable targeting of young children and even labeling them terrorists At the end of the operation, between1952-1960, there were about 15,000 lives that were lost[36]. This figure is disputed and estimated to be much higher Some reports state that the estimated number of Kenyans killed by the British Army during the emergency period is about 10,000 with 1,086 executed after mock trials [37] The Kenya Human Rights Commission (KHRC) estimates that 90,000 people were executed, tortured or injred during the crackdown against the Mau mau while over 160,000 others were detained in appalling conditions.

65 The style of suppression used by Ian Henderson and the colonial government was not consistent with human rights standards even as they existed at that time Further, based on the Commission's research, the depictions of Ian Henderson as a hero as depicted at the time or even today, are clearly misplaced The historical record suggests that Henderson committed or aided in the commission of extra-judicial killings of Kenyan freedom fighters, as well as contributed to the construction of a system for repressing democratic opposition through illegal killings and enforced disappearances.

66 Recent reports indicate that Henderson continues to enjoy a lavish life in Berlin and has bought a holiday home at Mukima Ridge, which is about 10km from Nanyuki town [38]

President Kenyatta's Era (1963-1978)

67 Upon Kenya's achievement of independence, there was anticipation that the extra-judicial killings and enforced disappearances committed by the colonial government would be no more Unfortunately, this turned out not to be the case The use of many of the suppressive tactics employed by the British through killings and enforced disappearances continued through successive independence governments

68 It is important to assess the violations within the political context of the time When Kenya gained independence on 12 December 1963 and Jomo Kenyatta received from the Colonial Secretary the Articles of Independence,[39] Kenyans

35 Ian Henderson Manhunt in Kenya p 8
36 Antony Clayton The Killing fields of Kenya, 1952-1960 British Operations against the Mau mau'
37 Antony Clayton 'The Killing fields of Kenya 1952-1960 British Operations against the Mau mau', p 53
38 Muchiri Gitonga, The New happy valley Why the British are flocking back to Laikipia Sunday Nation April 8 2012
39 Hornsby Kenya p 19

hoped they would be free from economic exploitation, brutal laws and illegal land acquisition. Hidden from them at the time were the complex negotiations leading to independence, and the necessary compromises the late President Kenyatta had to make with the British to ensure a transfer of power These compromises included a continued dependence on the colonial government machinery, especially that of security They also included commitments with respect to security of tenure of ownership of land by the settler population, and a more gradual implementation of land reform and redistribution than most average Kenyans expected The high expectations accompanying independence, including that independence would effect a complete break from the past, with the reality of the compromises required to achieve independence which were not made public, quickly led to disillusionment by many Kenyans

69 Despite independence, British officers continued to command the army up to 1966[40], and the navy and air force up to 1972 [41] Officials associated with colonial oppression, including EJKs, such as Richard Catling, stayed in Kenya in their official capacities until 1965 The Tribal Police structure also remained but under the new institution of the Administration Police Independence thus did not dramatically change the face of the state security machinery, and the use of such machinery as a tool for social control aimed at quashing opposition against the state continued

70 Most of these vestiges of the colonial government were inscribed in negotiated pacts with the colonial government For instance, the Defense Agreement of 3 June 1964 stated that the British Troops in Kenya would withdraw by 12 December 1964 Prior to this, the British government would commit funding and would train Kenyan Army and so on. On the other side of the bargain, the Kenya Army would continue to be led by a British Officer The Kenyan government would also allow British soldiers to train on Kenyan soil twice a year, and enjoy over-flight facilities among other benefits In turn, Britain would provide assistance to the Kenyan government to deal with internal disturbances if need be, and train its solders in counter-subversive techniques

71 In addition to the continuation of colonial structures and policies, the other major factor the contributed to the continuation of extra-judicial killings was the development of hyper-competitive politics in Kenya This phenomenon of hyper-competitive politics was not peculiar to Kenya alone, but developed in most newly independent states For instance in East Africa alone, four countries experienced army mutinies shortly after independence [42] In Kenya several hundred soldiers

40 Charles Hornsby Kenya p 199
41 Charles Hornsby Kenya p 199
42 Charles Hornsby, Kenya p 97

of the 11th Battallion of the Kenya Rifles went on strike at Lanet near Nakuru shortly after independence on 24 January 1964[43] The strike was fuelled in part by disappointment in the lack of progress towards fulfilling the high post-independence expectations. In this case the army expected to no longer be under British command, which turned out not to be the case [44]

72. Kenyatta, having realized that he would not be able to meet the needs and expectations of all Kenyans, engaged in measures that would ensure political survival and self sustenance of his government This lead to a strengthening of the role of the security agencies similar to the role they played during the colonial period, and particularly aimed at controlling, and suppressing dissent and organized political opposition In brief, in the words of Charles Hornsby, 'the Independent State soon echoed its colonial parents repressive attitudes to dissent'[45]

73 During the Kenyatta administration, there were cases, reported and unreported, of extra-judicial killings and enforced disappearances The killings that took place during this period took the form of either political assassinations, mass killings or deaths resulting from excessive use of force by the police and security agents

74. With regard to political assassinations, Kenyatta was president during the deaths of Field Marshall Baimungi (1964), Pio Gama Pinto (1965), Kungu Karumba (who disappeared since June 14 1974), Tom Mboya (July 5 1975), Ronald Ngala (12 December 1972), J M Kariuki (March 2 1975) and Argwings Kodhek (1969) [46] These cases are covered in some detail elsewhere in this Report The investigations into these deaths were quite cursory The lack of serious investigation into these killings created the public perception that the truth about these killings has yet to be established

75 As far as deaths resulting from excessive use of force by the police and state security operatives are concerned, Kenyatta on two occasions authorized and/or acquiesced to the unnecessary use of force One of these occasions was during the requiem mass of Tom Mboya during which members of his Presidential escort opened fire against the gathering crowd which led to the killing of two people and injuring several others We were unable to uncover any investigations, much less prosecutions, of the individuals involved in those killings

76 Much later President Kenyatta went to open the Russia (now Kisumu) Hospital which had been built using donor money secured by the leader of the former

43 Charles Hornsby Kenya p 97
44 Charles Hornsby Kenya p 97
45 Charles Hornsby Kenya p 109
46 See TJRC Report under the Chapter on Political Assassinations

radical wing of KANU, Oginga Odinga In the course of that occasion there was an unexpected outbreak of chaos It is said that the police literally shot their way through to the waiting motorcade The official number of dead people was said to be about 11. This figure was highly contested as a cover-up and not consistent with the memories of witnesses whom the TJRC interviewed [47] The details surrounding the incident of the Kisumu shootings are covered in the chapter on Massacres

President Moi's Era

77 The scourge of extra-judicial killings had not been vanquished even at the time that the second president of Kenya, former President Daniel Arap Moi, took the oath of office President Moi further entrenched the autocratic style of government of his predecessor, and extra-judicial killings and enforced disappearances continued to occur During President Moi's government, extra-judicial killings and enforced disappearances took the forms of political assassinations, the killing and detention of pro-democracy reformists, and deaths as a result of torture of democracy and human rights activists

78 In the buildup to the coup attempt of 1982, there was an almost complete closing of democratic space and accusations of dictatorships against the government increased This led to a failed attempt on 1st August 1982 The coup attempt and its repression left many people dead Many people were accused of having participated in the coup and were later charged and convicted for treason, after which they were sentenced to death Extra-judicial killings during this time also took place in the form of the shooting and killing of political dissidents as well as deaths during detention

79 Immediately after the coup attempt the air force officers were called back to their stations Some were killed because they were perceived to be disloyal, and others were sent to prison where they were assaulted and tortured The official death toll was 159 but there were speculations that the number was higher than that Some sources put the death toll between 600 and 1 800 [48]

80 Soldiers who were on leave were also recalled and implicated in the coup Innocent soldiers were killed and those detained tortured and many lost their job because Kenya air force was disbanded Those who were considered key leaders of the coup were taken through torturous process before facing a court martial where more than 10 people were said to have been sentenced to death and later hanged [49]

47 See more on this on the Chapter on Massacres specifically under the section on Kisumu Massacre of 1969

48 Norman Miller Kenya The quest for prosperity (Boulder Colorado Westview Press 1984) as quoted by Africa Watch Kenya taking liberties (1991) 11

49 See Chapter on State Suppression Torture and Illegal Detention

Killings during the 1991 Saba Saba riots

81 The continuation of the clamor for democracy in Kenya led to yet another incidence that resulted in deaths and disappearances of its participants In particular, the 1991 Saba saba riots were as a result of a long overdue struggle for multi-party democracy. Politicians such as Kenneth Matiba and Charles Rubia organized a pro-democracy rally on July 7, 1990 – this day is nicknamed Saba Saba (Kiswahili for seven – seven, indicative of the seventh day of the seventh month) - but on July 5, the two were separately arrested by special branch officers and detained The detention of Matiba and Rubia did not deter people from gathering at Kamukunji grounds[50] to continue with the struggle According to an Africa Watch report of July 1991, people turned up in the thousands on that Saturday July 7, 1990, calling for the release of Matiba and Rubia, they waved branches, flushed the two finger symbol of multiparty politics and shouted their political demands

82 The demonstrations were initially peaceful and appeared to be nonviolent The problem began when security agents arrived with a great show of force, including members of the Criminal Investigation Department (CID), the General Service Unit (GSU), the regular police, and the Administration Police (AP), all accompanied with paramilitary trucks and helicopters GSU officers were alleged to have charged into the crowd firing tear gas canisters and beating people with batons In an attempt to escape and run for cover people were reported to have hurled stones at the police[51] The entire scene quickly degenerated into chaos and running battles The excessive use of force by the police was reported widely in both Kenyan and international media where police were seen to be chanting Uua! Uua![52] Similar chants were repeated during the July 7, 2004 saba saba demonstrations [53]

83. President Daniel Arap Moi was in Addis Ababa, Ethiopia attending a meeting of Organization of Africa Unity by the time the fracas started and he immediately returned to the country Upon return president Moi is alleged to have instructed the security forces to use "all necessary force" to restore order[54] After this instruction was apparently given the security forces opened fire on the crowd Many people were killed and bodies were left lying in the streets[55]

50 Kamukunji is an open ground east of Nairobi it was meant to be the venue for the public rally but turned the epicenter of violence and running battles between the police and pro-democracy activists

51 Africa Watch Kenya taking liberties (1991) 61

52 Kiswahili for "kill"

53 Live Bullets Used to Quell Saba Saba Day Riots The standard July 8, 2004 available at http //allafrica com/stories/200407080044 html (accessed on March 1 2012)

54 Africa Watch Kenya taking liberties (1991) 64

55 Riots spread across Kenya The Guardian July 10 1990 The article mentioned bodies left lying on the streets for long hours in Nairobi and more than twelve hours in Kiambu

84 An eyewitness reported,

> 'The police were terrible Maybe ten would suddenly manage to corner a group of young boys, shooting at them as they ran, and then they would beat them to the ground and continue beating them until they were useless They had covered trucks where they threw in the injured and dead I saw a group of GSU corner some young boys [ ] one fell on the ground because he was shot in his leg I remember him because four to five [officers] piled on him, beating him with their sticks and guns while the others chased the rest of them I remember them dragging him to the truck and I could see his white t-shirt was red Those boys got beaten so badly then picked up and thrown in the back of the police truck Then the police beat them [the boys] worse in the back of the truck I think some of the injured must have died from the beating '[56]

85 The media reported that 1056 were charged with "riot-related" offences related to the incident, the majority of whom were not allowed recourse to legal representation and even appeared in court with visible injuries [57]

86 The aftermath of the Saba Saba riots and killings took a familiar pattern, with the official description of the event differing in some cases dramatically from those of eyewitnesses On July 10, the then Permanent Secretary in Charge of Internal Security, Hezekiah Oyugi, reported that 20 people had died despite evidence and reports from other sources showing much larger figures The government created a Commission of Inquiry which also concluded that 20 people were killed and 60 injured [58] In contrast the newspaper reports put the death toll well over 100 [59]

87 Many people who were injured did not go to hospital for fear of getting arrested by police and charged or locked in police cells Due to this many seriously injured persons are believed to have died in the villages and are unaccounted for to date The security personnel are said to have followed people to hospitals where they had gone to seek treatment The security personnel then arrested many of them, while others were handcuffed to hospital beds In the light of this, some of those left the hospital before they received treatment for fear of being arrested or further assaulted This worsened their health conditions and some later died without having received adequate medical care [60]

88 The bodies of dead and badly injured people were collected by the police and dumped in hospitals Africa Watch recounts how a patient who had gone to seek treatment after being shot had to help to sort out the live injured people from

56 Africa Watch Kenya taking liberties (1991) 62-63
57 Daily Nation July 11 1990 as cited by Africa Watch Kenya taking liberties (1991) 61 65
58 See Kiliku Report p 14
59 CN Mwaura (1997) political succession and related conflicts in Kenya available at http://payson tulane edu/conflict/Cs%20St/MWAURFIN2 html (accessed on March 1 2012)
60 TJRC/Stat/06610sb

twenty eight bodies of dead persons in Nyeri district hospital[61] This information was also reported by various NGOs and the local media, the Daily Nation at the time reporting "the dead and the injured were all lying together on the floor of the casualty" The Commission received first hand testimony information that the police neglected injured people and in some cases allowed them to suffer and bleed profusely.[62]

89 The security operations related to Saba Saba spread to other towns outside Nairobi like Kiambu, Limuru, Muranga, Nyeri and Naivasha in central province, Nakuru and Eldoret in Rift Valley province, Kisumu in Nyanza and Mombasa in Coast province Many of these areas reported increased incidents of rape, assault and killings

90 In Nakuru the police are said to have opened fire and killed many people during the demonstrations and related riots It was also reported that security officers were seen in the evening removing dead bodies from fully covered trucks More dead people were also discovered at the hospital wards Similar incidents of killings by security personnel were reported in other parts of the country like Kisumu, Muranga, Nyeri, Eldoret, Naivasha, Kikuyu and Limuru Exact numbers of the people killed by the police during this period could not be established since there was a nationwide information blackout and anybody including journalists who attempted to cover any story were harassed and materials confiscated

Killings of Anti-corruption Advocates and Human Rights Whistleblowers

91 As noted previously, government response to many incidents of killings and other gross violations of human rights have been at best one of neglect, with little or no effective investigation, and at worse active cover-up Often the efforts to suppress the truth resulted in additional serious violations Some who came forward with evidence concerning extra-judicial killings and enforced disappearances were subjected to death threats and in some cases were killed or disappeared For instance, as discussed in the chapter on political assassinations, witnesses to Dr. Robert Ouko's death, have died or disappeared in suspicious circumstances, leading many to conclude that their deaths are part of a conspiracy to protect those involved in Dr Ouko's assassination

92 A number of individuals have died under mysterious circumstances after publicly accusing the police or other members of the security forces with extra judicial killings For example Mr Paul Oulu and Oscar King'ara of the Oscar Foundation were shot shortly after releasing an explosive report on extra-judicial killings by

61 Africa Watch Kenya taking Liberties (1991) 71
62 TJRC/Stat/06631

the police as part of the anti-Mungiki crackdown Despite the fact that they were killed publicly in broad daylight, no one has been accused or arrested in connection with their killing. The killings of these two human rights advocates took place two weeks after they met with the Special Rapporteur on Extra-Judicial Killings and enforced disappearances

93 The Commission also notes the brutal murder of one Bernard Kiriinya shortly after he publicly accused the police of extra-judicial killings as part of the anti-Mungiki crackdown Mr Kiriinya, who was a driver with the police, have given information of how members of the kwe kwe squad went around the country rounding up people who were believed to be members of the outlawed sect and killing them brutally Some of the information he exposed was included in the KNCHR report on extra-judicial killings, 'Cry of Blood'

94 With regard to anti-corruption advocates, the Commission notes the murder of a journalist who had written about corruption and other wrong doing by the police in Nyanza province It is reported that the officer assigned to investigate the murder faced intimidation and death threats from fellow police officers and government officials[63] The Commission also notes the death threats of people who exposed the biggest corruption scandals in Kenya's history including the Goldernberg scandal (the late David Munyakei) and the Anglo-Leasing Scandal (John Githongo)

95 The Special Rapporteur on Extra-judicial Killings and Enforced Disappearances reported that human rights defenders in Mt Elgon were directly warned by government officials not to disclose any information about extra-judicial killings[64]

96 The impression created by these and other similar incidents is that rather than investigating and bringing to justice those involved in these murders (whether state agents or private citizens), the government often attacks the credibility and legitimacy of those making the allegations

97 There is no doubt in the Commission's eyes that the victimization of witnesses to human rights violations and anti-corruption advocates were in the above and many other cases the master-mind of the Kenya government and its agents and for which the government should take responsibility of apology, restitution and reparations for those who were victims and their surviving family members

63 Human Rights Watch World Report (2010) 130

64 Report of the Special Rapporteur on extra judicial summary or arbitrary executions, Philip Alston Mission to Kenya A/HRC/11/2/Add 6 (26 May 2009) 62

Killings during Security Operations

98 Extra-judicial killings and enforced disappearances have also been committed in connection with state security operations There have been many unfortunate events where security operations have resulted in more insecurity and deaths In a number of cases where security operations are aimed at those who are the cause of the insecurity, the security forces employ excessive force which results in the deaths and disappearances of many innocent people As corroborated by statements and testimony given to the Commission and various reports from others,[65] security operations in Kenya have indeed resulted in the deaths of the very same people who the operations were meant to protect, and have often resulted in increasing the insecurity of those communities

99 There are observable similarities and patterns in the manner of conducting security operations by state security agencies in almost all instances of state-sponsored security operations It is often the young, unemployed and in many cases poor and uneducated that are targeted [66]

100 The following is a description of some security operations that have taken place in Kenya and for which there are various allegations of EJK and EDs. For ease of reading and proper thematic arrangement, the historical analysis of these sections is discussed in separate chapters as will be referred The following brief sections therefore merely describe the actual instances of killings and disappearances. The security operations discussed here include those in the North Eastern and upper Eastern regions,, those in the North Rift region; the Okoa Maisha operation in the Mount Elgon region,, and those against the Mungiki

101 There are two historical causes of insecurity in Northern Kenya the desire of the many of the inhabitants of the north to secede and join Somalia at the time of Kenyan independence, and the policies of the colonial government concerning development and security in the region The politics of secession in turn affected the growing competitive politics of post-independence Kenya The undeveloped economy and the difficult terrain of the region meant that the limited resources were often the subject of inter-ethnic conflicts

102 The desire to secede combined with the political and military support by Somalia to that end and the determination by the newly independent government of Kenya to prevent such secession, were at the root of the Shifta War of 1964-1967

65 See Philip Alston Report on Extra-Judicial killings and enforced disappearances p 24
66 See TJRC/Hansard/Maina Njenga See TJRC/Hansard/Ngunjiri ED Change Executive Trust HRW All the men have gone

The subsequent operations undertaken by Kenya to oppose secession occasioned, at times, indiscriminate and excessive use of force by security forces that led to heavy loss of lives and destruction of property, often of innocent civilians in the region. A separate chapter of this Report deals with massacres committed during security operations.

Security Operation and the SLDF in Mount Elgon Region

103. Various organizations have conducted in-depth research and held multiple discussion forums on issues affecting the people of Mt. Elgon. These organizations have established that Mt. Elgon residents were severely victimized by both the SDLF and the Kenyan military and security forces. This section only highlights extra-judicial killings and enforced disappearances that took place there.

104. Philip Alston, the UN Special Rapporteur for extra-judicial killings and enforced disappearances, estimates over 700 killings and 200 disappearances occurred in Mt. Elgon between the years 2006 and 2008.[67] According to IMLU, MSF, HRW, WKHRW, over 200 people are said to have disappeared in the hands of security forces in Mt. Elgon. Some of those disappeared are said to have been dumped in Mt. Elgon National park. A local daily went into details of how bodies were dumped by state security agencies in Mt. Elgon area here[68].

105. Western Kenya Human Rights Watch documented 615 people killed by the SLDF up to February 2008, 118 abducted and 33 maimed by the same group.[69] The UN Human Rights Council reported that the number of persons killed or disappeared by the security forces were estimated at over 200.[70] The Kenya Red Cross Society put another number of 69 to have died due to health complications, 154 owing to bullet wounds & machete cuts.[71] The Human Rights Watch estimated the number to be about 700 people dead. Whereas the Human Rights Watch pinned a total of 270 deaths and 199 disappearances at the hands of Kenyan authorities.[72]

106. The Commission through the information obtained from the submitted statements, memoranda and the hearings, approximated 750 deaths and over 300 disappearances.

67 Philip Alston Report on Extra Judicial Killings and Enforced Disapperances.
68 See some of the testimonies given to the Working group on enforced or involuntary disappearances.
69 Human Rights Watch (2008), All the Men Have Gone: War Crimes in Kenya's Mount Elgon Conflict pg.22
70 See Philip Alston, Report on Extra-Judicial killings and enforced disappearances p. 27
71 Kenya Red Cross Society, Mount Elgon Clashes Status Report, 4th April, 2007
72 Human Rights Petitions, Allison Tung 'Investigate Kenyan Mass Graves & Atrocities available at http://forcechange.com/8204/investigate-kenyan-mass-graves-atrocities/ accessed 16 April 2012

107 The conflict in Mt Elgon has its origins in the Government's attempts, starting in the 1960s, to relocate the landless in three phases of what is referred to as the Chepyuk Settlement Scheme The conflict in the area commenced owing to disagreements among different clans arising from phase III of the Settlement Scheme These disagreements led to creation of the Sabaot Land Defence Force (SLDF), a militia group that was formed to fight against what was perceived as unfair and unjust land allocation through the Settlement Scheme. The SLDF fought mainly against the Ndorobo Sub-Clan whom they considered as the enemy in the issue of land allocation

108 The SLDF, in pursuing their goals for land allocation, increased their control in villages, instilled fear and abused all those who failed to follow their orders The Police and other security agents launched security operations in order to combat the brutality of the SLDF The security operations themselves also resulted in many deaths and disappearances The people of Mt Elgon find themselves caught between the SLDF, who terrorize the population, and security agents who are welcomed by many of the residents who desire protection against the SLDF, but who often themselves commit their own violations

109. The government launched Operation 'Tafuta Amani' on 10 March 2008 to address the insecurity created by the SLDF The operation consisted of the military, the Kenyan Police, the GSU, the AP and the Anti-Stock Theft police

110 The state security agents' primary strategy for flushing out SLDF members involved arresting all teenage and adult males and screening them in the established military camp at Kapkota (Cheptais Division) The arrested males were to be 'screened' but evidence presented to the Commission indicates that some of the arrested males were beaten to death, others executed, while still others disappeared

111 It is reported that in total 3,839 people were screened, and eventually 1,078 were taken to court [73] The operation however was criticized by many of the residents for its pattern of abuses, including extra-judicial killings and disappearances

112. The ICRC stated that they perceived this to have risen above the level of an internal skirmish and tension and the involvement of the army signalled that there was a perception of an armed conflict The government however stressed that the involvement of the army did not mean that this was a armed conflict between Kenyan forces on the one hand and the SLDF on the other, but that the military only came to assist in terms of logistics and also to cordon off the area where the

73 See Philip Alston Report on Extra-Judicial killings and enforced disappearances p 20

police were operating in order to make their work easier It was stated that the entire operation was carried out under the direction of the Western Province PPO However, it was variously mentioned that this was not entirely true as the army was operating in the upper forested areas with minimal intervention by the Police

113 The Commission notes, albeit inconclusively, that there are certain qualifications of an armed conflict that were not met by the operation which may have the consequential effect of disqualifying the operation as armed conflict, making the government responsible directly to those who were victimized as well as implicating criminal prosecution for those who engaged in criminal acts during the operations as per the Kenyan Penal Code In the instance that this matter is adjudicated as properly constituting an armed conflict, as analyzed by ICRC, those found responsible should be subjected to International Criminal proceedings for war crimes

Killings and Enforced Disappearances by the SLDF

114 The Commission received information on the SLDF from its own research, hearings and investigations In addition to the direct or indirect role played by the members of this group, it was possible for the Commission to assess the mode of operation, targeting and pattern of victimization for the members of this group

115. The epicenter of the SLDF violence was Kopsiro Division where Chepyuk Phase Three is located [74] SLDF fighters raced through Kopsiro targeting people believed to have illegally and unfairly benefitted from the allocation of Chepyuk land The other focus of SLDF violence was Cheptais Division which was home to significant populations of Bukusus, Tesos and others who were seen by the SLDF as outsiders who thus had no claim to Mount Elgon land Cheptais was the focus of a crude ethnic cleansing between 2006 and 2008 when non-Sabaots were either killed or evicted from their farms As recently as July 2011 the Commission heard testimony in Cheptais confirming the extent and intensity of anti-Bukusu violence in that division [75] In addition, TJRC witnesses credit the intensity of the violence in Kapkota division to the fact that that division is home to several top SLDF commanders who used the militia's brutal methods to sort out long- running neighborhood feuds and disputes

116 It is indisputable that the SLDF carried out atrocities against the people of Mt Elgon The boys that belonged to SLDF were trained deep in the forest in the use of guns, machetes and other weapons [76] They would raid in groups of 12- 20 dressed in jungle uniforms and with a military-style chain of command One Samuel Ketoung

74 For an administrative map of Mount Elgon District see http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/01363D252B669433C12575040048106 7/$file/Militianisation+of+resource+conflict-Th+case+of+Mt+Elgon+region.pdf

75 Report of TJRC field visit to Cheptais 7th July 2011

76 www.eastslandard.org 30th April 2007

narrated how his three relatives were killed and after the attack the commander could be heard on the phone saying that they had accomplished their mission as all houses had been ransacked and walls spread with bullets [77]

117 One of the survivors recounted his ordeal to the MSF team as follows

> I was living up in the mountain and needed to get food for my children I had gone down to Teldet with four people where we get vegetables We were attacked by four young men on our way They were wearing military boots but had civilian clothes They beat us with pangas and told us to lie down They asked where we came from and for our ID cards We told them we were from Masob and they said [you are the ones we are looking for] They continued beating us with the pangas One man died and I was left unconscious One of the men said, [tell them that the janjaweed are still alive'[78]

118 Eliud Kaee testified before the Commission that the SLDF youths, recruited from amongst the people who were locked out of the ballot settlement system, ambushed their area Assistant Chief in October, 2006 and shot him dead This was one of several killings attributed to the SLDF during this period [79]

119 Another woman testified before the Commission that on the 6th of August 2007, men she identified as 'janjaweed' burst into her home in Chewamoi and immediately killed her husband This incident resembles that reported by IMLU[80] of a woman who fled her home in Chepkururu after the slaughtering of her husband who'd gone to herd their cattle at around 5 p m

Killings and Enforced Disappearances by State Security Agencies

120 The bodies of those killed were delivered by the military and/or police officers to Bungoma District mortuary As reported by Human Rights Watch, the bodies revealed shocking signs of torture, which included gun shots, bruising, swollen faces, rope burns around wrists as well as broken wrists [81] Relatives who wanted to take their bodies for burial were forced to sign affidavits that they did not intend to lodge any claims against the security forces for the death of their family members

121 Other gruesome instances of murder and torture were reported to Human Rights Watch, such as one instance where it is alleged that,

77 Release Political Prisoners Trust (2008) Exertions of protecting rights to life and security in Kenya Pg 19
78 Medicins Sans Frontieres, Mount Elgon Does Anybody Care? MSF Takes Stock after one year in the heart of the Crisis in Mount Elgon pg 11
79 TJRC/WEST/MT ELGON/05/Public/p 2
80 IMLU Double Tragedy Report on Medico- Legal Documentation on Torture and Related Violations in Mount Elgon "Operation Okoa Maisha" pg 8
81 Visiting Justice Officer Bungoma High Court Research Report on Bungoma prison as per 21st May 2008 Filed with HRW

> The soldiers were holding (the victims') legs apart and smashing their private parts with a club Some were falling unconscious, some died I saw two corpses"[82]

122 The Daily Nation (March 28, 2008) quoted an insider from the military who described how dead bodies were dumped into forest reserves of Mt Elgon National Park A resident during the security operation in Kaptaboi village reported to Human Rights Watch that he saw military helicopters dropping off dead bodies on the day of April 2, 2008 at their residence [83]

123 The Commission was told during the public hearings that state security officers frequently arrested local men at dawn from their homes to interrogate them as to the whereabouts of the SDLF Those arrested in such way were usually beaten, detained and tortured, and in the process many died The security officers were alleged to have operated on the inhumane policy "if one man dies, just drag him off to one side and carry on"[84] Arbitrary arrests led to Bungoma Prison holding a staggering 1,380 prisoners as opposed to the set standard of 400 A report by Independent Medico-Legal Unit (IMLU) asserted that 100% of the detained residents were severely tortured resulting many deaths [85] This was corroborated by the testimony before the Commission of Mzee Jocktan Wepukhulu Mayu who told of the death of Titus Wakori Wagwavuvi after being tortured using live electric wire in prison [86]

124 The Commission interviewed a 23-year old woman who was a refugee in Kiryandogo, Uganda She was a victim of the Mt Elgon Clashes of 1992 Having lost her parents at 14 when they were shot and killed by the Sabaot, she was left to take care of herself and her 7 year old sister She was married at 17 and her husband too was killed during the SLDF operations in Mt Elgon when she was 9 months pregnant She fled to Uganda and settled in Kiryandogo camp [87]

125 Despite the numerous efforts to access justice by reporting such grave incidences to the police, no successful investigation has been carried out to date The unidentified bodies discovered (and perhaps buried) in Bungoma, Kakamega and Webuye would require exhumations far beyond the administrative boundaries of Mount Elgon District Even so, there are particular hotspots and concentrations of SLDF and military activities in the area that need further investigation.

82 'Rights group accuses Kenya army militia of abuses available at http //afp google com/article/ ALeqM5ivb3h1Szp80JNhqJXwi8EaBO1D5A
83 See http //afp google com/article/ALeqM5ivb3h1Szp80JNhqJXwi8EaBO1D5A
84 Human Rights Watch Report 2008 p 31
85 IMLU Preliminary Report (2010), p 12
86 TJRC/WEST/MT ELGON/05/Public/p 23 testimony by Mzee Jocktan Wepukhulu Mayu
87 TJRC Investigators Commission interview with NAS 76

126 The Commission was told by witnesses that during the 1992 clashes the GSU and the AP trained the Sabaot Youth for the purpose of eliminating political opposition groups. The Commission was also told of how the Sabaot were given modern weapons to kill and throw 'outsiders' out of their farms

127 The Kenyan civilian and military officials with authority for the security forces Operating in Mt Elgon at that time include, Minister of Internal Security, who is in overall charge of the police, Commissioner of Police at that time and the Administration Police Commandant, the people in charge of the Army including the Minister of Defense, Chief of General Staff, and the Kenya Army Commander The two men officially in charge of the operation on the ground were the Western Provincial Commissioner, and the commander of the army in Mt Elgon[88] as well as the full list of Rapid Deployment Unit (RDU) officers deployed to Mt Elgon area between 2006 and 2008 November, and the list of all APs working in the area of Mt Elgon during the period in question

128 The Commission also heard of instances where key politicians were also involved directly in supporting the violence by SLDF A witness told the Commission as follows

> During every election and campaign period the politicians from Mt Elgon will call us(Kikuyus) viroboto(flees) or madoadoa(spots) and incite people against us All the members of parliament starting from SOD 44 , YIN 12 and KAPF 13 were inciting people against us forcing us to be squatters Our women were raped, property destroyed, people killed and others were maimed I cannot remember the exact date and month but within 2007 a lorry transporting weapons and food sent by NID 13, LIL 33 and ICH 79 to the Sabaot Land Defense Force was captured by the police in Chesikaki and we witnessed the content but when the lorry was taken to Kakamega police station is the last time we heard about it

Operations by and against Mungiki

129 Like the SLDF, Mungiki arose out of a desire to address historical injustices While the government reaction to the SLDF was primarily through a joint force of police and the military, the primary government reaction to the Mungiki was through the use of the civilian police services The conflict between the Mungiki and the police led to hundreds of deaths of suspected members of this group In this section we will discuss some of the controversies that have surrounded the operation and the nature of the Mungiki , expose the limitations of the police response, and describe the pattern of human rights violations in the general context of law enforcement

88 TJRC/WEST/MT ELGON/05/Public/p 36

130. There are many other criminal organisations besides the Mungiki that existed at the time of completing this report. Many witnesses testified before the Commission about such militia groups. They include: Kalenjin Warriors, SLDF, Taliban, Chinkororo, Baghdad Boyz, Kamjesh/Jeshi la Mzee, Al Shabaab, Amachuma, Angola Msumbiji,, Banyamulenge, Charo Shuru, Coast Housing Land Network, Congo by Force, Dallas Muslim Youth, Forty Brothers, Forty-two Brothers, Jeshi la Embakasi, Jeshi la King'ole, Japo Group, Kamkunji Youth Group, Kaya Bombo Youthz, Kosovo Boys, Kuzacha, Makande Army, Mombasa Republican Council, Sakina Youth, Siafu, and Sungu sungu.

131. While the Commission cannot, under the definitions provided to us under our Act, speak of extra-judicial killings or enforced disappearances committed by the Mungiki or other non-state actors, we note that the Mungiki and other similar groups did commit summary executions (sometimes through the use mock trials) and did disappear individuals. The victims of such atrocities were both the police themselves as well as innocent civilians.

132. As far as the government response to Mungiki is concerned, evidence submitted to the Commission suggests a pattern which involved systematic killings as opposed to arrest and arraignment to court to answer to criminal charges. Witnesses testified to the Commission that killings by the police were sometimes done in such a way that they appeared to be committed by the Mungiki themselves rather than the police. This perception has invariably led to some killings being incorrectly attributed to the police, and some probably incorrectly attributed to the Mungiki.

Social, Historical and Political Context of the Creation of the Mungiki

133. The term Mungiki refers to a Kikuyu word Muingi, which means masses or people[89]. Its exact date of creation is unclear, but various commentators suggest 1987 as the date of its creation.[90] While the movement has cultural, historical, religious and political aspects, some classify the Mungiki as primarily a religious movement.[91] In his public testimony before the Commission, the former leader of the group, Mr. Maina Njenga, stated that the name Mungiki was not created by the group itself, but by politicians and eventually the public.[92]

89 Grace Nyatuga Wamue, 'Revisiting our Indegenous Shrines through Mungiki,' African Affairs 100 (2001), 453-467 at 454

90 Oloo Adams, Marginalisation and the rise of militia groups in Kenya. the Mungiki and the Sabaot Land Defence Force in Militias, Rebels and Islamist Militants, Human Insecurity and State Crises in Africa, eds Wafula Okumu and Augustine Ikelegbe, 147-183, 150; Grace Nyatuga Wamue, 'Revisiting our Indegenous Shrines through Mungiki,' African Affairs 100 (2001), 453-467; Peter Mwangi Kagwanja, 'Facing Mount Kenya or Facing Mecca" the Mungiki ethnic Violence and the Politics of Moi succession in Kenya, 1987-2002, African Affairs 102 (2003), 25-49

91 Grace Nyatuga Wamue, 'Revisiting our Indegenous Shrines through Mungiki,' African Affairs 100 (2001), 453-467

92 RTJRC 12.03., NHIF Building Nairobi, Maina Njenga Testimony, p.3

134 From a historical perspective, the Mungiki are seen as the inheritors and modern representatives of the hopes and aspirations of the Mau mau or the Kenya Land and Freedom Army whose goal was to resettle landless Kikuyus and reposess land that was illegally acquired by the British in the pre-independence era[93]. The early founders of the movement claim to have consulted with the surviving members of the Mau mau movement for inspiration and wisdom on the construct, style and operation of the movement [94]

135 The Commission interviewed a woman in Kiambu West who claimed to have been a Mungiki member She confirmed that Mungiki members felt dispossessed and their membership in the group was motivated by their desire to advance themselves as a people She also dismissed the assumption that only Kikuyus made up the membership

136 The group in its early years engaged in certain commendable activities in its earlier days that confirm its purpose and origin as a movement in search for economic freedom and liberalization This commenced with a campaign against drunkenness, rent hikes, drug use, prostitution, HIV/AIDS, street children rehabilitation, garbage collection, security and so on [95] In some areas, it was reported that they were even concerned with poverty alleviation projects[96]. It is stated that by 2005, they had about 600 businesses

137 Efforts to organize on the basis of land dispossession started much earlier than the Mungiki In 1975 a group of citizens visited state-house and presented their grievances to the President They stated that the white man had left, but they still felt that they had not achieved economic freedom Through a letter to the President in 1975[97], they stated that the government they wanted could not be achieved unless it was inclusive of all of Kenya's 47 tribes The letter also called for the recognition of all Kenyan Freedom Fighters

138 Culturally, the Mungiki are said to be a return to African values as a source of social cohesion and to fight against the yoke of 'mental slavery' and western domination Some of the cultural practices that the group is said to engage in therefore include female circumcision, oath administration and snuff taking

93 Jean Christophe Servant Kenya s Righteous youth Militia Landless in the Rift Valley, Le Monde Diplomatique, January 2005
94 P K Kagwanja Politics of marionettes extra-legal violence and the 1997 elections in Kenya in M R Rutten, AM Mazrui and FG Grignon(eds) Out for the Count The 1997 General Elections and prospects for democracy in Kenya Kampala Fountain Publishers 2001, D.Anderson Vigilantes Violence and the Politics of Public Order in Kenya African Affairs, 101, (2002) M Ruteere Dilemmas of crime human rights and the politics of Mungiki violence in Kenya Nairobi Kenya Human Rights Institute 2008
95 Kagwanja facing mount Kenya (2003) p 37, Servant Christophe Kenya s Righteous Youth Militia (2005)
96 Mutuma Ruteere Dilemmas of Crime Human Rights and the Politics of Mungiki Violence in Kenya KHRI 2008 15
97 Letter from the dissatisfied Kenyans to the Late President Kenyatta Ref 5311 1x20/8/75

139. It is important to note that whatever the antecedent origins of the group, many people joined out of a desire for economic liberation and self empowerment The group expanded during periods of heightened injustice and insecurity For instance, one of the main periods of expansion in Mungiki membership came during and after the post-1992 election violence where the displaced saw the need to protect themselves as a community There is also indication that many who joined the movement were the victims of displacements from the clashes in Molo, Elburgon, Rongai, Narok, Laikipia and Njoro Other movements that emerged during the colonial period at this time and whose purpose was hinged on economic liberalization include the Mumbo Cult of 1913, The Dini ya Msambwa of 1947, and the Karinga Movement of 1920s/30s [98]

140 It was primarily the struggling class of Kenyans (the jobless and the economically and politically desperate) that joined the Mungiki in large numbers Unconfirmed estimates of the group's membership range between 1 5 million to 7 million[99] In 1999, Rift Valley Provincial coordinator Mr Ndura Waruinge stated the membership of Mungiki at 3 5 million He also stated, contrary to the common perception that membership is drawn only form the Kikuyu community, that members of many other communities and ethnicities had joined the movement [100] In testimony before the Commission, Mr Maina Njenga stated that the movement today has a staggering membership base of about 10 million youth [101] Others place the membership at between 1 5 to 2 Million, including 400,000 women members [102]

Political Context

141 Certain aspects point to the Mungiki as a political movement The Mungiki's force in politics is influenced by the power of numbers Owing to its large membership, the Mungiki began to be viewed by some political leaders as a useful political tool This view is supported by various academic writers and by information obtained in the course of the Commission's work [103]

142 Some of the first marked engagements of the Mungiki in politics include the mobilization of its people following the violence committed against members of its community, the Kikuyu, following the 1992, 1997 and 2002 electoral violence

98 Margaret Gathoni Gecaga Religious Movements and Democratization in Kenya Between the Sacred and the Profane in Godwin R Murunga and Shadrack W Nasong o

99 Mutuma Ruteere Dilemmas of Crime Human Rights and the Politics of Mungiki Violence in Kenya KHRI 2008 16

100 Daily Nation April 13 1999

101 See TJRC/Hansard/Testimony of Maina Njenga

102 P Kagwanja Warlord Democracy The proliferation of militia and pre election violence in Kenya 1999-2002 Kenya Human Rights Commission Unpublished as at 2003 ? D Anderson Vigilantes Violence and the politics of public order in Kenya

103 Oloo Adams 148 of the ISS publication

in Kenya[104] Mr. Ngunjiri, the Executive Director of Change Associate Trust, whose organization has engaged in extensive research on criminal organised groups, and who testified during the Commission's thematic hearings on ethnicity, observed that groupings like Mungiki become politically convenient for politicians who use them to get votes [105] Politicians may make alliances to secure the votes of such an organization's membership, and also to create youth wing movements which in extreme cases can be used to form militias to scare and intimidate voters Mr Ngunjiri gave as a historical example the KANU youth wingers.[106]

143. Politicians themselves, especially from Central province, embraced the opportunity of engaging with the Mungiki. For instance, KANU politicians attended rallies and meetings of the Mungiki[107], allegedly funded the Mungiki in their activities[108] and even engaged with them for the purposes of developing political strategies.[109] More direct political engagement came to light when, in 2003, David Manyara, the Nakuru Town MP, was charged with sponsoring the activities of the Mungiki after it had been banned in 2002 In June 2007, a member of Parliament claimed that the Mungiki had oathed 10 MPs from Central Province [110] The secrecy with which support appeared to be given by members of Parliament led the Hon Saitoti to state in a press conference that those politicians who are allegedly involved in Mungiki activities must be named and shamed Thereafter, according to NTV reporting, the Police stated that they had the files which indicated the involvement of certain key politicians

144 Upon its banning in 2002, the Mungiki evolved into a youth-oriented political organisation, the National Youth Alliance, which was deregistered at the beginning of 2007 Undeterred, its leaders were said to later form a party and name it the Progress Party Alliance[111]

Killings and Disappearances by the Mungiki

145 As noted above, the terms extra-judicial killings and enforced disappearances do not apply to the actions of non-state actors It is clear, however, that non-state actors can engage in killings, and can also engage in disappearances [Some non-state actors are large enough, and sophisticated enough, to share attributes

104 Mutuma Ruteere Dilemmas of Crime Human Rights and the Politics of Mungiki Violence in Kenya' KHRI 2008 10
105 TJRC/Hansard/Ngunjiri Presentation p 38
106 TJRC/Hansard/Ngunjiri Presentation
107 Daily Nation 2 June 2007
108 Oloo Adams, Marginalisation and the rise of militia groups in Kenya the Mungiki and the Sabaot Land Defence Force in Militias Rebels and Islamist Militants Human Insecurity and State Crises in Africa eds Wafula Okumu and Augustine Ikelegbe 147-183, p 161
109 Daily Nation 10 November2005
110 How Mungiki Forced Oath on 10 Mps Daily Nation, June 9, 2007
111 S Kilonzo Terror Religion or socialism? The faces of Mungiki sect in the Kenya public space CODESRIA conference held in Yaounde Cameroon 7-11 December 2008

of the state For example, some non-state actors are highly organized, with hierarchies and sub-organizations based upon functional activities – such as providing security, enforcement, dispute resolution, etc Mungiki evolved into an organisation with some of these attributes, including a quasi-judicial dispute resolution or punishment process

146 The development of the Mungiki from a social justice organization to something more like a criminal organization started as early as 1992 when the group shifted from primarily a religious group to a group with a stated objective of defending a particular ethnicity, the Kikuyu Tribal defence group, allegedly supporting the cause of the Kikuyu people and in response to the 'Kikuyu Land Defence Team' What started as criminal activity of individual members developed, over time, to something more organized As described by Davide Anderson, 'The Mungiki should be seen as a movement that has metamorphosed from its cultural-spiritual roots to a criminal vigilante and a tool for the politics of ethnic exclusion (Anderson, Vigilantes, 2002, 534)' As early as 1999 the Mungiki were said to have attacked members of the First Born Holy Spirit worshippers in Kahawa West who were singing circumcision songs [112] There were also allegations of members of the Mungiki were involved in raping a woman and later forcibly circumcising her [113] When questioned about these criminal activities the former leader Mr Maina Njenga testified before the Commission that those who engaged in criminal activities did so at their own peril and that the movement was not driven by criminal ideologies [114]

147 The group is reported to have expanded its activities to include atrocities such as amputations, beheading and dismembering their victims in order to cause terror and fear among those who did not support or who betrayed their cause For instance, 10 people were executed in Othaya, which is the president's constituency, following the announcement by President Kibaki of a crack down on the Mungiki [115]

148. During the 2007/2008 electoral violence it was reported that the group members were responsible for causing the deaths of ODM members in the PNU strongholds in Kenya This was in fact a finding of the Commission of Inquiry into the Post Election Violence Currently the Prosecutor of the ICC has indicted Deputy Prime Minister Uhuru Kenyatta on the allegation that he conspired with the Mungiki to engage in such violence

112 Daily Nation August 9, 1999
113 Daily Nation July 19th 1998
114 TJRC/Hansard/Maina Njenga
115 P Mathagani Kibaki pledges tough action to rein in Mungiki East African standard 5 December 2008

149 One classic example of some of the movement's activities took place in Mathare where the Mungiki are said to have formed a base of operation in not only this area but also many other slum areas of Nairobi In the name of enforcing law and order, the group is said to have beheaded four people as a warning to the residents not to commit crime The following months, Mathare was a haven of peace and security and the crime quietened down The Mungiki also connected the long awaited electricity for the residents by stealing it from KPLC and getting payments from the locals Over time, the activities of the Mungiki in the area, however, metamorphosed to criminal extortion where they would force people to make payments to them for security Those who fail to cooperate are said to be disappeared or to be subject to assault, including amputations.[116]

150 The criminal activities of members of the Mungiki and the counter-attacks by community vigilante groups and the police have led to many deaths Mr Njenga testified before the Commission that the Mungiki has lost over 10,000 youth since its inception [117] The Commission was unable to confirm this estimate

151 Earlier on, there were retaliatory attacks from the Mungiki for instance when they formed the 'Bagation' squad which stands for 'no bargain over death', on 8 March 2004 Such grouping was not strange or new to the operational activities of the Mungiki as they were earlier on alleged to form military training bases in Nakuru, Nyandarua, and Limuru forests [118] This later was transformed to the Mungiki Defence Council [119]

152 Witnesses testified before the Commission about the infamous Mathira massacre, in which a group of about 29 people were hacked to death on 21st April 2009 in Gathaithi, chehe sub-location, Iri-ini Location of Mathira Division, Nyeri District. The Commission was presented with copies of the death certificates of the victims of this massacre The Commission's research indicates that the massacre may have been committed by a group of vigilantes who were protesting against the killings perpetrated by the Mungiki

153 The Commission however notes that in a bid to restore order, the government through the police has an obligation to ensure the continuity of law and order through conducting investigations and judicial proceedings and making findings in the legally recognized criminal prosecution process as opposed to directly targeting suspects and killing them

116 See witness to Ross Kemp on Mungiki in Ross Kemp Documentary
117 RTJRC 12 03 NHIF Building Nairobi Maina Njenga Testimony p 5
118 Daily Nation December 10 1999
119 East African Standard 8th March 2004

154 One of the instances of alleged killings by the Mungiki was on March 4, 2003 when 23 people were killed in Kariobangi slum area The people targeted were the non-kikuyu dwellers mainly being of the Luo ethnic group The Political elements of the 2002 elections surrounding these killings are imperative in understanding what could have happened Owing to the expanding membership of the Mungiki at this time, certain politicians saw the benefit of becoming allied to the Mungiki This was the first time that the opposition teamed up to run up against KANU In this way, KANU attempted to ally itself to the group The leaders of Mungiki on 3rd March 2003, the day before the killings declared that they would back KANU's Uhuru Kenyatta who denounced the movement the following day The two Mungiki leaders who tried to run for elections under a KANU ticket were barred

155 There was another instance where suspected Mungiki members killed two chiefs in Central Province This and several beheadings, allegedly by the Mungiki took place around the time in May June 2007 when the members of the sect threatened to hike protection fees to public transport owners and users It is however alleged that the beheadings were suspiciously not conducted by the Mungiki alone, but there were other allegations that they were also done by the police [120]

156 The Mungiki went beyond simple killings and executed people in styles to suggest much more than just death, but the desire to spread terror Investigative reports indicate killing in fashions of dismemberment, skinning and burning These occurrences take place mainly in slum areas The Commission observes that owing to sometimes the manner in which the group spread terror, it was somewhat difficult to establish an exact count of how many people may have disappeared or died under the hand of the Mungiki

157 The Commission also acknowledges that there are allegations that some killings attributed to the Mungiki were conducted by the police, allegedly in order to spread negative propaganda against the sect [121] Given the lack of evidence, lack of prosecutions, and fear of witnesses to speak against either the Mungiki or the police, it is often difficult to determine who in fact was responsible for a specific beheading or other killing

Mungiki and the 2007 Post-Election Violence

158 The Mungiki have been accused by, among others, the Waki Commission and the ICC, of committing criminal acts during the 2007 post-election violence. The Commission heard of many unfortunate incidents where the group is said to have attacked entire neighbourhoods in the name and motive of either supporting a

120 Mutuma Ruteere, Dilemmas of Crime Human Rights and the Politics of Mungiki Violence in Kenya KHRI 2008 20
121 See interview by Ross Kemp of the top Mungiki Leaders

political party or cause during the 2007 post-election violence. The Commission also heard from witnesses who gave details that the Mungiki were indeed used by the politicians to advance their political goals

159. In particular, the commission heard in the towns of Nakuru and Naivasha where the Mungiki were said to be allied to PNU and engaged in many killings and attacks against ODM supporters [122] In the PNU strongholds such as Naivasha and Nakuru, a number of witnesses testified to the Commission of their victimization owing to the fact that they were campaigning or acting as agents to ODM candidates Two witnesses who testified before the Commission lost their entire families, in one case the families disappeared, and in the other they were burnt to death

160 One witness testified to the Commission that certain politicians would provide direct support to the Mungiki by paying them approximately Ksh 7,000 every evening for the work done There were allegations from witnesses that the build up to the electoral violence and the direct threats from the Mungiki were foreseen and reported to the police in Naivasha and Nakuru, but according to these witnesses the police took no action to either protect them or to punish the perpetrators The Waki Commission corroborates these findings where the National Security and Intelligence Committee are alleged to have received information on the evolving situation of insecurity but took no action

161 The Commission also heard of many incidents especially in Nakuru and Naivasha towns where the Mungiki descended upon innocent civilians and killed them using machetes [123]

Killings by the Police in response to the Mungiki

162 One of the earliest instances of state response against the Mungiki include the time when former President Moi issued orders for the arrest of people who were responsible for illegal oath taking in 1992 Further actions against them include in 1994 when the Police arrested about 63 people in Laikipia.[124] Eventually the government banned the organisation in 2002

163 In order to respond effectively to the Mungiki, the police established a specialized force of about 14 officers known as 'Ondoa Kwe Kwe', which was later locally referred to as 'Kwe Kwe squad' The exact timing of the establishment of this squad

122 TJRC/Hansard/Public Hearing/Kisumu/Testimonies The witnesses concluded that the attackers were supporters of PNU as they heard some of them speaking Kikuyu and they concluded that those attacked were attacked as members of ODM as the victims primarily spoke Luo

123 TJRC/Statement/12122

124 Oloo Adams Marginalisation and the rise of militia groups in Kenya the Mungiki and the Sabaot Land Defence Force in Militias Rebels and Islamist Militants Human Insecurity and State Crises in Africa eds Wafula Okumu and Augustine Ikelegbe 147-183 163

coincided with the time within which over 500 people died in the hands of the police according to the report by the KNCHR

164 Alluding to the fact and likelihood that the people who were shot and dumped at city mortuary are Mungiki, KNCHR investigated the circumstances surrounding the deaths of 454 people that were left at the city mortuary between June-October of 2007 Almost all of these individuals were young Kikuyu male adults The cause of death according to the pathologist was gun-shot wounds at close range For those instances where the families have come to claim those bodies, they are said to hail from Kiambu, Murang'a, Nyeri and Nairobi slums such as Mathare, Korogocho, Huruma, Dandora and Kariobangi. Another indication that shows the purposeful execution besides the fact that the gunshots were fired at close range, is that most of these gun-shots were aimed from a close range

165 For instance, in Kayole which is viewed as a Mungiki stronghold, the police would indiscriminately order people into their houses and move from door to door and ordering any young men outside In a certain operation, the police went there and many people were ordered into their houses Many of these people would be taken by the police hurdled into vehicles and taken into the stations In many cases, they were beaten even after expressing consent to accompany the police and there are reports that a number of them never came back An incident is noted by the Commission where a journalist, Ross Kemp was not only declined by the police an interview but was also told to 'go home' During this operation, the police were reinforced by the GSU The Commission noted certain illegalities where the GSU raided homes of people who were not necessarily rioting but were merely in their homes

166 In the course of our public hearings the Commission heard testimony from a Mr Ngunjiri that the police often arrested people based on stereotypes rather than hard evidence contrary to the rules of natural justice Mr Ngunjiri spoke of numerous instances in which young unemployed Kikuyus would be arrested as Mungiki suspects, and the burden would then shift to the suspect to prove that he did not belong to the movement This method of shifting the burden to the suspect to prove his innocence was similar to that adopted by the colonial government with respect to the Mau Mau, and more recently with respect to arrests of individuals from the Sabaot community who were automatically suspected of being members of the SLDF [125]

167 The Commission further observes that the killings were planned, organised and systematic. They in many cases were orchestrated from the high command of the police structure This particular finding is corroborated by the finding in the Philip Alston Report on Extra-Judicial Killings

125 TJRC/Hansard'Ngunjiri Presentation p 40

168. The case of the execution of an alleged notorious criminal by the name of Matheri is indicative of the Police's reluctance to follow the prescribed mode of pursuing criminals under the law The testimony of the slain Bernard Kiriinya indicates how on 20th February 2007, Matheri came out from his house with his hands up having surrendered, and being laid in front of his house to be later sprayed with bullets Thereafter, it was testified that the police stage managed the area so as to make it look like there was an exchange of fire between him and the police.

169 He again describes the executions that took place after the alleged attack by Mungiki on the late John Michuki's house Upon instructions that the police must be seen to be doing something, the team of which the witness was a part, went to Dandora, arrested 4 suspects, transported them to Kangema and shot them there In the course of that, they also shot one of their colleagues to silence him, as they perceived that he may disclose the execution he had witnessed

170 The testimony also talks about the murder of the spiritual leader of the group Mr Kimani Ruo who was arrested almost the same day after being cleared by the court on joint charges with Maina Njenga, who was at the time serving his sentence in Naivasha Maximum Prison The testimony of the late Bernard Kiriinya indicates that the orders came from the highest office of the police force down to the officers who eventually committed the execution Prior to his execution, he and others were taken to Ngong forest, where they interrogated using force, and forced to confess their involvement with Mungiki as well as name their other members in Dandora. They were later killed and their bodies dumped

171 In the course of this, it is important to note some of the brutal tactics that the police used to extract information, threaten or terrorize their suspects were as brutal as the ones perpetrated by the Mungiki in the slum areas In certain incidences, the Commission has heard of cases where the officers conducting the execution gouged out the eyes of the suspects, and beat them to pulp with clubs

172 The testimony of Bernard Kiriinya discusses up to 24 series of executions in 2007 where suspects, some seemingly innocent people, were executed in cold blood by the Police The Commission observes, which observation is corroborated by various reports, that the orders to kill were coming from the highest office of the police force then Mr. Kiriinya also testified that the police not only killed but also engaged in robbery, sexual abuse and vandalism The main victims who were murdered include the Mungiki spiritual leader Mr Kimani Ruo, alleged notorious criminal Matheri and Maina Njenga's wife Nyakio A short period after testifying to KNCHR, Mr Bernard Kiriinya was also brutally murdered It is the Commission's

recommendations that the conduct of the involved officers be investigated fully It is observable that the police were experts in stage-managing the scenes after a shoot-out For instance the testimony of Benard Kiriinya shows that once Matheri and his colleague had been killed, the police engaged in a series of shootings to make it sound like there was an exchange of fire After the shooting, there was a public notice on the Police website indicating that the criminals that were shot at Athi River residence were indeed Matheri and his accomplices To a large extent the testimony of the late Kiriinya is corroborated by the said disclosure of the police

Current State of the Mungiki

173 Mr Ngunjiri, the Executive Director of Change Associate Trust, testified before the Commission concerning the conditions that contribute to the creation of organisations like the Mungiki He noted that as each generation continues to struggle for economic sustenance in the face of high unemployment, there will continue to be people who can be recruited into organizations like Mungiki [126]

174 Although the Mungiki are a banned organization, and despite the history of brutal police response to the Mungiki, the Commission heard testimony from government officials that as of February 2011 the movement is still alive and well-organised Through an interview, one of the respondents to the Commission, the DC of Kiambu District, told the Commission that the Mungiki is still alive as at 9th February 2011

175 The group having been banned in the year 2002, exists in various forms, and is still energized despite the fact that there are indications that following the crackdown of its highest members it may have disintegrated According to a source, the Commission learnt that many members of the Militia attempted to exist secretly within a group called 'Forest Guard' who are led by a retired Kenyan General, and former Commandant of the National Defense College There were also unconfirmed allegations that a Kenya Army Commander had been requested to release G3 rifles among other equipment to the 'Forest Guard' group The movement is also alleged to be receiving constant supply of funds from wealthy and connected Kikuyu politicians

176 During his testimony to the commission he said 'you cannot kill a generation' to mean that the movement may cease to exist but the passion and the cause for economic empowerment by the youth will not cease to exist

126 TJRC/Hansard/Ngunjiri Presentation

177 In one of the interviews, a woman follower of Mungiki was interviewed and asked what she thinks would happen if Maina Njenga was killed In response she said

> This Kenya would be bloodshed, we'll revenge the whole world. Mombasa, Eldoret, Lamu, everywhere We'll burn the houses to hell and I will be in front

Killings during Electoral Periods

178 Since the start of multiparty democracy in 1992, Kenya's elections have coincided with violence which has led to deaths, destruction of property and the entrenchment of violence as a tool towards achieving political power. The government through its state security agencies has sometimes contributed to such violence by using extreme force itself in the name of suppressing electoral violence, at times incumbents have used the state machinery to commit violence to further their re election or the election of their political allies The violence related to the December 2007 elections brought this phenomenon to the attention of the rest of the world, but the use of violence as part of elections dates back at least to 1992

179 This section will focus on the killings and disappearances perpetrated by state security forces and in particular, the police, during the key electoral periods of 1992, 1997, 2002 and 2007 It must be noted, however, that the violence surrounding elections in Kenya have their roots in a mixture of other long-standing issues which include economic inequalities, corruption, lack of rule of law and most of all the problems relating to land and land administration

1992 General Elections

180 The outbreak of violence in 1992 included the direct involvement and engagement of the state security machinery and administration which heightened the violence as it was aimed principally at advancing the interests of a particular candidate This section will specifically focus on the instances of extra-judicial killings and disappearances relating to this particular election

181 The Akiwumi Commission concluded that the violence was motivated by high-ranking government ministers and party leaders who supported Majimboism Majimboism is a form of decentralized federal government which was developed by supporters of the Kenya African Democratic Union (KADU) prior to and just after Kenya attaining its independence .[127]

127 Joshia O Osamba Violence and the Dynamics of Transition State, Ethnicity and Governance in Kenya' Africa Development Vol XXVI, No 1 &2 (2009) 41

182. In order to understand what happened, the political context of this violence should be highlighted The 1992 elections were the first multi-party elections to be held following the repeal of section 2A of the independence constitution

183 At this time the Moi government had been in power reigned for 14 years During that period President Moi had entrenched his rule and placed members of his larger community, the Kalenjin, in the most important government positions, including the state security machinery With the advent of multi-party politics, a direct threat posed by the opposition to the status quo

184 The violence and the deaths that occurred at this time were primarily caused by the tension between the "reformers" and "anti-reformers," the fear of the KANU government and its beneficiaries being ousted from power, and the debates on Majimboism and strong national centralized power

185 A witness testified before the Commission that during the introduction of multiparty democracy there arose a bitter rivalry between the political parties FORD and KANU This political hostility took on an ethnic dimension, creating hostility between members of the Kalenjin and Luo communities. This ethnic hostility manifested itself in Sondu with the creation of Kalenjin and Luo zones, which in turn led to the famous Sondu Massacre [128]

186 Perceptions of the relationship between political power and employment also contributed to the election related violence The civil service in the Rift Valley included very few people of Kikuyu origin, leading to the perception that they were denied such jobs because of their ethnicity A witness testified before the Commission that he saw the need to vote differently at this time owing to the fact that they were never given options for employment or recruitment into government jobs [129]

> It was into this context that resulted in so many deaths, and the deployment of state security agents which often led to further violations and deaths A witness testified before the Kiliku Commission that during the clashes in Nandi he saw two army helicopters and the "Kalenjin warriors" accompanied by the police who chased away members of the Kikuyu community to pave the way for the burning of their houses [130]

187 In addition to ethnic cleansing directed against members of the Kikuyu community in the Rift Valley, ethnic cleansing was also directed against members of the Kalenjin community in the Rift Valley The Commission received information that certain

128 Commission Investigators interview with NGW 59 year Old al Kericho
129 TJRC Investigators Interview with KIWI 45
130 Kiliku Report pg 15

members of the Kikuyu community committed violent acts against members of the Kalenjin, Luo and Luhyia communities This violence was encouraged by some politicians, including a local public official and Member of Parliament HON34 who was allegedly buying weaponry and funding the Kikuyu youth for the purpose of evicting members of the Kalenjin and Luo communities [131]

188 There were also instances of retaliatory attacks such as when ethnic Clashes between the Maasai, Kalenjin and Kikuyu which was caused due to political incitement whereby evictions where being conducted against non kalenjin and Maasai communities so that they don't vote, many people were also evicted from Likia where a Maasai was killed with his son This caused their tribesmen in Melelo to also start killing others as revenge

189 Witnesses testified before the Commission that certain politicians incited this ethnic violence and the resulting deaths Mary Nungari Ng'ang'a of Mlima Panya village of Maai Mahiu testified that the clashes in her area could be traced to a particular politician She testified that one EYE34 kept saying at Barazas that all foreigners – by which was understood all individuals not of the Maasai community – will have to leave Maasai land and return to their ancestral homes We have never returned to see what our tormentors did with our land since they even killed some of us."

190 The Kiliku report in particular refers to two meetings in Kapsabet and Kapkatet in 1991 which led to the polarisation of the majimbo and anti-majimbo camps As reported by the Kiliku Commission, at the meeting in Kapsabet the participants were instructed to take action against all multi-party agents and to kick pro-multiparty reformers such as Paul Muite out of the Rift Valley It was also at this meeting that the founder of FORD, Mr Masinde Muliro, was ordered out of Trans-Nzoia A proposal was made to ban LSK because of its support of multi-party democracy. There were also audacious statements from people like BIM88 who told his people to go into bars and crush those who are anti-government LOK19 ordered his supporters to arm themselves and go and crush FORD members [132]

191 The Commission notes the analysis in the Kiliku report but finds opportunity to stress that the same cycle of politicians inciting unsuspecting Kenyans into violence, especially during electoral periods, continues to repeat itself and is what consequently led to the deaths of over 1,300 people in 2007/2008 elections For this reason, the Commission notes the need to prosecute those who are alleged to have directly incited people as is documented by the Kiliku report in all the instances that they were never prosecuted

131 TJRC investigators interview with JIK 16
132 Kiliku Report p 17

192. The violence related to the 1992 elections left a trail of destruction, suffering and loss of life. During this period, it was severally reported that the violence was sponsored by the government.[133] The Commission observes further finding of the Kiliku Commission in which people were directly threatened that if they left KANU there would be 'fire'. The intention of the security forces in Nandi was also indicated where a group of GSU officials killed a number of Kalenjin youths probably in retaliation who had come to quell the clashes[134].

193. The government did very little to contain the situation. Nothing was done, for example, to stop remarks made by ministers, civic leaders and provincial administrators that incited members of the public to engage in violence. For Instance, LYK 09 is said to have 'threatened to lynch and forcibly expel Luo people from Bomet and Kericho Districts if they supported FORD Kenya.'[135] The late TOD11 in his speech delivered at the Makutano Stadium in Kapenguria on 28 November 1993, ordered Kikuyus to leave West Pokot District in 48 hours and warned that the Kalenjin and Pokot community would take the law into their own hands if they did not comply with his order.[136]

194. After the violence the government attempted to minimize the gravity of what had happened. Initially, the government denied that politically-motivated ethnic violence was even taking place, and instead described what was occurring as a normal conflict between communities. When the government finally acknowledged the abnormal amount of violence it reported far fewer deaths than that reported by the media and civil society organisations. Richard Carver, in his "Kenya Since the Elections" (1994) stated 'The official death toll of 365 is lower than all other estimates. Inter Press Service reports opposition estimates of 800 dead (14 May 1993), while another recent press estimate is 1,000 (The Guardian, 28 April 1993). Africa Watch puts the number of dead at 1,500, extrapolating from the 750 estimate made by the Kiliku parliamentary select committee (November 1993). The government even attempted to block discussions of the violence in parliament until parliamentarians protested.

133 Joshia O. Osamba, 'Violence and the Dynamics of Transition: State, Ethnicity and Governance in Kenya' Africa Development, Vol. XXVI, No.1 &2 (2009) 38

134 Pg 16, Kiliku

135 Human Rights Watch/Africa, 'Kenya: Multipartism Betrayed in Kenya: Continuing Rural Violence and Restrictions on Freedom of Speech and Assembly' Human Rights Watch, Vol. 6 No.5 (July 1994) pg 10 available at http://www.hrw.org/sites/default/files/reports/KENYA947.PDF (accessed on 10 March 2012) quoting 'Wamalwa Wants Kones Arrested' Daily Nation 6 April 1996.

136 Human Rights Watch/Africa, 'Kenya: Multipartism Betrayed in Kenya: Continuing Rural Violence and Restrictions on Freedom of Speech and Assembly' Human Rights Watch, Vol. 6 No.5 (July 1994) pg 10 & 11 available at http://www.hrw.org/sites/default/files/reports/KENYA947.PDF (accessed on 10 Marc 2011) quoting 'Remaining Kikuyus Told to Move Out by Lotodo' Daily Nation 29 November 1993 & 'Tension Rise in West Pokot' Daily Nation 30 November 1993. See also Korwa G. Adar & Isaac M Munyae, 'Human Rights Abuse in Kenya under Daniel Arap Moi, 1978-2001' African Studies Quarterly 5(1) available at http://web.africa.ufl.edu/asq/v5/v5i1a1.htm (accessed on 10 March 2012).

195 Government resources and those of contesting politicians were used in support of the violence Vehicles belonging to members of parliament were seen transporting the anarchist warriors to trouble ridden areas who would in turn attack and kill members of the community who were labelled as "outsiders"[137].Military helicopters were also observed assist the warriors to penetrate inaccessible areas, and it was alleged that the fighting would intensify just after the helicopters visited an area. In one instance, it is reported that an Administrative Police officer attached to the D.O's office gave his gun to a Mr Richard Rono who used it to kill one Mr Kinyanjui [138]

196 A Major General summarized the violence of 1992 to the Commission as follows

> Personally, I summarize the 1992 clashes as a politically motivated violence The multi-party politics, especially from KANU were so uncomfortable with a multi party system There was a political strategy of destabilisation just before the election so that voting patterns change It created an environment for violence [139]

197 The Commission received testimony of how members of the Kalenjin community were incited by prominent members of their community to kill members of the Kikuyu community On his way to Tambach, ICH /8, a Kalenjin who had allegedly rigged elections, told the people of Tambach that they had voted for a corpse. He also mocked the Kikuyu community members by telling them 'na nyinyi wengine mko hapa, mwende muulize ma Babu zenu walitoka wapi' (and you, should go and ask your grandparents where you came from) This statement insinuated that the Kikuyu people did not belong in the Rift Valley In further mockery, partiality to the ethnic tensions told the displaced kikuyu's at Burnt Forest that they were displaying their furniture so that other people could see how expensive they are [140]

198 The Commission heard testimony from individuals who asserted direct government support for the ethnic violence In December 199 residents of Chebilat feared further attacks from youth from the Kalenjin community (who had already been stealing their cattle) and reported such fears to the area chief The area chief responded by noting that the attacks by the young Kalenjins was a government project This government support empowered these youth and allowed them to act with impunity 81 year old ZIW 23 told the Commission of how an assistant Chief known to them came and told her that no one would be offered security by any Policeman so they should leave Rift Valley Province and go to Murang'a [141]

137 NCCK Report the Cursed Arrow Organized Violence against Democracy in Kenya" 17
138 See Report of the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and other parts of Kenya' (1992) 72
139 Interview with Major General SJA 06
140 TJRC Investigators interview with JNM 14
141 TJRC investigators interview with ZIW 23

199 The young Kalenjin warriors would attack any individual who indicated he would vote for the political opposition or anyone perceived to be anti-Kalenjin not just within Rift Valley but also along the border of Nyanza, and thus affecting many members of the Luo community [142]

200 A witness told the Commission investigators of instances where the Kalenjin youth would be called into secret meetings where they would be paid depending on how many houses they had burnt. It was alleged that the leaders also provided them with bows and arrows to execute the tasks of removing what they considered foreigners from among their midst The Commission notes that there are as many as 3,000 families of the 1992 clashes who were displaced and have never received any compensation from the government

201 Much of the violence in the Rift Valley in 1992 was committed by young members of the Kalenjin community who were used and directed by members of the government, including local officials

202 A 59-year old woman and mother of 6 related to the Commission the harrowing experience of being attacked by a group of young people from the Kalenjin community

> They also shot my sister in law who was eight months pregnant with an arrow The arrow went through her chest killing her and the foetus instantly

203 Another witness testified

> I remember that in April 1992 a group of boys stormed into our compound We had rumours of possible attack by the Kalenjin but didn't know that our immediate neighbours would turn against us The boys who stormed into our compound were Kalenjin I tried to escape towards the river, but they caught up with me They had dogs Two of the boys killed my friend in my presence They cut his head with a knife [sic] They beat me with clubs and gouged my eyes out with a knife They left me for dead A week later I found myself at Eldoret Hospital I have suffered greatly since the blindness I virtually depend on my family for everything The government has not done much about the violence, since they would deploy the GSU and since the majority of these officers were from the Kalenjin Community, they did not do much [sic] [143]

204 The involvement of politicians was further noted during the 1992 clashes as well The Commission heard that during December 1992, one KAPF 13 is said to have had a meeting with some members of his Ndorobos community in Kaptama These youth later came to the lady's house singing KAPF 13's name, raped the lady in front of her husband and engaged in acts of torture against him.

142 TJRC Investigators interview with a 64 year old lady in Sondu MOM 16 who told the Commission of how the Kalenjin warriors chopped off her husband s right leg and went away with it Also TJRC investigator s interview with AIZ 19 in Kisumu

143 TJRC interview with a 42 year old male in Lugari NAPS 18

205 Witnesses testified before the Commission of disappearances during the 1992 elections WON 89 is said to have gone missing during the 1992 electoral violence The Commission spoke to his surviving wife and heard how her husband was involved in local politics, which is why she thinks he was targeted She told the Commission that the last time she saw her husband was on the 6th of April 1992.

206 The Commission spoke to a 72 year old man (PAO 1) who narrated how in 1991 two contestants for parliamentary elections said they would help the Kalenjin people to weed out the impurities from among them, referring to the Kikuyu. Another witness recounted to the Commission how a sitting Member of Parliament advised Kikuyus who were in Maasailand to "lay low like envelopes'[144]

207 The Kiliku Report listed a number of incidents where state officials were alleged to be involved in killings One witness before the Kiliku Commission in Koru testified how he watched a cripple being hacked to death by an assistant chief of Belgut Division in Kericho District Another witness testified that members of the General Service Unit (GSU) killed three cattle rustlers at the Nyamira/Narok border during patrol[145] This testimony was corroborated by Rev John Koskei, who testified before the Commission that he witnessed shock trigger- happy police men shooting to death seven people within Londiani-Sorget area in Kericho[146]. In addition they injured more than ten including a five year old child lying on her mother's back

208 In September, 1993, the Government declared the Burnt Forest region a security operation zone A vicious attack was instituted the following year which left 18 people dead and many displaced Worse still, security forces, Maasai morans and game rangers attacked Kikuyu settlers in Enoosupukia killing at least 30 people When their member of parliament was confronted he said that he had no regrets about the events because the Maasai were fighting for their rights and further claimed that the Kikuyu were suppressing them by occupying their land [147]

209 The raiders were well organized and coordinated. They attacked non- Kalenjins and non- Maasais under cover of darkness Homes were looted and set on fire, and their occupants were sometimes killed with traditional weapons The attacks left the victims economically crippled and psychologically traumatized There was a general lack of concern by the government and the police for their security and

144 TJRC interview with HUM 12
145 Republic of Kenya Report of the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and other parts of Kenya (1992) 71
146 TJRC/RV/KERI/09/Public/p 19
147 Daily Nation October 20 1993 as cited in Out For The Count The 1997 General Elections and Prospects for Democracy in Kenya 78

welfare [148] One of the victims testified to the Commission that the police, the GSU and the administration police trained the youth to eliminate the opposition ethnic group [149] He further testified that government was aware of the atrocities given that it had issued modern weapons to the perpetrators ensuring they were well armed Most people were killed and others kicked out of their farms as government security forces refused to intervene When they reported the incidences to the police, their cries were arrested by the notion that "that was a Gor Mahia and Abaluhya match" [150]

210 The government did not fulfil its obligation to pursue justice for the victims of this violence Perpetrators who were arrested were released without any charges and without any valid explanation The number of those arrested differed with those in custody with the knowledge of the government but it did nothing in intervention The Council of Churches in Kenya issued a press statement asserting,

> It is of great shame and utter disregard for the rule of law and respect of the basic rights of the people, for a government to institute the use of force negatively in the clashes We hereby call upon the Attorney General to set- up a special committee of inquiry into the death of innocent citizens including children who are claimed to have died in the hands of the police while on 'cross fire [151]

211 Most incidents took place in Rift Valley in 1992 The Commission was however told of the Mitheru massacre where there was extreme opposition to anti-Kanuism The Commission heard from a witness RUJ 56 who stated that on the night of 11th October 1992 in Mitheru village police officers in a government land rover armed with guns came to the village at about 7 00pm and went on a mission to eliminate those who had declared opposition for their opposition parties He told the Commission that 5 people were killed that evening He stated that those who were responsible include REY 12, RAG 05, FRI 44, PRO 03, CIC 98, all government officials

General Elections

212 This was the second time Kenyans were to participate in a multi-party election Like the first time, this election was also marred by violence exacerbated by ethnic tensions that were exploited by politicians Election-related violence occurred in various parts of the country

148 Akiwumi report paras 90- 91
149 TJRC/WEST/MT ELGON/05/Public/p 37
150 Meaning Bukhusus had no say in a foreign land (Sabaot land) if they wanted to be heard they ought to have gone to their own land
151 NCCK Report the Cursed Arrow Organized Violence against Democracy in Kenya" 18

213. President Moi of KANU was declared the winner of the election. Mwai Kibaki, who opposed the re-election of Moi, , lodged a petition to the High Court challenging the election results on the grounds that there had been irregularities in the electoral process This petition did not go through

214 Extra-judicial killings took place prior to, during and after the elections Four months before the election there were reports of ethnic fighting in the Mombasa region The violence took place primarily in the Likoni-Kwale area, a KANU-dominated zone This violence left several people dead The violence pitted ethnic communities against each other

215 Testimonies before the Commission, corroborated by research from numerous NGOs, research institutions and other bodies, establish that most of the 1997 election violence was politically-motivated, with members of different ethnic communities fighting against each other despite the fact that they had lived together peacefully for many decades Many of the resulting deaths were committed by local militia acting either in retaliation or defense on the one hand, and the police and other arms of the government who acted in defense of the militias but also fuelled the violence for their own political ends

216 Witnesses testified before the Commission about the politically-motivated Kaya Bombo clashes in Mombasa in 1997 They testified that the clashes were instigated by the government for the purpose of chasing those who were perceived to be from other parts of Kenya and who were assumed to be supporters of the opposition Many young and jobless youths resisted being chased away They broke into the Likoni Police Station and stole arms and ammunition The police and other government security forces came down hard on Likoni area Witnesses testified to the security forces beating people brutally, torturing them and even killing them [152]

217 Prior to the outbreak of the Kaya Bombo clashes, tensions already existed among some of the residents The youth from the Digo Community perceived members of the Luo community as unjustly benefiting from the resources of the local community Groups identifying themselves as 'Vijana wa Kaya bombo' started to distribute leaflets demanding all people not originally from the coast to vacate the Coast Province The leaflets included a deadline by which all non-coastal people were to leave With the passage of that deadline the clashes started Witnesses stated to the Commission that the police and government administration knew of the impending clashes but took no action.[153]

152 See TJRC investigators interview with SHA03
153 TJRC Investigators interview with KID33

218 One witness stated to the Commission that the government security forces were divided in the area He overheard an exchange between a Kenya Navy Officer and a police officer of Kikuyu origin on or about 13 August 1997 The Navy officer stated to the police officer that the "foreigners" in the Coast must leave On hearing this exchange the witness took his family to the Catholic Church in Likoni where they stayed for almost one year He testified to the Commission that at this time, many people were killed among other violations [154]

219 Witnesses reported to the Commission that after the Kaya Bombo clashes many of those arrested for supporting or participating in the clashes were severely tortured and in some cases killed Witness SHA03 told the Commission that he was arrested because he was suspected of being one of the individuals who broke into the Likoni police station and stole arms and ammunition He reported that after being arrested he was tortured severely at Diani police station where the DCIO wanted him to be 'finished off' (meaning killed) but survived only to go through additional gruesome torture

220 The Commission heard from a 54 year old woman who described the death of her husband and her husband's friend at the hands of the police She stated to the Commission that her husband was in a make-shift kiosk when the police started shooting Her husband's friend was shot first and then her own husband was shot and later died at the hospital [155]

221 The Commission also heard from a 54 year old man testified about the killing of his son during these clashes He described direct involvement of soldiers who at one point went into his hotel and killed two people The following day his son was arrested on the spot and beaten up and in the end died as a result of his injuries [156]

222 A 50 year old man, SHA03, told the Commission that he suffered at the hands of the police and other security officers He claimed that he suffered because he opposed the idea of politicians chasing away the Luo, Kikuyu, Luhyia and Nandi from outside Rift Valley

223 Information presented to the Commission suggests that the state security forces' reaction to the demonstrations caused 60 or more civilian deaths The deaths were occasioned either under the hand of the local militia (Kaya Bombo in Likoni area or the Kabuithu in Embu, among others), as well as the state security agents Witnesses testified that the local militia were in most instances incited or enabled by politicians

154 TJRC Investigators interview with LIT 34
155 See TJRC investigators interview with TIN 56
156 See TJRC investigators interview with HOM19

or the government itself. The Commission interviewed many people whose relatives or friends had died in the hands of uniformed police officers and other government officials [157]

224 The Commission also received evidence with regard to enforced disappearances of some of the people who had been arrested following the Kaya Bombo clashes The Commission spoke to one SIM76 who was arrested by the police in 1997 to be questioned at the Likoni Police Station and has never been seen again His arrest followed the raid of the police station. On arrival, he found people being whipped and detained, most of whom had done nothing.[158]

225 The involvement of the government and especially the anti-opposition forces was specifically evident from the testimonies to the Commission The key politicians in coast province at the time found ample opportunity to campaign on the platform of diminishing resources when told people in a number of rallies to 'protect their land' with the subsequent effect of the local Coast people seeking to chase other communities [159]

226 The Kenya Human Rights Commission (KHRC) in a report on the clashes highlighted the government's indifference and lack of political will to respond to brutality of the situation despite having adequate resources to do so [160] The Deputy District Commissioner of Nakuru, for instance, is reported to have described the clashes as a mere 'disagreement' between communities, refusing acknowledge the existence of violence warranting intervention [161]

227 The violence and killing of 1997 was also felt in other places in the country, with specificity of areas where there was opposition During the electoral campaigns, President Moi addressed a crowd in Embu town. The youth of the town and the then area MP, Njeru Kathangu, led several youths in protest to the visit In response three lorries of GSU officers armed with batons arrived, a large show of force given the nature and size of the protests. The GSU officers went beyond dispersing the local crowds on the streets and went into people's houses attacking them indiscriminately. Many of the indiscriminate attacks and beatings, and subsequent arrests led to deaths and disappearances

157 TJRC Investigators interview with SAN07 who testified with regard to the death of his father who was killed by uniformed Police Officers

158 TJRC Investigators interview with SIM76

159 TJRC Investigators interview with DAC77

160 KHRC Quarterly Repression Report July-Sept 1997

161 XIX Article 19 Kenya Post Election Political Violence (December 1998) 7 available at http //www article19 org/pdfs/publications/kenya-post-election-political-violence pdf accessed on 9 March 2012

228. The Commission heard from a 69 year old woman from Embu who testified that her then 27-year old son was one of the people beaten by the GSU. He had been at home milking cows when he was assaulted by the police for no reason, and later taken to the police station. She stated that she went to the Police station but the police denied her entry and she was later told he had died.[162]

229. The escalation of violence was also felt in areas like Meru which was worsened by the formation of local militia. Witnesses told the Commission about a militia group called Kabuithu which engaged in a number of violations including killings. A witness alleged that the attacks were organized by local politicians who wanted to evict certain people from the area.[163]

230. The Commission heard of the circumstances surrounding the death of Jane Njeri Muchungu who was shot dead by a Nakuru police officer after violence erupted during the counting of votes in the 1997 elections[164]. Jane was in her business premises when she was killed. A witness stated that incidents of violence by the police against unarmed civilians, specifically women, during the elections that year was quite alarming. An inquest was conducted into the killing of Ms. Muchungu and a pathologist report concluded that she died as a result of injuries from bullet wounds in the head that caused brain shattering. Due to the lack of cooperation by the police in surrendering their guns, the magistrate overseeing the inquest was unable to identify the policeman responsible. This killing was reported four years later by the media in 2001.[165]

231. Ethnic tensions and violence increased exponentially as impunity prevailed. Local leaders mobilized supporters to carry out acts of targeted violence against their opponents during the election period. The Commission received information concerning the brutal murder of Francis Ndidi Njuguna who was hacked to death by the local chief with the aid of a local Kalenjin resident. The victim's son recounted to the Commission how he tried to protest but was ordered to leave. When he would not leave he was cut on the face but luckily survived the ordeal. He testified how he saw the perpetrators were seen drinking his father's blood shortly before leaving with his head.[166]

232. A quasi-military organisation of youth, well trained to kill, generated most of the attacks during this period. The "enemies", in turn, with the guidance of their political leaders, demonstrated their expertise of skilfully wiping the attackers out

162 TJRC Investigators interview with LEN 03
163 TJRC Investigators interview with TIB01
164 TJRC/Stat/03804
165 The Daily Nation (13 April 2001) 'Families demand relief over killings'
166 TJRC/Stat/31608

by the use of proliferated firearms[167]. One raider asserted to Human Rights Watch how politicians supplied them with guns before the Likoni attack[168] and even sent vehicles to transport them to the operation fields where they maimed, killed and chased away those they perceived as foreign [169]

233 Members of Parliament and senior KANU leaders were reported to have been involved in financing and organising the violence In December 1997, a Mombasa member of parliament claimed during an interview with the Kenya Human Rights Commission that two senior politicians from Rift Valley and Coast were responsible for planning and funding the clashes in collaboration with State House operatives.[170] It was later reported by Human Rights Watch that a politician would occasionally pay the raiders a visit in their camps and provide them with food and money as reward for "a job well done"[171]

234 As explained by one of the witnesses to the Commission

> In 1997, the then President Moi, incited the Digo against other tribes in the Coast to send back home the non-coastal tribes to their original homes This was an attempt to alienate non-KANU faithful so that the then ruling party garners majority of the votes in the area

235 There were allegations that some of the people responsible for killings committed in order to force the "non-Coast people" back to the main land were foreign militias from outside Kenya who had been hired by politicians Witnesses told the Commission that Kaya Bombo was carried out by foreign militias A witness told the Commission in Shika Adabu area of Likoni district the following as far as the 1997 violence is concerned

> that during the 1997 Kaya Bombo Clashes the attackers were foreigners She narrates how hooded men in red garments burnt their house at night on claims that they were non-coastal

236 Like the 1992 ethnic violence, no efforts were made by government security forces to stop the raiders before and even after the raids were launched despite numerous advance warnings Amnesty International noted that the police only

167 Human Rights Watch Playing with Fire Weapons Proliferation Political Violence and Human Rights in Kenya' 4

168 Human Rights Watch interview with a raider (22 April 1999) he reported that they were introduced to a Somali by a politician who supplied guns to them KHRC Kayas of Deprivation 24

169 Human Rights Watch Playing with Fire weapons proliferation political violence and human rights in Kenya 50 A politician sent a lorry at night to transport the group leaders together with some raiders to the outskirts of Likoni in preparation for the attack

170 The People Daily 18 August (2000) 2 as cited in Oyugi O Walter Politicised Ethnic Conflict in Kenya A Periodic Phenomenon (2000) 12

171 Human Rights Watch Play ng with Fire Weapons Proliferation Political Violence and Human Rights in Kenya' 56 – a raider who guarded the camps during the interviews stated that Suleiman Shakombo Likoni MP, visited the camp twice and each time he d leave the commanders would announce that they had received money for food

showed up long after the destruction and deaths had occurred. [172] Further still, the police expressed a lot of reluctance to get involved; they did not demonstrate the same zeal they had shown while suppressing opposition supporters and dispersing people attending meetings organized by the opposition.[173] One witness told Human Rights Watch how the inaction by the police made it possible for the raiders to conduct their attacks without fear of resistance. He stated:

> We had to keep our activities secret. Messages were sent to senior police but they took no action. No one came and disturbed us at all.[174]

There were even incidents where more than thirty armed security men came across the raiders and instead of pursuing them they literally fled to avoid armed confrontation.[175]

237. The police handled the situation so casually as to raise widespread suspicions of government complicity in the attacks. Those with vital information regarding the attacks were not given an opportunity to record statements. One such person later revealed that the trainings of the raiders by politicians took place on his own farm but his statement was nowhere in sight to corroborate the allegation[176] It was reported that the police threatened individuals who wanted to report cases that incriminated the government. A victim of the 1997 political violence in Likoni recounted her ordeal to the Commission of how she and her family members were burnt, some of them to death, when her house was torched by the raiders. Based on the malicious threats by the police, she decided not to report the incident to the authorities.

238. In December 1998, a police ambush against the raiders took the form of mainly targeting the Digo community youths. Patterns of excessive use of force and brutality by the police were documented by Human Rights Watch. Some were reported shouting, "Let's kill them they killed our askaris". Those interviewed explained how they were severely beaten, tortured and in the process some died. One vividly accounted the ordeal,

> A colleague was cut with a panga on his head by a police officer while in prison. He did not receive any medical attention. The deep cut was infected by insects got worse every other day and eventually he died.[177]

172 The Rift Valley Provincial Commissioner visited Laikipia a week after the violence had begun. See Amnesty International, 'Kenya: Political Violence Spirals' (1998) 10 available at http://www.amnesty.org/en/library/asset/AFR32/019/1998/en/67dd2c7e-daa5-11dd-80bc-797022e51902/afr320191998en.pdf accessed on 9 March 2012

173 Amnesty International, 'Kenya: Political Violence Spirals' (1998) 1 available at http://www.amnesty.org/en/library/asset/AFR32/019/1998/en/67dd2c7e-daa5-11dd-80bc-797022e51902/afr320191998en.pdf accessed on 9 March 2012

174 Human Rights Watch 'Playing with Fire: Weapons Proliferation, Political Violence and Human Rights in Kenya' 41

175 Human Rights Watch 'Playing with Fire: Weapons Proliferation, Political Violence and Human Rights in Kenya' 42

176 Oyugi O Walter 'Politicised Ethnic Conflict in Kenya: A Periodic Phenomenon' (2000) 12

177 Human Rights Watch 'Playing with Fire: Weapons Proliferation, Political Violence and Human Rights in Kenya' 45

239 Criminal justice institutions provided little if any remedy to the victims of these attacks Shoddy investigations were carried out rendering it difficult to link evidence to the alleged criminals. The low quality of the evidence often prolonged the trials Most of the accused were acquitted due to lack of evidence while those in remand prison awaiting decisions often died in the process[178] The Akiwumi Commission uncovered key evidence in the course of its hearings which would have been material to these trials It was stated before the Akiwumi Commission that documentary evidence containing raiders' records were presented to top officials in the Criminal Investigations Department which documents were never produced as evidence in court [179]

240 The Akiwumi Commission concluded that a lot could have been done to minimize the atrocities committed in 1997 The Commission stated that

> The government ought to take responsibility to promptly, thoroughly and impartially investigate ethnic violence and bring those responsible to justice

241 The information provided to the Commission makes clear that it was not members of just one ethnic group who perpetrated the 1997 election-related violence In addition to members of the Kalenjin community using violence in support of political candidates, members of the Kikuyu community worked with sympathetic government officials to use violence to address injustices related to land The Commission heard testimony of how at Bararget settlement scheme several Kalenjin families were evicted from the area because they were Kalenjin in order to create room for Kikuyu settlers in the Molo region. This group of Kalenjin families later moved to Lare The houses for these families were destroyed by government agents in order to ensure that only members of the Kikuyu community lived in the area The families complained to the then DC Nathan Mwangi, but nothing was done On 25th and 27th January 1998, more than 5000 families were evicted from Lare settlement scheme by the Kikuyu community after the general election of 1997

242 The Commission heard of the direct involvement of administrative officers and the police in Coast Province fronting the ideas of the politicians in 1997 during the Kaya Bombo Clashes [180] A witness told the Commission how he was victimized for opposing the plan by some politicians and elders of the Coast Province to chase away people who were not originally from the Coast Province. The witness testified about a meeting that was held at Ibiza club Grounds in Ukunda by politicians from Kwale and administrative officers of Coast province to discuss how to remove/chase away people from up-country. It is important to note that at this time, there were

178 The investigating officer who had began to uncover important evidence was transferred and replaced by a junior personnel who was new to the investigations See Human Rights Watch Playing with Fire Weapons Proliferation, Political Violence and Human Rights in Kenya 59-60

179 Akiwumi Commission Official Transcript (October 6 1998) 44 53

180 TJRC investigators interview with Rashid Bogodzo Sengeza

direct efforts by the Moi government to chase away people who were his opponents from the Coast in order to ensure that he attains a win in the 1997 elections The devastating effects of the Kaya Bombo clashes can be indicated by the story of a mother who lost 9 children In her statement to the Commission she stated

> A mother of 9 who lost some of her children in the Kaya Bombo ethnic clashes revealed that the state did not open an inquest even after the burial permit indicated that deceased died as a result of excessive bleeding due to gunshot wound No one has ever been arrested She demands an official apology and reparation

General Elections

243 The 2007 post-election violence witnessed the largest number of deaths of any election period At the time of compiling this report, official government estimates place the number of dead at about 1,300 The background, situation and consequences of this violence were documented most ably by the Waki commission report

244 The violence was similar to election related violence which has happened during the 1992 and 1997 general elections [181] The violence had underlying political and ethnically-insular motivations, and was conspicuous for its relative intensity as it was widespread, protracted and preceded a general election [182]

245 The TJRC, however, received overwhelming information, on various themes that are included in appropriate sections of this report This section discusses the information we received on specific incidents of extra-judicial killings and enforced disappearances

246 It has been well-established that the Government received intelligence reports from various security organs, including the National Security Intelligent Service, warning of tensions and possible violence before the elections, but did not act upon these warnings The Kriegler, Waki and KNCHR reports are unanimous on the fact that the security forces expedited their duties with utter unprofessionalism during the post-election violence The reports report how the security forces were biased in that they only protected individuals from their ethnic groups or otherwise failed to protect individuals at all from the ensuing violence

247 A devastating incident was reported to the Commission by one Bernard Ndege, a victim of the post election violence, during the Commission's public hearings in Kisumu [183] Mr Ndege lost 11 members of his family and eight friends in the presence of the police and with no assistance from them His family members were burnt to ashes by Mungiki youths just because they were 'Luos' and supported the local

181 CIPEV Report p 38 paragraph 3
182 CIPEV Report p 1 paragraph 1
183 TJRC/NYZ/KSM/07/Public/p 7

ODM candidate Prior to the attack, Mr Ndege, among others, had reported to the police that they feared such an attack Rather than providing him and his family with protection, the police sent him and others back to their homes where they were later attacked. In the case of Mr. Ndege all of the 19 people who were hiding in his house were killed

248 The Commission of Inquiry into Post-Election Violence (CIPEV) (commonly referred to as the 'Waki Commission') detailed the circumstances and causes of 1,113 killings which occurred during that period which included; the growing power and personalization of power around the Presidency, historical marginalisation and perceived inequities concerning the allocation of land and other national resources, increasing poverty and unemployment, unaddressed grievances and previous acts of political violence that erupted around general elections in the 1990s [184]

249 The Waki Commission further identified major limitations with the way state security agents responded to the violence Their quasi-judicial role in the electoral violence had its roots in discriminatory policies followed during recruitment

250 The 2007 post-election violence was also characterized by the use of excessive force and extra-judicial killings by the police In late December during the vote counting process and even after the results were announced, police in many towns were confronted by demonstrations that rapidly turned into riots In response to these demonstrations and riots the police used live ammunition leading, in many instances, to deaths [185] Many witnesses provided information to the Commission concerning killings attributed to the police during that period. Rev John Koskei testified before the Commission and named five people who were shot by state security agents in his presence[186] The Waki Commission listed 962 victims of shootings by the police, 405 of whom were fatal The Waki Commission report concluded that gunfire was the single most frequent cause of death during the post-election violence, and assumed that all such deaths were caused by the police.

> The Commission received no evidence to suggest that where gunshots were recorded as the cause of death or injury, it was from a source other than the police [187]

184 CIPEV Report cap 2

185 Human Rights Watch Ballots to Bullets Organized Political Violence and Kenya's Crisis of Governance" Vol 20 No 1 (A) March (2008) 26

186 TJRC/RV/KERI/09/Public/p 20 "The late Samwel Kirui killed by a police officer at Tegnon Area the late Paul K Rotich killed by police officers in his home area at Tegnon, the late Patrick K Mutai killed by the OCS Londiani Police Station by the name Richard Kimutu outside his house the late Wilson Koskei nicknamed Nyarundu killed by Army officers in his residence at Letsolet Farm the late Mobei arap Chepkwony killed by police officers at Kwitu Farm Sorget area "

187 CIPEV Report 347

251. According to a report by Human Rights Watch, police shot unarmed protesters and bystanders, including women and children, without any initial attempt to use non-lethal force.[188] The Waki Commission found that the police indiscriminately used live ammunition and that over half of the gunshot victims had wounds from the back. They found no legal or operational basis for justifying the shooting of citizens from behind as such citizens could not have posed an imminent threat to life at the time of the shooting which would have justified firing at them in self-defense.[189]

252. Nyanza Province recorded the largest amount of police brutality. The Waki Report provided that a total of 111 people died in Nyanza during the post-election violence period. Out of this number, 89 people died of gunshot wounds. Hon. Shakeel Shabir, Member of Parliament for Kisumu, testified that when the election results were announced 87 people were shot "dead like dogs" and that one actually died in his own hands. He went on to list the names of the victims and asserted that the shoot-to-kill orders emanated from Commissioner of Police and not the PPO as some claimed[190]. In addition, out of the 214 people admitted to hospitals in the province, 48 were treated for gunshot wounds.[191]

253. Witnesses testified to the Commission that the police shot at people randomly on the streets of Ronda during that election period. Carey Ochieng Odunga, while in the comfort of his friend's home, heard a commotion outside the house. On stepping outside to investigate he was shot dead on the spot by an Administrative Police Officer .[192] Out of the 98 people who lost their lives in Western Province more than three quarters died of gunshot wounds. Similarly in Rift Valley province, 170 people out of the 779 who died were killed by gunfire. In Coast province, 5 people were shot and killed, 4 of whom were shot in the back while running away from the police.[193] In Nairobi, it was reported that 61 out of 342 people who were admitted to hospital were treated for gunshot wounds, 23 of whom died.[194]

254. In conclusion, the Waki Commission found that the police response to demonstrations and protests was inconsistent with its obligations under the Constitution and the mandate of the Police Service to protect the public. Rather, the police response resulted in the unnecessary killing of scores of people.[195]

188 Human Rights Watch "Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance" 20 1 (A) March (2008) 24-25
189 CIPEV Report 389
190 TJRC/NYNZ/KSM/07/Public/p.39
191 CIPEV Report 389
192 TJRC/Stat/03934
193 CIPEV Report 394
194 CIPEV Report 395
195 CIPEV Report 419 'the police have a responsibility to save lives and maintain law and order.'

255. The then PPO in Nyanza, DIS07, is said to have ordered the excessive use of force by giving "shoot-to-kill" orders and sanctioning the use of live bullets against demonstrating Kisumu youth.[196] Further, she is reported to have said with respect to the demonstrators, "They don't know another language except the gun" [197] thus defending her order to use live ammunition

256 In another report, the former US Ambassador Michael Ranneberger states that police sources claimed that the Nyanza PPO, Ms. Kaindi issued stunning directives to her station commanders to the effect that during any future political protests in the region, deadly force is immediately authorized [198] An exclusive interview she gave to The Associated Press also quoted her as saying "It was an extreme situation and there was no other way to control them"[199] I gave the order to open fire myself when I heard that my officers were being overwhelmed If we had not killed them, things would have got very bad"

257 DIS07, the Nyanza PPO, told the Waki Commission[200] that she had received intelligence reports that Luo youths had threatened Kikuyus who would not support the ODM candidates This was in contrast to what the Kisumu OCPD, Simon Kiragu, said to the Waki commission that he did not notice any tension and for that reason did not make any preparations in anticipation of violence [201]

258 The Nyanza Provincial Commissioner stated to the Waki Commission that the Provincial Administration had put in place mechanisms to ensure that peace was maintained throughout the period The Waki commission also reported that when the Provincial Security and Intelligence Committee received intelligence from the NSIS on 28th December 2007 predicting that there could be high levels of tension regardless of how the results turned out It was reported that the NSIS forwarded this information to the relevant authorities for action [202] Being the PPO it is most definitely assumed that was a relevant authority who would receive such intelligence

259 What was said by her in as much as what specific steps were taken upon receiving the intelligence reports in order to take security measures against the violence At the same time, it is important to recognize that indeed some actions were taken such as deployment of security agents in various places As far as this is concerned,

196 Kenya National Human Commission on Human Rights, "On the Brink of the Precipice A Human Rights Account of Kenya's Post-2007 Election Violence" pg 186
197 See Jon Swain Sunday Times January 13 2008
198 The Star 14th/7/11
199 Kaindi said on the Dec 29 clash in Kisumu (Michelle Faul Associated Press)
200 Waki Report pg 105
201 Waki report pg 175
202 Waki Report pg 176

it will be useful to understanding the lacunae in this deployment and why the security measures were not successful.

260. Despite the many deaths, displacements and missing persons occasioned during operations by the police during the 2007 post-election violence, nobody raised a finger to conduct serious investigations or condemn the brutality. One victim at Kibera who was shot but not killed sued the government. The High Court found the government liable stating,

> The shooting was unprovoked, reckless and an act of impunity on the part of the police officers.[203]

Similar judgments have been made in that regard but no reparations awarded to date.

261. During the height of the post-election violence the media captured video of a police officer kicking the lifeless bodies of two youths who had been shot dead in Naivasha. The police constable responsible was charged with murder but later released for lack of evidence.[204]

262. There were, however, a few instances during the violence during which the police used dialogue and other peaceful means to address the tense situation. For example an Administration Police officer in Nairobi successfully negotiated with demonstrators not to cause violence. Further, police stations, AP posts and chiefs' camps were one of the first ports of call for persons fleeing the violence. The Kenyan army also participated in ferrying IDPs from trouble spots to safer parts of the country.[205] There are also several police officers who lost their lives while carrying out their duties.

263. The responsibility of politicians for the deaths and disappearances during the post-election violence must not be ignored. The most serious actions by politicians with grave consequences on life and property are the acts of incitement, funding and in some cases direct engagement in violence.

264. The political context of the 2007/2008 elections violence dates back from the 2005 referendum for a new constitution where the country was divided between those who opposed the constitution (the "orange" camp) and those

203 Human Rights Watch 'Turning Pebbles: Evading Accountability for Post- Election Violence in Kenya' (2011) 68

204 Oywa J 'Fury as evidence of police killings left out by judges' The Standard (April 6 2011) available at www.standardmedia.co.ke/headlines.php?id=2000032711 (accessed on 21 March 2012)

205 Kenya National Commission on Human Rights 'On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence' August (2008) 12

who supported the constitution (the "banana" camp) Attributing ethnic groups and geographical areas to the banana and orange camps joined ethnicity (and assumptions concerning the relationship between ethnicity and geography) as inflammatory factors leading up to the 2007 elections. Rift Valley, for example, was said to have been predominantly against the Constitution, and thus "orange," except for the Kikuyus who were said to be "banana" Thus political hostility around the constitutional referendum (orange versus banana) took on an ethnic dimension when it was assumed that certain ethnicities (in this case Kikuyus) supported the Constitution while others (in this case Kalenjins) were assumed to oppose it. A witness interviewed by the Commission stated that rivalry surfaced among members of the Kisii, Kikuyu, Kalenjin and Luo communities when these non-Kalenjin communities were told to go back to banana zones [206] This same witness continued

> In 2005 during the referendum campaign the rivalry surfaced again between Kisii, Kikuyu, Kalenjin and Luo During one of the meetings at the Sondu Market Orange leaders informed those who were supporting Bananas that they should go back to the 'banana zone'[ ]They referred to non Kalenjin as 'madoadoa' These utterances incited the public in attendance This kind of incitement continued right up to the elections in 2007 [207]

265 Many politicians sought votes by campaigning to evict the non-Kalenjin groups from the Rift Valley Unfortunately it is inflammatory rhetoric such as this that attracts some voters Mr Keffa Magenyi of the Internally Displaced Persons network commented on this phenomenon to the Commission "The voters will mostly vote for the one who has the harshest speech on land They will never vote for a candidate promoting dialogue"[208] In this regard, the Commission notes that this inflammatory campaign rhetoric directly decreased the security and safety of individuals who were not Kalenjin but living in the Rift Valley The Commission's research, corroborated by witness testimony,[209] indicates that there was a pattern of eviction of non-Kalenjins from parts of the Rift Valley during election periods

266 The involvement of politicians in the 2007 post-election violence is indisputable. Various witnesses who were interviewed by the Commission testified to occasions where they personally witnessed incitement by politicians which led to killings among other violations

206 Investigators interview with SEG 94
207 Investigators interview with SEG 94
208 TJRC investigators Interview with FEK 45
209 For instance the Commission listened to one THOR 21 and IDP who stated It had been a tendency for Kikuyus to be expelled and forcefully removed during elections"

267. A witness testified that NID 13, LIL 33, and SIK 09 incited a crowd at a meeting at Cheptiret Secondary School before the election by stating that the members of the Kikuyu Community should be expelled from the region. They went on to claim that there was need to remove the 'madoadoa' from Rift valley because they were the cause of the economic injustices since all the money was being taken to Central Province.

268. Such statements were not without consequence. Those who engaged directly in some of the killing were heard to use some of the same language as these politicians. For instance, a witness testified before Commission:

> On August 2007 some armed hooded men covered with black clothes came to our house and demanded money. Before we could do anything they asked us why we should associate and do business with a Kikuyu. They killed my business partner Michael Ngugi in front of my door and forced themselves inside.

269. Media houses also contributed to the violence, including through the broadcast of messages that incited their listeners. Individuals spoke to the Commission about how the media needed to be more responsible in the messages they conveyed. A witness told the Commission the following in this regard:

> The media played a role in sowing disunity among Kenyans. There is need to ensure that broadcasters are professionals capable of sieving information from their callers.

270. The same witnesses also indicated to the Commission the consequence of irresponsible politics and disrespect for democracy where he noted that the tensions in Eldoret were rising as there was more than a clear indication on the possibility of vote rigging. He told the Commission:

> During the call-ins (in Kass FM), some callers alleged that they had information of planned rigging e.g. some claimed that ballot paper and boxes had been stashed at Hon. Barngetuny's home in favour of PNU.

271. Another witness corroborated this in a formal statement by saying:

> A few days to the election KASS FM announced that there would be rigging and in some of their open forums they encouraged people to use the radio to incite people who gave their views.

272. Testimonies to the Commission indicate a pattern of violence that is consistent with the claim that violence in the Rift Valley was to a large extent incited by politicians.

273 A witness recounted to the Commission that he attended a meeting during the 2007 campaign where former Member of Parliament NUR 16 engaged in inflammatory rhetoric in the Nandi language [210]

274 The use of inflammatory and derogatory language by politicians running for office, some of whom were elected, was recounted by a number of witnesses to the Commission. Some of those mentioned as having engaged in such activity are TIF 34 and HOR 55 [211] Witnesses stated that these politicians constantly used derogatory language such as 'kwekwe' to refer to non-Kalenjins residing in the Rift Valley TIF 34 stated at a meeting that if he is favoured presidential candidate could be elected into parliament, then the people would be able to remove weeds One of the witnesses to the Commission indicated that the meetings were conducted at TIF 34's house in preparation for mass evictions of the non-Kalenjin from Kericho

275 The incitement messages were sometimes embellished with references to historical myths A witness told the Commission of an instance when TIF 34 gave a message to him with information about the Koitalel arap Samoei and the prophesy concerning how, after a hundred years, all the non-Kalenjins would be evicted from the Rift Valley In expressing urgency the material indicated that if they failed to do so in 2007, they would not be able to do it ever again He stated that SAN 04 was the appointed leader who had taken leadership from Koitalel [212]

276 The Commission also received overwhelming information regarding direct and targeted shooting by the police during the 2007 post-election violence One witness, an 85 year old male in Kakamega gave an account of how his two nephews were shot by the Police en route from the market [213] The Commission also heard the story of a 52 year old male who testified about his brother being shot at point blank range, and that the alleged perpetrator is still a serving officer within Western Province [214] The random shooting by the police is also illustrated by a witness who testified how her 12-year old boy was shot and killed by the police during the post-election violence of 2008 [215]

210 TJRC investigators meeting with NERI 12
211 TJRC Investigators Interview with Witness TAU 01
212 TJRC Investigators Interview with Witness TAU 01
213 See TJRC Investigators interview with TAF 01
214 See TJRC Investigators interview with SUE19
215 See TJRC Investigators interview with HIL90

State Responses

State Inaction

277 The state has engaged in efforts to conceal extra-judicial killings and enforced disappearances These efforts include deliberate failures to investigate, sham investigations, and frustrating genuine investigations

278 The Commission came across many cases of extra-judicial killings and disappearances where the government completely ignored and did not undertake any effort to investigate them

279 A good example of state inaction are the numerous cases of killings and disappearances in the Mt Elgon region The Mt Elgon DSIC reported to the UN Special Rapporteur that he constantly sent monthly minutes to the Provincial Security Committee[216] In some of these minutes, requests were made for reinforcements to counter the threat presented by the SLDF The government took substantive steps in response to such requests only in 2008 stating that it did not want to intervene prior to or during the elections There were other indications that the state was aware of these violations through the Parliamentary Committees on Administration and National Security, and Defense and Foreign Relations A number of victims' families told Human Rights Watch and the Commission that they would file complaints to local authorities and the police, about family members being abducted or disappeared but their complaints were never acted upon [217]

280 The Commission also heard testimony from victims of the 2007/2008 post-election violence who had reported killings and disappearances to the police These reports were either met with inaction or in some cases were addressed in a manner suggesting acquiescence or indifference to the attacks

281 In addition, the TJRC corroborates the findings of the Waki Commission as far as general inaction is concerned For instance it was reported that the NSAC had intelligence related to the possibility of violence ahead of 2007 General Elections but it was not ascertained what use was made of this intelligence material that was received by the CSC It was also not established whether the NSAC disseminated this material to the provincial and district committees for action As far as this information is concerned, the Waki Commission was able to establish that facsimiles were forwarded to the Police Commissioner's office ahead of

216 Philip Alston Report on Extra-Judicial killings and enforced disappearances p 13
217 Human Rights Watch (2011) "Holding your heart" Waiting for justice in Kenya s Mt Elgon Region p 49

the 2007 Post Election violence [218] The Commission was also informed that many Provincial Administration officers had not received any special guidelines and directions drawn up by the NSIS [219] Generally the Waki Commission noted that there was an indication of a top down breakdown of information as far as delivery of intelligence reports is concerned. This could have been natural as a result of genuine overwhelming turn out of political events, or it could have been strategic

282 The Waki Commission noted that of all SSAs the NSIS was best prepared in handling the 2007/2008 PEV The Commission noted that they were well prepared in gathering intelligence and prepared reports highlighting the issues and provided them to senior government officials as well as the Police, Military Prisons and other agencies [220] Note that these reports were very extensive and as periodical as they were fortnightly Some reports are said to have been shared with the Chairman of the ECK and also presented to NSAC When all this was said and done, there was however direct inaction on those who ought to have acted early enough to avoid the chaos that eventually occurred

International Obligations

283. Kenya is a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance which entered into force on 23rd December 2010 As a signatory, Kenya is obligated not to act in a way contrary to the object and purpose of the Convention It is noted that the government does not make regular reports to the United Nations Working Group on Enforced Disappearances (UNWGEID)

284. Article 4 of the Convention states that all acts of enforced disappearances shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness So far there is no criminalising act of government against enforced disappearances Municipal law through the Bill of Rights guarantees the right to freedom of person, including the right not to be deprived of freedom arbitrarily or without just cause, detained without trial except during a state of emergency [221]

285 A case in point in which those who were victimized are still staring at the loud absence of inaction and none-acknowledgement by the government is the bomb

218 Waki report pg 359
219 Waki report pg 359
220 Waki report pg 362
221 See the Constitution of Kenya 2010 Chapter Four

attack that took place on 7th March 1989 in Lokichogio and which left 5 dead and 7 injured, a record of lost property and destroyed social amenities.[222]

286. The death of Father Jude Kimeli Kibor illustrates how government response to a killing can suggest government indifference or even complicity in the death. Father Jude Kibor's body was found on 11th May 2006. His body, clothes and car were all discovered in different places.[223] A short while after his body was found, the flying squad, and not the usual police, appeared at the place where his body was discovered, cordoned the area and took the body to the police station. To date there has been no inquest that has been disclosed to his family members, and no conclusive investigations have been conducted to discover his killers.

Cover-ups

287. The system of state operated cover-ups for human rights violations has existed in Kenya since pre-colonial times. The British Colonial government was careful to ensure that there would be no recognition of those who were executed under their hand and meticulously engineered a system of creating cover-ups for those who had been estranged from their families or extra-judicially killed in the anti-colonial war. Attempts to launch investigations were met with opposition from the highest levels of the colonial government who thought that such investigations and possible prosecutions would embarrass the colonial government.[224] A similar attitude seems to be pervasive among members of today's security forces. Caroline Elkins in her well documented book 'The British Gulag' states that prior to independence there were 'bonfires' whose aim and purpose was to ensure that all records of those who were detained in the labour camps and those who were executed were burnt.[225]

288. Many more cases of extra-judicial killings took place during the colonial era and it is difficult to give an approximation of exactly how many people died in these circumstances. These killings were carefully documented but were also deliberately destroyed on the eve of independence as a cover-up of the British injustices against Kenyans.[226] Despite the many cases of unprofessional, undisciplined and reckless police officers, it is important to note that there were few descent police officers who made attempts to ensure prosecution against the others who were responsible for the extra-judicial killings and other atrocities.

222 TJRC/Memo/1074
223 TJRC/Memo/111
224 David Anderson, Histories of the Hanged, p. 300
225 Caroline Elkins, British Gulag
226 Caroline Elkins, The British Gulag

289 The Colonial government engaged in official denial of the numbers and the conditions under which detainees were kept By the time of operation anvil[227] (described under the section of illegal detentions), which saw the detention of over 30,000 Kenyans[228], the British parliament through the Colonial Secretaries wrongfully stated that there only were about 1,781 Kikuyus who were detained [229] When put to task to make a statement with regard to the actual situation on detentions and the conditions, the Colonial Secretary was evasive and did not respond [230]

290 The cover-ups were also systemized as far as executions were concerned to ensure that there would be no form of commemoration of those who died, and so that their graves would not become places of pilgrimage and memorialisation In 1953, Winston Churchill is said to have instructed the then Secretary of Colonies, Mr Oliver Lyttelton, to avoid executing many people at once so as to minimize public reaction [231]

291 State-sponsored cover-ups is certainly well documented by a number of organizations Extra-judicial killings by the police in the operation against the Mungiki are also indicative of the use state sponsored cover-ups One week prior to the release of the Philip Alston report on extra-judicial killings, President Kibaki established the Ransley Task force on Police Reform A short while later, he released the commissioner of Police from his duties replacing him with Mathew Iteere and making the then Police Commissioner Hussein Ali the Post-Master General

292 In another incident, the Commission observed after the killing of Oscar Foundation officials, Oscar Kingara and Paul Oulu, in cold blood allegedly by the police, the government spokesman Mr Alfred Mutua came out and stated that the foundation was a Mungiki organisation

293 The Government has consistently denied any involvement by the police or other security forces in extra judicial or other illegal killings Statements made by successive Ministers responsible for Provincial Administration and Internal Security in parliament have overtime shown a pattern of adamant denial of police committing extra-judicial killings In addition, responding to the report released by the UN Special Rapporteur in 2009, the Kenya Police Spokesman Dr Alfred Mutua criticized the report as petty and baseless while maintaining that the police force has always observed law in its discharge of duties to the public [232] It is of course true that most

227 This was one of the major crack-downs on Mau Mau fighters that led them to be detained in the camps that had been set up by the British

228 Operation Anvil in which almost 100 000 Kenyans in May 1954, were detained in deplorable conditions without trial

229 See British Parliamentary Hansard HC Deb 07 April 1954 Vol 526 cc 357-8

230 See British parliamentary hansard HC Deb 07 April 1954 Vol 526 cc 357-8

231 Martin Gilbert Never Despair Winston Churchill 1945-1965 (London 1998)

232 Response by Government Spokesman Dr Alfred Mutua "government rejects findings of un special rapporteur" February 25, 2009

police officers perform their duties in good faith and consistent with existing laws and procedures. Unfortunately the absolute denials of any wrong doing in the face of overwhelming evidence of some wrong doing does a disservice to those police officers who are not involved in such killings and other related activities.

294. The Commission observes that in many instances the Commission has failed to prosecute anyone following cases of extra-judicial killings and disappearances where either the government and the security machinery acted directly or acquiesced to the violations. An example of such response is with regard to the March 12th 2001 Murkutwa massacre where it was reported that following a dispute between the Pokot and Marakwet communities, armed men from Pokot descended on the Marakwet and left over 51 people dead and over 250 others displaced.[233] As up to 2011, it was noted that to date no one had been prosecuted for the attacks.[234]

295. Another example of what appears to be a government cover-up, or at least unwillingness to investigate, concerns the death of Robert Alusiola Mumasi on 7th October 2002. The killing occurred during what has been called the Kakamega riots[235] of 7th October 2002. The riot took place during a visit by President Moi and candidate Uhuru Kenyatta in Lurambi at Bukhulungu. Responding to the riot, the OCPD gave shoot to kill orders. The killing of the late Alusiola occurred far away from the epicentre of the riots suggesting that his death had nothing to do with the riot.

296. The government pathologist YOP 04 stated that the cause of death for Alusiola was deep cuts to the chest, while the shooting was not only witnessed but also confirmed by a number of others including a second post-mortem report.[236]

297. Another common mechanism used by the government that diminishes the ability to investigate, and thus fosters impunity, is the common practice of frequently transferring officers. Often these transfers occur after an event that warrants investigation. The case of Alusiola was no exception in this regard. As the family members continued to push for an investigation, the government transferred up to 6 officers who had knowledge of the circumstances around Alusiola's death. This same technique was used following the 2007/2008 post-election violence, again making it extremely difficult to investigate and thus hold to account those involved in violations during that period.

233 TJRC/MEMO/0087
234 Standard, May 1, 2011, pg 32
235 The Standard 8.10.02; Daily Nation 8.10.02; Standard 9.10.02; Daily Nation 9.10.02; Daily Nation 10.10.02; Daily Nation 8.10.02; Daily Nation 19.10.02; Saturday Nation 26.10.02; Standard 6.10.02
236 TJRC/Memo/1039 at p. 28

Responsibility of Main Actors

Government and State Agents

298. Government agencies may be involved directly or indirectly in the commission extra-judicial killings and enforced disappearances. The involvement is direct when officials of the agencies themselves perform the killing The involvement is indirect when they provide support to other individuals or organizations who engage in such activities, including not investigating and bringing to justice those responsible for such killings or disappearances

The Kenya Intelligence Service

299 The Kenya intelligence service plays a key role in the state security machinery It has historically been accused of involvement in gross human rights violations including extra-judicial killings and enforced disappearances This department of Kenya's security machinery has existed under different names and structures throughout Kenya's history

300 The first structure under which the Kenya intelligence existed was the Special Branch A secret intelligence unit was created by the colonial government during the Mau Mau uprising In 1952 this unit was made public and given the name Special Branch It operated under the authority of the Commissioner of Police When the country gained independence in 1963 the Special Branch was carved out of the police service and made independent Its roles and functions were defined in a presidential charter of 1969 which formalized its operations

301. In 1986 the Special Branch transformed into the Directorate of Security Intelligence (DSI) pursuant to a Presidential charter The DSI retained the structures and organisation of the Special Branch

302 The DSI was then transformed into the National Security Intelligence Service (NSIS) in 1998, through the National Security Intelligence Service Act The objective of NSIS was to protect the national security interest and safeguarding all the Kenyan citizens by identifying and reporting on all state security threats. The Director General of NSIS is a principal advisor to the President and Government of Kenya This position was held by Brig (Rtd) Wilson A C Boinett from January 19, 1999 to January 19, 2004, and then by the current Director General, Maj Gen. Micheal Gichangi

303. Historically the state intelligence services have been feared by the vast majority of Kenyans. The Special Branch under the colonial period engaged in brutal repression of the Mau mau and those perceived to be supporters or sympathizers. The Special Branch after independence engaged in similar activity, including the operation of the detention and torture facilities at Nyayo House.

304. The Commission also received information with regard to the politicisation of state security agencies such as NSIS. For instance, in the period preceding the 2007/2008 post-election violence, information reached NSIS of planned violent or fears of violent activities (see Waki report), but there were certain indications that the head of NSIS, who hails from the Kikuyu Community, (a PNU sympathetic group) was more interested in receiving information relating to the opposition ODM than he was interested in matters of national security.

The Police

305. Under the constitution, the Kenya Police is in charge of enforcement of law and order in Kenya. Prior to the promulgation of the 2010 Constitution, the Police Commissioner oversaw the police services and was appointed by the President.

306. Section 14 (1) of the Police Act according to Kenya Police provides responsibilities of the Kenya Police to include: Maintenance of law and order; Preservation of peace; Detection and prevention of crime; Offenders apprehension; Protection of property and life; Enforcement of all regulations and laws.[237] Furthermore, Kenya Police duties are also provided under section 15 of the Police Act to include: Obedience of lawful orders from superiors; Obedience of warrants and orders issued to them; Collect and communicate intelligence affecting law and order; Take all necessary steps to prevent commission of offences and public nuisance; Detect offenders and bring them to justice.

307. The Commission has gathered vast information and evidence from testimonies of the witnesses who appeared before the Commission that indicated that members of the police force in Kenya have committed extra-judicial killing and facilitated enforced disappearances. These testimonies were backed by credible research and investigations conducted by the Commission and corroborated by reports from various organizations.

237 Kenya Police. (2011). "Police Reforms", <http://www.kenyapolice.go.ke/police%20reforms.asp>

308 In 1996, it was recorded that there were over 130 people killed by the police, while in 1997 there were about 159 people killed by the police [238] In a Statement to the Commission by the head of the Western Kenya-Human Rights Watch and Human Rights Joint Statement, April 2, 2008 it was reported that there was involvement of the police in torture and enforced disappearances in Mt. Elgon

309. For instance the Commission established that there was police excess in Mt Elgon where many people were executed in the purported operation/attempt to end conflict in the region These findings were corroborated by the report of the U N Special Rapporteur on extra-judicial, summary or arbitrary executions, Prof Philip Alston[239] and other NGO reports as discussed in the sections above

310 In addition, immense powers given to arrest the police on grounds of mere suspicion[240] has not only led to their abusing of powers but also directly engaging in criminal activities such as extortion cartels against which they are supposed to protect the citizens against

311 Media reports have also exposed incidences of severe torture that led to deaths by the police For instance the bodies of Peter Wachira 37, a driver and his conductor Peter Mwangi were found in a city mortuary after being captured on camera being handcuffed by police Post mortem reports revealed that the two had injuries on various parts of their bodies and the conclusion was that manual strangulation was the cause of their deaths The mortuary attendants reported that the bodies were taken there by a police officer who said the two were found dead along Ngong road [241]

312 Police have been mentioned as direct and key perpetrators of the extra-judicial killings during the course of the security operation against the Mungiki Various reports indicate that the police were directly given orders to kill suspects who were associated with the illegal movement

313 The Commission also heard from witnesses of how the Police specifically acquiesced to the killings that were being carried out during these elections. The particular case of burning close to 30 people at Kiambaa church is one of these instances The painful experiences narrated to the Commission during its hearings which are highly

238 Kenya Human Rights Commission Mission to Repress Torture Illegal Detentions and Extra Judicial Killings by the Kenyan Police'p 2

239 Report of the Special Rapporteur on extra- udicial summary or arbitrary executions Philip Alston Mission to Kenya, Report to the Human Rights Council Eleventh Session Agenda Item 3 A/HRC/11/2/Add 6 26 May 2009

240 Kenya National Commission on Human Rights (2008) "On the Brink of the Precipice A Human Right Account of Kenya s Post Election Violence <http //www knchr org/dmdocuments/KNCHR%20doc pdf>

241 The Daily Nation, July 7 2008

corroborative of many other 2007 post-election initiatives are indicative of this[242] The Commission observed the specific ignorance of the Administration Police whose station was a mere 1 km away from where the church for the Kenya Assemblies of God stood

314 The Commission notes that the Police force is required to obey and execute promptly lawful orders and warrants from superiors within the force Usually the Commissioner of Police gives orders to his juniors who shall perform as per his instructions The PPO relays the same orders to his or her junior officers and they are executed

315 In one occasion the US Ambassador to Kenya, Mr Michael Rannenberger is said to have raised concern with then Commissioner of Police stating that there were officers under him who had authorized the application of deadly force against political protesters He noted that such use of force was most obviously against the established rules of engagement in quelling protests

316 The Police has also been accused of employing excessive use of force in conducting its operations One of the witnesses whom the Commission called to testify at its hearings was Ms Grace Kaindi (Former Provincial Police Officer for Nyanza Province She was called as one whose position, person and role as a state security agent has been adversely mentioned in the course of the work of the Commission's research, investigations, statement taking and hearings as far as the 2007/2008 post election violence is concerned She became a relevant witness in the hearings related to the 2007/2008 post-election violence due to her direct and indirect knowledge of the involvement of the state agents, in a province where a high number of casualties and deaths were caused by direct use of force by the police against civilians

317 Miss Kaindi who was appointed directly by the Police Commissioner then, Maj Gen Hussein Ali, had been a career Police woman almost all her career life [243] As far as her appointment is concerned, it was important for the Commission to consider and even question the merit of her appointment and whether such appointment compromised her impartiality as a responsible officer in her line of duty Her role in the 2007 PEV is considered in light of the violations committed directly or indirectly by the police in Nyanza Province

242 See for instance TJRC/Memo/Eastern/Meru/Women Public Hearing TJRC/Memo/Rift Valley/Eldoret/M0017

243 Her Personal Identification Police Number 211379

318 The role of security agencies in Nyanza region was classified, which classification the Commission agrees with, by the KNCHR in terms of inaction and excesses [244] In other words, there are steps that the security agents failed to take which led to more chaos, injuries and even death On the part of excessive use of force, there were allegations of directed and specifically targeted attacks against the civilians by the Police

The Administration Police

319 Witnesses testified before the Commission about members of the Administration Police directly shooting at people with the intent to kill them [245] Examples presented to the Commission include those where suspects were said to have raised their arms in surrender only to be shot and killed by the Administrative Police [246]

320 The Commission also heard of an instance where the AP did approach the burning Kiambaa Church, asked one of the people present where the attackers had gone and headed towards the opposite direction [247] The Police and Military did much more to indicate complacence to the brutal killings that were going in other places such as Naivasha as well The Commission heard the heart-rending testimony of Benard Ndege,[248] who lost 11 members of his immediate family and who corroborated this complacence by the Police by stating that the people of Naivasha who were facing various threats had reported in several instances that they were under threat The Commission notes that there were no specific measures taken by the Government through the Police to offer some kind of protection to those people who felt threatened This finding is fortified by the instances where the police specifically directed the people to go back to their homes following the days of the killings just to have the attackers descend on the people following the disputed elections [249]

The Kenya Military

321 The military has been accused of involvement in extra-judicial killings and enforced disappearances The Daily Nation (March 28, 2008) quotes someone from inside the military who describes how the military dumped dead bodies into the

244 Kenya National Commission of Human Rights On the Brink of Precipice, p 103
245 TJRC/Memo/0314 TJRC/Memo/M0461 indicating the shooting of about 5 people during 2007 PEV in Tegunot area
246 TJRC/Memo/M0444
247 TJRC/Memo/Rift Valley/Eldoret/M0017
248 TJRC/NY/KISUMU/Testimony of Benard Ndege
249 Cite Ndege, See if Jared Otieno odhiambo corroborates further

forest reserves of Mt Elgon National Park [250] A resident of Kaptabor village who was interviewed by Human Rights Watch stated that he or she saw military helicopters dropping bodies on April 2, 2008 which was during a period of military operations in that area

322 As is seen in many sections of this report, such as the state security operations, the military has been a critical actor in extra-judicial killings and enforced disappearances

250 Daily Nation (March 28 2008)

Annex:

List of Massacre Victims

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
40670	GAIYE JIMDE ABDI	M	Bagalla massacre 1998	North Eastern	Wajir
40670	GADANE JIMALE ABDI	M	Bagalla massacre 1998	North Eastern	Wajir
40670	KURROW ABDIYOW	M	Bagalla massacre 1998	North Eastern	Wajir
41057	DOF HUSSEIN ISMAIL	M	Bagalla massacre 1998	North Eastern	Wajir
41057	SUGOW HASSAN ISMAIL	M	Bagalla massacre 1998	North Eastern	Wajir
41057	GURDALA BISHAR HUSSEIN	M	Bagalla massacre 1998	North Eastern	Wajir
41057	GEDI BISHAR HUSSEIN	M	Bagalla massacre 1998	North Eastern	Wajir
41057	HABUR BISAHR HUSSEIN	M	Bagalla massacre 1998	North Eastern	Wajir
41057	NASHTUA GULEYO OMAR	M	Bagalla massacre 1998	North Eastern	Wajir
41057	HABIBA GULEYO OMAR	M	Bagalla massacre 1998	North Eastern	Wajir
41057	HASSAN ISSACK	M	Bagalla massacre 1998	North Eastern	Wajir
41057	MUHAMED KULAY MOHAMUD	M	Bagalla massacre 1998	North Eastern	Wajir
41077	NUNO HASSAN ABDULLAHI	M	Bagalla massacre 1998	North Eastern	Wajir
41151	HALIMA ALI GEDI	F	Bagalla massacre 1998	North Eastern	Wajir North
41151	HALIMA ISSACK ABDI	F	Bagalla massacre 1998	North Eastern	Wajir North
41151	ADEY NUR ISSACK	F	Bagalla massacre 1998	North Eastern	Wajir North
41151	SAFIA NUR ISSACK	F	Bagalla massacre 1998	North Eastern	Wajir North
41151	AHMED NUR ISSACK	M	Bagalla massacre 1998	North Eastern	Wajir North
41151	MOHAMED NUR ISSACK	M	Bagalla massacre 1998	North Eastern	Wajir North
41151	DERA OLOW ADAN	M	Bagalla massacre 1998	North Eastern	Wajir North
41435	DIYARA SULEIMAN ALI	F	Bagalla massacre 1998	North Eastern	Wajir
42532	ABDI OSMAN OMAR	M	Bagalla massacre 1998	North Eastern	Wajir
42532	MOHAMED NOOR ABDULLAH	M	Bagalla massacre 1998	North Eastern	Wajir
42533	YUNIS DAWID SHURIA	M	Bagalla massacre 1998	North Eastern	WAJIR
42534	HALIMA ABDULLAH HAJI	F	Bagalla massacre 1998	North Eastern	Wajir
42538	IBRAHIM OMAR SHEIKH OSMAN	M	Bagalla massacre 1998	North Eastern	Wajir
47201	SUBDOW MOHAMED ALI	M	Bagalla massacre 1998	North Eastern	Wajir
40670	OSMAN ABDIYOW	M	Bagalla massacre 1998	North Eastern	Wajir
40671	ZENAB ABDULLAHI	F	Bagalla massacre 1998	North Eastern	Wajir
40671	BARWAKA ABDULLAHI	M	Bagalla massacre 1998	North Eastern	Wajir
40671	HARETH ABDULLAHI	F	Bagalla massacre 1998	North Eastern	Wajir
40603	OMAR MUMIN ISMAIL	M	Bagalla massacre 1998	North Eastern	Wajir East
40603	SALAT MUMIN ISMAIL	M	Bagalla massacre 1998	North Eastern	Wajir East

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
40695	BARNEY AHMED HABAT	F	Bagalla massacre 1998	North Eastern	Wajir East
40877	OSMAN GABOW DIIS	M	Bagalla massacre 1998	North Eastern	Wajir
40878	YUSUF MOHAMED GULIYE	M	Bagalla massacre 1998	North Eastern	Wajir
40705	ABDI GAIYE OSMAN	M	Bagalla massacre 1998	North Eastern	Wajir
40710	ABDIRAHMAN ABEY	M	Bagalla massacre 1998	North Eastern	Wajir North
40710	ALI MOHAMED	M	Bagalla massacre 1998	North Eastern	Wajir North
40710	OMAR YUSSUF	M	Bagalla massacre 1998	North Eastern	Wajir North
40710	KULMIYE IBRAHIM MUMIN	M	Bagalla massacre 1998	North Eastern	Wajir North
40710	AHMED RASHID ABEY	M	Bagalla massacre 1998	North Eastern	Wajir North
40710	OMAR KHEYLEY ADAN	M	Bagalla massacre 1998	North Eastern	Wajir North
40710	MARYAN ABEY	F	Bagalla massacre 1998	North Eastern	Wajir North
40710	ISNONO MOHAMED ABEY	M	Bagalla massacre 1998	North Eastern	Wajir North
40710	AHMED RASHID ABEY	M	Bagalla massacre 1998	North Eastern	Wajir North
40738	ABDULLAHI MOHAMED ADAN	M	Bagalla massacre 1998	North Eastern	Wajir East
40738	ALI MOHAMED ADAN	M	Bagalla massacre 1998	North Eastern	Wajir East
40854	SUBAN MUMIN HUSSEIN	F	Bagalla massacre 1998	North Eastern	Wajir
40854	SUBAN YUSSUF	F	Bagalla massacre 1998	North Eastern	Wajir
40854	SHAWKARA ABDI	F	Bagalla massacre 1998	North Eastern	Wajir
40854	NURIA ABDI	F	Bagalla massacre 1998	North Eastern	Wajir
40854	FATUMA ABDI	F	Bagalla massacre 1998	North Eastern	Wajir
40867	HUSSEIN ABDI GARAD	M	Bagalla massacre 1998	North Eastern	Wajir
40867	MUSE ISAAK YAKUB	M	Bagalla massacre 1998	North Eastern	Wajir
40867	IBRAHIM YUSUF ALI	M	Bagalla massacre 1998	North Eastern	Wajir
40868	HALIMA ISSAK MOHAMED	F	Bagalla massacre 1998	North Eastern	Wajir
40868	HINDIA DAHIR MOHAMED	F	Bagalla massacre 1998	North Eastern	Wajir
40868	SURAY BISHAR	F	Bagalla massacre 1998	North Eastern	Wajir
40868	USUBA OMAR ELUII	F	Bagalla massacre 1998	North Eastern	Wajir
40868	HISH MOHD OMAR	M	Bagalla massacre 1998	North Eastern	Wajir
40868	ADAN MOHD OMAR	M	Bagalla massacre 1998	North Eastern	Wajir
40868	ABDULLAHI MOHD OMAR	M	Bagalla massacre 1998	North Eastern	Wajir
40871	HUSSEIN SUMBUL ABIKAR	M	Bagalla massacre 1998	North Eastern	Wajir East
40871	MOHAMED SUMBUL ABIKAR	M	Bagalla massacre 1998	North Eastern	Wajir East
40871	MUHUMED SUMBUL ABIKAR	M	Bagalla massacre 1998	North Eastern	Wajir East
40871	ALI SUMBUL ABIKAR	M	Bagalla massacre 1998	North Eastern	Wajir East
40872	SUMBUL ABIKAR ISMAIL	M	Bagalla massacre 1998	North Eastern	Wajir East
40879	ALI ABDI SHILAW	M	Bagalla massacre 1998	North Eastern	Wajir
40879	HAWA HUSSEIN OMAR	F	Bagalla massacre 1998	North Eastern	Wajir
40897	FARAH IBRAHIM ADAN	M	Bagalla massacre 1998	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
40908	HARETHA DAVID ABSIYE	Not given	Bagalla massacre 1998	North Eastern	Wajir
40908	SHALLA MOHAMED NUR	Not given	Bagalla massacre 1998	North Eastern	Wajir
40908	OSMAN MOHAMED NUR	Not given	Bagalla massacre 1998	North Eastern	Wajir
40910	ALI HASSAN ELMI	M	Bagalla massacre 1998	North Eastern	Wajir
40910	HUSSEIN ALI ELMI	M	Bagalla massacre 1998	North Eastern	Wajir
47267	ABDILLE SAMAN ELMI	M	Bagalla massacre 1998	North Eastern	Wajir
47267	ADAN	M	Bagalla massacre 1998	North Eastern	Wajir
47267	ISSACK	M	Bagalla massacre 1998	North Eastern	Wajir
47286	IBRAHIM ABDI OMAR	M	Bagalla massacre 1998	North Eastern	Wajir
47291	BASH MOHAMED OSMAN	M	Bagalla massacre 1998	North Eastern	Wajir
47291	MOHAMED OSMAN	M	Bagalla massacre 1998	North Eastern	Wajir
16635	AHAD MOHAMED ADAN	M	Bagalla massacre 1998	North Eastern	Wajir
40874	ALI AHMED YAKUB	M	Bagalla massacre 1998	North Eastern	Wajir
40874	ADAN MUKYAR ABDI	M	Bagalla massacre 1998	North Eastern	Wajir
11984	MOHAMED BULL HASSAN	M	Bagalla massacre 1998	North Eastern	Wajir
33670	ABDULLAHI MUHUMED ABDI	M	Bagalla massacre 1998	North Eastern	Wajir
33670	DUALLE ABDULAHI MUHUMED	M	Bagalla massacre 1998	North Eastern	Wajir
33670	HALIMA ABDULAHI MUHUMED	M	Bagalla massacre 1998	North Eastern	Wajir
7924	SHUKAI ISSACK MOHAMED	M	Bagalla massacre 1998	North Eastern	Wajir
7927	NOT GIVEN	F	Bagalla massacre 1998	North Eastern	Wajir
7927	MUKTAR ABDI SAMAN	M	Bagalla massacre 1998	North Eastern	Wajir
7929	HUSSSEIN ALI HASSAN	M	Bagalla massacre 1998	NG	NG
39849	MWAURA GIKONYO	M	Bulla Kartasi Massacre	Central	Kipipiri
31554	GABAI YEROW SAHEL	M	Garissa Gubay Massacre	North Eastern	Garissa
41289	MARIAN ABDIKARIM	F	Garissa Massacre 1980	North Eastern	Garissa
41289	MOHAMUD DUALE	M	Garissa Massacre 1980	North Eastern	Garissa
41483	HUSSEIN	M	Garissa Massacre 1980	North Eastern	Garissa
41483	ADAN SHIDE	M	Garissa Massacre 1980	North Eastern	Garissa
18634	SHAHIA KEDIE ABDILE	M	Garissa Massacre 1980	North Eastern	Garissa
18631	ISNINO ABDI HASSAN	M	Garissa Massacre 1980	North Eastern	Garissa
41510	OSMAN SALAT	M	Garissa Massacre 1980	North Eastern	Garissa
39541	ANSHUR	M	Garissa Massacre 1980	North Eastern	Garissa
81335	MOHAMUD DABOW ABDI	M	Garse & Bur Joon Massacre	North Eastern	Mandera
81336	MOHAMED MOHAMUD GOLLOW	M	Garse & Bur Joon Massacre	North Eastern	Mandera
81336	ABASS AHMED JIMALE	M	Garse & Bur Joon Massacre	North Eastern	Mandera
81336	ABASS ABEY JIMALE	M	Garse & Bur Joon Massacre	North Eastern	Mandera
81336	DAHIR JIMAALE GUDOW	M	Garse & Bur Joon Massacre	North Eastern	Mandera
81336	AHMED JIMALE GUDOW	M	Garse & Bur Joon Massacre	North Eastern	Mandera

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81336	ALLIN AHMED JIMALE	M	Garse & Bur joon Massacre	North Eastern	Mandera
81336	HASSAN AHMED JIMALE	M	Garse & Bur joon Massacre	North Eastern	Mandera
81336	ABDULLAHI AHMED JIMALE	M	Garse & Bur joon Massacre	North Eastern	Mandera
81336	IBRAHIM AHMED JIMALE	M	Garse & Bur joon Massacre	North Eastern	Mandera
81336	RAHOY AHMED JIMALE	F	Garse & Bur joon Massacre	North Eastern	Mandera
81336	DAKON AHHMED JIMALE	F	Garse & Bur joon Massacre	North Eastern	Mandera
81336	GABEY MOHAMUD GEDE	F	Garse & Bur joon Massacre	North Eastern	Mandera
81336	FATUMA JIMALE GUDOW	F	Garse & Bur joon Massacre	North Eastern	Mandera
81336	FATUMA ABDULLAHI AHMED	F	Garse & Bur joon Massacre	North Eastern	Mandera
81336	MAALIM MUHUMAD MOHAMED	M	Garse & Bur joon Massacre	North Eastern	Mandera
81336	ADAN HUSSEIN	M	Garse & Bur joon Massacre	North Eastern	Mandera
81336	ANMINA DAKAW ABDILLE	M	Garse & Bur joon Massacre	North Eastern	Mandera
81336	MALELA MOHAMED ELINI	M	Garse & Bur joon Massacre	North Eastern	Mandera
61600	MOHAMMED ABDIRAHAMAN GEDI	M	Garse & Bur joon Massacre	North Eastern	Mandera West
19722	HASSAN HUSSEIN YALEHOW	M	Isiolo Massacre 1997/98	North Eastern	Wajir South
19717	GAALOW ABDILLE	M	Isiolo Massacre 1997/98	North Eastern	Wajir East
19717	SHIMAY IBRAHIM	M	Isiolo Massacre 1997/98	North Eastern	Wajir East
40942	GENYE GABOW ABDULLAHI	F	Isiolo Massacre 1997/98	North Eastern	Wajir
81208	LUCAS PKECH	M	Kollowa Massacre	Rift Valley	Trans Nzoia
44322	EWORILE LOKWAREBON JOEL LOMWAI	M	Lotirir Massacre 1984	Rift Valley	North Pokot
34384	JOHN LOMILI	M	Lotirir Massacre 1984	Rift Valley	North Pokot
34386	LONYANGALE SAUCHOR	M	Lotirir Massacre 1984	Rift Valley	North Pokot
81208	KIDOM	M	Lotirir Massacre 1984	Rift Valley	Trans Nzoia
61588	MAALIM ADAN MOHAMUD	M	Malka Mari /Garsey Massacre 1980	North Eastern	Lagdera
42257	HASSAN GOLICHA	M	Malka Mari Massacre	North Eastern	Mandera
42257	MOHAMED HASSAN	M	Malka Mari Massacre	North Eastern	Mandera
42257	IBREN HASSAN	M	Malka Mari Massacre	North Eastern	Mandera
42257	ENOW HASSAN	M	Malka Mari Massacre	North Eastern	Mandera
42260	IBREN ALI	M	Malka Mari Massacre	North Eastern	Mandera
42260	MIDINA HASSAN	F	Malka Mari Massacre	North Eastern	Mandera
42260	EDIN HASSAN	M	Malka Mari Massacre	North Eastern	Mandera
42260	YAREY HASSAN	F	Malka Mari Massacre	North Eastern	Mandera
42288	ABDI ALIOW OSMAN	M	Malka Mari Massacre	North Eastern	Mandera East
42288	ISSACK OSMAN	M	Malka Mari Massacre	North Eastern	Mandera East
42288	ISSACK MOHD ALI	M	Malka Mari Massacre	North Eastern	Mandera East
42290	ROBLE EDIN ROBOW	M	Malka Mari Massacre	North Eastern	Mandera
42290	EDIN ROBLE	M	Malka Mari Massacre	North Eastern	Mandera

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
42290	ALIOW ROBLE	M	Malka Mari Massacre	North Eastern	Mandera
80460	MOHAMED ABDI GARORE	M	Malka Mari Massacre	North Eastern	Garissa
80460	YUSSUF ABDI GARORE	M	Malka Mari Massacre	North Eastern	Garissa
80460	MOHAMED ALI GARORE	M	Malka Mari Massacre	North Eastern	Garissa
80460	HALIMA MUHUMUD GARORE	F	Malka Mari Massacre	North Eastern	Garissa
80460	KANYARO HUSSEIN ABDI	M	Malka Mari Massacre	North Eastern	Garissa
80460	HASSAN NOOR ABDI	M	Malka Mari Massacre	North Eastern	Garissa
80460	ADAN NOOR ABDI	M	Malka Mari Massacre	North Eastern	Garissa
80460	SAHARA ADOW ABDI	F	Malka Mari Massacre	North Eastern	Garissa
80460	HALIMA YUSUF ABDI	F	Malka Mari Massacre	North Eastern	Garissa
80460	ABDULLAHI GARORE MUHUMUD	M	Malka Mari Massacre	North Eastern	Garissa
80460	KAHIYA ABDULLAHI MUHUMUD	M	Malka Mari Massacre	North Eastern	Garissa
80460	HABIBA ABDI GARORE	F	Malka Mari Massacre	North Eastern	Garissa
80460	RUKIA ABDI MOHAMED	F	Malka Mari Massacre	North Eastern	Garissa
81336	HASSAN ABDILLE GULIYE	M	Malka mari Massacre	North Eastern	Mandera
81336	ABDI BARROW HASSAN	M	Malka mari Massacre	North Eastern	Mandera
81336	IBRAHIM BARROW HASSAN	M	Malka mari Massacre	North Eastern	Mandera
81336	FATUMA ABDI GULIYE	F	Malka mari Massacre	North Eastern	Mandera
81336	OMAR ABDILLE GULIYE	M	Malka mari Massacre	North Eastern	Mandera
81336	AMINA MOHAMU AMIN	F	Malka mari Massacre	North Eastern	Mandera
8896	DAHIR MAALIM IBRAHIM	Not given	Malkamari Massacre	North Eastern	Mandera West
8896	ABDISHKUR MAALIM IBRAHIM	Not given	Malkamari Massacre	North Eastern	Mandera West
8896	ISMMAIL MAALIM IBRAHIM	Not given	Malkamari Massacre	North Eastern	Mandera West
8896	KHEVOY L MAALIM IBRAHIM	Not given	Malkamari Massacre	North Eastern	Mandera West
8896	HAWA MAALIM IBRAHIM	Not given	Malkamari Massacre	North Eastern	Mandera West
8903	IBRAHIM SHEIKH MOHAMMED	Not given	Malkamari Massacre	North Eastern	Mandera
8903	QUREY SHEIKH MOHAMED	Not given	Malkamari Massacre	North Eastern	Mandera
8903	ABDI SHEIKH MOHAMMED	Not given	Malkamari Massacre	North Eastern	Mandera
8903	BURDE SHEIKH MOHAMED	Not given	Malkamari Massacre	North Eastern	Mandera
10054	MOHAMED DUGOW	M	Malkamari Massacre	North Eastern	Mandera
10054	OSMAN DUGOW	M	Malkamari Massacre	North Eastern	Mandera
5705	JOSEPH KIPTONY KOIMA	Not given	Naishi Massacre	Rift Valley	Kuresoi
2576	MOHAMED NGULA	M	Sakuye Massacre	Eastern	Moyale
2576	FATUMA NGULA	F	Sakuye Massacre	Eastern	Moyale
2576	HADIJA NGULA	F	Sakuye Massacre	Eastern	Moyale
47310	JIMALE IMAN FARAH	M	Shifta War 1964	North Eastern	Wajir
47332	YUSSUF ISSACK HAILOW	M	Shifta War 1964-67	North Eastern	Wajir
47817	ALI MOLU ABDI	M	Shifta War 1964-67	Eastern	Garbatula

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
61584	NUROW ABDULLAHI	M	Shifta War 1964-67	North Eastern	Mandera West
61584	IBREN HASSAN ALI BORA	M	Shifta War 1964-67	North Eastern	Mandera West
61584	MAALIM ABDULLAHI SHEIKH ALION	M	Shifta War 1964-67	North Eastern	Mandera West
19734	YUSSUF ALAGOW ABDI	M	Shifta War 1964-67	North Eastern	Wajir
43011	ADAN ABDI ADAN	M	Shifta war 1965	North Eastern	Wajir
43011	MOHAMED ABOH ADEN	M	Shifta war 1965	North Eastern	Wajir
43011	MOHAMED ADEN NUR	M	Shifta war 1965	North Eastern	Wajir
3157	MALICHA JARSO	M	Turbi Massacre 2005	Eastern	Marsabit North
3166	HUKA TESO HUKULE	F	Turbi Massacre 2005	Eastern	Marsabit
3171	HUKHA SABDUYO HOKILE	F	Turbi Massacre 2005	Eastern	Marsabit
3184	WATO GORJE	M	Turbi Massacre 2005	Eastern	Marsabit North
3190	BARAKO GIRO DOTI	M	Turbi Massacre 2005	Eastern	Marsabit North
3185	MIDINA DUB TUME	F	Turbi Massacre 2005	Eastern	Marsabit
3188	YATTANE GUYO KATELO TUME	F	Turbi Massacre 2005	Eastern	Marsabit North
3137	ISENE DUBA BURI	Not given	Turbi Massacre 2005	Eastern	Marsabit North
3138	QATU ROBA SHARAMA	F	Turbi Massacre 2005	Eastern	Marsabit North
3139	BOYA MACHALA	M	Turbi Massacre 2005	Eastern	Marsabit North
3141	BATI DUBA BURI	F	Turbi Massacre 2005	Eastern	Marsabit North
3167	HUKHA ISAKO HOKILE	M	Turbi Massacre 2005	Eastern	Marsabit North
3186	DIDPO DUB TUME	F	Turbi Massacre 2005	Eastern	Marsabit North
18448	ABDULLAHI INFALLO GUYO	M	Turbi Massacre 2005	Eastern	Marsabit North
3168	HUKHA TUNE HOKILE	M	Turbi Massacre 2005	Eastern	Marsabit North
18442	KOMBA GUFU ISAKO	M	Turbi Massacre 2005	Eastern	Marsabit North
41052	MUHAMED OMAR IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
47204	NOOR OMAR ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
47279	ALI ADAN ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
42506	YUSSUF DIIS	M	Wagalla Massacre 1984	North Eastern	Wajir
39418	ABDULLAHI BILLOW UNSHUR	M	Wagalla Massacre 1984	North Eastern	Wajir North
39420	ALI HUSSEIN BARDAD	M	Wagalla Massacre 1984	North Eastern	Wajir East
40553	MUHUMED MOHAMED YUSSUF(DEAD)	M	Wagalla Massacre 1984	North Eastern	Wajir
40554	HAILOW SUGOW ISSACK	M	Wagalla Massacre 1984	North Eastern	Wajir
40572	HILOLE UNSHUR NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
40573	IBRAHIM ALI GAAL	M	Wagalla Massacre 1984	North Eastern	Wajir
40579	SANGAWA	F	Wagalla Massacre 1984	North Eastern	Wajir
40579	NOUR	M	Wagalla Massacre 1984	North Eastern	Wajir
40593	MOHAMUD HASSAN KALMOY	M	Wagalla Massacre 1984	North Eastern	Wajir
40599	MUHUMED JELOKI EROWE	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
40600	ARALE HARUN	M	Wagalla Massacre 1984	North Eastern	Wajir East
40608	BASHIR BIRIK DUGOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40612	BISHAR GUHAD ALASON	M	Wagalla Massacre 1984	North Eastern	Wajir
40617	IBRAHIM GEDI ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40618	MOHAMED DAGANE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40619	ALASON GEDI ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir
40620	RASHID AHMED ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40634	ABDULLAHI MUHUMED ALASOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40638	YUSSUF IBRAHIM ARALE	M	Wagalla Massacre 1984	North Eastern	Wajir
10640	UNE OSMAN MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40652	OMAR ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40653	OSMAN QEYLEY	M	Wagalla Massacre 1984	North Eastern	Wajir
40657	MOHAMED AMIN IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
40666	ISNMAIL ABDULLAH MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40666	YAROW MOHAMMED ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir
40677	KURAVE HUSSEIN OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40678	KASIM GEDI OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40681	ABDULLAHI OSMAN AMIN	M	Wagalla Massacre 1984	North Eastern	Wajir
40685	ABDILLE ABDI SAMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40686	BALAT JELLE SHILLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40688	ADOW YUSSUF BARROW	M	Wagalla Massacre 1984	North Eastern	Wajir
40690	BARYARE AHMED MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
40693	SAMON HILOLE MADEY	M	Wagalla Massacre 1984	North Eastern	Wajir
40700	ADEN ALI IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
40711	MOHAMED GORANE NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir North
40712	ALI ADEN SAAD(DEAD)	M	Wagalla Massacre 1984	North Eastern	Wajir
40728	HUSSEIN ABDI MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40729	NUR MUHUMED HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40731	MOHAMUD AHMED SALAT	M	Wagalla Massacre 1981	North Eastern	Wajir East
40734	ABDI HAJI ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir
40741	IBRAHIM HASSAN KANYERE(DEAD)	M	Wagalla Massacre 1984	North Eastern	Wajir
40742	ABDULLAHI ABDI HANSHI	M	Wagalla Massacre 1984	North Eastern	Wajir
40744	NOT GIVEN	F	Wagalla Massacre 1984	North Eastern	Wajir
40750	ALI ABIKAR NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
40752	OMAR DUALE OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40761	ADOW BARGAB MATAU	M	Wagalla Massacre 1984	North Eastern	Wajir
40786	HAJJI MUHAMMED ISSACK BARROW	M	Wagalla Massacre 1984	North Eastern	Wajir
40852	SHIMOY ABDI MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir East

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
40853	YAKUB ABDI MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir East
40853	HASSAN NOOR KALMOY	M	Wagalla Massacre 1984	North Eastern	Wajir East
40853	ADAN HUSSEIN MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir East
40853	UGAS DUBAW MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir East
40855	ABDILLE ABASS GEDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40856	HALIMA HUSSEIN MOHAMED	F	Wagalla Massacre 1984	North Eastern	Wajir
40856	NOT GIVEN	M	Wagalla Massacre 1984	North Eastern	Wajir
40857	ABDIKADIR MOHAMUD MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40858	ABDI RAHOY ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir East
40858	MOHAMED NOOR ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir East
40858	MOHAMUD OMAR ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir East
40858	HUSSEIN ABDI ADEN	M	Wagalla Massacre 1984	North Eastern	Wajir East
40858	AHMED HASSAN FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir East
40859	ABDULLAHI ALI HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40859	ADAW KEYNAW ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40859	ABDI HASSAN MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40859	ELMI ALI HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40860	GABANA MOHAMUD DUGOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40860	AHMED MOHAMUD DUGOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40860	HASSAN MOHAMED DUGAW	M	Wagalla Massacre 1984	North Eastern	Wajir
40861	HUSSEIN ALI SHAIR	M	Wagalla Massacre 1984	North Eastern	Wajir East
40861	MOHAMED HUSSEIN ALI	M	Wagalla Massacre 1984	North Eastern	Wajir East
40861	FARAH HUSSEIN ALI	M	Wagalla Massacre 1984	North Eastern	Wajir East
40861	NOOR HUSSEIN ALI	M	Wagalla Massacre 1984	North Eastern	Wajir East
40862	KULEY BULLE AHMED	F	Wagalla Massacre 1984	North Eastern	Wajir
40866	OMAR NOOR MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40875	BARAK ABDINOOR ISAAK	M	Wagalla Massacre 1984	North Eastern	Wajir
40894	NOOR ABDIRAHMAN ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
40894	MALELE MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40894	WEHENYE MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40895	OSMAN ABDI HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40898	ABDI OSMAN ABDILLA	M	Wagalla Massacre 1984	North Eastern	Wajir
40900	ABDILLE MALELE ELMI	M	Wagalla Massacre 1984	North Eastern	Wajir
40905	MOHAMED SHEIKH MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40906	ISSACK MOHAMED JILAOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40906	NOT GIVEN	M	Wagalla Massacre 1984	North Eastern	Wajir
40909	MUHUMED SALAT ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40909	ALI SALAT	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
40909	SALAT ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40913	ABDULLAHI OLOW ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40915	OMAR MUHAMED ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
40917	IBRAHIM AHMED GOSAR	M	Wagalla Massacre 1984	North Eastern	Wajir North
40917	MALELA AHMED GOSAR	M	Wagalla Massacre 1984	North Eastern	Wajir North
40917	ABDI AHMED GOSAR	M	Wagalla Massacre 1984	North Eastern	Wajir North
40921	NOOR ABEY KALMOY	M	Wagalla Massacre 1984	North Eastern	Wajir
40922	ABDULLAHI ABDI GUHAD	M	Wagalla Massacre 1984	North Eastern	Wajir
40928	ADAN NOOR SABDOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40929	BARRE HASSAN ABI	M	Wagalla Massacre 1984	North Eastern	Wajir
40931	KEYNAN IBRAHIM ELMI	M	Wagalla Massacre 1984	North Eastern	Wajir
40932	BILOW SABDOW NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
40938	ADOW MAALIM ALI	M	Wagalla Massacre 1984	North Eastern	Wajir East
40945	ABDILLE ABDI OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
40950	KAHIYE ABDILLE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
41080	NADHIFA GUNE	F	Wagalla Massacre 1984	North Eastern	Wajir
41080	HABIBA MOHAMED	F	Wagalla Massacre 1984	North Eastern	Wajir
41083	ADEN BULLE OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
41095	KHAMIS ADHAN MUMIN	M	Wagalla Massacre 1984	Coast	Tana River
41095	BAGAY KHALINLOW	M	Wagalla Massacre 1984	Coast	Tana River
41096	ADOW ABDI ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
41112	OMAR MAHAMED ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
41114	ABDILLE ABDI SAMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
41132	MUMIN OMAR SALAT	M	Wagalla Massacre 1984	North Eastern	Wajir
41132	HABIBA ABDILLE	F	Wagalla Massacre 1984	North Eastern	Wajir
41137	SULEIMAN ELMI ROBLE	M	Wagalla Massacre 1984	North Eastern	Wajir
41152	DAKANE ABDILLE ABIKAR	M	Wagalla Massacre 1984	North Eastern	Wajir East
41152	OLOW DAKANE ABIKAR	M	Wagalla Massacre 1984	North Eastern	Wajir East
41152	SADIK ABDI HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir East
41153	EDOW IBRAHIM MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
41153	GAIYA EDOW IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
41171	MUMIN SALAT NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
41174	AHMED HARED ALI	M	Wagalla Massacre 1984	North Eastern	Wajir North
41183	ADOW FARAH HARON	M	Wagalla Massacre 1984	North Eastern	Wajir
41191	SHURIE BUUL GULET	M	Wagalla Massacre 1984	North Eastern	Wajir East
41191	GUROW GULET	M	Wagalla Massacre 1984	North Eastern	Wajir
41191	BILAR GUROW	M	Wagalla Massacre 1984	North Eastern	Wajir
41193	HUSSEIN HASSAN IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
41195	ISAAK MAHAMED YAKUB	M	Wagalla Massacre 1984	North Eastern	Wajir
41271	BILLOW SAMDOW NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
41271	ADAN SABDOW NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
41442	ALI ABDILLE ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
41446	SALAT MOHAMED ISAAK	M	Wagalla Massacre 1984	North Eastern	Wajir
41446	YUSUF ALI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
41446	ADAW ALI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
42145	GUATU JALSO	F	Wagalla Massacre 1984	Eastern	Isiolo
42508	NUR BILLOW GUMOW	M	Wagalla Massacre 1984	North Eastern	Wajir
42524	ABDI ISSAK UBAHLA	M	Wagalla Massacre 1984	North Eastern	Wajir
42525	ISMAIL MUHAMED MAHAMUD	M	Wagalla Massacre 1984	NG	NG
42525	ADAN ISMAIL MAHAMUD	M	Wagalla Massacre 1984	NG	NG
42539	HASSAN BULLE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
43004	SALAT ALI OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
43005	MUKTAR AHMED ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
43005	DIIS AHMED ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
43007	OSMAN SHEIKH MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir East
43009	ABDI ALI ISSACK	M	Wagalla Massacre 1984	North Eastern	Mandera Central
43010	BIRIK MAO MAALIM	M	Wagalla Massacre 1984	North Eastern	Wajir East
43011	MAOW ABDI ADEN NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
43011	ZAINAB ABDI ADAN NUR	F	Wagalla Massacre 1984	North Eastern	Wajir
43015	MOHAMED ALI BULE	M	Wagalla Massacre 1984	North Eastern	Wajir
43016	GULIYA YUSSUF YAHYA	M	Wagalla Massacre 1984	North Eastern	Mandera
43019	NUNOW MUHUMED GAANEY	M	Wagalla Massacre 1984	North Eastern	Wajir
43022	ALAS ISSACK ABDI	M	Wagalla Massacre 1984	North Eastern	Mandera
43024	MOHAMED ABDI SAMATAR	M	Wagalla Massacre 1984	North Eastern	Wajir East
43027	DIYAD BIRIK FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
43028	HASSAN HANAN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
43030	MOHAMED HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
43032	DIRIYE HAMUD OMAR	M	Wagalla Massacre 1984	NG	NG
43032	KOROW OMAR YUSUF	M	Wagalla Massacre 1984	NG	NG
43043	HUSSEIN MADEY BULLE	M	Wagalla Massacre 1984	North Eastern	Wajir
43050	OSMAN ABDI HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
43104	ABEYOMAR ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
43104	NUNOW JIRE SETHOW	M	Wagalla Massacre 1984	North Eastern	Wajir
43108	YUSUF HUSSEIN MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
43111	YUSSUF DUGON IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
43115	SULEIMANI IDHOW SALAT	M	Wagalla Massacre 1984	Eastern	Isiolo
43115	OMAR SALAT OSMAN	M	Wagalla Massacre 1984	Eastern	Isiolo
43121	HUSSEIN MUHUMED ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
43122	MUKTAR GULIYA ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
43122	SALAT SHURIA KANYARE	M	Wagalla Massacre 1984	North Eastern	Wajir
43125	HASSAN ABDI ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
43126	MOHAMED ADAN OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
43132	MUHUMED ALI ABIBAKAR	M	Wagalla Massacre 1984	North Eastern	Wajir
43133	YUNIS MOHAMUD HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
43134	MAOW GEDI ALASOW	M	Wagalla Massacre 1984	North Eastern	Wajir East
43135	HABIBA JIMAALE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
43140	MUHAMMED OMAR ISACK	M	Wagalla Massacre 1984	North Eastern	Wajir East
43140	MOHAMED ADAN FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir East
43143	SARAT MOHAMMED ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir East
43150	GAIYA ITHOW	M	Wagalla Massacre 1984	North Eastern	Wajir East
43150	ITHOW IBRAHIM MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir East
45901	EBLA KAHIA	F	Wagalla Massacre 1984	North Eastern	Mandera
45901	OSMAN DAKAT	M	Wagalla Massacre 1984	North Eastern	Mandera
45901	ABDI DAKAT	M	Wagalla Massacre 1984	North Eastern	Mandera
47209	BILLOW ABDI ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
47209	HABIBA MOHAMED HASSAN	F	Wagalla Massacre 1984	North Eastern	Wajir
47211	SALAT HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
47211	MUKHTAR MOHAMED HASAN	M	Wagalla Massacre 1984	North Eastern	Wajir
47215	SARURA OMAR SALAT	M	Wagalla Massacre 1984	North Eastern	Wajir
47221	HASSAN ALI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47222	YUSSUF IBRAHIM YAKUB (DEAD)	M	Wagalla Massacre 1984	North Eastern	Wajir
47226	SHAABAN KOROW ADAWA	M	Wagalla Massacre 1984	North Eastern	Wajir
47226	AHMED KOROW ADAWO	M	Wagalla Massacre 1984	North Eastern	Wajir
47227	MUMIN ABDILLE SAMATAR	M	Wagalla Massacre 1984	North Eastern	Wajir
47229	BASH GEDI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47229	ADOW GEDI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47231	KALMONY HABASHOW AHAD	M	Wagalla Massacre 1984	North Eastern	Wajir
47248	SHABAR KHOROW ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
47253	AHMED YAKUB	M	Wagalla Massacre 1984	North Eastern	Wajir
47253	SALAT AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47253	ABDI AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47254	IBRAHIM MUHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47254	HASSAN MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
47254	YUSUF ALI MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47254	MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47255	ALI ADAN YUSSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
47256	ABDI ALI ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
47256	MOHAMED ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
47256	ISSACK ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
47263	ADAN SALAF BUCUL	M	Wagalla Massacre 1984	North Eastern	Wajir
47280	ADOW ABDI SAMAW	M	Wagalla Massacre 1984	North Eastern	Wajir
47285	ABDIRAHMAN ALI NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
47293	GELE ELMI ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
47310	HUSSEIN HASSAN ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
47315	MOHAMED HASSAN MUSE	M	Wagalla Massacre 1984	North Eastern	Wajir
47326	MOHAMED OSMAN MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47328	MUKTAR YUSSUF HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir East
47332	HAJI GARAD JILAOW IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
47343	MOHAMED BARROW YUSSUF	M	Wagalla Massacre 1984	North Eastern	Wajir South
47350	MOHAMED ABDULLAHI FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir East
7907	DUGOW HASSAN MAHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir East
7917	SUBANE ISSACK	M	Wagalla Massacre 1984	North Eastern	Wajir East
7917	OSMAN ISSACK	M	Wagalla Massacre 1984	North Eastern	Wajir East
7918	SHARIFA ABDULLAHI UUSHIR	F	Wagalla Massacre 1984	North Eastern	Wajir East
7920	SANEY ISSACK FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir East
7928	BUNEY MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir East
7928	MAHDI BARRE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir East
7934	SHEIKH BILAL ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
7940	ABDISALAN SHEIKH ABSHIOW	M	Wagalla Massacre 1984	North Eastern	Wajir
9585	OSMAN ABDI ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
11950	AHMED SHEIKH MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
11955	IBRAHIM ISSACK MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
11961	AHMED NOOR MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
11975	ADAN JILLAOW DAGANE	M	Wagalla Massacre 1984	North Eastern	Wajir
11975	ISMAIL BORAI KUROW	M	Wagalla Massacre 1984	North Eastern	Wajir
11976	MOHAMED ABDULLAHI SHEIKH	M	Wagalla Massacre 1984	North Eastern	Wajir
11980	ABDI MUSA SAMATAR	M	Wagalla Massacre 1984	North Eastern	Wajir
11986	ABDIWAHAID HASSAN ADAN DIISOW	M	Wagalla Massacre 1984	North Eastern	Wajir
11993	AHMED SALAT ADOW	M	Wagalla Massacre 1984	North Eastern	Wajir
11994	HUSSEIN MOHAMED ABDILLE	M	Wagalla Massacre 1984	North Eastern	WAJIR
11995	OSMAN SHEIKH ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
11995	MOHAMED SHEIKH ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
13401	BASHENE GAAL MUHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
13428	HUSSEIN MAALIM ABDI AMIN	M	Wagalla Massacre 1984	North Eastern	Wajir
13434	AHMED ISMAIL HAILOW	M	Wagalla Massacre 1984	North Eastern	Wajir
13435	ALI ABDI HAILOW	M	Wagalla Massacre 1984	North Eastern	Wajir
13436	ABDI GEDI MUHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
13437	KASSIM AHMED ISMAIL	M	Wagalla Massacre 1984	North Eastern	Wajir
13442	NURIA ABDI IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
14501	OSMAN MUHUMED MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
14502	SALAAT IBRAHIM MURSAL	M	Wagalla Massacre 1984	North Eastern	Wajir
14503	AHMED SULEIMAN YAQUB	M	Wagalla Massacre 1984	North Eastern	Wajir
14504	ABDULLAHI MOHAMUD HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
14506	BISHAR ALI OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
14507	MAOW ISSACK MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
14508	KAMIS ADAN MUMIN	M	Wagalla Massacre 1984	North Eastern	Wajir East
14510	ABDILLE YUSSUF ALASOW	M	Wagalla Massacre 1984	North Eastern	Wajir North
14513	ABDULLAHI ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir South
14515	JELE YUSSUF ALASOW	M	Wagalla Massacre 1984	North Eastern	WAJIR
14518	ABEY ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
14518	MUHUMED JELLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
14518	SALAT ADEN	M	Wagalla Massacre 1984	North Eastern	Wajir
14519	MAOW ALASON	M	Wagalla Massacre 1984	North Eastern	Wajir
14539	AHMED MOHAMED SHURIYE	M	Wagalla Massacre 1984	North Eastern	Wajir
15901	MAALIM BARE	M	Wagalla Massacre 1984	North Eastern	Wajir
15901	SAMOW MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
15924	ABDI MOHAMMED YUSUF	M	Wagalla Massacre 1984	North Eastern	Wajir East
15936	SALAT YAKUB ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
16607	MOHAMED ISSACK BARAKA	M	Wagalla Massacre 1984	North Eastern	Wajir
18005	KAHA MOHAMUD OLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
18009	DAUD YUSUF ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
18013	MOHAMED MUHUMED NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
18014	AHMED GORO ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
18014	HUSSEIN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
18015	HABIBA IBRAHIM SALAT	M	Wagalla Massacre 1984	North Eastern	Wajir
18038	ABDULLAHI OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
18046	ELISTS YUSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
18049	ABDI HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
18050	ABDI RAHMAN ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
18603	DIIS ABDI	M	Wagalla Massacre 1984	North Eastern	Garissa
18603	MUHAMED JELLOW EROLE	M	Wagalla Massacre 1984	North Eastern	Garissa
19706	DAUD ABDI ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
19710	MOKTAR KUSON HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
19710	KULOW KUSON HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
19713	JELLE HASAN ELMI	M	Wagalla Massacre 1984	North Eastern	Wajir
19725	SIRAT MOLID ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
19725	SALAT SHURIE QANYARE	M	Wagalla Massacre 1984	North Eastern	Wajir
19727	JELLE UGAS ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir South
19729	MOHAMAD HILLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
19729	DAHABA HILLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
19729	NIMO HILLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
19729	MUHAMED HILLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
20035	ADEY SALAT MUSA	M	Wagalla Massacre 1984	North Eastern	Mandera
26505	YUNIS MOHAMED HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26512	BARE ABDI ISSACK	M	Wagalla Massacre 1984	North Eastern	Wajir
26516	MOHAMED ABEY ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
26521	AHMED MUHUMED FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
26527	HALIMA ABDI HASSAN	F	Wagalla Massacre 1984	North Eastern	Wajir
26532	MURSAL ABDI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
26533	IBRAHIM MOHAMUD JIRE	M	Wagalla Massacre 1984	North Eastern	Wajir
26536	MOHAMED MUHUMED DAUDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26542	GARORE MOHAMED ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26544	IBRAHIM HASSAN OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
26546	OSMAN MUHUMED HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
26548	GABANE DAHIR AHMED ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26550	MOHAMED SHEIKH GABOW	M	Wagalla Massacre 1984	North Eastern	Wajir
26553	HUSSEIN AHMED ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir
26565	KASAI ADAN GUTHON	M	Wagalla Massacre 1984	North Eastern	Wajir
26585	DIRIYE FARAH NOOR	M	Wagalla Massacre 1984	North Eastern	Mandera
26589	ABDI ADAN AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
26589	ADOW ADAN AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
26597	DIAD BIRIK FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
26802	AHMED MOHAMUD ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
26815	DAUD MUHUMED YUSSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
26816	ISMAIL ALI ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
26828	BISHOR ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26830	IBRAHIM MOHAMUD ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
26831	MOHAMED ISSACK ABDI	M	Wagalla Massacre 1984	NG	NG
26845	MUHAMMUD BARROW FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
26850	MOHAMED KEINAN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26850	KEINAN ABDI HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26850	ADAN ABDILLE BARE	M	Wagalla Massacre 1984	North Eastern	Wajir
26861	NOOR ABDILLE GULLE	M	Wagalla Massacre 1984	North Eastern	Wajir
26861	GOSAR YARROW GULLE	M	Wagalla Massacre 1984	North Eastern	Wajir
26868	ABEY SHEIKH NORR DALIR	M	Wagalla Massacre 1984	North Eastern	Wajir
26869	BILLOW SABDOW NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
27206	MOHAMED ISSACK FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
27212	ADOW DAHIR AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
27218	ABDI SHEIKH ALI OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
27222	ABDULLAHI ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
27230	ADAN IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
27235	MOHAMED MUHUMED ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
27236	ABDI ABDILLE MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
27246	ABDI IBRAHIM ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
27246	MAOW IBRAHIM ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
27252	JIMALE AHMED MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
27257	FATUMA NOOR MOHAMMED	F	Wagalla Massacre 1984	North Eastern	Wajir
27257	ALI BIRIK	M	Wagalla Massacre 1984	North Eastern	Wajir
27257	MOHAMMED BIRIK MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
27257	GABANA BIRIK	M	Wagalla Massacre 1984	North Eastern	Wajir
27257	HILLOWLE BIRIK MOHAMMED	M	Wagalla Massacre 1984	North Eastern	Wajir
27258	YUSSUF DIIS IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
27262	YUSSUF BILLOW ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
27264	AHMED HASSAN HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
27264	HASSAN HUSSEIN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
27265	BISHAR ABDULLAHI ORAH	M	Wagalla Massacre 1984	North Eastern	Wajir
27269	MOHAMED ABDIRAHMAN IROBE	M	Wagalla Massacre 1984	North Eastern	Wajir
27270	ABDI JILLAO	M	Wagalla Massacre 1984	North Eastern	Wajir
27278	MOHAMED DAWED HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
27279	BARYERE HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
27282	ABDILLE BORAI ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
27284	ADOW ADAN AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
27285	ABDIKADIR OLOW IDHOW	M	Wagalla Massacre 1984	North Eastern	Wajir
27285	NUR ABDIKADIR OLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
27288	ADAN GELEY MOLAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
27295	MOHAMED JELLOW IROBE	M	Wagalla Massacre 1984	North Eastern	Wajir
27297	ISSACK QALAAW ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
27300	ABDILLE DUKOW TAKOY	M	Wagalla Massacre 1984	North Eastern	Wajir
27300	OSMAN DUKOW TAKOY	M	Wagalla Massacre 1984	North Eastern	Wajir
27558	OLOW GURHAN SOLOMON	M	Wagalla Massacre 1984	North Eastern	Wajir
27822	ABDI ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir East
27831	ADAN KEYNAN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir East
33672	MOHAMED ADAN MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
33683	GEDI DAKAT ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
33686	BARE ABDI ISSACK	M	Wagalla Massacre 1984	North Eastern	Wajir
33688	ADEY ABDI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
33688	KOROW ABDI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
33689	IBRAHIM MOHAMED KANYARE	M	Wagalla Massacre 1984	North Eastern	Wajir
35351	ALI SAMAN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
35354	HUSSEIN ABDILLE AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
35357	HUSSEIN DAVD MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
35357	ABDI HUSSEIN DAUD	M	Wagalla Massacre 1984	North Eastern	Wajir
35357	MUHUMED HUSSEIN DAUD	M	Wagalla Massacre 1984	North Eastern	Wajir
35362	YUSSUF NOOR ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
35362	KAHIYA NOOR ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
35362	HASSAN NOOR ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
35364	MUHUMED ADAN FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
35366	OLOW MAHAMED SHEIKH	M	Wagalla Massacre 1984	North Eastern	Wajir
35368	MAHAMUD MOHAMED IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
35373	JIMALE DAGANE ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
35375	FATUMA SHEIKH SALAT	M	Wagalla Massacre 1984	North Eastern	Wajir
35375	MUKTAR KUSOW HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
35375	HUSSEIN SHEIKH YUSSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
35376	ABDULLAHI OSMAN HUNTUR	M	Wagalla Massacre 1984	North Eastern	Wajir
35386	ABDI ALI DAHIYE	M	Wagalla Massacre 1984	North Eastern	Wajir
35389	MOHAMED OLOW ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
35389	MOHAMED OLOW ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
37326	RUKIA MUHUMED HASSAYE	F	Wagalla Massacre 1984	North Eastern	Wajir
37326	ISMAIL ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir
37326	YAROY ABDULLAHI MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
37326	ABDIKADIR WHAH ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
37326	MUHUMED ABDULLAHI MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
37326	ADAN MUHUMED HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
37326	KADYA SHEIKH HUSSEIN	F	Wagalla Massacre 1984	North Eastern	Wajir
37326	KATHUMA ADAN	F	Wagalla Massacre 1984	North Eastern	Wajir
37326	FATUMA RUKIA ADAN	F	Wagalla Massacre 1984	North Eastern	Wajir
37338	HABIBA HASSAN LOHOW	M	Wagalla Massacre 1984	North Eastern	Wajir
37338	ABDI HASSAN LOHOW	M	Wagalla Massacre 1984	North Eastern	Wajir
37339	DAUD JELLOW AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
37340	ABDIA MOHAMED IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
37340	ABDI MOHAMED IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
39002	ABDIRASHID OSMAN OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
39007	OSMAN MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
39007	MUMIN OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
39008	BAREY OMAR	F	Wagalla Massacre 1984	North Eastern	Wajir
39008	UGAS DAHIR	M	Wagalla Massacre 1984	North Eastern	Wajir
39008	ABDI DAHIR	M	Wagalla Massacre 1984	North Eastern	Wajir
39008	HASSAN DAHIR	M	Wagalla Massacre 1984	North Eastern	Wajir
39008	JAMAL DAHIR	M	Wagalla Massacre 1984	North Eastern	Wajir
39008	TIMARE DAHIR	F	Wagalla Massacre 1984	North Eastern	Wajir
39009	ABDULLAHI ADAN SAMATAR	M	Wagalla Massacre 1984	North Eastern	Wajir
39013	GABANE ABDULLAHI YARROW	M	Wagalla Massacre 1984	North Eastern	Wajir East
39014	ADAN JEHOW OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
39015	MOHAMED OMAR ADAN	M	Wagalla Massacre 1984	North Eastern	Garissa
39026	ABDI SHEKH	M	Wagalla Massacre 1984	North Eastern	Wajir
39026	ABDULLAHI ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
39029	DAIS ABDI MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir East
39031	SHEIKH MUSE KASSIM	M	Wagalla Massacre 1984	North Eastern	Wajir
39040	HARETHA ABDI HASSAN	F	Wagalla Massacre 1984	North Eastern	Wajir
39053	IBRAHIM OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
39061	AHMED ABDI ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
39068	OLOW DAKANE ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
39068	BASHOW DAKANE ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
39074	ADAN BULLE	M	Wagalla Massacre 1984	North Eastern	Wajir
39075	NOOR IBRAHIM FARAH	M	Wagalla Massacre 1984	NG	NG
39075	SULEIMAN OSMAN IBRAHIM	M	Wagalla Massacre 1984	NG	NG
39098	ABDI ABDULLAHI IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
39098	AJABA MOHAMED GEDI	F	Wagalla Massacre 1984	North Eastern	Wajir
39099	ABDULRAHMAN ABDI ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir
39353	BARYARE HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir East
39364	MOHAMUD HASSAN HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
39390	OSMAN ABDI DUGOW	M	Wagalla Massacre 1984	North Eastern	Wajir
39401	AHMED ISMAIL ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
39416	ABDILLE OMAR ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir East
39417	MUKTAR ALI TIMAGED	M	Wagalla Massacre 1984	North Eastern	Wajir East
39418	ABDULLAHI BILLOW UNSHUR	M	Wagalla Massacre 1984	North Eastern	Wajir North
26836	BUUL MUHUMED ISMAIL	M	Wagalla Massacre 1984	North Eastern	Wajir
26836	ADON BULLE MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
36656	FATUMA GULLED ELMI	F	Wagalla Massacre 1984	North Eastern	Mandera
40560	ISSACK AHMED MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40574	NOT GIVEN (A BABY)	Not given	Wagalla Massacre 1984	North Eastern	Wajir
40574	HALIMA MAALIM AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40594	AHMED MUHUMED NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
40596	AHMED ELIMI ABDILL	M	Wagalla Massacre 1984	North Eastern	Wajir
40601	OMAR ABDI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40613	ALI ABDI YUSSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
40673	DAHABA HUSSEIN OMAR	F	Wagalla Massacre 1984	North Eastern	Wajir
40673	AMINA AHMED ADEN	F	Wagalla Massacre 1984	North Eastern	Wajir
40702	MOHAMUD BARROW	M	Wagalla Massacre 1984	North Eastern	Wajir
40713	ABDI IBRAHIM AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40727	FARAH ABDI MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
40727	ABDIA GEDI ABDILLE	F	Wagalla Massacre 1984	North Eastern	Wajir
40727	HALIMA BULLA	F	Wagalla Massacre 1984	North Eastern	Wajir
40727	AMINA BIRIQ MOHAMUD	F	Wagalla Massacre 1984	North Eastern	Wajir
40727	MOHAMUD ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
40727	HALIMA ALI	F	Wagalla Massacre 1984	North Eastern	Wajir
40735	HUSSEIN ABDULLAHI AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir East
40744	ADAWA HUSSEIN MUHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
40814	SUGOW HUSSEIN ABOH	M	Wagalla Massacre 1984	North Eastern	Wajir
40829	OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
40851	DAHABA ABDI SALAY	F	Wagalla Massacre 1984	North Eastern	Wajir
40893	ELMI MOHAMED OLOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40904	DAKAT AHMED ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
41059	AHAD IMAN HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
41059	JELLE IMAN HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
41061	IJAB ILYAS SULEIMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
41069	IBRAHIM MOHAMUD JIRRE	M	Wagalla Massacre 1984	North Eastern	Wajir
41069	MUHUMED MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
41085	FARAH ADEN HABAT	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
41092	ABDILLE IBRAHIM QANYANE	M	Wagalla Massacre 1984	North Eastern	Wajir
41092	MUKTAR QANYANE	M	Wagalla Massacre 1984	North Eastern	Wajir
41097	BISHAR OSMAN HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
41144	BILAL ABDI ABIKAR	M	Wagalla Massacre 1984	North Eastern	Wajir
41170	YUNIS ALI ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
41175	ABDISALAN YAKUB ISAAK	M	Wagalla Massacre 1984	North Eastern	Wajir
41178	AHMED ADEN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
41178	HARETH ADEN HANSHI	M	Wagalla Massacre 1984	North Eastern	Wajir
41178	ABDULLAHI ABDI HANSHI	M	Wagalla Massacre 1984	North Eastern	Wajir
41179	ABEY ALI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
41186	ALI AHMED HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
41189	OSMAN SALLAT BULLE	M	Wagalla Massacre 1984	North Eastern	Wajir
41193	SHARMARKE ADOW MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
41194	SALAT ADEN ISSE	M	Wagalla Massacre 1984	North Eastern	Wajir
41269	HARET ADEN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
41434	ABDILLE FARAH ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
41439	ABDI MAHAMED GARED	M	Wagalla Massacre 1984	North Eastern	Wajir
41439	MUKTAR BARON	M	Wagalla Massacre 1984	North Eastern	Wajir
41439	BISHAR DURON	M	Wagalla Massacre 1984	North Eastern	Wajir
41439	SALAT JELLE	M	Wagalla Massacre 1984	North Eastern	Wajir
41439	OMAR MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
41443	MOHAMED KANYARE NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
41449	MAALIM ABDI MUHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
42514	ISAAK AHMED ABDI	M	Wagalla Massacre 1984	NG	NG
42518	ABDI MOHAMED GURE	M	Wagalla Massacre 1984	North Eastern	Wajir
42520	OMAR MAHAMUD AMIN	M	Wagalla Massacre 1984	North Eastern	Wajir
42520	GAIYE MAHAMUD AMIN	M	Wagalla Massacre 1984	North Eastern	Wajir
42527	ABDI ABDIKARIW SHANU	M	Wagalla Massacre 1984	North Eastern	WAJIR
42527	DIRIYE ABDI SHANU	M	Wagalla Massacre 1984	North Eastern	WAJIR
42555	BIRIK SALAH HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
42563	AHMED ABDI NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
43008	FARHIYA OMAR ALI	F	Wagalla Massacre 1984	North Eastern	Wajir
43034	ABDI MAALIM MUHUMED MALELE	M	Wagalla Massacre 1984	North Eastern	Wajir
43103	ABDULLA HASSAN MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
43114	HASSAN ABDILLE ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
43114	AHMED ADOW DAKANE	M	Wagalla Massacre 1984	North Eastern	Wajir
43128	ABDI OMAR YALAHOW	M	Wagalla Massacre 1984	Eastern	Marsabit
43128	NUROW ABDI DORE	M	Wagalla Massacre 1984	Eastern	Marsabit

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
43128	ADAN ALI HASSAN	M	Wagalla Massacre 1984	Eastern	Marsabit
47156	HUSSEIN AHMED	M	Wagalla Massacre 1984	North Eastern	Garissa
47203	BAROW NOOR ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
47203	NOOR ABDILLE ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
47206	DUNE ADAN ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
47219	ADAN DAKAY NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
47246	ABDI FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
47246	BILLOW ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
47252	YUSUF MUKHTAR BARROW	M	Wagalla Massacre 1984	North Eastern	Wajir
47257	MOHAMED IBRAHIM HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
47257	OMAR YUSSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
47295	HUSSEIN HASSAN ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
47304	SANEY SHEIKH ABSHIROW	M	Wagalla Massacre 1984	North Eastern	Wajir
47306	NOOR UNSHUR BARROW	M	Wagalla Massacre 1984	North Eastern	Wajir
47320	OMAR ADAN HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
47322	DAHIRE ABDULLAHI ABDIRAHMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
47327	MOHAMED BARROW FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
47327	MUDE IBRAHIM ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
47334	AHMED ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
47342	RASHID HASSAN DAKANE	M	Wagalla Massacre 1984	North Eastern	Wajir
7919	SULEIMAN AHMED	M	Wagalla Massacre 1984	North Eastern	WAJIR
7919	OMAR SALA	M	Wagalla Massacre 1984	North Eastern	WAJIR
7919	MOHAMED	M	Wagalla Massacre 1984	North Eastern	WAJIR
8791	AHMED ISSACK DAKAT	M	Wagalla Massacre 1984	North Eastern	Mandera
8806	MUHUMED ALI HUSSEIN(DEAD)	M	Wagalla Massacre 1984	North Eastern	Mandera
8827	MOHAMED ABDILLE HASSAN	M	Wagalla Massacre 1984	North Eastern	Mandera
8832	BASHOW HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Mandera
8837	ABDIA ABIKER	M	Wagalla Massacre 1984	North Eastern	Mandera
8837	IBRAHIM ABIKER	M	Wagalla Massacre 1984	North Eastern	Mandera
9034	OMAR ATHAN ALISO	M	Wagalla Massacre 1984	North Eastern	Mandera
9034	ALI ATHAN ALISO	M	Wagalla Massacre 1984	North Eastern	Mandera
9034	FATUMA ADAN FARAH	F	Wagalla Massacre 1984	North Eastern	Mandera
9082	SHEIKH MUSA ABDI	M	Wagalla Massacre 1984	North Eastern	Mandera
11954	ADAN MUHUMED OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
11962	HUSSEIN MUHUMED JELLE	M	Wagalla Massacre 1984	North Eastern	Wajir
11965	BARE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
11967	ABDI AHMED ALI	M	Wagalla Massacre 1984	North Eastern	Wajir East
11967	AHMED SHEIKH ALI	M	Wagalla Massacre 1984	North Eastern	Wajir East

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
11970	DOGOW ALI BIRIK	M	Wagalla Massacre 1984	North Eastern	Wajir
11973	IBRAHIM JELOW DAGANE	M	Wagalla Massacre 1984	North Eastern	Wajir
11985	MOHAMED MUHAMED KASAI	M	Wagalla Massacre 1984	North Eastern	Wajir
11990	NOOR ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
11991	BASHIR HUSSEIN ABIKAR	M	Wagalla Massacre 1984	NG	NG
11998	MUHUMED ISSAK HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
13407	SALAH OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
13407	HUSSEIN MOHAMED GULLED	M	Wagalla Massacre 1984	North Eastern	Wajir
13410	ABDI YUSSUF WEDOW	M	Wagalla Massacre 1984	North Eastern	Wajir
13415	AHMED BIRIK HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
13415	IBRAHIM KHARIM	M	Wagalla Massacre 1984	North Eastern	Wajir
13419	HILOW AMIN MOHAMUD	Not given	Wagalla Massacre 1984	North Eastern	Wajir
13419	BIRIK AMIN MOHAMUD	Not given	Wagalla Massacre 1984	North Eastern	Wajir
13419	GARTON AMIN MOHAMUD	Not given	Wagalla Massacre 1984	North Eastern	Wajir
13420	MUMIN SALAT MAHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
13420	ABDI MOHAMED AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
13421	OMAR ALI SALAT	M	Wagalla Massacre 1984	North Eastern	Wajir
13422	ABDI MOHUMED DAUD	M	Wagalla Massacre 1984	North Eastern	Wajir
13430	MOHAMED ABDILLAHI ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
13432	YAKUB SHIRE ISMAIL	M	Wagalla Massacre 1984	North Eastern	Wajir
13441	BILLOW GUHAD UNSHUR	M	Wagalla Massacre 1984	North Eastern	Wajir
14542	MOHAMUD MUHUMED BALA	M	Wagalla Massacre 1984	North Eastern	Wajir
14548	IBRAHIM NUR MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
14904	ABDULLAHI KEYNAW ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
15905	MOHAMED OMAR HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
15913	AHMED HASSAN ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir East
15931	JILLE HUSSEIN OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
15935	AHMED BILLOW MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
16602	GALA ISACK SHEDO	M	Wagalla Massacre 1984	North Eastern	Wajir
16605	ABDI HASSAN GUMOW	M	Wagalla Massacre 1984	North Eastern	Wajir
16633	ISMAIL HUSSEIN AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
18012	ABDI ABDULLAHI KULOW	M	Wagalla Massacre 1984	North Eastern	Wajir
18039	KHALIF MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
18044	ATHAN DAGANE	M	Wagalla Massacre 1984	North Eastern	Wajir
18044	ATHAN OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
18048	SUGAL A UNSHUR	M	Wagalla Massacre 1984	North Eastern	Wajir
18760	GEDI AKSON	M	Wagalla Massacre 1984	North Eastern	Wajir
18760	BISHAR KEYNAN DAGAHOW	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
18760	MOW GEDI ALASOW	M	Wagalla Massacre 1984	North Eastern	Wajir
19707	KANYARE MOHAMED MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
20032	BASHIR MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
20033	KHEIRA MOHAMUD OSMAN	M	Wagalla Massacre 1984	North Eastern	Mandera
20037	MARKABA ISSACK ADAN	M	Wagalla Massacre 1984	North Eastern	Mandera
20042	ABDI JILLOW	M	Wagalla Massacre 1984	North Eastern	Mandera
20046	ADAN AHMED(DEAD)	M	Wagalla Massacre 1984	North Eastern	Mandera
26106	HAREDHA ABDI DADAI	F	Wagalla Massacre 1984	North Eastern	Mandera
26108	OSMAN MAALIM NOOR	M	Wagalla Massacre 1984	North Eastern	Mandera East
26132	ADOW HARUN IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Mandera
26561	YUSSUF OLOW HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26571	ABDIRAHMAN ABDILLE IBRAHIM	M	Wagalla Massacre 1984	Central	NG
26575	MOHAMED ISMAIL YUSSUF	M	Wagalla Massacre 1984	North Eastern	Mandera
26578	ADAN ALI HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26584	MOHAMUD OSMAN AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
26587	MUDE IBRAHIM ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
26588	MUHUMED BAROW FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
26591	ISMAIL HUSSEIN AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
26593	ALI MOHAMUD HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
26801	IBRAHIM HASSAN MUMIN	M	Wagalla Massacre 1984	North Eastern	Wajir East
26804	BILLOW ISSACK OSMAN	M	Wagalla Massacre 1984	NG	NG
26804	ISSACK OSMAN DAKANE	M	Wagalla Massacre 1984	NG	NG
26805	ADAN MUSA HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26805	KATHIC BABUL HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26805	HUSSEIN KATHIC BABOI	M	Wagalla Massacre 1984	North Eastern	Wajir
26806	FARAH ABDULLAHI	M	Wagalla Massacre 1984	North Eastern	Wajir
26806	ADAW KEYNAN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26807	OMAR MUMIN ISMAIL	M	Wagalla Massacre 1984	North Eastern	Wajir
26817	OSMAN ARALE FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
26818	SANEY HANUD HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
26822	ABDI MOHAMED HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
26822	ABDULLAHI HUSSEIN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26825	MOHAMED NUR BUUL	M	Wagalla Massacre 1984	North Eastern	Wajir
26827	KASIM ABDIDLER SULEMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26827	HUSSEIN ABDILLE AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
26827	IBRAHIM ABDILLAHI ELMI	M	Wagalla Massacre 1984	North Eastern	Wajir
26827	ABDI NUR GURE	M	Wagalla Massacre 1984	North Eastern	Wajir
26832	JEHOW ISSACK OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
26834	AHMED MOHAMED HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
26835	ADHABA BORAI IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
26837	SALAT ABDI ISMAIL	M	Wagalla Massacre 1984	North Eastern	Wajir
26838	MUHUNED ABDI MUHUMED	M	Wagalla Massacre 1984	North Eastern	Wajir
26841	NOOR MOHAMUD OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26841	ABDULLAHI HUSSEIN ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
26841	SHEIKH MOHAMUD ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
26844	HUSSEIN ALI NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
26866	ABDIZALIMAN ALI DAHUR	M	Wagalla Massacre 1984	North Eastern	Wajir
26880	KASSIM ABIKAR SULEIMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
27204	MUHUMED HASSAN LOHOW	M	Wagalla Massacre 1984	North Eastern	Wajir
27211	BISHAR KEYNAN DAGAHOW	M	Wagalla Massacre 1984	North Eastern	Wajir
27223	ABDULLAHI SHEIKH ABDI SHEIKH ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
27226	AHMED ABDULLAHI HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
27227	AHMED MOHAMED OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
27245	MUHUMED ISSACK ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
27251	ABDI AHMED JIRE	M	Wagalla Massacre 1984	North Eastern	Wajir
27259	ABDI ALI IMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
27277	ADOW ABDI ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
27296	FARHIYA S OMAR MUSA	M	Wagalla Massacre 1984	North Eastern	Wajir
27296	MOHAMED SAMATAR OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
27820	ABDI HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir East
27820	NOOR IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir East
27820	BIRIK HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir East
27824	ABDULLAHI ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
27829	OSMAN NOOR ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir East
28452	MARYIAN ALI ADAN	F	Wagalla Massacre 1984	North Eastern	Mandera Central
28453	FATUMA NOOR	F	Wagalla Massacre 1984	North Eastern	Mandera Central
35379	AHMED YUSSUF NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
35381	ALASON HUSSEIN ABDILLA	M	Wagalla Massacre 1984	North Eastern	Garissa
35384	MOHAMED ABDI ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
35394	KASSIM OSMAN ADAN	M	Wagalla Massacre 1984	North Eastern	Wajir
35398	OMAR ABDI HERSI	M	Wagalla Massacre 1984	North Eastern	Wajir
37327	HUSSEIN ABDILLE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
39012	MUKHTAR MOHAMED ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
39017	ABDIRASHID ALASOW MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
39021	OMAR SALAT BULLE	M	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
39045	ABDI ALI YUSSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
39047	FARAH OMAR ABDI	M	Wagalla Massacre 1984	North Eastern	WAJIR
39047	ALI ABDILLE GURE	M	Wagalla Massacre 1984	North Eastern	WAJIR
39066	NOOR ABDILLE GULLE	M	Wagalla Massacre 1984	North Eastern	Wajir
39066	MOHAMED BUKE HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
39091	ALI GUHAD ADAN	M	Wagalla Massacre 1984	North Eastern	Mandera
39091	OMAR YUSSUF NOOR	M	Wagalla Massacre 1984	North Eastern	Mandera
39091	GEDI OSMAN YUSSUF	M	Wagalla Massacre 1984	North Eastern	Mandera
39360	MUHAMUD HASAN ADEN	M	Wagalla Massacre 1984	North Eastern	Wajir
39374	BILLOW ALI HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
39378	ADAN MUSA ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
39414	NUROW JIMALE GEDI	M	Wagalla Massacre 1984	North Eastern	Wajir
40578	IBRAHIM ELMI	M	Wagalla Massacre 1984	NG	NG
40615	HAREDA ABDI GEDI	F	Wagalla Massacre 1984	North Eastern	Wajir
41200	KASSIM MUHUMED HIRSI	M	Wagalla Massacre 1984	North Eastern	WAJIR
43046	MOHAMED JIMAALE SALAT	M	Wagalla Massacre 1984	North Eastern	Wajir
43046	BIRIK IBRAHIM ELMI	M	Wagalla Massacre 1984	North Eastern	Wajir
47345	BISHAN DUROW ELMI	M	Wagalla Massacre 1984	North Eastern	Wajir
8776	ADAN SHEIKH IBRAHIM	F	Wagalla Massacre 1984	North Eastern	Mandera
8839	MOHAMMED YAKUB	M	Wagalla Massacre 1984	North Eastern	Mandera
8993	MOHAMED ABIKAR ISMAIL	M	Wagalla Massacre 1984	North Eastern	Mandera
13418	IBRAHIM DUBOW IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
18016	ISMAIL KAILEY NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
18018	NOOR ANTAR YUSSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
18019	ABDI MUHUMED ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir East
18023	ABDI MOHAMED ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
18032	BILLOW IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Wajir
18759	BISHAR KEYNAN	M	Wagalla Massacre 1984	North Eastern	Wajir
19349	ABDI BULLE	M	Wagalla Massacre 1984	North Eastern	Mandera
19731	NONOW JERRE SETHN	M	Wagalla Massacre 1984	North Eastern	Wajir
19731	HEBIBA ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
19731	MOHAMED KINAN BAREL	M	Wagalla Massacre 1984	North Eastern	Wajir
19731	HASSAN ABDULLAH	M	Wagalla Massacre 1984	North Eastern	Wajir
19731	MOHAMED ABEYORMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
19731	HAHMA KEINAN BURE	M	Wagalla Massacre 1984	North Eastern	Wajir
20040	AMBIA HARSHI	M	Wagalla Massacre 1984	North Eastern	Mandera
20043	SAINAB SALAT ALI	M	Wagalla Massacre 1984	North Eastern	Mandera
20045	DIYAD JIMALE ADAN	M	Wagalla Massacre 1984	North Eastern	Mandera

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
20048	ABDIA ISMAIL YARROW	M	Wagalla Massacre 1984	North Eastern	Mandera
26135	AHAT MUHAMUD OMAR	M	Wagalla Massacre 1984	North Eastern	Mandera
26572	BULLE IBRAHIM ALI	M	Wagalla Massacre 1984	North Eastern	Mandera
26572	OMAN IBRAHIM DORE	M	Wagalla Massacre 1984	North Eastern	Mandera
26592	ZEINAB ADAN SHEIKH	M	Wagalla Massacre 1984	North Eastern	Mandera
26592	ALI SHUKA IBRAHIM	M	Wagalla Massacre 1984	North Eastern	Mandera
26599	SHIEKH ABDILLE KHALID NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
26599	MAALIM SULEIMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26826	OSMAN AHMED BABUL	M	Wagalla Massacre 1984	North Eastern	Wajir
26843	DIBANE BORAI QUROW	M	Wagalla Massacre 1984	North Eastern	Wajir
26843	KAHIYE GURE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26843	ISSACK GURE ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
26843	GEDI SUGOW ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
26846	HALIMA SHEIKH HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
26846	ABDI MUHUMED HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
27225	SUGON ADAN FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
33210	MUDIER MUMIS	Not given	Wagalla Massacre 1984	North Eastern	Mandera
35383	JIMALE HIREY ALASOW	M	Wagalla Massacre 1984	North Eastern	Wajir
39022	ADAN MUHAMED ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
39028	ISSACK OSMAN KOSAR	M	Wagalla Massacre 1984	North Eastern	Wajir
39028	IBRAHIM AHMED KOSAR	M	Wagalla Massacre 1984	North Eastern	Wajir
39028	MALELE AHMED KOSAR	M	Wagalla Massacre 1984	North Eastern	Wajir
39028	ABEY AHMED KOSAR	M	Wagalla Massacre 1984	North Eastern	Wajir
39034	ABDI HASSAN NOOR	M	Wagalla Massacre 1984	North Eastern	Wajir
39035	ABDI SHEIKH ALI OMAR	M	Wagalla Massacre 1984	North Eastern	Wajir
39035	ABDULLAHI ABDI SHEIKH ALI	M	Wagalla Massacre 1984	North Eastern	Wajir
39388	KASAY ADEN MOHAMUD	M	Wagalla Massacre 1984	North Eastern	Wajir
36652	HASSAN MOHAMMED ABDI	M	Wagalla Massacre 1984	North Eastern	Mandera
36652	MAALIM IBRAHIM BARROW	M	Wagalla Massacre 1984	North Eastern	Mandera
36652	ABDI BARROW HASSAN	M	Wagalla Massacre 1984	North Eastern	Mandera
36652	HASSAN ABDILLE GULLED	M	Wagalla Massacre 1984	North Eastern	Mandera
36652	JELLE ABDI JIBRED	M	Wagalla Massacre 1984	North Eastern	Mandera
40722	JIMALE EUNICE ALI	F	Wagalla Massacre 1984	North Eastern	Wajir
40722	ALASA MUDOW ABDOW	M	Wagalla Massacre 1984	North Eastern	Wajir
40722	KASSIM ADEN	M	Wagalla Massacre 1984	North Eastern	Wajir
40722	MOHAMUD ABDI ADEN	M	Wagalla Massacre 1984	North Eastern	Wajir
40722	ABDULLAHI ADEN MOLID	M	Wagalla Massacre 1984	North Eastern	Wajir
41066	FATUMA AHMED QANYARE	F	Wagalla Massacre 1984	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
41066	ABEY KILLOW MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
41066	ABDILLE AHMED QANYANE	M	Wagalla Massacre 1984	North Eastern	Wajir
41138	GURE OSMAN MOHAMED	M	Wagalla Massacre 1984	North Eastern	Wajir
42513	BALE BULE HIDIQ	M	Wagalla Massacre 1984	NG	NG
43148	MOHAMED HUSSEIN ISSACK	M	Wagalla Massacre 1984	North Eastern	Mandera
43148	SALAT HUSSEIN DEEP	M	Wagalla Massacre 1984	North Eastern	Mandera
43148	MOHAMED HUSSEIN BARDAD	M	Wagalla Massacre 1984	North Eastern	Mandera
47213	IBRAHIM MOHOMED HASSAN	M	Wagalla Massacre 1984	North Eastern	Wajir
8814	GUREH BAROW MAALIM	M	Wagalla Massacre 1984	North Eastern	Mandera
16615	GAIYA IBRAHIM ABDILLE	M	Wagalla Massacre 1984	North Eastern	Wajir
18026	AHMED HUSSEIN	M	Wagalla Massacre 1984	North Eastern	Wajir
20030	DEKA DIRIYE HASSAN	M	Wagalla Massacre 1984	North Eastern	Mandera
20047	BISHAR DUROW ELMI(DEAD)	M	Wagalla Massacre 1984	North Eastern	Mandera
39011	MALELE AHMED GOSAR	M	Wagalla Massacre 1984	North Eastern	Wajir
41108	MUKTAR BAROW YUSUF	M	Wagalla Massacre 1984	North Eastern	Wajir
20001	RAMADAN ADOW HARON	M	Wagalla Massacre 1984	North Eastern	Mandera
20049	HASSAN MUHAMMED	M	Wagalla Massacre 1984	North Eastern	Mandera
40551	MAHAMUD HUSSEIN BARDAD	M	Wagalla Massacre 1984	North Eastern	Wajir
42511	GABANE DAHIR AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
41145	ABDILE OMAR ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
47265	MAALIM ABDULLA	M	Wagalla Massacre 1984	North Eastern	Wajir
47265	SHEIKH AHMED	M	Wagalla Massacre 1984	North Eastern	Wajir
47276	BISHAR DURAW ELMI	M	Wagalla Massacre 1984	North Eastern	Wajir
47282	ABDIKHER ISSACK FARAH	M	Wagalla Massacre 1984	North Eastern	Wajir
47294	FARAH HUSSEIN ABDI	M	Wagalla Massacre 1984	North Eastern	Wajir
47300	KORANE HUSSEIN OSMAN	M	Wagalla Massacre 1984	North Eastern	Wajir
81338	LENGOTOOLAI	M	Wamba Massacre 1964	Rift Valley	Samburu
81639	AMODOI LENAKAL	M	Wamba Massacre 1964	Rift Valley	Samburu
81639	NAMAN LENGIRO	M	Wamba Massacre 1964	Rift Valley	Samburu
81639	LETIYION LOLKINYATI	M	Wamba Massacre 1964	Rift Valley	Samburu
81639	REPALLE LEPARTIRE	M	Wamba Massacre 1964	Rift Valley	Samburu
81639	MALGIS LEKITASCHARAN	M	Wamba Massacre 1964	Rift Valley	Samburu
81639	LENAITORONO	M	Wamba Massacre 1964	Rift Valley	Samburu

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	HUSSEI ABDI SHEIKH KULOW	M	Other Massacre	North Eastern	Wajir
81048	HASSAN HUSSEIN IBRAHIM	M	Other Massacre	North Eastern	Wajir
81048	OSMAN KUSA	M	Other Massacre	North Eastern	Wajir
81048	EYMOY ABDIMOR	Not given	Other Massacre	North Eastern	Wajir
81048	SHEIKH OSMAN KANYARE	M	Other Massacre	North Eastern	Wajir
81048	ABDI ALI YARROW	M	Other Massacre	North Eastern	Wajir
81048	DILSON KUSA	M	Other Massacre	North Eastern	Wajir
81048	MOHAMED ABDI MOHAMED	M	Other Massacre	North Eastern	Wajir
81048	ABDULLS ABDIRAH SHEIKH	M	Other Massacre	North Eastern	Wajir
81048	ALI SHURIA MOHAMED	M	Other Massacre	North Eastern	Wajir
81048	MOHAMED HASSAN ADAN	M	Other Massacre	North Eastern	Wajir
81048	ABDULLAHI SALAT	M	Other Massacre	North Eastern	Wajir
81048	ABDIKADIR HUSSEIN GODANA	M	Other Massacre	North Eastern	Wajir
81048	ABDIKADIR OMAR MOHAMED	M	Other Massacre	North Eastern	Wajir
81048	HUSSEIN MOHAMED ISSA	M	Other Massacre	North Eastern	Wajir
81048	ADAN M NOOR	M	Other Massacre	North Eastern	Wajir
81048	OSMAN ELMI ABDI	M	Other Massacre	North Eastern	Wajir
81048	ADAN MOHAMED KERROW	M	Other Massacre	North Eastern	Wajir
81048	SAMON KUSA	Not given	Other Massacre	North Eastern	Wajir
81048	OMAR KUSA	M	Other Massacre	North Eastern	Wajir
81048	ABIRAHMAN ABDI	M	Other Massacre	North Eastern	Wajir
81048	MUNOW MOHAMED SADIA	Not given	Other Massacre	North Eastern	Wajir
81048	ADAN OSMAN GOLICHO	M	Other Massacre	North Eastern	Wajir
81048	ADAN M HUSSEIN	M	Other Massacre	North Eastern	Wajir
81048	NOOR M MOHAMED	M	Other Massacre	North Eastern	Wajir
81048	ADAN ABDI BULLE	M	Other Massacre	North Eastern	Wajir
81048	AHMED ABDI MOHAMED	M	Other Massacre	North Eastern	Wajir
81048	ALI YUSUF MOHA	M	Other Massacre	North Eastern	Wajir
81048	OSMAN HASSAN	M	Other Massacre	North Eastern	Wajir
81048	YUSUF MOHAMED OSMAN	M	Other Massacre	North Eastern	Wajir
81048	DIIS ADAN GODAN	Not given	Other Massacre	North Eastern	Wajir
81048	ALI GEDOW ALI	M	Other Massacre	North Eastern	Wajir
81048	KEIRO ADANA GODANA	M	Other Massacre	North Eastern	Wajir
81048	MOHAMED OSMAN GULICHA	M	Other Massacre	North Eastern	Wajir
81048	MUDOY HABOLE	Not given	Other Massacre	North Eastern	Wajir
81048	IBRAHIM MUDAY	M	Other Massacre	North Eastern	Wajir
81048	OROW OMAR MOHAMED	M	Other Massacre	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	IBRAHIM MOHAMED	M	Other Massacre	North Eastern	Wajir
81048	IBRAHIM ABDI GULICHA	M	Other Massacre	North Eastern	Wajir
81048	ABDAH AND HOKO	Not given	Other Massacre	North Eastern	Wajir
81048	ABURAH ADAN HASSAN	Not given	Other Massacre	North Eastern	Wajir
81048	YAROW MAALIM ABIRRAHM	Not given	Other Massacre	North Eastern	Wajir
81048	ADAN ABDOW SALA	M	Other Massacre	North Eastern	Wajir
81048	MOHAMED HASSAN BOCHALE	M	Other Massacre	North Eastern	Wajir
81048	ABDULLA MUSA AHAMD	M	Other Massacre	North Eastern	Wajir
81048	ADBOW SALA OMAR	M	Other Massacre	North Eastern	Wajir
81048	ABDILLA HASSAN ABDI	M	Other Massacre	North Eastern	Wajir
81048	IKOW WAKE OMAR	Not given	Other Massacre	North Eastern	Wajir
81048	AIBRAHIM ALI IBRAHIM	M	Other Massacre	North Eastern	Wajir
81048	ABDI MUSA AHMED	M	Other Massacre	North Eastern	Wajir
81048	HASSAN HUSSEIN ABIKAR	M	Other Massacre	North Eastern	Wajir
81048	MAALIM MOHAMED GUMA	M	Other Massacre	North Eastern	Wajir
81048	MAALIM BULLE ABIBAKAR	M	Other Massacre	North Eastern	Wajir
81048	ABDIRAHIM HASSAN	M	Other Massacre	North Eastern	Wajir
81048	ABDI SALAN HASSAN	M	Other Massacre	North Eastern	Wajir
81048	HASSAN OMAR MOHAMED	M	Other Massacre	North Eastern	Wajir
81048	ABDIKADIR ABDI MAMA	M	Other Massacre	North Eastern	Wajir
81048	MOHAMED SANEY ABDI	M	Other Massacre	North Eastern	Wajir
81048	MOHAMED ABDI SALAN HASS	M	Other Massacre	North Eastern	Wajir
81048	OSMAN SAHED MAMUD	M	Other Massacre	North Eastern	Wajir
81048	ABDI MAALIM MOHAMED	M	Other Massacre	North Eastern	Wajir
81048	MAALIM ALI GOLICHO	M	Other Massacre	North Eastern	Wajir
81048	MAALIM GOLICHO	M	Other Massacre	North Eastern	Wajir
81048	M HASSAN MAHAT	M	Other Massacre	North Eastern	Wajir
81048	SAANEY MAAMIN SAMALE	Not given	Other Massacre	North Eastern	Wajir
81048	MOHAMED YAROW ADAN	M	Other Massacre	North Eastern	Wajir
81048	HASSAN GABOW	M	Other Massacre	North Eastern	Wajir
81048	ALI MIRAN ADOW	M	Other Massacre	North Eastern	Wajir
81048	BILLOW HAJJI MAOW	M	Other Massacre	North Eastern	Wajir
81048	HUSSEIN ABDILLE	M	Other Massacre	North Eastern	Wajir
81048	KHALIF MADEY	M	Other Massacre	North Eastern	Wajir
81048	JANAN ABDIRAHMAN MAOW	M	Other Massacre	North Eastern	Wajir
81048	MUHUMED SHEKOW ADOW	M	Other Massacre	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	KUHAD SHEKOW	M	Other Massacre	North Eastern	Wajir
81048	KULE YUSUF	Not given	Other Massacre	North Eastern	Wajir
81048	OSMAN IBRAHIM GOLICHA	M	Other Massacre	North Eastern	Wajir
81048	HALIMA HUSSEIN MOHAMED	F	Other Massacre	North Eastern	Wajir
30241	Margaret Owindo Khakubi	F	Other Massacre	Western	Samia
35410	OSMAN GUYO	M	Other Massacre	Eastern	Moyale
40873	MOHAMED YUSSUF ALI	M	Other Massacre	North Eastern	Wajir
40873	FARHIA MOHAMED YUSSUF	F	Other Massacre	North Eastern	Wajir
43069	NOT GIVEN	Not given	Other Massacre	Eastern	Isiolo
43069	NOT GIVEN	F	Other Massacre	Eastern	Isiolo
43069	KABALE BONAYA	F	Other Massacre	Eastern	Isiolo
81208	MADYARO IBRAHIM SAMOW	M	Other Massacre	North Eastern	Mandera
81335	ABDULLAHI MAALIM ISSACK	M	Other Massacre	North Eastern	Mandera
81335	SHEIKH ADEN EDU	M	Other Massacre	North Eastern	Mandera
81335	ISSACK MAALIM	M	Other Massacre	North Eastern	Mandera
81335	AHMED ADEN	M	Other Massacre	North Eastern	Mandera
81335	ISMAIL ISSACK	M	Other Massacre	North Eastern	Mandera
81335	EYMOL HASSAN	M	Other Massacre	North Eastern	Mandera
81335	MAD NURROW ADEN	M	Other Massacre	North Eastern	Mandera
81335	ABDULLAHI IBRAHIM SAMOW	M	Other Massacre	North Eastern	Mandera
81335	HASSAN IBRAHIM SAMOW	M	Other Massacre	North Eastern	Mandera
81335	IBRAHIM ALI	M	Other Massacre	North Eastern	Mandera
81335	MAALIM ADEN	M	Other Massacre	North Eastern	Mandera
81335	NURROW ALIO	M	Other Massacre	North Eastern	Mandera
81335	GOLO HASSAN	M	Other Massacre	North Eastern	Mandera
81335	ADEN TACHL	M	Other Massacre	North Eastern	Mandera
81335	ADOIN MAALIM	M	Other Massacre	North Eastern	Mandera
81335	HASSAN MAALIM	M	Other Massacre	North Eastern	Mandera
81335	EDEN IBRAHIM	M	Other Massacre	North Eastern	Mandera
81335	HASSAN ALIO	M	Other Massacre	North Eastern	Mandera
81335	ADOW IBRAHIM	M	Other Massacre	North Eastern	Mandera
81335	MOHAMED ALIO	M	Other Massacre	North Eastern	Mandera
81335	HASSAN EDEN	M	Other Massacre	North Eastern	Mandera
81335	IBRAHIM SHEIKH	M	Other Massacre	North Eastern	Mandera
81335	MAALIM ADOW	M	Other Massacre	North Eastern	Mandera
81335	IBREM EDEN	M	Other Massacre	North Eastern	Mandera

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81335	ISSACK ALI	M	Other Massacre	North Eastern	Mandera
81335	ALI MOHAMED	M	Other Massacre	North Eastern	Mandera
81335	HILLOW MOHAMED	M	Other Massacre	North Eastern	Mandera
81335	ISMAIL ALI	M	Other Massacre	North Eastern	Mandera
18609	OMAR DIBII	M	Other Massacre	North Eastern	Garissa
18633	GALASSI ANSHUR AHMED	M	Other Massacre	North Eastern	Garissa
19733	GAALOW OSMAN HILLOW	M	Other Massacre	North Eastern	Wajir
19733	HABIBA HILLOW	F	Other Massacre	North Eastern	Wajir
19733	KAITUNA HILLOW	F	Other Massacre	North Eastern	Wajir
19733	RAKAY HILLOW	M	Other Massacre	North Eastern	Wajir
19733	ADAWA SHIMOY	M	Other Massacre	North Eastern	Wajir
41072	MOHAMED MOHAMED HUSSEIN	M	Other Massacre	North Eastern	Wajir
41072	HABIBA MOHAMED HASSAN	F	Other Massacre	North Eastern	Wajir
41072	ABDI MOHAMUD MOHAMED	M	Other Massacre	North Eastern	Wajir
8923	ABDI FARAH ROBIE	M	Other Massacre	North Eastern	Mandera
26508	KULAY AHMED ADAN	M	Other Massacre	North Eastern	Wajir
33221	HABIBA AHMED ADAN	F	Other Massacre	North Eastern	Mandera
40749	ADAN FATUMA OLOW	F	Other Massacre	North Eastern	Wajir
40749	SUADIA ABDI AHAMED	F	Other Massacre	North Eastern	Wajir
40749	HABON NURRA ISAAK	F	Other Massacre	North Eastern	Wajir
41150	MOHAMUD SABDOW BUUL	M	Other Massacre	North Eastern	Wajir
19703	HABIBA OMAR SALAT	M	Other Massacre	North Eastern	Wajir
19703	ROBLEY OMAR SALAT	M	Other Massacre	North Eastern	Wajir
8852	EDILE DAUD ALI	M	Other Massacre	North Eastern	Mandera West
81048	ABDULLAHI YUSUF MOHAMED	M	Other Massacre 10/9/2000	North Eastern	Wajir
81048	IBRAHIM SALA OMAR	M	Other Massacre 1963	North Eastern	Wajir
81048	ADOW IBRAHIM GIRO	M	Other Massacre 1963	North Eastern	Wajir
81048	ALI HASSAN ABDULLA	M	Other Massacre 1963	North Eastern	Wajir
81048	BISHAR AHMED IBRAHIM	Not given	Other Massacre 1963	North Eastern	Wajir
81048	AHMED IBRAHIM OSMAN	M	Other Massacre 1963	North Eastern	Wajir
81048	MOHAMED OSMAN WEKE	M	Other Massacre 1963	North Eastern	Wajir
81048	HASSAN OSMAN WEKE	M	Other Massacre 1963	North Eastern	Wajir
81048	ABDIRAHMAN AHMED WEKE	M	Other Massacre 1963	North Eastern	Wajir
81048	ABDILADIF HACHURA ABDI	M	Other Massacre 1963	North Eastern	Wajir
81048	ALI HOKO ABDI	M	Other Massacre 1963	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	IKOW HACHIRA ABDI	Not given	Other Massacre 1963	North Eastern	Wajir
81048	HADIJA IBRAHIM YAROW	F	Other Massacre 1964	North Eastern	Wajir
81048	IBRAHIM OSMAN	M	Other Massacre 1964	North Eastern	Wajir
81048	IBRAHIM HUSIN ABI	M	Other Massacre 1964	North Eastern	Wajir
81048	KOFI OMAR	M	Other Massacre 1964	North Eastern	Wajir
81048	MAALIM SAMBURU MOHAMED	M	Other Massacre 1964	North Eastern	Wajir
81048	MOHAMED ABDI ISMANI	M	Other Massacre 1964	North Eastern	Wajir
81048	NOOR ALIYOW KHASIM	M	Other Massacre 1964	North Eastern	Wajir
81048	SHABOW ALIYOW KHASIM	Not given	Other Massacre 1964	North Eastern	Wajir
81048	HASSAN YUSUF OSMAN	M	Other Massacre 1964	North Eastern	Wajir
81048	MOHAMED ISMAILM ABDULLA	M	Other Massacre 1965	North Eastern	Wajir
81048	ADAN SALAT FARAH	M	Other Massacre 1965	North Eastern	Wajir
81048	ABDI MOHAMEDNOOR SALATA	M	Other Massacre 1965	North Eastern	Wajir
81048	ADAN ABDIRAHMAN SALAT	M	Other Massacre 1965	North Eastern	Wajir
81048	AHMED ABDINOOR SHEIKH	M	Other Massacre 1965	North Eastern	Wajir
81048	HASNA ABDINOOR SHEIKH	Not given	Other Massacre 1965	North Eastern	Wajir
81048	ABDIRAHIM IBRAHIM HARAQE	M	Other Massacre 1965	North Eastern	Wajir
81048	ABDINOOR ADAN HINI	M	Other Massacre 1965	North Eastern	Wajir
81048	ADANOW HASSAN AHMED	Not given	Other Massacre 1965	North Eastern	Wajir
81048	MOHAMED MOHAMUD ALI	M	Other Massacre 1965	North Eastern	Wajir
81048	HASSAN AMIN GABOW	M	Other Massacre 1965	North Eastern	Wajir
81048	KURFA KANO MAHAD	M	Other Massacre 1965	North Eastern	Wajir
81048	ISSACK ADAN ALI	M	Other Massacre 1965	North Eastern	Wajir
81048	OSMAN MOHAMED OMAR	M	Other Massacre 1965	North Eastern	Wajir
81048	ABDIKADIR ABDI MOHAMED	M	Other Massacre 1965	North Eastern	Wajir
81048	ZAINAB ABDI MOHAMED	F	Other Massacre 1965	North Eastern	Wajir
81048	ABDULLAHI HASSAN OMAR	M	Other Massacre 1965	North Eastern	Wajir
81048	NUNOW HAMO GOLICHA	Not given	Other Massacre 1965	North Eastern	Wajir
81048	AHMED OSMAN ALI	M	Other Massacre 1965	North Eastern	Wajir
81048	IBRAHIM CHICHANA ABDI	M	Other Massacre 1965	North Eastern	Wajir
81048	MOHAMED MOHAMUD ALI	M	Other Massacre 1965	North Eastern	Wajir
81048	HUSSEIN MIYOW MOHAMUD	M	Other Massacre 1966	North Eastern	Wajir
81048	HASSAN MIYOW MOHAMUD	M	Other Massacre 1966	North Eastern	Wajir
81048	SAADIA MIYOW MOHAMUD	Not given	Other Massacre 1966	North Eastern	Wajir
81048	IBRAHIM GARAR ABIKAR	M	Other Massacre 1966	North Eastern	Wajir
81048	MUKTAR GARAR ABIKAR	Not given	Other Massacre 1966	North Eastern	Wajir
81048	GARAR ABIKAR HASSAN	Not given	Other Massacre 1966	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	ALI YANOW ABIKAR	M	Other Massacre 1966	North Eastern	Wajir
81048	ABDIRAHIM NURROW ABIKAR	M	Other Massacre 1966	North Eastern	Wajir
81048	HAMARA MAALIM ABDIRAHMAN	Not given	Other Massacre 1967	North Eastern	Wajir
81048	YUSUF HASSAN ABDI	M	Other Massacre 1967	North Eastern	Wajir
81048	HUSSEIN HUSSEIN ABIBAKAR	M	Other Massacre 1967	North Eastern	Wajir
81048	ABDISALAH HASSAN HUSSEIN	Not given	Other Massacre 1967	North Eastern	Wajir
81048	MUSLIMA ABDI HASSAN	Not given	Other Massacre 1967	North Eastern	Wajir
81048	RUKIA HASSAN HASSAN	F	Other Massacre 1967	North Eastern	Wajir
81048	AFYER MOHAMED OMAR	Not given	Other Massacre 1967	North Eastern	Wajir
81048	KAISUMA GOMA ABDI	Not given	Other Massacre 1967	North Eastern	Wajir
81048	MUMINA MOHAMAED OMAR	F	Other Massacre 1967	North Eastern	Wajir
81048	HABIBA MOHAMED OMAR	F	Other Massacre 1967	North Eastern	Wajir
81048	ZEYNAB KUSANI MAMA	F	Other Massacre 1967	North Eastern	Wajir
81048	MALEY KOTO ABDI	Not given	Other Massacre 1967	North Eastern	Wajir
81048	YUSSUF HASSA OMAR	M	Other Massacre 1967	North Eastern	Wajir
81048	MAALIM MOHAMED GOMA	Not given	Other Massacre 1967	North Eastern	Wajir
81048	BALACHO WAKO	Not given	Other Massacre 1967	North Eastern	Wajir
81048	SAIDO BALACHO WAKO	Not given	Other Massacre 1967	North Eastern	Wajir
81048	MOHAMED ABDULLA BONAYA	M	Other Massacre 1967	North Eastern	Wajir
81048	HANAN ABDULLA BONAYA	M	Other Massacre 1967	North Eastern	Wajir
81048	BURROW AHMED	Not given	Other Massacre 1967	North Eastern	Wajir
81048	ALI HAMATE ABDI	M	Other Massacre 1967	North Eastern	Wajir
81048	YARROW MUSA	Not given	Other Massacre 1967	North Eastern	Wajir
81048	ABDI WAHID AMIN	Not given	Other Massacre 1967	North Eastern	Wajir
81048	MOHAMED GUYO ABAKIGO	M	Other Massacre 1967	North Eastern	Wajir
81048	HUSSEIN ALI MOHAMED	M	Other Massacre 1967	North Eastern	Wajir
81048	SEINABU GUYA	F	Other Massacre 1967	North Eastern	Wajir
81048	AMINA HASSAN ALI	F	Other Massacre 1967	North Eastern	Wajir
81048	ADAN HUSSEIN ALI	M	Other Massacre 1967	North Eastern	Wajir
81048	MOHAMUD ARABEY	M	Other Massacre 1967	North Eastern	Wajir
81048	ABDULLAHI MOHAMED OSMAN	M	Other Massacre 1967	North Eastern	Wajir
81048	ABIBAKAR ABDI ALI	M	Other Massacre 1968	North Eastern	Wajir
81048	MUKTAR SHEIKH AHMED	Not given	Other Massacre 1969	North Eastern	Wajir
81048	OMAR ADAN MOHAMED	M	Other Massacre 1969	North Eastern	Wajir
81048	ABDIKADIR ALI HASSAN	M	Other Massacre 1969	North Eastern	Wajir
81048	OMAR MOHAMED	M	Other Massacre 1970	North Eastern	Wajir
81048	HALIMA OMAR MOHAMED	F	Other Massacre 1970	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	YARROW OMAR MOHAMED	Not given	Other Massacre 1970	North Eastern	Wajir
81048	DIKA HUSSEIN TULICHA	Not given	Other Massacre 1979	North Eastern	Wajir
81048	ADAN MOHAMUD MOHAMED	M	Other Massacre 1980	North Eastern	Wajir
81048	ABDULLAHI MOHAMED IBRAHIM	M	Other Massacre 1980	North Eastern	Wajir
81048	JEHOW ISACK OMAR	Not given	Other Massacre 1981	North Eastern	Wajir
81048	ABDIAZIZ MOHAMED ARUBY	M	Other Massacre 1982	North Eastern	Wajir
81048	HAWA HASSAN AMIN	F	Other Massacre 1982	North Eastern	Wajir
81048	MOHAMED MOHAMUD SAMANLY	M	Other Massacre 1983	North Eastern	Wajir
81048	HUSSEIN MOHAMED MAANEY	M	Other Massacre 1983	North Eastern	Wajir
81048	YUSUF AHMED SHEIKH	M	Other Massacre 1983	North Eastern	Wajir
81048	ABSHIR ABDULLAHI IBRAHIM	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDULLAHI SALA OMAR	M	Other Massacre 1983	North Eastern	Wajir
81048	FATUMA HASSAN	F	Other Massacre 1983	North Eastern	Wajir
81048	ALI HABOLE	M	Other Massacre 1983	North Eastern	Wajir
81048	SAACHIA MOHAMED GULICHA	Not given	Other Massacre 1983	North Eastern	Wajir
81048	ABDI MOHAMED GULICHA	M	Other Massacre 1983	North Eastern	Wajir
81048	BISHAR MUDOG	Not given	Other Massacre 1983	North Eastern	Wajir
81048	KURFU SORA TESO	Not given	Other Massacre 1983	North Eastern	Wajir
81048	MOHAMED GUYO ADIMOR	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDULLA SALA	M	Other Massacre 1983	North Eastern	Wajir
81048	ZAINAB ABDULLA HUSSEIN	F	Other Massacre 1983	North Eastern	Wajir
81048	ABDULLAHI OMAR HASSAN	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDI YUSSUF OSMAN	M	Other Massacre 1983	North Eastern	Wajir
81048	AHMED MOHAMUD ARUBY	M	Other Massacre 1983	North Eastern	Wajir
81048	ABEY ABDI AHMED	M	Other Massacre 1983	North Eastern	Wajir
81048	SANEY AHMED MAHADI	Not given	Other Massacre 1983	North Eastern	Wajir
81048	ABDIKADIR HUSSEINMAHAD	M	Other Massacre 1983	North Eastern	Wajir
81048	MOHAMED OSMAN AHMED	M	Other Massacre 1983	North Eastern	Wajir
81048	HASSAN MOHAMED OSMAN	M	Other Massacre 1983	North Eastern	Wajir
81048	ABEY MOHAMED OSMAN	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDULKADIR HUSSEIN MAHAD	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDIKHER GARAR HUSSEIN	M	Other Massacre 1983	North Eastern	Wajir
81048	MOHAMUD HUSSEIN MAHAD	M	Other Massacre 1983	North Eastern	Wajir
81048	HUSSEIN BURA GARAORE	M	Other Massacre 1983	North Eastern	Wajir
81048	IBRAHIM MOHAMED ALI	M	Other Massacre 1983	North Eastern	Wajir
81048	ZEINAB CHICHAWA ABDI	F	Other Massacre 1983	North Eastern	Wajir
81048	NUGLOY HINI MOHAMED	Not given	Other Massacre 1983	North Eastern	Wajir
81048	ABDULKADIR ALI IBRAHIM	M	Other Massacre 1983	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	ALI AHMED HASSAN	M	Other Massacre 1983	North Eastern	Wajir
81048	MOHAMED OSMAN AHMED	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDI BARE IBRAHIM AHMED	M	Other Massacre 1984	North Eastern	Wajir
81048	MOHAMED ALI GULICHA	M	Other Massacre 1984	North Eastern	Wajir
81048	ABDI YARROW ABIKAR	M	Other Massacre 1992	North Eastern	Wajir
81048	HABIBA ABIBAKAR ISMAN	F	Other Massacre 1993	North Eastern	Wajir
81048	MUMINA OSMAN	F	Other Massacre 1993	North Eastern	Wajir
81048	OSMAN GARAR ABIBAKAR	M	Other Massacre 1993	North Eastern	Wajir
81048	ABDIKHUR ALI HINI	M	Other Massacre 1995	North Eastern	Wajir
81048	HALIMA MAALIM ISAACK	F	Other Massacre 1996	North Eastern	Wajir
81048	IBRAHIM ABDOW MAMA	M	Other Massacre 2000	North Eastern	Wajir
81048	KEROW ADAN GULICHA	Not given	Other Massacre 2000	North Eastern	Wajir
81048	MOHAMED ABDIRAHMAN	M	Other Massacre 2000	North Eastern	Wajir
81048	ABDULLA ABDI	M	Other Massacre 2000	North Eastern	Wajir
81048	ABDI IBRAHIM MOHAMED	M	Other Massacre 2000	North Eastern	Wajir
81048	NURIA IBRAHIM	F	Other Massacre 2000	North Eastern	Wajir
81048	MOHAMED ABDI	M	Other Massacre 2000	North Eastern	Wajir
81048	HAFI ABIBAKAR MOHAMED	M	Other Massacre 2000	North Eastern	Wajir
81048	IBRAHIM GET	M	Other Massacre 2000	North Eastern	Wajir
81048	HUSSEIN OSMAN	M	Other Massacre 2000	North Eastern	Wajir
81048	IBRAHIM ABDIRAHMAN	M	Other Massacre 2000	North Eastern	Wajir
81048	MOHAMED HASSAN MAHAT	M	Other Massacre 2000	North Eastern	Wajir
81048	HUSSEIN ABDI ROBA	M	Other Massacre 2000	North Eastern	Wajir
81048	MUKTAR KHALIF MOHAMUD	M	Other Massacre 2000	North Eastern	Wajir
81048	OSMAN HASSAN HARAKE	M	Other Massacre 2000	North Eastern	Wajir
81048	MAALIM AHMED IBRAHIM MAHAD	Not given	Other Massacre 2000	North Eastern	Wajir
81048	YARROW IBRAHIM MAHAD	Not given	Other Massacre 2000	North Eastern	Wajir
81048	HASSAN IBRAHIM ALI	M	Other Massacre 2000	North Eastern	Wajir
81048	ALI IBRAHIM HINI	M	Other Massacre 2000	North Eastern	Wajir
81048	FATUMA IBRAHIM ALI	F	Other Massacre 2000	North Eastern	Wajir
81048	NURROW ABDULAHI ALI	Not given	Other Massacre 2001	North Eastern	Wajir
81048	HABIBA ADAN MOHAMED	F	Other Massacre 2003	North Eastern	Wajir
81048	ABDISALAN NUROW BUCHO	M	Other Massacre 2004	North Eastern	Wajir
81048	MOHAMED ABDULLA MUSSA	M	Other Massacre 2004	North Eastern	Wajir
81048	ZIAD MOHAMED HASSAN	Not given	Other Massacre 2004	North Eastern	Wajir
81048	ABIKAR ABDI MOHAMED	M	Other Massacre 2004	North Eastern	Wajir
81048	AHMED DAHIR ABDIRAHMAN	M	Other Massacre 2005	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	MOHAMEDNOOR HUSSEIN OSMAN ALI	M	Other Massacre 24/03/2000	North Eastern	Wajir
81048	ABDI OSMAN SALAT	M	Other Massacre 5/9/1983	North Eastern	Wajir
81048	BARE OSMAN MOHAMED	M	Other Massacre 5/9/1983	North Eastern	Wajir
81048	ABDI SHIER KULOW	M	Other Massacre 1964	North Eastern	Wajir
81048	RUQIYA BULLE MOHAMED	F	Other Massacre 1964	North Eastern	Wajir
81048	DADEY BULLE MOHAMED	Not given	Other Massacre 1964	North Eastern	Wajir
81048	ALI ABDI BULLE	M	Other Massacre 1964	North Eastern	Wajir
81048	YUSUF BULLE MOHAMED	M	Other Massacre 1964	North Eastern	Wajir
81048	DAHABA HUSSEIN	Not given	Other Massacre 1964	North Eastern	Wajir
81048	ABDI ALLI BULLE	M	Other Massacre 1965	North Eastern	Wajir
81048	OSMAN HASSAN ELMI	M	Other Massacre 1965	North Eastern	Wajir
81048	YUSUF ABDULLAHI IBRAHIM	M	Other Massacre 1965	North Eastern	Wajir
81048	ABUBAKAR ABDULLAHI ABDIRAHMAN	M	Other Massacre 1965	North Eastern	Wajir
81048	ISMAIL ABDULLAHI ABDIRAHMAN	M	Other Massacre 1965	North Eastern	Wajir
81048	IBRAHIM MOHAMED SADIQ	M	Other Massacre 1965	North Eastern	Wajir
81048	ABDULLA MOHAMED SADIQ	M	Other Massacre 1965	North Eastern	Wajir
81048	ALI IBRAHIM DINKA	M	Other Massacre 1965	North Eastern	Wajir
81048	ABDINOOR ALI GABOW	M	Other Massacre 1965	North Eastern	Wajir
81048	ISMAIL ABDULLA SHEIKH ABDIRAHAMAN	M	Other Massacre 1966	North Eastern	Wajir
81048	ABIKAR ABDULLA SHEIKH ABDIRAHAMAN	M	Other Massacre 1966	North Eastern	Wajir
81048	MARYUN ABDULLA SHEIKH ABDIRAHAMAN	M	Other Massacre 1966	North Eastern	Wajir
81048	SHEIKH ALI SHEIKH AHMED	M	Other Massacre 1966	North Eastern	Wajir
81048	MOHAMUD OMAREY MOHAMED	M	Other Massacre 1966	North Eastern	Wajir
81048	ROBLEY IBRAHIM MOHAMED	Not given	Other Massacre 1966	North Eastern	Wajir
81048	ADAN MUDO	M	Other Massacre 1966	North Eastern	Wajir
81048	ADAN ELMI	M	Other Massacre 1967	North Eastern	Wajir
81048	ADAN MUSA	M	Other Massacre 1968	North Eastern	Wajir
81048	ABDIRIZAR OSMAN GULISHO	M	Other Massacre 1968	North Eastern	Wajir
81048	HASNA MOHAMED ALI	Not given	Other Massacre 1978	North Eastern	Wajir
81048	MOHAMED ADAN H	M	Other Massacre 1983	North Eastern	Wajir
81048	ALI ADAN HASSAN	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDULLA OMAR SALAT	M	Other Massacre 1983	North Eastern	Wajir

STATEMENT ID	NAMES	GENDER	CONTEXT	PROVINCE	DISTRICT
81048	MOHAMED MOHAMED ADAN	Not given	Other Massacre 1983	North Eastern	Wajir
81048	MAALIM BILLOW IBRAHIM	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDIRAHMAN ABDI	M	Other Massacre 1987	North Eastern	Wajir
81048	DAHABA AMIN ABDI	M	Other Massacre 1993	North Eastern	Wajir
81048	ADAN MOHAMED ABDIRAHMAN	Not given	Other Massacre 1993	North Eastern	Wajir
81048	YUSUF ABDIRAHMAN	M	Other Massacre 1995	North Eastern	Wajir
35407	MOHAMED NUR FARAHIM SORA	M	Other Massacre 1998	Eastern	Moyale
81048	DAYIB MOHAMED MOHAMED	Not given	Other Massacre 2000	North Eastern	Wajir
81048	ADAN MOHAMED ADAN	M	Other Massacre 2000	North Eastern	Wajir
81048	OMAR YUSUF ALI	M	Other Massacre 1964	North Eastern	Wajir
81048	SALAT OMAR ALI	M	Other Massacre 1964	North Eastern	Wajir
81048	DAHIR SALAT OMAR	Not given	Other Massacre 1964	North Eastern	Wajir
81048	UGAS KUSE	Not given	Other Massacre 1965	North Eastern	Wajir
81048	FARAH SALAT OMAR	M	Other Massacre 1965	North Eastern	Wajir
81048	ABDI ABDULLA HASSAN	M	Other Massacre1968	North Eastern	Wajir
81048	OMAR ABDI ABDULLA	M	Other Massacre 1968	North Eastern	Wajir
81048	IBRAHIM BULLE	M	Other Massacre 1977	North Eastern	Wajir
81048	MUSA ABDI ALI	M	Other Massacre 1983	North Eastern	Wajir
81048	SALAT YARROW ABDI	Not given	Other Massacre 1983	North Eastern	Wajir
81048	ABDULLAHI YAROW ABDI	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDULLAHI ADANI KANYORE	M	Other Massacre 1983	North Eastern	Wajir
81048	ABDIRAHMAN ALI	M	Other Massacre 1983	North Eastern	Wajir
81048	WAYSAME AHMED SHEIKH	Not given	Other Massacre 2000	North Eastern	Wajir
81639	NOT GIVEN	M	Other Massacre,Other,LAND DISPUTE	Coast	Magarini
81208	LUYALOKANIKI	M	Other Massacres 13TH JUNE 2006	Rift Valley	Trans Nzoia
81208	MRS PETER LUWASIKOW	F	Other Massacres23RD Dec 1998	Rift Valley	Trans Nzoia



CHAPTER



Unlawful Detention, Torture and ill-Treatment

I want to thank all Kenyans who have been part of the struggle to make this day possible. We can now discuss this openly including politicians and activists who were detained and tortured for a free Kenya. At that time, it was not possible to even seek legal redress let alone talk publicly about it.[1]

Honourable Mohamed Ibrahim Elmi, TJRC Public Hearing, Nairobi, 18 May 2011

What a waste of time the Moi KANU regime went through, plucking university students from their classrooms and homes and dumping them in filthy dungeons. It did not stop anything. Did it? We are still here. Are we not? We survived. Did we not? Yes, we are survivors and not victims. We are victorious overcomers and not carcasses of state oppression. They tried to bury us alive but we defiantly emerged from the graves called maximum security penitentiaries. We are still here standing up and fighting for peace, justice and democracy. You can lock people up but no oppressor has yet found a way of imprisoning patriotic, democratic and revolutionary ideas.[2]

1 TJRC/Hansard/Public Hearing/Nairobi/18 May 2011/p. 10.
2 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 Feb 2012/p. 47.

Introduction

1 In many ways, and despite the many challenges that it continues to face, Kenya is a country whose democratic and political space is relatively wide and dynamic. At least from 2003, the state has more often than not respected citizens' freedom of expression, assembly and the right to association However, it was not always this way. The freedom that Kenyans enjoy today is an outcome of many years of activism and struggle against dictatorship and state repression or violence It is a freedom that came at a high price for many men and women who dared criticize or oppose Jomo Kenyatta's and Daniel Arap Moi's political administrations Many of them were detained without trial, tortured, and subjected to inhuman and degrading treatment Their families were equally subjected to untold sorrows by state operatives Others succumbed to torture or were killed after undergoing torture

2 This Chapter looks at the nature, extent and impact of unlawful detention, torture and ill-treatment perpetrated in Kenya during the Commission's mandate period During this period, torture was commonplace and used, for the larger part, to crush opposition and any dissenting voices During the Commission's mandate period, widespread and systematic use of torture occurred in the following contexts during the Shifta War, in the aftermath of the 1982 attempted coup; between 1982 and 1991 purposely to quell dissenting political voices and as part of the crackdown on Mwakenya, between 1993 to 1997 as part of the crackdown on the February Eighteenth Revolutionary Army (FERA), in 1997 following a raid on a police station in Likoni, and most recently in 2008 during *Operation Okoa Maisha*, a security operation to flush out members of the Sabaot Land Defence Force (SLDF) in the Mount Elgon region

Definitions and Legal Framework

Torture

3 The Commission was mandated by the TJR Act to investigate acts of torture and severe ill-treatment as part of its broader mandate to investigate gross violations of human rights [3] The Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),[4] which was ratified by Kenya on 21 February 1997, defines torture as

3 Section 2 of the TJR Act 2008 includes torture under its definition of crimes against humanity

4 The Treaty was adopted and opened for signature ratification and accession by General Assembly resolution 39/46 of 10 December 1984 It entered into force on 26 June 1987

> Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.[5]

4. Although, the definition in CAT limits the perpetration of torture to state actors, recent developments in international law recognizes that torture may be committed by non-state actors. For this reason, the Commission extended its research and investigations to cover torture by non-state actors such as the SLDF. Moreover, although CAT distinguishes between torture, on the one hand, and inhuman and degrading treatment, on the other, both in terms of how they are defined and state obligations entailed therein, the Commission did not draw this distinction in its work because it was not a court of law.

5. During the Commission's mandate period, despite the fact that section 74(1) of the Independence Constitution protected individuals from torture, the state did little to legislate against or punish torture. In the 2010 Constitution, sections 28 and 29 provide constitutional protection from torture and inhuman or degrading treatment.

Unlawful Detention

6. Unlawful detention is one of the gross violations of human rights that the Commission was mandated to investigate.[6] According to Section 2 of the TJR Act, gross human rights violations include imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law.

7. The Commission adopted the definition proposed by the UN Working Group on unlawful detention, which broadly considers unlawful the following forms of deprivation of liberty:

   a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty;

   b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 10 and 21 of the Universal

5 CAT, article 1
6 Section 6(a) of the TJR Act relates to functions of the Commission.

Declaration of Human Rights and, insofar as State parties are concerned, by Articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights,

c) When the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.[7]

8 For the purposes of this Chapter, detention extends to deprivation of liberty in the following circumstances either before or during trial but excludes after a conviction, preventive detention (detention without trial), and detention in the form of house arrest and 'rehabilitation' through labour when accompanied by serious restrictions on liberty of movement

9 Prolonged detention occurs during pre-trial detention when a suspect arrested on the suspicion of having committed a crime is not brought before the court within the prescribed period of time provided by the law

10 Legal provisions regulating detention have evolved over time in Kenya During the colonial period, there were three detention laws, namely

a) The Deportation (Immigration British Subjects) Ordinance 1949 Under this legislation early Mau Mau suspects were detained as well as leaders of the Bataka Party of Uganda and Uganda African Farmers Association, both organisations having been banned by Gazette Notice No 678 of 1949 Members of other proscribed groups were also detained under this Ordinance, for example the Somali Youth League (banned through Gazette Notice No. 516 of 1948) and the Kipsigis Central Association (banned through Gazette Notice No 52 of 1948),

b) The Detained and Restricted Persons (Special Provisions) Ordinance 1960 No 3 of 1960 provided for detention of those considered a threat to British rule in Kenya This legislation permitted the detainee to appeal to the Detainee Appeals Tribunal,

c) The Preservation of Public Security Ordinance 1960 empowered the governor allow detention without trial in the preservation of public security The post-independence Preservation of Public Security Act 1966 was a replica of this Ordinance.[8]

7 Fact Sheet No 26 the UN working Group on Arbitrary Detention www2 ohchr org/english/about/publications/docs/fs26 htm (accessed 13 February 2012)

8 The Price of Political Freedom The story of political resistance in Kenya W Kihoro 2005

11. Kenya has ratified the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR) that expressly prohibit unlawful detention. Article 9 of the ICCPR states that "no one shall be subjected to arbitrary arrest or detention; no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." Article 6 of the African Charter on Human and Peoples' Rights provides that 'no one may be arbitrarily detained.'

12. Under the Independence Constitution the right to personal liberty was a constitutionally protected right that was subject to lawful limitations. Section 72 of the Constitution read together with Section 36 of the Criminal Procedure Code of Kenya Cap 75 prescribed lawful detention and protection of the rights of the detainee. A detained person must have been informed of the reason for his detention and brought before court within 24 hours of his arrest or released on bail if he was suspected of having committed a non-capital offence. Section 72(3) provided that an individual suspected of having committed a capital offence (punishable by death) be brought before court within 14 days of his arrest. Upon failure to do so, the burden of proof lied with the person alleging this provision had been complied with. Section 72(6) of the Constitution provided that a person who was unlawfully detained by another person shall be entitled to compensation from the latter.

13. Section 29 of the Criminal Procedure Code gave police wide discretionary powers to arrest individuals (without a warrant) if they suspected a crime had occurred or was imminent. The Criminal Procedure Code lays down the provisions on pre-trial detention. Section 36 of the Criminal Procedure Code provides that upon taking into custody such an individual arrested without a warrant, if it does not appear practicable to bring the person before a court and he has not committed a serious offence (murder, treason, rape, robbery with violence or attempted robbery with violence), the person must be released upon executing a bond for a reasonable amount. This provision is read together with Section 123 which allows for the person to be released on payment of bail or execution of a bond without sureties.

14. The Criminal Procedure Code also lays down provisions for pre-trial detention when an individual is arrested with a warrant. Section 108 provides that the court issuing a warrant of arrest for offences other than murder, treason or rape may direct that the suspect executes a bond with sufficient sureties for his attendance before the court.

15 Article 83 of the Constitution, however, permitted the derogation from fundamental rights and freedoms in situations when Kenya was at 'war' Section 85 of the Constitution also provided that the "President may bring into operation by order published in the Kenya Gazette, Part III of the Preservation of Public Security Act"

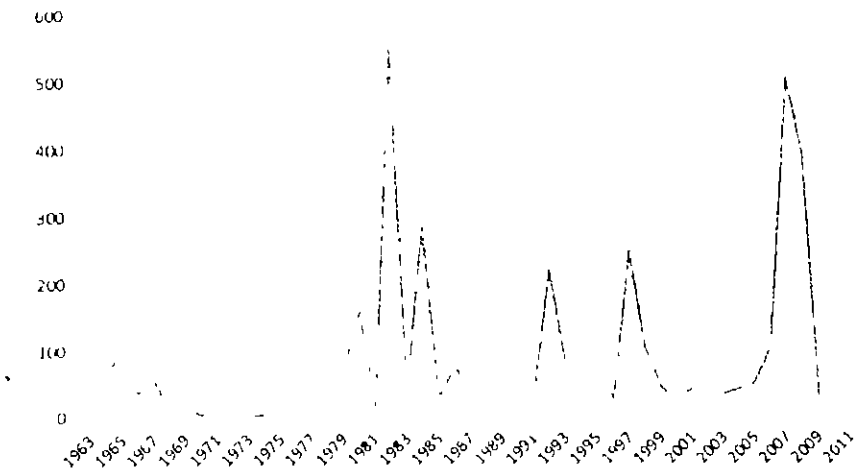
16 The Preservation of Public Security Act (PPSA) No 18 of 1966 gave the President the authority to give orders for detention of persons without trial. Although this measure was applicable in emergency situations, the law was applied indiscriminately even when the country was at peace. The PPSA also gave the Minister of Home Affairs powers to detain a person without trial if he was satisfied that the person was a threat to public order and security

Methodology

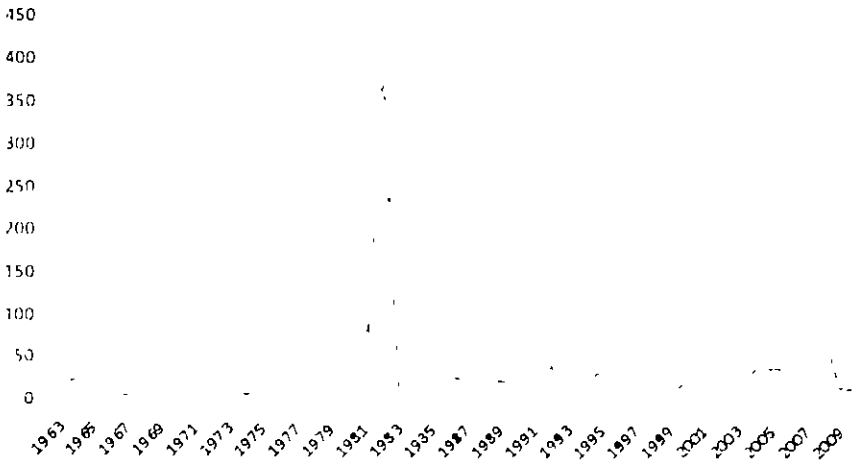
17 The Commission received 4345 statement and memoranda on torture and 1144 on unlawful detention. The Commission conducted thematic hearings on Torture and on Prisons and Detention Centres during which it heard witnesses from the Ministry of Public Works, the Prisons Service as well as relevant civil society organizations whose areas of expertise include promoting the rights of torture victims and of prisoners The Commission also relied on secondary sources of information available at its disposal, including academic writings and reports by non-governmental organizations

18 The following graphs shows the number of cases of torture and unlawful detention reported to the Commission over time

Cases of Torture



Cases of Unlawful Detention



19 The patterns of torture cases follow major events in the history of Kenya There are peaks during the *Shifta* War, immediately after the 1982 attempted *coup*, then around the events leading to the return to multi-party democracy in 1991-1993, and finally around the presidential elections of 1997 and 2007

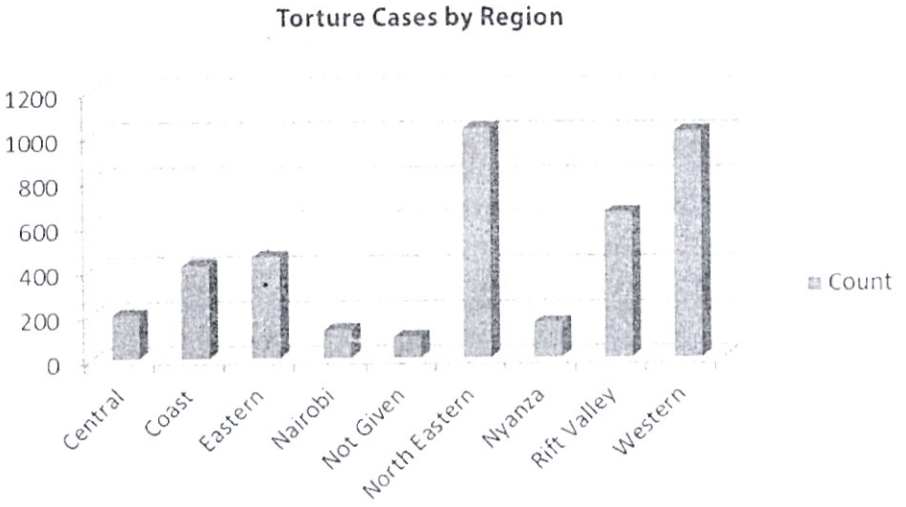
20 The occurrence of unlawful detention was not uniform over the mandate period of the Commission The graph above illustrates that there were several peaks in the number of violations related to unlawful detention The Commission also received a high number of violations related to unlawful detention that occurred during the colonial period between 1952 and 1960, during the state of emergency.

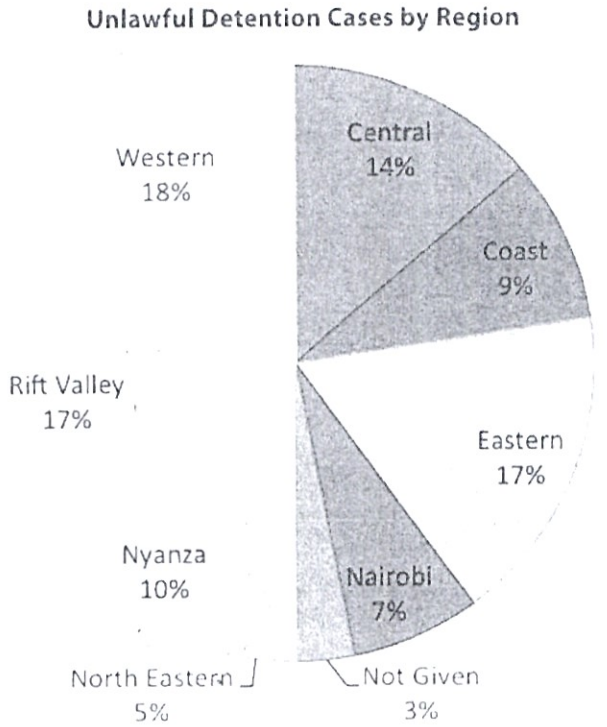
21 Episodes of unlawful detention also occurred predominantly during and immediately following the attempted *coup* of August 1982 as well as during the popular demands for multi-party democracy in the early 1990s Other incidences of unlawful detentions occurred during the presidential elections in 1992, 1997 and 2007 Noteworthy is the fact that the Commission also received reports of cases of unlawful detention beyond its mandate period (after February 2008)

22. The two graphs taken together show that peaks in torture cases were not always linked to peeks in unlawful detention cases This is consistent with testimonies received by the Commission that indicate many torture cases taking place outside of detention centres or during or immediately following arrest by police These testimonies will be presented in later parts of this chapter

Patterns by region

23. The graphs below shows the distribution of cases of torture and unlawful detention reported to the Commission by region:





24 Torture an unlawful detention occurred throughout Kenya in a pattern that was a reflection of the forces that were shaping events at the time The Commission received statements from Western Province, where suspected members of clandestine movements such as February Eighteenth Resistance Army (FERA) Nyanza had the highest number of victims who reported to the Commission as victims of detention during the attempted *coup* in 1982

25 In Rift Valley, the data revealed that most detentions occurred in the aftermath of presidential elections Eastern province revealed a pattern in which most of the unlawful detention and torture cases took place as a result of the government's crackdown against the *Shifta* Administratively, Isiolo and Marsabit are districts that fall under Eastern province where the *Shifta* were also present in North Eastern Province The highest number of cases of torture reported to the Commission took place in North Eastern and Western provinces

The victims

26 The Commission identified 12,756 victims of torture, of which 19% were women, and 6095 victims of unlawful detention, of which 10% were women The low percentage of women might be explained by the fact that men were predominantly involved in political activities and were therefore most likely to be targeted for state violence Those who openly criticized state conduct were detained without trial or jailed on trumped up politically motivated charges

The Perpetrators

27 The majority of the victims of unlawful detention, torture and ill-treatment who appeared before the Commission identified the police and the military as the main perpetrators Within the police force, torture was perpetrated largely by officers attached to the Special Branch which was in 1986 replaced by the Directorate of Security Intelligence The DSI was disbanded in 1998 and its tasks were eventually passed on to what is now known as the National Security Intelligence Service (NSIS)

28 The Commission established that in Nairobi, a special task force was established for the sole purpose of interrogating and torturing individuals who were suspected to be a threat to national security or were suspected members of Mwakenya and other such underground movements A witness who worked with the police in the Provincial headquarters in Nyayo House in January 1986 told the Commission

When I was posted to Nairobi, after a few weeks I was told, "You are one of the officers who are going to do a special task which has arisen, but you will be briefed" I was told to report to Mr [James] Opiyo We were quite a number of officers who had been drawn from various places It was a special kind of operation We were told that there was a movement which had been engaging in subversive activities "We have arrested some people and we want to embark on investigation of this movement and see to what extent it has operated and know the people who are involved and their aims and objectives" Having been in the service, we understood what was meant by subversion [9]

29. Among the members of this task force were James Opiyo, Peter Munyiri, Elias Mjomba, James Majani, James Kilonzo, Serbi, Ben Machiri, Martin Muthee, Francis Mwabembe, Ndirangu and Paul Liminaji. The task force operated under the leadership of James Opiyo There were other junior officers who guarded the cells at the basement of Nyayo House, including Peter Kimanthi, Rukwaro, and Martin Ochanda

30 Although members of the judiciary and the Office of the Attorney General did not play a role in the torture of individuals, they were accomplices to these violations insofar as they conducted trials that lacked any guarantees of fair trial, including conducting such trials in the night In many cases, they turned a blind eye to the fact that the accused persons had been evidently tortured. Although many victims who recorded statements and testified before the Commission indicated that they had stood trial late in the evenings and often into the nights, Benard Chunga who admitted to have prosecuted a good number of the Mwakenya and FERA cases, insisted that 'to my recollection and I say this with absolute honesty I do not recall any occasion when any of these cases – *Mwakenya* or FERA – were dealt with beyond 5 00 p.m' All he could admit is that perhaps there were isolated cases which took place in the night However, like most AMPs who appeared before the Commission, he emphasised that it was not easy to clearly remember events that had happened close to 20 years before He alluded to the fact that his memory would have been refreshed if he had the court records.

31 Despite the clear lack of independence of the judiciary during his tenure, a fact entrenched by the removal of security of tenure of judicial officers in 1988, President Moi insisted to the Commission that the judiciary was independent during his time in his office

I do not agree with the assertion that the justice system was interfered with during my term of office I can only explain this through the system of hiring judges and the appointment of the Chief Justice, which was done as provided by the law [10]

9 TJRC/Hansard/In-Camera Hearing/Nairobi/29 February 2012/p 4

10 Former President Moi *My views to the Truth Justice and Reconciliation Commission* 21 May 2012

Detention and Torture during the Colonial Era

32. While the colonial era is outside the strict temporal mandate of the Commission, an account of violations that occurred during the immediate that period is necessary because most colonial practices and law, including those relating to detention and torture, were maintained by the independent state.

33. As narrated in the chapters on Historical Context and the History of Security Agencies, the colonial state employed violence to stamp its authority in Kenya. Uprisings against the colonial administration were quelled with disproportionate force. Detention and torture during the colonial period reached a peak during the emergency years, 1952 to 1955. The declaration of a state of emergency in 1952 was followed by detention and torture of all Africans who were suspected to be or associated with Mau Mau. Thousands of Africans were detained during two particular operations: Operation John Scott and Operation Anvil.

34. Screening camps were established in various parts of the country, especially in Central and Rift Valley Provinces, and at which individuals were interrogated to establish whether or not they were members of the Mau Mau. During these interrogations, torture was the norm and its absence the exception.

35. The horrific descriptions of the methods of torture used during the emergency period have been described in detail by Caroline Elkins' book *'Britain's Gulag: The Brutal End of Empire in Kenya'*. In many cases, torture took a predominantly sexual nature. In general, British soldiers, policemen and Home Guards were responsible for inexplicable acts of sexual violence:

> When the Mau Mau war was going on, women were violated a lot by the colonial soldiers. Women were beaten and raped. Batons were inserted into their private parts. Do you hear that? I do not know if you have heard of that? Have you heard of such things – that our women were beaten up and raped by the colonial soldiers, and that batons were inserted into their private parts? Do you know where our private parts are? You can imagine a bottle being pushed in and then you are left there or beaten.[11]

36. A common practice during interrogation was to squeeze men's testicles with pliers. In his book 'Mau Mau Detainee', James Mwangi Kariuki (J.M Kariuki) wrote that he had witnessed with his own eyes a man who had been castrated:

> I have seen with my own eyes that Kongo Chuma whom I first met in Nakuru before he was detained and who is now living at Kianga in Embu district, has been castrated. He had not been like this when he was in Nakuru but when we met in the detention camp

11 TJRC/Hansard/Women's Hearing/Nairobi/21 February 2012/p. 11.

at Athi River he told me it has been done to him by the screeners at Kwa Nyangwethu He also told me that bottles of soda water were opened and pushed into the uterus of some women to make them confess Kongo said these things were done by the Africans but the European officers knew what was going on [12]

37 Those who were found to owe allegiance to Mau Mau in any way were transported to detention camps where they were not only tortured but subjected to inhuman and degrading conditions Not even women were spared At Kamiti Women's Detention Camp, for instance, those detained include pregnant [13] It was common for suspected members of Mau Mau to be moved from one detention camp to another J M Kariuki, for instance, was detained in 14 camps around the country Mutua Kirimi who presented a statement to the Commission was detained in three camps

> I was taken to the screening camp I stayed there for a month then I was taken to Lang'ata where I stayed for a week Finally, I was taken to Manyani detention camp· Compound number 8 where I was detained for a month before I was released [14]

38 Jonathan Njoka Muruanguiko was detained in four detention camps He recounted his ordeal in a statement submitted to the Commission·

> I was arrested and detained for one month in Majimbo, two years in Mageta Island, three months in Manyani Camp and six months in Kathigiriri (Mwea) Camp I was alleged to be a *Mau Mau* fighter I was tortured highly, especially my genital organs that left me sterile as well as the beating that left me deaf[15]

39 Another victim, Nguru Mbora, suffered permanent injuries after he was brutally beaten by a warden in a detention camp

> I was arrested by policemen from Runyenjes police station During my detention, I suffered a dislocated leg joint after I was hit with the butt of a gun by prison warders I have a problem walking I am highly dependent on people, not to mention my disability (blindness) [16]

40 Sometimes the brutal beating of prisoners at these detention camps resulted in death As described in detail in the Massacres Chapter, on 3 March 1959, 11 detainees were clubbed to death by guards at the Hola Detention Camp while the surviving prisoners sustained serious permanent injuries

12 JM Mwangi *Mau Mau Detainee* (2009) 30
13 W Kihoro *The Price of Freedom The story of political resistance in Kenya* (2005) 82
14 TJRC/Statement/38763
15 TJRC/Statement/29361
16 TJRC/Statement/43381

Operation Anvil

Excerpt from Tom Mboya Freedom and after (1963) 37-39

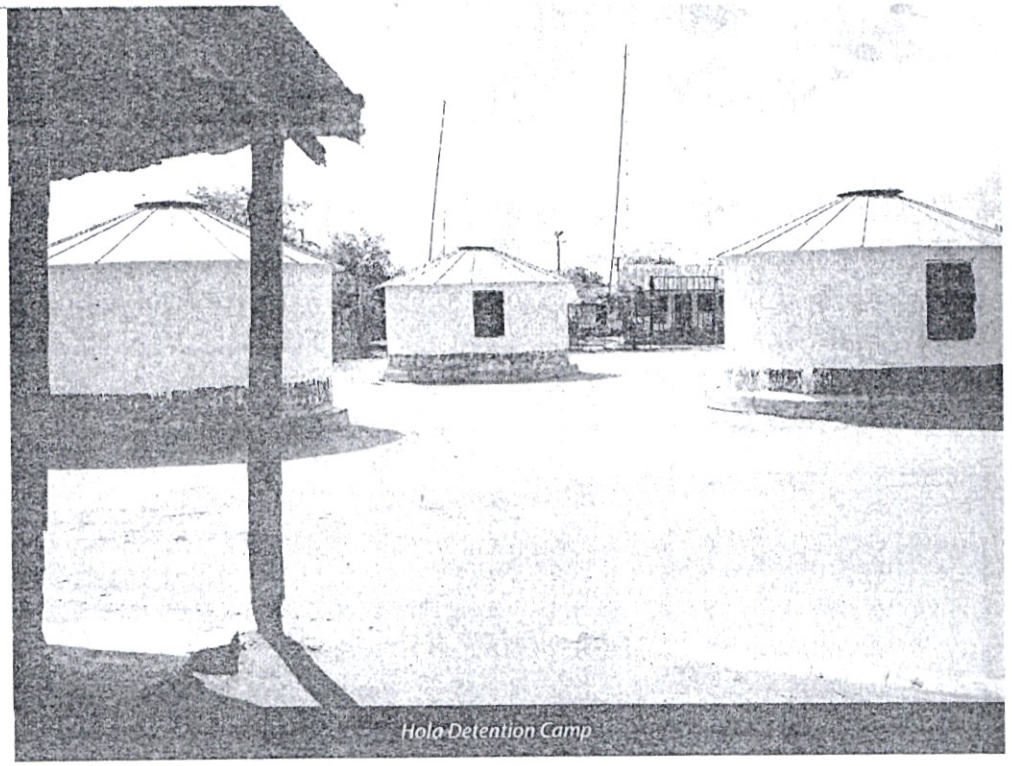
'Operation Anvil, 'the biggest sweep of the whole Emergency, began in the middle of a Saturday morning – April 24th, 1954 – when Africans had already started work in the offices, shops and factories of Nairobi. The streets were suddenly full of lorry-loads of soldiers with machine-guns. Cordons were thrown around the whole area. Leaving several colleagues in my office, I went down into the street. Within a few seconds I was challenged by soldiers pointing a gun at me. I raised my hands above my head as ordered and walked up to him. He gave me a shove with the butt of his gun and ordered me to walk on. I was taken to a street island where other Africans were already sitting, and ordered to squat down. I noticed that some of the people in the group were marked with paint all over their faces. Later I learnt these people were either hesitant when called upon to stop, or were found in what the soldiers regarded as suspicious circumstances.

For hours we waited until we were ordered into a lorry and driven to a reception camp which was surrounded by barbed wire. Here we again squatted for hours. Then we were lined up and European police officers asked each one of us his tribe and separated us accordingly. Those of us who were non-Kikuyu were led out of the camp by a European officer, who told us we were free to go home but warned us not to come back into the cordoned area. No questions were asked, no names given. Such were the methods used 'Operation Anvil', in which 35,000 men and women were detained.

[...]

There were many other incidents, many other times when we were whisked off from our offices and sent to screening camps. We were asked whether we knew Mau Mau agents or where oathing was taking place. For many of our members who were Kikuyu, Embu or Meru, the arrest meant a one-way ticket to the detention camp. For the rest of us, we were only saved because we did not belong to the Kikuyu tribe. But many times our houses were raided during the night and turned upside down in a police search. When Nairobi was portioned off into tribal areas, I was very surprised that I was put into the Kikuyu area - Bahati – instead of being left to live in the Luo area of Kaloleni. I suppose this was because some people in the administration thought I was a bad influence since I had been outspoken on some of the Emergency problems.

But outspokenness had its effect. W e made a strong statement against the screening methods. Hooded men (or were they women?) were bought into a camp and merely pointed at a person without confronting him with any evidence or witnesses, and on those grounds alone the person pointed at was sent off to a detention camp. There was no knowing who was under the hood – an African or a European.



Hola Detention Camp

Detention and Torture during President Kenyatta's Era

41. The practice of torture and unlawful detention did not end with the hoisting of the independence flag. Repression of dissent in a variety of ways continued under the leadership of President Jomo Kenyatta. The bureaucratic centralization of power under colonial rule, weak party structures and lack of respect for the Constitution were all inherited by the Kenyatta regime. The government retained the colonial legal framework, which allowed it to control political activity in the country through legislation such as the Public Order Act and the Chief's Act.

42. Although the KANU manifesto described preventive detention as inhumane and pledged to abolish the 'undemocratic and unjust practices', emergency laws were reinstated by the passing in June 1966 of the Preservation of Public Security Act (PPSA) which allowed for preventive detention to persist. The PPSA was applied as a weapon to preserve the interests of the ruling party, which were camouflaged as interests of the State.[17] The PPSA enabled the state to detain individuals without trial, allowed control of free movement, authorized the imposition of curfews, and press censorship.

17 Kenya Taking Liberties: An Africa Watch Report (1991)

43 Unlawful detention and torture during President Kenyatta's presidency was rampant during two particular contexts. In the context of the Shifta War and as part of the state's repression of dissenting political voices Violations committed during the Shifta War include unlawful detention and torture have been covered in a separate chapter of this Report

44 Following the enactment of PPSA, the detention of individuals who dared criticize or oppose Jomo Kenyatta's administration became rampant and commonplace Political activists were kept under constant surveillance by the police In August 1966, 18 KPU supporters were arrested and detained In many cases, individuals associated with political activists were harassed and even tortured for no other reason than the fact they were thought to owe allegiance to such political activists For instance, upon Jaramogi Odinga's resignation as Vice President in 1966, one of his bodyguards, he was forced to resign as a police officer at the tender age of 26 years and ordered to stay out of Nairobi for a period of five years His career having been brutally cut short, he fell into destitution He told the Commission his sad story in Kitui

> I was working in the Police Department I managed to be an escort of Jaramogi Oginga Odinga I stayed with him for that time he was working in Government They came to differ with another fellow elder who was the President of this country, Mzee Jomo Kenyatta When they differed, it was said that I was to go to the Police Commissioner who was called Bernard Hinga I received the report from the officer in charge at Muthaiga Police Station that year After the elders differed, I went back to Merek Police Station When I went to see the Commissioner of Police he told me that I should explain to him the movement of the old man we were working with The old man loved me because I was really obedient I told the Commissioner that, personally, I was not taken there by the Government to do investigations about a person, but I went there to protect the life of the person I continued telling him that if he would ask me how he was injured, I could have an answer I could not just give information about somebody I am a Christian and speak the truth He gave me 48 hours to go back with a full report about *Mzee* Jaramogi Oginga Odinga When I went back he asked me, "Do you have the complete report?" I replied that I did not have any report to give him and that was all He told me I should go and write a resignation letter and if I could not do that I would be dismissed without any document even to show I was in the police I did not have any choice, I wrote the resignation letter so that if I was dismissed, I could get employment even as a watchman Once dismissed from the job, I thought it better for me to go back home I was ordered to stay for five years without going back to Nairobi Town For sure, I stayed, persevered and my people suffered [18]

45 Another victim of such harassment was a police officer attached to the Special Branch and was at one time charged with the responsibility of guarding the house of Oginga Odinga when he was under house arrest He told the Commission the following story

18 TJRC/Hansard/In Camera Hearing/Kitui/1 December 2011/p 21-22

People who were critical of the arrest and detention of Jaramogi Oginga Odinga and talked about it in public were similarly arrested which I thought was not justified I remember that there was a DO1, Jembe Mwakalu He heard that Jaramogi wanted a public administration officer to go to his house so that he could tell him his tribulations The DC declined to visit the home, but Jembe Mwakalu opted to go there to listen to the old man's problems Immediately he came back, Mwakalu was arrested by junior police officers who had been instructed to wait for him He was placed in the police cells The police station was next to the District Headquarters where he worked as DO1, currently, Deputy District Commissioner He was kept in the police cells for over a week He was not allowed to take a shower or change his clothing. At one time when I and other officers were taking his statement, the DO actually smelled He was taken to Nairobi and later I learnt that he was detained He later fled the country when he was released

46 He continued

Personally, I got into trouble with the Special Branch while I was guarding Jaromogi Oginga Odinga when one morning he decided to leave He had been given limited permission to be going to town for about an hour and then he would be driven back to the house On that day, he decided to move out and he was driven to his Bondo home in Siaya When I reported that Jaramogi had disappeared, I was told to produce him within an hour or I would be placed in the cell in his place So, I took my crew and followed him while making inquiries on the way until we traced him at his Bondo house The following morning he told me that he had accomplished what he wanted and he wanted to go back to Kisumu He was to be driven in his Mercedes Benz by his driver, Daniel Obuon I allowed him to do so However, instead of driving to Kisumu, he was driven very fast in his vehicle I was then using a Bluebird Station Wagon and so I could not match their speed So, Oginga and his team disappeared only to resurface in Kampala the following day This brought a lot of distrust on my side My seniors felt that I had known about the disappearance of Oginga from Kisumu and Siaya This instilled a lot of fear in me because I had known while working in the department that there existed a special department that was dealing with Government critiques and it was possible then to be placed in detention at any time So, I was in fear. None of my seniors believed any story I told them about Jaramogi I told them that the loophole he used to escape was not my making because it was the headquarters that had allowed him limited freedom of moving to town That made them spare me although inwardly I knew that they continued to follow me Later in 1983 I was transferred from Kisumu to Bungoma, my home district In Bungoma, the District Security Intelligence Officer (DSIO) was an inspector I was also an inspector, but when I arrived I was told that I would be posted to Sirisia as a field intelligence officer which position was being filled by subordinate officers, that is, constables, corporals, sergeants and senior sergeants, but not inspectors. I agreed to move on where I worked for four months and then I transferred to the headquarters in June, 1983 [19]

19 TJRC/Hansard/In-Camera Hearing/Bungoma/10 July 2011/p 25

47. In October 1969, KPU was banned after the opening of Nyanza Provincial Hospital by President Jomo Kenyatta turned violent, culminating in what is popularly referred to as the Kisumu massacre. In the same year, KPU officials were detained without trial, including Oginga Odinga, Ochieng Oneko, Bildad Kaggia and Wesonga Siyjeyo. Daniel arap Moi, who was at the time the Vice President, justified these detentions without trial stating that 'any government worth its salt must put the preservation of public security above the convenience of a handful of persons who are doing their utmost to undermine it'.[20]

48. Although men were the predominant victims of detention and torture during President Kenyatta's era a few women were also victims of the repressive regime, including Caroline Okello-Odongo, Jaramogi's personal secretary, and Chelagat Mutai, a Member of Parliament. Detention and torture continued throughout President Kenyatta's time in office and by 1978 there were at least 26 political prisoners in jail.

Detention and Torture during President Moi's Era

49. Moi's accession to the presidency was followed by crucial moments of political strategising and positioning. His immediate approach towards politics and the country's leadership soon after the transition has been generally perceived as open and optimistic. The outlook of optimism was partly illustrated by the release by of 26 political detainees held under Kenyatta for varying periods on the fifteenth anniversary of the country's independence (Jamhuri Day, 1978).[21]

50. This gesture certainly signified to many the dawning of a new era in Kenyan political life, the ushering of a chapter of tolerance and reconciliation. On the contrary and quite in a subtle manner, around the same time the provisions authorizing detention without trial in the Public Security Act were renewed. New regulations were laid before Parliament on 3 November 1978.

51. Following the attempt to topple his government by force in 1982, President Moi established an autocratic patronage system that systematically undermined the rule of law and respect for human rights. What emerged through this period was

20 G K Adar and M Munyae, 'Human rights abuses in Kenya under Daniel Arap Moi 1978-2002', Africa Studies Quarterly (2001)

21 Political prisoners who were released were: Ngugi wa Thiong'o, George Anyona, Mitchell Muhoro Muthoga, Joseph Martin Shikuku, Apollo Washington Juma, Jean Marie Seroney, Charles Gikonyo Rukungu, Ruel Thairu Muthiga, Charles Mwangi Mahinda, Peter Gicheru Njau, Adam Mathenge, Michael Koigi Wa Wamwere, Moffat Muthee Munyara, Mwanzia Lawrence Boniface, Lawrence Were, Wesonga Sijeyo, Dagane Golal Mohammed alia Haji Dagane Galal, Haji Mahat Kuno Roble, Ibrahim Ali Omar, Duale Roble Hussein, Ali Dabat Fidhow, Mohamed Dahir Digale, Mohamed Nurie Hanshi, Ahamed Shurie Abdi alias Ahmed Shurie Stamboul, Mohamed Abdille Hadow and Sugow Ahmed Adam.

an authoritarian system where the President directly became involved in almost everything in the country, particularly issues concerning the rights of individual Kenyan citizens to speak their minds, assemble without hindrance, and write and publish without undue restrictions A wide range of individuals were targeted for detention and torture, including politicians, university lecturers, and students Lecturers in particular would be detained and tortured for allegedly teaching subversive literature aimed at creating disorder in the country.[22] Eventually the University Staff Union was banned for what the government referred to as 'over-indulgence in politics'[23] Many lecturers were also forced into exile for fear of their lives

Detention and torture in the aftermath of the 1982 attempted coup

52 On 1 August 1982, several members of Kenya Air Force (KAF) officers staged a coup against the government. They took over of Embakasi, Eastleigh and Nanyuki airbases, and seized Jomo Kenyatta International Airport, the post office and Voice of Kenya Broadcasting House However, the coup was quickly crushed by loyal forces that recaptured the Voice of Kenya Broadcasting station

53 The operation mounted by the loyal forces to regain control of the captured points in Nairobi resulted in heavy casualties Unofficial estimates of casualties range from 600 to 1,800 [24] Other sources state that about 2,000 KAF personnel and at least 1,000 civilians were detained [25] In order to find out those who had planned, staged and supported the coup, KAF officers were arrested, detained and tortured. Many university students, lecturers and civilians who were suspected to have been participants in the coup, in one way or the other, were similarly detained and tortured

54 Many of the KAF members who testified before the Commission said they were arrested within their army base while others were arrested on arrival at their bases after the attempted *coup* They were transported to various police stations, army headquarters, KAF Nanyuki, Kamiti maximum prison, Kodiaga main prison, King'ong'o prison and Naivasha maximum security prison According to some of the witnesses, the Air Force officers were arrested by soldiers from the Kenyan army A witness who testified before the Commission estimated that three quarters of the 1,500 who were sacked neither knew about or played any part in the attempted *coup* [26]

22 B A Ogot, Editor "Politics of Populism" in Decolonisation and Independence in Kenya, 1940-93(1995) 199
23 Adar K, G "Human Rights and Academic Freedom in Kenya's Public Universities The Case of The Universities Academic Staff Union" Human Rights Quarterly (1999) 187
24 *Kenya a History Since Independence* C Hornsby (2012) 377
25 J Achira *Mwakenya* Real or Phantom? A journalist s Harrowing Experience in the Moi Regime, pg xxiii
26 TJRC/Hansard/Public Hearing/Nairobi/21 March 2012/p 13

55. At Nanyuki Airbase, Air Force officers were arrested, beaten and made to move on their knees for almost 800 meters. They were later made to sleep inside a go-down near the supply section within the barracks. They were not given food until the fourth day. Army soldiers started interrogations on the sixth day. On the tenth day, they were taken to Kamiti maximum security prison led by their commander Major General Kariuki. Humiliation continued when all were told to remove their clothes and remain naked. They were later given their clothes and the following day on 11th August 1982, they were then transferred to Naivasha maximum security prison. The officers again were denied food until 20th of August. Interrogations began again on the 21st. One witness recalls the painful experience thus:

> By this time we could hear people crying and screaming with pain. On the 3rd October, 1982 I was called for interrogation by three people in plain clothes and they asked me questions about the *coup* [...] I was told that there was someone who said that I had information about the *coup* and am refusing to tell them the truth. This is the time I was taken to Naivasha Nyayo House Block F. Here there were rooms filled with water halfway and I was thrown there for four days. This was my bed, toilet and even water to drink and food.[27]

56. Another witness told the Commission the following story:

> When I went for interrogation, I was told to explain to them what I knew about the revolution and I said that I knew nothing. When I said that, I was told to take the bowl to the fish. I did not understand what the fish meant. But the fish meant a cell that was inside, was painted black and was blocked. Inside, there was no light and there was water that used to go up to one's legs. I was stripped naked and told to go there. I was forced to enter there. I thought this would take a day and it was very dark. For those who have gone to Naivasha Prison, this is a building inside a building. Therefore, you cannot see outside. I stayed there and very early in the morning, prison officers would come with very cold water. I would be given that cold water and told to bath. I stayed there for seven days without eating and I was naked. At first, I could stand but later, I became very weak until I slept on the water. I had to persevere and after seven days, I was told to say the truth. I was told that if I did not say the truth, this time round, they would not take me to the water but finish me. I was forced to explain the truth. I told them how I was arrested and after that, someone was recording a statement. I was told to sign and I was not taken back to the water. I was taken to a different cell and given porridge.[28]

57. Evidence that crude methods of interrogation were used has also been corroborated by other witnesses according to memoranda submitted by the Victims of Coup

27 TJRC/Statement/13030
28 TJRC/Hansard/Public Hearing/Wundanyi/25 January 2012/p. 4

Attempt (VOCA) and the Nyanza VOCA welfare association. The former Air Force officers narrate the inhuman and degrading methods that were used to obtain confessions. These confessions extracted through torture would later be used in court martial against the officers.[29]

58. Interrogation continued in Naivasha prison as Air Force officers awaited to be transported to Nairobi for court martial. On 21st October, the officers were taken to Kamiti maximum security prison where they waited to be charged with mutiny. One witness who presented a memorandum to the Commission described the 22nd August 1982 as a 'day of darkness', when he was sentenced to six years in detention. They were taken to industrial area prison where he describes the condition as "people lived like animals in a den full of lice everywhere."[30]

59. On 26th October, many Air Force officers were transferred to Shimo la Tewa prison in Mombasa. From 1st August when they were arrested until 6th June 1983, they were not allowed to communicate with their families. One witness recounts how none of his family members and friends knew where he was. Later on, many officers had their sentences reduced by years without any explanation. Other soldiers were held for months without criminal charges being preferred against them and later discharged without being given a reason. Some witnesses who testified before the Commission said they were used as prosecution witnesses and issued with new service numbers only to be dismissed after the trials were completed.[31]

Testimony of a member of Kenya Air Force who was arrested, detained and tortured in the aftermath of the 1982 attempted coup

After a while, the army people came in. When they came in, they stripped us naked and beat us up. We stayed there up to 1.00 a.m. when lorries were brought and we were taken to Kamiti Prison. At Kamiti, we slept hungry while naked on the floor. The cell was a big room. We were about 500 people who had been squeezed in that room. We stayed there for two days without eating anything and we were naked. After three days, we were brought some clothes, trousers but no shirts. We were also brought some food like porridge. After taking the porridge, we were told that there would be screening. After sometime, they started calling us. They would call us and you would go and meet a committee which was carrying out screening. They would ask if you had taken a gun and if you said yes, you would be given a red piece of paper and taken to a different cell. After that you would be taken to Naivasha Prison.

29 Memoranda submitted by Nyanza VOCA Welfare Association on July 2011 in Kisumu p. 6
30 TJRC/Statement/13030
31 TJRC/Statement/36403

At Naivasha Prison, you would be put in a small cell measuring six feet by four feet. We would sleep there about 12 people and we would be given a small bowl that we would use for our calls. Sometimes we would tell the prison warders that the bowl was full and we wanted to get out but they would refuse. The cell was built in a way that it was very cold. We really suffered there for about two weeks when they started interrogating us. When I went for interrogation, I was told to explain to them what I knew about the revolution and I said that I knew nothing. When I said that, I was told to take the bowl to the fish. I did not understand what the fish meant. But the fish meant a cell that was inside, was painted black and was blocked. Inside, there was no light and there was water that used to go up to one's legs. I was stripped naked and told to go there. I was forced to enter there. I thought this would take a day and it was very dark. For those who have gone to Naivasha Prison, this is a building inside a building. Therefore, you cannot see outside.

I stayed there and very early in the morning, prison officers would come with very cold water. I would be given that cold water and told to bath. I stayed there for seven days without eating and I was naked. At first, I could stand but later, I became very weak until I slept on the water. I had to persevere and after seven days, I was told to say the truth. I was told that if I did not say the truth, this time round, they would not take me to the water but finish me. I was forced to explain the truth. I told them how I was arrested and after that, someone was recording a statement. I was told to sign and I was not taken back to the water. I was taken to a different cell and given porridge. I took porridge for two days and I started taking food. After one week, I was taken to Kamiti Prison. I stayed there for one day and the following day, I was taken to Lang'ata Barracks where there was a court marshal.

At the court marshal, we were called in a group of 12 policemen and we were told that we were supposed to go and we should go and look for someone to defend us. We were told to explain what kind of a defending officer we wanted and it had to be an officer who was at the rank of a captain and above. We proposed our CEO who was Colonel Kamunye. They said that they did not want one from the Air Force and that I should take one from the army or the navy. I said that I wanted Major Masila and at that time, he was the CEO at the Training Camp at Lanet and I knew him very well. Surprisingly, I did not even see Major Masila. I was brought another captain and I was told that that would be our defending officer. The captain called us and told us that it was a court marshal and not like a normal court. He told us that the statement we had recorded and signed is what would be brought to the court. I was told that the statement would be brought and when I was asked a question, I was only supposed to say yes. If I refused, I then would be taken back to Naivasha and hanged. Therefore, I had to let him speak on our behalf. We took an oath and the case began. We were taken there and told that we were found in Nairobi armed with a gun with an aim of threatening civilians and bringing about chaos. We said "yes" and after that, I was sentenced to nine years in jail. I was taken to Industrial Area Remand Prison on 19th October, 1982 where I slept for two days and

the place was very dirty with many jiggers After two days, I was put into a vehicle and taken to Shimo La Tewa Prison

I started my life in prison and we had to appeal We were told that there was no appeal and in 1984 we were told that the Commanding Officer at the Shimo La Tewa Prison had allowed us to appeal We were given papers and filed our appeals In 1995, we went to the Mombasa High Court for the appeal and Justice Bhandari was the one who was listening to the appeals The appeals were rejected and we were told to continue with our jail terms and that we did not have enough grounds to file appeals I continued with my jail term until I finished it in 1998 I only stayed there for six years

There were many problems in prison Those who know what used to happen during that era, they know that the prison was bad We used to be beaten a lot by the prison warders We used to be known as Air Force policemen and the prison warders used to hate us very much You would be beaten very badly when you were found with a small mistake There was a time when cholera broke out and people died We stayed for two weeks without treatment and doctors came from Nairobi to treat us when we refused to eat Life at Shimo La Tewa Prison was very difficult I remember the commanding officer who came from Naivasha We stayed there for two years and during his era, we really suffered At that time, you would be beaten and not allowed to speak to prison warders while standing One had to kneel While speaking to them, they would beat you at the joints of your knees But I thank God that He helped us I completed my jail term and was released After being released, I was given Ksh 44 for all the six years

The trials

60 Those who were thought to have participated in the coup were transferred to Lang'ata Army barracks where they tried for mutiny Evidence received by the Commission show that the trials were marred with violations of fair trial guarantees One witness told the Commission that he was not given a chance to choose a lawyer of his own choice from within the military rank.

> We were told to explain what kind of a defending officer we wanted and it had to be an officer who was at the rank of a captain and above We proposed our CEO who was Colonel Kamunye They said that they did not want one from the Air Force and that I should take one from the army or the navy I said that I wanted Major Masila and at that time, he was the CEO at the Training Camp at Lanet and I knew him very well Surprisingly, I did not even see Major Masila I was brought another captain and I was told that would be our defending officer. The captain called us and told us that it was a court marshal and not like a normal court He told us that the statement we had recorded and signed is what would be brought to the court I was told that the

statement would be brought and when I was asked a question, I was only supposed to say yes. If I refused, I then would be taken back to Naivasha and hanged.[32]

61. According to another witness:

> My defending officer told me that when I get before the judge, I should not try to answer anything and that he was the one who was going to help me to be set free. When I asked him why I should just agree, he told me that I should listen to him and that he was the one who was going to help me to be set free. I appeared before Judge Bosire and I was sentenced to 16 years jail. My defending officer was not able to defend me in any way and I was so shocked but I just agreed with what the judge said.[33]

> The Commission also heard that the possibility exists that the conviction and punishment of the mutiny suspects was predetermined even before they reached the court martial.

> We were not even given time to be represented. In Kamiti, I was informed by my colleagues that there was a magazine which said that I had already been sentenced to nine years imprisonment. To my surprise, when I went to the court martial, I was given nine years imprisonment.[34]

62. Despite the many testimonies that the Commission received indicating that the trial of mutiny suspects was not fair, Justice Samuel Bosire, who served as a Judge Advocate in the court martial during that period, said that due process was followed in the trials in which he participated.[35]

Impact

63. Many witnesses of the 1982 attempted *coup* who spoke to the Commission narrated how they have been affected individually, and as families and communities, as a result of the crackdown. Many were dismissed from the Air Force. Their careers were prematurely terminated without any terminal benefits. They suffer from social stigma for they are branded rebels or fugitives.

> We also want to rewrite history books such that we – all airmen – are not implicated in this heinous crime. It has greatly stigmatized our children. In turn our children doubt us and may never believe we were not part of this horrible scheme.[36]

64. On social stigma, another witness narrated his struggle to be accepted back to the community:

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32 TJRC/Hansard/Public Hearing/Wundanyi/25 January 2012/p.5.
33 TJRC/Hansard/Public Hearing/Wundanyi/25 January 2012/p. 12.
34 TJRC/Hansard/Public Hearing/Kisumu/18 July 2011/p. 3.
35 TJRC/Hansard/Public Hearing/Nairobi/8 April 2013.
36 TJRC/Memo/1068.

> I was 22 years then and I had a love for my country I had said that I was going to serve in the Armed Forces That was my career and belief I wanted to serve in the Air Force That was ruptured [ ] Now we are approaching death I am 49 years [old] Many have died [ ] Had we been in the service, this would be our retiring age and expecting our benefits We are however still suffering What we are worried about is that this suffering will be extended to our children We and our wives have suffered, but our children will still suffer Already, there is segregation in our community with regards bursary, relief food and other opportunities [ ] poverty is imposed on us and we fear our children will also inherit that poverty If I cannot pay for my children's school fees are they not to inherit poverty?

65 As a result, they have found it extremely difficult to get employment opportunities The levels of despondency among these former servicemen are very high One witness described his situation to the Commission thus

> After prison, it took me ten years to get a job I am still solving a lot of problems because life is difficult The salary that I get now is not enough I am a diploma teacher but I wish I was in the army Probably were it not for the revolution, I would be very far I had an aim of going back to school and serve my country I was very faithful to the Government [37]

66 Another witness described his situation as follows

> The coup affected me When I was released from prison, I realized that my wife had gone and my kid who was two years old when I was arrested had died My property was taken away I did not get anything During the investigations, I was beaten I have a scar on my forehead The coup affected my entire life because since then, my life has never been the same again If you went to my home you would be astonished I live in a single room My first wife is married to another man We separated and I married another woman with whom I have six children I only have three acres of land Most of the times, my kids are sent away from school because I cannot afford their school fees In my certificate of service, the comments therein have made me not able to get a job I have been without a job for 31 years now I have tried to look for employment, but in vain The employers say that they cannot employ somebody whose services are not required Those are the words in my certificate of service I have a copy of it with me So, employers look at me as a bad person I have been elected by my village to come over and represent them as the Kenya Police Reservist When I went to the OCS he told the chief, "You have even brought this one?" The chief wondered why the OCS was making those remarks The OCS said that if he gave me a gun, he would be fired He said that I was part of the 1982 group of rebels There was a time the Tana teachers wanted a watchman I wrote an application letter and took it to them They saw my certificate of service which has the words "services not required" They told me that they could not employ me So, I can only do farming and small construction work This issue of the 1982 coup has affected me mentally also [38]

37 TJRC/Hansard/Public Hearing/Wundanyi/25 January 2012/p 6

38 TJRC/Hansard/Public Hearing/Wundanyi/25 January 2012/p 02:00

67. Many witnesses spoke of suffering from depression caused by loss of income, stigma and social rejection due to the perception of being traitors and rebels.[39] Loss of income also led to many families of detainees living in poverty until the present day.[40] One witness told the Commission:

> Due to absurd dismissal we have always been in hard times financially. Educating our children and getting food and shelter for our family has been adversely affected and currently we are living under inhuman conditions. This has affected the health and education of our children.[41]

68. Apart from the psychological consequences, witnesses also described in large numbers the long term physical consequences of the torture suffered. Some are still disabled and suffer from partial paralysis,[42] eye and ear malfunctions,[43] permanent limb and back pains,[44] epilepsy[45], high blood pressure,[46] and other health problems. The story of Lawrence Njoga is particularly sad. He joined the army when he was, in his words, 'an agile, strong man' but in the aftermath of the coup, he was arrested, detained in several prison facilities in the country and then eventually sentenced to serve a prison term. He started going blind in prison but prison authorities failed to ensure that he gets proper and early medical attention. When he came out of prison he could not afford the cost of eye treatment and he eventually went completely blind. Here is his story:[47]

> I started experiencing eye problems when I was in prison. I tried to reach the doctor but it was very difficult [...] My eye problem did not stop but it was difficult to access the doctor. The clinical officers who came to see us, they only gave us panadol. It reached a time that I could not even eat. So I was given time to be taken to the dispensary where I was admitted and all the eyes were closed with a bandage. I stayed in the dispensary for about four days. When the bandage was removed, I could not see. The clinical officer wrote for me a letter so that I could be taken to Coast General Hospital to go and see a consultant. I was given treatment and admitted at the Coast General Hospital. I was operated on my left eye but it did not succeed very well. The doctor recommended that I be transferred to Kenyatta National Hospital. I was then brought back to Shimo La Tewa where all the plans were being done so that I could be taken to KNH. While I was in Shimo La Tewa, a report came that I was going to be released. The Review had quashed my sentence. That was around 1987. I was released around

39 TJRC/Statement/13668; TJRC/Statement/13671; TJRC/Statement/18102; TJRC/Statement/05631; TJRC/Statement/32969, TJRC/Statement/35611, TJRC/Memorandum/M0971

40 TJRC/Statement/17404, TJRC/Statement/08458

41 Memorandum to the TJRC on January, 29 2011 at Kericho submitted by Hezekiah K. Langat on the Attempted *Coup* of August, 1st 1982

42 TJRC/Statement/06825; TJRC/Statement/24232

43 TJRC/Statement/13677; TJRC/Statement/16212; TJRC/Statement/32974; TJRC/Statement/23264; TJRC/Statement/24589; TJRC/Statement/25258; TJRC/Statement/13003

44 TJRC/Statement/35638; TJRC/Statement/35614; TJRC/Statement/05607; TJRC/Statement/32969; TJRC/Statement/23613; TJRC/Statement/35636; TJRC/Memorandum/M1792

45 TJRC/Statement/34401

46 TJRC/Statement/35634; TJRC/Statement/06479

47 TJRC/Hansard/Public Hearing/Kisumu/18 July 2011/p. 3-4.

17th July, 1987 I was released and given a warrant to Nairobi I could not trace my path properly I asked good Samaritans to guide me I went up to the Railway Station where I boarded a train to Nairobi When I reached Nairobi, I asked good Samaritans to help me get to Kenyatta National Hospital When I reached Kenyatta National Hospital, I met a consultant, Prof Ochieng' Adala. Just because I was nostalgic, I really wanted to see my people at home I asked for permission and he understood my situation and gave me time to go home.

69 He continued:

I went home and met all my parents and brothers, and I was so happy I stayed with them for about a month and then I went back to Kenyatta National Hospital I met Prof Adala again and I was admitted On that very, very week, my left eye was operated The operation was successful After about a month, again, the right eye was operated I stayed in hospital for one month and then, I was discharged Prof Adala gave me a prescription to go and see the optician around Wilson Airport, that is, the Wheels Opticians He gave me a lens which I used for sometime That was positive 11 I think it was the last lens, the most powerful one I used that lens and when it reached around 2005, the eyes started to diminish I was unable to see the doctor regularly because of lack of finances I went to Thogoto Hospital and the doctors there told me that my eyes were now beyond repair I could not believe myself because I did not know how to help myself I was now married with two wives and six children I was declared blind and could do nothing I was guided by the cousins whom we were with and I sought Prof Adala again By that time, he had left the Government and was having his clinic at, I have forgotten the name When I reached that place, I got Prof Adala Just because he was my friend and my doctor, he told me, Bwana Andrew, you have delayed so much There is no way I can help you The only thing that you can do, I will write for you a letter to go for rehabilitation He asked me the nearest place where I could go He preferred Sikri, where I went When I went to Sikri, they accepted me. I learnt to read braille and write, mobility, typing and the artisan skills of weaving I cannot still help myself because all the things I learnt in Sikri, the writing materials are very expensive They cost about Kshs 90, 000 The loom (weaving) machine is also very expensive Up to now, I am at home I am just being helped by my old dad who sacrificed and educated me He spent a lot of his time and wealth on me Instead of assisting him, he is still helping me By bad luck, I lost my mom in 1991

Torture, unlawful detention of a mutiny suspect: Omar Boru Qutara

TJRC/Hansard/Public Hearing/Marsabit/4 May 2011

It was on Sunday 1st August, at about 2.30am when I was woken up by a siren which indicated that there was an issue, and all the soldiers were required to report to the Operation Room, where details and orders are given. It was total confusion and frightening being woken up in the middle of the night. So, I rushed to the Operation Room, where I was ordered to stop and raise up my hands and Appointment Card.

Unfortunately, I had not even carried the Appointment Card. This earned me the first punishment of being kicked, slapped and sent back to go and get it. I went back to my room and collected my Appointment Card. When I came back, I was allowed to join the others, who were already kneeling down. The number was so big that you could not know who was who, since it was in the middle of the night and the lights were off. We were told to stay there until morning, which we did.

In the morning, some groups were told to report to their respective places of work. Everybody did that. However, when some of us reported on duty, we found nobody at the place where we used to work. In the Kenya Air Force, I was working in the unit called "Air Defence Control Unit (ADCU)", that is giving police services. I had to hang on there until 10.00 a.m. As a human being, I had to look for something like tea to take. I went back to my mess, where we used to have breakfast. We were given breakfast. Some of us went back to the same place, because we had nowhere to go and there was total confusion.

At lunch time when we came back for lunch, there was no lunch. There were army personnel all over and they were asking us, "Where are you going?" We replied, "we are going for lunch". Then they asked us, "Which lunch?" We replied, "It is lunch time, is it not?" Somebody told me that I was under arrest. So, when I asked why I should be arrested; I was in the camp and I had nothing. Then orders were given, "Deal with him accordingly. This one seems not to have woken up; wake him up". They kicked and slapped me, and then we were taken to the football pitch. At 3.00 p.m. It was raining. We were told to remove all our clothes, and were loaded onto trucks and taken to 1KA – another Army Camp. When we arrived at the camp, we were lined up. We were entering the gate one by one and receiving a reward of kicks, blows. Women and children were laughing at us. The children were saying, "Look at the way this one looks. Look at his buttocks". When children and women laugh at you--- I came across an old corporal, who happened to speak Borana Language. I told him, "Mzee Isaakh, are we not Muslims? Why are you treating us like this?" He told me that Islam was in the mosque; it was not in that place. He said, "Take these people and deal with them accordingly".

We were divided into different groups. We slept in an open field and it rained the whole night until morning. In the morning, we were ferried back to the Kenya Air Camp. were ferried

back to the Kenya Air Force camp We were taken to the runway, where aeroplanes land We were told to lie on our backs, and then somebody came, stepped on our chests and asked, "Did you want to overthrow the Government?" I asked him, "Which Government? Why should you do this to me?" They then said, "This is your prayer time, tell your parents that, if you have any way of telling them; say your last prayer, and forget the world There is no Kenya Air Force any more, even a dead body is more important than you" We stayed there up to lunch time and we were given back some clothes to put on We were then taken to Nanyuki Prison There it was like hell I have never seen hell but I saw hell on earth We were beaten with chains, various sticks and iron rods of all sizes From there, we were taken to King'ong'o Prison in Nyeri We stayed in Nyeri for 17 days, and then we were taken back to Nanyuki We were being interrogated by army officers, and some officers in civilian clothes I did not know them and cannot tell their names

I was put in a group called misprison group I raised my hands and said, "Can I ask a question?" Then one of the senior officers from the Engineering Battalion called Lt Col Njoroge said that—He said "You are not a living person who can ask a question You are a dead person You do not deserve to ask a question Follow what we tell you if you want to breathe the air of this world or else we shall terminate your life now" He was pulling the trigger at that time He told me to open my mouth and he put it in I was around 22 years and I cried He then asked me "Are you crying milk or honey?" He ordered "Put him out!"

I was blindfolded and bundled into a Land Rover because that was the common vehicle for the Army and the Air Force I was taken to the Air Force Base in Eastleigh and later taken to Kamiti Prison where I was kept for two days I was then ferried to a destination where I later learnt was Naivasha Maximum Prison I think Naivasha Maximum Prison is a place no human being should be taken It is not worth any man to live there I do not know whether it has improved or not When we first landed there, we were shaved We were given the whiteKungur, a short and shirt The place is very cold On the first day, I was put in an empty cell with no blanket I complained not knowing that the worst was to come The following day, I was taken into a dark room with no blanket or toilet facility We were told to stay there naked Imagine that, Commissioners

We stayed there for 11 days while being fed with half a cup of porridge called mururu for the whole day After the 11 days, I was taken for interrogation I was taken into a stinking toilet and given the porridge to take. I am an inquisitive guy so I asked the prison warder why they should give me food in a toilet He told me he had, in fact, felt mercy on me because I was a young man Can somebody who feels mercy for you give you food in a stinking toilet? However, that was very little When I was called for interrogation, I was stripped naked while being whipped with a telephone cord I was told to speak out even with the nozzle of a gun in my nose How do you speak out what you do not know? A man with a big beard told them to take me to the lodge to rest He said "Take him to the lodge and let him rest He seems to

be very worried and tired" I was taken back to the same cell I was before That was the lodge

We were again brought out after 10 days At that time, you are emaciated and you do not have the strength to speak When you say that you are sick, nobody listens to you They would ask "Have you rested enough now?" When you do not respond you are adjudged rude and taught a lesson You are taken to a special room where there is a person to make sure that you speak by whipping you I do not know how they were doing it, but if those wires come into contact with your body, you faint I went through that ordeal for 70 days On the seventh day, I had no option but to surrender to the will of those guys the way they wanted They prepared a statement and I was told to sign "What have I written to sign?" I asked them They said "No, you will be trained on how to sign There is no problem" The condition was hostile When I asked them to give me the document to read and then see its contents, they told me that I did not have eyes and that there are special eyes for me to read They asked me, again, whether I would sign the document or not I said I will not sign it I found myself on the ground I did not know there was somebody behind me I was only seeing the interrogators in front of me I was kicked and dragged on the ground I had no option, but to tell them that I was ready to sign the document the following day just to save my neck

From the beatings, I developed a problem on my left hand It is painful I signed the document to save myself from being taken to the gas chamber – it is a sort of a gas chamber I do not know if those people are really human beings They are people with no mercy or reasoning power They could not listen to you I signed and then I was taken to Kamiti where I stayed for two days I was then taken to Lang'ata We were told that we were being taken for medical check-up I found a local guy with whom I wanted to speak our vernacular language He declined I wanted him to assist me because I was feeling very bad I told them that my hands were painful and my ribs were not okay as a result of the beatings They said that they were just supposed to give us a tablet of Panadol and then we proceed to the next stage I had no option The people I had been with had already left Somebody told me not to waste time He told me there was no mercy within that compound

I proceeded and met a group of Army officers who claimed that they had been sent by the higher authority to come and represent us in the process I asked them how they were going to do that They said that such a question could only be asked outside the camp They said that no questions are asked inside there and issues there are conducted the way a drill parade is done When a commander gives orders to march, you are expected to do so They told me that I was to sign some forms and we were to be in groups of tens They had blocked the top part of the form, but I managed to see what was written in It said "The Court Martial Trial Form" I signed it We were in a group of ten and we marched into a room Names were called out and we responded I remember very well There were senior officers seated in front There was somebody in a judge's gown On the left, there were army officers and on the right some men and women in civilian clothes When our names were called out, somebody stood

up and said that we are the guys from Nanyuki Base We were the first in that room There were several rooms where people were being tried. Our names were called out and then we were sentenced to six years imprisonment One of our colleagues raised his hand but he was told speaking was not allowed there

I was taken to Nairobi Remand Prison and then Kodiaga Prison in Kisumu I served three years there One day, they told me that I had been released I said "My sentence was six years and not three years" They said that I should not worry because the Government had pardoned me, but there were conditions I was told to be reporting to my local chief and I should not attend any public rallies or any meetings I was to report to the chief whenever I went somewhere I was told to keep peace for the rest of my life That is the brief story of the situation.

Allow me to speak about what that has done to my life I was 22 years then and I had a love for my country I had said that I was going to serve in the Armed Forces That was my career and belief I wanted to serve in the Air Force That was ruptured Secondly, I thought that after prison and all that suffering, if I went home, I would be a very free person and live peacefully However, until today and even I think in the future, I still fear I am suffering They call me rebel, fugitive, msaliti in my community I applied for the post of assistant chief, but I could not get The same happened when I applied to be a Forest Guard I applied for a teacher's training course, but I could not get I tried several employment opportunities, but I did not get any Even in the village, I had no peace because villagers were saying that I am the fugitive who has been disturbing Moi and he is now disturbing us here Up to now, when there is Government relief, my family receives half the portion

After prison, I married and then got nine children One of my daughters is in college The ratio I am given is for five persons and yet we are 11 I am still marginalized My children are chased away from school on the grounds that 'Baba yao ni msaliti" My child had to leave the first school and go to the second one because I had gone there to argue her case She now attends a day school We have already been branded traitors There is no place that we feel comfortable expect our own room. The only people who have been close to us are our relatives – my father, mother, aunts and sisters Nobody else comes to us, save for my Imam who normally comes to console me After being released, I could not even access the courts The applications were allowed in the High Court after 15 years It is now 29 years and our cases have never been finalized

Hon Commissioners, during all these years there was no justice Now we are approaching death I am now 49 years Many have died. Some of us God has helped us because we succumbed to our faith We prayed to God Humanity has discarded us We pray to our God and that is why we are surviving Had we been in the service, this would be our retiring age and expecting our benefits We are, however, still suffering What we are worried about is that this suffering will be extended to our children We and our wives have suffered, but our

children will still suffer Already, there is segregation in the community with regard bursary, relief food and other opportunities

My dear Commissioners, we have been law abiding citizens Since we left prison, there is no time we have been charged with any offence The oath of allegiance that we took when were recruited is still with us That is why we have decided to abide by the law Poverty is imposed on us and we fear our children will also inherit that poverty If I cannot pay for my children's school fees are they not to inherit poverty? My child cannot go to university because it requires resources which I do not have

I pray this Commission to look into the following I demand for reinstatement and payment of all my pending dues A reasonable retirement package should be included I need to be cleared of names such as rebel, fugitive, or msaliti A special economic programme in form of an affirmative action should be put in place so that our economic status is uplifted That way, our children will get education They have not committed any offence and they have a right to education This Commission should consider the welfare of our children All kind of discrimination against us and our families should be stopped I served in the Armed Forces I have a certificate of discharge from the same I have a copy of the memorandum We filed a case in the High Court, that is, Case No 548 of 1995 which has not been decided I am seeking justice for the ill-treatment This is for us and our families The injustice has extended to our families I think I explained that

We are seeking justice for the suspended sentences, loss of employment, and compensation for the damages I had no opportunity to be counseled So, I want to be counseled I also want to be taken for a special medical examination My left hand still has a problem especially when it is cold as a result of the beatings I got I need to be examined and my health status known Also, this Commission should make a recommendation and declare that we are still in employment We are also seeking all payments that have accrued since August, 1982, including penalties, interest, general and special damages as the Commission may deem fit

Detention and torture of Mwakenya suspects

70 The 1980s were characterized by the emergence of several underground political movements in Kenya The emergence of these movements was prompted by the proscription of political parties by an amendment to the Constitution in June 1982 that made Kenya a *de jure* one party state After the August 1982 attempted coup, it became even more dangerous to publicly express dissenting views about the country's political issues, nor was it safe to advocate for the opening up of the political space or respect for human rights This forced activists for democracy and human rights to resort to the formation of underground political movements

Of these, it is Muungano wa Wazalendo was Kukomboa Kenya (Mwakenya) that had an enduring impact Mwakenya was an offshoot of an earlier underground movement· December Twelfth Movement (DTM).[48] According to a witness who testified before Commission on the evolution of the organization, one of the main objectives of the movement was to 'educate the Kenyan people about what was happening in the country and what they could do to make this country a nation that respects human rights and that allows freedom of its own people'.[49] As such, one of the activities of the movement was the publication of magazines.

> The newspapers, airwaves, the radios and television were not.free; they were all controlled very tightly by the regime of that time, the KANU regime So, we went out to create publications that were to speak freely about what was going on in the country and one of these publications was *Mpatanishi*, which was for our own internal education, educating the cadres of the struggle Then there was another one for mass consumption which was called *Pambana Pambana* was something that we were writing and distributing all over the country so that people could know the truth that was happening The Kenya Broadcasting Corporation (KBC) was the only broadcasting station of that time, so, we tried to create a free press But it was an underground press [50]

71 State crackdown on Mwakenya began in March 1986 when three men (Peter Young Kihara, Kamonye Manje and Maina Kiongo) were arrested in Nairobi and charged with being members of an illegal organization, Mwakenya [51] What followed after this event were arrests, detention and torture of hundreds of people who were suspected to be members of Mwakenya Among those who were arrested, detained and tortured included doctors, politicians, lecturers, students, journalists, businessmen, teachers, and writers. Even civil servants were not spared

> In the 1980s, the Government was like a monster which did not know even the public servants We had several public servants such as Onyango Sie, who was working with the Department of Public Trustee in Nyeri, Wainaina Chege, who was working in the Judiciary at the High Court, Nairobi, Nelson Akaukwa Muyela, who was working with the Kenya Railways, Oduor Ongwen, who was teaching at Kericho Girls High School, Richard Odenda Lumumba, who was also a teacher at Kericho Girls High School, James Mwangi Kahiri, who was a teacher at Muguga High School, and Florence Murage, who was an Administrative Assistant at the University of Nairobi This is only a short list of public servants who were political prisoners [52]

48 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 35
49 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p 3
50 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p 4
51 Citizens for Justice *We live to tell The Nyayo house story* (2003) 21
52 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 23

72 The National Victims and Survivors Network estimate that nearly 300 people were arrested in connection with Mwakenya activities and that thirty of them died during incarceration or immediately after they were released [53]

The arrests

73 Many Mwakenya suspects were arrested in their homes, mostly in the night and in the presence of family members Police officers, mainly attached to the Special Branch, would 'invade' homes of suspected Mwakenya members, and without a warrant, search every part of the home for materials associated with Mwakenya It was common for newspapers headlines to read that a particular individual had been 'picked' from his house by Special Branch officials for interrogation on issues relating to Mwakenya After the arrests, the whereabouts of such suspects remained unknown to their families, sometimes for weeks or months on end It was commonplace for suspects to be moved, in a short span of time, from one police station to another Records at police stations were poorly kept or not at all This effectively made it difficult to trace and find out the whereabouts of suspects Joan Kabaselleh narrated to the Commission how her husband was arrested, both in her presence and that of her children Her house was turned upside down in the search for what the Special Branch officials considered seditious materials

> Then some of them moved to the bedroom, some went to the kitchen and some remained in the sitting room So, from the bedroom, they started searching the rooms They searched all the things that they could find in the bedroom They turned the mattresses upside down I remember our young boy who was three years old, they turned the mattress when he was asleep and he could not even hear They folded the mattress when he was inside and he did not hear He did not even know what happened So, the other children were bullying him in the morning telling him in Kiswahili "Our father was taken away and you were just sleeping and you did not hear After three hours' search, they left They carried the documents, my husband's passport and some newspaper cuttings which my husband used to have My husband used to have so many newspaper cuttings They carried all these documents with the[54]

74 After the husband was taken away, she did not know of his whereabouts until much later when a friend called to inform her that the husband had been sentenced to three years imprisonment

> The next day very early in the morning, I started contacting some of his friends and some of our close relatives telling them that he was taken and we did not know his whereabouts We stayed for about two weeks and we did not know anything concerning him [ ] We kept on looking for him having sleepless nights and I believe there was a

53 *Dark Past In the footsteps of the dreaded detective on Nyayo House* NVSN p 10
54 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 12

friend who was close to the people who arrested him He would always come and tell us not to talk to the media people because that would worsen the situation We did not know that, that was another way of avoiding publicity People would tell us that he had been seen at Naivasha Maximum Prison Others told us that he had been seen being taken to Ngong Hills So, all through this was a time of pain It would have been better if he was in a police cell We would have gone to see him and known his whereabouts On 29th October, 1986, a relative called us around 8 00 p m that he was saying that he had been seen at the High Court and that he had been imprisoned for three years. The next day, which was 30th October, we went very early in the morning with my sister and my sister in-law who had visited us The newspapers on that day carried this message as the headline It was in all the newspapers It was painful seeing those newspapers in the streets "[55]

75 Similarly, Dr Odhiambo Olel was arrested at his home, detained in at police cells around Kisumu and when the police officers could not find any evidence linking him to Mwakenya he was released

> In May 1983, these bad visitors came to my house at midnight and a without warrant of arrest They searched my house thinking that I was one of those publishing *Mpatanishi* and *Mapambano* magazines I was arrested and taken in for interrogation I spent a whole night being interrogated They suspected me of being one of those people who published clandestinely those pamphlets to destabilize the legally elected Government of *Mtufuku* Rais Moi I was transferred from Kisumu police cells to Majengo police cells where again I spent three days and apparently finding that the police had no substantive reason to charge me before a legal court of law, I was released and I continued with my work "[56]

76 But his woes were not over yet A few years later, on 20 March 1987, police officers arrested him at his office, searched through and when they could not find documents relating to Mwakenya, they drove with him to his house where they continued the search The search was conducted in the presence of his ailing mother and of the wife and children, leaving them traumatized by the incident:

> Again, on 20th March, 1987, police officers from Nairobi came for me at around 11 30 am in my office They did not have a warrant of arrest, but they searched my office The town hall or Kisumu Municipality headquarters was surrounded by many plain clothes policemen I knew some of them because I had worked there for long Police officers from Nairobi identified themselves and asked me to accompany them to my house because they could not get anything from my office to implicate me with publication of those magazines They told me I was under arrest They searched thoroughly my house Unfortunately, at that time my mother was sick She was staying with us So, you could imagine how pathetic the situation was My mother, wife and children

55 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 13
56 TJRC/Hansard/Public Hearing/Kisumu/15 July 2011/p 44

were affected by this search. After a thorough search, they did not find anything to show that I had anything to do with those publications. Later on, they asked me to accompany them to an unknown destination. So, I bade farewell to my wife. I told her not to worry very much because God was with me. I told her not to fear because I would overcome all these challenges.[57]

77. It was common for teachers to be arrested at school in the presence of their pupils or students. Rashid Salim had such an experience:

> As I was going on with my job, on 30th of September, at 2.05 pm, I was picked from school by security officers from the Special Branch in Taveta Station. They told me that they had issues they wanted to discuss with me but the discussion would be at the police station. They took me there but before we got there, we passed through my home and a search was conducted. They searched my home and found that I had some scripts that I had written as a Kiswahili teacher concerning leadership and it was a story. They required letters concerning one of my relatives whose name was Komeja Mswiya but they did not get any such letters. So, they took my scripts and they also took me directly to the Taveta Police Station. They questioned me a little and I spent the night there. In the morning of 31st, I was taken to Voi Police Station. I was put in remand and I continued to be questioned.[58]

78. Most university students and lectures were arrested at the university premises. Wafula Buke, for instance, was 'picked' from his room, just nine days after he had been elected one of the student leaders at the University of Nairobi:

> We had been student leaders for only nine days because in October the police came for me. I was in my room and they escorted me out. They were all armed and pointed pistols at my head. We were taken to Central Police Station where I found my colleagues. At that time we were a bit naïve and we did not know how the state works. I remember asking a lawyer friend what the state would do to us. My first lawyer even told me that he thinks we will just be beaten and set free. So, as we were beaten I had hopes of being released. I found that all my colleagues, the student leaders had all been arrested. They were about seven. I was taken to Kasarani Police Station and in the morning a police inspector came there and gave me about four hard slaps mentioning something like seditious publication. I thought that maybe he was preparing me for the case. The following day I was put in a Land Rover and brought here. At that time, I did not know it was Nyayo House.[59]

79. Other victims of detention and torture were lured into a trap that led to their arrests. Until his arrest and detention, Wilson Awuor Ang'onga was a prison warden in

57 TJRC/Hansard/Public Hearing/Kisumu/15 July 2011/p. 45.
58 TJRC/Hansard/Public Hearing/Wundanyi/25 January 2012/p.19
59 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p. 30.

Nakuru. He was suspected to be sympathetic to the cause of Mwakenya members who were serving jail terms at the Nakuru prison Here is his story of how he was arrested·

> So, on that day of 22nd I reported at work in the morning and left at around 9 00 am back to my quarters Later on the officer in charge sent somebody that I should report to his office immediately in civilian When I got the information in my house, I changed into civilian and came back to the officer in charge When I reported to him, in his office he was having two visitors whom he introduced to me as officers from the Nakuru Central Police Station and they had come to help me to trace the case of the prisoner He was sending me out with them for that work We left the officer's office, came out of the prison gate, got a white car which was parked outside with a driver We went straight to that car and in that car I took the back seat with the two officers putting me in the middle The vehicle drove from the prison up to somewhere in Nakuru town at a building which I knew was hosting a supermarket called Ibrahims Karimbuks On the first floor was an office of the special branch We went there straight and I was placed in one of their rooms which only had a bench I stayed there up to around 2 00 p m and then I was brought to a certain officer who was very harsh and on his table was a pistol He called me by name and told me to name all my friends in Nakuru and the names of my relatives in Nakuru I started with the names of my relatives in Nakuru because I had some there He dismissed me and told me to give him the names of my friends I gave him some and he asked me about Koigi Wamwere's family and if I have met them at Nakuru Library I told him we had not met Then he told me where I am The other officers then took me away from him We stayed there up to late in the evening I was taken back to my house in the company of three vehicles By then I was married with two children My first born was around one year old When we reached the house, my wife was instructed to stay away from the house They then started searching the house They turned everything upside down They got some books because I used to go to Nakuru Library to borrow some books All my photographs, all personal effects were taken They then told my wife to stay there, they will come and know her position At night after around three hours, I was driven back to that office but I was transferred to Nakuru Railways Police Station cells Here I stayed for seven days Later I was transferred to Nairobi at Muthangari Police Station Later on I was transferred to Nyayo House on a night I cannot remember In Nyayo House I stayed for 19 days [60]

80 George Kwanya Odidi was arrested while he was addressing a women's group in Kisumu The policemen who arrested Odidi informed him that the Provincial Commissioner had summoned him for an urgent meeting. This was never to be He ended up in a police cell where he was detained for five days.

60 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 20-21

while addressing the Kisumu Women Group which wanted some extension of water to various points, policemen came. I pleaded with them to allow me to finish the meeting with the ladies but they refused. They told me that the PC had a meeting and there is some information that they wanted me to provide. They said that the PC had halted the meeting because of me. I gave up and entered their Land Rover. We drove and passed the PC's office. As we passed the PC's office, I started asking them: "You said that the PC wanted me. Why are you passing?" By that time, they had changed their attitude. They were hostile and ordered me to keep quiet. They drove the vehicle to the Nyareri Police cells. I was locked there and I stayed there for about five days.[61]

81. Another victim of detention and torture, Abuya Abuya, was a Member of Parliament at the time of his arrest. He narrated to the Commission how he was cheated into been arrested.

Come 1987 during my second term, three young men came to Parliament on a Thursday afternoon when I was getting into the Chamber ready for the afternoon. As I walked into the Chamber, they stopped me and saluted me and said Honorable, we have a message for you and the message was if I could remember a Mr. James Opiyo an old friend of mine. That he wanted to talk to me. I had forgotten about this James Opiyo but happened to have been one class ahead of me in Kisii High School. So they explained where he was and that he has an office in Nyayo House. I asked him what he does and they told me that he works with the Provincial Administration and that he was waiting for me. I said that I could not go because I had business in the Chamber and then they asked me when I could go. I said maybe on Saturday when I am travelling to my constituency. They said I was welcome and that they would be waiting for me just outside Nyayo House. On Saturday morning at 10 O'clock, I drove here with my cousin who was also my driver. They saluted me outside here in the entrance and we parked the car. They said that my driver would be waiting for me and that my friend James Opiyo is waiting for me upstairs. We went to the 25th floor using a lift then I sat on a bench in the corridors and they told me that my friend was going to be there within five minutes and they disappeared. I waited and then James Opiyo came and with all the good greetings, he said that we had not met for a long time and he congratulated me for becoming a Member of Parliament. He led me into a room and said that his officers will have an interview with me. He did not even tell me what kind of job he was doing. He told me that the officers will take a statement from me then I could proceed. He disappeared and then a group of about eight people and a lady came into the room and they all sat on the table and then put a chair in the middle.[62]

82. Almost without exception, those who narrated their stories to the Commission said that upon been arrested they would blindfolded and forced to lie prostrate inside a police vehicle or car, often a Land Rover. The vehicle would then move round and round the town at which they had been arrested. This would create the

61 TJRC/Hansard/Public Hearing/Kisumu/15 July 2011/p. 49.
62 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p. 23.

At night, I was blindfolded, taken to places I do not know, beaten thoroughly and returned to the cell. They wanted to know how I was related to Koigi, Njehu Gatabaki and Gitobu Imanyara

impression in the minds of the suspects that they had travelled a long distance out of the town. Abuya Abuya recalls his experience:

> After all that harassment of about an hour and a half, they put me back into the lift and to a white Land Rover and drove me round several times obviously blind folded. At about five, I ended up at Kileleshwa police station. I was there until about eight and then I was brought here in one of these cells, I think cell no. 3.[63]

83 Other victims, like Dr. Odhiambo Olel and George Odidi, were actually transported a distance of about , from Kisumu to Nairobi, while blindfolded and lying face down in a police Land Rover:

> Since I had worked in Kisumu for a long time, I knew I was being driven around Kisumu streets. We stopped at the Central Police Station. I was still in the same position. From there, they collected Mr. George Odidi Kwanya. As he was thrown into Land Rover he was blindfolded. I did not immediately realize that he was George Odidi Kwanya because both us were blindfolded. He was asking them in Kiswahili Language where he could step because I was already lying on the floor. I only knew him when he was asking them those questions. He was forced into the Land Rover and told to lie next to me. He was also blindfolded. We were strictly warned not to talk to each other. So, we had our long journey. Again, knowing the Nairobi- Kisumu Road very well, we knew when we reached Nyamasaria, Ahero and Awasi. We knew even when they were fuelling the vehicle at Kericho. After that stopover, the journey resumed in earnest. We went through Nakuru, Gilgil and Sigona. We entered Nairobi City through the Aga Khan Hospital area. So, I could not exactly know where we were coming from. My mind was a bit distorted. From there, I did not know where we were being taken. They stopped the vehicle and we were told to come out. My hands were held. I came out still blindfolded. I was then pushed into a dimly lit cell and I was told to feel at home and make myself comfortable. How could I have felt at home in such an environment?[64]

63 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p. 45.
64 TJRC/Hansard/Public Hearing/Kisumu/15 July 2011/p. 45.

Detained, Tortured and imprisoned for possessing and reading The Financial Review

TJRC/Hansard/In-Camera Hearing/Nyeri/7 Nov 2011

After my primary school, I attended Karima High School. From there, I joined the National Youth Service. After that, I was sent to several places for nation building. From there, I was sent to Mombasa Vocational Training where I did Grade Tests. I was then sent on-the-job training at TANATHI project. From there I was taken to Tana Basin Project on job training. After that, due to financial constraints, we were sent home. In the year 1989, I was given a letter by G.W. Griffins to report to the NYS head office not later than 29th November of that year. When I went there, I was employed as a motor vehicle electrician, Grade II. I continued with my work.

In 1990, I was given my annual leave and I had planned to proceed home. But before I embarked on my leave, I was informed that I had to wait for clearance first, so I had to wait for two days. I had rented a house at Ngara. In the morning after taking my breakfast, I went outside and bought a newspaper which I read. When I was tired of reading the newspaper, I pulled out a magazine, Financial Review, and began to read. Just as I was reading it, two people came, knocked on my door and I opened. When they came in they asked me: "Where is your neighbour?" I told them I did not know because he normally would come at 9.00 p.m. They then asked me what work I did. I told them I worked with Nyayo Bus Services. I pulled out my ID and the job card which I gave them. One of them apologised to me but the other one said: "He is reading a seditious document." So they were very bitter and began to search my house. They saw another Financial Review magazine and that is when I realised they were police officers because they were using the word "afande".

One of them said, "this is the suspect; handcuff him", and I was handcuffed and taken to Kamukunji Police Station. I was not booked in the Occurrence Book (OB) while at that police station. I was told that the case belonged to the Criminal Investigations Department (CID) and the following day at 3.00 a.m., I was taken away by three cops who were armed, saying that I was intending to overthrow the Government. I was not sure what was going on. I was taken to the CID Headquarters and Central Police Station. I was taken to the station and nothing was booked. At night, I was blindfolded, taken to places I do not know, beaten thoroughly and returned to the cell. They wanted to know how I was related to Koigi, Njehu Gatabaki and Gitobu Imanyara. I told them I do not know those guys. I am employed by the Government and I cannot overthrow the Government that is providing for me; the Government that enables me to feed my family.

High Court, Court No.5, where I met George Omondi Tunya and a prosecutor by the name Peter Mwangi. When I was asked whether I owned the books, I said that I had the magazines. However, I said that because I feared to return to the police. There and then, the judge jailed me for being in possession of prohibited magazines. I requested the judge to allow me to be given medical attention because I was hardly able to walk and I had a broken tooth. I was taken to Kamiti where I was in more trouble because there was little food. I was locked in solitary

confinement and the only thing that was available was a small Bible There were no beddings in that room The clothes for the inmates were scarce; there were lice and as a result, I had troubled nights I stayed there in solitary confinement and after a while, I was called and I thought I would be released I was asked what I had trained in life, and I said that I was a trained motor vehicle electrician That is the day I was given uniforms I was led into a lorry and transferred to Athi River GK Prison where I was taken to a workshop to maintain vehicles and teach the others Motor Vehicle Electricians' course I stayed there until my sentence was over.

When I was leaving prison, my father came to court and waited at the gate I told him I was not dead but alive My father told me that we should go to our rural home but I told him that I wanted to go and see my house I met my landlord, who had closed the house and rented it to another person He had locked my belongings in a store. The landlord requested for Kshs 3, 000 for the rent but I told him that I did not have the money and I told him where I was He told me that if I did not have the money, he would not release my belongings I thought that I should return to the office and tell them how the situation was and see whether they would have mercy on me When I arrived at the gate, I found two new officers who called the security officer in charge who went to the office to inquire about what he should do He was informed that I should not be around that place because I am a criminal and the media personnel had written about me in the newspapers that I am a bad character When I argued, he told the two security officers to escort me all the way to Ruaraka and ensure that I was left near that vicinity So, I decided the best thing to do was to go home

When I arrived home, I found that my wife and child were gone I was very weak and my mother told me that I should go and see a doctor because I looked ill I went to Nyeri General Hospital and the doctor told me that I had chronic TB He recommended that I be injected six times and I was admitted After being admitted for two months, I was discharged and put under medication for a whole year After every two weeks, I would go for medicine I feared coming back to Nairobi I asked myself what I had done to deserve all this because the Government had employed me and I had not written the magazine, but I was jailed My life got destroyed because the people who are my age-mates are very far in life compared to me, because the income that I get is too little I do not have my own land but my father has given me a small piece of land I feel that the Government really oppressed me

Detention, interrogation and torture

84 Torture and inhuman treatment of Mwakenya suspects took place most commonly in the period between arrest and official acknowledgement of detention or trial Apart from police stations, torture was also carried out in at least two other buildings in Nairobi City Nyati House and Nyayo House It is at Nyayo House that many victims who spoke to the Commission said that they experienced the worst forms of torture At the basement of Nyayo House were 12 tiny identical cubicles



Commissioners with Nyayo House torture victims outside Nyayo House

which were painted red and black,[65] with no light in them. Here, survivors of torture say, as is described in detail below, they would be stripped during interrogation, pain would be inflicted on their private parts, they would be kept in freezing drenched cells for days, and suffer blasts of hot gritty air[66] which clogged their noses and throats or made them blind[67].

85. Interrogation would take place at the top most floors of Nyayo House, that is, at the 24th and 25th floor of the building.[68] A witness claimed that at Nyati House there were cells 'full of ants, in fact, as big as a match box' and a cell 'full of snakes'.[69] But a witness who admitted before the Commission to having been part of the team that was charged with interrogating ad torturing Mwakenya suspects refuted these claims:

> With due respect, whoever says that there is a cell in Nyati House or an interrogation centre, is lying. We have heard so many people talking about having snakes down there. There were claims that there were also red ants where people were tortured at the basement of that building. Even if you leave this place today and go to that house, which is a Government building, you will find that it is a car park. There was no interrogation centre and nobody could be taken to Nyati House for interrogation. That was the headquarters of the intelligence department. The task force was at Nyayo House and that is where the work was going on. It was not in Nyati House and it has never happened the whole time I was in the service.[70]

65 TJRC/Statement/35602; TJRC/Memorandum/M1792
66 TJRC/Statement/01810; TJRC/Statement/02850
67 TJRC/Statement/35610; TJRC/Memorandum/M1796; TJRC/Statement/13303; TJRC/Statement/45127
68 TJRC/Hansard/Thematic Hearing/Torture/Nairobi/28 February 2012/p. 3
69 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p 51.
70 TJRC/Hansard/In-Camera Hearing on Torture/Nairobi/29 February 2012/p. 27.

86. Because of the secretive nature of interrogations and torture even within the police force, it is possible that this particular witness never came to know of torture cells at Nyati House

87. Various forms of torture were used, mostly in an effort to make Mwakenya suspects confess that they were indeed Mwakenya members and also to reveal the names of other members The torturers could not stop until a suspect surrendered to their demands During interrogation, suspects would be unaddressed and severely beaten with broken pieces of furniture, wooden canes and whips Dr Odhiambo Olel was beaten, in his words, 'like a snake'

> They commanded me to do it very quickly There is nothing I could do I removed my clothes and was told to do 14 press-ups which were not possible I tried to do about three or four but I fell down They then started beating me with pieces of a broken coffee table They kicked me and told me that I had to talk They told me to tell them about my activities, mine and Jaramogi Oginga Odinga and "some of your *Mwakenya* colleagues that you know we have jailed" I did not have a ready answer because I did not They continued to beat me until I fell down I was weeping and crying but they had no mercy whatsoever They beat me like a snake It was just like someone who wanted to kill an animal After that, they blindfolded me I did not have all my clothes on I only had my underwear I was taken downstairs using the same lift When we went back, I was pushed to the cell [71]

88 Wafula Buke was equally severely beaten

> After about 12 days at Nyayo House, I was taken to Kilimani Police Station and asked to plead guilty after we had gone through the writing of statements I told him that I had done nothing The things they are saying I have done I said them because of the beatings They claimed that I was a Libyan spy and I had been sponsored by the Libyan Embassy They guided me through so I just said yes When you say no they will beat you until you say yes to survive Towards the end when I refused, I was brought back When we reached the cells and the lift went up an officer I later met in another interrogation years later called Leonard Wachira asked me what happened I said that nothing had happened He told me that the Officer Commanding Station (OCS) was very unhappy Of course my sweat again rolled knowing that I was going to be beaten again While there they said they just wanted to beat me up So, they beat me up from 8 00 am onwards I cried until there were no more tears By Monday, anywhere was better than Nyayo House They told us that they control the courts and every time they give a statement to the magistrate, they write at the back your sentence So, they told me that I will not be jailed for many years One even said that I will be jailed for only two years [72]

89 Sometimes victims would be threatened that would be electrocuted Such was the experience of George Odidi

71 TJRC/Hansard/Public Hearing/Kisumu 15 July 2011/p 46
72 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 30



A switchboard of buttons used for effecting various modes of torture at Nyayo House torture chambers

> At that juncture, they told me to lie on my belly. I was naked. They started walking on me and some two ladies tried to electrocute me. One lady would come from one side with live wire and would hit me with it. I would make noise and they would carry me above the ground and drop me.[73]

90. Another victim, underwent the following experience in addition to been physically assaulted:

> They tied me and they told me that I was going to diarrhoea on that day. I told them it was okay and if it was a matter of dying, I would die. I was very angry and I thought of anything to hit them with. They came in and tied this hand to a metal; one would stand on my fingers on this side and the other would do the same on the other side. They stood on my fingers and hit me.[74]

91. The suspects would also be kept in waterlogged cells. This effectively denied them sleep which in itself was a form of torture. Dr. Odhiambo Olel remembers that at Nyayo House after he had been severely beaten in the interrogation room, he was returned to his basement cell only to find it filled with water. He spent the night in the waterlogged cell. Another victim of torture, narrated a similar experience:

73 TJRC/Hansard/Public Hearing/Kisumu/15 July 2011/p. 50.
74 TJRC/Hansard/In-Camera Hearing on Torture/Nairobi/7 March 2012/p. 23.

> In my final week of being there, I was taken to a section with something like a swimming pool I was left there for three days in that pool of water. There was no food and no one was communicating with me The pool had very cold water and you had to go in and stand When I stood in the pool, the level of water reached my neck such that I could not sit The only thing you were able to do was just to lean on the wall because sometimes you could not stand from weakness You would lean on the wall and find that you were in water and you could not sit. God helped me After three days, they came to take me from there I was in a bad state They took me directly to the interrogation room I was like a fish which had been taken out of the fridge I was in a very bad state I was not able to talk [75]

92 Another victim, George Odidi was also kept in one of the waterlogged cells at Nyayo House for three days in a row

> They sprinkled us with very cold water for long periods and left us submerged in one foot deep water pool The water never seeped out since they had fitted rubbers on the doors The cells were thus water tight I was there in water for three days without food or any one speaking to me On the fourth day I was removed from the cell and blindfolded and with lean clothing taken to the 26th floor for torture and questioning They had a panel of about four women and ten men all plain clothes police officers They all had rubber whips and pistols on their tables and begun questions I was questioned about Jaramogi Oginga Odinga, Mwakenya, and my association with Raila Odinga, my association with Osumba Langi who lived in London and who I never knew I had no idea about the accusations and informed them as such

93 In addition to torture, George Odidi was subjected to other forms of horrid and unspeakable experiences He was forced to load a dead body, first into a police car, and later into cold storage in a mortuary

> one night, at 1 00 am, they removed me from my cell and took me to an adjacent cell They drove a Land Rover near the cell They told me to go into the cell On entering, I found a dead body I was told to load the dead body into the Land Rover I was stuck with the dead body in the Land Rover I was blindfolded again and put in the Land Rover and it was driven After 50 minutes, I realized that we were in a mortuary I was told to do the job again which I did Getting a space for the body was difficult They kept on opening the drawers until we found a drawer with only two corpses I was told to put the body there and I did that I was blindfolded again and taken to Nyayo The next day, I realized that my moving this body had a purpose When they took me for an interview on the 26th floor, they asked me to decide whether I wanted to die there or if I wanted to go further I told them that the decision to die at that time or later--- I told them that, that would depend on the decision they made I told them if I were them, I would take one leg, feed it onto the machines and clear me so that I no longer become a problem to them One of them asked me "Have you seen a dead body here?" I consented and said that I had seen a dead body yesterday They asked me whether I wanted to die like that man and I told them that I had no option The decision for me to die or not was theirs [76]

75 TJRC/Hansard/In-Camera Hearing/Wundanyi/25 January 2011/p 21 See also TJRC/Hansard/In Camera Hearing on Torture/ Nairobi/7 March 2012/p 22

76 TJRC/Hansard/Public Hearing/Kisumu/15 July 2011/p 50

94. After this traumatic experience, Odidi was taken to Karura Forest where he was undressed and lowered into a pit full of ants:

> I realized that I was in the bush. They told me to go down using the staircase. I rolled down and I landed on a hole. After that, they removed the ladder. There were ants in the hole. I was naked and the ants ate me everywhere. I tried to cover my eyes, but I could not. That lasted for about 30 minutes. Then they brought the ladder back. I was struggling with the ants trying to remove them from my body and to protect my eyes, but my body was full of blood. Blood was oozing from all over. The ants had cut me all over. Then they removed me and blindfolded me again, gave me my trouser and the shirt.[77]

96. Torture of Mwakenya suspects sometimes took the form of sexual violence or threat of it. A witness told the Commission that he 'they tied my private parts using some rubber' and that 'they started burning my private parts using a small stick'. Another witness explained how he was threatened of castration:

> Have you ever had your genitals tied and forced to make you diarrhoea?" I told him that has never happened to me and he told me, "You are a very young person. Do you have any children?" I told him no, I was still a young boy. So, he told me: "If you have never had any children, then there is no hope of you ever having any children".[78]

96. Suspects were also subjected to psychological torture. For instance, they would be informed or made to believe that a close relative had been killed.[79]

Prison conditions

97. Many Mwakenya suspects were released after days of torture and detention in a police cell. However, charges were preferred against a good number of them, and in the majority of cases, they were found guilty for being members of an illegal organization and sentenced to serve prison terms. They were jailed in different prisons around the country. In many cases, they were isolated from other prisoners.[80] Generally, prison conditions were deplorable and the prisoners were subjected to inhuman and degradable experiences. Dr. Odhiambo Olel described the situation in prison as follows:

> Life in Block E was very horrible. The lights are on throughout the day. We were like birds in a cage. We were not allowed at all to come out of the cells. We would only come out to go and empty the small buckets that we were using. Each one was given one. There was horrible food in Kamiti and if you love your dog, you cannot give it to the dog. The beans we ate had weevils and the porridge was very bad. More often than not, we had diarrhoea and other bad illnesses. The bins we had been given to relieve ourselves were most of the time full. However, we could only be allowed to go and get them poured into the toilets.[81]

77 TJRC/Hansard/Public Hearing/Kisumu/15 July 2011/p. 50.
78 TJRC/Hansard/In-Camera Hearing on Torture/7 March 2012/p. 26.
79 TJRC/Hansard/In-Camera Hearing on Torture/7 March 2011/p. 22.
80 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p. 15.
81 TJRC/Hansard/Public Hearing/Kisumu/15 July 2011/p. 47.

98. As a result of the torture they had suffered, coupled with poor hygiene and hazardous conditions in prison, many Mwakenya suspects became sick. Many of them contracted Tuberculosis, asthma, and chest related complications Others developed eye problems

> However, one thing I realized was that when he came from jail, his sight was not normal, he had chest problems and was diagnosed with diabetes So, he was in and out of the hospital Before his arrest, my husband had no sickness [82]

99 In the majority of cases, Mwakenya suspects were specifically denied medical care

> The other important thing that I can say about prison is treatment It is a bad thing to be sick while in prison We lost many people because of that I know fellows who had quarrels with the administration and Dr Owino could tell them that they have been disturbing them and they can take themselves to Kenyatta National Hospital (KNH) The fellow, his name is Macharia, stayed for five days and died The doctor was only willing to treat "good" persons Prison was tough There were no books and we tried to go on hunger strikes to get books I remember staying without food I was with Waweru Kariuki for about six days before they could allow us to get books from outside [83]

100 In some cases, prisoners died because they had been denied medication The Commission heard that Titus Adungosi died after prison authorities refused to take him to hospital even when it was clear that he was critically ill (See below) Kangethe Mungai told the following story of his nephew's death in prison

> What was terrible for the family is that my nephew, Mungai wa Ruiru, the son of my half-brother who was working with Kenya Railways was arrested and jailed for seven years at Kamiti Maximum Prison He was jailed in 1986, just around the same time with us While he was at Shimo la Tewa, he contracted Tuberculosis and he was transferred to Kamiti Maximum Prison He continued ailing there without medical attention So, his younger brother, Muiruri wa Ruiru who is with us here, for fear of being associated with people who were agitating against the Government, never went to see him in prison His father who is my brother but has since died was the Assistant Chief of our area He disowned his son to save his job So, Mungai got ill and so thin and never got attention until after two years He died in Kamiti Maximum Prison The family would go to the prison and he would be brought to them by two prisoners carrying him Around 1988, they went to prison to see him and he was not brought When they asked where he was, they were told that the prisoners who carry him were not around They were told to come the following day of which they did, but they were told he had been taken to hospital They kept going there for two weeks not knowing that he had died They finally disclosed that he had died and gave them a number The family went to Kilimani Police Station and then to the City Mortuary There they found him, a small heap of bones So, a funeral was done and the Special Branch officers were all over the place [84]

82 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 15
83 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 31
84 TJRC/Hansard/Thematic Hearing on Torture/28 February 2012/p 8

Death in prison: The story of Titus Adungosi as narrated by Wafula Buke

TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p. 31-32



Titus Adungosi's mother holding onto her late son's sweater

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

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

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

'When somebody is imprisoned, their families is imprisoned together with them': The story of David Onyango Oloo

TJRC/Hansard/ Thematic Hearing on Torture/Nairobi/ 28 Feb 2012/pp 48-49

Having said that, I want to say just briefly what the prison did to me. As you have heard from Mama Karimi, when somebody is imprisoned, their families are imprisoned together with them. I will tell you two things which happened to two members of my family. I am the first born in a family of eight, although now many have passed on. One of those was who have passed on is my younger brother, Joseph Ochieng Oloo. He was four years younger than I. When I went to prison, he kept reading my books from the university and became very political. Unfortunately, he also suffered a mental breakdown. Between 1982 and 1987, everyday on the newspapers there was something about Mwakenya or a Kenyan being jailed because of subversion. So, my brother, because of my experience, went crazy. He used to go to police stations and report that he knew the dissidents who were trying to overthrow the Government. Now, the Kenyan system does not know how to deal with mental health issues. They used to arrest my brother, beat him up and lock him up. He actually went to the Industrial Area remand home where he was beaten up by fellow prisoners. Later on, he was killed by the police, but I do not want to go into that.

My father, ironically, was a senior prisons officer and so, I grew up in the prison. So, I have seen prison from both sides. I grew up as an officer's son in 1960s in many prisons around this country. When I was arrested, my father spent a lot of time trying to get me released. In 1984, there was a rumour that the Government was going to release all university students. This time, we were given a specific date, that is, Jamhuri Day on 12th December, 1984. So, one of his in-laws who was a Member of Parliament and an Assistant Minister, came and told him: "Good news! Your son and his fellow students are being released on 12th December." So, he was ready waiting for me. You know, within the elite, Moi had fallen out with Charles Njonjo and was labeled a traitor. So, instead of releasing the university students on 12th December, Moi announced that he had forgiven Charles Njonjo. My father was so mad that he got a stroke. On 18th November, 1996, he got a second stroke and that is what killed him.

My younger sister was right behind me and had qualified for university, but family members went to my father and told him: "Just marry her off because if she goes to university--"Everybody knows that those days I used to be called David. I have just started using the name again, because there is another Onyango Oloo who has the exact opposite views like me but also he is a commentator and writes. Everybody confuses him for me. So, I have reluctantly reclaimed my Jewish name David for the time being for purposes of identity. They told my sister not go to university. A lot of things went down.

When I came out of prison, I later went to exile in Toronto and Montreal in Canada. I used to forget turning lights off until I realized that in prison, the lights are never turned off. I noticed that even if I go to bed at 3.00 a.m. in the morning, at 5.00 a.m., I am up. Even if I go to a restaurant, I am always facing the entrance. These are little things which you do not notice. When I went to prison, I did not have asthma but now I do. I have carried prisoners in hands; people who have died because of medical neglect and all those kinds of things.

101. In many cases, torture and detention extended to relatives of suspected members of *Mwakenya* According to Kangethe Mungai 'These people [the relatives of Mwakenya suspects] were the ones who were tortured more than anybody else because they did not know anything while the police thought that they were hiding information' Kangethe Muigai recollected how his mother was brutally beaten by Special Branch officials

> Honourable Commissioners, as this was happening, there was a repression that was taking place and it was completely unknown to us, the harassment of our families back home I was made to understand later when we came out of prison that my home in Kabete - this was narrated to me by my mother - her home was converted to something worse than a grave Nobody would ever dare enter that home This was because the police were looking for my three other brothers, luckily one of the brothers got a scholarship and went to another country But the other two were around either in Kenya or Tanzania The police wanted to arrest them and in the process they were harassing our parents and relatives My mother narrated to me how the police came to her and told her to produce her sons They did not mention Kang'ethe, but they said *"Tuko na Kang'ethe"* They wanted the other two They started beating her up She told me that before she had never been slapped by a strong able bodied man with full force I asked her how many slaps she suffered, she told me that she could not remember, but they were from six upwards So they beat her in front of her daughter There was one of our sisters who was left at home and they were beating our mother while she was watching Finally when she could not produce her sons, she was arrested and taken to Muthaiga Police Station and locked there Honourable Commissioners, being beaten and taken to a cell was the worst form of torture for a lady of 77 years [85]

102 Kangethe Mungai also narrated to the Commission the story of his nephew who was equally detained and tortured

> I had one cousin who was called Waruhiu Muhia who was arrested on suspicion that he knew where one of my brothers who were in exile was Mr Cheha Mungai, my younger brother is now dead He was suspected of communicating with me So, the police brought him here and they thought he knew about the whereabouts of my brothers I was arrested and imprisoned but my brothers went to exile because of that, so the police were looking for them This man was arrested from where he was working at the Kenya Breweries Limited and brought here Having written his account, the police started--- Now he is dead, but fortunately for us he wrote about his account The first thing they did was to undress him completely He was undressed to his birth suit in front of nine men here in this building, at the uppermost floor They undressed him and made him start going round on his finger on the ground as they beat him everywhere They were telling him to tell them that he was a member of an organization and to tell them where all the others were They beat him up until he fell unconscious, but he told them he knew nothing about all this They did not succeed to get information from him They took him downstairs to the cells still undressed That is what he tell told us I interviewed him and I have no doubt that this is what happened to him After that they pushed

85 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p 8

him into a cell and brought a horse pipe He was still naked and they sprayed water on him Then they left him there without food He was not communicating with anyone, he stayed without water and without going to the toilet for four days They could come and ask him whether he was ready to tell them what was happening, but he kept telling them that he had no information at all So, it continued like that until finally after 17 days, they were unable to get anything out of him So, they removed him from the cell with his skin bleeding off his feet and being quite ill They took him to a place in town and told him to go home His wife was waiting for him at home but he did not find the child they were expecting because the wife had miscarried because of shock This man continued ailing and died a year ago This man was compensated by the court to a tune of Kshs 1 5 million late last year But he died before he could get his compensation It is still within the Government system "[86]

103 Wafula Buke also told the Commission how his association with Mwakenya affected his brothers, uncles and the family at large

One of things that I find problematic is that the broader family paid a very high price In fact, my uncle who was a teacher was arrested on FERA charges and stayed in for four months, because he was my friend He lost his head and we buried him not so long ago Of course, my brothers were all put in and got many problems But the major thing that hit us, as a family, is that because we were a bit of a dissident family, the fellows in KANU schemed and used their connections and secured the title deed of our family ancestral land, where we had lived from 1940s "[87]

104 Similarly, Veronica Wambui Nduthu was tortured and detained together with the husband primarily because their son, who was later killed most probably by state agents, was suspected to be a member of Mwakenya

The police were consistently at our home at night or even at around 2 00 am They would even come and check under the bed and keep asking where he was We were harassed and even our neighbours did not want us because they had been told that we were bad people We were left as loners and we continued staying like that [ ] They arrested us and took us to Kericho with my husband We spent the night in the cells and in the morning they took my husband to court At that time the former President Moi had a meeting in Nakuru We were released and transported back home We thought they were taking us to President Moi and started wondering if they were going to kill us By then my children were left crying In Nakuru, we were detained again at the Central Police Station where we spent the night In the morning they called us and started interrogating us with a lot of harassment, torture and beating They kept asking us "Why did you give birth to this son? What kind of a son is this?" We told them it was okay because it is God who blessed us with the son They locked us in for about two weeks They went for his brothers and his friend There was a lot

86 TJRC/Hansard/Thematic Hearing on Torture/28 February 2012/p 6
87 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 40

of torture and they were not feeding us They kept telling us that we were going to produce our son [88]

105 Another disturbing story was narrated by Wilson Awuor Ang'onga whose wife was pregnant at the time when he was detained and tortured One evening they abducted Ang'onga's wife and took her to a freshly covered grave where they showed her the clothes of the husband, in effect making her believe he was dead This traumatic experience would contributed to the miscarriage that she later suffered and the strained relationship she had with the husband when he was released from detention

> What was very unfortunate was that during the time I was in jail my wife was at home She was pregnant Special Branch officers in Kisumu used to come for her during the night drive her to unknown destination and later bring her back to the house and tell her not to inform my parents That happened for about five times On the fifth day, she was taken to some places in Western Kenya, where man-made graves were One of them had my clothes, which I had when I was jailed One of the officers asked where her husband was, if she knew those clothes When I went back home, I found that some rituals had already been performed because she had reported that I was dead The family did not know that I was released It was a problem When I went home, I decided to stay in my mother's house for two days I did not go to my house My mum was very welcoming but my wife was very negative To her, it was like she was seeing a ghost So, my mother talked to me at length and explained all that had happened She told me that she would take me to some herbalist for cleansing before I rejoin the family I accepted because I was not a difficult person We went to a certain herbalist, who gave us some medicine for use in my house I did that under the instructions of my mother [89]

106 The wife passed away not long after Ang'onga was released from prison

> Due to the long time of isolation, I was a very quiet man with my wife This disturbed my wife and later on she miscarried I told her to accept the situation and we buried the baby So, my wife developed a sickness As I had left the prison alone, I never wanted to discuss things about prisons People feared me in the community Most of the time, I was just in our home My wife used to cry from time to time because she realised that life was going to be very difficult since I did not have any employment I kept reassuring her that life would be normal but it did not work On 15th February, 1996 my wife passed on [90]

88 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p 33 See also TJRC/Hansard/In Camera Hearing/7 March 2012/p 24

89 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/22-23

90 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 23

Harassment of family members: 'He said that he was seeing, in the act of washing the books, his freedom'

TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p. 16-17

There is an interesting case of the late Muigai, my nephew. They knew that he had books and they wanted them. So, they came home and demanded to know where the books were. Muiruri, the younger brother of Muigai who is sitting there, because of the fear had taken the books and buried them in the farm. So, somehow, the mother discovered the books while working on the farm. Knowing how dangerous it was when one was caught with the books, she dug them out and threw them into the pit latrine. So, the Special Branch or the secret police came and demanded to have them. They would come in a threatening manner because they came after arresting Muiruri and taking him to Parklands Police Station for three days demanding the books. Muiruri did not know where they were because he knew there was a hole where he had buried them. Because the mother felt that his son would be jailed like the other one, she told them she is the one who knew where those books were. So, they asked her where the books were and she said that she had thrown them into the pit latrine a month ago. So, the police took torches and went to the pit latrine. They said, no, you are lying to us because all we are seeing here are newspapers.

Madam Chair, the rural people cannot afford tissue paper and so they use newspapers most of the time especially those days. The police did not believe that and so they said that they would leave. They told her that if she did not take the books to them, her son would also go to prison. So, they went with him and took him back to the cells in Parklands Police Station. So, they were afraid that this son would be jailed just like the other son. They had to demolish the pit latrine and use hooks and other things to look for the books in the pit latrine that had been under constant use for a whole month. So, you can imagine how the books were buried deep. They got the books but luckily, they were tied together in a net like the one used for tying onions. So, the hooks succeeded in getting the books out. But the big job was that when Muiruri was released to get the books he succeeded in cleaning them and he said that he was happy to clean them. He said that he was seeing, in the act of washing the books, his freedom. So, he washed the books very carefully and joyfully because he knew once they got the books, he may not be tortured or taken to prison. So, he finally put them in a plastic paper bag and left. There were no mobile phones. So, he went to the place they had agreed to meet with the Special Branch opposite the Central Police Station. So, he went there and after struggling to locate them, he had to use other police officers to report that he had arrived and had the books. So, finally, they came and he told them that he had the books. They told him to open and he told them that if he opened, they would vomit. They then told him to put them at the back of the vehicle. So, they carried them in that state.

The torture squad

107 The Commission established that a special team based at Nyayo House was established within the police force for purposes of interrogating and torturing suspects of Mwakenya and members of other unregistered organisations or those who were suspected to be engaging in subversive activities A police officer who was stationed at the Nairobi Provincial Headquarters at Nyayo House in the 1980s told the Commission that he was a member of a Task Force that was specifically established to interrogate suspected members of Mwakenya

> When I was posted to Nairobi after a few weeks I was told, "You are one of the officers who are going to do a special task which has arisen, but you will be briefed" I was told to report to Mr [James] Opiyo We were quite a number of officers who had been drawn from various places It was a special kind of operation We were told that there was a movement which had been engaging in subversive activities "We have arrested some people and we want to embark on investigation of this movement and see to what extent it has operated and know the people who are involved and their aims and objectives" Having been in the service we understood what was meant by subversion [91]

108 He disclosed the names of some of the members of the Task Force. Mr James Opiyo, Peter Munyiri, Elias Mjomba, James Majani, James Kilonzo, Serbi, Ben Machiri, Martin Muthee, Francis Mwabembe, Ndirangu and Paul Liminaji [92] According to this witness, James Opiyo was the leader of the Task Force or at least he reported to him The witness also indicated that the officers in the Task Force were of different ranks and carried out varying roles

> Those were senior people I was just an Acting Superintendent There was another gentleman called Peter Mureithi My senior most were Mr Opiyo, Mr Mjomba, Mr Majani and Mr Munyiri They were Senior Superintendent of Police The rest were my equals and others were junior We had junior officers who were guards to the cells There were officers who were actually given those duties to carry [to guard the Nyayo House basement] There was Nzomo, Peter Kimanthi, Rukwaro, Martin Ochanda – he was a Sergeant Those are the names I can remember

109 Mwakenya suspects who were detained and tortured at Nyayo House also mentioned some of these names as the people in whose hands they suffered torture James Opiyo and Elias Mjomba were particularly mentioned by many victims of torture. According to a victim

91 TJRC/Hansard/In Camera Hearing on Torture/Nairobi/29 February 2012/p 4
92 TJRC/Hansard/In-Camera Hearing on Torture/airobi29 February 2012/p 4

I can remember Mjomba, a light skinned guy who later became the Head of Operations at the National Security Intelligence Service and I very well remember James Opiyo Those are the two people that I can remember Opiyo is the one who was pointing at broken legs of chairs and he would tell me if I do not cooperate, that is what they would use to break my other leg I remember that kind of threat The person who was taking my statement was called Mjomba. I do not remember his other name but he is the one who was personally taking my statement [93]

110 Another victim recalled that he was tortured under the watch of James Opiyo

I was taken to a dark room and I did not know what time it was, it was very dark there I stayed there They then called me and got me out and they blindfolded me I sensed that I was being taken into a lift When we got up there, there was a huge table and some six old people were sitting there Each one of them asked me questions like where I was born, how many members were in my family and my general life questions I heard them saying "Mr Opiyo, I think we have finished" He was standing there and he was just walking around, but he never asked any questions He was a tall dark man [94]

111 Apart from police officers attached to the Special Branch, the Commission also received evidence that members of the Provincial Administration (especially Provincial and District Commissioners) were involved directly or indirectly in the crackdown against Mwakenya At Nyayo House, the Task Force responsible for interrogating and torturing Mwakenya suspects was under the supervision of the Nairobi Provincial Commissioner [95] Task Force responsible for interrogations and torture was In Kisumu, former Member of Parliament, Phoebe Asiyo narrated to the Commission how one night she was picked from her home by policemen who took her to the office of the Nyanza Provincial Commissioner for interrogation

One day at 3 00 am in the morning in my house, the police came to my home I was the member of parliament for Karachuonyo They told me to get out They were brought to Kisumu I was in my pajamas and house coat They said, "Come to the sitting room, we want to talk" They chose a day when my husband was not home I was taken to the PC's office The PC was drunk even at that time of the night He could hardly raise his head but when he did he asked me "Are you the woman who wants to get rid of the government of Kenya?" I did not respond because I was not a *Mwakenya* I did not know about the activities of *Mwakenya* and God knows this is the truth I had a very hard time I could not come out of the PC's office because I was naked, I did not

93 TJRC/Hansard/Thematic Hearing on Torture/28 February 2012/p 17
94 TJRC/Hansard/In-Camera Hearing on Torture/Nairobi/7 March 2012/p 21-22
95 TJRC/Hansard/In-Camera Hearing on Torture/Nairobi/29 February 2012/p 8

> have clothes. There were no mobile phones those days. I did not have my car and my driver was not there. So I was forced to walk on my slippers to Jubilee Market. The humiliation and indignation was too much. I know that whatever these people who have died went through must have been terrible. I was only there for one night and it was bad. I was so dehumanised and did not even want to look up to my people as their member of parliament.[96]

112. In most cases, in order to induce the suspects to make a confession, the torturers would invoke the name of high ranking government officials including the President. For instance, a victim remembers that he was informed that President Moi did know that he was been detained at Nyayo House:

> They told me that I should be aware that every prominent person had been at that place where I was being interrogated. They told me that the seat I was seated on, Raila and Matiba, had sat on it and they answered questions. They said: So, do not try to joke; you are a small person. I answered and said that the truth that is in my heart is what I would tell them and that I could not add anything because lies would not help me. They also told me that I should be aware that President Moi was aware where I was and that they could not do anything without his knowledge. I told them I was happy and that if that was what would take my life away, then it was okay because the President knew that I was there. I told them that if my life would be taken away for speaking the truth, then that would have helped me.[97]

113. A witness who was engaged in the torture of Mwakenya suspects confirmed that although they never did receive direct communication from the political class (e.g. the President) they always knew that they were acting under some form of instruction from high ranking government officials and that these officials knew about the crackdown on Mwakenya members. In his words, 'Although it was not communicated to me, by the nature of the duties we were doing and the demand, it was clear that there was pressure from somewhere. It was a political decision'.[98]

96 TJRC/Hansard/Public Hearing/Kisumu/14 July 2011/p. 27-28.
97 TJRC/Hansard/In-Camera Hearing/Wundanyi/25 January 2012/p. 21.
98 TJRC/Hansard/In-Camera Hearing on Torture/29 February 2012/p. 23.

A police interrogator confirms use of torture at Nyayo House

TJRC/Hansard/In-Camera Hearing on Torture/29 February 2012

Leader of evidence: A number informed us that they were kept in the cells, including in cells which were waterlogged and they would be subjected to busts of dust on them, hot and cold air and that by the time they would come up, some of them have said they would have some physical injuries and they would not have had any food or water. Mr. Wachira, can you confirm that some of the people that appeared before the panel were worse for wear?

Witness: To be frank, there were some who had been put under those conditions and hon ...

Leader of evidence: Now, a number of individuals, in fact a large number have told us that they would appear without clothes before the interrogation panel. They were nude. Was that so?

Witness: To be frank, they would be forced to be nude. Psychologically you make them to break down and you got the information that you wanted....

Leader of witness : What some of the people have told us as part of the psychological torment is that they would be exposed to spending time there with no food at the basement. When they would come up for interrogation, they would watch the panel eat but not be offered anything. Were you on a panel that did this to the person that they were interrogating?

Witness: I remember on many occasions when I was interrogating people, we had food together with my interogees but denying people food, I think there were occasions when they would be denied food. That is true and of course that was also another way to make somebody break down

Leader of witness: Thank you ... We really do appreciate your forthrightness. A number of witnesses have also said that apart from the psychological torture, they were exposed to physical beatings in order to extract information from them. Were you on a panel that probably assaulted people?

Witness: To be frank, that one was there and I even personally beat some of my friends who are here. You use a whip and you get the information. It was there and I cannot hide it.

Leader of witness: ... of the people that you interrogated, do you remember--- Some of them have told us that they would make a number of visits to the 26th floor. So, you would come and if you were found not to be revealing information, you would go back to the basement and then come back on a later date. Was that so?

Witness: That was there because we expected that when you came, maybe you had recollected things and maybe elaborated on what you had said earlier; of course the team expected that you would make progress in that particular report. Of course even that one

would help the interrogators to know or determine whether you were really involved in this thing, because there were some people who were mentioned by other people but they were not involved and they were to be released.

Leader of witness: Thank you very much ... Some of the people say that in fact when they went back to the basement, they were exposed to harsh treatment and the purpose was to intimidate them, so that when they came back upstairs they would be willing to talk. So, my question is: Were you on a panel that when sending back someone to the basement, you would tell them words to the effect that: "we are taking you back there and when you come back you better be ready to talk"?

Witness: There were quite a number of such occasions. They would be admonished with words like: 'When you come, come equipped with the information that we have been asking you to give us." This was a procedure.

Nyayo House Torture Chambers

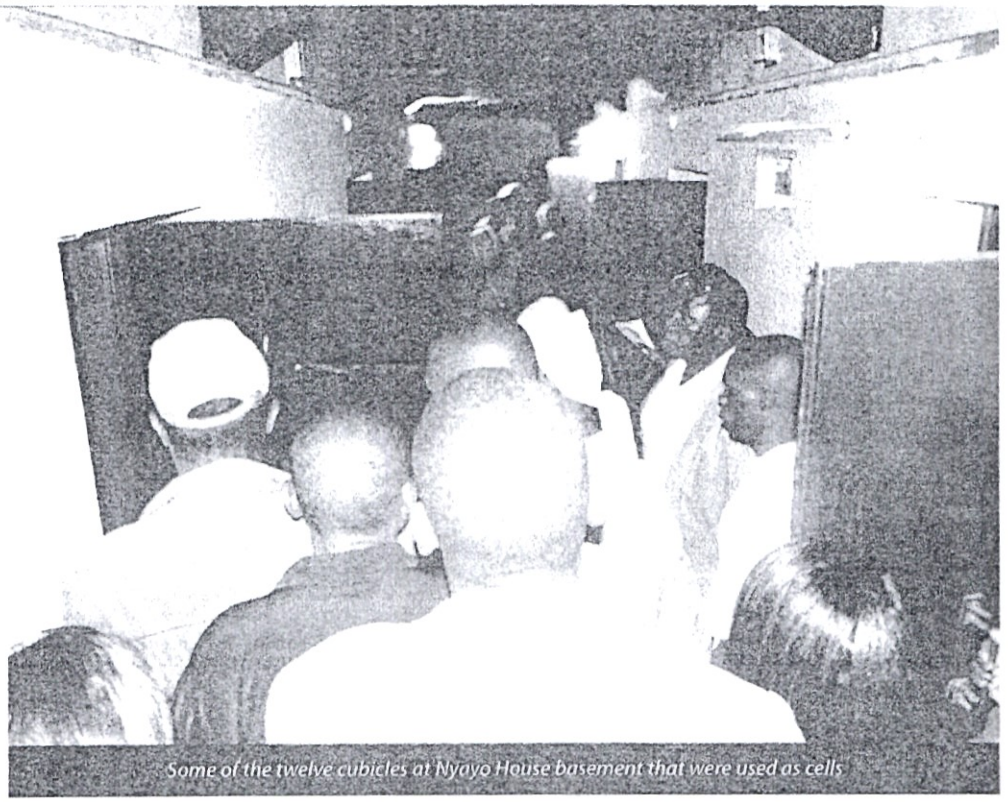
114. As mentioned above, Nyayo House was one of the main sites where torture of Mwakenya suspects took place. It served as the Headquarters of the Provincial Administration for Nairobi and also housed the Immigration Department, among other government offices. Ironically, this building is named after Moi's philosophy of peace, love and unity. In a disgraceful contrast, its walls and floors witnessed the humiliation and torture of many victims confined in waterlogged cells.

115. In an interview in 2003, Mr. AA Ngotho, the former chief government architect during the construction of Nyayo House, told the *Daily Nation* that Nyayo House was set up to house Special Branch offices.[99] Mr. Ngotho revealed that during the construction, his department was directed to deal with two senior officers from the Special Branch and a Mr. Parkins who was also directly involved in the construction.[100]

116. The Commission believes that the Special Branch team of technicians involved in the electrical fittings and the fixing of the telephone systems also installed a control room complete with switches and vents to pump cold, hot or dusty air into the cells and in addition to control cell temperature and light intensity.

117. The Commission's research and investigations point to a strong likelihood that the torture cells at the basement of Nyayo House were specifically constructed for the purpose of detaining and torturing suspects. The Commission invited the Ministry of Public Works to a hearing to clarify some of the allegations that have

99 *Sunday Nation*, Nairobi May 6, 2012 p.26
100 *Sunday Nation*, Nairobi May 6, 2012 p.26



Some of the twelve cubicles at Nyayo House basement that were used as cells

been made regarding the construction of the torture cells. Two senior officers appeared before the Commission to represent the Ministry of Public Works.

118. One fundamental question the Commission sought to clarify is the actual architectural work that went into establishing the heavily fortified dark cells that appear to suggest that they were specifically designed to become a place for torture. Some of the distinctive features that compounds this theory include the 20 feet electronically controlled steel gate, doors made of steel five millimeters thick, rubber seals to prevent leakage of water in the cells, the walls and roof of the strong rooms was a double wall 6 inch thick each and sound proof materials between them, possibly made to prevent the inmates from communicating among themselves. The Commission therefore sought to hear from the officers what the 12 cubicles at the basement were intended or used for. According to one of them:

> These strong rooms were supposed to house sensitive documents or documents to be secured for any of the Ministries. My colleague explained that we had Immigration Department which has passports. There is also the Transport Department which is with KRA today. They produce logbooks and driving licenses which needed to be secured. It is important that as the documents are taken to the strong rooms there should be some documentation as to what is being taken there. That is what that office was supposed

to have been for Any facility with people using it, professionally, we should provide for toilets and water We note that we have parking in the basement We would have had to provide facilities for the drivers who would keep the vehicles down there [101]

119 The officers indicated that they were not able to locate the initial file with the brief and so claimed it is impossible to know whether the initial design included strong rooms or if the strong rooms were part of later modifications They produced the drawings during the Commission's hearings but were not able to ascertain whether these were the initial drawings

120 The Ministry of Public Works failed to provide the Commission with accurate and complete information that would adequately help in answering the queries about any changes in the original plans of the building and the subsequent conversion of the cubicle cells into torture chambers The Commission was disappointed that the Ministry of Public Works did not provide conclusive answers to questions on the construction chronology of Nyayo House [102]

121 After the Commission's hearings, the Ministry of Public Works wrote to the Commission confirming that their officers visited the basement of Nyayo House and established that the construction of the strong rooms was done as per the design, based on briefs provided by the client, the Office of the President They also confirmed the existence of 12 strong rooms, an office and a washroom, all as designed and as per drawings submitted In its letter to the Commission the Ministry of Public Works admitted

> It would therefore appear that the use of the facility as initially envisioned may have been changed after completion of the work It was however noted that there was an attempt to demolish some walls, whereby the outer wall to the washroom had been pulled down The washroom is however not in use at the moment [ ] [103]

The Trials

122 The majority of Mwakenya suspects who stood trial informed the Commission that the trials were devoid of fair trial guarantees Firstly, after suffering horrid acts of torture the majority of Mwakenya suspects simply pleaded guilty to avoid been tortured further For instance, although he had never been a Mwakenya member, Wilson Awuor pleaded guilty to a charge of being a member of an illegal organisation

101 TJRC/Hansard/Thematic Hearing/Torture/Nairobi/28 February 2012
102 Letter from Ministry of Public Works Ref MOPW/A/200/01/59 8 May 2012
103 Letter from Ministry of Public Works Ref MOPW/A/200/01/59 8 May 2012

> I was taken to court at around 6 00 p m where a charge sheet was read – that I was a member of an unlawful society, which was Mwakenya Due to fear for my life at Nyayo House, because the experience there was very bad, I just admitted the offence and I was sentenced to four-and-half years imprisonment Later, I was taken to Kamiti Maximum Security Prison After two days, I was transferred to Kamiti Medium Security Prison, where I was taken to the Segregation Block. In the Segregation Block, I and other political prisoners who were there were not allowed to communicate We were in isolation That was the life there '[104]

123 Secondly, since prior to their arraignment in court Mwakenya suspects had been held incommunicado, they never had a chance to contact a lawyer, and at the court, a lawyer was never availed to them According to a witness

> There was nothing like being told to get a lawyer and our relatives were not informed They would do that to make sure that nothing would stop them from taking you to prison and that you would definitely be imprisoned [105]

124 Indeed, at the point of arrests, suspects and their families would be advised that it was no use to contact a lawyer Joan Kabaselleh remembers that when the husband arrested her husband she was categorically told that 'This is beyond an advocate'[106] Thirdly, the trials were held late in the evening, sometimes way beyond working hours

Impact

125. The acts of torture that Mwakenya suspects suffered in the hands of state security agents have had a lasting impact in their lives Joan Kabaselleh told the Commission that when his husband was released from prison he was not only a sickly man, suffering from diabetes, eye problems and chest complications, but he also carried a heavy emotional burden of anger He was a bitter man

> He was bitter I could encourage him but he was telling me "No, the torture that I got from Nyayo House, somebody using all parts of a chair to beat you until they are all in pieces" He could tell us that he would remain in water the whole day without food When he remembered those things, he was very bitter He said it was better if he was imprisoned but not the torture chamber It was very painful That is where his knee was hit and the pain remained until he died The chest pain also remained until he died In my life I always avoided the Nyayo Torture Chamber Even when I was told people were coming to visit this place, I could not come It was only last week that I came to see the place Surely it was a beastly act I just questioned myself whether this was being done during colonial rule or after?[107]

104 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 21
105 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p 15
106 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 12
107 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p 16

126. The majority of torture survivors have remained unemployed, decades later. Those who were university students at the time of their detention and torture had their education and careers abruptly and indefinitely cut short. Their families were thrown into economic hardship for in most cases the suspects were the main family breadwinners. Hannah Wangari Gathoga, the daughter of Peter Young Kihara, who as indicated earlier, was among the very first people to be associated with Mwakenya, narrated the economic impact of her father's arrest and detention:

> He was arrested as we witnessed in 1986. That is what I will talk about most. He was arrested with the Mwakenya group. The policemen bothered us a lot because we were put aside, all our property was destroyed or torn, for example, mattresses, blankets and everything. Everything was placed on the ground and we were living in a mud house. There were certain documents that they were looking for [...] Because of what we went through, we did not go to school because of the problems we had. Our mother is unemployed and we are nine children in the family. So, we were not able to get educated [...]The other thing is that, it hurts a lot because I sat for my examinations in 1985 with my elder brother and I was not able to join a good school because they came for my father on 23rd January. So, when we were looking for a school, my mother started catering for my father instead because he was taken away on 23rd January and we saw him again on 2nd April. So, instead of looking for a school for me and my brother, my mother had to first take care of my father.[108]

127. Another witness spoke for and on behalf of many survivors of torture when he told the Commission that:

> Now if I go back to my own family as I have told you, people lost jobs. I think this is something that cuts across families of these people who were brought here. People lost their jobs. I was a civil servant working as an Agricultural Officer in Western Province. My cousin Gitau Davy was working in the City Council of Nairobi and he was one of the union leaders. He was a shop steward. My nephew Mungai was also working in the Railways and so on. When we came out of prison, nobody could employ us. We were sort of outcasts. Of course, the Government could not take you back. We were already marked men and women. So, these people lost their livelihoods. Even my mother could not go on with the work on the *shamba* because of the harassment that was going on and the support that her children were giving. Almost all the families that were being arrested suffered in more than one way and economic loss was almost uniform. Everywhere you tried to invest, you found economic loss. This economic loss, hon. Commissioners, is an important matter to address.[109]

128. The incarceration of Mwakenya suspects also led to family break-ups. For many of them, it has been difficult to establish new families.

108 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p. 41.
109 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p. 12.

This is something I like forgetting and it is probably why I did not remember to tell you. Of course the hardest part was my family. I was very young and my wife was very young. We had just got our first child and my first born was two months old. So, that was my hardest part. As it has happened with most of my colleagues, my family broke down because when I came out--- She was a young girl and I had stayed with her very briefly. When I came out, we each had changed in different directions and something did not work out. So, we had to separate. I first tried and even got two more children with her. So, I have three children with the same lady but we had changed very much that we tried to salvage the relationship for ten years. After those ten years, we could not do it anymore. I have two boys after prison and I love them very much even if I separated with their mother because I associate them with freedom. It was very difficult for me to start another relationship. This has happened to very many people. I have talked to my own colleagues. I have one of my colleagues who had to get married later to a person more than 20 years younger than him. It was difficult because this was a *dot-com* and he was becoming an old man and the language to use becomes difficult. It is difficult but we are coping. Many families were affected like that.[110]

My message to Kenya is take care of widows

TJRC/Hansard/Thematic Hearing on Torture/Nairobi/7 March 2012/p. 17.

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

Again, compensation should be done without going to court. In one of the meetings I was told of somebody who was awarded Kshs 1.3 million but the lawyer wanted him to add Kshs 200, 000. In other words, the person went without anything. Try to imagine such a thing happening to a widow who is already in pain. That is like digging a grave for that widow. I recommend that this thing should be done without going to court.

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

I recommend special attention for the widows of the departed. Some of them were left with children who were going to school. Some of them have various issues which they have to address[...]

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

110 TJRC/Hansard/Thematic Hearing on Torture/Nairobi/28 February 2012/p. 19

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

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

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

That is the word of God. The Governments may come and go but the word of God is forever settled in heaven. So my message to Kenya is take care of widows. We are approaching the elections again and it is my humble prayer that they take care that this land may not have more widows. May the Lord, bless you.

Detention and torture of FERA suspects

129. The Commission received 16 statements from witnesses who were subjected to torture as suspected members of the February Eighteenth Revolutionary Army (FERA). The crackdown on FERA occurred between 1993 and 1997 within Bungoma and Mount Elgon Districts. Suspected members of these groups experienced torture and gross violations of human rights. Indeed, widespread arrests, imprisonment and torture of residents of Bungoma were reported. FERA suspects were held, often incommunicado, in police stations around Kimilili and Webuye and beyond including Kakamega Prison and Kodiago Maximum Prison. Some of them would then be transported all the way to Nairobi where they were detained at Nyayo House.[111]

130. Witnesses who were arrested during the FERA crackdown narrated how they were tortured, particularly by infliction of pain on their private parts. One witness told the Commission:

> While naked, I was made to put my legs apart and they tied my private parts. They tied my testicles, I am not ashamed to say this because it happened and they started pulling. They said they would bring an end to my life if I was not going to say anything. As they kept pulling, I cried out and the more I cried, the more they pulled. Later, they released

111 See TJRC/Hansard/Public Hearing/Kapsokwony/24 May 2011/p. 19-22.

a bit and they asked me if I was ready to talk They asked me what I knew about FERA and when I said that I did not know anything about FERA, they said I was joking with them It reached a point when they said I was not talking On the last day, I was beaten unconscious and that is when I was served with papers and a pen and told to go and write all my political role and involvement in FERA or *Mwakenya* [112]

131 A female FERA suspect was sexually violated by police officers in a police cell

> They came into my home with seven vehicles and took me to Bungoma cells where I was raped and they put a bottle in my vagina.[113]

132 In most cases, FERA detainees were asked to undress and remain nude during interrogations. They were subjected to strenuous exercises like remaining in a squatting position until instructed otherwise Detainees who fell to the ground during interrogations would be severely beaten by interrogators Denial of food was common, forcing victims to survive on water alone. Psychological torture was also common as interrogators would leave the lights on in the cells so that detainees were not able to tell day from night. All these were meant to break the victims and make them to confess their involvement or knowledge of FERA Often, those detained would be persuaded to sign confessions admitting their membership in FERA They would then be removed from the cells after some days in the same manner that they were brought in – blindfolded

133 Many of the FERA suspects who were detained and tortured bear permanent injuries Others succumbed to the injuries they suffered Jackton Wepukhulu was arrested and tortured together with two other people He told the Commission about the fate of the other two

> It is only one who is still alive The other man died because he was tortured using live electric wire When we came out of prison, he lived for a very short time and succumbed to death because of the injuries he sustained when he was being tortured He was Titus Wakori Wagwavuvi Mr Wycliff Wahonya is still alive, but he has some memory lapses In fact, he behaves like a mad man As I speak now, I think he is in Uganda He is not comfortable living here with us If need be, his relatives could come and testify before this honourable Commission [114]

112 TJRC/Hansard/Public Hearing/Kapsokwony/ 24 May 2011/ p 6
113 TJRC/Statement/36561
114 TJRC/Hansard/Public Hearing/Kapsokwony/24 May 2011/p 23

Detention and torture of a FERA suspect: The story of George Walikhu Marakalu

TJRC/Hansard/Public Hearing/Kapsokwony/24 May 2011/p. 3-9.

I was arrested on 12th January 1995; I was arrested in a very funny manner. It was very early in the morning, before 8.00 a.m., when two police officers in plainclothes, who were attached to Lwakhakha Police Post, came to my place of residence. They demanded to know who I was. I gave them all my particulars. Then they told me to follow them since the boss of the police station wanted to talk to me. I almost forgot to give you the names of the police officers. One was Otieno but I did not know the name of the other, except that I talked to one of the special branch officers called Peter Komora, who also demanded to know a few things about me and my background. I talked to them and then they put me into the cells. I remember before I walked out of the house I told my wife that since she knew me as a political activist, she should not handle the issue lightly but instead she should track me to the police post. That was exactly what she did. I spent there a day and my wife brought meals. Later on, I was transferred from the police post to the divisional headquarters in Cheptais. When I reached there, there were other people who had been arrested alongside me. They happened to be David Waliaula and Lawrence Bwonya. I did not know exactly why I had been arrested and by the time we were being moved, it was not just a mere movement. We were put in a vehicle under very tight security by the General Service Unit (GSU), regular police and Administration Police.

So, back in Cheptais, the District Officer (DO) talked to me. He wanted to know about me and I told him everything. Now, he even asked me when I had left Uganda for Kenya. He made some teasing statements. He asked me how Museveni was. I told him that I did not know him, as I was just a refugee, and I had managed to come back to Kenya which was my home country. During my stay there, one of the special branch officers came and took me to a separate room where he interrogated me. He asked me a lot of questions. I am sorry I will not divulge all the questions because of time, but they were all related to political issues.

They wanted to know why I decided to join the opposition politics. I talked at length about it and I was sent back to the cell and I stayed there for a day or two before I was transferred to Cheskaki Police Station. The cells were full in Cheskaki Police Station and there were so many young men who had been arrested.

By that time, I was about 28 years because I was born in 1968. The place was very congested and filthy and we stayed there for about two days and we were wondering why we had been arrested. But all the same, we decided to wait until we get to know the accusations. After a day or two there, the same policemen moved us again. I presume that we were more than 50 people and we were put into two separate Land Rovers and moved to various police stations. I think one of the Land Rovers drove to Kimilili and the other one went to Webuye. I was in the one that drove to Webuye. From that time, we lost touch with our family members. I remember I was in Webuye for more than one week and at one stage, we asked the OCS why we were not produced

before the law court so that we could respond to any charges preferred against us The OCS responded by saying that he had only kept us in custody but he was not responsible for us and that somebody else was responsible for us but he did not mention who that person was

One night or three days later, at about midnight, several men in plain clothes came and demanded that we come out of the cell Before we reached the reception, our names were read out. The experience I went through was very bitter I was made to remove my shirt and the belt was used to handcuff me from behind The shirt was used to blindfold me before I was moved to the waiting vehicle that was outside I presumed that it was a lorry I was not taken there in a dignified manner, I was just bundled into the lorry like luggage Inside the lorry, I instantly realized that people were sobbing and sighing inside there and I knew that things were not well Before long, all of us had been bundled into the lorry and the journey began The lorry was being driven at a very high speed, even over bumps. We were shoved up and down and it was very painful Remember I told you that I had been handcuffed from behind so I sustained some internal injuries in my spine and the neck We arrived at dawn, the birds were singing and that is how I got to know that it was dawn because I had been blindfolded After we alighted from the lorry, we were made to move slowly Instructions were whispered to us, "step down, move, take your legs up", and I eventually found myself in a cell that was not big It measured about 7 feet by 5 feet

As I was pushed into the cell, whoever was responsible for me removed the shirt that was used to blindfold me as he left and instantly locked the door So, I could not even have time to look back to know who he or she was After a few minutes, the same door was opened though I could not see who was opening it All I saw was that somebody was pushing a plate of *uji* into the cell and when I looked at the *uji* and given that I was feeling hungry, I started bargaining whether to take it or not I did not know whether the *uji* was going to be safe for my life but all the same I said that, come what may, I am as good as dead and I decided to take it When I took the *uji*, I left the plate there and before long, the same person came and removed the plate I had not told you what was in that particular room What I found in that room was a pail of water with a lid and on top of the pail was a cup In the room was also one blanket, I did not know what all those things were meant for but later on I realized that they were going to serve me

When I wanted to go for a long call, I asked for permission to be taken to the toilet and I was shown a bowl and that became my toilet from that day onwards up to the time I left that cell I used to defecate there and they would come and remove the bowl My meals used to be served in the same manner When it came to lunch or supper, the plate used to be pushed inside and removed after I had finished Lunch used to be *ugali* and some greens and supper used to be *ugali* and some beans On the second day, I was supposed to take a bath and I realized that we were being handled by the warders because the men were dressed in prison uniform I was blindfolded and moved out of the cell The blindfold was removed immediately I reached the bathroom and that was when I took my first bath In the same manner, I was blindfolded and taken back to the room I realized that so many doors were being opened and closed and I must have sensed that so many other suspects were with me in the same unit and yet, we could not meet or know

who was where About the third or fourth day, I was produced before the panel of those people whom I presumed must have been special branch and intelligence men, for interrogation

On the first day I met them they had sat round a table and remember that I was blindfolded and made to pass through various gates, about 100 meters or so from the cell. I would only calculate that through the steps I was making, otherwise I would not see where I was being taken When I met the panel, they welcomed me after a long journey and demanded that I introduce myself and give my historical background, which I did After that, they said that they were going to talk to me more and they wanted me to explain more about other issues One of the funny questions they raised was if I knew exactly why I was there I answered no This was funny because I was expecting them to tell me so instead of them expecting me to tell them They sa d that we would talk more and I was taken back to the cell The next day I was taken back and that is when I faced a lot of questions I had to repeat all about myself in the same manner as the previous manner and they asked me to talk about myself and the political issues They also wanted to know whether I had at one time or the other joined any clandestine organization that was out to undermine or oust the Government of the day I said that I did not know anything of the kind and that annoyed them They said that people always said the truth there I said that I had said what I knew and I had nothing else to add They decided to warn me and told me that they had given me time to think and the next time I went there, I should tell them all I knew about the things they had asked me

On the third day of meeting them, I was produced before them and they were more serious than ever before Previously, when I appeared before them, I used to be given a stool to sit on When I entered the room, they said that I was going to tell them all that they wanted to know and all about what I had done I told them that I was ready to say They asked me if I knew anything called FERA and whether at any time I had been a member of FERA or participated in its activities I denied and that provoked them to anger and they told me that they now meant business They told me to undress and I did it and I remained nude They then said that they wanted me to do some simple exercises for them I was told to go to the hall and then they asked me to create an imaginary chair so that I could sit on it That meant that I had to squat with my hands akimbo and I was ordered to remain in that position until they told me what to do next. Before long, as you would expect, I got tired and I fell on the ground They told me that I was joking because I was a trained man I was told to redo it and when I tried, I fell again and they started beating me I do not know where they began to beat me but all I saw was that they had wooden bars and they beat me on the hands, legs and soles When I cried they told me *bado mambo*, we still have a lot with you I was told to climb over the door and hang on to it I had to use my arms to hang on to the cross bar of the door That meant that my legs were suspended and then they told me to cycle I did it until I could not do it anymore As I was doing it, they were hitting at the soles and the legs and I was crying but they would not sympathize

The whole thing went on day after day and I remember that before they wound up, I was told to bend on the floor and put one finger in one small hole that they had made and rotate

around it and that is exactly what I did and then I found myself on the floor. They came to me with sticks and hit and kicked me and then they asked me if I was ready to talk and I said I will talk They asked me what I knew about those things and I told them that I did not anything They asked me if I knew people like Buke and I said that I knew him They then asked if I had any kind of relationship with him, and I said no I only knew him because he came from the same region with me They asked me if I knew people like Wang'amati and I said that I knew him They asked how I knew him and I told them that he was a politician whom I had interacted with at one time or the other They asked me whether I knew anybody called John Otongo and I told them that I had never heard of him and they said that I was a pretender Later on, I was made to hang on the bars of the door and I was told to bark like a dog and to ape a monkey and I had to follow the instructions They then told me that I was ready to tell them more stories You can realize the kind of suffering I was made to go through It went on day after day but they did not get what they had expected of me When it reached that level, on one occasion after beating me and taking me through the same cycle, they decided to use another technique.

While naked, I was made to put my legs apart and they tied my private parts They tied the testicles, I am not ashamed to say this because it happened and they started pulling They said they would bring an end to my life if I was not going to say anything As they kept pulling, I cried out and the more I cried, the more they pulled Later, they released a bit and they asked me if I was ready to talk They asked me what I knew about FERA and I said that I did not know anything and they said that I was joking with them In the process, it reached a point when they said that I was not talking On the last day, I was beaten unconscious and that is when I was served with papers and a pen and told to go and write all my political role and involvement with FERA or *Mwakenya* I was taken back to the cell and this time round, my meals were suspended They did not come for me until five days had elapsed All I was surviving on was just mere water The lights were kept on day and night and I did not even know where I was I could not tell day or night and my body was swollen all over It reached a point where I could not lie on any side so I had to lie on my back I stayed in that position and yet I had to strain to write At one time during that particular process of torture, I had been forewarned by one of the warders to confess because if I was not going to, then anything could have followed I wrote that I was a FERA member and I wrote so many things, some of which I cannot even remember On the fifth day when they came for me--- I remember that one of those people would peep though the key hole When I was produced after about five days of being in isolation, they asked me whether I had written anything sensible and I said I had I gave it to them and they read

By then I used to smoke and I was given a cigarette to smoke I was also given a cup of tea and I remember that when I took the first gulp, it went painfully down the throat It is as if it was cracking my gullet but I took it slowly until I finished it When I was taken back to the cell, this time round I was not beaten and all I was told was that I had done well to comply I was given further instructions that they were preparing to release me but before they could do that, I had

to abide by certain conditions. One was to accept each and everything and confess to being a FERA member and I said it was fine. I think that is the time they relaxed and I was not beaten anymore. When I went back to the cell, *ugali* was brought and I sensed that I was in danger. My digestive system had practically collapsed and that is when I knew that eating anything solid was going to endanger my life. I took a bit of it, soaked it in soup and bit a little bit and left the rest. Barely 15 minutes later, I heard footsteps of somebody running towards my cell and when he entered the cell, he was in a panic. He removed the *ugali* very fast and enquired if I had taken enough water and I told him that I had been taking water all the time for my survival. After about ten or so minutes, he brought a whole plate of *uji* and he instructed me to take it slowly. That marked my lunch and supper because when supper was served, I could not even eat.

I want to come to what happened shortly before I was moved from the torture and what happened after the torture chamber. After about three or four days, they came for me and I think it was towards dawn. I was removed from the cell in the same manner having been blindfolded and given all my clothes. I was put in a vehicle and I could sense that there were other people in the vehicle because you could feel them breathing but you could not see who was there. Before we got out, our fingerprints were taken. We were driven out of the torture chambers and we drove for many hours until we reached a place called Lessons and that is when my blindfolds were removed. I do not remember anything else. We were driven further and sometime in the afternoon, we landed at Kakamega Police Provincial Headquarters. We stayed there for a day and on the second day I was made to appear before the PCIO who sought to know more about me and the reasons why I had been arrested. I had to explain to him and he took a statement as pertains that.

I thought that we were going to be released to go home from there because when the blindfolds were removed, I realized that I was in the company of four other people. These people were Justus Waelo, Sammy Mafura, Patrick Baraza and Moses Mandu and I was the fifth person. We did not know what was going to follow next only to realize later that we were going to answer to some charges. Sometime on a late afternoon, the charges were prepared and we realized we were going to be taken to court. When we were taken to court, it was a few minutes past five and the courts were empty. There was no audience there but I remember I saw camera men, possibly Press men.

We appeared before a magistrate called Wilbroda Juma and she read the charges against us. I was put on murder of 11 counts and as you know that by law, when murder cases are preferred against you, you do not plead. That meant that we were to appear before the law courts every fortnight for mention. In between our period of stay in the prison, we used to appear before the court after every 14 days. Sometime later, the magistrate was changed and we were made to appear before another Senior Principal Magistrate called Ms. Gladys Ndeda. Wilbroda was a Senior Resident Magistrate. I met other suspects who had been associated with FERA in Kakamega Prison where we stayed for a number of days. That was in March. At one time during our custody, we were moved to Kodiaga Maximum Prison but we would come and appear in Kakamega Court.

Things went on like that until it reached a point where we seized the courage to ask the court to commit us. We wanted to know why we were not committed and the case had run to several months We wanted the prosecution to come up with a committal The prosecutor kept telling the magistrate that the committal bundles were not ready and we were arguing that this was going to amount to an injustice because justice delayed is justice denied. At one time during those sessions, we were represented by lawyers and one of them was the late George Kapten who kept challenging the court to produce the committal bundles but they were never produced I still remember various things that happened at that particular time which I would want to mention and one of them is that even after having appeared before the court, the police had to seize the opportunity to conduct a parade in the prison On that parade, I appeared with my two co-accused fellows who were Moses Mandu and Patrick Baraza because we were in the same charge sheet When the parade was mounted, we asked the policemen to create a space for our lawyer to be present so that justice would be done but the police did not listen and they said that they were going to be fair so we complied We did not have any one of us identified in the parade As we kept on demanding for the committal bundles which were never there, I remember that my people had started visiting me and other suspects in prison and they were wondering what way they would have to use to ensure that justice was done

At one stage, tney ended up in the hands of a State Counsel and I was made to understand that the State Counsel asked for a bribe so as to secure our release I was made to believe that 25,000 shillings was released to the State Counsel so as to buy my freedom Barely three weeks after he had received the money, we were made to appear before the Magistrate Ms Gladys Ndeda and we were released under Section 87B My brother and the relatives of the other co-accused people had also come I may not be so accurate with the section because I am not a lawyer but all I remember was that section meant that investigations were pending and that they could be collected and be produced and charged with the same offence any time From there, we were not entirely free people.

I went back home and joined my people and I remember that my wife was still there I had left her when she was pregnant and we had stayed for a number of years without a child and something coincidentally happened When she gave birth to my first born, I was in prison and I was informed about it She underwent a caesarean operation When I went home, there were so many people who came to say *pole* but later on I realized that there was something behind it People were not only coming to say pole, but they were also curious because they believed the child was not mine She was only two weeks pregnant when I was arrested so their curiosity was satisfied when they saw that I resembled the baby girl I was still staying in Lukhakha I stayed there for quite some time but I was still under surveillance The Government was not satisfied that I was a good citizen My physical health was very poor and my special regards go to Independent Medical Legal Unit (IMLU) because when I got in touch with them, there were various friends who really helped me among them Ms Ling Kituyi who facilitated my treatment We also had other sympathizers from Amnesty International and also a British lady who helped us financially and my life was partially restored

Detention and torture of Kaya Bombo suspects

134. On the night of 13 August 1997, Digo youths attacked a police station and the ferry police post as their initial targets.[115] The raiders stole guns and ammunitions from the police station in what appeared to be a calculated act to obtain arms that would be used to terrorise and drive away 'up-country' people so that they do not vote for the opposition parties in the 1997 parliamentary and presidential elections.[116] After the raid on the police station, the police mounted a massive a operation that targeted residents of coastal villages and towns. This response led to an indiscriminate crackdown on the Digo population which resulted in the torture of innocent people who had not been involved in the raids. The patterns of violations and excessive use of force by the security forces, involving combined units of General Service Unit (GSU), police and other security personnel, resulted in indiscriminate arrests, detention, and torture of hundreds of Digo men.[117]

135. Rashid Bogodzo was a victim of torture during this operation. He narrated his experience to the Commission during its hearing in Kwale:

> At Matuga, they ordered me to stand against the wall and they used chains and pipes to beat me as one counted. Anytime I fell, they started counting afresh and they did that until I messed up on myself. I had not even drunk water since the previous day so I was not able to do anything and they would badly beat me whenever I lay down. I was taken to the PPO's centre where I found Masumbuko, the late Maitha, Chisondo and Mr. Banda. I asked the late Maitha what was going on and he told me that I should admit even if I did not know anything so that I could be released [...] when you were picked, you would go to the PPO's office where you would be stripped naked and your feet would be tightly bound. They would then take your testicles and tie with a wire and it was very bad. You would then be made to say how many people you had killed and how many guns you took. We were there for 37 days. [118]

136. All Hajj Omar Masumbuko was equally subjected to gruesome acts of torture. His story is captured in detail in the box below. It is a reflection of the experiences of many Digo men who were detained and tortured during the Kaya Bombo clashes.

115 Playing with fire: *Weapons proliferation, political violence, and Human Rights in Kenya*, 2002 p 35
116 Akiwumi Report p 21
117 TJRC/Statement/33003; TJRC/Statement/33042; TJRC/Statement/37035
118 TJRC/Hansard/Public Hearing/Kwale/23 January 2012/p. 5.

The detention and torture of Al Hajj Omar Masumbuko

TJRC/Hansard/Public Hearing/Kwale/23 January 2012/pp 27-37

Al Hajj Omar Masumbuko: I am a victim of the Kaya Bombo clashes. I was arrested on 23rd in 1997, two months after coming back from my pilgrimage by about 10 police officers who had AK 47 guns and pistols. I was taken to the CID headquarters in Mombasa, where I met the PCIO, who was Mr. Namai. I also met the PPO, Mr. Francis Gichuhi and the head of the special unit which had been brought to Mombasa in order to tackle the Kaya Bombo issues, Mr. Nyaseda. There were also other officers whom I was not able to recognize. I was asked where I had been the previous two days. I told them that I had gone to pick my children who had closed school in Kirinyaga, Kerugoya. They asked me to prove that I had been to Kerugoya. I gave them the address of the director of the school. I also had a receipt of the place where I had lodged. I was asked if I knew anything about the happenings in Kaya Bombo. Mr. Olando, who was the DC at that time, was a friend of mine. I was among the opinion leaders in this area and had been asked to go to Likoni to say what had happened. I went there together with the DC, Mr. Olando, PPO, PCIO and Commissioner of Police and saw what was happening. They asked me if I had heard anything about Kaya Bombo for the previous six months. I told them that I had not heard anything or hint, since I had gone for pilgrimage in the month of April. When I came back from the pilgrimage, I did not hear anything about Kaya Bombo. They did not ask me anything. I was handcuffed and taken to Bamburi Police Station. When I reached there, the police officers who took me there asked the report office if they had cuffs for my legs and they said that they did not have them. I was put in a cell which was overcrowded until morning.

In the morning, the Criminal Investigation Officers came and got me out of the cell. I had spent the night in handcuffs. They put me in a vehicle and took me back the CID Headquarters. When I got there, I met the PCIO and PPO again, and other officers. They asked me if I knew anything with regard to 20 guns and 500 bullets. I responded that I knew nothing. The PCIO instructed someone known as Inspector Hassan and Inspector Kazar--- Mr. Nyaseda called three other officers who were told to take me. I was taken to an ancient house near the sea, which I believe is a godown. I would like the Commission to go and view the place, which is dangerous. I had my legs chained and they started torturing me. They took a car battery and connected some wires...[...]

They tied some wires on the battery and my feet and started shocking me with the current from the battery while, at the same time, assaulting me. I did not say anything because I knew nothing. They drew a pistol and shot at the wall. One of them removed a sword and cut me on the face. I have a scar on my face. The scars from the electric currents are also still there. My private parts were tied with a wire and pulled. They kept hitting the wire. I was beaten up until I lost consciousness. When I came to, I had been taken back to

Bamburi The following morning, they took me again When I got there, they told me "We do not want to torture you Have you remembered? We just want you to tell us the truth" I told them "To be honest, I am a pilgrim and have taken religion seriously There is nothing that I know" I was taken down there by another group of soldiers ordered by Nyaseda and Mr Namai, who was a Senior Assistant Commissioner When I got there, I found hon Maitha who also had his legs tied [ ]

I found Mr Maitha who had been hung upside down He was being assaulted and blood was oozing from his nose There was one person who had been beaten and I later discovered that he was dead He had a lot of wounds He was a Digo youth

They started hitting me again, but there was nothing I could say because I knew nothing I told them that if they could check my documents, they showed that I had just returned from Hajj

Detention in a condemned section

We were taken to Shimo La Tewa where the warders were told to take us to the condemned section, which is in Block B That was an area for people who had already received capital sentences and were waiting to be hanged It was on the right hand side We slept there and the following day, at about 3 00p m we were blindfolded and taken outside

It was like a prison inside another prison

We could hear people's voices It was like a prison inside another prison There was water and about five other doors inside On the wall, I could see names of very prominent people including Shikuku, Matiba, and Raila [ ]

They told me that the people are fighting in Likoni and it was said that I used to be in Iddi Amin's Army and that I was a colonel So, I asked them that at that age, with my years and my education, did I do that work when I was still in my mother's stomach because I think that to be a soldier one should be over 18 years old and one of them said that it was true So, one of them wanted to hit me but the senior prison warder said that it was not possible because I was now under the prison warders and they would not like policemen to torture me before them Kadzo said that it was possible because I was still under police custody He said that they brought me for keeping So, they pulled us outside

'They told me that if the Buffalo and Lion rise, I will be their food'

When they were coming in, they had noticed that there was a lion and a buffalo waiting for the KWS personnel So, they tied me onto a tree five meters away from the wounded lion and buffalo I was tied there for hours and they told me that if the buffalo and lion will rise, I will be their food I did not really care much because I was tired of life and I was actually wishing that those animals would get up and "finish" me After some time, they came and untied me and took me back

Detention and Torture during President Kibaki's Era

137 During President Kibaki's time in office, rampant and widespread use of torture occurred in the context of Mt Elgon conflict State security agents who were deployed in the region to quash the Sabaot Land Defence Force descended on the local population with excessive force that involved the torture of innocent citizens in order to make them identify SLDF members amongst them There was torture during arrest and separation of men and boys from women in villages and towns There was torture during transportation to the bases set by the military in places like Kapkota, Saandet and Kaptama Finally, once in the bases, those arrested were subjected to various forms of torture

138 Incidents of torture by state security agents in Mount Elgon have been widely reported both by governmental bodies and non-governmental organizations Reports, documenting torture and other violations in Mt Elgon include the following

- Kenya National Commission on Human Rights *Mountain of terror A report on the investigations of torture by the military at Mt Elgon* (2008),
- IMLU *Double tragedy Report on medico-legal documentation of torture and related violations in Mt. Elgon Operation Okoa Maisha* (2008),
- Human Rights Watch *All the men have gone War crimes in Kenya's Mt Elgon conflict* (2008),
- Report of the Joint Visit to Mount Elgon Region by the Committees on Defence and Foreign Relations and Administration, National Security and Local Authorities (2008),
- Medecins Sans Frontieres *Mount Elgon Does anybody care* (2008)
- UN Human Rights Council *Report of the Special Rapporteur on Extra-judicial, summary or arbitrary executions, Philip Alston, Mission to Kenya*, A/HRC/11/2/ Add 6, May 26, 2009, and
- Human Rights Watch *Hold your heart Waiting for justice in Kenya's Mt Elgon region* (2011),

139 Statements received from and the hearing held in Mt Elgon region by the Commission confirmed most of the findings of the above reports' the joint operation referred to *Operation Okoa Maisha* resulted in the systematic and widespread torture of individuals According to a man who witnessed the atrocities

Although the SLDF was deadly, the Government used excessive force Up to this time, as I am talking, we talk as we shed tears of sorrow We do not have youths in this land Women and wives are desperate We have no men The Army castrated the youths The future generation is not there They used excess force That is our cry Although the Army assisted us greatly, they did more harm than good Anyway, we still pray that they do not use that again Let them use amicable ways so that they are safe The Army used bombs, *Kifaru* and every means they would have used against another country It was unfortunate Mt Elgon was trembling the bombs were shaking the land It was sad It extended to even areas that were not involved Many people were arrested and they were tortured by the Army I saw it Although I was not arrested, I saw the nasty things that happened Mt Elgon was not safe Even at this time, we are still trembling We are still worried If you talk of the Army, I think you have to tremble '[119]

140 A woman narrated to the Commission how her husband was arrested by police and military officers, tortured, and then forcefully disappeared '[120]

119 TJRC/Hansard/Public Hearing/Kapsokwony/25 May 2011/p 12
120 TJRC/Hansard/Public Hearing/Kapsokwony/24 May 2011/p 36-38

Annex:

List of Victims of Detention, Torture and ill-Treatment

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
6659	Kuria Mbogo	M	Central	Kiambu	Mau Mau
6665	Kigathi Nganga	M	Central	Kiambu	Mau Mau
6665	Njihia Muchai	M	Central	Kiambu	Mau Mau
6665	Njoroge Kibaka Kiruti	M	Central	Kiambu	Mau Mau
6665	Reuben Kibiru Njoroge	M	Central	Kiambu	Mau Mau
6666	Githiri Kariuki	M	Central	Kiambu	Mau Mau
6675	Gatoho Muthama	M	Central	Kiambu	Mau Mau
6675	Kibaki Gathanwa	M	Central	Kiambu	Mau Mau
6675	Njau Gachingu	M	Central	Kiambu	Mau Mau
10045	Erastus Kamuri M Mwereria	M	Eastern	Igembe North	Mau Mau
10045	Kuno M Muriorue	M	Eastern	Igembe North	Mau Mau
14681	Chokwe Mwega	M	Western	Bunyala	Mau Mau
14681	Jane Wanga	F	Western	Bunyala	Mau Mau
14681	John Mbiyu Koinange	M	Western	Bunyala	Mau Mau
14681	Laban H Wanga	M	Western	Bunyala	Mau Mau
14681	Margaret O Wanga	M	Western	Bunyala	Mau Mau
14681	Pio Gama Pinto	M	Western	Bunyala	Mau Mau
14681	Ramogi Ochieng Onoko	M	Western	Bunyala	Mau Mau
14681	Susan Nabwire Wanga	M	Western	Bunyala	Mau Mau
14681	Tab Omia Wanga	M	Western	Bunyala	Mau Mau
14681	Wanga Mahanga Oniang	M	Western	Bunyala	Mau Mau
14681	Waruru Kanja	M	Western	Bunyala	Mau Mau
14681	Wilgarda Odinda Wanga	M	Western	Bunyala	Mau Mau
29113	Moki Kivisu	M	Eastern		Mau Mau
29360	Fasilia Njoki	F	Eastern	Embu East	Mau Mau
29360	Genalo Joyce Munyiva	F	Eastern	Embu East	Mau Mau
29360	Sarah Igoki	F	Eastern	Embu East	Mau Mau
29360	Silvano Mwaniki	M	Eastern	Embu East	Mau Mau
29361	Abet Kathuni	F	NG	NG	Mau Mau
29361	Elizabeth Thaara	F	NG	NG	Mau Mau
29361	Jonathan Njoka Muruanguiko	M	NG	NG	Mau Mau
29706	Kithinji Mirenge	M	Eastern	Meru South	Mau Mau
29706	Mitonga	M	Eastern	Meru South	Mau Mau
29706	Mmwaurua Mamburugua	M	Eastern	Meru South	Mau Mau
29706	Muchinga	M	Eastern	Meru South	Mau Mau
29706	Wanja	F	Eastern	Meru South	Mau Mau
29708	Mananua Margaret Muchuga	F	Eastern	Meru South	Mau Mau
29726	Koome Kanooro	M	Eastern	Meru South	Mau Mau

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
29726	Rimburia		Eastern	Meru South	Mau mau
29727	Githinji	M	Eastern	Meru South	Mau Mau
29727	Kanooro	NG	Eastern	Meru South	Mau Mau
29727	Mukangu Rimbeuria		Eastern	Meru South	Mau Mau
29740	Kamunyi Riungu	M	Eastern	Meru Central	Mau Mau
29740	Mboroki Mbogori	M	Eastern		Mau Mau
29741	Mitunga Mtwamchira	M	Eastern	Meru Central	Mau Mau
29758	Araja Fm Chabari	M	Eastern	Meru South	Mau Mau
29758	Karomo Nteere	M	Eastern	Meru South	Mau Mau
29758	Mukiri Justus	M	Eastern	Meru South	Mau Mau
29804	Anastacia Motnea	F	Eastern	Tigania West	Mau Mau
29804	Doris Mwenda	M	Eastern	Tigania West	Mau Mau
29804	Harriet Ntonyi	F	Eastern	Tigania West	Mau Mau
29804	Ken Muita	M	Eastern	Tigania West	Mau Mau
29804	Mangeta Mikiba	M	Eastern	Tigania West	Mau Mau
29804	Mchebere	M	Eastern	Tigania West	Mau Mau
29804	Mutuma Patrick	M	Eastern	Tigania West	Mau Mau
29804	Wilham Kaitkia Mikiba	M	Eastern	Tigania West	Mau Mau
29807	Maria Nyegera Gichunge	F	Eastern	Igembe North	Mau Mau
29809	David Kuba Mithiria	M	Eastern	Tigania East	Mau Mau
29810	John Mburi Kunyara	M	Eastern	Tigania East	Mau Mau
29817	Benard Nkuri Mitumbiri	M	Eastern	Tigania West	Mau Mau
30127	Mikawatha Thirari	M	Eastern	Igembe North	Mau Mau
30127	Solomon Mit rikin	M	Eastern	Igembe North	Mau Mau
34563	Kariuki Thagichu	M	Central	Kiambu	Mau Mau
34575	Kamau Muturi	M	Central	Kiambu	Mau Mau
35947	Gathambo Githinji	M	Central	Nyeri	Mau Mau
35947	Kamori Kahohia	M	Central	Nyeri	Mau Mau
35947	Mithiga Kariuki	M	Central	Nyeri	Mau Mau
35947	Muthoni Kabuthu	F	Central	Nyeri	Mau Mau
35947	Nancy Nyaguthii Mburu	F	Central	Nyeri	Mau Mau
35947	Nduta Muchangi	F	Central	Nyeri	Mau Mau
35947	Ngina Kenyatta	F	Central	Nyeri	Mau Mau
35947	Ngonyo Muriuki	M	Central	Nyeri	Mau Mau
35947	Wanjiku Kabusi	F	Central	Nyeri	Mau Mau
41428	Jonathan Kathuku Wainaina	M	Eastern	Mbeere South	Mau Mau
41428	Kanegene Murua Miqui	M	Eastern	Mbeere South	Mau Mau
41428	Mbogo Wa Njogu	M	Eastern	Mbeere South	Mau Mau
41428	Namu Muruajenqa	M	Eastern	Mbeere South	Mau Mau
41428	Ndereva Njiru	M	Eastern	Mbeere South	Mau Mau
41428	Samuel Mbulaka Mulatari	M	Eastern	Mbeere South	Mau Mau
43381	Bilia Kaura	F	Eastern	Embu East	Mau Mau
43381	Kivunjio Nguu	M	Eastern	Embu East	Mau Mau
43381	Nguu Mbora Kavii	M	Eastern	Embu East	Mau Mau

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
43384	Ieri Galemi	M	Eastern	Embu East	Mau Mau
43384	Njagi Mnjaria	M	Eastern	Embu East	Mau Mau
43384	Njiru Nduma	M	Eastern	Embu East	Mau Mau
43384	Njue Karuana Rombia	M	Eastern	Embu East	Mau Mau
43391	Douglas Njoka Kariko	M	Eastern	Embu East	Mau Mau
43391	Mugo Karuirua Rwamba	M	Eastern	Embu East	Mau Mau
43391	Ndwiga Gatema Nderi	M	Eastern	Embu East	Mau Mau
43391	Ngoroi Kanyakiri	M	Eastern	Embu East	Mau Mau
43391	Njoka Mmbura	M	Eastern	Embu East	Mau Mau
43394	Igandu Margaret	F	Eastern		Mau Mau
43394	Ndwiga Joseph	M	Eastern		Mau Mau
43394	Njamburi Lydia Gicuku	F	Eastern		Mau Mau
43507	David Kitundu Kamu	M	Eastern	Makueni	Mau Mau
43507	Kimeu Kaviti	M	Eastern	Makueni	Mau Mau
43507	Ndutu Kulungu	M	Eastern	Makueni	Mau Mau
43508	Kasyoka Muli	F	Eastern	Makueni	Mau Mau
43508	Muli Kivindyo	M	Eastern	Makueni	Mau Mau
43508	Mwau Mbiio	M	Eastern	Makueni	Mau Mau
43658	Mueni Joseph Mutunga	M	Eastern		Mau Mau
43658	Ndewa Ngugi	M	Eastern		Mau Mau
43658	Kaswii Kathiuni	NG	Eastern	Kitui	Mau Mau
43658	Kitheka Mwandai	NG	Eastern	Kitui	Mau Mau
43658	Kithingwa Kasingwa	NG	Eastern	Kitui	Mau Mau
43658	Mwangi Ndewa	M	Eastern	Kitui	Mau Mau
43658	William Chaka	M	Eastern	Kitui	Mau Mau
43686	Mwanzia Benjamin Kimuli	M	Eastern	Kitui	Mau Mau
44121	Nathan Naimu Muratho	M	Eastern	Embu East	Mau Mau
47558	Cecilia John Wambui	F	Central	Muranga	Mau Mau
47568	Ngugi Peter	M	Central		Mau Mau
47568	Chorogu Wambui Elizabeth	F	Central		Mau Mau
47568	Gatarua Njoroge David	M	Central		Mau Mau
47568	Kairu Peter Waithaka	M	Central		Mau Mau
47568	Kamau Kibe	M	Central		Mau Mau
47568	Ndungu Njeri	F	Central		Mau Mau
47568	Waikumbi Josephine Nyagiko	F	Central		Mau Mau
47568	Wambaka Ndungu	M	Central		Mau Mau
47578	Mbugua Peter Njogu	M	Central		Mau Mau
47578	Muriu Kagome	M	Central		Mau Mau
47578	Joyce Wambui Irungu	F	Central		Mau Mau
47580	Kinuthia Peter Thuku	M	Central		Mau Mau
49566	Gichira Gatenyeka Gatemyeka	M	Central	Kirinyaga	Mau Mau
49569	Lucy Kabare	F	Central	Kirinyaga	Mau Mau
49569	Monicah Waruguru	F	Central	Kirinyaga	Mau Mau
49569	Muthoni Mbagi	F	Central	Kirinyaga	Mau Mau

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
49569	Mwangi Muthigani	M	Central	Kirinyaga	Mau Mau
49569	Regina Wambura Muthigani	F	Central	Kirinyaga	Mau Mau
49595	Esther Nyawira	F	Central	Kirinyaga	Mau Mau
49595	Mary Wanjiru	F	Central	Kirinyaga	Mau Mau
49595	Naomi Wambui	F	Central	Kirinyaga	Mau Mau
49595	Njanja Njambuya	M	Central	Kirinyaga	Mau Mau
49595	Peter Wachira	M	Central	Kirinyaga	Mau Mau
49596	Gacau Muthigani	M	Central	Kirinyaga	Mau Mau
49596	Gladys Wanjiru Muthigani	F	Central	Kirinyaga	Mau Mau
49596	Harry Wamwea	M	Central	Kirinyaga	Mau Mau
49596	Joseph Wanjohi	M	Central	Kirinyaga	Mau Mau
49596	Joseph Wanjohi Muthigani	M	Central	Kirinyaga	Mau Mau
49596	Mwai Muthigani	M	Central	Kirinyaga	Mau Mau
49598	Baar	F	Central	Kirinyaga	Mau Mau
49598	Museke Hassan Rajabu	M	Central	Kirinyaga	Mau Mau
49598	Mwanasha Wanja	F	Central	Kirinyaga	Mau Mau
49797	Samson Ndambe Mbulo	M	Central	Kirinyaga	Mau Mau
49797	Tumbo Kiai	M	Central	Kirinyaga	Mau Mau
49797	Waruri Wa Kithuci	M	Central	Kirinyaga	Mau Mau
49798	Cyrus Mitrie James Munyi	M	Central	Kirinyaga	Mau Mau
49798	General China	M	Central	Kirinyaga	Mau Mau
49798	Ngura Ndibaru	M	Central	Kirinyaga	Mau Mau
49798	Waruru Kanja	M	Central	Kirinyaga	Mau Mau
81080	Amos Maina	M	Rift Valley	Kericho	Mau Mau
81080	Ben Gachahi Karanja	M	Rift Valley	kericho	Mau Mau
81080	David Kairu Muiruri	M	Rift Valley	kericho	Mau Mau
81080	David Wachira	M	Rift Valley	Kericho	Mau Mau
81080	Francis Githuo Wa Karanja	M	Rift Valley	kericho	Mau Mau
81080	Gachanja kangiri	M	Rift Valley	Kericho	Mau Mau
81080	James Ndiritu Kihenja	M	Rift Valley	Kericho	Mau Mau
81080	Josephine Njeri Mukuna	F	Rift Valley	Kericho	Mau Mau
81080	Kamanga Wa Mukonyoro	F	Rift Valley	Kericho	Mau Mau
81080	Kanyi Wa Gachuhi	M	Rift Valley	Kericho	Mau Mau
81080	Kikuyus	NG	Rift Valley	Kericho	Mau Mau
81080	Ngethe Wa Murimi	M	Rift Valley	Kericho	Mau Mau
81080	Ngure Kaboka Kungu	M	Rift Valley	Kericho	Mau Mau
81080	Tabitha Nyambura	F	Rift Valley	Kericho	Mau Mau
81080	Wangai Wa Kibibia	F	Rift Valley	Kericho	Mau Mau
81080	William Ndiritu	M	Rift Valley	kericho	Mau Mau
2503	Abdi Adan Issack	M	North Eastern	Moyale	Shifta War
3598	Abdi Hassan Mohamed	M	Eastern	Moyale	Shifta War
3598	Abdullah Mohamed	M	Eastern	Moyale	Shifta War
3598	Aliow Mohamed	M	Eastern	Moyale	Shifta War

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
3598	Chaluga Mohamed	M	Eastern	Moyale	Shifta War
3598	Habiba Mohamed	F	Eastern	Moyale	Shifta War
3598	Mahad Mohamed	M	Eastern	Moyale	Shifta War
3598	Mamud Mohamed	M	Eastern	Moyale	Shifta War
3598	Qalo Mohamed (Mother)	F	Eastern	Moyale	Shifta War
3598	Tunit Mohamed	M	Eastern	Moyale	Shifta War
8800	Abdikadir Abdille	M	North Eastern	Mandera	Shifta War
8800	Maalim Gedi Mohamud	M	North Eastern	Mandera	Shifta War
8800	Mohamed Muhumad	M	North Eastern	Mandera	Shifta War
8920	Abdia Faah Mursal	M	North Eastern	Mandera	Shifta War
8920	Farah Mursal Aden	M	North Eastern	Mandera	Shifta War
8920	Gafow Farah Mursal	M	North Eastern	Mandera	Shifta War
8920	Mohamud Farah Mursal	M	North Eastern	Mandera	Shifta War
8920	Oley Mursal Aden	M	North Eastern	Mandera	Shifta War
9793	Adan Mohamud Noor	M	North Eastern	Mandera	Shifta War
9793	Hassan Dirs Mumin	M	North Eastern	Mandera	Shifta War
9793	Omar Hassan Noor	M	North Eastern	Mandera	Shifta War
9793	Sheikh Ahmed Sheikh Barrow	M	North Eastern	Mandera	Shifta War
9800	Daud Maalim Hajir	M	North Eastern	Mandera	Shifta War
9800	Ibrahim Noor Adan	M	North Eastern	Mandera	Shifta War
9804	Abdikadir Bulle Ali	M	North Eastern	Mandera	Shifta War
9804	Abdirahman Bulle Ali	M	North Eastern	Mandera	Shifta War
9804	Adan Ali Mohamed	M	North Eastern	Mandera	Shifta War
9804	Ali Issack Hassan	M	North Eastern	Mandera	Shifta War
9804	Mohamud Ibrahim Yabinow	M	North Eastern	Mandera	Shifta War
9848	Adan Mohamed Hassan	M	North Eastern	Mandera	Shifta War
9848	Fatuma Korion Muhumed	F	North Eastern	Mandera	Shifta War
10093	Diba Abalar	M	Eastern	Isiolo	Shifta War
10093	Diba Dadacha	M	Eastern	Isiolo	Shifta War

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
10093	Hussein Halkano Jillo	M	Eastern	Isiolo	Shifta War
10093	Nyencho Dadacha	M	Eastern	Isiolo	Shifta War
10093	Roba Dadacha	M	Eastern	Isiolo	Shifta War
19575	Galgalo Dima Abduba	M	Eastern	Garbatula	Shifta War
19575	Jillo Boru Guyo	F	Eastern	Garbatula	Shifta War
19575	Madera Katkato	M	Eastern	Garbatula	Shifta War
19575	Selle Waqo	M	Eastern	Garbatula	Shifta War
26605	Abdi Ali Mohamood	M	Eastern	Isiolo	Shifta War
26605	Asli Haji Ahmed	F	Eastern	Isiolo	Shifta War
26605	Sheikh Omar	M	Eastern	Isiolo	Shifta War
26605	Yaya Abdi	M	Eastern	Isiolo	Shifta War
28473	Farnan Shaban Elmi	M	North Eastern	Mandera	Shifta War
28473	Ibrahim Hassan	M	North Eastern	Mandera	Shifta War
28473	Matani	M	North Eastern	Mandera	Shifta War
28485	Abdikadir Bulle Ali	M	North Eastern	Mandera	Shifta War
31662	Adan Gufu Sora	M	Eastern	Moyale	Shifta War
31662	Buke Gufu	M	Eastern	Moyale	Shifta War
31662	Huka Gufu	M	Eastern	Moyale	Shifta War
31666	Ali Hapi	M	Eastern	Moyale	Shifta War
31666	Daral Mohamed Jerahim	M	Eastern	Moyale	Shifta War
31666	Issack Kiti		Eastern	Moyale	Shifta War
31666	Sharamo Ali	F	Eastern	Moyale	Shifta War
31666	Tulicha	M	Eastern	Moyale	Shifta War
34773	Jibo Bala Guracha	F	Eastern	Garbatula	Shifta War
34774	Mohamed Ibrahim Ahmed	M	Eastern	Garbatula	Shifta War
34775	Aya Shanu Kala	F	Eastern	Garbatula	Shifta War
34776	Adan Abdi	M	Eastern	Garbatula	Shifta War
34776	Hadija Abdi Ali	F	Eastern	Garbatula	Shifta War
34776	Halaki Abdi	M	Eastern	Garbatula	Shifta War
34776	Hassan Abdi	M	Eastern	Garbatula	Shifta War
34778	Boru Abaufi	M	Eastern	Garbatula	Shifta War
34778	Habiba Boru	F	Eastern	Garbatula	Shifta War
34778	Wario Boru Abaufi	M	Eastern	Garbatula	Shifta War
34791	Ali Shunayo	M	Eastern	Garbatula	Shifta War
34791	Amina Ngimbe Bicha	F	Eastern	Garbatula	Shifta War
34791	Bicha Tune	M	Eastern	Garbatula	Shifta War
34791	Shaba Shunayo	F	Eastern	Garbatula	Shifta War
34791	Zeinab Abdinur	F	Eastern	Garbatula	Shifta War
34796	Bakanis Molu(Dead)	M	Eastern	Garbatula	Shifta War
34796	Guracha Molu(Dead)	M	Eastern	Garbatula	Shifta War
34796	Molu Qampare	M	Eastern	Garbatula	Shifta War
34796	Salesa Molu	M	Eastern	Garbatula	Shifta War

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
34796	Salesa Molu Guyo	M	Eastern	Garbatula	Shifta War
34799	Dida Matta	M	Eastern	Garbatula	Shifta War
34799	Gababa Hapicha Godana	M	Eastern	Garbatula	Shifta War
34799	Galgallo Matta	M	Eastern	Garbatula	Shifta War
36476	Balafu Roka	M	Eastern	Garbatula	Shifta War
36476	Elema Roba	M	Eastern	Garbatula	Shifta War
36476	Hache Roba Roka	M	Eastern	Garbatula	Shifta War
36476	Roba Roka(Dead)	M	Eastern	Garbatula	Shifta War
36479	Gubo Guyo Bisiqo	M	Eastern	Garbatula	Shifta War
36479	Sarkama Guyo Bisiqo	M	Eastern	Garbatula	Shifta War
36480	Bashir Mohan ed Kulicha	M	Eastern	Garbatula	Shifta War
36480	Mohamed Kulicha(Dead)	M	Eastern	Garbatula	Shifta War
36486	Abukar Boru Dida	M	Eastern	Garbatula	Shifta War
36486	Boru Dida Jillo	M	Eastern	Garbatula	Shifta War
36486	Golicha Boru Dida	M	Eastern	Garbatula	Shifta War
36487	Ali Qalla	M	Eastern	Garbatula	Shifta War
36487	Dera Galgallo Dokicha	M	Eastern	Garbatula	Shifta War
36487	Elema	M	Eastern	Garbatula	Shifta War
36487	Galgallo Hamana	M	Eastern	Garbatula	Shifta War
36487	Haikano Hamana	M	Eastern	Garbatula	Shifta War
36487	Wajer Boru Boko	M	Eastern	Garbatula	Shifta War
36487	Wario Bambana	M	Eastern	Garbatula	Shifta War
36488	Amina Sharama(Dead)	M	Eastern	Garbatula	Shifta War
36488	Hassan Sharama(Dead)	M	Eastern	Garbatula	Shifta War
36488	Jibril Sharama Kota	M	Eastern	Garbatula	Shifta War
36490	Guyo Halake Shabana	M	Eastern	Garbatula	Shifta War
36490	Huga Shabana	M	Eastern	Garbatula	Shifta War
36490	Soukolo Shabana	M	Eastern	Garbatula	Shifta War
36496	Gollo Duba Hapi Odda	M	Eastern	Garbatula	Shifta War
36496	Shaka Deba Duba	M	Eastern	Garbatula	Shifta War
40181	Abdi Hassan	M	North Eastern	Lagdera	Shifta War
40181	Ali Yabow	M	North Eastern	Lagdera	Shifta War
40181	Foley Digale	M	North Eastern	Lagdera	Shifta War
40181	Mohamud Yarrow	M	North Eastern	Lagdera	Shifta War
40181	Muhamud Mohamed Dahir	M	North Eastern	Lagdera	Shifta War
40232	Haretha Hakar Omar	F	North Eastern	Lagdera	Shifta War
42021	Bootu Wario	F	Eastern	Isiolo	Shifta War
42021	Ginjo Boru	M	Eastern	Isiolo	Shifta War
42021	Gunjo Halake	M	Eastern	Isiolo	Shifta War

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
42021	Hassan Guyo	M	Eastern	Isiolo	Shifta War
42021	Ilmaan Halake Kore	M	Eastern	Isiolo	Shifta War
42021	Wako Nyaate Dugo	M	Eastern	Isiolo	Shifta War
42063	Bidu Hallo	M	Eastern	Isiolo	Shifta War
42063	Guyo Jattani	M	Eastern	Isiolo	Shifta War
42063	Guyo Wadha	M	Eastern	Isiolo	Shifta War
42063	Halkan Jattani	M	Eastern	Isiolo	Shifta War
42063	Matoye Boru	M	Eastern	Isiolo	Shifta War
42063	Mohamed Guyo Jattani	M	Eastern	Isiolo	Shifta War
42275	Adan Kaya Hassan	M	North Eastern	Mandera	Shifta War
42275	Kusow Noordhus	M	North Eastern	Mandera	Shifta War
47695	Abdi Sheikh Hussein	M	Eastern	Isiolo	Shifta War
47695	Farah Mohamed	M	Eastern	Isiolo	Shifta War
47695	Mohamed Ali Sherua	M	Eastern	Isiolo	Shifta War
47695	Mohamed Mohamud Jabane	M	Eastern	Isiolo	Shifta War
47695	Mohamed Wathadyare	M	Eastern	Isiolo	Shifta War
47695	Mohamud Haji Hersi	M	Eastern	Isiolo	Shifta War
47825	Abdikadir Golicha	M	Eastern	Garbatula	Shifta War
47825	Abdirahman Golicha	M	Eastern	Garbatula	Shifta War
47825	Abikar Golicha	M	Eastern	Garbatula	Shifta War
47825	Adan Golicha	M	Eastern	Garbatula	Shifta War
47825	Asina Golicha	M	Eastern	Garbatula	Shifta War
47825	Fatuma Golicha	F	Eastern	Garbatula	Shifta War
47825	Golicha Galma	M	Eastern	Garbatula	Shifta War
47825	Gubal Golicha	M	Eastern	Garbatula	Shifta War
47825	Hawo Golicha	M	Eastern	Garbatula	Shifta War
47825	Kadubo Dima	M	Eastern	Garbatula	Shifta War
47825	Kulula Diba	M	Eastern	Garbatula	Shifta War
47825	Mimina Oriti Mohamed	F	Eastern	Garbatula	Shifta War
47825	Mohamed Golicha	M	Eastern	Garbatula	Shifta War
47825	Rukia Golicha	M	Eastern	Garbatula	Shifta War
47825	Wako Boru	M	Eastern	Garbatula	Shifta War
47825	Yussuf Golicha	M	Eastern	Garbatula	Shifta War
47829	Abdi Bonaya	M	Eastern	Garbatula	Shifta War
47829	Ali Ibrahim	M	Eastern	Garbatula	Shifta War
47829	Golicha Galma	M	Eastern	Garbatula	Shifta War
47829	Kulula Diba	M	Eastern	Garbatula	Shifta War
47829	Mohamed Sora Nakata	M	Eastern	Garbatula	Shifta War
47829	Nakata Shanu	M	Eastern	Garbatula	Shifta War
47829	Safo Galma Golicha	F	Eastern	Garbatula	Shifta War
47829	Saku Golicha	M	Eastern	Garbatula	Shifta War
47841	Abagolo Kampicha Orma	M	Eastern	Garbatula	Shifta War

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
47841	Abdiaziz Hassan	M	Eastern	Garbatula	Shifta War
47841	Abdikadir Sama	M	Eastern	Garbatula	Shifta War
47841	Guyo Guda	M	Eastern	Garbatula	Shifta War
47841	Habiba Wako Huka	F	Eastern	Garbatula	Shifta War
47841	Hassan Halake	M	Eastern	Garbatula	Shifta War
47937	Ali Galgalo	F	Eastern	Isiolo	Shifta War
47937	Butha Luma	M	Eastern	Isiolo	Shifta War
47937	Golo Luma	M	Eastern	Isiolo	Shifta War
47937	Guyo Duba Santo	M	Eastern	Isiolo	Shifta War
47937	Huka Abagalse	M	Eastern	Isiolo	Shifta War
47937	Huka Barichi	M	Eastern	Isiolo	Shifta War
47937	Jilma Duba Babo	M	Eastern	Isiolo	Shifta War
47937	Jirmor Umuro	M	Eastern	Isiolo	Shifta War
47937	Sugu Gera	M	Eastern	Isiolo	Shifta War
48059	Abadaro Jane Kilono	F	Eastern	Isiolo	Shifta War
48110	Ismail Abdulkadir(Dead)	M	Eastern	Isiolo	Shifta War
48110	Jaafar Tupi	M	Eastern	Isiolo	Shifta War
48110	Maalim Mohamed Shuriye	M	Eastern	Isiolo	Shifta War
48110	Mohamed Abdulkadir	M	Eastern	Isiolo	Shifta War
48110	Mohamed Guyo	M	Eastern	Isiolo	Shifta War
48113	Abdi Guyo Babo	M	Eastern	Isiolo	Shifta War
48113	Adawo Galgalo	M	Eastern	Isiolo	Shifta War
48113	Bochol Abdi	M	Eastern	Isiolo	Shifta War
48113	Boru Jirma	M	Eastern	Isiolo	Shifta War
48113	Guyo Babo	M	Eastern	Isiolo	Shifta War
48113	Guyo Rufo	F	Eastern	Isiolo	Shifta War
48113	Isaako Guyo Babo	M	Eastern	Isiolo	Shifta War
48113	Kamotho Galgalo	M	Eastern	Isiolo	Shifta War
48113	Kampure Abdi Abdi Babo	M	Eastern	Isiolo	Shifta War
48113	Kuno Roba	M	Eastern	Isiolo	Shifta War
48113	Mohammed Galgalo	M	Eastern	Isiolo	Shifta War
48113	Sharu Abdi	M	Eastern	Isiolo	Shifta War
48118	Amina Fugicha	F	Eastern	Garbatula	Shifta War
48118	Boru Dabaso Kontoma	NG	Eastern	Garbatula	Shifta War
48118	Fugicha Jillo	M	Eastern	Garbatula	Shifta War
48118	Guyo Sora	M	Eastern	Garbatula	Shifta War
48118	Hawo Fugicha	F	Eastern	Garbatula	Shifta War
48118	Hersi Fugicha	M	Eastern	Garbatula	Shifta War
48118	Hussein Fugicha	M	Eastern	Garbatula	Shifta War
48118	Mariam Fugicha	F	Eastern	Garbatula	Shifta War
48118	Mohamed Fugicha	M	Eastern	Garbatula	Shifta War
48118	Mohamed Galgalo Hali	M	Eastern	Garbatula	Shifta War
48118	Sama Shune	F	Eastern	Garbatula	Shifta War
48118	Sheik Abdikadir Guyo Tuye	M	Eastern	Garbatula	Shifta War

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
48129	Abba Galla Billa	F	Eastern	Isiolo	Shifta War
48129	Billa Halake	F	Eastern	Isiolo	Shifta War
48129	Fatuma Kadubo	F	Eastern	Isiolo	Shifta War
48129	Haji Kadubo Billa	M	Eastern	Isiolo	Shifta War
48129	Jirma Umuro	F	Eastern	Isiolo	Shifta War
48129	Kalubo Billa	M	Eastern	Isiolo	Shifta War
48129	Tullun Godana	F	Eastern	Isiolo	Shifta War
48135	Abdi Dika	M	Eastern	Isiolo	Shifta War
48135	Ali Golo	M	Eastern	Isiolo	Shifta War
48135	Daki Golo	F	Eastern	Isiolo	Shifta War
48135	Diba Abdi Molu	M	Eastern	Isiolo	Shifta War
48135	Golo Saili	M	Eastern	Isiolo	Shifta War
48135	Halima Abdi	F	Eastern	Isiolo	Shifta War
48135	Nura Diina	M	Eastern	Isiolo	Shifta War
5601	Geofrey Ngojine	M	Rift Valley	Samburu Central	1982 Coup Attempt
5601	Lesoipa	M	Rift Valley	Samburu Central	1982 Coup Attempt
5601	Michael Murji	M	Rift Valley	Samburu Central	1982 Coup Attempt
5601	Nicholas Litau Lasambu	M	Rift Valley	Samburu Central	1982 Coup Attempt
5601	Robin Lemorgosipil	M	Rift Valley	Samburu Central	1982 Coup Attempt
5602	Michael Murji Mathenge	M	Rift Valley	Samburu Central	1982 Coup Attempt
5607	Lobuk Pius Letaro	M	Rift Valley	Samburu Central	1982 Coup Attempt
5681	Jason Hearing	M	Rift Valley	Samburu Central	1982 Coup Attempt
5681	Job Lekalau	M	Rift Valley	Samburu Central	1982 Coup Attempt
5681	Leriyai	M	Rift Valley	Samburu Central	1982 Coup Attempt
5681	William Leaduma Seketian	M	Rift Valley	Samburu Central	1982 Coup Attempt
6479	Abwere	M	Central	Thika West	1982 Coup Attempt
6479	Edward D. Macharia Mukora	M	Central	Thika West	1982 Coup Attempt
6479	Eunice Wacuka Thiru	F	Central	Thika West	1982 Coup Attempt
6479	Joel Nganga Wairire	M	Central	Thika West	1982 Coup Attempt
6479	Joseph Michael Thiru Mbacio	M	Central	Thika West	1982 Coup Attempt
6479	Kamunya	M	Central	Thika West	1982 Coup Attempt
6479	Peter Kibisu	M	Central	Thika West	1982 Coup Attempt
6479	Stanley Ngangagathirwa	M	Central	Thika West	1982 Coup Attempt
6862	Daniel Mutai	M	Rift Valley	Nandi Central	1982 Coup Attempt
6862	Moses Chesire	M	Rift Valley	Nandi Central	1982 Coup Attempt
6862	Moses Kurgat	M	Rift Valley	Nandi Central	1982 Coup Attempt
6862	Simon Talam	M	Rift Valley	Nandi Central	1982 Coup Attempt
6865	Moses Chesire	M	Rift Valley	Nandi Central	1982 Coup Attempt
6865	Mutai Daniel	M	Rift Valley	Nandi Central	1982 Coup Attempt
6865	Ombok	M	Rift Valley	Nandi Central	1982 Coup Attempt
6865	Simeon Kiptoo Talan	M	Rift Valley	Nandi Central	1982 Coup Attempt
6866	Daniel Kiprotich Situenei	M	Rift Valley	Nandi North	1982 Coup Attempt
6866	Philip Kutoi		Rift Valley	Nandi North	1982 Coup Attempt
6866	Simon Talam	M	Rift Valley	Nandi North	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
6868	Birgen	M	Rift Valley	Keiyo	1982 Coup Attempt
6868	Joseph Rono	M	Rift Valley	Keiyo	1982 Coup Attempt
6868	Kimonyi	M	Rift Valley	Keiyo	1982 Coup Attempt
6868	Moses Chesire Koiser	M	Rift Valley	Keiyo	1982 Coup Attempt
6869	John Barabara Arap Kirwa	M	Rift Valley	Uasin Gishu	1982 Coup Attempt
6869	Moses Chesire	M	Rift Valley	Uasin Gishu	1982 Coup Attempt
6869	Nicolas Kiptoo	M	Rift Valley	Uasin Gishu	1982 Coup Attempt
10073	Gregory Godana Adele	M	Eastern	Marsabit	1982 Coup Attempt
11111	Salimin Bambaulo Mupleeh Boy	M	Coast	Mombasa	1982 Coup Attempt
11127	Dennis Ngala Mtimba	M	Coast	Mombasa	1982 Coup Attempt
11136	B Kithaka	M	Coast	Kinango	1982 Coup Attempt
11136	John Nyaga Kaibiru	M	Coast	Kinango	1982 Coup Attempt
11136	Karawi	M	Coast	Kinango	1982 Coup Attempt
11136	Mumo	M	Coast	Kinango	1982 Coup Attempt
11138	Jonathan Philip Malombe	M	Coast	Mombasa	1982 Coup Attempt
11139	Jonathan Vangu Ndarane	M	Coast	Kaloleni	1982 Coup Attempt
11143		Mwaniki	Juma	Ali	M
11144		Msangi	Boniface	Eremani	M
11145	Joseph Mshamba Euggne	M	NG	NG	1982 Coup Attempt
12773	Joseph Muturi Mwangi	M	Rift Valley	Kuresoi	1982 Coup Attempt
12899	Dismas Ogot Simanyure	M	Coast	Changaniwe	1982 Coup Attempt
12899	Kalonzi	M	Coast	Changaniwe	1982 Coup Attempt
13001	Samuel Ndungu Gatua	M	Central	Kiambu	1982 Coup Attempt
13002	David Mwangi Kibugi	M	Nairobi	Nairobi	1982 Coup Attempt
13003	Gasper Ochieng Amolo	M	Nairobi	Nairobi	1982 Coup Attempt
13005	Benson Rawati Musanga	M	Nairobi	Nairobi	1982 Coup Attempt
13006	Victor Wamugunda Laban	M	Central	Kiambu	1982 Coup Attempt
13007	Joseph Murimi	M	Central	Kirinyaga	1982 Coup Attempt
13008	David Kanagi Thaugate	M	Nairobi	Nairobi	1982 Coup Attempt
13008	Jeremy Michael Gatugura	M	Nairobi	Nairobi	1982 Coup Attempt
13008	Joseph Mwagi Mbugwa	M	Nairobi	Nairobi	1982 Coup Attempt
13008	Kamau Ndegwa	M	Nairobi	Nairobi	1982 Coup Attempt
13008	Peter Ngari Kagume	M	Nairobi	Nairobi	1982 Coup Attempt
13008	Stephen Njuguna Ruiru	M	Nairobi	Nairobi	1982 Coup Attempt
13009	David Kagagi	M	Nairobi	Nairobi	1982 Coup Attempt
13009	Jeremy Gatuguta	M	Nairobi	Nairobi	1982 Coup Attempt
13009	Joseph Gaichuru Chee	M	Nairobi	Nairobi	1982 Coup Attempt
13009	Joseph Gaichuru Chege	M	Nairobi	Nairobi	1982 Coup Attempt
13009	Joseph Mwangi	M	Nairobi	Nairobi	1982 Coup Attempt
13009	Kamuau	M	Nairobi	Nairobi	1982 Coup Attempt
13009	Peter N Wambaga	M	Nairobi	Nairobi	1982 Coup Attempt
13009	Peter Ngari Kagume	M	Nairobi	Nairobi	1982 Coup Attempt
13009	R Karangi	M	Nairobi	Nairobi	1982 Coup Attempt
13010	Chege	M	Nairobi	Nairobi	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
13010	D K Thangate	M	Nairobi	Nairobi	1982 Coup Attempt
13010	K Gatuguta	M	Nairobi	Nairobi	1982 Coup Attempt
13010	K Ndegwa	M	Nairobi	Nairobi	1982 Coup Attempt
13010	M Mbugua	M	Nairobi	Nairobi	1982 Coup Attempt
13010	P N Wambulwa	M	Nairobi	Nairobi	1982 Coup Attempt
13010	Peter Ngari Kagume	M	Nairobi	Nairobi	1982 Coup Attempt
13010	R K Kirimi	M	Nairobi	Nairobi	1982 Coup Attempt
13011	David Kanyoi Thangate	M	Central	Lari	1982 Coup Attempt
13011	Jeremy Michael Gathguta	M	Central	Lari	1982 Coup Attempt
13011	Joseph Gaichuru Chege	M	Central	Lari	1982 Coup Attempt
13011	Joseph Mwangi Mbugua	M	Central	Lari	1982 Coup Attempt
13011	Kamau Ndegwa	M	Central	Lari	1982 Coup Attempt
13011	Nahashon Wambulwa	M	Central	Lari	1982 Coup Attempt
13011	Pn Kagume	M	Central	Lari	1982 Coup Attempt
13011	Rueben Karangi Kirimi	M	Central	Lari	1982 Coup Attempt
13012	Michael Kinyanjui John	M	Central	Lari	1982 Coup Attempt
13013	Eustus Nyagah Kathuri	M	Central	Thika West	1982 Coup Attempt
13014	Charles Kiprono Kwambai	M	Rift Valley	Keiyo	1982 Coup Attempt
13015	John Chege Gichia	M	Rift Valley	Kajiado North	1982 Coup Attempt
13016	Thomas Njoroge Mburu	M	Central	Thika West	1982 Coup Attempt
13017	Alphonce Kipkemoi	M	Rift Valley	Marakwet East	1982 Coup Attempt
13018	Birkan Salat Jibril	M	Eastern	Isiolo	1982 Coup Attempt
13019	Hache Hassan Godana	M	Eastern	Isiolo	1982 Coup Attempt
13021	Peter Nashon Wambulwa	M	Nairobi	Nairobi	1982 Coup Attempt
13022	Omar Boru Kutara	M	Eastern	Marsabit	1982 Coup Attempt
13023	Julius Sidande Seda	M	Nairobi	Nairobi	1982 Coup Attempt
13024	Mohamed Adan Ali	M	Eastern	Isiolo	1982 Coup Attempt
13025	Lawrence Anyona Bonga	M	Nairobi	Langata	1982 Coup Attempt
13026	Ismail Aden	M	NG	NG	1982 Coup Attempt
13028	Ochari Benard Orina	M	Nyanza	Nyamira	1982 Coup Attempt
13029	Kadir Simba Marko	M	Nairobi	Nairobi	1982 Coup Attempt
13030	Moses Njiiri Mburu	M	Central	Kiambu	1982 Coup Attempt
13031	Mocheche Nelson Onduso	M	Nyanza	Nyamira	1982 Coup Attempt
13031	Nyachienga Samuel Nyanga	M	Nyanza	Nyamira	1982 Coup Attempt
13033	Onduso Nelson Ochomba	M	Nyanza	Nyamira	1982 Coup Attempt
13034	Jillo Tadicha Jarso	M	Nairobi	Nairobi	1982 Coup Attempt
13035	Moses Ogalo Ogoma	M	Nairobi	Nairobi	1982 Coup Attempt
13036	Waswa Thomas Osore	M	Western	Kakamega	1982 Coup Attempt
13037	Maina John Thairu	M	Central	Muranga	1982 Coup Attempt
13038	Murigi Patrick Ndoria	M	Central	Nyeri	1982 Coup Attempt
13040	Njiru Anderson Ndwiga	M	Eastern	Runyenjes	1982 Coup Attempt
13678	John Kamosin Tukoita	M	NG	NG	1982 Coup Attempt
13679	Alfred Odhiambo Oyoda	M	Western	Busia	1982 Coup Attempt
13680	Evans Mbanilwa Osodo	M	Rift Valley	Trans Nzoia	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
13680	James Namasaka	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
13680	Joseph Cheloti	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
13680	Nicholas Waizuma	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
13698	Francis Kamari	M	Western	Mt Elgon	1982 Coup Attempt
13698	Linus Yego	M	Western	Mt Elgon	1982 Coup Attempt
13698	Peter Kamari	M	Western	Mt Elgon	1982 Coup Attempt
13698	Shem Psenjen Kipsisier	M	Western	Mt Elgon	1982 Coup Attempt
13998	John Ouma Okovo	M	Nyanza	Migori	1982 Coup Attempt
14037	Ali Ngare	M	Coast	Mombasa	1982 Coup Attempt
14037	Hamisi Banda	M	Coast	Mombasa	1982 Coup Attempt
14037	Juma Boma	M	Coast	Mombasa	1982 Coup Attempt
14037	Mohamed Mwamaneno	M	Coast	Mombasa	1982 Coup Attempt
14037	Newland Ngome Akilimali	M	Coast	Mombasa	1982 Coup Attempt
14038	John Yalekai	M	Coast	Kilifi	1982 Coup Attempt
14038	Khamis Komakoma	M	Coast	Kilifi	1982 Coup Attempt
14038	Unda Kombe	M	Coast	Kilifi	1982 Coup Attempt
14038	Winston Siryah Pekesheh	M	Coast	Kilifi	1982 Coup Attempt
14041	Mwamaneno Mohammed	M	Coast	Kwale	1982 Coup Attempt
14042	Silvanos Iden Gunyi Baraza	M	Coast	Kisauni	1982 Coup Attempt
14044	Armogast Aurelius Maganga	M	Coast	Mombasa	1982 Coup Attempt
14044	Mambea	M	Coast	Mombasa	1982 Coup Attempt
14044	Mwakisachi	M	Coast	Mombasa	1982 Coup Attempt
14045	Hamisi Abdalla Bandia	M	Coast	Kwale	1982 Coup Attempt
14126	Shadrack Kitsao Karisa	M	Coast	Magarini	1982 Coup Attempt
14127	Stephen Charo Koi	M	Coast	Mombasa	1982 Coup Attempt
14128	John Muliwa Daudi	M	Coast	Taita	1982 Coup Attempt
14129	Sanga Samuel Elijah	M	Coast	Kilifi	1982 Coup Attempt
14132	Esau Kiora Mjomba	M	Coast	Taita Taveta	1982 Coup Attempt
14368	Adhu Awiti	M	Nyanza	Rachuonyo South	1982 Coup Attempt
14368	Benjamin Onduro	M	Nyanza	Rachuonyo South	1982 Coup Attempt
14368	Charles Mcomer	M	Nyanza	Rachuonyo South	1982 Coup Attempt
14368	Kabasa Rege	M	Nyanza	Rachuonyo South	1982 Coup Attempt
14368	Maranje Odhiambo	M	Nyanza	Rachuonyo South	1982 Coup Attempt
14457	Andrew Shikuku Waliaula	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14457	Burnabas Rono	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14457	Daniel Rungut	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14457	Later	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14457	Paul Choge	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14457	Peter Njogu Karega	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14457	Robert Wanjala	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14457	Stephen Wanjala	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14457	Stephen Wanjala Kandawala	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
14471	Stephen Kirahi Ngugi	M	Rift Valley	Trans Nzoia	1982 Coup Attempt
16209	Captain Mutoro	M	Western	Kimilili Bungoma	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
16209	Humphury Maina Wachiye	M	Western	Kimilili Bungoma	1982 Coup Attempt
16209	Pius Wekesa	M	Western	Kimilili Bungoma	1982 Coup Attempt
16209	Samson Wafula Wanyonyi	M	Western	Kimilili Bungoma	1982 Coup Attempt
16219	Namasaka Namachi Julius	M	NG	NG	1982 Coup Attempt
16222	Gabriel Sisule Simiyu		Western	Kimilili Bungoma	1982 Coup Attempt
16708	Ronoh Evans Kipkorir	M	Rift Valley	Kipkelion	1982 Coup Attempt
16709	David Chepkwony Kibore	M	Rift Valley	Kipkelion	1982 Coup Attempt
16710	John Langat	M	Rift Valley	Kipkelion	1982 Coup Attempt
16710	Kugo Samuel Sigilai	M	Rift Valley	Kipkelion	1982 Coup Attempt
16819	James Kanigu Charo	M	Coast	Changamwe	1982 Coup Attempt
17185	Seda Davis Obiri		Western	Mt Elgon	1982 Coup Attempt
17193	Espilas Elphas Victors	M	Western	Emuhaya	1982 Coup Attempt
17198	Kweya Saul George		Western	Mumias	1982 Coup Attempt
17404	George Kaphar Otiya	M	Nyanza	Homa Bay	1982 Coup Attempt
17516	Gladys Kemuma Nyandiu	F	Nyanza	Nyamira	1982 Coup Attempt
18102	Mayodi Micah Manyonyi	M	Western	Vihiga	1982 Coup Attempt
18655	Biv David Kipsang	M	Rift Valley	Kericho	1982 Coup Attempt
18938	Magoma Porteous Makori	M	Nyanza	Masaba South	1982 Coup Attempt
18938	Mado Gilbert Magoma	M	Nyanza	Masaba South	1982 Coup Attempt
19416	Kangaa Sua	M	Eastern	Mwingi Central	1982 Coup Attempt
19416	Kathendu	M	Eastern	Mwingi Central	1982 Coup Attempt
19416	Wilfred Katuta Kasina	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	David Mwendwa Maluki	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Ida	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Irungu	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Kitungi	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Koskei	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Lisi	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Makau	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Mutua	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Ngeno	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Shiundu	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Wamwea	M	Eastern	Mwingi Central	1982 Coup Attempt
19417	Wanjala	M	Eastern	Mwingi Central	1982 Coup Attempt
19418	Anyulo	M	Eastern	Mwingi Central	1982 Coup Attempt
19418	Julius Mulli Mbuku	M	Eastern	Mwingi Central	1982 Coup Attempt
19418	Kariuki	M	Eastern	Mwingi Central	1982 Coup Attempt
19418	Kasina Katuta	M	Eastern	Mwingi Central	1982 Coup Attempt
19418	Muliu Kali	M	Eastern	Mwingi Central	1982 Coup Attempt
19418	Mwanzi	M	Eastern	Mwingi Central	1982 Coup Attempt
19418	Nzau Nzioka Kilai	M	Eastern	Mwingi Central	1982 Coup Attempt
19418	Venza Kitungi	M	Eastern	Mwingi Central	1982 Coup Attempt
19422	Joseph Lisis Mbulula	M	Eastern	Kitui	1982 Coup Attempt
19422	Mbaunzi	M	Eastern	Kitui	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
19422	Michael Ngeno	M	Eastern	Kitui	1982 Coup Attempt
19422	Musyoka Ndungu	M	Eastern	Kitui	1982 Coup Attempt
19422	Sammy Kimele	M	Eastern	Kitui	1982 Coup Attempt
19422	Sammy Munywaki	M	Eastern	Kitui	1982 Coup Attempt
19456	Joseph Kathendu Mwandikwa	M	Eastern	Kitui	1982 Coup Attempt
19456	Mbaunzi Ndambu	M	Eastern	Kitui	1982 Coup Attempt
19456	Mbithi Muli	M	Eastern	Kitui	1982 Coup Attempt
19456	Mubui Ndeme	M	Eastern	Kitui	1982 Coup Attempt
19456	Musyoka Ndungu	M	Eastern	Kitui	1982 Coup Attempt
19456	Mutui Ngiu	M	Eastern	Kitui	1982 Coup Attempt
19456	Thomas Mutisya	M	Eastern	Kitui	1982 Coup Attempt
19475	Justina Syombua Matiti	F	Eastern	Kyuso	1982 Coup Attempt
19475	Mulwa Musyimi	M	Eastern	Kyuso	1982 Coup Attempt
19475	Rowland Matiti	M	Eastern	Kyuso	1982 Coup Attempt
19769	Daniel Rogut	M	Rift Valley	Trans Nzoia East	1982 Coup Attempt
19769	Job Kipkemboi Talam	M	Rift Valley	Trans Nzoia East	1982 Coup Attempt
19769	Julius Talam	M	Rift Valley	Trans Nzoia East	1982 Coup Attempt
19769	Simon Kimtai	M	Rift Valley	Trans Nzoia East	1982 Coup Attempt
20442	George Ngugi	M	NG	NG	1982 Coup Attempt
20442	Joram Gathu	M	NG	NG	1982 Coup Attempt
20442	Leonard Repho Ngure	M	NG	NG	1982 Coup Attempt
20442	Titus Matheige	M	NG	NG	1982 Coup Attempt
20446	Francis Njihia Mberere	M	Central	Kiambu West	1982 Coup Attempt
20446	George Ngugi	M	Central	Kiambu West	1982 Coup Attempt
20446	Joram Gathu	M	Central	Kiambu West	1982 Coup Attempt
20447	David Kiarii Kamau	M	Central	Kiambu	1982 Coup Attempt
20447	George Ngugi Gitau	M	Central	Kiambu	1982 Coup Attempt
20447	Joram Gathu Buro	M	Central	Kiambu	1982 Coup Attempt
20447	Leonard Repho Ngure	M	Central	Kiambu	1982 Coup Attempt
20588	Ogina Nyangute	M	Nyanza	Bondo	1982 Coup Attempt
20588	Omolo Alexander Odundo	M	Nyanza	Bondo	1982 Coup Attempt
20588	Omondi Ogute	M	Nyanza	Bondo	1982 Coup Attempt
20588	Otieno Onyimbo	M	Nyanza	Bondo	1982 Coup Attempt
20588	Richard Obuon	M	Nyanza	Bondo	1982 Coup Attempt
20619	Charlse Odawa Mirasi	M	Nyanza	Rarienda	1982 Coup Attempt
20651	Dedan Maede Oleket	M	Western	Teso North	1982 Coup Attempt
20652	Annanias Etyang	M	Western	Teso North	1982 Coup Attempt
20652	Dedan Maede Olekete	M	Western	Teso North	1982 Coup Attempt
20652	Evans Ebu	M	Western	Teso North	1982 Coup Attempt
20652	Herbertr Omusugu	M	Western	Teso North	1982 Coup Attempt
20652	Jeremiah Odoh	M	Western	Teso North	1982 Coup Attempt
20652	Jonathan Ikwara Ekirapa	M	Western	Teso North	1982 Coup Attempt
20652	Patrick Etyang	M	Western	Teso North	1982 Coup Attempt
20652	Peter Imoh	M	Western	Teso North	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
20652	Peter Odero	M	Western	Teso North	1982 Coup Attempt
20652	Simon Majebei	M	Western	Teso North	1982 Coup Attempt
20652	William Osigwari	M	Western	Teso North	1982 Coup Attempt
20704	Pascal Olaimo Barasa	M	Western	Teso North	1982 Coup Attempt
20728	Herbert Hudson Omusugu Olekete	M	Western	Teso North	1982 Coup Attempt
21554	Jackson Ulwenya Anduvate	M	Western	Vihiga	1982 Coup Attempt
21570	Agrrey Staus Nduswe	M	Western	Emuhaya	1982 Coup Attempt
21591	Jairus Chanzu Kivuli	M	Western	Sabatia	1982 Coup Attempt
21592	Henry Angalika	M	Western	Sabatia	1982 Coup Attempt
21600	Gaulkey George Kweya	M	Western	Emuhaya	1982 Coup Attempt
22038	Wanjala Erastus Griffin	M	Western	Bungoma	1982 Coup Attempt
22038	Baraza Chesoni Patrick	M	Western	Bungoma	1982 Coup Attempt
22038	Fredrick Nyongessa	M	Western	Bungoma	1982 Coup Attempt
22038	Ghelot Joseph	M	Western	Bungoma	1982 Coup Attempt
22038	Jum Ba Ogilla Bauchamp	M	Western	Bungoma	1982 Coup Attempt
22038	Kiratu Stephen Ngugi	M	Western	Bungoma	1982 Coup Attempt
22038	Kiseka Wafula Peter	M	Western	Bungoma	1982 Coup Attempt
22038	Makhoa Moses	M	Western	Bungoma	1982 Coup Attempt
22038	Makona Mutitus Nyongesa	M	Western	Bungoma	1982 Coup Attempt
22038	Malaka Lohoni	M	Western	Bungoma	1982 Coup Attempt
22038	Malaka Loponi	M	Western	Bungoma	1982 Coup Attempt
22038	Mbugua Oliver Ngugi	M	Western	Bungoma	1982 Coup Attempt
22038	Musundi Nathan	M	Western	Bungoma	1982 Coup Attempt
22038	Mwema Edward	M	Western	Bungoma	1982 Coup Attempt
22038	Namasaka Ochwang James	M	Western	Bungoma	1982 Coup Attempt
22038	Ngugi Stanley	M	Western	Bungoma	1982 Coup Attempt
22038	Okiru Barasa	M	Western	Bungoma	1982 Coup Attempt
22038	Rugut David Kiptum	M	Western	Bungoma	1982 Coup Attempt
22038	Sisula Gabriel Simiyu	M	Western	Bungoma	1982 Coup Attempt
22038	Wabomba Ndumba	M	Western	Bungoma	1982 Coup Attempt
22038	Wabomba Nyongesa Wafula	M	Western	Bungoma	1982 Coup Attempt
22038	Wachiye Humprey Maina	M	Western	Bungoma	1982 Coup Attempt
22038	Wafula Gilbert	M	Western	Bungoma	1982 Coup Attempt
22038	Wakuma Simiyu	M	Western	Bungoma	1982 Coup Attempt
22038	Walunchwati Wanyonyi Robinson	M	Western	Bungoma	1982 Coup Attempt
22038	Wanjala David Wekesa	M	Western	Bungoma	1982 Coup Attempt
22038	Wanyonyi Wafula Samson	M	Western	Bungoma	1982 Coup Attempt
22038	Wanyonyi Wakubiri John	M	Western	Bungoma	1982 Coup Attempt
22038	Wephukulu Dick	M	Western	Bungoma	1982 Coup Attempt
22433	Henry Nyongesa	M	Western	Bungoma South	1982 Coup Attempt
22434	Simiyu Maurice Waunya	M	Western	Bungoma South	1982 Coup Attempt
22435	Maxwell Namachanja Kimwanga	M	Western	Bumula	1982 Coup Attempt
22971	Captain Gedion Mutoro	M	Western	Bungoma Central	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
22971	David Wanjala Wekesa	M	Western	Bungoma Central	1982 Coup Attempt
22971	Meltus Makona	M	Western	Bungoma Central	1982 Coup Attempt
23117	Gideon Mutoro Musikuya	M	Western	Bungoma West	1982 Coup Attempt
23602	Morris Omollo Omuga	M	Nyanza	Homa Bay	1982 Coup Attempt
23603	Elly Auma Auma	M	Nyanza	Homa Bay	1982 Coup Attempt
23604	Robert Edwins Auma	M	Nyanza	Homa Bay	1982 Coup Attempt
23607	Silvanus Oyange Odede	M	Nyanza	Homa Bay	1982 Coup Attempt
23608	Nicodemus Oyoo Odhiambo	M	Nyanza	Homa Bay	1982 Coup Attempt
23608	Okimi Olela	M	Nyanza	Homa Bay	1982 Coup Attempt
23608	Richard Opiyo Ogolla	M	Nyanza	Homa Bay	1982 Coup Attempt
23608	Samson Okuro Ogweno	M	Nyanza	Homa Bay	1982 Coup Attempt
23611	Samson Ongicha Banya	M	Nyanza	Homa Bay	1982 Coup Attempt
23612	Charles Okinyi Olela	M	Nyanza	Homa Bay	1982 Coup Attempt
23613	Richard Opiyo Ogolla	M	Nyanza	Homa Bay	1982 Coup Attempt
23614	Charles Abich Owiti	M	Nyanza	Homa Bay	1982 Coup Attempt
23618	Samson Ogweno Aruji (Deceased)	M	Nyanza	Homa Bay	1982 Coup Attempt
23639	Jane Awuor Oluoch	F	Nyanza	Rachuonyo North	1982 Coup Attempt
23640	Samuel Ondiegi Ochieng	M	Nyanza	Rachuonyo North	1982 Coup Attempt
23642	Samwel Zachary Okoyo	M	Nyanza	Rachuonyo North	1982 Coup Attempt
23657	Segero Samuel Mulavu	M	Western	Kakamega East (Shinyalu)	1982 Coup Attempt
23658	Malimu Protus Ungayi	M	Western	Kakamega East (Shinyalu)	1982 Coup Attempt
23659	Patrick Makamu Kingi	M	Western	Kakamega East (Shinyalu)	1982 Coup Attempt
23669	Protus Mukanzi Machina	M	Western	Bungoma Central	1982 Coup Attempt
23670	Alphonse Likembe Amwayi	M	Western	Kakamega East (Shinyalu)	1982 Coup Attempt
23670	Wichenje Angela Wilumila	F	Western	Kakamega East (Shinyalu)	1982 Coup Attempt
23672	Muleyi Aggrey Khasiya	M	Western	Kakamega South (Ikolomani)	1982 Coup Attempt
23749	Alfred Owara	M	Western	Samia	1982 Coup Attempt
23749	Daniel Sibale	M	Western	Samia	1982 Coup Attempt
23749	Linus Khaseke	M	Western	Samia	1982 Coup Attempt
23749	Ojanji Ogongola Sibiya	M	Western	Samia	1982 Coup Attempt
23931	Dinda Charles Owino	M	Nyanza	Siaya	1982 Coup Attempt
24058	Omolo William Oruko	M	Nyanza	Nyakach	1982 Coup Attempt
24058	Samuel Okumu Okway	M	Nyanza	Nyakach	1982 Coup Attempt
24232	Late Richard Guyo Obuon	M	Nyanza	Kuria West	1982 Coup Attempt
24232	Mangera John Magaiwa	M	Nyanza	Kuria West	1982 Coup Attempt
24232	Patrick	M	Nyanza	Kuria West	1982 Coup Attempt
24232	Peter Masamaki Boke	M	Nyanza	Kuria West	1982 Coup Attempt
24232	Samwel Okumu Okwanyi	M	Nyanza	Kuria West	1982 Coup Attempt
24491	Adhu Awiti	M	Nyanza	Rachuonyo North	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
24491	Benjamin Ondhuru	M	Nyanza	Rachuonyo North	1982 Coup Attempt
24491	Charles Marie Omar	M	Nyanza	Rachuonyo North	1982 Coup Attempt
24491	Kabasi Wilis Helekia	M	Nyanza	Rachuonyo North	1982 Coup Attempt
24491	Odhiambo	M	Nyanza	Rachuonyo North	1982 Coup Attempt
24787	Paul Auma Abuto Oselu	M	Nyanza	Kisumu East	1982 Coup Attempt
24926	Cpl Boaz Owaze	M	Nyanza	Kuria East	1982 Coup Attempt
24926	James Makuri	M	Nyanza	Kuria East	1982 Coup Attempt
24926	John Chacha Nkoro	M	Nyanza	Kuria East	1982 Coup Attempt
24926	Josephat Kibet	M	Nyanza	Kuria East	1982 Coup Attempt
24926	Lt Colduu	M	Nyanza	Kuria East	1982 Coup Attempt
24926	Peter Mongou Moss	M	Nyanza	Kuria East	1982 Coup Attempt
25111	Cornels Akelo Onyango	M	Nyanza	Siaya	1982 Coup Attempt
25114	Ian Lewis Akelo	M	Nyanza	Siaya	1982 Coup Attempt
25114	Linet Atieno Okoyo	F	Nyanza	Siaya	1982 Coup Attempt
25114	Michael Onyango Cornels	M	Nyanza	Siaya	1982 Coup Attempt
25251	Muga Kolale	M	Nyanza	Rarienda	1982 Coup Attempt
25251	Oginga Ogego	M	Nyanza	Rarienda	1982 Coup Attempt
25251	Olweny Gedion Opiyo	M	Nyanza	Rarienda	1982 Coup Attempt
25251	Onyango	M	Nyanza	Rarienda	1982 Coup Attempt
25251	Onyango Jarteng	M	Nyanza	Rarienda	1982 Coup Attempt
25253	Adungosi	M	Nyanza	Kisumu East	1982 Coup Attempt
25253	Odhiambo Nyabogi	M	Nyanza	Kisumu East	1982 Coup Attempt
25253	Ombewa Rutha	M	Nyanza	Kisumu East	1982 Coup Attempt
25253	Richard Obwon Guya	M	Nyanza	Kisumu East	1982 Coup Attempt
25254	Apollo Amieno	M	Nyanza	Kisumu West	1982 Coup Attempt
25254	Jackson Manyonyi	M	Nyanza	Kisumu West	1982 Coup Attempt
25254	John Macharia	M	Nyanza	Kisumu West	1982 Coup Attempt
25254	Jonathan Ekirapa	M	Nyanza	Kisumu West	1982 Coup Attempt
25254	Livingstone Mudenbe	M	Nyanza	Kisumu West	1982 Coup Attempt
25254	Nyonamu Patrick Achieng	M	Nyanza	Kisumu West	1982 Coup Attempt
25254	Samuel Kamande	M	Nyanza	Kisumu West	1982 Coup Attempt
25254	Samuel Okumu	M	Nyanza	Kisumu West	1982 Coup Attempt
25255	Charles Oliech	M	Nyanza	Rachuonyo North	1982 Coup Attempt
25255	Omondi Saul	M	Nyanza	Rachuonyo North	1982 Coup Attempt
25255	Opiyo Gor	M	Nyanza	Rachuonyo North	1982 Coup Attempt
25255	Samuel Okumu	M	Nyanza	Rachuonyo North	1982 Coup Attempt
25255	Silas Agao	M	Nyanza	Rachuonyo North	1982 Coup Attempt
25255	Washington Ontimbo	M	Nyanza	Rachuonyo North	1982 Coup Attempt
25255	Willis Randiea Okach	M	Nyanza	Rachuonyo North	1982 Coup Attempt
25258	Cpl Ole Sapalang	M	Nyanza	Kisumu West	1982 Coup Attempt
25258	Cpl Oodhiambo Oleko	M	Nyanza	Kisumu West	1982 Coup Attempt
25258	Onyango Paul Ojuka	M	Nyanza	Kisumu West	1982 Coup Attempt
25258	Ssgt Maingi	M	Nyanza	Kisumu West	1982 Coup Attempt
25258	Wo Joshwa Were	M	Nyanza	Kisumu West	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
25259	Douglas Okalo	F	Nyanza	Siaya	1982 Coup Attempt
25259	Juma Henry Rambim	M	Nyanza	Siaya	1982 Coup Attempt
25259	Omolo Akelo	M	Nyanza	Siaya	1982 Coup Attempt
25259	Paul Geno	F	Nyanza	Siaya	1982 Coup Attempt
25259	Vitalis Anyenya	F	Nyanza	Siaya	1982 Coup Attempt
25260	Cleophas Okwako	M	Nyanza	Nyakach	1982 Coup Attempt
25260	David Nyangau	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Joseph Promen Kitarenga	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Osaka Sweta	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Peter Mose Miyienda	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Samson Ogweno Aruji	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Willis Okach Randiga	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Okoth Samuel	M	Nyanza		1982 Coup Attempt
25260	Otok Charles Oliech	M	Nyanza		1982 Coup Attempt
25260	Abdikadir Mohamed	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Absalom Wambua Kisandi	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Adan Ali Mohamed	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Alexander George Ligami	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Alexender Odundo Omolo	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Anthony Miruka Agutu	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Apollo Ogolla Olloo	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Ayub Odhiambo	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Benjamin Kimunye Mwannza	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Charles Oliech	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Charles Owino Pinda	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Charles Wandera	M	Nyanza	Nyakach	1982 Coup Attempt
25260	David Njoroge Mwangi	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Davis Obiri Seda	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Denish Gumbe Osire	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Dick Wepukhulu	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Elphas Okoth Odondi	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Emanuel Masha Dongo	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Gachanja Muthuri Ndira	M	Nyanza	Nyakach	1982 Coup Attempt
25260	George Awour Agola	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Gregory Godana Adel	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Hendry Kipruto Kenduiwo	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Humphrey Kaburu Ndubi	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Jacob Digo Otieno	M	Nyanza	Nyakach	1982 Coup Attempt
25260	James Berege Changwony	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Jjoseph Kariuki Kega	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Joel Aduma Otiende	M	Nyanza	Nyakach	1982 Coup Attempt
25260	John Kurema Wangombe	M	Nyanza	Nyakach	1982 Coup Attempt
25260	John Bustats Kariuki Wamai	M	Nyanza	Nyakach	1982 Coup Attempt
25260	John Elavoka Ishilingi	M	Nyanza	Nyakach	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
25260	John Otieno Onyimbo	M	Nyanza	Nyakach	1982 Coup Attempt
25260	John Otieno Opam	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Joramson Micheni	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Joseph Agenga Onuonga	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Joseph Kimuyu Mutisya	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Joseph Waithara Mbuqua	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Josphat Annguza Azangu	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Maina Kinyatti	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Michael K Ngeno	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Mirasi Odawa	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Mohamed Mwaura	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Nicholus Njeru	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Ochuka	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Odenusa	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Ogizi	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Oriwa	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Oteyo	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Paul Onyango Ojuka	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Peter Kipkurui Tangut	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Peter Njoroge Mwangi	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Peter Wairagu Kairu	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Peter Waithaka Kiko	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Preston Kanuki Taiti	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Silvanus Anthony Oghina	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Simon Mbuto	M	Nyanza	Nyakach	1982 Coup Attempt
25260	Waithaka Joseph Njuguna	M	Nyanza	Nyakach	1982 Coup Attempt
25261	Dalington Otiato	M	Nyanza	Nyakach	1982 Coup Attempt
25261	Oremoh Arthanas Kangienga	M	Nyanza	Nyakach	1982 Coup Attempt
25262	John Kawa	M	Nyanza	Kisumu	1982 Coup Attempt
25262	Ochola Barrack Orendo	M	Nyanza	Kisumu	1982 Coup Attempt
25262	Saul Omondi	M	Nyanza	Kisumu	1982 Coup Attempt
25263	Nyaundi Valentine Abok	M	Nyanza		1982 Coup Attempt
25263	Kalamu William Wachuenje	M	Nyanza	Nyakach	1982 Coup Attempt
25275	James Sandys Ajigo	M	Nyanza	Kisumu West	1982 Coup Attempt
25278	Bonyo Waguda Wilson	M	Nyanza	Nyakach	1982 Coup Attempt
25279	Joshua Omondi Ogwang	M	Nyanza	Nyakach	1982 Coup Attempt
25279	Joshua Ouko	M	Nyanza	Nyakach	1982 Coup Attempt
25279	Otieno Moses Okongo	M	Nyanza	Nyakach	1982 Coup Attempt
25279	Vincent Ouko Shem	M	Nyanza	Nyakach	1982 Coup Attempt
25280	Bonyo Waguda	M	Nyanza		1982 Coup Attempt
25280	Hinda	M	Nyanza	Nyakach	1982 Coup Attempt
25280	Otino Evans Obudo	M	Nyanza		1982 Coup Attempt
25280	Wanyonyi	M	Nyanza	Nyakach	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
25287	Harris Okongo Arara	M	Nyanza	Nyakach	1982 Coup Attempt
25287	John Otieno Onyimbo	M	Nyanza	Nyakach	1982 Coup Attempt
25287	Odhiambo Andrew Lawrence	M	Nyanza	Nyakach	1982 Coup Attempt
25287	Onyango Odeny	M	Nyanza	Nyakach	1982 Coup Attempt
25287	Patrick Lumumba Owade	M	Nyanza	Nyakach	1982 Coup Attempt
25287	Samuel Kibor	M	Nyanza	Nyakach	1982 Coup Attempt
25290	Charles Otieno	M	Nyanza	Kisumu West	1982 Coup Attempt
25290	Gwada Sudhe	M	Nyanza	Kisumu West	1982 Coup Attempt
25290	Ouma Gilbert Okina	M	Nyanza	Kisumu West	1982 Coup Attempt
25290	Ouma Oselu	M	Nyanza	Kisumu West	1982 Coup Attempt
25290	Stephen Oriang	M	Nyanza	Kisumu West	1982 Coup Attempt
25291	Okumu Okwany	M	Nyanza	Kisumu West	1982 Coup Attempt
25291	Onuonga Joseph Agenga	M	Nyanza	Kisumu West	1982 Coup Attempt
25291	Spte Ombewa Rutha	M	Nyanza	Kisumu West	1982 Coup Attempt
25291	Ssgt Charles Oliech	M	Nyanza	Kisumu West	1982 Coup Attempt
25291	Ssgt Samwel Dayo	M	Nyanza	Kisumu West	1982 Coup Attempt
25292	Kwede	M	Nyanza	Kisumu West	1982 Coup Attempt
25293	Benjamin Ogada Okeyo	M	Nyanza	Kisumu West	1982 Coup Attempt
25300	Benson Gathie Otieno	M	Nyanza	Nyakach	1982 Coup Attempt
25300	Evans Ouma	M	Nyanza	Nyakach	1982 Coup Attempt
25300	George Madara	M	Nyanza	Nyakach	1982 Coup Attempt
25300	Joshua Omoro Opiyo	M	Nyanza	Nyakach	1982 Coup Attempt
25300	Mose Otieno Okongo	M	Nyanza	Nyakach	1982 Coup Attempt
25300	Patrick Lumumba Owade	M	Nyanza	Nyakach	1982 Coup Attempt
25300	Richard Obuon	M	Nyanza	Nyakach	1982 Coup Attempt
25300	Samuel Okumu Okuany	M	Nyanza	Nyakach	1982 Coup Attempt
25300	Tom Njura	M	Nyanza	Nyakach	1982 Coup Attempt
25420	Akuloba Barasa Mohammed	M	Western	Kakamega	1982 Coup Attempt
25420	John Stwakha	M	Western	Kakamega	1982 Coup Attempt
25420	Justus Aswani	M	Western	Kakamega	1982 Coup Attempt
25477	George Owuor	M	Nyanza	Kisumu East	1982 Coup Attempt
25477	Okumu	M	Nyanza	Kisumu East	1982 Coup Attempt
25477	Okwany	M	Nyanza	Kisumu East	1982 Coup Attempt
25477	Washington Sienya Okwiri	M	Nyanza	Kisumu East	1982 Coup Attempt
25493	Jacques Hannington Muga	M	Nyanza	Kisumu East	1982 Coup Attempt
27652	Benson Ruoro	M	Central	Mathira	1982 Coup Attempt
27652	Irene Wanjiku Miano	F	Central	Mathira	1982 Coup Attempt
27652	James Munene	M	Central	Mathira	1982 Coup Attempt
27652	Joseph Miano Kabui	M	Central	Mathira	1982 Coup Attempt
27652	Margaret Wanjiru	F	Central	Mathira	1982 Coup Attempt
27652	Mercy Gathigia	F	Central	Mathira	1982 Coup Attempt
27654	Ishmael Nduki Wagiti	M	Central	Kirinyaga	1982 Coup Attempt
27703	Eustus Maina Mukara	M	Central	Kirinyaga	1982 Coup Attempt
27703	Josphat Mosogo	M	Central	Kirinyaga	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
27703	Stephen Karangau Wanjau	M	Central	Kirinyaga	1982 Coup Attempt
27703	Wanjohi Kairo	M	Central	Kirinyaga	1982 Coup Attempt
27705	James Gitari Mutonga	M	Central	Kirinyaga	1982 Coup Attempt
27705	Kangangi Michael	M	Central	Kirinyaga	1982 Coup Attempt
27705	Murage	M	Central	Kirinyaga	1982 Coup Attempt
27705	William Njuguna	M	Central	Kirinyaga	1982 Coup Attempt
27709	James Gitari	M	Central	Kirinyaga	1982 Coup Attempt
27709	Joram Njue Kirigia	M	Central	Kirinyaga	1982 Coup Attempt
27709	Wainaina	M	Central	Kirinyaga	1982 Coup Attempt
27711	Murage	M	Central	Kirinyaga	1982 Coup Attempt
27711	Ngare	M	Central	Kirinyaga	1982 Coup Attempt
27718	Murage	M	Central	Kirinyaga	1982 Coup Attempt
27718	Nduki Ishmael	M	Central	Kirinyaga	1982 Coup Attempt
27718	Wambua	M	Central	Kirinyaga	1982 Coup Attempt
27718	William Njuguna Mulango	M	Central	Kirinyaga	1982 Coup Attempt
27738	Kirugi Paul Kabui	M	Central	Kirinyaga	1982 Coup Attempt
27738	Mwanje	M	Central	Kirinyaga	1982 Coup Attempt
27890	Otieno Stanley	M	Nyanza	Nyakach	1982 Coup Attempt
27890	Paul Ombewa	M	Nyanza	Nyakach	1982 Coup Attempt
29778	Murunga Festus Kimathi	M	Eastern	Meru Central	1982 Coup Attempt
30032	Casncio Karugu Kagoromo	M	Eastern	Tharaka North	1982 Coup Attempt
30042	Karugu Kagoromo	M	Central	DK	1982 Coup Attempt
30042	Mathew Nthiga Nyagah	M	Central	DK	1982 Coup Attempt
30042	Muthengi Gituranthi	M	Central	DK	1982 Coup Attempt
30042	Peter Nguki	M	Central	DK	1982 Coup Attempt
31134	Irungu Josephat Nathan	M	Central	Thika East	1982 Coup Attempt
31158	Calvin Okeyo Ogutu	M	Nairobi	Nairobi	1982 Coup Attempt
31159	James Ndandera Nyariogi	M	Central	Ruiru	1982 Coup Attempt
31160	Gisore Michael Momanyi	M	Nairobi	Nairobi	1982 Coup Attempt
31161	Titus Njiru Michael Macharia	M	Central	Ruiru	1982 Coup Attempt
31162	Joseph Michael Kinyanjui Mwangi	M	Nairobi	Nairobi	1982 Coup Attempt
31163	Samwel Obuchi Ogawo	M	Nairobi	Kasarani	1982 Coup Attempt
31164	Watson Micheni M Nkuene	M	Nairobi	Nairobi	1982 Coup Attempt
31165	Charles B Kamandeh Karanja	M	Nairobi	Nairobi	1982 Coup Attempt
31166	Masai Michael Wambua	M	Nairobi	Kamukunji	1982 Coup Attempt
31167	Zebbabel Mutua Muthoka	M	Nairobi	Nairobi	1982 Coup Attempt
31168	Muigai Njoroge	M	Central	Thika West	1982 Coup Attempt
31169	Sisto Owuor Haira		Nyanza	Siaya	1982 Coup Attempt
31170	Ndira Gachanja Muturi	M	Central	Muranga South	1982 Coup Attempt
31171	Francis Murigi Robert	M	Central	Muranga South	1982 Coup Attempt
31172	Mui George Jonathan	M	Eastern	Machakos	1982 Coup Attempt
31173	Martin Odhiambo Onginjo	M	Nyanza	Siaya	1982 Coup Attempt
31174	Joseph Mathu Ilovoo	M	Eastern	Mwingi Central	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
31175	Asumo Francis Lusaka	M	Western	Vihiga	1982 Coup Attempt
31176	Mathews Kaburia Miano	M	Central	Nyeri	1982 Coup Attempt
31177	Wanjala Charles Ogema	M	Western	Busia	1982 Coup Attempt
31178	Fredrick Wachira Allan	M	Nairobi	Nairobi	1982 Coup Attempt
31179	Joseph Nganga Mburu	M	Central	Ruiru	1982 Coup Attempt
31180	Andew Otiso Onyambu	M	Nairobi	Nairobi	1982 Coup Attempt
31181	Joseph Douglas Nganga Kaburi	M	Central	Gatanga	1982 Coup Attempt
31182	Michael John Kiarie	M	Central	Kiambu	1982 Coup Attempt
31183	Robert Kaliiga Ndewa	M	Nairobi	Nairobi	1982 Coup Attempt
31184	Marani Amos Kunikwa	M	Nairobi	Nairobi	1982 Coup Attempt
31185	Otieno Stanley Orana	M	Nyanza	Nyakach	1982 Coup Attempt
31186	Sammy Kamau Warukenya	M	Central	Gatundu	1982 Coup Attempt
31188	Peter Matuu Ndwiko	M	Eastern	Mukaa	1982 Coup Attempt
31189	Luvai Hudson Msumba	M	Western	Kakamega	1982 Coup Attempt
31190	Apollo Ochieng Ameino	M	Nairobi	Nairobi	1982 Coup Attempt
31191	Salavius Nkonge	M	Nairobi	Nairobi	1982 Coup Attempt
31192	Anthony Nzioki Wambua	M	Nairobi	Nairobi	1982 Coup Attempt
31193	Danson Githae Mburu	M	Central	Kiambu	1982 Coup Attempt
31195	Karani Fredrick Kauma Nyagah	M	Eastern	Embu	1982 Coup Attempt
31196	Paul Kirungo Njihia	M	Nairobi	Nairobi	1982 Coup Attempt
31197	Joseph Jacob Lio	M	Eastern	Marsabit	1982 Coup Attempt
31198	Mutui Robert Ndeme	M	Eastern	Kitui	1982 Coup Attempt
31199	Edward Paul Ngahu Gikungu	M	Central	Muranga South	1982 Coup Attempt
31200	Lucas Mumbo Odhiambo	M	Nairobi	Nairobi	1982 Coup Attempt
32432	Samuel Kariuki Gichaga	M	Central	Thika West	1982 Coup Attempt
32433	Livistone Kivisi Mudembe	M	Nairobi	Nairobi	1982 Coup Attempt
32436	James Wachira Gachoya	M	Central	Thika West	1982 Coup Attempt
32437	Samuel Kariuki Gichaga	M	Central	Thika West	1982 Coup Attempt
32438	Christopher Njoroge Muthike	M	Nairobi	Nairobi	1982 Coup Attempt
32439	Mohamed Abdikadir	M	Nairobi	Nairobi	1982 Coup Attempt
32440	Bernard Mukasa Ingosi	M	Nairobi	Nairobi	1982 Coup Attempt
32441	Aggrey Muganzi Mudi	M	Nairobi	Nairobi	1982 Coup Attempt
32442	Wamwene Dick Wephukhulu	M	Western	Bungoma	1982 Coup Attempt
32443	Justus Musyimi Fundi	M	Eastern	Mwala	1982 Coup Attempt
32444	Adam Isiku Mutinda	M	Coast	Kilindini	1982 Coup Attempt
32446	Josphat Kirugi Mwangi	M	Nairobi	Nairobi	1982 Coup Attempt
32446	William Mwangi	M	Nairobi	Nairobi	1982 Coup Attempt
32447	Njau Alex Benson Kumaka	M	Central	Muranga	1982 Coup Attempt
32448	David Musyoka Kamu	M	Eastern	Athi River	1982 Coup Attempt
32449	Jack Hamilton Mbai	M	Nairobi	Nairobi	1982 Coup Attempt
32951	Charles Mbusya Mutunga	M	Eastern	Yatta	1982 Coup Attempt
32956	Douglas Maina Mwangi	M	Nairobi	Nairobi	1982 Coup Attempt
32957	Simeon Rills Masese Angima	M	Nyanza	Kanyenya	1982 Coup Attempt
32958	John Savai	M	Rift Valley	Nandi South	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
32959	Titus Musyoka Daniel Kakuthu	M	Eastern	Kitui	1982 Coup Attempt
32960	Sir Dickson O Otiu	M	Nyanza	Homa Bay	1982 Coup Attempt
32961	Ismail Ibrahim Adan	M	Eastern	Isiolo	1982 Coup Attempt
32962	George Muruthi Mwaura	M	Central	Kiambu	1982 Coup Attempt
32965	Jenaries Salim Khibol Wataro	M	Cebtral	Muranga	1982 Coup Attempt
32967	Yusuf Jirmo Wario	M	Eastern	Marsabit	1982 Coup Attempt
32968	Muriuri Patrick Wamwea	M	NG	NG	1982 Coup Attempt
32969	Henry Kipruto Kendwywa	M	Rift Valley	Njoro	1982 Coup Attempt
32972	Kamau Samuel Maina	M	Central	Muranga	1982 Coup Attempt
32973	John Galgalo Elema	M	Eastern	Marsabit	1982 Coup Attempt
32974	Benjamin Omurunga Makunda	M	Western	Butere	1982 Coup Attempt
32977	Ndirangu Grace Gathigia	F	Central	Nyeri	1982 Coup Attempt
32978	Peter Mwangi	M	Nairobi	Nairobi	1982 Coup Attempt
32979	Francis Gichura Ndiba	M	Central	Mathira West	1982 Coup Attempt
32980	Lawrence Ngure Njoroge	M	Nairobi	Nairobi	1982 Coup Attempt
32981	Joel Aduma Otiende	M	Nairobi	Makadara	1982 Coup Attempt
32983	Adan Ali	M	Eastern	Isiolo	1982 Coup Attempt
32983	Hassan Godana	M	Eastern	Isiolo	1982 Coup Attempt
32983	Ibrahim Halake Kalicha	M	Eastern	Isiolo	1982 Coup Attempt
32983	kamande	M	Eastern	Isiolo	1982 Coup Attempt
32984	Antony Mbiu Kariuki Kariuki	M	Nairobi	Nairobi	1982 Coup Attempt
32984	Jacinta Njeri Gachinga	M	Nairobi	Nairobi	1982 Coup Attempt
32984	Mary Wambui Kariuku	F	Nairobi	Nairobi	1982 Coup Attempt
32984	Mary Wanjiku Gichura	F	Nairobi	Nairobi	1982 Coup Attempt
32984	Rachael Gakemia Muya	F	Nairobi	Nairobi	1982 Coup Attempt
32985	Fredrick Gathachi Maiyuria	M	Nairobi	Nairobi	1982 Coup Attempt
32986	George Githucha Waithaka	M	Nairobi	Nairobi	1982 Coup Attempt
32987	James Kimani Wambugi	M	Central	Kiambu	1982 Coup Attempt
32988	Orwa William Ojode	M	Nairobi	Nairobi	1982 Coup Attempt
32990	Jane Wangari Chege	F	Central	Kiambu	1982 Coup Attempt
32990	Samuel Chege Girau	M	Central	Kiambu	1982 Coup Attempt
32991	Richard Muhindi Juma	M	Nairobi	Nairobi	1982 Coup Attempt
32992	Henry Kipruto Chebiego	M	Rift Valley	Keiyo	1982 Coup Attempt
32993	John Otina Mbeche	M	Nyanza	Homa Bay	1982 Coup Attempt
34402	Ngio Titus	M	Eastern		1982 Coup Attempt
34402	Kasina Katuto	M	Eastern	Kitui	1982 Coup Attempt
34402	Wambua	M	Eastern	kitui	1982 Coup Attempt
34461	Adan Chukulisa	M	Eastern	Marsabit	1982 Coup Attempt
34461	Lio Gache	M	Eastern	Marsabit	1982 Coup Attempt
34461	Omar Qutara	M	Eastern	Marsabit	1982 Coup Attempt
34461	Stephen Galgalo Elema	M	Eastern	Marsabit	1982 Coup Attempt
34461	Yusuf Jirmo	M	Eastern	Marsabit	1982 Coup Attempt
35520	Benjamin Soi	M	Rift Valley	Bureti	1982 Coup Attempt
35520	Joshua Rono	M	Rift Valley	Bureti	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
35520	Michael Kimutai Turgut	M	Rift Valley	Bureti	1982 Coup Attempt
35520	Shame Kirui	M	Rift Valley	Bureti	1982 Coup Attempt
35524	Kipkurui Rotich Joseph	M	Rift Valley	Kericho	1982 Coup Attempt
35524	Kipngeno Korir	M	Rift Valley	Kericho	1982 Coup Attempt
35524	Paul Kipkoech Cheruiyot	M	Rift Valley	Kericho	1982 Coup Attempt
35559	Eustace Maina Mukara	M	Central	Kirinyaga	1982 Coup Attempt
35559	Josphat Mbogo	M	Central	Kirinyaga	1982 Coup Attempt
35559	Paul Kirubi	M	Central	Kirinyaga	1982 Coup Attempt
35559	Stephen Karangao	M	Central	Kirinyaga	1982 Coup Attempt
35559	Wanjohi Kairu	M	Central	Kirinyaga	1982 Coup Attempt
35601	Simon Njiru Njauke	M	Coast	Lamu	1982 Coup Attempt
35602	Mwendwa Peter Ngumbau	M	Eastern	Machakos	1982 Coup Attempt
35603	Nicholas Mutuku Kilu	M	Eastern	Mbooni East	1982 Coup Attempt
35605	Moses Lawrence Makokha	M	Rift Valley	Trans Nzoia East	1982 Coup Attempt
35608	Joseph Patroba Malenya	M	Western	Bungoma East	1982 Coup Attempt
35609	Wanjosie Fred Waqnjala		Western	Bungoma South	1982 Coup Attempt
35610	Alphonse Nzangi Mutuluki	M	Eastern	Mbooni East	1982 Coup Attempt
35611	Fredrick Wanyonyi Nalianya	M	Rift Valley	Trans Nzoia East	1982 Coup Attempt
35612	John Onyimbo Otieno	M	Nyanza	Bondo	1982 Coup Attempt
35614	Wepukhulu Dick Womwere	M	Western	Bungoma	1982 Coup Attempt
35615	Mary Wambui Kariuki	F	Rift Valley	Baringo	1982 Coup Attempt
35616	Francis Mbaunzi Ndambu	M	Eastern	Kitui West	1982 Coup Attempt
35617	John Sidwaka Wakukhas	M	Western	Mumias	1982 Coup Attempt
35619	V A Omondi	M	Eastern	Kitui West	1982 Coup Attempt
35619	Kyellenge Shadrack Mutisya	M	Eastern	Kitui West	1982 Coup Attempt
35619	Phillip Musyoka	M	Eastern	Kitui West	1982 Coup Attempt
35620	Vincernt Andrew Omondi	M	Nyanza	Siaya	1982 Coup Attempt
35621	Benson Thaiya	M	Central	Thika West	1982 Coup Attempt
35622	Simuli Susan Agnetta	F	Western	Emuhaya	1982 Coup Attempt
35623	Oliver Mbugua Ngugi	M	Central	Kiambu	1982 Coup Attempt
35623	Susan Wambui Kamau	F	Central	Kiambu	1982 Coup Attempt
35627	Nganga Haginson Mwadime	M	Coast	Taita Taveta	1982 Coup Attempt
35629	Peter Gitahi Ndiritu	M	Central	Nyandarua	1982 Coup Attempt
35631	Aswani Justus Anjichi	M	Western	Emuhaya	1982 Coup Attempt
35632	Asila Darlington Otioato	M	Western	Emuhaya	1982 Coup Attempt
35633	James Kingoo Mukuthi	M	Eastern	Kathiani	1982 Coup Attempt
35634	Francis Muema Muindi	M	Eastern	Makueni	1982 Coup Attempt
35635	George Orina Ondieki	M	Nyanza	Nyamira	1982 Coup Attempt
35636	Philip Musyoki Kituku	M	Eastern	Makueni	1982 Coup Attempt
35637	Joel Aduma Otiende	M	Nyanza	Kisumu	1982 Coup Attempt
35638	Museti Enos Lukalia	M	Western	Kakamega South (Ikolomani)	1982 Coup Attempt
35639	Amina Muchele Asman	F	Western	Mumias	1982 Coup Attempt
35639	Hashim Asman Khayundi	M	Western	Mumias	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
35639	Idris Khayundi Asman	M	Western	Mumias	1982 Coup Attempt
35639	Ruth Khaliche Asman	F	Western	Mumias	1982 Coup Attempt
35639	Sophia Makokha Khayumbi	F	Western	Mumias	1982 Coup Attempt
35640	Benson Sokio Lekalan	M	Rift Valley	Samburu	1982 Coup Attempt
35645	Stephen Maloba	M	Rift Valley	Mandi	1982 Coup Attempt
35647	Benson Wambua Musau	F	Eastern	Masinga	1982 Coup Attempt
35647	Catherine Mutio Wambua	F	Eastern	Masinga	1982 Coup Attempt
35647	Faith Syevvo Wambua	F	Eastern	Masinga	1982 Coup Attempt
35647	Kioko Wambua	F	Eastern	Masinga	1982 Coup Attempt
35647	Mutuku Wambua	F	Eastern	Masinga	1982 Coup Attempt
35647	Paulinah Kimwele Munee	F	Eastern	Masinga	1982 Coup Attempt
35647	Shadrack Musyoka Wambua	M	Eastern	Masinga	1982 Coup Attempt
35647	Titus Kimwele Wambua	M	Eastern	Masinga	1982 Coup Attempt
35650	Wanjohi Charles Kairu	M	Central	Nyeri	1982 Coup Attempt
36382	Musyimi Samuel Munywoki	M	Eastern	Kitui West	1982 Coup Attempt
36401	Peter Tonny Wambua		Nairobi	Nairobi	1982 Coup Attempt
36402	Simon Wambu Nzioki	M	Nairobi	Nairobi	1982 Coup Attempt
36403	Rogers Kingo Richa	M	Nairobi	Nairobi	1982 Coup Attempt
36404	James Mbiti Wambua	M	Eastern	Matungulu	1982 Coup Attempt
36405	Maingi	M	Eastern	Kagundo	1982 Coup Attempt
36406	William Ngebere Ngukiu	M	Eastern	Imenti North	1982 Coup Attempt
36407	George S Mwangi Gatana	M	Nairobi	Nairobi	1982 Coup Attempt
36407	Samwel Chege Gitau	M	Nairobi	Nairobi	1982 Coup Attempt
36408	Stephene Odle Orang	M	Nairobi	Nairobi	1982 Coup Attempt
36409	David Kisilu Mutua	M	Eastern	Yatta	1982 Coup Attempt
37951	Thomas Dada Angango	M	Nairobi	Westlands	1982 Coup Attempt
41208	David Njuguna Mutonya	M	Central	Thika West	1982 Coup Attempt
44205	Opondo Ogenya Kakendo	M	Nairobi	Embakasi	1982 Coup Attempt
44210	Oloo David Onyango	M	Nairobi	Embakasi	1982 Coup Attempt
44493	Peter Wairagu Kairu	M	Rift Valley	Nakuru	1982 Coup Attempt
44628	Brenda Ashikhongo	F	Nairobi	Westlands	1982 Coup Attempt
44628	James Akunda	M	Nairobi	Westlands	1982 Coup Attempt
44628	Josephine Asingwa	M	Nairobi	Westlands	1982 Coup Attempt
44628	Kowado Lumumba	M	Nairobi	Westlands	1982 Coup Attempt
44628	Marcellus Nagachi Mangongo	F	Nairobi	Westlands	1982 Coup Attempt
44628	Otino Mbeche	M	Nairobi	Westlands	1982 Coup Attempt
44628	Samwel Okumu	M	Nairobi	Westlands	1982 Coup Attempt
44628	Staus Induswe	M	Nairobi	Westlands	1982 Coup Attempt
44628	Thomas W Osore	M	Nairobi	Westlands	1982 Coup Attempt
44628	William Ogam	M	Nairobi	Westlands	1982 Coup Attempt
44840	Gilbert Mana Githae	M	Rift Valley	Kajiado North	1982 Coup Attempt
44840	Kariuki	M	Rift Valley	Kajiado North	1982 Coup Attempt
44840	Major Ndungu	M	Rift Valley	Kajiado North	1982 Coup Attempt
44843	Alfred Muchiri Ndungu	M	Central	Kiambu	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
44843	Amos Mokora	M	Central	Kiambu	1982 Coup Attempt
44843	James Wanyoike	M	Central	Kiambu	1982 Coup Attempt
44843	Sammy Kaharua Ngombo	M	Central	Kiambu	1982 Coup Attempt
45280	Daniel Mutai	M	Rift Valley	Nandi Central	1982 Coup Attempt
45280	John Cheruiyot	M	Rift Valley	Nandi Central	1982 Coup Attempt
45280	Joseph Kutto	M	Rift Valley	Nandi Central	1982 Coup Attempt
45280	Moses Kotut	M	Rift Valley	Nandi Central	1982 Coup Attempt
45280	Samson Kipkenei Kebeney	M	Rift Valley	Nandi Central	1982 Coup Attempt
45282	Noah Kibet Sigilai	M	Rift Valley	Uasin Gishu	1982 Coup Attempt
45282	Sammy Bor	M	Rift Valley	Uasin Gishu	1982 Coup Attempt
45282	Sammy Kimtai	M	Rift Valley	Uasin Gishu	1982 Coup Attempt
45283	John Cheruiyot Sumei	M	Rift Valley	Nandi Central	1982 Coup Attempt
45283	John Kirwa Bergen	M	Rift Valley	Nandi Central	1982 Coup Attempt
45283	Mathew Cheruiyot Rutto	M	Rift Valley	Nandi Central	1982 Coup Attempt
45284	Joseph Chemunai Chesire	M	Rift Valley	Baringo	1982 Coup Attempt
45284	Kiptanui Barkeles Chemobo	M	Rift Valley	Baringo	1982 Coup Attempt
45284	Solomon Kiproto Manyaku	M	Rift Valley	Baringo	1982 Coup Attempt
45285	John Cheruiyot	M	Rift Valley	Nandi Central	1982 Coup Attempt
45285	Moses Kotut	M	Rift Valley	Nandi Central	1982 Coup Attempt
45285	Peter Kipkosgei Sang	M	Rift Valley	Nandi Central	1982 Coup Attempt
45286	Agnes Somoei	F	Rift Valley	Eldoret East	1982 Coup Attempt
45286	Birgen John	M	Rift Valley	Eldoret East	1982 Coup Attempt
45286	Nicholas Kiptoo Mwei	M	Rift Valley	Eldoret East	1982 Coup Attempt
45290	Kiprotich Chepsiror Nelson	M	Rift Valley	Nandi Central	1982 Coup Attempt
45290	Kiptoo Mwei	M	Rift Valley	Nandi Central	1982 Coup Attempt
45290	Lwango	M	Rift Valley	Nandi Central	1982 Coup Attempt
45320	John Cheruiyot	M	Rift Valley	Keiyo	1982 Coup Attempt
45320	Justus Lucas Kurgat	M	Rift Valley	Keiyo	1982 Coup Attempt
45320	Moses Kutot	M	Rift Valley	Keiyo	1982 Coup Attempt
45989	Jediel Muriungi	M	Nairobi	Kasarani	1982 Coup Attempt
45989	Morris M Muthamia Mwariama	M	Nairobi	Kasarani	1982 Coup Attempt
45989	Shadrack Muriuki	M	Nairobi	Kasarani	1982 Coup Attempt
46967	Francis Ongele Opalla	M	Nairobi	Westlands	1982 Coup Attempt
47644	Japhet Gatuguti Mwongera	M	Eastern	Tharaka-Nithi	1982 Coup Attempt
47644	Kimathi John	M	Eastern	Tharaka-Nithi	1982 Coup Attempt
47644	Wilston Michemi	M	Eastern	Tharaka Nithi	1982 Coup Attempt
49158	Esther Nyaguthii	M	Central	Kirinyaga	1982 Coup Attempt
49158	James Maina	M	Central	Kirinyaga	1982 Coup Attempt
49158	Japhet Mbogo Estone	M	Central	Kirinyaga	1982 Coup Attempt
49158	Johnson Murithi	M	Central	Kirinyaga	1982 Coup Attempt
80435	Alfred Odhiambo	M	Western	Bungoma	1982 Coup Attempt
80435	Alfred Wafula	M	Western	Bungoma	1982 Coup Attempt
80435	David Wekesa Wanjala	M	Western	Bungoma	1982 Coup Attempt
80435	Erustus G Wanjala	M	Western	Bungoma	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
80435	Job Kipruto Arap Kemboi	M	Western	Bungoma	1982 Coup Attempt
80435	John Kamosin	M	Western	Bungoma	1982 Coup Attempt
80435	Joseph Malaka Loponi	M	Western	Bungoma	1982 Coup Attempt
80435	Nathan Musundi	M	Western	Bungoma	1982 Coup Attempt
80435	Patrick B Chesoni	M	Western	Bungoma	1982 Coup Attempt
80435	Sarah(Shem Psenjen)	F	Western	Bungoma	1982 Coup Attempt
80435	Stephen Joseph Kiratu Ngugi	M	Western	Bungoma	1982 Coup Attempt
80990	Allan Barasa Olaimo	M	Western	Bungoma	1982 Coup Attempt
80990	David Wekesa	F	Western	Bungoma	1982 Coup Attempt
80990	Emmanuel Pikiach Tuwot	M	Western	Bungoma	1982 Coup Attempt
80990	Fredrick W Nalyanya	M	Western	Bungoma	1982 Coup Attempt
80990	Gideon Mutoro Mussukuya	M	Western	Bungoma	1982 Coup Attempt
80990	Hellen Namasake	F	Western	Bungoma	1982 Coup Attempt
80990	Joan Akoroot Olaimo	F	Western	Bungoma	1982 Coup Attempt
80990	Job Kipruto Arap Kemboi	M	Western	Bungoma	1982 Coup Attempt
80990	Joseph Chelot	M	Western	Bungoma	1982 Coup Attempt
80990	Maxwel Kivinya	M	Western	Bungoma	1982 Coup Attempt
80990	Partrick P Chesoni	M	Western	Bungoma	1982 Coup Attempt
80990	Pascal Olaimo Barasa	M	Western	Bungoma	1982 Coup Attempt
80990	Priscah Nekesa Olaimo	F	Western	Bungoma	1982 Coup Attempt
80990	Wanda Wafula Masai	M	Western	Bungoma	1982 Coup Attempt
81063	C Langat Samuel	M	Rift Valley	Kericho	1982 Coup Attempt
81068	David Kipsang	M	Rift Valley	Kericho	1982 Coup Attempt
81068	Isaiah Koros	M	Rift Valley	Kericho	1982 Coup Attempt
81068	Joseph Chepkowny	M	Rift Valley	Kericho	1982 Coup Attempt
81068	Joseph Kipkurui Rotich Yopsoy	M	Rift Valley	Kericho	1982 Coup Attempt
81068	Kilel Samwel	M	Rift Valley	Kericho	1982 Coup Attempt
81068	Matthew Korir Kipngeno	M	Rift Valley	Kericho	1982 Coup Attempt
81068	Paul Kipkoech Cheruiyot	M	Rift Valley	Kericho	1982 Coup Attempt
81068	Samwel Kugo	M	Rift Valley	Kericho	1982 Coup Attempt
81068	Simeon Kimutai	M	Rift Valley	Kericho	1982 Coup Attempt
81624	Mwao Ongaro Asuoya	M	Nyanza	Siaya	1982 Coup Attempt
81743	Francis Muema Muindi	M	Eastern	Makueni	1982 Coup Attempt
81744	John Masinde Wasike	M	Nairobi	Nairobi	1982 Coup Attempt
81752	Joseph P Malenya	M	Western	Bungoma	1982 Coup Attempt
81753	George Ngugi Gitau Rugethe	M	Central	Kiambu	1982 Coup Attempt
81756	Rogers Kimoso Richa	M	Coast	Taita	1982 Coup Attempt
81761	Lameck Otieno	M	Nyanza	Kisumu	1982 Coup Attempt
81761	Shekuna Abass	M	Nyanza	Kisumu	1982 Coup Attempt
81765	David Oliech Onyango	M	NG	NG	1982 Coup Attempt
81766	Amos Kunikina Marani	M	Rift Valley	Laikipia	1982 Coup Attempt
81767	Raphael Victor Otieno	M	Nyanza	Nyando	1982 Coup Attempt
81771	Paul Ombewa Ruth	M	Nairobi	Starehe	1982 Coup Attempt
81772	Simeon Kimutai Maiywa	M	Rift Valley	Kericho	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
81776	Patrick Gwon Ombuna	M	Nairobi	Nairobi	1982 Coup Attempt
81777	James Mulima Olieba	M	Nairobi	DK	1982 Coup Attempt
81783	Samuel Obuche Ogawo	M	Nairobi	Nairobi	1982 Coup Attempt
81784	Robert Ouma Ogana	M	Western	Bungoma	1982 Coup Attempt
81786	Benjamin Okeyo Ogada	M	NG	NG	1982 Coup Attempt
81790	Simon Wambua Nzioki	M	NG	NG	1982 Coup Attempt
81791	James Ndarera Nyariogi	M	Nyanza	Kisii Central	1982 Coup Attempt
81793	Benjamin Njue	M	Eastern	Embu	1982 Coup Attempt
81795	Washington Onyimbo Moila	M	Nyanza	Bondo	1982 Coup Attempt
81796	Titus Kisamu Mulu	M	Eastern	Machakos	1982 Coup Attempt
81797	Peter Mose Ondieki Miyienda	M	Nyanza	Kisii Central	1982 Coup Attempt
81798	Anderson Ndwiga Njiru	M	Nairobi	Starehe	1982 Coup Attempt
81799	Samuel Kinyanjui Nduati	M	Nairobi	Nairobi	1982 Coup Attempt
81800	Raymond M Mwangi	M	Central	Nyeri	1982 Coup Attempt
81802	Duncan Mugoh Mbaka	M	Eastern	Mbeere	1982 Coup Attempt
81803	Lawrence Ngure Njoroge	M	Nairobi	Nairobi	1982 Coup Attempt
81804	Simon Njiru	M	Nairobi	Starehe	1982 Coup Attempt
81805	Stephen Kanuthu Ngatia	M	Nairobi	Nairobi	1982 Coup Attempt
81806	Leonard Repho Ngure	M	NG	NG	1982 Coup Attempt
81807	John Macharia Mwaura	M	Nairobi	Nairobi	1982 Coup Attempt
81808	David Mwangi Mwihia	M	Nairobi	Nairobi	1982 Coup Attempt
81809	Peter Mwangi	M	Nairobi	Nairobi	1982 Coup Attempt
81810	Patrick Murigu Ndoria	M	Nairobi	Nairobi	1982 Coup Attempt
81811	James Mwanzia Munguti	M	NG	NG	1982 Coup Attempt
81812	Adam Isiliu Mutinda	M	Nairobi	DK	1982 Coup Attempt
81814	Andrew Kungu Mwai	M	Central	Kiambu	1982 Coup Attempt
81816	Lucas O Mumbu	M	Nairobi	Nairobi	1982 Coup Attempt
81817	Zerubbabel Mutua Muthoka	M	Nairobi	Embakasi	1982 Coup Attempt
81818	Kivisi Mudembe	M	Nairobi	Nairobi	1982 Coup Attempt
81819	Peter Mobegi Moseti	M	Nairobi	Nairobi	1982 Coup Attempt
81820	Robert Chelugo Miningwo	M	Nairobi	Nairobi	1982 Coup Attempt
81821	Gideon Karanja Mathu	M	Nairobi	Nairobi	1982 Coup Attempt
81822	Peter Nzioki Mulwa	M	NG	NG	1982 Coup Attempt
81823	Salavius Njoroge Muchiri	M	NG	NG	1982 Coup Attempt
81824	Japhet Mbogo Estone	M	Central	Kirinyaga	1982 Coup Attempt
81825	John Cheruiyot Kipkoria	M	Nairobi	Nairobi	1982 Coup Attempt
81827	Peter Wairagu Kairu	M	Rift Valley	Nakuru	1982 Coup Attempt
81828	John Kibet Bowen	M	NG	NG	1982 Coup Attempt
81829	Mwao Ongaro Asuoya	M	Nyanza	Siaya	1982 Coup Attempt
81831	Martin Bruno Inda	M	Nyanza	Kisumu	1982 Coup Attempt
81832	Sisto Owuor Haira	M	NG	NG	1982 Coup Attempt
81833	John Kiprono Bii	M	NG	NG	1982 Coup Attempt
81834	Evans Njenga Kamunyu	M	Central	Kiambu	1982 Coup Attempt
81835	Jackson Manyonyi Kedemi	M	Western	Kakamega	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
81836	David Mwangi Kibugi	M	Central	Kirinyaga Central	1982 Coup Attempt
81837	Henry Indiazi Luhongo	M	Western	Kakamega	1982 Coup Attempt
81838	Shem Onzere Levon	M	Western	Kakamega	1982 Coup Attempt
81839	Paul Chacha Kisero	M	NG	NG	1982 Coup Attempt
81840	Paul Kabui Kiruqi	M	NG	NG	1982 Coup Attempt
81843	John Elavoka Ishilingi	M	Western	Kakamega	1982 Coup Attempt
81847	Michael Momanyi Gisore	M	NG	NG	1982 Coup Attempt
81848	Samuel K Gichaga	M	Central	Gatundu	1982 Coup Attempt
81850	Wilfred Waitiki Gakure	M	Nairobi	Nairobi	1982 Coup Attempt
81851	Francis Gakongo Ntwiki	M	NG	NG	1982 Coup Attempt
81852	Joseph Mwaniki Gakunju	M	Eastern	Embu East	1982 Coup Attempt
81853	Eunice Murugi Gaichuru	F	Central	Kiambu	1982 Coup Attempt
81853	John Chege Gaichuru	M	Central	Kiambu	1982 Coup Attempt
81853	Joseph Gaichuru Chege	M	Central	Kiambu	1982 Coup Attempt
81853	Lucy Wangui Gaichuru	F	Central	Kiambu	1982 Coup Attempt
81853	Lydiah Waithira Gaichuru	F	Central	Kiambu	1982 Coup Attempt
81853	Pauline Nyambura Gaichuru	F	Central	Kiambu	1982 Coup Attempt
81853	Stephen Kimani Ga churu	M	Central	Kiambu	1982 Coup Attempt
81853	Teresia Wairimu Gaichuru	F	Central	Kiambu	1982 Coup Attempt
81853	Vincent Wanyoike Gaichuru	M	Central	Kiambu	1982 Coup Attempt
81854	Simon Kiprop Boor	M	Rift Valley	Uasin Gishu	1982 Coup Attempt
81855	Joram Gatho Boro	M	Central	Kiambu	1982 Coup Attempt
81856	Josephat Anguza Azangu	M	Western	Kakamega	1982 Coup Attempt
81857	Joseph Aziaya Amudabi	M	Western	Kakamega	1982 Coup Attempt
81858	Apollo Ochieng Amieno	M	Nyanza	Kisumu	1982 Coup Attempt
81859	Benjamin Mumo Makau	M	Eastern	Machakos	1982 Coup Attempt
81860	Wilson Arap Towett	M	NG	NG	1982 Coup Attempt
81861	John Maruge Mbogo	M	Central	Kirinyaga	1982 Coup Attempt
81864	Ishmael Ibrahim	M	Rift Valley	Laikipia	1982 Coup Attempt
81864	Joseph Kariuki Kega	M	Rift Valley	Laikipia	1982 Coup Attempt
81869	Elijah Anyanga	M	Nairobi	Kasarani	1982 Coup Attempt
81870	Henry Angalika	M	Nyanza	Borabu	1982 Coup Attempt
81871	Evans Miheso Alusiola	M	Western	Kakamega	1982 Coup Attempt
85000	Robert Kahiga Ndegwa	M	Central	Kiambu	1982 Coup Attempt
85001	Stanley Otieno Orano	M	NG	NG	1982 Coup Attempt
85005	Martin Odhiambo Onginjo	M	Nyanza	Siaya	1982 Coup Attempt
85006	Winston Michemi Burini	M	NG	NG	1982 Coup Attempt
85009	Gabriel Sisule Simiyu	M	NG	NG	1982 Coup Attempt
85010	Aggrey Mudi Muganzi	M	Western	Kakamega	1982 Coup Attempt
85013	Vincent Andrew Omondi Owuor	M	Nyanza	Siaya	1982 Coup Attempt
85015	Alfred Odhiambo Oyoda	M	Western	Busia	1982 Coup Attempt
85016	Dickson Wepukhulu Wamwene	M	Nairobi	Nairobi	1982 Coup Attempt
85044	Sergent Stephen Wanjau	M	Central	Nyeri	1982 Coup Attempt

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
1663	Joseph Kamau Kinyanjui	M	Rift Valley	Nakuru	Mwakenya
1810	Benson Karanja Thiru	M	Rift Valley	Nakuru	Mwakenya
12015	Amos Kibe Muigua	M	Central	Gatanga	Mwakenya
12015	Mukaru	M	Central	Gatanga	Mwakenya
12015	Mukaru Nganga	M	Central	Gatanga	Mwakenya
13303	Joshua Njoroge	M	Central	Kiambu	Mwakenya
13303	Kagethe Mungai	M	Central	Kiambu	Mwakenya
13303	Munyui Kahuha	M	Central	Kiambu	Mwakenya
13303	Njoroge Waguthi	M	Central	Kiambu	Mwakenya
13303	Peter Young Kihara	M	Central	Kiambu	Mwakenya
13303	Wameru Kariuki	M	Central	Kiambu	Mwakenya
14376	Ayub Kiqui	M	Rift Valley	West Pokot	Mwakenya
14376	Michael Lobuin Nenee	M	Rift Valley	West Pokot	Mwakenya
14376	Moroto Stephen Krop	M	Rift Valley	West Pokot	Mwakenya
14376	Salim Ndamwe	M	Rift Valley	West Pokot	Mwakenya
14376	Samuel Toyoko	M	Rift Valley	West Pokot	Mwakenya
18998	Joseph Njuguna Mutahi	M	Central	Nyeri	Mwakenya
18998	Wahome Mutai	M	Central	Nyeri	Mwakenya
20620	George Kwanyah Odidi	M	Nyanza	Kanyenya	Mwakenya
20620	Odhiambo	M	Nyanza	Kanyenya	Mwakenya
22388	Pitalis Owinyo Justus Agutu Chal Kende	M	Nyanza	Bondo	Mwakenya
22439	Cornelius Mulumia Onyango	M	Western	Samia	Mwakenya
23623	George Wange	M	Nyanza	Rachuonyo North	Mwakenya
23625	Peter Porna Odera	M	Nyanza	Rachuonyo North	Mwakenya
24682	Simon Omollo Ayombe	M	Nyanza	Nyando	Mwakenya
25403	Mbewa Ndede	M	Nyanza	Bondo	Mwakenya
25403	Odungu Randa	M	Nyanza	Bondo	Mwakenya
25403	Wachira Waihire	M	Nyanza	Bondo	Mwakenya
25403	Adhu Awiti	M	Nyanza	Bondo	Mwakenya
25403	Daniel Ojijo Odera	M	Nyanza	Bondo	Mwakenya
25403	Odhiambo Olel	M	Nyanza	Bondo	Mwakenya
27135	Njuguna Mutahi	M	Central	Kirinyaga	Mwakenya
27135	Odhiambo Okite	M	Central	Kirinyaga	Mwakenya
27135	Omolo Kodumo	M	Central	Kirinyaga	Mwakenya
27135	Patrick Munene Kamau	M	Central	Kirinyaga	Mwakenya
27135	Wacira Waheire	M	Central	Kirinyaga	Mwakenya
27135	Wahome Mutahi	M	Central	Kirinyaga	Mwakenya
27135	Wanyiri Kihoro	M	Central	Kirinyaga	Mwakenya
27859	Stanley Kariuki Waweru	M			Mwakenya
27859	Unknown Clan Members	DK	Central	Muranga East	Mwakenya
27859	Unknown Victim's Family Members	DK	Central	Muranga East	Mwakenya
27859	Victim's Elder Brother	M	Central	Muranga East	Mwakenya

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
31056	Salim Rashidi Lungala		M	Coast	Taveta
31056	Keziah Atieno Olondo	F	Coast	Taveta	Mwakenya
31056	Abdallah Kimwaga Jumanne	M	Coast	Taveta	Mwakenya
31056	Michael Omolo	M	Coast	Taveta	Mwakenya
38045	Paul Amina	M	Nairobi	Westlands	Mwakenya
38046	Nelson Muyela Akhahuwa	M	Western	Emuhaya	Mwakenya
44202	James Odindo Opiata	M	Nyanza	Bondo	Mwakenya
44203	Oyangi Mbaja	M	Western	Vihiga	Mwakenya
44216	Awino Loise	F			Mwakenya
44216	Awuor Phylis	F			Mwakenya
44216	Awuor Wilson				Mwakenya
45155	George John Njenga Wainaina	M	Central	Nyandarua	Mwakenya
45178	Kuria Charles Wamwere	M	Rift Valley	Nakuru North	Mwakenya
45192	Church Members	DK	Rift Valley	Nakuru	Mwakenya
45192	Family	DK	Rift Valley	Nakuru	Mwakenya
45192	Michael Mahugu Danson	M	Rift Valley	Nakuru	Mwakenya
45194	Elijohn Gitau Ndabi	M	Central	Kiambu	Mwakenya
45194	Lenard Waruiru	M	Central	Kiambu	Mwakenya
45195	Maina Simon Grigacha	M	Central	Mathira East	Mwakenya
45198	Joseph Kamonye Manje	M	Central	Thika East	Mwakenya
45198	Kiongo Geoffrey Maina	M	Central	Thika East	Mwakenya
45198	Peter Young Gathoga Kihara	M	Central	Thika East	Mwakenya
45199	Peter Njuguna Nding'O	M	Nairobi	Nairobi	Mwakenya
47552	Kihara Joshua	M			Mwakenya
47552	Njoroge Philip Gitau	M			Mwakenya
81011	Badul Dahya	M	Nyanza	Kisumu	Mwakenya
81011	David Ochieng Koyoo	M	Nyanza	Kisumu	Mwakenya
81011	Francis Ooko Oyoo	M	Nyanza	Kisumu	Mwakenya
81011	Fredrick Otieno Ouma	M	Nyanza	Kisumu	Mwakenya
81011	Grace Onyango	F	Nyanza	Kisumu	Mwakenya
81011	Magdalene Aboge	F	Nyanza	Kisumu	Mwakenya
81011	Magdalene Ojwang	F	Nyanza	Kisumu	Mwakenya
81011	Odungi Randa	M	Nyanza	Kisumu	Mwakenya
81077	Jonh Kibiro Munyui	M	Central	Kiambu	Mwakenya
1804	Kuria Wamwere	M	Rift Valley	Nakuru	Mwakenya
20402	Achieng Oneko	M	NG	NG	Mwakenya
20402	John David Kali	M	NG	NG	Mwakenya
20402	Joseph Mwanzia	M	NG	NG	Mwakenya
20402	Kamonye Manje	M	NG	NG	Mwakenya
20402	Kiongo Maina	M	NG	NG	Mwakenya
20402	Koigi	M	NG	NG	Mwakenya
20402	Okuto Mbara	M	NG	NG	Mwakenya
20402	Peter Gathoga Kihara	M	NG	NG	Mwakenya
20402	Sylvanus Oduor	M	NG	NG	Mwakenya

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
20402	Waweru Kanuki	M	NG	NG	Mwakenya
21043	Eliseus Ikalok Ekesa Owaga	M	Western	Teso North	Mwakenya
22558	Alex Okoth Ondewe	M	Central	Mukurweini	Mwakenya
22558	Andrew Mwathi Ndirangu	M	Central	Mukurweini	Mwakenya
22558	Joseph Gichuki Karanja	M	Central	Mukurweini	Mwakenya
22558	Margaret Wangui	F	Central	Mukurweini	Mwakenya
22558	Naphtali Karanja Wandui	M	Central	Mukurweini	Mwakenya
22558	Njuguna Mutahi	M	Central	Mukurweini	Mwakenya
22558	Rhumba Kinuthia	M	Central	Mukurweini	Mwakenya
44485	Antony Waweru	M	Central	Kirinyaga	Mwakenya
44485	Gitari Cyrus Muraguri	M	Central	Kirinyaga	Mwakenya
44485	Jane Wamaitha	F	Central	kirinyaga	Mwakenya
44485	Martin Murioki	M	Central	Kirinyaga	Mwakenya
44485	Mary Muthoni	F	Central	Kirinyaga	Mwakenya
44485	Moses Wanjohi	F	Central	Kirinyaga	Mwakenya
45191	Gathuku Fredrick Murage	M	Central	Mathira West	Mwakenya
81733	Apollo Washington Juma	M	Nyanza	Bondo	Mwakenya
8003	George Walukhu	M	Western	Mt Elgon	FERA
8003	Justus Wayelo	M	Western	Mt Elgon	FERA
8003	Mafura	M	Western	Mt Elgon	FERA
8003	Moses Mandu Mafumbuka	M	Western	Mt Elgon	FERA
8003	Moses Mirumi	M	Western	Mt Elgon	FERA
8003	Patrick Barasa	M	Western	Mt Elgon	FERA
8003	Samuel Ngeti	M	Western	Mt Elgon	FERA
8008	Beles Wanyonyi	F	Western	Mt Elgon	FERA
8008	Grace Sakwa	F	Western	Mt Elgon	FERA
8008	Mandu	M	Western	Mt Elgon	FERA
8008	Mirumi	F	Western	Mt Elgon	FERA
8008	Sophia Matumbai Nafula	F	Western	Mt Elgon	FERA
8008	Wayelo	M	Western	Mt Elgon	FERA
8010	Ali Walukano Tyaba	M	NG	NG	FERA
8010	Alias Abas	M	NG	NG	FERA
8010	Charles Wanyonyi	M	NG	NG	FERA
8010	Fred Wanda	M	NG	NG	FERA
8010	James Sigala	M	NG	NG	FERA
8010	Mohamed Olema	M	NG	NG	FERA
8010	Muhindi Hassan	M	NG	NG	FERA
8010	Wilson Mabonga	M	NG	NG	FERA
8010	Wilson Wangwe	M	NG	NG	FERA
20704	Pascal Olaimo Barasa	M	Western	Teso North	FERA
34597	Andrew P Wasike Munyole	M	Western	Bungoma	FERA
34597	Fiona	F	Western	Bungoma	FERA
34597	Ken Wanyama	M	Western	Bungoma	FERA
34597	Moses Khaemba Wasike	M	Western	Bungoma	FERA

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
34597	Robrt Wafula Buke	M	Western	Bungoma	FERA
46504	Moses Khaemba	M	NG	NG	FERA
46504	Moses Khaemba	M	NG	NG	FERA
46522	Andrew Munyole	M	Nairobi	Nairobi	FERA
46522	Moses Wasike Khaemba	M	Nairobi	Nairobi	FERA
46522	Wafula Buke	M	Nairobi	Nairobi	FERA
46522	Wanyama John Kennedy	M	Nairobi	Nairobi	FERA
30888	Hassan Hussein Mbiega	M	Coast	Msabweni	Kaya Bombo
30888	Mohammed Ramadhan	M	Coast	Msabweni	Kaya Bombo
30900	Govi Mohammed Ramadhani	M	Coast	Msabweni	Kaya Bombo
30900	Hassan Husseln Mbiega	M	Coast	Msabweni	Kaya Bombo
37031	Al Amin	M	Coast	Msabweni	Kaya Bombo
37031	Ali Saidi Chizondo	M	Coast	Msabweni	Kaya Bombo
37031	Hamisi Ali Banda	M	Coast	Msabweni	Kaya Bombo
37031	Khalif Khalifa	M	Coast	Msabweni	Kaya Bombo
37034	Ali Hamisi Njama	M	Coast	Msabweni	Kaya Bombo
37034	Amu Salim	M	Coast	Msabweni	Kaya Bombo
37034	Omari Saidi	M	Coast	Msabweni	Kaya Bombo
37035	Hamisi Mwatawanya	M	Coast	Msabweni	Kaya Bombo
37035	Hamisi Saidi Chizara	M	Coast	Msabweni	Kaya Bombo
37035	Omari Saidi Chizara	M	Coast	Msabweni	Kaya Bombo
37035	Saidi Omari Mwakuaza	M	Coast	Msabweni	Kaya Bombo
37040	Ali Hamisi Njama	M	Coast	Msabweni	Kaya Bombo
37040	Amu Salim	M	Coast	Msabweni	Kaya Bombo
37040	Mwinyihaji Ali Mwawandeka	M	Coast	Msabweni	Kaya Bombo
37040	Saidi Salimu	M	Coast	Msabweni	Kaya Bombo
37044	Abdalla Hamisi Nundu	M	Coast	Msabweni	Kaya Bombo
37044	Ali Hamisi Njama	M	Coast	Msabweni	Kaya Bombo
37044	Hamisi Ali Kodi	M	Coast	Msabweni	Kaya Bombo
37044	Saidi Salimu Nundu	M	Coast	Msabweni	Kaya Bombo
37045	Abdalla Saidi	M	Coast	Msabweni	Kaya Bombo
37045	Hamisi Ali	M	Coast	Msabweni	Kaya Bombo
37045	Said Omari	M	Coast	Msabweni	Kaya Bombo
37045	Saidi Mohamed	M	Coast	Msabweni	Kaya Bombo
37045	Saidi Mohamed Kodi	M	Coast	Msabweni	Kaya Bombo
37060	Ali Ramadhani Majani	M	Coast	Msabweni	Kaya Bombo
37060	Khalifani Mwanyiro	M	Coast	Msabweni	Kaya Bombo
37060	Majani Ali Saidi	M	Coast	Msabweni	Kaya Bombo
37060	Ramadhan Ali Majani	M	Coast	Msabweni	Kaya Bombo
37073	Abdalla Nundu	M	Coast	Msabweni	Kaya Bombo
37073	Ali Hamisi Mwatawanya	M	Coast	Msabweni	Kaya Bombo
37073	Amu Salim	M	Coast	Msabweni	Kaya Bombo
37073	Mata Danitu	M	Coast	Msabweni	Kaya Bombo

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
37074	Amu Mwakuaza	M	Coast	Msabweni	Kaya Bombo
37074	Mohamed Saidi	M	Coast	Msabweni	Kaya Bombo
37074	Rameu Matano Hassan	M	Coast	Msabweni	Kaya Bombo
37074	Saidi Girigi	M	Coast	Msabweni	Kaya Bombo
37075	Amu Salim	M	Coast	Msabweni	Kaya Bombo
37075	Mateno Rambu	M	Coast	Msabweni	Kaya Bombo
37075	Mohammed Kodi	M	Coast	Msabweni	Kaya Bombo
37075	Nundu Abdalla Hamisi	M	Coast	Msabweni	Kaya Bombo
37077	Ali Majani	M	Coast	Msabweni	Kaya Bombo
37077	Hussein Mwamanuko	M	Coast	Msabweni	Kaya Bombo
37077	Majani Ali Saidi	M	Coast	Msabweni	Kaya Bombo
37077	Mwinyikai Choka	M	Coast	Msabweni	Kaya Bombo
37077	Ramadhan Ali Majani	M	Coast	Msabweni	Kaya Bombo
37078	Amu Salim	M	Coast	Msabweni	Kaya Bombo
37078	Hamisi Hamadi Mwatsingwa	M	Coast	Msabweni	Kaya Bombo
37078	Mohamed Kodi	M	Coast	Msabweni	Kaya Bombo
37079	Ali Kassimu Mwamagoda	M	Coast	Msabweni	Kaya Bombo
37079	Hamisi Ali Tapha	M	Coast	Msabweni	Kaya Bombo
37079	Hassan Athumani Ramtu	M	Coast	Msabweni	Kaya Bombo
37079	Mohamed Saidi Kodi	M	Coast	Msabweni	Kaya Bombo
37151	Asha Muhammed	F	Coast	Msabweni	Kaya Bombo
37151	Mwagayo Bahatisha Hassani	F	Coast	Msabweni	Kaya Bombo
37151	Mwanajuma Mwatani	M	Coast	Msabweni	Kaya Bombo
51472	Ali Abdalla Mwakisha	M	Coast	Kilindini	Kaya Bombo
51472	Ali Said Digore	M	Coast	Kilindini	Kaya Bombo
51472	Athman Mwalimu Mwakashi	M	Coast	Kilindini	Kaya Bombo
51472	Bakari Ali Sef	M	Coast	Kilindini	Kaya Bombo
81741	Rashid Bogodzo Sengeza	M	NG	NG	Kaya Bombo
81741	Vincent Andrew Omondi Owour	M	NG	NG	Kaya Bombo
43175	Etyyang	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
43175	Isaac Kimitios	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
43175	John	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
43175	Kamitios Ndiwa Joseph	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
43175	Kimitios Joab Sali	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
43175	Masheb	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Bonface Nyarangi Bosire	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Cloephas Nyongesa Odunga	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Francis Wanyama Tinga	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Francis Wamalwa Namusole	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Isaac Okwach	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Jeaming Simiyu Mtende	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Joseph Lutatala	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Joseph Misiko	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	Kawa Chestiti	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
29	Pius Nyongesa	M	R ft Val'ey	Trans Nzoia	Mt Elgon Conflict
29	Wanyonyi Marauni	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
29	William Wafula	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
27306	Everlyn Chepkwemoi Kimungui	F	Western	Mt Elgon	Mt Elgon Conflict
27306	Helien Chepkwemoi	F	Western	Mt Elgon	Mt Elgon Conflict
27306	Jane Wahikini	F	Western	Mt Elgon	Mt Elgon Conflict
27306	Mercy Nekesa	F	Western	Mt Elgon	Mt Elgon Conflict
27306	Mourine Wanjala	F	Western	Mt Elgon	Mt Elgon Conflict
27306	Robert Wambwa K	M	Western	Mt Elgon	Mt Elgon Conflict
27306	Samuel Wanjala	M	Western	Mt Elgon	Mt Elgon Conflict
27308	Frida Nanyama	F	Western	Mt Elgon	Mt Elgon Conflict
27308	Henry Wanyonyi	M	Western	Mt Elgon	Mt Elgon Conflict
27308	Nambunya	M	Western	Mt Elgon	Mt Elgon Conflict
27308	Teresa	F	Western	Mt Elgon	Mt Elgon Conflict
27308	Violet Nalaka	F	Western	Mt Elgon	Mt Elgon Conflict
27326	Babu Evans	M	Western	Mt Elgon	Mt Elgon Conflict
27326	Brows Nelima	F	Western	Mt Elgon	Mt Elgon Conflict
27326	John Mutio	M	Western	Mt Elgon	Mt Elgon Conflict
27326	John Wesonga	M	Western	Mt Elgon	Mt Elgon Conflict
27326	Kimungui	M	Western	Mt Elgon	Mt Elgon Conflict
27326	Luka	M	Western	Mt Elgon	Mt Elgon Conflict
27326	Margret Mutua	F	Western	Mt Elgon	Mt Elgon Conflict
27326	Nulu Mbuti	F	Western	Mt Elgon	Mt Elgon Conflict
27326	Philis Nambuya	F	Western	Mt Elgon	Mt Elgon Conflict
27326	Simon Wanyama	M	Western	Mt Elgon	Mt Elgon Conflict
27326	Wesonga	M	Western	Mt Elgon	Mt Elgon Conflict
27907	Janepher Nelima	F	Western	Mt Elgon	Mt Elgon Conflict
27907	Javan Masika	M	Western	Mt Elgon	Mt Elgon Conflict
27907	Maboni	M	Western	Mt Elgon	Mt Elgon Conflict
27907	Mary Bukusu	F	Western	Mt Elgon	Mt Elgon Conflict
28011	Daniel Maraka Masbo	M	Western	Mt Elgon	Mt Elgon Conflict
28023	Isabella Kimungumangila	F	Western	Mt Elgon	Mt Elgon Conflict
28023	Mercy Nekesa	F	Western	Mt Elgon	Mt Elgon Conflict
28023	Mourine Nanjala	F	Western	Mt Elgon	Mt Elgon Conflict
28035	Francis Wanjala	M	Western	Mt Elgon	Mt Elgon Conflict
28035	Laban Nalianya	M	Western	Mt Elgon	Mt Elgon Conflict
28035	Mary Mutonyi	F	Western	Mt Elgon	Mt Elgon Conflict
28035	Musa Wanjala	M	Western	Mt Elgon	Mt Elgon Conflict
28035	Musundi Simiyu	M	Western	Mt Elgon	Mt Elgon Conflict
28035	Phanuel Biketi	M	Western	Mt Elgon	Mt Elgon Conflict
28042	Agnes Cheben Wakora	F	Western	Bungoma	Mt Elgon Conflict
60870	Chepkombe	M	Western	Mt Elgon	Mt Elgon Conflict
60870	Chesiar	M	Western	Mt Elgon	Mt Elgon Conflict
60870	Jacob Patrick Komon	M	Western	Mt Elgon	Mt Elgon Conflict

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
60870	Marakaru Wilson	M	Western	Mt Elgon	Mt Elgon Conflict
60870	Muya	M	Western	Mt Elgon	Mt Elgon Conflict
60870	Rapson	M	Western	Mt Elgon	Mt Elgon Conflict
60870	Sakaria	M	Western	Mt Elgon	Mt Elgon Conflict
60882	Emmanuel Joginder Kinei	M	Western	Mt Elgon	Mt Elgon Conflict
60962	Titus Wabuke Kimengon	M	Western	Mt Elgon	Mt Elgon Conflict
60972	Wycliffe Wakhonya Mayu	M	Western	Mt Elgon	Mt Elgon Conflict
60982	Kennedy Ndiema Kimtai	M	Western	Mt Elgon	Mt Elgon Conflict
60987	David Kiso	M	Western	Mt Elgon	Mt Elgon Conflict
60987	Isaiah Kiborit	M	Western	Mt Elgon	Mt Elgon Conflict
60987	Namunyu Moses Mokoit	M	Western	Mt Elgon	Mt Elgon Conflict
60987	Wycliffe Nakamet	M	Western	Mt Elgon	Mt Elgon Conflict
61276	Bonfes Chepot Juma	M	Western	Mt Elgon	Mt Elgon Conflict
61276	Samwel Kwemboi Cheptot	M	Western	Mt Elgon	Mt Elgon Conflict
61416	Eglane Namwenya	F	Western	Mt Elgon	Mt Elgon Conflict
61416	Jane Khalai Mukwana	F	Western	Mt Elgon	Mt Elgon Conflict
61416	Kenedy Juma	M	Western	Mt Elgon	Mt Elgon Conflict
61416	Sharon Nafula	F	Western	Mt Elgon	Mt Elgon Conflict
61417	Patrick Kipteyo Sewui	M	Western	Matungu	Mt Elgon Conflict
61519	George Walukhu Marakalu	M	Western	Mt Elgon	Mt Elgon Conflict
61542	Thomas Chepkurui	M	Western	Mt Elgon	Mt Elgon Conflict
61604	Susana Nekoye Wanjala	F	Western	Mt Elgon	Mt Elgon Conflict
61658	Andrew Cherok	M	Western	Mt Elgon	Mt Elgon Conflict
61658	Jackson Komon	M	Western	Mt Elgon	Mt Elgon Conflict
61658	James Wasama	M	Western	Mt Elgon	Mt Elgon Conflict
61658	Patrick Kibor Kiterie	M	Western	Mt Elgon	Mt Elgon Conflict
61658	Sospeter Cherop	M	Western	Mt Elgon	Mt Elgon Conflict
61658	Stephen Cheson	M	Western	Mt Elgon	Mt Elgon Conflict
61658	Stephen Wasama	M	Western	Mt Elgon	Mt Elgon Conflict
61658	Symoh Miti	M	Western	Mt Elgon	Mt Elgon Conflict
61658	Titus Kimia	M	Western	Mt Elgon	Mt Elgon Conflict
61668	Moses Kibor Simotwo	M	Western	Mt Elgon	Mt Elgon Conflict
61668	Mzee Masongoch	M	Western	Mt Elgon	Mt Elgon Conflict
61668	Rington Simotwo	M	Western	Mt Elgon	Mt Elgon Conflict
61668	Sammy Kwemoi	M	Western	Mt Elgon	Mt Elgon Conflict
61673	Titus Kimtai Naibei	M	Western	Mt Elgon	Mt Elgon Conflict
127	Alex Chebrot	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
127	Edith Chebet	F	Rift Valley	Trans Nzoia	Mt Elgon Conflict
127	Failin Kimonge	F	Rift Valley	Trans Nzoia	Mt Elgon Conflict
127	Francis Chemwor Psomuken	M	Rift Valley	Trans Nzoia	Mt Elgon Conflict
127	Hellen Gherotich Masai	F	Rift Valley	Trans Nzoia	Mt Elgon Conflict
127	Rael Chepkoech Kiberas	F	Rift Valley	Trans Nzoia	Mt Elgon Conflict
1522	Geofdfrey Chepkweko Naibei	M	Rift Valley	Kwanza	Mt Elgon Conflict

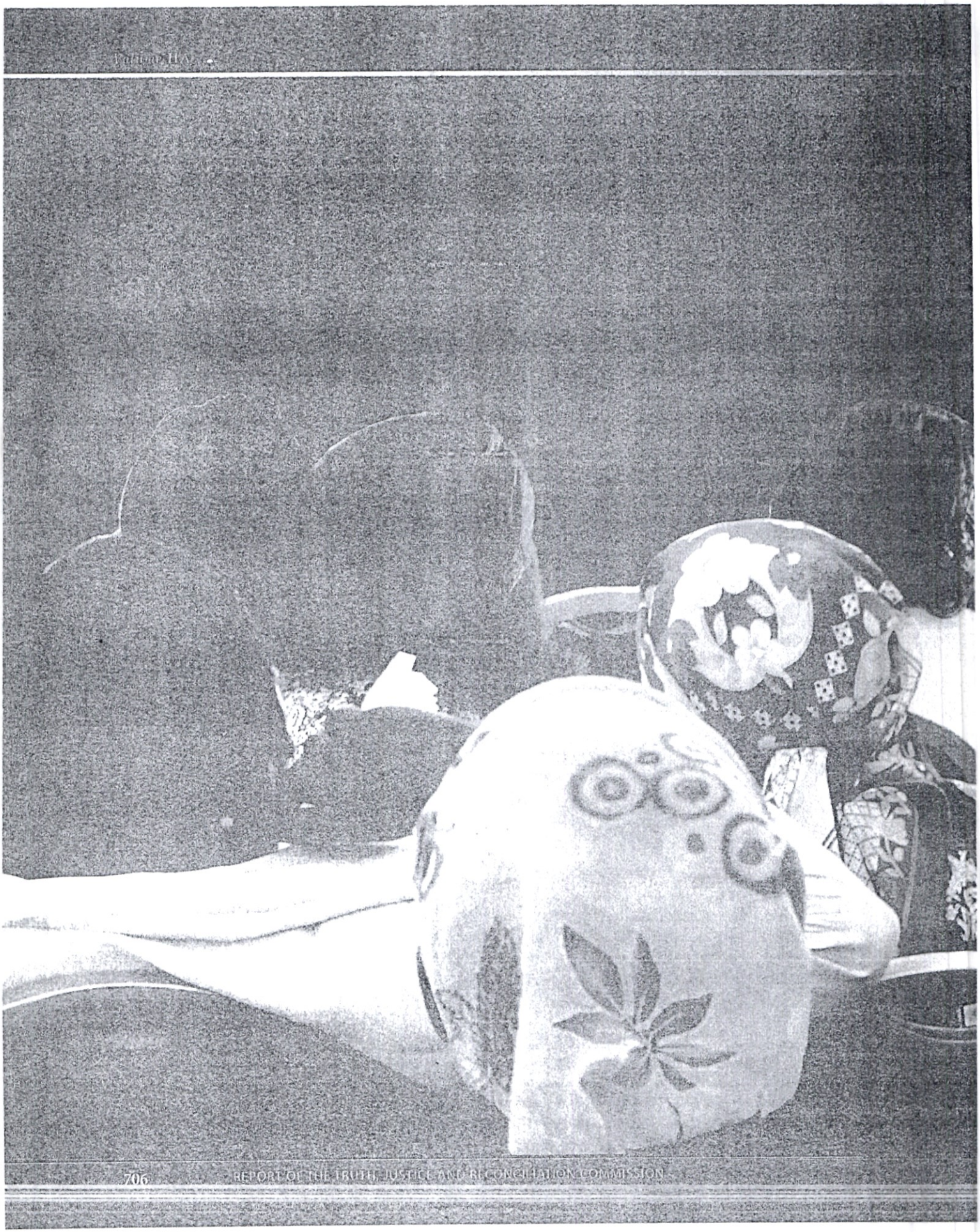
STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
8328	Annah Simatwa Chachu	F	Western	Mt Elgon	Mt Elgon Conflict
8328	Clement Falantino	M	Western	Mt Elgon	Mt Elgon Conflict
8328	Festo Sikikoi	M	Western	Mt Elgon	Mt Elgon Conflict
8328	Ishapai	M	Western	Mt Elgon	Mt Elgon Conflict
8328	Maluansi	M	Western	Mt Elgon	Mt Elgon Conflict
8328	Masaranja	M	Western	Mt Elgon	Mt Elgon Conflict
8328	Maurice Muruinga	M	Western	Mt Elgon	Mt Elgon Conflict
8328	Musa Benson	M	Western	Mt Elgon	Mt Elgon Conflict
8594	Faith Chepkwemoi	F	Western	Mt Elgon	Mt Elgon Conflict
8594	Julius Onyango	M	Western	Mt Elgon	Mt Elgon Conflict
8594	Kennedy Maluche Kirui	M	Western	Mt Elgon	Mt Elgon Conflict
8594	Lydiah Chepkosikei Kirui	F	Western	Mt Elgon	Mt Elgon Conflict
8594	Preto	M	Western	Mt Elgon	Mt Elgon Conflict
8594	Valon Kiptoo Catherine	F	Western	Mt Elgon	Mt Elgon Conflict
10456	Benard Naibei	M	Western	Mt Elgon	Mt Elgon Conflict
10467	Reuben Kimai Bellet	M	Western	Mt Elgon	Mt Elgon Conflict
11653	Alex Jacob Renda	M	Western	Mt Elgon	Mt Elgon Conflict
16049	Ezekiel Onyait Jakait	M	Rift Valley	Trans Nzoia East	Mt Elgon Conflict
16049	Jefta Jakait	M	Rift Valley	Trans Nzoia East	Mt Elgon Conflict
16049	Loise Amase	F	Rift Valley	Trans Nzoia East	Mt Elgon Conflict
17675	David Kuruma Kibiri	M	Western	Mt Elgon	Mt Elgon Conflict
17675	David Wanjala	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Dickson Wangatia	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Diphas Wabuyekha	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Jackson Namaswa	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Jacob Mwanikha	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Johnstone Wakubale	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Joram Wanyela	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Peter Muelesia	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Peter Wakhonya	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Trhomas Wangatia	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Wanjala Toile	M	Western	Mt Elgon	Mt Elgon Conflict
17675	Watibin Matumbai	M	Western	Mt Elgon	Mt Elgon Conflict
19042	Anne Nangekhe	F	Western	Bungoma West	Mt Elgon Conflict
19042	Coleta Wafula	M	Western	Bungoma West	Mt Elgon Conflict
19042	Edward Wafula	M	Western	Bungoma West	Mt Elgon Conflict
19042	Emily Wafula	F	Western	Bungoma West	Mt Elgon Conflict
19042	Ephraim Wafula	M	Western	Bungoma West	Mt Elgon Conflict
19042	Habert Wafula	M	Western	Bungoma West	Mt Elgon Conflict
19042	Joyce Wafula Nasielo	F	Western	Bungoma West	Mt Elgon Conflict
19042	Marti Komonwa	M	Western	Bungoma West	Mt Elgon Conflict
19042	Miriam Wafula	F	Western	Bungoma West	Mt Elgon Conflict
19042	Prisca Mukandah	F	Western	Bungoma West	Mt Elgon Conflict

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
19042	Robert Buke	M	Western	Bungoma West	Mt Elgon Conflict
19042	Tom Wafula	M	Western	Bungoma West	Mt Elgon Conflict
19042	Washington Wafula	M	Western	Bungoma West	Mt Elgon Conflict
19042	Wilson Lusweti	M	Western	Bungoma West	Mt Elgon Conflict
20253	Catherine Chebet	F	Western	Mt Elgon	Mt Elgon Conflict
20253	Florence Sirai	F	Western	Mt Elgon	Mt Elgon Conflict
20253	Gilbert Kiboi Kizebe	M	Western	Mt Elgon	Mt Elgon Conflict
20253	Isaac Cheshari	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Abel Situma	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Alfred Nabifo	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Francis Majimbo	M	Western	Mt Elgon	Mt Elgon Conflict
21153	George Nabifo	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Isaac Bwoya	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Juma Mafabi	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Justus Wamalwa	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Lawrence Wekesa Bwoya	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Mrefu	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Ngali Abraham	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Patrick Musungu	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Samson Wekesa	M	Western	Mt Elgon	Mt Elgon Conflict
21153	Vincent Watenga	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Fred Kipkethny	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Isaac Cheskaki	M	Western	Mt Elgon	Mt Elgon Conflict
21197	John Kiboi	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Morris Ndiwa Namnane	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Morris Sambuti	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Moses Alhamisi	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Nato	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Pius Kaptunwo	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Richard Chebus	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Timona Simon	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Timonah Kapchenga	M	Western	Mt Elgon	Mt Elgon Conflict
21197	Wanjusi Werisi	M	Western	Mt Elgon	Mt Elgon Conflict
21986	Christine Nanjala	F	Western	Mt Elgon	Mt Elgon Conflict
21986	Flo ence Nangila	F	Western	Mt Elgon	Mt Elgon Conflict
21986	Fred Katila	M	Western	Mt Elgon	Mt Elgon Conflict
21986	Juliana Nekesa	F	Western	Mt Elgon	Mt Elgon Conflict
21986	Linet Nanjala	F	Western	Mt Elgon	Mt Elgon Conflict
21986	Peter Namasake Mukhwana	M	Western	Mt Elgon	Mt Elgon Conflict
21986	Sindani Wanyonyi	M	Western	Mt Elgon	Mt Elgon Conflict
21986	Zebadayo Nambafu	M	Western	Mt Elgon	Mt Elgon Conflict
27307	Agness Nafula	F	Western	Mt Elgon	Mt Elgon Conflict
27307	James Wanjala	M	Western	Mt Elgon	Mt Elgon Conflict
27307	Janepher Nasimiyu	M	Western	Mt Elgon	Mt Elgon Conflict

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
27307	Janet Nasimiyu	F	Western	Mt. Elgon	Mt. Elgon Conflict
27307	Patrick Wekesa	M	Western	Mt. Elgon	Mt. Elgon Conflict
27307	Scovia Naliaka	F	Western	Mt. Elgon	Mt. Elgon Conflict
27307	Wyclife Wanjala	M	Western	Mt. Elgon	Mt. Elgon Conflict
27350	Evelyn Chepkwemoi	F	Western	Mt. Elgon	Mt. Elgon Conflict
27350	George Walukhu	M	Western	Mt. Elgon	Mt. Elgon Conflict
27350	Jonathan B	M	Western	Mt. Elgon	Mt. Elgon Conflict
27350	Mourine Nanjala	F	Western	Mt. Elgon	Mt. Elgon Conflict
27350	Richard Kimungui Wakhale	M	Western	Mt. Elgon	Mt. Elgon Conflict
27350	Richard Wasilwa	M	Western	Mt. Elgon	Mt. Elgon Conflict
27350	Samuel Chepkwemoi	M	Western	Mt. Elgon	Mt. Elgon Conflict
27350	Tiger Job W	M	Western	Mt. Elgon	Mt. Elgon Conflict
60020	Festo Kisiero	M	Western	Mt. Elgon	Mt. Elgon Conflict
60020	Thomas Chepkurui	M	Western	Mt. Elgon	Mt. Elgon Conflict
60140	Joseph Namasake	M	Western	Mt. Elgon	Mt. Elgon Conflict
60140	Mourice Wanjala Walubengo	M	Western	Mt. Elgon	Mt. Elgon Conflict
60144	Edward Boiyo Mbuya	M	Western	Mt. Elgon	Mt. Elgon Conflict
60144	Simotwo Chemiken	F	Western	Mt. Elgon	Mt. Elgon Conflict
60249	Robinson Ndiema Kipsisei	M	Western	Mt. Elgon	Mt. Elgon Conflict
60352	Janepher Mulemia Jamin	F	Western	Mt. Elgon	Mt. Elgon Conflict
60714	Geoffrey Kaptumwo Jacob(Dead)	M	Western	Mt. Elgon	Mt. Elgon Conflict
60714	Lilly Chemtai Soet	F	Western	Mt. Elgon	Mt. Elgon Conflict
60750	Alex Mustuni	M	Western	Mt. Elgon	Mt. Elgon Conflict
60827	Andrew Masai Nakaisa Wanjala	M	Western	Mt. Elgon	Mt. Elgon Conflict
60827	Richard Kauka Masai	M	Western	Mt. Elgon	Mt. Elgon Conflict
60827	Rogers Kauka	M	Western	Mt. Elgon	Mt. Elgon Conflict
60833	David Kwema	M	Western	Mt. Elgon	Mt. Elgon Conflict
60833	Nancy Chematu	F	Western	Mt. Elgon	Mt. Elgon Conflict
60843	Gedeon Komes	M	Western	Mt. Elgon	Mt. Elgon Conflict
60843	Phillisy Chesakit	F	Western	Mt. Elgon	Mt. Elgon Conflict
60891	Bramwel Cherret Kapchanga	M	Western	Mt. Elgon	Mt. Elgon Conflict
60963	Gideon Maasai	M	Western	Mt. Elgon	Mt. Elgon Conflict
60963	James Kironget Nabruk	M	Western	Mt. Elgon	Mt. Elgon Conflict
60964	Charles Kibet Ndiwa	M	Western	Mt. Elgon	Mt. Elgon Conflict
60964	Martin Opachu	M	Western	Mt. Elgon	Mt. Elgon Conflict
60977	Chesebe Alfred Shikuku	M	Western	Mt. Elgon	Mt. Elgon Conflict
61035	Stephen Ben Chongeywo	M	Western	Mt. Elgon	Mt. Elgon Conflict
61039	Victor Kirui Ndiwa	M	Western	Mt. Elgon	Mt. Elgon Conflict
61040	Fridah Chepkorio	F	Western	Mt. Elgon	Mt. Elgon Conflict
61040	Jacob Juma Kironget	M	Western	Mt. Elgon	Mt. Elgon Conflict
61040	Nancy Chepkwemoi	F	Western	Mt. Elgon	Mt. Elgon Conflict
61042	Alois Chepkurui Tumbu	M	Western	Mt. Elgon	Mt. Elgon Conflict
61042	Moses Chepkurui	M	Western	Mt. Elgon	Mt. Elgon Conflict

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
61049	Elisha Shigogodi Afuhayo	M	Western	Kakamega South (Ikolomani)	Mt Elgon Conflict
61140	Fridah Chepkorio	F	Western	Mt Elgon	Mt Elgon Conflict
61140	Jacob Juma Kironget	M	Western	Mt Elgon	Mt Elgon Conflict
61140	Nancy Chepkwemoi	F	Western	Mt Elgon	Mt Elgon Conflict
61431	Elamu Wanyama Kibinget	M	Western	Bungoma West	Mt Elgon Conflict
61431	Isaac Wafula Kibinget	M	Western	Bungoma West	Mt Elgon Conflict
61519	George Walukhu Marakalu	M	Western	Mt Elgon	Mt Elgon Conflict
61647	Leonard Kwemoi Chemengeny	M	Western	Mt Elgon	Mt Elgon Conflict
61648	Titus Cheprai Mongoi	M	Western	Mt Elgon	Mt Elgon Conflict
61650	Mokos Ndiema Juma	M	Western	Mt Elgon	Mt Elgon Conflict
61654	Kennedy Kiso Katembu	M	Western	Mt Elgon	Mt Elgon Conflict
61660	Chepkoy Stephen Kibet	M	Western	Mt Elgon	Mt Elgon Conflict
61677	Silas Kisa Kimtai	M	Western	Mt Elgon	Mt Elgon Conflict
61987	Chemuno	F	Western	Mt Elgon	Mt Elgon Conflict
61987	Chesubor	F	Western	Mt Elgon	Mt Elgon Conflict
61987	Esarah Chemtai	F	Western	Mt Elgon	Mt Elgon Conflict
61987	Gladys Ndiwa	F	Western	Mt Elgon	Mt Elgon Conflict
61987	Philis Kiptanui Tawarar	F	Western	Mt Elgon	Mt Elgon Conflict
61987	Samson Bera	M	Western	Mt Elgon	Mt Elgon Conflict
61987	Zakayo Ndara	M	Western	Mt Elgon	Mt Elgon Conflict
81432	Catherine Naswa	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Christine Osuka	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Gladys Temko	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Hazina R Musa	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Jane Tamlo Taranes	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Mwanaisha Chemasut	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Panninah C Ndiwe	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Petruta Chemasut	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Rose Naibei	F	Western	Mt Elgon	Mt Elgon Conflict
81432	Salima Abdallah	F	Western	Mt Elgon	Mt Elgon Conflict
81437	Shem Cherowo	M	Western	Mt Elgon	Mt Elgon Conflict
81437	Stephen Wamalwa Siyoi	M	Western	Mt Elgon	Mt Elgon Conflict
60321	William Marangachi Ngeywo	M	Western	Mt Elgon	Mt Elgon Conflict
60891	Bramwel Cherret Kapchanga	M	Western	Mt Elgon	Mt Elgon Conflict
60954	Eliud Rasto Chenge	M	Western	Mt Elgon	Mt Elgon Conflict
27350	Evelyn Chepkwemoi	F	Western	Mt Elgon	2008 Police operation
27350	George Walukhu	M	Western	Mt Elgon	2008 Police operation
27350	Jonathan B	M	Western	Mt Elgon	2008 Police operation
27350	Mourine Nanjala	F	Western	Mt Elgon	2008 Police operation
27350	Richard Kimungui Wakhale	M	Western	Mt Elgon	2008 Police operation
27350	Richard Wasilwa	M	Western	Mt Elgon	2008 Police operation
27350	Samuel Chepkwemoi	M	Western	Mt Elgon	2008 Police operation
27350	Tiget Job W	M	Western	Mt Elgon	2008 Police operation

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
60870	Jacob Patrick Komon	M	Western	Mt Elgon	2008 Police operation
60870	Marakaru Wilson	M	Western	Mt Elgon	2008 Police operation



CHAPTER



Sexual Violence

Introduction

1. Sexual violence is a crime that intimately impacts the victim both physically and psychologically. It uses the victim's own sexual anatomy to dominate, suppress and control. Sexual violence has increasingly become an issue of distinct scrutiny under local and international justice and accountability mechanisms for atrocities committed particularly during periods of conflict.

2. In many cases, women and girls are the main victims of sexual violence, although men and boys are increasingly subjected to sexual violence too. Sexual violence occurs throughout the world, although in most countries (Kenya included) it is only in recent years that attention is being given to sexual violence as a serious human rights violation that affects millions of women and men, resulting in both short and long-term consequences for the victims.

3. Kenya has experienced various forms of violent conflicts. These include the struggle for independence, cattle rustling, conflict over resources, ethnic and politically-instigated violence, and conflict arising from militia activities. In all these violent conflicts, cases of sexual violence have been a common feature. These Chapter documents systematic incidences of sexual violence committed during the Commission's mandate period.

Definition

4 For a long time, women and girls were believed to be the main, if not the only, victims of sexual violence. Early human rights instruments were accordingly drafted in the assumption that women and girls were the only potential victims of such crimes. Such definitions omitted males (men and boys) as victims, and did not envisage situations in which women or men perpetrated sexual violence against men. Over time, there has been acknowledgement that men and boys are victims of sexual violence and as such, the definitions have evolved to include them and consequently, extended protection to them as victims Still, sexual violence against male victims is even more under-reported and under-investigated compared to sexual violence against women

5 Various international human rights instruments define sexual violence to include rape, sodomy, indecent assault on the sexual and reproductive organs of any person, sexual slavery, forced marriage and sexual torture among others Power, coercion, threat of force, aggression and domination have been recognised as being components of these violations Sexual violence against women constitutes discrimination against women, as stipulated under the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),[1] to which Kenya is a state party The Convention provides a universal definition of discrimination against women The Beijing Platform for Action[2] expanded on this definition, specifying that discrimination against women includes violations of rights of women in situations of armed conflict, including systematic rape, sexual slavery, forced pregnancy, forced sterilisation and forced abortion amongst others

6 Sexual violence may constitute torture under circumstances in which it is used to obtain information, to punish, intimidate or coerce and for any other reason by a state official based on discrimination of any kind The UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Kenya is also a state party, defines torture as an act in which severe pain or suffering, whether physical or mental, is intentionally inflected on a person and the pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions.[3]

1 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Article 1 Under General Recommendation No 12 of the CEDAW Committee State Parties must report on legislation in force to protect women from violence occurring in the family, at work or in any other aspect of social life This includes sexual violence

2 Beijing Platform for Action Section D Violence Against Women 113 -115

3 UN Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment article 1 General Assembly Resolution 39/46 of 10 December 1984

7. Thus, sexual violence would constitute torture or cruel, inhuman or degrading treatment or punishment, where all the elements under the CAT are met. Sexual violence is sometimes accompanied by mutilation of sexual and reproductive organs of the victims.

8. The Rome Statute of the International Criminal Court (the Rome Statute) includes mutilation as a war crime[4] and describes it as 'permanent disfigurement or permanently disabling or removing an organ or appendage under circumstances that are not medically justified'. Sexual violence, particularly in the context of armed conflict or civil strife has been recognised as a tool of war and a crime for which there should be accountability at the highest level. The Tribunal for the former Yugoslavia was the first to recognise rape as a crime against humanity. The International Criminal Tribunal for Rwanda and Special Court for Sierra Leone also included sexual violence as punishable acts of crimes against humanity.

9. Rape and other forms of sexual violence can also be an act of genocide. State parties to the Rome Statute drew from jurisprudence established by the *ad hoc* tribunals for Yugoslavia, Rwanda and Sierra Leone and enshrined gender-based violence as a crime against humanity within the Rome Statute. It defines crimes against humanity to include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and "any other form of sexual violence of comparable gravity."[5]

10. Although Kenya has ratified international and regional instruments such as CEDAW and the African Women's Protocol, a law to comprehensively address sexual violence was only enacted in 2006: the Sexual Offences Act (SOA).[6] Previously, offences relating to sexual violence were dealt with under the Penal Code. As demonstrated below, other domestic legislation provided for the definition and punishment of sexual violence. It is worth noting that the SOA marked a major departure from previous legislation that only recognised rape as a violation against women and girls, and also failed to define rape exhaustively.[7] The SOA sought to comprehensively address all unlawful acts of a sexual nature. In reflection of international standards on offences of a sexual nature, the SOA introduced new categories of sexual offences in Kenya's criminal justice system including sexual assault with an object[8], rape by

4 Rome Statute. Art 8(2)(c)(i).
5 Rome Statute of the International Criminal Court, Articles 7 and 8, 2001.
6 Sexual Offences Act (SOA), Act No. 3 of 2006.
7 Penal Code, Section 139 defined rape thus: 'Any person who has unlawful carnal knowledge of a woman or a girl, without her consent, or with her consent if the consent is obtained by intimidation of any kind, or by fear of bodily harm, or by means of false representations as to nature of the act, or, in the case of a married woman, by impersonating her husband, is guilty of the felony termed rape.
8 SOA, Section 5.

more than one person (gang rape),[9] deliberate infection with HIV/AIDS,[10] trafficking for sexual exploitation,[11] and child pornography [12] It also expanded and expounded the definitions of existing sexual offences For instance, the SOA defines rape to include penetration of 'genital organs'[13] of women or men

11 The Children Act[14] also refers to sexual violence and stipulates that 'a child shall be protected from sexual exploitation and use in prostitution, inducement or coercion to engage in sexual activity, and exposure to obscene materials'[15] The Counter Trafficking in Persons Act[16] was also recently enacted and comprehensively addressed trafficking on a broader range of offences, including sexual exploitation and it references the SOA for definition of sexual exploitation The Persons with Disabilities Act[17] recognised the special vulnerabilities of girls and women and stipulated that special measures must be put in place to ensure their 'full development and advancement' [18]

12 As indicated elsewhere in this Report, the mandate of the Commission was generally provided for under sections 5 and 6 of the TJR Act With regards to sexual violence, sections 5(c) and section 6(h) of the TJR Act were instructive Section 5(c) mandated the Commission to investigate gross human rights violations which it stipulated included 'rape and any other form of sexual violence' Section 6(h) required the Commission to 'provide redress in respect of crimes of a sexual nature against female victims' The Commission was also required to pay particular attention to sexual and gender-based violence [19] The Act also listed 'rape sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity' as amounting to crimes against humanity when they are committed as part of a widespread or systematic attack against any civilian population [20]

13 For purposes of its work, the Commission adopted the following definition of sexual violence (borrowed from the International Conference on the Great Lakes Region Protocol on the Prevention and of Sexual Violence against Women and Children)

9 SOA, Sec 10
10 SOA Sec 27
11 SOA Sec 13
12 SOA Sec 16
13 SOA Sec 2 genital organs includes the whole or part of male or female genital organs and include the anus
14 Act No 8 of 2001
15 Sexual Offences Act S 8 (15)
16 Act No 8 of 2006
17 Act No 14 of 2003
18 Persons with Disabilities Act Sec 6(2)(b)
19 TJR Act Sec 27
20 TJR Act Section 2(g)

any act which violates the sexual autonomy and bodily integrity of a person, including, but not limited to

a) Rape,

b) Sexual assault,

c) Grievous bodily harm,

d) Assault or mutilation of female reproductive organs,

e) Sexual slavery,

f) Enforced prostitution,

g) Forced pregnancy,

h) Enforced sterilization,

i) Harmful practices, inclusive of all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and children, such as their right to life, health, dignity, education and physical integrity, as defined in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa,

j) Sexual exploitation or the coercion of women and children to perform domestic chores or to provide sexual comfort,

k) Trafficking in, and smuggling of, women and children for sexual slavery or exploitation,

l) Enslavement by the exercise of any or all of the powers attaching to the right of ownership over women and includes the exercise of such power in the course of trafficking in women and children,

m) Forced abortions or forced pregnancies of women and girl children arising from the unlawful confinement of a woman or girl child forcibly made pregnant, with the intent of affecting the composition of the identity any population or carrying out other grave violations of international law, and as a syndrome of physical, social, and psychological humiliation, pain and suffering and subjugation of women and girls,

n) Infection of women and children with sexually transmitted diseases, including HIV/AIDS, and

o) Any other act or form of sexual violence of comparable gravity,

Methodology

14 The Commission received hundreds of statements from women, men and children outlining serious sexual violations perpetrated by individuals and groups of people including ordinary citizens and state officials. A total of 1,104[21] statements from adults were received in regard to sexual violations Of these, 103 were from men. The statements and memoranda presented in regard to sexual violence represent a victim count of 2 646 women and 346 men. Additionally, testimonies were heard from women and men in the public hearings, *in-camera* hearings and women's hearings

15 All the victims who recorded statements, regardless of their sex, identified their perpetrators as being men The victims ranged from elderly women and men to young children In many instances, sexual violence was in the context of other violations such as extra-judicial killing, serious injury, torture and forced displacement amongst others Recognising that sexual offences are ordinarily complex to investigate, the Commission adopted specific measures to ensure that sexual offences were effectively and sensitively investigated Firstly, investigators who had previous experience in investigating sexual offences and who had undergone training on the same, including on the Sexual Offences Act were recruited Secondly, a set of guidelines outlining the approach to be taken in investigating sexual violence was prepared The overall goal of the guidelines was to ensure that survivors of sexual violence were treated with dignity The guidelines required investigators to, among other things

- ensure that victims and witnesses of sexual violence were treated with the utmost sensitivity and respect,
- observe cultural sensitivity,
- ensure that victims/survivors of sexual violence were interviewed by an investigator of the same sex,
- minimise the number of interviews with victims/survivors to avoid further traumatising them,
- observe a victim's demeanour or emotional responses during interview and be keen to recognise if and when to discontinue the interview,
- be aware that because of the nature of the violation, victims/survivors may withhold information for a number of reasons, including because of fear, shame or embarrassment,

21 These exclude statements on sexual violence received from children Statements from children are discussed in the Children s Chapter

- be aware that there is likely to be little or no primary or corroborating evidence at all;
- avoid using technical jargon; and
- exercise patience when interviewing victims/survivors.

16. In acknowledgement of the stigma, shame and embarrassment associated with sexual violence, the victims of sexual violence were offered the option of testifying either *in camera* or in public. The idea was to provide victims of sexual violence with not only a platform to be heard, but also a conducive environment in which they could share their experiences freely. The Commission also engaged the services of counsellors to offer psycho-social support before, during and after the hearings to enable the victims not only to narrate their experiences but also to cope with what they had experienced.

17. The Commission held public hearings in which 778 witnesses (213 women and 656 men) gave testimonies in regard to the violations. Of the total 778 cases that were heard, 26 were in regard to sexual violence, with 21 from women and five from men. One hundred cases were heard *in camera*, 19 of which were in regard to sexual violence. Two of the sexual violence cases heard *in camera* were from men while the rest were from women. Separate public hearings were also organised exclusively for women. Over 1 200 women participated in the women-only hearings.

18. The types of sexual violations reported to the Commission included mass rapes (rape of many women in a community at the same time); gang rape (rape of women by more than two men at the same time); sodomy; mutilation of male and female genitals; castration; forced circumcision of both men and women; sexual torture; and penetration of women's sexual organs by harmful objects.

Reporting of Cases on Sexual Violations

19. The Commission came face to face with the reality of the extent to which cases of sexual violations have continued to be unreported. It is very likely that the number of statements on sexual violence received, as indicated above, may be but a minute fraction of the actual number that occurred. Many accounts of rape and other sexual violence marked the first time that the victims were narrating their experiences. While a number of women chose to give their testimonies *in camera*, many more women chose to talk freely in the women's public hearings. A few spoke openly at the public hearings. Men on the other hand chose to speak

in camera only While some men actually testified about their ordeal with sodomy, many more women spoke about the sexual violence that their sons or husbands went through, reinforcing the existing view that sexually violated men find it extremely stigmatising to report and talk about the violations [22]

20 The Commission learnt that some women, at the height of conflict in which they suffered sexual violence, preferred to deal with issues they considered critical, such as fleeing, seeking shelter and caring for injured family members Accordingly, such victims had neither sought medical attention nor received psycho-social support even from family members In some cases, women had borne the pain and scars of sexual violence as well as shame and the silence, for three or even four decades This was particularly the case in regard to victims of sexual violence during the Mau Mau period and the Shifta War It was observed that, in a number of instances at the women's hearings, women began by speaking about other violations and it was only after they saw other women share similar experiences or after being probed by the Commissioners that they opened up about their own experience of sexual violence

21 For instance, a witness testified of violations such as forced displacement before stating in passing and in closing that she had been raped over 20 years earlier [23] The interaction with victims and witnesses of sexual violence as well as organisations working with such victims provided the Commission with a clear picture of the contributing factors to the limited reporting of cases relating to sexual violence Some of the factors identified included stigma and shame, fear of reporting sometimes due to threats, lack of clear reporting lines and harassment of victims by the authorities they were to report the violations to Maendeleo ya Wanawake identified the inability of victims to identify their perpetrators as having discouraged victims, especially women, from reporting, stating

> We know that there are many women who were raped, but they were raped by people with no faces They cannot connect the rapists to their names and their faces Maybe they [rapists] covered their faces [It] is a dilemma when you are raped by a gang of four or ten men and you cannot even identify one We [also] know that there are some communities which will not come out even if they are raped because it is taboo and they will not get married and people will try to stigmatise the same women and it is very difficult [24]

22 Many victims suffered trauma, impeding their ability to talk about their experience There were cases of women who never spoke for days after being violated [25] While

22 TJRC/Hansard/ In-Camera Hearing/Kuiyandongo/ 1November 2011/p 11
23 TJRC/Hansard/Women s Hearing/Nakuru/Women/24 September 2011/p 15
24 Hansard Reports/Thematic Hearings/Women/Nairobi/8 February 2012/p 4
25 TJRC/Hansard/Women s Hearing/Kisumu/16 July 2011/p 5

counselling enabled some victims to speak about the harrowing experiences they had undergone, for others no amount of counselling would help. A Kenyan refugee testified that he neither reported that he was sodomised nor sought treatment because he was ashamed to do so, remarking:

> Yes, I would wish to, but I am also scared because it is something that happened secretly. For such a thing, men are embarrassed to reveal it in public.[26]

23. Many victims of sexual violence indicated that they did not report the sexual violations for fear that they would be shunned by their family members as well as by society. They said their communities' treatment of victims of sexual violence discouraged them from reporting. Indeed, this was the case for most Samburu and Maasai women who had been sexually violated by British soldiers, as discussed below.

24. Most of the victims, if not all, testified that they only informed female members of their families who cautioned them against telling their fathers and spouses. The victims said in the event their spouses or fathers knew of the violations, they would be chased away. Accordingly, victims hid the fact that they had been violated and did not seek medical help for fear that the same information would be leaked to their spouses and that their marriages would be affected, as one witness stated:

> You hide so that your husband does not know that you have been raped. You just persevere with serious pain because if the husband knows, he will leave you. Many people have been abandoned and suffer with the children. Since you do not want to be abandoned by your husband because of rape, you just keep quiet and persevere.[27]

25. Even in cases where the spouses did not abandon the victims upon learning that they had been sexually violated, the relationships were not the same again. They changed for the worse. Witnesses said spouses of rape victims who learned about the rape either remarried or resorted to mistreating and verbally abusing the victims and in other cases just acted generally cold. Responding to questions during the hearings as to whether she had received any form of support from her husband following the violation one witness replied:

> No, I did not get any support from him because since that day, there is no happiness or harmony in the house. He has changed even when we sleep. He is just like an enemy in the house. There is no love as we were living in the previous years.[28]

26 TJRC/Hansard/In-Camera Hearing/Men/Kiryandongo/2 November 2011/ p. 6; TJRC/Statement/00578.
27 TJRC/Hansard/Women Hearing/Kuria/ 26 July 2011/p. 24; See also TJRC/ Hansard/Women's Hearing/Rumuruti/15 November 2011/p. 12.
28 TJRC/Hansard/Women Hearing/Kisumu/ 16 July 2011/p.18.

26 The Commission heard of cases where victims and sometimes their families were threatened with harm should they ever report to any individual or authorities about the violations While some victims ignored the threats and proceeded to make reports, in cases where the perpetrators were state security agencies (SSAs) or members of militia groups, the victims took the threat seriously and expressed real fear for their lives.[29] A Kenyan refugee in Kiryandogo, Uganda said:

> In 1997, there was trouble but they did not burn the houses So we just slept outside but went back to the house later When we slept outside, they [members of the SLDF] would come and rape us at night but we did not know where to go and report them In 2005, a lot of trouble erupted At that time, the Sabaot Land Defence Force (SLDF) had been formed We knew them but we could not go to the police When they saw you with a policeman, you would be hanged We knew who were doing those things, but we were afraid of going to the police lest you are seen [30]

27 It is such threats and fear of reprisal that prevented victims of sexual violence committed by members of the *Ndeteleka* gang during forced evictions, discussed later in this chapter, from reporting, as one victim revealed

> I never reported anywhere because I was threatened that if I make any mistake of reporting, they would kill me and my family"[31]

28 For some of the victims, there existed cultural barriers that hindered them from reporting about their violations In some communities, it was taboo to discuss sexual matters, leave alone sexual violations Even when there was an opportunity to speak on violations, such women opted to use alternative expression to explain the attack, On victims of sexual violence from the Kuria community,[32] a witness told of the experience of a girl known to her, demonstrating how such a taboo (also common among the Teso) has prevented sexually violated women from seeking medical treatment

> During the post-election violence, I can remember there was a girl who was terribly raped in Naivasha but because there was a lot of movement, she could not get treatment So, she travelled all the way She was brought to Busia by a lorry and then when she was taken home, because it is a taboo to talk about rape, she kept quiet She had been raped and even a bottle was inserted in her private parts So, she was just rotting in the house. In Teso when a child is raped, the issue is not supposed to be talked of, otherwise who will marry her?[33]

29 This position was shared by victims of sexual violence perpetrated by British soldiers They indicated that the cultural prohibition on the discussion of issues relating to sex or sexuality prevented many of the victims from reporting Victims

29 TJRC/Statement/39443
30 TJRC/Hansard/In Camera Hearing/ Women/ Kiryandongo-Uganda/2 November 2011/p 2
31 TJRC/Statement/43309/p 15
32 TJRC/Memo/1496/p 5
33 TJRC/Hansard/Women s Hearing/Busia/4 July 2011/p 5 6

of sexual violence indicated that during conflict, there were no clear reporting lines and many said they did not know who to report to about being violated

> Most of us do not have that kind of assistance because many are raped in the forests Others just keep silent because many of us do not know where to go, very few have that information "[34]

30 The history of harassment of victims of sexual violence at various police stations also discouraged women from reporting and talking of sexual violence due to lack of faith in the system, as described in another witness' testimony [35]

> There is a lack of a structured system to take care of victims at the grassroots level Generally rape victims are afraid of reporting to the police because sometimes insensitive police officers ridicule victims They tell the victim " You should have enjoyed it Why have you come to report to us?" These are stories you hear often when a report takes place I strongly believe that many rape cases go unreported because victims are highly stigmatised and cannot dare reveal the circumstances for fear of repercussions You will appreciate that poverty is one of the major issues for these marginalised groups Others are fear of repercussions and insecurity, custom and culture, where family matters are supposed to be kept secret, yet somebody continues to suffer There is also ignorance in our population, they do not know where to go and report when something happens and the suffering cycle continues

31. Gender Violence Recovery Centre, GVRC said women were turned away from police stations and could not record their violations

> during the post-election violence, there were people who went to report and were told that a statement cannot be recorded They had evidence at that time and it was never collected Will those people ever get justice?"[36]

32 Another victim was frustrated as she tried to report the violence and access medical treatment,

> [I got] no treatment because when I reported the case at Ikombe dispensary, they refused to treat me and advised me to go and get the P3 or a note from the police The police [at Kwa Vonza police post] also refused and advised me to go back and get killed [37]

33 Reporting became even more difficult, especially in cases where state security agents' that the victims would have ordinarily been expected to report to, were the perpetrators Security officers at police stations intimidated victims, and blamed them for the violation and often covered up the violations to protect their colleagues This was among the reasons why victims of sexual violations, even during the struggle for independence, remained silent, with many citing

34 TJRC/Hansard/Women s Hearing/Rumuruti/15 November 2011/p 13
35 TJRC/Hansard/Public Hearing/Makindu/24 November 2011/p 11
36 TJRC/Hansard/Thematic Hearings/Women/ 8 February 2012/ 28
37 TJRC/ Statement/43350/p 20

the difficulties of accusing government officials in the same government [38] One witness indicated, while describing the fate of victims of sexual violence during the operation in the North Eastern region, that corruption and bribery also contributed to frustrate victims efforts to report and also ensured that the reported cases were never investigated·

> Even today, there are hundreds of small girls who go to school and who were raped and become pregnant The men who raped them are wealthy and if you report them to the police, they bribe the police There are girls who were raped by their teachers These men said that it was the women who gave their private parts or vaginas to the men. They further said that they raped the women due to their willingness to be raped So, the police never listened to our case I was successful to work for the human rights body I even still work for them If raped girls come to me, I assist them I ask them to come forward One day, I got the man who raped one woman He told me that it was the girl who let him do it to her The girl was sent away because the man bribed the police and that was the end of the case That is the end of the story Nobody gives you justice Nobody takes the rapist to court So, he just bribes the police Even chiefs take bribes The chief does not listen to us The police will not take the rapist to the police station They just take the bribe and go away [39]

34 Others factors said to have contributed to the non-reporting of sexual violence cases included 'lack of appropriate documentation, illiteracy and lack any safe keeping of documents'[40]

Sexual Violence during Peacetime

35 The prevalence and incidences of sexual violence in times of peace are crucial in understanding the foundations of these violations and their use in times of conflict In 2003, for the first time, the government through the Kenya Demographic and Health Survey (KDHS) began collecting data on gender-based violence [41] Although the research was restricted to violence experienced in the household,[42] it also covered marital rape and other acts of sexual violence According to the survey,

> Marital rape appears to be common, with 15 per cent of married women and separated or divorced women reporting having experienced forced sexual intercourse, 12 per cent report this experience in the 12 months preceding the survey [43]

38 TJRC/Memo/43291/p
39 TJRC/Hansard/In Camera Hearing/Women/Wajir/21 April 2011/p 8
40 TJRC/Memo/1490/p 4
41 Kenya Bureau of Statistics Kenya Demographic and Health Survey (KDHS), Chapter 15 2003 http //www measuredhs com/pubs/pdf/FR151/FR151 pdf (last accessed 18 June 2012)
42 Kenya Bureau of Statistics Kenya Demographic and Health Survey (KDHS) Chapter 15 page 259 2003 http //www measuredhs com/pubs/pdf/FR151/F R151 pdf (last accessed 18 June 2012)
43 Kenya Bureau of Statistics Kenya Demographic and Health Survey (KDHS) Chapter 15 page 264 2003 http //www measuredhs com/pubs/pdf/FR151/FR151 pdf (last accessed 18 June 2012)

36 According to the KDHS 2008-9, 12 per cent of women noted that their first sexual encounter was against their will [44] Further, one in every five women (21 per cent) experienced sexual violence and 37 per cent of women who have experienced sexual violence reported intimate partners (current or past husbands or boyfriends) as the perpetrator [45] A witness testified that she was seduced by a man known to her When she refused to marry him, he waylaid her and raped her [46]

37 Statistics from GVRC over a three-year period indicate that 2,329 female sexual violence victims were treated at the facility, compared to only 102 male victims over the same period [47]

38 In 2005 alone, the Coalition of Violence against Women (COVAW) received over 750 cases [48] The year 2003 registered about 300 more cases than 2002, while by mid-2004, reported cases of rape were almost as much as for the entire 2000 While the increase in documented cases could be attributed to increased awareness and hence greater reporting, the increase in the number of incidents nonetheless calls for greater measures to ensure prevention, protection and ultimately, justice for victims

39 It is not only the prevalence of sexual violence that is most troubling Of great concern too, is the age of the victims [49] In confounding traditional norms where the young and the old in society are valued and nurtured, perpetrators targeted these very groups of vulnerable people, including persons with disability According to GVRC, since their establishment in 2001, they are seeing trends where the victims are younger and younger They informed the Commission that

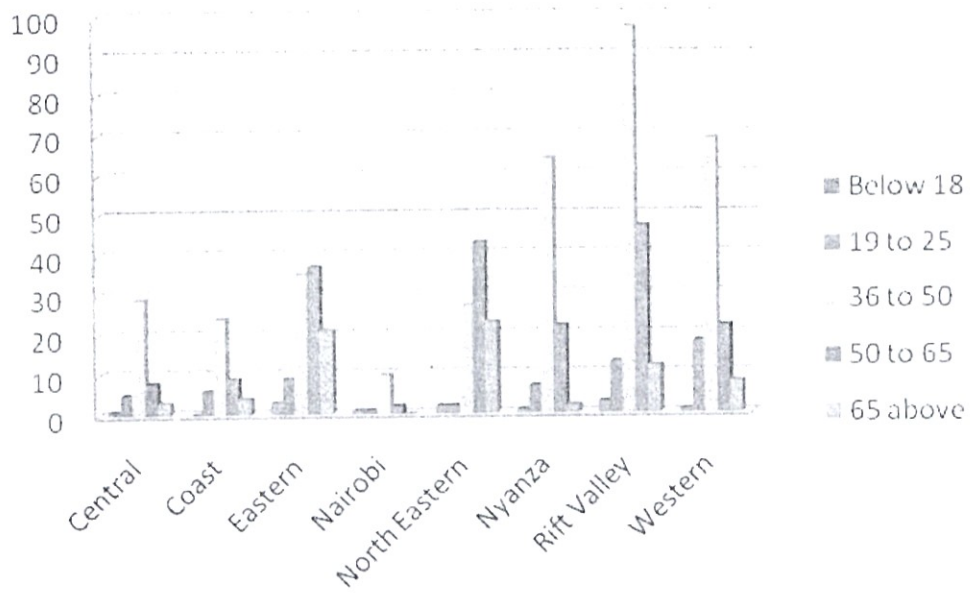
> The age of survivors is getting younger So, we are asking ourselves what is happening to our society because we have seen infants as young as a one-month-old baby being sexually assaulted Just three weeks ago we discharged a two-and-a-half year old girl sexually defiled by her blood father This child had to undergo theatre procedures just to repair her [50]

40 A witness shared with the Commission how her casual labour/gardener, on two occasions (2003 and in 2009), sodomised her mentally ill son

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44 Kenya Bureau of Statistics Kenya Demographic and Health Survey (KDHS) Chapter 15 page 274 2008 http://www.measuredhs.com/pubs/pdf/FR151/FR151.pdf (last accessed 18 June 2012)
45 TJRC/Statement/37945
46 TJRC/Statement/00578
47 As above
48 Bi-Annual Human Rights Report Vol 7 No 3 – 4 July – December 2005 Kenya Human Rights Commission P 10
49 TJRC/Statement/07238
50 TJRC/Hansard/Thematic Hearings/Women/ 08 February 2012 /p 25

Age Distribution of Female Victims of Sexual Violence



41. According to the GVRC, there are increasing victims of sexual violence who are children. Whereas between 2001 and 2005, the centre received a total of 1,019 cases involving children, in 2010-2011, it recorded 1,437 cases.[51] The violence is directed at both boys and girls. However, girls comprise the majority of victims, as evidenced by cases documented between October and December 2011, where out of a total of 324 incidents that involved children, 279 were violations against girls.

42. According Linda Wanyama, learning institutions are not safe either. She testified how schoolgirls, including college students, have been subjected to sexual harassment at the institutions of learning. She stated as follows:

> So, I want to start with sexual harassment. In secondary schools, this has come out more clearly, especially on the female teachers on teaching practice. We sympathize with the girls who come to our schools because you can see men sitting together trying to choose them, as if they are goods in the markets. They do 'booking', saying: "This one is mine and this one is mine." These children are assaulted, not just by teachers, but even by the university lecturers who supervise them. When he comes to see a student in class, he will tell her: "Let us meet at Westgate so that we talk about the report that I will write." Because the girl is desperate and because her parents have paid school fees and she wants to finish her studies and graduate, she has no option but to follow the male lecturer to the hotel. We see this every day and we sympathize with them. Kenya is spoilt. [52]

51 See generally TJRC/Hansard/Thematic Hearing/Women/08 February 2012/p. 25-30

52 TJRC/Hansard/Women's Hearing/Bungoma/9 July 2011/p. 9. See also TJRC/Hansard/In-Camera Hearing/ Busia/ 4 July 2011/p.11-12.

Sexual Violence during Conflicts

43 Studies have shown that cases of sexual violence escalate in the contexts of conflict, a factor attributed to a breakdown of the social order - perpetrators taking advantage of the disorder to commit sexual violence with impunity - and the use of sexual violence as an instrument of terror Indeed, sexual violence has been used to precipitate the expulsion of some communities from parts of the country

44 As indicated elsewhere in this Report, Kenya has experienced various forms of conflicts, which most of the time have evolved into violent episodes These include the struggle for independence, cattle rustling, conflict over resources, ethnic and politically-instigated violence, and conflict arising from militia activities In all these episodes, cases of sexual violence have been a common feature, with women bearing the brunt of the violence

45 Witness accounts revealed that victims of sexual violence were 'collateral damage' because no matter which ethnic community the women came from, they indiscriminately suffered sexual violence Accordingly, no matter the ideologies behind conflict, women still fall victim, whether they support those facilitating or those repulsing a conflict

46 The Commission heard that when violence erupts, people living with disability face additional danger and exposure to sexual violence, because they are not able to quickly escape the danger This delay may be due to poor sight, limited ability to move, inability to access information warning about impending danger, mental incapacity and other related challenges Persons with disability are therefore doubly vulnerable to sexual violence in situations of conflict

Sexual violence during the colonial period

47 Sexual violence is said to have been one of the methods employed by the colonial government to not only discipline and humiliate the dissidents, but to also instil fear in would-be dissidents As the colonizers clamped down on the Mau Mau movement, thousands of men and women were arrested and sent to detention camps At one time, the detention camps held more than 70,000 detainees[53] The Commission heard of both men and women being tortured, with men being castrated and women raped to confess of their alleged membership to Mau Mau In probably the first recorded use of sexual violence in Kenya as a tool of suppression and repression, Josiah Mwangi Kariuki in his autobiography wrote that

53 Anderson D *Histories of the hanged (2005) 311*

> There are evidences of castration of those suspected of being Mau Mau by screeners at Kwanyangwethu, while these things were done by Africans The white men knew and approved of what was going on [54]

48. Nduku Mutua, one of five litigants who have sued the British government over torture, sexual violations, detention without trial and other abuses committed during the colonial period, recalls:

> After 50 years it is time for justice I was castrated and tortured by British prison guards I was robbed of my dignity and of a family and those scars have never healed This wrong must be recognised, I and many others deserve an apology and justice at long last [55]

49 Another example that typifies the suffering and torture of women during the awful screening exercise is summed up in an account given by Elkins of a young woman who at the time of Mau Mau was taken for screening in a hut on the estate of her employer, not long after the start of the Emergency During the interrogations, she was asked about the number of oaths she had taken and the whereabouts of her husband. Although she had just given birth and there was evidence of a baby, this did not stop the interrogators from whipping her while naked But even grosser are the details she narrated on the general sexual torture meted out on women

> [ ] apart from the beatings, women used to have banana leaves and flowers inserted into their vaginas and rectums, as well as have their breasts squeezed with a pair of pliers, after which, a woman would say everything because of the pain after such things were done to me, I told them everything I survived after the torture, but still have a lot of pain in my body even today from it [56]

50 Women and girls who often acted as couriers of food and other provisions to the Mau Mau found themselves victims of sexual violence for their support to the Mau Mau At the women's hearings in Embu, one witness told of how she was raped as a girl, by the colonialists

> When I was a young girl of 15 years, I was one of those who used to take food to the Mau Mau fighters We would find people waiting for us They would subject us to shameful activities They used us as their women While leaving the forest, they would grab us and remove our clothes and then rape us Some of us never managed to get children We are in a lot of pain [57]

51 Sexual violence was perpetrated by African officers working for the colonial administration but with explicit or implicit approval from the white colonialists.

54 J M Kariuki *Mau Mau Detainee* (2009) 34
55 Kenya Human Rights Commission Surviving after torture a case digest on the struggle for justice by torture survivors in Kenya (2009) 17
56 C Elkins, Britain s Gulag *The Brutal End of Empire in Kenya* (2005) 68
57 TJRC/Hansard/ Women s Hearing/Embu /22 November 2011/p 9

RWN, a witness from Runyenjes stated that she was beaten and raped in Gichera, for purportedly being a supporter of the Mau Mau. She said she was raped by policemen from Kathanjuri camp who "were in the company of their seniors (white men) who issued the orders for us to be beaten and the women raped"[58] Twenty-one victims of sexual violence during the Mau Mau era also submitted a memorandum identifying the perpetrators of rape as 'both white and African police who were then referred to as 'KEYA' (local pronounciation for Kenya African Rifles – KAR) [59]

Sexual violence during cattle raids

52 Northern Kenya has over the years witnessed insecurity attributed to the region's proximity to warring countries and porous borders that have facilitated trade in small arms and light weapons, the commercialization of cattle rustling, and the inadequacies in the government's provision of security and policing.[60] These breaches have motivated the local residents to arm themselves in an effort to secure themselves and their livestock Consequently bloody conflict over resources, border conflicts and cattle rustling have left a trail of destruction in their wake Widely reported consequences of insecurity in the region, with deaths, serious injuries and property destroyed, have been accompanied by another unspoken consequence - sexual violence - which has affected almost all households in the region

53 The Commission heard of cases where men would be physically assaulted and their women sexually violated before the bandits made away with livestock A witness stated how he was attacked by *Shiftas* (bandits) who robbed him of his day's earnings from his shop, assaulted him and abducted his wife He testified that the bandits raped his wife for over an hour before they released her[61] Men were not spared A witness reported how raiders stripped him naked and proceeded to sodomise him in front of his wife and children Though he sought treatment, he later succumbed to the injuries[62] Ms Adukan Raphaela, while testifying about the suffering that members of her community (the Rendile), have endured narrated

> They [raiders] have been attacking us and mutilating people We have evidence of boys whose private parts were mutilated, and many women who are widowed by the same people So, we are suffering in the hands of the Turkana The Gabbra too attacked a village and killed almost 60 people in the recent past [63]

58 TJRC/Statement/43395
59 TJRC/Memo/M0118/p 3
60 TJRC/Hansard/Public Hearing/Rumuruti/15 November 2011/p 17
61 TJRC/Statement/30177
62 TJRC/Statement/30186
63 TJRC/Hansard/Public Hearing/Rumuruti/15 November 2011/p 4

Sexual violence during security operations

54. The government has over the years responded to the insecurity in various parts of the country, especially the Northern Kenya region, by deploying state security agents (SSAs) to either stop the violence between communities, restore law and order in the affected area or disarm heavily-armed communities, under what has come to be known as 'security operations' One would have expected that the arrival of SSAs in a given area would be viewed, by the local residents, as a relief Unfortunately, this has not been the case SSAs, usually consisting of a contingent of officers drawn from the General Service Unit (GSU), the Anti-Stock Theft Unit (ASTU), the military, the Administration Police (AP) as well as the regular Kenya Police, have been accused of even more brutality and violation of human rights, including sexual violence.

55 Witnesses accused SSAs of harassing the locals in the name of obtaining intelligence on previous attacks and disarming communities They accused the SSAs of targeting communities perceived to be hostile and administering collective punishment, especially through confiscation of livestock - their only source of livelihood - as a means of pushing the residents into surrendering guns that the military officers believed they held.[64] Witnesses confirmed that the SSAs committed sexual violence on both men and women in the areas that they were deployed during those security operations One narrated how the military officers carrying out a security operation in the area brutally raped his wife and took off with his 60 cattle [65]

> In October 1979, during the disarmament exercise, the GSU came to my home and met me in my house One of them told me to give out guns, I told him I didn't have Immediately I was kicked and the others stepped on my chest and they started beating me randomly until I vomited blood and finally, I was castrated [66]

56 A witness from Samburu East testified how, following the kidnapping of two boys from her Samburu community by raiders from another community, Samburu men set out to rescue the boy Two police officers are said to have been killed around the same time under unknown circumstances Immediately, SSAs were deployed in the area and they landed using helicopters When the Samburu men approached the security officers, thinking that they were bringing back the kidnapped children, they were shot dead. The SSAs then embarked on a community punishment of the residents during which they confiscated over 6 000 head of cattle, injured many people, raped hundreds of women and castrated boys [67]

64 TJRC/Statement/04856
65 TJRC/Statement/04360
66 TJRC/Statement/00413/p 8 TJRC/Statement/05774
67 TJRC/Hansard/Women s Hearing/Rumuruti/15 November 2011/p 7

57 A witness from Turkana testified how, in 1968, police officers drawn from the GSU and deployed in the area following a cattle raid by bandits, raped and sodomised his daughter, infecting her with a sexually transmitted disease that rendered her infertile.[68]

Sexual violence during the Shifta War

58 From Garissa, through Wajir and to Moyale, there was a common narrative involving sexual violence by the SSAs deployed to the areas to suppress Shifta activities in the region. Women and men were sexually tortured to humiliate, intimidate and coerce them and to extract information from them. Many people died following the brutal attacks, while others lived with permanent scars that are a constant reminder of the violations they experienced.

59 From witness testimonies, there seemed to be consistency in the patterns of execution of rapes in the context of the 'Shifta War'. Men were forcibly removed from their homes, and some were killed in the process. Many times, the men were taken to a central location for interrogation. When all men were gone, the women were left vulnerable. At that point, the soldiers and policemen would go back and begin raping the women and girls. After the rapes, the women would be forced to walk to join their men for interrogation. A witness described it thus:

> We were in our houses. They came at around 6.00am. They took out all the men, they beat up all the men. They took me and a neighbour and raped us. Some animals were killed and others were taken away. My husband was killed in the process – while one was holding my hand, another held my legs, and they broke my knee. After the first one raped me, the other one who was holding my hands raped me too. They raped my neighbour's daughter also.[69]

60 A similar testimony was given by a witness from Wajir:

> So, early in the morning at about 6.00am every man was taken away. We kept seeing men being taken away from all over the place from 6.00am to 6.00pm. Others were picked from one place. The men sustained injuries and some were bleeding and you could see blood flowing out of the trucks. All these men were taken to an open field. They kept coming to collect men between Friday, Saturday, Sunday and Monday. On Wednesday, the bodies were collected. On the same day, Wednesday, the soldiers came back. Thousands of girls were asked "Do you want your men back?" They said "Yes." Every little girl or woman was taken away. They told us to follow them so that they could show us where our men were. So, when we went with them to Makaror, the soldiers turned on us when we reached the place called Makaror they said "Today, there are no men for you. We are your men." No woman was spared. They did not care

68 TJRC/Statement/00662/p 7-8

69 TJRC/Hansard/In-Camera Hearing/Women/Isiolo/ 10 May 2011/p 12-13

whether some were pregnant They did not care when some women told them they were about to give birth They did not care that some women were old Every soldier came They were so many soldiers They were uncountable There were no prostitutes those days, so these men were sexually starved By then, I was nine months pregnant They raped me again and again until my unborn child came out Twenty women who were raped died I saw them die with my own eyes. Some women resisted them They struggled with them and because of that struggle, they were beaten to death During the night, the place became a camp for only women to be raped The dead bodies were taken away We do not know where they took them [70] The soldiers did not care about our private parts They never used to get access before So, one would step on your stomach and the other one would rape you One would hold your shoulders and the other one would rape you When they would leave, another four would come That is how they did it They were raping us mercilessly without consideration. Any woman who struggled died I do not think they are living All of them died If they did not die the same day, they died the following day I do not think any of them are living Maybe, a few are living now but they are in very desperate situations [71]

61 According to Hamud Sheikh Mohamed, in Garissa, on 25 July 1967, over 25 women were raped and admitted at the district hospital. He told the Commission.

> Many ladies, young and old were raped and beaten seriously They [women] have suffered more than any other person and the ladies continued being raped with no water and food Those ladies who were raped were admitted to Garissa District Hospital where the Garissa Medical Training Institute is located currently Over 25 ladies were admitted to the hospital some of them were my real sisters [72]

62 As a strategy to 'contain' the enemy, the government developed measures to restrict access to food, water and shelter. The communities were rounded up into temporary camps and anybody operating outside the camp was labelled a rebel and hence, the enemy Nonetheless life inside the camp was not necessarily safer Raping of women was commonplace and sometimes, it was in the full view of their husbands and other relatives At other times, the women would be dragged outside the perimeter fences, defiled and left to crawl back to the camp A witness from Arabia testified before the Commission that[73]

> From 1965, the government started restricting people to three camps at the district headquarters in Rhamu, Elwak, and Mandera All the people from Arabia were restricted to Mandera camp Within the camps there was relative safety, but hard labour and torture was common People outside the camp were treated like wild animals People stayed in the camps for up to three-and-a-half years, many died out of abuse and starvation Rape of women was common, and many were raped BAE (initials) was raped

70 TJRC/Hansard/In Camera/Women/Wajir/20 April 2011/p 4
71 TJRC/Hansard/In-Camera/Women/Wajir/20 April 2011/p 8
72 TJRC/Hansard /Public Hearing/Garissa/ 12 April 2011/p 3-4
73 TJRC/Hansard/ Public Hearing/ Mandera/25 April 2011/p 25 27

by more than 30 soldiers while she already had one child, thereafter, she became barren SM was raped and died on the spot GH, DM and NM were raped but survived

Women were publicly raped in full view of everyone - women, men, children - contrary to Islamic law, human dignity, and Somali culture After beatings, torture, and rapes, no medication was given to people Men's testicles were squeezed They were tied with ropes meant to clean rifles, many died Women's breasts were tied with rubber bands

63 Pregnant women were not spared, as one witness who was seven months pregnant when she was violated described her harrowing experience

I could not comprehend how that *askari* (army officer) caught me and beat me with the gun butt I did not understand what this person was doing, but he tore my clothes and threw them away I was naked as he did his job I ran home completely naked and then found my husband with some homeguards When my husband came to me I was crying and he asked me why I was crying the two officials held me, but only one raped me They really messed me up me they beat me on my private parts when I was removing the clothes I fell down and then they lay on me as I faced upwards He held me down viciously I was in a state of shock Then he just raped me and went away Even when I delivered, the child was sick, I stayed with him for two weeks he had a bullet wound He could not survive The child died a very beautiful baby, brown just like an angel [74]

64 The Commission received testimonies that pointed to sexual slavery during the Shifta War According to the witness, the army detained and raped most of the women in an operation to flush out supporters of the militia As one witness testified

The army took us away They killed some They took 15 women and another six They took us to a place called Ndhidh Adhani for 15 days One soldier held my right hand and the other one held my left leg They just raped us They did not care whether some of us were dead, they just raped us for six hours until midnight At some moment they left us for a minute and then others came and raped us For the first five days, four people were unable to wake up, and one died Two of the women miscarried They took nine women from there They were all sick They could not even sit properly because they had been raped so badly Twenty women were not able to give birth again They torched all our houses and for five days, they raped us The mothers of nine of the children were so sick, because they had been raped They were left there because they could not walk They were not dead, but because they could not walk and the men could not carry them, they left them there We have never had somebody to tell their story to We lost everything All the Sakuye women were raped All women were raped and most of them died [75]

74 TJRC/Hansard/In- Camera Hearing/Women/Isiolo/ 10 May 2011/p 12 13
75 TJRC/Hansard/ Public Hearing/Moyale/ 30 April 2011/p 30

65. A witness from Moyale narrated another account

> We were 18 women and I can even show you the houses where we were put The soldiers locked the doors of the houses and took us as their wives The suffering we underwent was enough and the men were beaten up They were bleeding everywhere and they were even vomiting They were stepped on as they lay on their stomachs They were also injured on their private parts [76]

66 Similar meticulous planning for execution of mass rapes was evidenced in testimony from victims in the context of the 1984 army operation in Wagalla, Wajir, in what later became known as the Wagalla Massacre [77] The Commission heard numerous witness testimonies that reveal consistent and persistent patterns of sexual violence against women by the army

67 The testimonies point to meticulous planning of the operation to round up men and separate them from the women and thereafter sexually violate the women Witnesses testified that all men were rounded up as early as 5 00am to 6 00am In the initial phase, only men were targeted They were thrown into government Land Rovers and lorries Finally, after all the men had been taken to the airstrip, the security forces started gathering the women and girls They were duped into believing that they were going to be reunited with their men The women and girls were led to isolated locations in the forests and were repeatedly gang raped at gunpoint It did not matter whether a woman was pregnant or was on the verge of delivery Women's testimonies revealed many abortions, still births, and pre-term deliveries, where the babies ultimately died This went on, according to the survivors, for four to five days

> No woman was spared They did not care whether some were pregnant They did not care when some women told them they were about to give birth They did not care that some women were old Every soldier came They were so many soldiers They were uncountable. By then I was nine months pregnant They raped me again and again until my unborn child came out [78]

68 Another witness testified of how her private parts had been cut and her breasts mutilated

> I was traumatised because I know seven men who raped me at the time. I am the one who lost the baby I am the one who was raped There is an injury in my private parts They brutalised my breasts You can see where there are cuts This is the place he put his finger as he held me so tightly and they made a hole because of the injury I am at times unable to walk I have to sit on my bed and stay in the house because of what happened then We were not able to give birth ever after or get a husband The men who were maimed could not be able to marry wives [79]

76 TJRC/In-Camera Hearing/Women/ Wajir/ 19 April 2011/ p 7
77 See the Chapter on Massacres for more information in relation to the army operation in Wagalla Wajir
78 TJRC/Hansard/ Women s Hearing/Wajir/ 19 April 2011/p 2-4
79 TJRC/Hansard/ Women s Hearing/Wajir/ 19 April 2011/p 4-8

The soldiers locked the doors of the houses and took us as their wives. The suffering we underwent was enough and the men were beaten up

Sexual violence during the Mount Elgon conflict and security operation

69 The roots of the conflict in the Mount Elgon region as well as the formation of the SLDF have been discussed in detail elsewhere in this report. Of importance to this section are the high cases of sexual violence that were witnessed during and after the conflict. Sexual violence in Mt Elgon, was committed by both the members of the SLDF as well as by the SSAs who were later deployed in the area to quell the violence and restore order.

70 At the beginning of the conflict, the SLDF initially targeted and sexually violated women from the communities they sought to evict, especially non-Sabaots,[80] but, as the Commission learnt, they also attacked people from their own community, who they felt either did not cooperate with them (in terms of surrendering their boys to the militia, supplying food and money) or were informing the SSA of their activities. MK testified to this fact. Although she was Sabaot, she was still gang-raped by Sabaot men who she likened to being the age of her own children. This was after her daughter-in-law was killed because her son, who had been forced to join the SLDF, had fled and left the armed militia group. She described her experience thus:

> At one time the [rebels] came home and took me to the forest. So many bad things were done to me. I am a mother but they asked me very many questions. They removed my clothes and asked why I was talking to the DC. Those were small children the age of my children. Some of them are even friends to my children. They removed my clothes and others made bad comments. They remarked that since I talk to the Government I will see. They told me that in Sabaot women have no say.[81]

71 The Commission heard testimonies of women who had been brutally raped by SLDF members and were also subjected to other cruel and degrading treatment. The SLDF informed their victims that they were being 'punished' for various wrongs and many witnesses testified to have been sexually violated as a punishment for allegedly referring to the SLDF as *Janjaweed* instead of 'police officers'. Hellen Nakam, who was three months pregnant at the time of the assault, shared her harrowing experience at the hands of the SLDF:

80 TJRC/ Hansard/Public Hearing/Mt. Elgon/ 24 May 2011/p. 33.

81 TJRC/ Hansard/ Women's Hearing/ Bungoma/ 9 July 2011/; TJRC/ Hansard/ In-Camera Hearing/ Bungoma/ 10 July 2011/p. 32.

Sexual violence accompanied with inhuman and degrading treatment

TJRC/ Hansard/Public Hearing/Mt. Elgon/24 May 2011/p. 28-30

It was in 2007 and I was from Kimaswa, going to Chemses. I was going to collect firewood. After collecting firewood on my way to Kimaswa, I met two people. They told me to take the firewood off my head and put it down. They then asked me where I was coming from. I told them I was from collecting firewood and was going home. They asked me: "Do you know the mistake you have made?" I told them I did not know. Then they asked again: "You do not understand?" I told them I did not know. They told me to sit down. I refused to sit down. I asked them: "Why are you telling me to sit down and I am supposed to go home? I am going home and I am late. I am going to cook for my children". They then said: "We are telling you to put down your firewood." They kicked my legs and I fell down. I fell down with the firewood. They then asked me: "Do you know the mistake you are making?" I told them: "I do not know the mistake I was making" They then asked me: "Why are you calling us Janjaweed?" I asked: "When did I call you Janjaweed?" They said: "If you say you live in Kimaswa, when you see us passing, you call us Janjaweed" I told them I had not called them Janjaweed. They then told me not to call them Janjaweed, but askaris. I told them I had not called them Janjaweed at all. They then said: "Let us go; we will talk as we go." I stood up and tried to take my firewood. When I was bending to take the firewood, one person came from behind and kicked me. I was surprised and asked: "Why are you beating me and I have made no mistake?" He told me: "Today, you are going to speak. Let us go." We just followed the same route. I was a little bit afraid. He asked me: "We askaris are protecting you and you people living in Kimaswa are calling us Janjaweed." I said I had not called them Janjaweed. We continued walking. They were beating me from behind, kicking me and stepping on me. When we reached a place called Upper Kipsis in a forest somewhere, they started beating me. It was in the forest and they beat me thoroughly. They said that I had called them Janjaweed. They were slapping me, kicking me and using sticks. When I fell, they did not care. I tried to cry but there was no help. They could not even hear my cry. They said we were giving them funny names yet they were giving us protection. When I looked up the hill, I saw four other people. They were just standing pointing at me. They then said: "You woman, come here; why are you looking at us?" They were dressed well. They covered their faces and legs and you could not identify them. You could only see their eyes. They were asking me so many questions. They asked me if I was denying that I had not called them Janjaweed. I told them I had not called them so. They said: "Today, you will be beaten until you talk". It went on like that. They really beat me to say why we were calling them Janjaweed, yet they were askaris. I never talked.

Those who were there with guns came with rags, blindfolded and tied me up. It was a very heavy rug. In that rug, there was some blood. When I was trying to spit out that blood, they told me I had to swallow it. I swallowed it and then they told me to go. As we were going, I could not see because they had blindfolded me. I was sucking blood whose source I did not know. They told me just to swallow it and if I vomited, they would beat me. They held my hands and they continued beating me. When we reached some places, I could not pass

because they held my hands. When we reached a place I could walk, they let me walk. They kept beating me and I kept falling and standing up.

We reached some place and another one came from nowhere. He kicked my legs and I fell down. They had their own objective. They then started raping me. I can remember very well that they were four men. I tried to cry and asked them why they were doing that. I asked them: "Why are you doing this to me. I am just a woman?" Then they said: "It is you we are going to face now". After finishing, they woke me up. I could not even see where I was or where I was going. We went on with the journey. They continued kicking me and beating me. They took me to the upper part of the forest. There they beat me up thoroughly and then dumped me. I asked them why they wanted to kill me for something I did not know. They told me what was killing me was calling them Janjaweed, yet they were security officers protecting us. I asked them: "Is that the only reason you want to kill me?" They went on beating me, slapping me, stepping on me, hitting me with sticks and I fell down. There were some stones they had arranged. They told me: "Walk on these stones on your knees". I crawled on them to and fro. They then ordered me: "Stand up!...run up to there, to and fro". At that time they had beaten me up so thoroughly that I could not walk. I tried to run to and fro, adjusting my speed. They told me not to run slowly. They were speaking in the Sabaot language.

After one hour, they told me to stand up and ordered me: "Come here!" I went to where the commander was. The other one came, kicked me on my back and said: "When you go to the leader, you run. When you are going to the commander you cannot walk. You have to run!" I ran. He asked me, "do you know your mistake?" and I told him: "I do not know what I have done". They then told me: "Tell us how the security officers arrested you and how they brought you here and what brought you here". I told them the people got me on my way to the Kibuk Catholic church in Kapsokwony carrying firewood home and told me to sit down. "I obeyed and later they asked me why I was calling them Janjaweed. He asked: "Is it only that?" Then the other person said that is the reason why they had arrested me. He then said: "Go discipline her and let her go".

From there I was seriously assaulted. They tied up my hands and ordered me to go with them. As we were going, another one came and kicked me and I fell down. They then went on with their business. They put me down and started raping me again. They really raped me there. I was molested, assaulted and traumatized. They told me that they wanted to finish me. I told them that even if they killed me I knew I have no mistake before God. I told them I did not know anything about what they were accusing me of doing. I had done nothing. They said: "This lady is supposed to be killed". I told them that even if they killed me, I had made no mistake. At that time I was tired and I could not see anything. After raping me for almost an hour, I tried to cry, but no one could hear my cry. They were almost five men raping one woman.

It was now almost 11.00pm they left me there and went away without removing the blindfold from my eyes. I was tied up, my body was full of pain and I could not even walk. I just sat there and after an hour they came back again. When they came back, they asked me: "Can you walk up to home?" I told them I could not walk. Then one said I should be blindfolded. When I tried to look, I could not see far. I felt like a blind person. I knew that was my day to die. They left me there and went.

I just sat there and after some time I tried rolling down and hid myself in the forest where I could hold onto a tree Soon, I heard them coming from far They were coming back again When they came back, one of them asked "If we take you to Kipsis church, can you walk home or will you die now?" When I heard about death I told them to take me to Kipsis church and I would reach home. There is something else I am forgetting, when I fell down, another one came from nowhere and urinated on me and asked me to drink it since there was no water He forced me to swallow the urine. I swallowed it Another one said, "Then give her ugali to eat" That meant the long call (excreta) The other one said, "Do not give her ugali, that water is enough for her"

72 A Kenyan refugee narrated how for many years, since 1991 she had suffered at the hands of the SLDF She said in 1991 she was abducted and forced to marry a Sabaot man with whom she had two children Later, the SLDF decided it was time to circumcise all non-Sabaot women married in their community. She then fled to Uganda to avoid circumcision and to join his father and siblings who had fled there earlier Unfortunately, the SLDF traced her and executed her father and brothers as punishment for her action She was then gang-raped and while naked, her father's lifeless body was placed on top of her She was again attacked during the violence after the 2007 elections She further narrated how one of her daughters too was married off to an old man by the SLDF and that she had no idea whether she was dead or alive [82]

73 The Commission heard that the SLDF also extorted money from residents, which they termed as payment for the 'security' that they were providing to them as 'police officers' In some cases, those who paid were spared from the attacks, while in others the SLDF took the money and still proceeded to rape the women One witness recalled

> They told me to give out all the money that I had in the house I told them to go and take the money from a box My brother had given me the money Then I started screaming and asking them why they were killing my brother They turned on me They started cutting my hands and I fell down One knelt on me and raped me The others, about four of them, also raped me and continued until I was badly mutilated and my ears stopped functioning It reached a point when I could not feel the pain anymore My children were screaming outside and the assailants left I slept where they raped me until dawn My brother's body lay next to me Then my landlord came [83]

82 TJRC/Hansard/In Camera/Kiryandongo/1 November 2011/p 7-8
83 TJRC/ Hansard/ In Camera Hearing/ Bungoma/ 10 July 2011/p 24 See also TJRC/Hansard/In Camera Hearing/Bungoma/10 July 2011/p 14

74 According to evidence received by the Commission, pregnant women were not spared A witness confirmed that indeed 'women were abducted and raped Many miscarried, while others were killed They were stepped on until the foetuses came out'[84] Another witness recounted

> I was seven months pregnant and after I was cut, I lost consciousness I did not know what was going on for a while When I came to, they took me to the forest in Kopsiro and asked me whether I had identified them I told them "No"
>
> Two of them raped me and after that, I was told that in case I identified them my life was in danger I just kept quiet and did not say anything It was 8 00pm when this was happening and it was up to 3 00am when I was released[85]

75 There seemed to have been nowhere to hide as even those who tried were either caught during flight or at their hiding places and subjected to sexual violence, as witness explained

> Everybody had run away and I was trying to hide myself but one day, they came for me They banged on my door, flung it open and beat me up They threatened to kill me They took me to the forest and raped me until the next morning I lost consciousness, my body was swollen and I could not walk[86]

76 Men were also targeted. A witness testified how her husband was executed, his body dismembered and his genitals chopped off[87]

77 In 2008, the government launched a joint military and police operation, dubbed *'Operation Okoa Maisha'* (Operation Save Lives) to suppress the activities of the SLDF and restore normalcy in the Mt Elgon region The Commission heard of accounts of various violations meted out by SSAs involved in the security operation, including rape, torture, murders and enforced disappearances Given the challenges faced by victims of rape to report the violations, including fear and stigma, it is very likely that the actual numbers of cases of sexual violence were higher

78 The many incidents of sexual violence were horrific, including gang rapes and rapes with objects The SSAs are said to have employed torture, on both men and women, as a tactic to force the residents into confessing of their alleged membership and involvement in the activities of the SLDF, as well as to get information and generate intelligence reports The Commission heard from a victim whose children were bombed She narrated how the SSAs came to her house looking for her husband

84 TJRC/ Hansard/Women s Hearing/ Mt Elgon/24 May 2011/p 2
85 TJRC/ Hansard/ In-Camera Hearing/ Bungoma/ 10 July 2011/p 14 See also TJRC/ Hansard/Women s Hearing/ Mt Elgon/24 May 2011/p 2
86 TJRC/ Hansard/Women s Hearing/ Mt Elgon/24 May 2011/p 16
87 TJRC/ Hansard/Women s Hearing/ Mt Elgon/24 May 2011/p 3

who had earlier fled When they could not find her husband, the police officer took her to the police where they tortured her She described her experience

> There were four policemen who were guarding us One of them came and asked "Why are you leaving this one? She has hidden her husband We want her husband". They put me in the position women take in a labour ward I was still bleeding because I had delivered a baby very recently They inserted a bottle of beer into my private parts and said "That is not enough" The policeman came and shot me I was kept in from March to August Human rights officials heard rumours that there was a woman who had been arrested, and who had been tortured. They looked for me When they found me, they took away my child During the period March to August, the child went blind They took me to Kakamega, where six white men removed the bottle from my stomach All this was happening to me when my husband was away My children could not go to school They could not make it home They got lost The baby I had was only one month old The child is mentally disturbed [88]

79 Men also testified to being sexually violated, some of which took place in the context of other violations, including torture and assault as the SSAs sought to obtain information that would enable them arrest the members of the SLDF One man recalled

> On 20 June 2008, I met some army men at Chesikaki They grabbed me and started to beat me up as they stepped on me and slapped me They took my ID card and looked at it and when they saw that I was from Chwele, they stopped beating me They asked me where the militia could be found They had kicked me hard on my genitals and I doubt whether I can ever procreate [89]

80 Men were also sodomised and evidence emerging from witness testimonies reveals a picture of coordinated sodomy committed on men of all ages, by both the militias and the government security forces, when men refused to cooperate or when they refused to confess to false allegations The majority of the individuals who reported male sodomy were women talking on behalf of their relatives and acquaintances Indeed, very few men came forward to report sodomy on their person MNM, a female, informed the Commission that while detained in the police cells, she saw men being sodomised by the police She said:

> They told an 80-year-old man [to bend down] The old man bent down, and they started to sodomise him The sodomising went on the whole night In the morning, at 10 00am he was left for 15 minutes before the ordeal continued again Another one was mistreated [sodomized] in a similar way [90]

88 TJRC/Hansard/Women s Hearing/Bungoma/ 9 July 2011/p 31

89 IMLU Double Tragedy *Report on Medico-Legal documentation of torture and related violations in Mt Elgon Operation Okoa Maisha* (2008) 12

90 TJRC/ Hansard/ Women's Hearing /Bungoma/9 July 2011/p 31

81 Though the conflict in Mt Elgon pitted two communities against each other, the women were united in their joint experiences of horrific sexual violence, either by the militia group or the army in an operation that did not live up to its billing of 'Okoa Maisha' (saving lives) as far as the women are concerned The Commission's women-only hearings in Kapsokwony and in Bungoma had women from the respective communities They appealed to each other to extol the men in their lives (children, husbands) not to resort to conflict to resolve disputes, as it was evident from their experiences that there were grave consequences for women where conflict arises

82 The Commission also heard of cases where school-going girls were impregnated by the SSAs[91] as well as cases of pregnant women being beaten up viciously until they miscarried or their unborn children died while in their wombs [92]

Sexual violence during ethnic and political violence

83 As indicated elsewhere in this report, since the onset of the multi-party politics in the 1990s, Kenya's elections have been marred by episodes of violence A witness from Laikipia confirmed this and stated as follows

> I would like to say that women are raped by force These incidents started in 1992 The problem began during the elections That was when the women were kicked out of their shambas, their houses burnt and all their property sold The women ran away and came to live in Rumuruti town We have rented houses in Rumuruti Our young girls and women were raped in front of their husbands, which is a taboo in Kikuyu culture For women to be raped together with their children in front of their husbands is a bad omen Our husbands were killed and women remained without husbands [93]

84 Indeed, data received by the Commission through interviews, statements and oral submissions revealed clear patterns of consistent and widespread sexual violence targeting women and men during the electioneering period as well as during ethnically and politically-instigated conflict that have over time characterised Kenya's elections Of the total 1 104 statements received by the Commission in regard to sexual violence, nearly a quarter (255) was committed in the context of political/ethnic clashes

85 The alleged perpetrators of sexual violence in the context of ethnic and political violence included members of organized militia groups, individual perpetrators and state security agents deployed to quell the violence in areas experiencing

91 TJRC/ Hansard/In-Camera Hearing/ Bungoma/10 July 2011/p 16
92 TJRC/Hansard/ Women s Hearing/ Mt Elgon/ 24 May 2011/p 20
93 TJRC/Hansard/Women s Hearing/Rumuruti/15 November 2011/p 11

ethnic aggression Witnesses testified how, at the height of the violence, sexual violence was used to intimidate, degrade, humiliate, discriminate against and control those belonging to particular ethnic communities or 'tribes' perceived to be in support of the 'wrong' side of the political divide

86 There were cases of sexual violence starting as early as during the campaign period Instances of aspirants for various political offices, especially women, being subjected to sexual violence with the intention of instilling fear and intimidating them into dropping their political bids in favour of their opponents were reported A lady vying for a councillor's position in 2007 narrated how she and her family were attacked when she declared her candidature

> I know that most of you know what happened to me in February 2007 when I declared that I wanted an elective post as a councillor On 17 March 2007, people attacked us at night when I was with my husband and my children Suddenly there was a lot of light in the house We do not have electricity in the house My husband woke me up because he thought they were the police Soon our windows were smashed and they called out my name I did not answer back because I was in shock My husband asked them whether they wanted money. They said that they had come to kill [me] He asked them why they wanted to kill me and they said that [I was] troubling men I wondered which men I was troubling They asked me why I wanted to be a councillor yet I am employed I told them that it is not me but the people who wanted me to be a leader I told them that I did not want it because I am comfortable where I was They then started cutting the grilles on the window My husband gave them the money he had in the house At that time we were selling dairy milk and had a shop It was on a Sunday and so we had not taken the money to the bank He gave them the money They took my golden watch which I had been given by a *mzungu* (white) colleague I knew that they knew me because they asked for that golden watch One of them shot at me with an arrow The arrow went through the wall and the mark is still there even today They asked for my handbag and I gave it to them One of them suggested that they leave because I was not proud. Then another one asked what they were going to say That is when I realized that they had been sent They managed to enter the bedroom and said that they wanted to kill me I went near the cross and prayed One of them came and kicked me and I fell down Even up to today I am still affected They beat me up and raped me [94]

87. Whereas there were many victims who were sexually violated in the previous years, many of the cases reported to the Commission related to events following the 2007 elections, either because they were the most painful ones, or because the events were still fresh in the victims' minds Witnesses indicated that while

94 TJRC/Hansard/ Women Hearing/Kitui/2 December 2011/p 4-5 See also TJRC/Hansard /Women Hearing/ Mt Elgon/ 24 May 2011/p 2

the threats of violations were issued before the elections, it is not until the results of the 2007 elections were announced that all hell broke loose The Commission heard of how groups of young men moved from village to village, homestead to homestead attacking people, looting and destroying property and gang-raping women and children and in some cases men. A 61-year-old Kenyan refugee narrated how she was gang-raped and sodomized by a gang of ten men in front of her ageing and ailing father at the height of the violence She later learnt that the attackers had infected her with a sexually transmitted disease[95] The experiences that the victims went through were horrific as demonstrated by their testimonies

TJRC/Hansard/In-Camera Hearing/ Women/ 22 February 2012/p. 2- 3.

On 27 December 2007 I went to vote, just like everybody else I went back to my rental house, where there were people seated in groups saying that whoever wins the election – either Raila Odinga or Mwai Kibaki – there would be violence So, I did not know whether they were just talking or whether it was a serious thing or a joke I went to my house The next day, there was a lot of noise that was not ordinary On 29 December I did not leave my house because they started burning down structures in the vicinity They started going round in large groups, walking in mobs of over 200 armed with weapons On the 30th, when the election results were announced, violence erupted The mobs started burning everything as they went round the area. I could see smoke from our compound and since there was a perimeter wall, I did not think they could break in I thought I was in a safe place On the 31st at 8 30pm, they came, brought down our perimeter wall and entered the compound When they entered, the first building they broke into was the bungalow I could see them through the window When they came into the house, they started carrying away property, including electronics They came into our rental houses Before reaching the tenants' houses, in the compound, there were were some cows They started slashing the cows alive I saw a man slash the leg of a cow while it was still alive! They did not kill it first He cut off the leg and carried it on his shoulders and went away, saying that it was his right They were chanting the song with the refrain "Haki yetu! Haki yetu! ("Our right! Our right!" When they got to my house, before I could open it, they knocked very hard and barged in The person I met at the door hit me on the head with a metallic rod - a long crowbar with thorns and some broken bottles attached to it When I tried to resist the impact, I did not know where the bottle came from or whether I fell on it While still at the door, I struggled with a large group of people trying to force their way in When they overwhelmed me, they started carrying out the electronics There were others outside and soon I was pulled out and dragged to a corner near a mango tree They started raping me there Before they started stripping me, one man stepped on my stomach and ripped off my underwear and all my clothes off using a panga They did not have time to remove my clothing, they just ripped them off using the panga at once

95 TJRC/Hansard/In Camera Hearing/Kinyandongo/1 November 2011/p 19

Another man sat on my chest; another held my hand and another the other hand One man held my leg and another the other leg I felt the first one start to rape me and when the others followed, I lost consciousness, incapacitated by the despicable act When they had finished doing what they were doing, I was left there for dead and they set the house on fire They burned everything that was in the compound and left me there lifeless When I regained consciousness, I could not tell how long I had been there

I woke up and I could feel that I had been raped I could hear my name being called out from a distance I could hear the voice and I was totally confused I stood up and I could not sit down. I felt very wet, but the wetness was stinging I did not know whether it was acid or water that had been poured on me. I could not really tell what kind of fluid that was When I tried to sit, I felt tightness between my legs That is when I found out that – I put my hand down to check – they had inserted a metal rod into my private parts There were these twisted metallic rods used in the construction of buildings that was almost 30 centimetres long They had pushed it into my private parts after raping me I pulled out the metal hard and it came out I struggled to stand up and I gained some strength and I could see fire all around me I felt as if I had also been set on fire I could not see anyone around and there was no one to cry out to I was just alone I went through the opening on the perimeter wall and went near the road where there is a Catholic church I went in and I started pouring water on myself because I felt like I was burning After a few hours – I did not know what time it was because it was just at night – I jumped over the church fence again and entered a shack I was naked when I tried to splash water on me I lost a lot of blood from my head as I walked I entered the kiosk and slept there until morning Some women were walking past They saw me and they could not recognise me They thought I was a mad person One lady pitied me she stopped and gave me a *leso* to cover myself"[96]

88 A witness from Naivasha also recalled her harrowing experience.

> After five minutes, a gang of people ran into the house When they entered, they told me to give them money I told them I did not have any They told me that I had to give them money from what I had sold and they threw me to the chair One covered my eyes, blindfolding me, and the other held my hands back. When I was almost sure that they wanted to kill me, I directed them to where the money was – that was around KSh6 000, I directed them to the money which was under the cushion in the seat They told me 'Even if you give us the money, we will still do anything that we want to do with you" When I was almost sure that there was nothing else--- I was dressed in trousers, so they tore it After tearing down my trousers, I called upon God and told him "God, we have been told that we are not wanted here and it has come a time when, maybe, I have to die It is okay" I took some time and prayed to God that short prayer, but I still told God "I do not know where my children are" While I was still saying my short prayer, one man came and held me, the second and the third came and held me too, and they raped me

96 TJRC/Hansard/In-Camera Hearing/ Women/ 22 February 2012/p 2- 3

in turns, the first one, the second one, the third one and then when the fourth person raped me too, I lost consciousness [97]

89 The Commission also heard sad stories of how people were attacked during flight A witness narrated how she tried to flee from Eldoret when the violence erupted following the announcement of the results of the presidential elections She narrated how, together with her two daughters, they boarded a vehicle bound for Uganda On the way, their vehicle was stopped by rowdy youth who had barricaded the road

90 Together with other passengers, they were ordered out of the vehicle and that it when they were sexually violated. Here is her testimony

> On our way, we found a tree that had been cut lying across the road There were people there who removed our driver from the vehicle and asked him why he was transporting us He said that he was helping us He was asked his tribe He spoke in a language that they could understand They told him to go under the vehicle They took me and my two girls in the forest where we stayed for a week Nobody could help us When I later asked people, they told me it is called Kamwiki It was already evening They raped me They also raped my children When they raped my elder child, I told them that instead of killing my child they should kill me We found two women in the forest I could only identify the one who spoke in the Kisii language When I started talking, they took the bottle and put it inside my private part and left me for dead I tried to help myself I crawled to the road for two days I found army officers on the road They were trying to remove stones placed on the road I told them what had happened to me They called a woman who was in army uniform to help me They tried to remove the bottle and I started bleeding Before then I had given them my statement They took me to the police station where I suffered a lot The policeman I found there was a Nandi OCS and the woman policeman too I had left my children in the forest I spent the night there at the police station A convoy of vehicles arrived there and people realized that I was bleeding all over the place I could not rise They called a doctor who stitched me up I did not have enough energy I told the police to help me find my children, although I believed they were dead I took the police to the forest We found my daughters They did not have clothes on They were covered in blood When the police checked their bodies, they said the girls were not dead They also found another woman in the forest [98]

91 Other witnesses narrated how they fled on foot from their homes but were caught by groups of young men who were patrolling the streets looking for people from particular ethnic communities to attack Many such witnesses were attacked before they could get to safer areas where other people fleeing their homes had gathered The victims were also attacked as they fled

97 TJRC/ Hansard/ In Camera Hearing/Men/ Naivasha/ 27 September 2011/ p 14
98 TJRC/Hansard/In-Camera Hearing/Women/ Kiryandongo/1 November 2011/p 2

We started the journey at around 8 30pm, just walking slowly We went out through the sewerage system looking for a roadside sanctuary to hide from the oncoming mob We used a panya route [unofficial route] to Ponda Mali and went to Eliza's house There was a trench We heard shouting from a mob of people coming towards us We were shocked We decided to look for a place to hide, so that they could pass and we continue with our journey Afraha Stadium was very far away from where we were living We were forced to go there because we did not have any other option We had to look for a way of getting there Mama Saddam had one child I had five children We were walking together As we looked for a place to hide, we realised the crowd was moving towards where we were. I told the others' "We have to go to the other side and hide, so that these people can pass" I was in the front, so I jumped over the trench to the other side Among those in the crowd were people who were smoking bhang When I jumped over the trench, they noticed us Those smoking bhang came and grabbed me I screamed Mama Saddam was behind with the children They could not come over because I was already screaming The children got into the trench but Mama Saddam did not run away The men started beating me up I hit my head on a stone. Those were the people who raped me I can identify them They were three They took turns on me, one after the other [99]

92 Some of the witnesses informed the Commission that they were sexually violated at their places of hiding before they got to safer areas In some of those cases, the victims were sexually violated together with or in the presence of their children and spouses, an act that was not only painful and traumatizing, but also humiliating A witness described how he was assaulted and made to watch as their attackers raped his wife [100] Another recounted her experience

On that day at around 9 00pm, we heard voices on the road One was supposed to have eaten by 4pm so that when darkness came, they could go into hiding I took my children and we ran to a banana plantation We stayed there for a long time until those people found us They were three men who raped me in turns They raped me in front of my children [and] threatened to kill them I screamed [101]

93 Some of the attackers pretended to assist their victims, only to sexually assault them. A witness stated how persons pretending to offer her ride to a safer area at the height post-election violence (PEV), gang-raped her for belonging to the 'wrong tribe' and for supporting 'the wrong political side' She testified before the Commission as follows

When I boarded the vehicle, I felt apprehensive Looking around, courtesy of the light they had somehow put on, I saw some machetes, bows, arrows, axes and some sharp knives I felt fear inside me and asked them "Are you sure that you will go home as you had said? They told me "Yes, we will go home" So, we continued travelling until we reached a place where

99 TJRC/Hansard/Women Hearing/Kisumu/ 16 July 2011/p 15 See also TJRC/Statement/ 03897
100 TJRC/Statement/07884/p 7
101 TJRC/Statement/06932/p 7 8 TJRC/Statement/05103

> they diverted towards the forest. I asked them: "Why have you diverted towards the forest?" They told me that they were going to get some charcoal and mix it with the potatoes for their customers. They told me not be afraid and that they would still go home. A man sat on the driver's seat, behind I was with three young men who had the machetes, axes, bows and arrows. After diverting into the forest, they drove for a distance and stopped the vehicle. They asked me: "Mama, are you aware that you are the people who said "kazi iendelee"? (let the work continue, in relation to one of the candidate's campaign slogan) I asked him: "What does that mean?" They told me that they did not have bad intentions but stressed: "You are the people who said that Kibaki continues with his job. We are going to start that job on you." I felt extreme fear in me. They ordered me out of the vehicle. I disembarked. They told me to give them everything I had in my pocket. I had been given the money and I had my fare. One of the gentlemen held a machete. He tore my skirt and petticoat. He used a knife to cut my clothes. They then told me that I had to remove my coat or they would kill me. That was when they took me to a secluded place. They dragged me. I had already given them my mobile phone and the money. It is such a long and sad story because they just wanted to accomplish their intentions. They were young men, almost the age of my children. That is the sad story. I kept crying from around 7.00pm to 6.00am in morning, until I had lost energy. I told them: "Just take me back to the road and get me a vehicle to take me home" but they would not listen. As I continued talking, one of the young men hit my front teeth with a fist and told me to shut up, and that if I wanted to die, then it was okay. Others held my legs, dragged them to their shoulders and raped me repeatedly. They lifted up my hands without shame. Every time I tried to talk, they would hit me. All the time, I prayed to God to give me energy, perseverance and humility. I prayed to God not to let them kill me. They raped me until morning. At around 6.00am, they thought that I was dead because I had lost a lot of energy. They cut some leaves from the tree branches and covered me. I stayed still because I had lost all the energy. My legs were weak. They were almost numb. I was naked. They raped me severally and threatened me with their machetes and sharp knives. At around 6.00am they covered me with twigs, thinking that I was already dead.[102]

94. Initially, women were targeted for sexual violence but as their testimonies indicated, men and boys were also sexually violated, although very few came forward to report. A witness narrated how he was sexually violated and told the story of a woman she knew who too was sexually violated in his presence:

> When we were registering as voters, we heard rumours that we were supposed to go back to Nyeri: "You Kikuyu must go back to Nyeri." However, when the voting began in December, there were many things that we could not understand. We were told that our ashes would not fill a single pick up. We did not understand that. When we went home after voting, we heard that some houses had been burnt, but ours were not. Our sub-chief came to tell us that trouble had been stirred up but that none will befall us. He tried his best. We were at the boundary of two sub-locations. However, on the second day, we were surrounded. The women had run away and only men had been left behind. There

102 TJRC/Hansard/In-Camera Hearing/ Women/Naivasha/ 27September 2011/ p. 5-6.

were two Kikuyu families remaining We were surrounded and attacked They entered our homes and freed the goats and the cows They divided the animals among themselves in my full view I was told that I will never eat again any other day I was told that if I ate, then it will be either in Nyeri or in heaven They beat me up and then divided my household goods They then torched the house They told me to move away My home borders a small forest When I was there they brought me a girl who resided at my neighbour's She had been caught while running away She was stripped naked and so was I They took away my Muslim *kanzu* and put it in the fire They took away the other things I was shocked to see them even take my underwear They told me to move near a trench where the girl was They took the girl and prepared her They raped her and then they told me it was my turn to do it I felt very sorry I knew the girl's sister was married to my own son I told them that I was sick with HIV/Aids I told them that I would infect the girl and she would in turn infect them They became furious They beat me to the ground and told me to kneel down The others went away Only eight men remained and I was still stark naked I was worried when they used me like a woman All of them sodomized me The one who told me that I will never eat again stepped on my forehead The footmarks of his shoes are still on my forehead The other one brought a mattock – (a presumed symbol of ODM) He also had a piece of metal He started knocking down all my teeth I was lying on my right side which had a few teeth remaining out of the 28 that I had They knocked down all of them until I remained with only three teeth I then lost consciousness They thought I was dead They dragged me and put me in a trench I do not know what happened after that "[103]

95 A Kenyan refugee shared with the Commission how he was attacked by a group of 18 youths who all sodomised him and infected him with HIV/AIDs [104] Men were targeted for forced circumcision and in other cases, mutilation of the genitals at the height of the 2008 PEV Witnesses informed the Commission how angry youth attacked their spouses and mutilated their genitals, ultimately killing them [105]

96 Whenever violence erupts in any part of the country, SSAs are always deployed to restore law and order Unfortunately, as has been mentioned elsewhere in this report, SSAs have themselves been accused of gross violations of human rights They are said to attack people not only in their homes, but also as they flee the violence They have been accused of, as supported by the testimonies below, looting property, assaulting and subjecting both men and women to sexual violations Evidence received from witnesses indicated that sexual violence by the SSAs was brutal and depraved, and that victims included children and pregnant women A witness from Kapsoit testified how she was raped, even though she was only two weeks from delivery, by people she identified as GSU officers Not only did they sexually assault both her and her friend, the officers also robbed them

103 TJRC/ Hansard/ In-Camera Hearing/Men/Naivasha/ 27th September 2011/ p 3-4
104 TJRC/Hansard/In-Camera Hearings/Men/Kiryandongo/2 November 2011/p 9
105 TJRC/Hansard/In Camera Hearing/Women/Kericho/ 20 September 2011/p 4

of their money and ransacked the house They then proceeded to neighbouring houses and raped all the women they came across She testified that in that one day, at Kapsoit Centre, they raped every woman they encountered until they left the village at 5 00pm

> When our then MP was killed on 1 February, 2008, these people came and attacked us at Kapsoit, where I was residing Our local MP was David Too and the people who attacked us were General Service Unit (GSU) personnel They arrived on 1 February, 2008 at about 1 00pm When they entered the house, they ordered us to undress At that time I was pregnant and had only two weeks before delivery They started raping us As one was raping me, the other one tried to restrain him and warn him that I was too pregnant but he still continued Four of them jointly raped my friend After they had completed the rape, they stayed in the house and continued assaulting us for about two hours When they were through, they asked for our phones They also asked us to surrender any money that we had I had KSh10 000 and my friend had KSh 5,000 They ransacked the house and ensured that they got the money They commanded us to shut the door, went to the neighbour's house and raped her brutally We lived in a plot which had about ten houses and they invaded all of them and brutally raped any woman they found there From our plot they went to the next plot At Kapsoit trading centre they virtually raped any woman they found in their houses They did not spare any woman Where they found men, they commanded them to carry any items they found there, including the rocks that had been used to barricade the road Eventually, they left at about 5 00pm We suffered greatly They have damaged our reputation "[106]

97 The Commission heard of similar accounts of police terrorizing citizens while pursuing those suspected of involvement in ethnic and politically-motivated conflict. A witness in Kwale recounted the violence meted out on her and her family by the police in August 1997.

> As I stand before you, I was raped I have a beautiful daughter aged twelve years now in Class 8 and I do not know whether she is a Kamba or a Luo but I really love her I cannot hate that girl because she is innocent On 30th August, I woke up without any problem I used to live in Likoni but my home is in Tiwi So I left Likoni for Tiwi I did not know that Likoni police station had been attacked On the second day as I was going to Likoni, when we got to Jamaa, our vehicle was stopped The GSU told us to come out We alighted from the matatu and the women were asked where their husbands were I told them that I left my husband at home in Likoni I started quarrelling with them and they told me that I have a big mouth and I should tell them where the guns were At that time, Shonda was just a forest without any developments I was taken there and I was really raped They left me there I struggled and went to the road I went home in Likoni On getting there, I found my mother and her in-law crying and my first-born child who was seven years at the time told me that policewomen had gone and stripped

106 TJRC/Hansard/In-Camera Hearing/ Women/ 20 September 2011/p 20-21

their grandmother I was then told that they had been raped My grandmother had not slept with a man for ten years since my grandfather died My father was coming from work, [he] was arrested and told to produce guns My father died of stomach cancer and one part of his body was paralyzed Those people beat me up thoroughly and my dad died when he could not even make love to a woman. He was beaten and got injured We struggled and went back to Tiwi and people started getting sick My mother had diarrhoea and my grandmother kept asking her whether she had been raped It was bad and in 2006 my grandmother passed on and my mother on seeing her condition went to the hospital There was no security at the time and there was a woman who went to the police station to report that she had been raped She was told to repeat the act practically That was our government and those were our own policemen I took my mum to hospital and she was found to be HIV positive and now she is on ARVs and I am with her at home [107]

Sexual Violence in the Context of Interrogation

98 Over the years, there have been allegations of torture being used by SSAs as a tool of interrogation in places of confinement as well as in police stations The Commission heard that in such situations, sexual violence was employed and was aimed at extracting information from persons In his testimony, George Walikhu Marakali narrated how he was tortured and pressurised to confess of his involvement in the FERA movement He indicated how sexual violence was also employed in the course of the interrogation

> It [torture] went on day after day, but they did not get what they had expected of me When it reached that level, on one occasion after beating me and taking me through the same cycle, they decided to use another technique While naked, I was made to put my legs apart and they tied my private parts. They tied the testicles, I am not ashamed to say this because it happened and they started pulling They said they would bring an end to my life if I was not going to say anything As they kept pulling, I cried out and the more I cried, the more they pulled [108]

99 Mzee Jocktan Wepukhulu Mayu confirmed to have been subjected to sexual violence during his confinement at the Nyayo House torture chambers He stated as follows

> In that chamber, I was taken for only one day and beaten thoroughly They messed up my private parts As I speak here, I am not a real man, I am like a child I was asking them why they were torturing me like that I even pleaded with them to kill me instead of torturing me [109]

107 TJRC/Hansard/Women s Hearing/Kwale/ 24 January 2012/p 11-12
108 TJRC/ Hansard/ Public Hearing/ Mt Elgon/ 24 May 2011/p 6
109 TJRC/ Hansard/ Public Hearing/ Mt Elgon/ 24 May 2011/p 20

100 Another witness stated that between 1994 and 1994, he was arrested and kept on being moved from Nyati House to Nyayo House He shared how he was subjected to degrading treatment and torture, by both female and male interrogators drawn from the Special Branch, during the period of confinement. Here is his testimony

> The female officers tortured me They would ask me to remove my clothes Upon getting to my underwear, they would tell me to remove everything I told them I could not remove my underwear because there were women officers around They then told me that I am married and the wife is like one of them They asked me if I was afraid of removing my clothes before my wife I told them that I was not afraid, but they were strangers to me They hit me with a piece of wood on my joints, forcing me to remove my underwear They would then start torturing me I was kicked in the chest and stomach My private parts were burned with a cigarette butt and I have the scars to show for it When I was kicked in the stomach, I started bleeding I get stomach aches which lead to bleeding I still bleed since then through the front part of my private parts I experience the pains [110]

101 A witness informed the Commission of how he had been wrongly accused of participating in the death of a resident in his home area, his tribulations during custody and subsequent release for lack of evidence He stated thus

> I had gone to Kopokogh in Pokot North When I came back to my home in Kishaunet in West Pokot, my brother Tarairat Yokomoi told me that all people who went for safari from the village [were] alleged to have killed somebody at Pkopoch near Kishaunet Police arrested me at Makutano and took me to Kapenguria Christopher and I (who had gone for safari) were beaten four times per day, 8am, 11am, 2pm and 4 pm, for two months After the second month, they made us stand They tied both our testes tightly together They beat us until we fell down They then pulled the rope and beat our testes with *rungus* (clubs) They released us after one week for lack of evidence [111]

102. Other witnesses stated of their untold suffering at the hands of police officers One witness shared his testimony.

> On 24 June 1984, at the home of the former minister Lotodo Loife, Kenyan askaris came at 7am in the morning They shot dead William (the tractor driver) then came to me They beat up me to near death They knocked me with guns They used needles to prick my testis They inserted gun nozzles into my anus They raped the wife of Kangarop and raped Lotodo's wife They then took my money, KSh50,000 They kicked my chest and underarm They kicked me in the mouth I lost three lower teeth One upper tooth is visibly brown and loose They threw me into a vehicle and drove me to Kitale They remanded us with Lukwo, Lumunyan and others They beat us under the palms of our feet and bodies for one week I did not know at that time We were told that they were searching for Lotodo (former minister) [112]

110 TJRC/Hansard/In-Camera Hearing/Men/Kiryandongo/2 November 2011/p 2 3 and 5
111 TJRC/Statement/04856
112 TJRC/Statement/04860

Sexual Violence during Forced Evictions

103 Kenya has over the years witnessed a number of forced evictions Private developers, public institutions as well as powerful and influential individuals are said to be behind most of the evictions in Kenya and are said to rely on hired groups of youths and state security agents to carry out the evictions. In some cases, persons carrying out the evictions are said to have used their political connections to target groups of squatters and poor people to deprive them of their land, usually ancestral land The Commission heard of other cases where such evictions took a political dimension, with victims being targeted for their perceived political affiliations

104 Such evictions have been characterized by the torching of settlements to pave the way for subsequent developers, non-compensation of evicted families, the failure to issue eviction notices to allow people time to vacate the land and massive wanton destruction of property Victims and witnesses told the Commission that in most cases, sexual violence was used to precipitate the evictions of groups of people or given communities

105 Heartbreaking stories were heard from women and girls from Trans Mara District who, through a memorandum, narrated how on the morning of 2 February 1989 they were attacked by a 'heavy contingent of paramilitary personnel in riot gear' who 'seemed to have been given the authority to do as they wished'[113] They described the period when the violations took place as

> during the one-party dictatorship, when individuals were more powerful than institutions, such that an individual's word was law This was witnessed when a powerful minister is recorded to have said that the monkeys (Kuria people) must vacate the forests in Trans Mara, and it happened [114]

106 On that fateful day, the police officers are said to have, in addition to torching peoples' houses and granaries, looting and destroying property (including shooting animals), whipping peoples' husbands and sons, subjected women and girls to horrifying sexual violations The Commission heard accounts of how women were raped and also forced, at gunpoint, to torch their neighbours' houses One woman narrated the events of that fateful day as follows.

> It was early in the morning when we heard a lot of cries from the outside My husband had gone out earlier and never returned I had been suckling my 21-day-old baby girl. Clad in a *leso*, I tip-toed to the door, and just as I opened to see what was happening, I

113 TJRC/Memo/M1496/p 3
114 TJRC/Memo/M1496/p 5

was pushed back and told that I am a criminal I protested and told them that I am a suckling mother, and in terror, I demonstrated to them by actually showing them the overflowing milk from my breasts Sizing me up, the police officer who had been joined by others dragged me out of the house and led me to a thicket Two of them raped me, and pulled me up and led me to a nearby homestead where I was given a match box to set the homestead on fire Painfully I did it They led me to some shrubs and raped me again in turns They pulled me up Then they led me to set yet other homesteads on fire I did it I set on fire a total of about six homesteads They dragged me to another shrub and yet another one, then so many of them, went into me raping me in turns, a total of about 14 of them As another one prepared to mount onto me, he exclaimed about there being so much blood coming out from my private parts, and human faeces from my rear They quickly walked away leaving me for dead When I regained consciousness, I was in Ntimaru, being attended to by a local medical officer [114]

On learning of my rape, my husband took off and it was after 3 years that he came back to me I now have a chronic back pain My self-esteem is gone I hardly have any friend, as my pride was vandalized on that fateful day, perpetrated to me by them who were supposed to be my protectors [115]

107 The Commission also heard of cases where 'prominent persons' used state security agents to evict people from their' land' during which women and girls were targeted for sexual violence to not only force their respective families to vacate the land, but also into humiliating them [117] Through a memorandum submitted to the Commission by the Ilkarekeshe Group Trust, the Commission heard of how, during evictions, organized by the area councillor, men were chased from their home and women and children rounded up by SSAs drawn from the Administration Police and General Service Units The SSAs are then said to have gone ahead to gang-rape the women and the children [118] This is said to have gone on for three consecutive days Many women stated that they miscarried after the incident, while others fell sick

108 An even more heartbreaking case of sexual violence during forced evictions was heard from the residents of the Mwakini farm in Kitui County Evidence received by the Commission indicated that on many occasions between 2001 and 2004, Mr Nganda Nyenze, a brother to Hon Mwanzia Nyenze, a former Member of Parliament, is said to have formed and commanded a militia group/gang called the 'Ndeteleka Group' [119] He is said to have used the armed gang to threaten and forcefully evict people, said to have been originally from Machakos, from the Mwakini Farm, under

115 TJRC/Memo/M1496 p 3 4
116 TJRC/Memo/M1496/p 4
117 TJRC/ Statement/43350/p 9
118 TJRC/Memo/M1131
119 It was a group of men who were sent by the Minister Hon Mwanzia Nyenze to forcibly evict the squatters at Mwakini in 2001 to 2004 and were under the command of his brother Nganda Nyenze See -TJRC/Statement/43269/p 9 TJRC/Statement/43269 TJRC/ Statement/35254/p 8 TJRC/Statement/43316 TJRC 'Statement/43317 TJRC/Statement/43318 TJRC/Statement/43350 TJRC/ Statement/43319 TJRC/Statement/43320 TJRC/ Statement/43350/p 8

what was known as the 'Kavamba Operation' Apparently, the evictions were meant to pave the way for the resettlement of 'his voters' from Kitui [120]

109. Mr Nganda Nyenze is said to have personally supervised not only the evictions and destruction of property, but more disturbing, the sexual violation of the residents in a bid to evict them from Mwakini Farm Mr Nyenze would then oversee the sub-division and allocation of such land to other people from Kitui, including members of his gang

110 Witnesses and victims confirmed that he drove his own 'Canter' lorry (registration number KAA 197X)'[121] that he used to ferry the gang to areas he wanted them to attack [122]

111 The testimonies received indicate the magnitude of sexual violence meted against the squatters, under the supervision, command and sometimes the participation of Mr Nyenze One victim narrated how she was raped in the presence of her family and other people known to her.

> They came and told me to kneel down I knelt down They hit me with a rungu They told me to stand up, which I did They told me to remove my shoes and I did that They put a thorn on the ground and told me to step on that thorn I did that From there, they got hold of me They raised my legs up My head was down They took an arrow and shot me in my right leg Two of them took hold of me and pushed my head to the floor. One raped me when I was lying upside down
>
> From there I lost consciousness I left that place on 7 July, 2001. I went to Ndolo police station and reported the incident They recorded the statement They wanted me to bribe them I told them I did not have a bribe I went to Kabati Hospital where I was treated When I went back home, those people came again with a vehicle They carried all my property like maize and also a plough When they were raping me, my children were in front of me These three men came to torture me again They made a circle and raped me again when my child was only three months old [123]

112 Victims claimed that the violations were carried out with the blessings of Hon Mwanzia Nyenze, who is also said to have taken no action despite the victims informing him of his brother's and his brother's gang's activities [124] Some witnesses confirmed that even the state security organs in the area were compromised One witness indicated that his hopes of having his claims against Nganda and his gang investigated were

120 TJRC/Statement/43271/p 14
121 TJRC/ Statement/43270/p 9
122 TJRC/Statement/43266/p 11
123 TJRC/Hansard/ Women Hearing/ Kitui/ 2 December 2011/ p 25 TJRC/ Statement/43286
124 TJRC/Statement/43269/p 9

thwarted when he was informed by the then Kitui Officer Commanding Police Division (OCPD) that he was under instructions from Hon Mwanzia Nyenze not to handle any complains relating to the evictions at Mwakini Farm [125]

113 The Commission also heard of how sexual violence was used as a warning on impending evictions and required the residents to vacate the land One victim testified

> Nganda Nyenze came with a lorry full of men, I was in my shop, they took me outside beat me and raped me, they were more than 10 but I can t know their names, when I scream[ed] Nganda came and assisted me to get up, asked who I was and I told [him] He told me to go home and tell my husband to choose either to leave the land or lose his head [126]

114 Victims of the sexual violence informed the Commission of how the gang of between 30 to 40 men descended on the village and started demolishing peoples' houses and destroying anything they found in their way The gang then, under the instructions and supervision of Mr Nganda Nyenze, proceeded to commit sexual violations on the residents A victim described one incident

> A gang of men came to my house on 15 June 2004 at around 10 00pm Armed with pangas [swords], rungus [clubs], catapults and whips and because it was night time, the door was locked They kicked it open and entered and started beating everybody in the house My husband was dragged outside and the children and three men raped me in turns [127]

115 The victim indeed confirmed that Mr Nganda Nyenze was one of three men that raped her She stated as follows 'I was raped by three men while the others were fighting my husband and children Nganda Nyenze was the first and he said he eats what is hot before it gets cold, but as for the other two, I do not know their names."[128] Yet another victim described the events thus "The thugs came at midnight and six men entered my house, stripped me naked, raped me in turns and kicked one child Vaati Mutindi until he excreted Mr Nganda Nyenze was the commander He was the one even ordering the others to rape me [129]

116 A witness informed the Commission how humiliating it was to have his family members sexual violated in his presence He stated 'It was a bad show to have my wife, my daughter-in-law and my own daughter to be raped in front of me and the children' [130] He further confirmed that 'many other community members of the

125 TJRC/Statement/43270/p 8
126 TJRC/Statement/43266/p 11
127 TJRC/ Statement/43350/p 8
128 TJRC/ Statement/43350/p 8
129 TJRC/Statement/43271/p 7- 9
130 TJRC/Statement/35254/p 15

Katoteni were either beaten or raped.'[131] According to yet another victim

> The gang of eight men came to my house They ordered me to go with them to Kiunga shopping centre. There the men and others, also victims who I know very well, stood in a circle I was taken in the middle, stripped naked and raped by two men in front of all the others They said their work was to rape (rapists) I was very much humiliated [having] been raped in front of people I know Nganda Nyenze and Mumo Muvali raped and tortured me in front of other people [132]

117 One victim described what he went through "Nganda Nyenze, brother to former MP Hon Nyenze took hold of my hand and showed me a place to sit and in front of the people stripped me naked Kisunza Ngondi [held] my penis and informed me to write in the ground with it They wrote numbers from 1 to 20 My hands were also tied up"[133] Another victim informed the Commission how a member of the gang 'forced a panga (sword] to enter into [her] vagina'[134]

Sexual Violence by the British Royal Army

118 Kenya has been host to British Soldiers who have been conducting military training exercises on its soil The presence of these soldiers in Kenya is based on a Memorandum of Understanding (MoU) on Defence Co-operation between the Government of Kenya and the Government of Britain Major General Nkaissery, a former Assistant Minister in the Ministry of State for Defence, once confirmed this and further informed the Kenyan Parliament that the first MoU was signed in 1980 and has been reviewed by the two parties every five years [135] During the period of their stay in Kenya, British soldiers have been accused of rape of women from the pastoralist communities, especially the Samburu and Maasai, living near the training camps The most horrific allegations of rape is said to have in October 1997 at Archers Post where 30 women were gang raped by British soldiers, often at knife-point and sometimes inside the victims' own manyattas

119 Witnesses testified, before the Commission, of being preyed on by British soldiers as they went about their daily chores of fetching firewood and water[136] as well as grazing [137] They indicated that at the time of the attack, they were vulnerable as

131 TJRC/Statement/35254/p 21
132 TJRC/ Statement/43280
133 TJRC/Statement/43266/p 8
134 TJRC/Statement/43269/p 8
135 Kenya National Assembly/ Official Documents/Hansard/ 4 November 2010(P)/p 43-48 available at <http://www.bunge.go.ke/index.php?option=com_docman&task=doc_download&gid=508&Itemid=> (accessed on 3 April 2013)
136 TJRC/Statement/07362
137 TJRC/Statement/07367

they would be walking or grazing alone [138] A witness shared her experience thus.

> I was from town going home carrying food and money Suddenly two men came from behind me, threw me to the ground and raped me I was three months pregnant I miscarried [139]

120 Mr Michael Lolwerikol, a male community leader, confirmed that indeed rape and other sexual violations had been committed against the Samburu women by British soldiers He further testified about the effects the violations had on victims and on the community

> Rape and other sexual offences committed mainly by the British soldiers and other armed personnel who roam this area during these trainings has caused untold sufferings, fear and despondency among the local residents, especially women who can no longer herd, go to fetch water, firewood or perform other domestic issues for fear of attack Those children who have been born out of wedlock culturally have been isolated by the indigenous community The victims in one way or another have also been isolated [140]

121 The Kenyan government has done nothing to either protect the local women or to ensure accountability of the perpetrators On 1 September 2010, Honourable Lekuton, the then Member of Parliament for Laisamis, sought a ministerial statement from the then Minister of State for Defence on issues surrounding the British Army training in Samburu East constituency including allegation of rape said to have been committed by the British Soldiers The responses provided, by the minister on 4 November 2010, were inadequate and evasive of the questions raised Of concern, was the Minister's denial of any knowledge of women who had been raped despite him being confronted with evidence and it being public knowledge that the victims of sexual violence had filed a case against the said British soldiers in Britain [141]

122 In a written response to the Commission, the British High Commission confirmed having received such complaints, carried out investigations, and added that the Kenya Ministry of Foreign Affairs was briefed on the findings of the investigations on 13 December 2006 The British High Commission further confirmed that a day after the Kenya government was briefed on the result of the investigation, local and international media outlets were also briefed [142] The Investigations conducted by the British government recorded a total of 2,189 cases of alleged rape by British

138 TJRC/Statement/07365
139 TJRC/Statement/07368
140 TJRC/Hansard/Public Hearing/Rumuruti/15 November 2011 / p 15
141 Kenya National Assembly/ Official Documents/Hansard/ 4 November 2010(P)/p 43-48 available at <http://www.bunge.go.ke/index.php?option=com_docman&task=doc_download&gid=508&Itemid=> (accessed on 3 April 2013)
142 Letter from the British High Commission to the Commission Secretary dated 27 February 2013

soldiers Two complaints were dismissed after the complainants confirmed their consent to sexual intercourse The investigations found that '[t]here were some 281 cases where there might have been one or more viable line of enquiry that could have, if exploited, led to the identification of the offender' These, it was stated, included 68 cases where it was alleged that a total of 69 children had been born as a result of rape

123 Although the British High Commission acknowledged that the existence of mixed raced children were indication of sexual relations, they did not directly admit that their soldiers were liable for rape All it stated was that

> Whilst these children represented a valuable source of DNA to assist investigators, the possibility of identifying a suspect through the use of DNA was judged to be exceptionally remote Moreover, even if evidence of paternity could be found, it would not mean that rape had occurred

124 It is clear that the British government, though claiming to have conducted the investigations into the allegations against their soldiers, had no genuine commitment to punish its soldiers for their conduct It neither conducted DNA tests nor or followed up on the 281 cases which had 'a viable line of inquiry' Further, the failure of the Kenya government to follow up on the issue and seek redress on behalf of its citizens was and remains a betrayal of its own citizens and a failure to guarantee the security of its citizens. Indeed, the Commission received testimony pointing to the fact the government could be complicit in shielding British soldiers and the British government from any form of accountability The Commission received statement from Martyn Day, a British lawyer who sought to investigate these cases of behalf of the victims His efforts were frustrated by state operatives When the British Government closed its investigations into the alleged rape cases, he tried to locate the documents relating to the cases but he was informed by Kenyan state operatives that they were missing

> Following the closure of the RMP investigation I tried to locate those original documents and was they have gone missing I met with the head of CID in Nairobi to ask that they track them down He told me they were last seen with the Office of the President but now could not be located [143]

143 Witness Statement of Martyn Day Jeremy

Impact of Sexual Violence on Victims and their Families

125 There are a number who suffered gender-based violence and have gynaecological complications They cannot treat themselves because it is too costly and others tested HIV positive as a result of the rape A number of them are traumatized and depressed Some of them have been abandoned by their spouses who witnessed the crime Others have been thrown out of their homes because they are not Luo They got married into the Luo community but the Luo did not welcome them anymore and they have nowhere to go So, they have become squatters Those who live with their husbands do not share any intimacy but it is convenient to pretend that they are both husband and wife So, a number have been left alone to look after their children They are humiliated by the community and are reminded about their status When they are unable to pay school fees and they plead for their children to continue with school, they are told off by teachers When they default in rent, their landlords break down their doors Some of their children have gone to the streets which are considered a better option than starvation at home Meanwhile, communities lecture them about moving on and to stop saying that they are IDPs [144]

126 The impact of sexual violence, whether in times of peace or conflict has both physiological and psychological consequences, leaving survivors with specific emotional and physical scars that subsequently affect virtually every area of their lives. Over and above the impact on the individual, families and communities also affected Families are affected by the death of the victim from consequences of sexual violence, or where the victim's health is severely compromised, by break-up of the family either due to abandonment of the spouse or inability to have children because of the sexual violence and inability to be economically productive and sustain a livelihood because of consequences of the sexual violation

127 The consequences, (for example, physical scars, stress and shame and inability to be economically productive) are hardly experienced individually and often they come together as a toxic cocktail that debilitates the victim Thus while the effects will be expounded in their respective categories below, the victims often do not experience them in neatly outlined categories as demonstrated by their testimonies Inability to receive help or treatment in regard to a specific consequence, (for example, medical treatment for physical scars), often compounds another consequence such as shame and stigma and hence the consequences work to negatively reinforce each other

144 TJRC/Hansard/Women Hearing/Kisumu/ 16 July 2011/p 6

Deaths

128 Victims, particularly women, testified of other victims they knew of who had died as a result of sexual violations. These victims were also witnesses to the deaths as they were jointly assaulted with those who succumbed to their injuries and died. In some cases, the victims died immediately following the assault, whereas in others, the death followed some time after. In some instances where victims died, the victims had been pregnant and the death was immediately preceded by a miscarriage resulting from being sexually assaulted. In the Dabel region of Moyale, nearly all the women were raped in a single attack by army personnel and most pregnant women died as a result of miscarriages.[145] The Commission also heard of at least two separate accounts in which up to 20 women died as a result of one incident in which there were sexual violations.[146] A witness from Wajir testified that

> Twenty women who were raped died. I saw them with my own eyes. Any woman who struggled died. If they did not die the same day, they died the following day.[147]

Physical Scars

129 The Commission heard that due to the brutality with which the violations took place, many of the victims suffered both internal as well as external physical injuries. A witness who was injured during violation, and which injuries the Commissioners confirmed to exist, stated as follows:

> I am traumatized because I know seven men who raped me at the time. I am the one who lost the baby. I am the one who was raped. My womb came out and it is torn. Look at this injury on my hand. Even look at my leg, my muscle is cut. I can show you my body and how I was injured physically. I was taken to an open space and all of them came all over. They were not expecting me to live again because my brothers were not there to help me and they feared no one. There is an injury in my private parts. They hit me all over and my eyesight is not so good. They brutalized my breasts. You can see where there are cuts. You can look at it if you want to see. This is the place he put his finger where he was holding me so tight and they made a hole because of the injury. You can see all over me. I am wearing a charm to make my neck straight otherwise it will break. I feel like the burden is too much.[148]

130 Another victim of sexual violence, at around the time of the Wagalla Massacre, confirmed that she saw two women being raped by soldiers in her presence, with one who was pregnant at the time having her stomach stepped on, resulting in a

145 TJRC/Hansard/Women's Hearing/Moyale/01 May 2011/p 2
146 TJRC/Hansard/Public HearingMoyale/30 April 2011/p 30
147 TJRC/Hansard/Wajir/Women's Hearing/19 April 2011/ p 2
148 TJRC/Hansard/In Camera Hearing/Women/Wajir/20 April 2011/p 9

miscarriage The victim was also raped by the soldiers and described the effect of the violations as follows

> my heart is full of pain because of the way I was tortured by the policemen Up to now, I cannot even walk properly If you look here, all the scars have started swelling and even the doctors are unable to treat me and now I am just waiting for my time to die [149]

131 Another victim informed the Commission of how her health deteriorated after the rape ordeal

> Since then I have had problems When they took an X-ray, they found that the rape case affected my uterus They somehow altered my uterus because I have severe pain After the X-ray, they found out that my uterus was damaged and that is why I have so much pain in my body I cannot walk properly because even when I was coming, I had to board a *boda boda* or motor bike when we reached the stage Since then I cannot do anything because my bones ache, I have backache and a lot of pain in my body, the muscles and the lower abdomen I really do not know what they did to me during the encounter [150]

Health

132 Health consequences resulting from sexual violence include death, superficial and permanent scars, stress, hypertension, physical pains and aches and mental trauma. Other health effects include pregnancy,[151] miscarriage, mutilated genitals, incontinence, sexually transmitted infections including the HIV virus, sexual dysfunction and infertility due to damaged reproductive organs The health consequences were sometimes compounded by inability to get treatment, especially from the government health facilities Victims recounted how they were rudely turned away from hospitals when they stated the context in which they were violated The Commission heard such accounts in testimonies from victims of the Shifta War and victims from the 2007-08 post-election violence

133 In regard to victims in the Shifta War, the government, through denial of medical services, was also denying that there were victims, particularly in relation to violations committed by state security agents For the PEV IDPs who had initially received free medical treatment upon production of registration cards identifying them as such, they were turned away after the government's 'Operation Rudi Nyumbani' (Operation Return Home) The health facilities said the government had resettled all IDPs, so there was no longer need for free treatment for IDPs Such reasoning was obviously fatally flawed on several grounds, not least the fact that

149 TJRC/Hansard/Women Hearing/Wajir/19 April 2011/p 8
150 TJRC/Hansard/ In Camera Hearing/ Women/ 27 September 2011/p 9
151 TJRC/Statement/00578

being resettled did not mean that you were healed of all health complications and not in need of further treatment.

134. A victim of sexual violence in the PEV context testified as to how she did not even attempt to seek medical treatment since she was sure it would not be forthcoming from a government hospital Government service providers such as doctors and nurses were not seen to be impartial.

> After the ordeal, I did not go to hospital, there was no hospital Even if we went to hospital, they would tell us 'mlisema kazi lendelee' [you had said that the work should continue, that it is the incumbent to remain] so, we were not given any assistance [152]

135 Many victims testified before the Commission of the health-related complications they suffered and were sometimes still living with following sexual violations These included injuries and spontaneous abortions following rape,[153] the inability to subsequently have children[154] as well as incontinence One victim stated:

> I cannot urinate properly I cannot sit properly and I cannot even go for a long call normally I do not think any of the women you see here gave birth since that day I have also never given birth When you walk, you cannot control your urine How then can you give birth to a baby? Even when you sleep at night, you cannot control your bladder You urinate like a child The truth is in front of you and since then, every morning, I have to change my clothes [155]

136. A lady who was sexually violated during the evictions at the Mwakini Farm informed the Commission that as a result of the violation 'sometimes during [her] long calls [she] pass[es] pus' and that she is now forced to walk using a walking stick since her legs ache. [156]

137 Incidents of miscarriages following rape were sometimes followed by deaths of the victims and the Commission heard about this particularly in Moyale and Wajir where mass rapes were conducted in the context of the Shifta War and Wagallla Massacre respectively [157]

138 The Commission heard from a woman who exemplified the multiple health and social consequences that victims of sexual violence have to bear

> I was also a victim, I had just come out of labour and others who were pregnant gave birth prematurely I can remember that no woman or girl was spared I cannot urinate

152 TJRC/Hansard/In-Camera/ Women/Naivasha/ 27 September 2011
153 TJRC/Statement/07368
154 TJRC/Hansard/In Camera Hearing/Women/Wajir/20 April 2011/p 10
155 TJRC/Hansard/In Camera Hearing/Women/Wajir/19 April 2011/p 3
156 TJRC/Statement/4326C/p 20
157 See sections above on Shifta War and Wagalla Massacre

> properly and I cannot even go for a long call normally. I do think any of the women you see here gave birth since that day. I have also never given birth....When you walk, you cannot control your urine. How then can you give birth to a baby? Even when you sleep at night, you cannot control your bladder. You urinate like a child. The truth is in front of you and since then, every morning, I have to change my clothes.[158]

139. A victim, who had been gang-raped by about 14 police officers, during forced eviction in Trans Mara District stated that immediately after the violation 'so much blood [was] coming out from [her] private parts, and human faeces from [her] rear and that she now suffers from 'chronic back pains'.[159] Victims of sexual violence during the evictions at the Mwakini Farm shared similar experienced. In explaining how the sexual violation impacted on their lives, one victim stated: "Three men raped me, kicked me in the bladder which even today has a problem because it cannot hold the urine.'[160] Yet another stated:" After the rape, I suffer a lot. My bladder cannot hold urine, my hips are painful and my shoulders ache."[161]

140. The Laikipia Paralegal Association shared how victims of rape by the British military in Laikipia and Samburu were ostracised by their husbands following the rapes and have also been unable to conceive as a result:

> As we speak now, there are some women who have not had children due to the injustices of rape. There are women who have been divorced by their husbands because they were raped by the British Army soldiers.[162]

141. A Kenyan refugee living in Kiryandongo, Uganda, informed the Commission that following the sexual violation that she was subjected to, she sustained injuries on her pelvic bones as well as on her spinal cord, which injuries have confined her to a wheelchair.[163]

HIV and sexually transmitted infections

142. Sexual violence contributes to increased transmissions of HIV. Victims testified before the Commission of how they got infected with HIV,[164] or in some cases, infected their attackers, following a sexual assault:

> Very many women here are HIV positive as a result of the raping during the post-election violence. You know that there is nothing that you can pay to a woman who has been raped. Even if it is your husband, he cannot agree that you are his wife or accept you back. So, women are really suffering. As a mother, if you were raped, even if you are HIV

158 TJRC/Hansard/Women's Hearing/ 19 April 2011/p. 2.
159 TJRC/Memo/M1496/p.4.
160 TJRC/ Statement/43350/p. 8.
161 TJRC/ Statement/43350/p. 20.
162 TJRC/Hansard/Public Hearing/Rumuruti/14 November 2011/p. 44-45; TJRC/Statement/07368.
163 TJRC/Hansard/In-Camera Hearing/Kiryandongo/1 November 2011/p. 6.
164 TJRC/Hansard/In-Camera/ Women/Naivasha/ 27 September 2011/ p. 16. TJRC/ Hansard/ In-Camera Hearing/ Bungoma/ 10 July 2011/p. 28; TJRC/ Hansard/ In-Camera Hearing/ Bungoma/ 10 July 2011/p. 53; TJRC/Hansard/In-Camera Hearing/Kiryandongo/1 November 2011/p.19.

negative, a man cannot accept you back Even if you were not raped, but that word has spread and it is just general that women were raped [165] HIV/AIDS has become rampant here Children and women are sick and there is nothing that we can do Many have been raped, mothers get babies from rape, families have broken down and many do not have places to live [166]

143 Victims who sought and received medical treatment following the sexual assault, were able to get either anti-prophylaxis medication or anti-retroviral drugs as applicable.[167] However, victims who were unable to seek medical treatment could still be living with infections they contracted and this could in turn be transmitted to children they would conceive The Commission heard of the difficulties experienced by Kenyan refugees in Kiryandongo, Uganda, who contracted HIV/AIDs during the 2008 post-elections violence. They informed the Commission that the Ugandan government prioritised their own citizens in the distribution of ARVs Accordingly, many Kenyan refugees had to wait for long before accessing medication, which contributed to the deterioration of their health, and death of some of them [168]

144 Sexual violence, particularly in situations of conflict, was accompanied by other violations such as destruction of property. Victims testified that even though they were receiving medication for the HIV contracted from their sexual assault, they were still in ill health because of inadequate food and nutrition Where their property was destroyed and livelihood affected alongside the sexual attack, they had been unable to economically recover and in some cases, were in near destitution This therefore negatively impacted on their management of their HIV status One witness put it thus

> Two boys raped me They raped me for more than an hour After five months, I got sick I was taken to Moi Referral Hospital in Eldoret for further tests and treatment After doing several tests, they discovered I was HIV positive My business went down Everything was looted I became very poor to the extent of finding it hard to fend for my two young children In my current status I need a lot of food I do not have the energy to cultivate my shamba [169]

Psycho-social impact

145. The immensely personal nature of this type of violation, undoubtedly influenced by socio-cultural conservative norms in regard to the female body, sex and sexuality, contributes significantly to the negative psycho-social effects experienced by survivors of sexual violence

165 TJRC/Hansard/Women Hearing/Kisii/ 22 July 2011/p 8
166 TJRC/Hansard/Women s Hearing/Rumuruti/15 November 2011/p 12
167 TJRC/Hansard/In-Camera Hearing/Women/Kisii/ 21 July 2011/p 4 6
168 TJRC/Hansard/In Camera Hearing/Kiryandongo/1 November 2011/p 3
169 TJRC/Hansard/In Camera Hearing/Women/Kisii/ 21 July 2011/p 4-6

146 Many witnesses had never spoken about their experience, let alone received counselling for the same They often spoke for the first time about their experiences when they recorded a statement with the Commission or testified during the hearings As one witness put it, they often felt shame which caused them to bear their pain in secrecy

> For me, I had not told anyone about the encounter because I thought it was quite embarrassing to do so I had not told anyone, including my children or my mother [170]

147 The pain that women had borne, sometimes for decades as in the case of the Shifta War and the Waqalla Massacre, was evidenced as many broke down and cried as they testified In a number of instances, women wailed and sometimes screamed as they bravely opened the door into the brutality they had experienced and in doing so, broke down a wall of silence and shame that had been built over years Witnesses described fear, despair, shame, emotional trauma, post-traumatic stress, hopelessness and depression that they experienced and continue to experience Psychologists and counsellors working with the Commission identified many witnesses living with these consequences As evidenced in testimonies earlier in this chapter, witnesses stated that they had lost the will to live and some even shared that they had suicidal thoughts One witness stated 'I was traumatized, depressed and stressed and even to date I fear men'[171]

148 The memorandum by People for Rural Change Trust (PRCT) on behalf of Kuria women, sexually violated by state security agents who forcibly evicted them, provides details on the impact of sexual violations had on the victims/survivors

> One of the raped victims confessed to having [lost] interest in sex and any sexual advances would greatly traumatize her There were deep psychological wounds by the primary victims and men, (secondary victims) whose wives had been raped, the victims' diminished self-esteem, hopelessness, broken dreams/marriages, with husbands remarrying, medical expenses incurred by the victims/families; one of the rape victims was cast away and had nowhere to go, being forced to live in the swampy ground in Kwiho Division, cases of conception and giving birth to children as result of rape, like witnessed in the case where a woman give birth to a half-caste between a Kuria and Somali, and the virginal pain experienced by the victims.[172]

149 Additional psychological trauma was occasioned on victims of sexual violence in their quest for justice, where the few who attempted to report were either verbally abused at police stations or faced with otherwise uncooperative or disinterested officers In some cases, victims continued to encounter their attacker(s) in their communities, resulting in feelings of fear and anger at the lack of accountability for the perpetrator's actions

170 TJRC/Hansard/In-Camera Hearing/Women/Naivasha' 27 September 2011 p 15
171 TJRC/Statement/43350/p 21
172 TJRC/Memo/M1496/P 4

Social stigma

150. The prevailing conservative religious and socio-cultural norms towards sex and sexuality perhaps inform stigma and shame around rape and other sexual violence However, this conservativeness is completely in contradiction to the brutality of acts of sexual violence that the Commission heard about Norms that dictate sex as a private act between spouses are shattered by rape and other sexual violations It is this 'shame' and fear of embarrassment, as indicated elsewhere in this chapter, that prevented many from reporting the violation, and this is deeply rooted in cultural customs that treated sexual violations lightly For example, compensation was offered for acts of sexual violence and this was sometimes propagated by the Judiciary as was evidenced in *Eliud Mamati v Milia Makaya d/o Daruna*[173] where the judge ordered that the parents of a schoolgirl (a child) be paid two heifers by her teacher as 'pregnancy compensation'

151 In the wake of the 2007/2008 post-election violence, many marriages were broken after women who were raped were ostracised and abandoned by their husbands, especially when they conceived as a result of the rape Girls were also forced out of school because of forced pregnancies following rapes and gang rapes Although the woman is the victim of the crime, men (husbands and fathers) also consider rape as an assault on them and in some instances, something they would have to be 'cleansed' of Such sentiments were shared by women from the Samburu community who had been sexually violated by the British soldiers They indicated that discussion of rape being a taboo, they could not share that they had been raped, since that would result to the victims and their mothers being kicked out of their homes, and bring embarrassment to the victims' fathers since, culturally, no young Samburu man would be willing to marry a victim of rape. Witnesses revealed that whenever information on violation was leaked, victims would be ostracised from the community or forced to marry an old man No wonder many of the victims never reported about being sexually violated or sought treatment

152 Social stigma is also compounded by hostile, indifferent or grossly curious attitudes of service providers such as law enforcement authorities and health workers when victims report sexual violence For both male and female victims, there is shame in reporting the act as they are made to feel that they are somehow to blame for what happened to them. In a society that promotes the male norm as being *macho*, male victims feel and are made to feel emasculated by sexual violence Women on the other hand are made to feel that they were somehow complicit in what happened to them

173 High Court of Kenya at Kisumu 5 December 1917, Civil Appeal No 47 of 1916

153. It is not uncommon for the character of a victim of sexual violence to be impeached in court particularly in regard to the clothes she was wearing when raped. Whether women conceived or not, as a result of being raped, they were still shunned. This social exclusion is devastating for women - particularly in nomadic and pastoral communities where communal ties are very strong. In these communities, families live and travel together in search of water and pasture and assets such as livestock are jointly owned. In these communities, there is strong male preference in access to entitlements such as education for children. Accordingly, when women are abandoned, with little or no education, no property or means to a livelihood, the message being communicated to them is that they might as well be dead, as far as the community is concerned. A witness in Wajir testified to this:

> We were stigmatized and we were told that we were "the rape women". We did not get married and event the daughters we bore before are also stigmatized. They are suffering because of that. I feel like I am not living."[174]

154. The deep stigma that victims of sexual violence feel and face has been attributed once again, to patriarchal norms, particularly in regard to values such as chastity. ACCORD International informed the Commission that:

> We are dealing with African patriarchal societies where things like chastity are over rated - to the point [that] even when I am violated [as a woman], I am supposed to remain chaste. So, there is a contradiction and paradox there. What happens to this woman or girl who becomes a sex slave or who is abducted or is gang-raped in front of her family? The natural response to that family and that community is actually to ex-communicate her or to stigmatize her in such a way that her normal life cannot continue.[175]

155. The Commission found that prevailing cultural beliefs also betray women and girls, forcing them into silence when they are violated. Silence in the face of rape is deemed to reduce the impact of stigma, and to enable a girl to qualify for marriage in the traditional way. This perspective is supported by a narration by a witness:

> Bukusu women have been silenced by the community. Even when you are raped, you cannot even tell your mother because if you tell her, she will tell your father and you will be beaten, and yet it is you who has been violated. You will stay with bitterness until you get high blood pressure because you will be stigmatized. They will be saying: "This one, do not marry her because she was raped when she was 10 years old". Because we fear the stigma, you just die with your high blood pressure. Even when your husband beats you or brings another woman to your bed, yours is just to shut up your mouth and keep quiet. Is this good? Why are you allowing this?[176]

174 TJRC/Hansard/Women's Hearing/ Wajir/19 April 2011/p.2-4.
175 TJRC/Hansard/Thematic Hearings/Women/08 February 2012/p. 48.
176 TJRC/Hansard/Women's Hearing/Bungoma/9 July 2011.

Breakup of families

156. The Commission learnt that abandonment by spouses was a common consequence of the stigma attached to rape survivors Women narrated how their spouses left them upon learning that they had been sexually violated Men too indicated that as a result of sexual violence, some of them became impotent, a fact that they blamed for their spouses' infidelity and in some cases desertion In one incident, upon sensing danger to her life and that of her family, one woman advised her husband to flee She did not flee as she was pregnant and she thought on account of that fact, she would not be harmed. However, she was still gang-raped by GSU officers despite being seven months pregnant Her husband who survived an attack, on her advice to flee, subsequently abandoned her on learning that she was raped and he subsequently remarried [177] Another woman described how she and other women who found themselves as IDPs in one camp saw their husbands abandon them on learning that they had been raped

> I have gone to hospital and was treated I was tested and I am positive and the person who attacked me and his wife have already died When my husband heard about what happened, he left me He rejected me completely He was asked 'What are you going to do?' and then he rejected me It's not just me I see many women in the camp who have separated from their husbands As soon as our husbands found out that we had been raped, they left us [178]

157 A victim of sexual violence that took place during the eviction of Kuria people in Trans Mara too stated that when her husband learnt that she had been raped, he took off and only returned three years later [179] The same fate befell victims of sexual violence during the evictions at Mwakini Farm In explaining how the violation had affected her, a witness recalled

> My husband left me after the ordeal and said that he cannot stay with a wife who had been raped by other men in front of him' [180]

158 Male victims also narrated how they had been rendered impotent as a result of being sodomised or castrated.[181] The testimony by a witness who had been sodomised demonstrates the indignity attached to the violation as well as the strain it had on the victims' marriages

> I need treatment to go back to my manhood I am not very old I last talked to my wife in 2007 and I have never dealt with her [had sexual intercourse] Even if she comes near me, I do not have any feelings for her. What I used to give her then, I cannot give her

177 TJRC/Hansard /Women s Hearing/Kitale/22 October 2011/p 16
178 TJRC/Hansard/In-Camera Hearing/Kinyandongo-Uganda/2 November 2011/ p 22
179 TJRC/Memo/1496/p 4 11
180 TJRC/ Statement/43350/p 8 and 21 see also TJRC/Statement/ 43286
181 TJRC/Statement/00413

now I am like a cripple in my body I have been unable to stand for about eight months because of my waist and legs Something bad happened to me The woman I am living with, if I cannot satisfy her, will move out and I will be left alone I have become useless [182]

159. This was also the case for the victims who were castrated by the military officers during the security operations As one witness, indicated, he could not sire children after the violation and that affected his marriage as well as their right to found a family [183] Another stated as follows

My family disintegrated, my wife left me I lost self-confidence and ability to provide for my family, I do not meet or mix with my age-mates again for fear of stigma [184]

160 Similarly, a male Kenyan refugee shared narrated the effect sexual violation has had in his life as far as entering into a relationship and founding a family, stating

I came here [Kiryandongo] in 2008 and could not marry I stayed until 2009 when I met a Kenyan woman whom I married After marrying her, when she knew that I had been sodomised and had that injection, she left me That is very painful and it still affects me I have peace but I do not know where my life is heading to I have never been treated since I suffered that injustice [185]

161 The victims of rape in the Samburu community who conceived children had to choose between keeping the child and being shunned together with the child or shunning the child in order to be re-accepted into the community The fact that the women were victims in the attacks is overlooked by the community leaders as the consequence of the attack is what mattered, that is that husbands and fathers felt they had been defiled and emasculated

162 Many victims abandoned their mixed-race children In 1990, a number of the women who had been shunned and abandoned by their husbands and community, came together and began a women-only village They called it *Umoja*, meaning unity. *Umoja* village has grown to take on more members (women and children only) and it is now a refuge for women who are escaping domestic violence, those shunned as a result of sexual violence they have faced, children who have been abandoned and girls escaping from undergoing female genital mutilation (FGM) [186] These women instituted a case with a British lawyer to bring to justice the British Army for acts of sexual violence, alongside other atrocities, including deaths resulting from explosions of ordinances negligently left lying around

182 TJRC/Hansard/In Camera Hearing/Men/Naivasha/ 27 September 2011/p 4
183 TJRC/Statement/04856 See also TJRC/Memo/M0118
184 TJRC/Statement/ 04860
185 TJRC/Hansard/In-Camera Hearing/Men/Kiryandongo/2 November 2011/p 6
186 UMOJA History of Umoja http //www umojawomen org/history htm (February 27 2012)

Socio-economic impact

> All I want is for my children to get food and I do not even have money for school fees I have become like a beggar and I just beg from people [187]

163. Many victims of rape testified of their inability to financially provide for themselves following the sexual violation they faced This was either because their livelihood was destroyed in the incident that also resulted in their violation, or because of health consequences following their attack, they were unable to work and fend for themselves,[188] or because their husband or partner who was their primary breadwinner, abandoned the victim and her children after finding out that she had been attacked, or a combination of all or some of these factors Victims therefore spoke of being unable to cater for their needs as well as for their children

164 As a result of a largely patriarchal society, many women are marginalized and disenfranchised even in times of peace. Following conflict, this status is only heightened, especially where the male breadwinner is killed or in the case of sexual violence, abandons his wife upon learning of how she was violated Many women are economically and socially dependent on men and thus when left alone as the sole breadwinners, they are left vulnerable and to fend for themselves in a society that recognises and supports the role of men as the breadwinners. Thus when women find themselves abandoned by their spouse after being raped, they resort to 'survival sex'[189] where they trade sex for basic commodities in order to survive.

165 A witness recounted the experiences of women in her region, who having been abandoned by their husbands, or even widowed during the conflict, resorted to trading sexual favours out of desperation

> I am talking in pain because the women are destitute and they are poor They do not have anything and can endanger their lives to get food for the day They do not care about the next day If they are told, "I will give you something in exchange for sex' They can endanger their lives So I am requesting that these women be empowered economically If there is a way they can be given jobs, let them have something that can support their life so that they can bring up their children because many of them are now abandoning their children [190]

166 As indicated earlier, some of the victims of sexual violence got pregnant from the violations and were therefore forced to care for children that they had not planned for Most of the victims confessed to facing financial strain as a result of this

187 TJRC/ Hansard/ In-Camera Hearing/Women/Nakuru/ 24 September 2011/p 7
188 TJRC/Hansard/In Camera Hearing/Kiryandongo/ 2 November 2011//p 14-15
189 Sieben C *Gender Based Violence in Kenya's Post-Election Crisis* 2009
190 TJRC/Hansard/In Camera Hearing/women/Kimilili/25 May 2011/p 25

punishing and unforgiving situation [191] Socio-economic and cultural dependence on family and family ties led women to make inconceivable choices of, either abandoning the children they bore as a result of the sexual violation, or reuniting with their families

167 This was particularly the case where the children took on distinctive features of the attackers, for example hair texture or skin colour that was different from the community of the mother The Commission heard about such incidents particularly in North and Upper Eastern region, where the primarily Cushitic women bore children with non-Cushitic features In Samburu region too, there were testimonies of primarily Nilotic women bearing mixed-race children following rapes by Caucasian British Army officers The children have grown up knowing they are different from the rest of the community and have been shunned as a result, missing out on basic humanitarian services including education and access to health.

168. The Commission also heard from women who suffered economic loss as a result of conflict or displacement that affected their business This loss was compounded by oppressive debt collection practices by some micro-lending institutions[192] A witness in Narok narrated the challenges they were facing in the wake of losing their businesses but still being required to repay their loans without concessions from the financial institutions:

> Fellow women, let me tell you that we have a problem We are being asked to pay back the loan Some women became sick due to stress Others suffered from high blood pressure Three women have died from high blood pressure, because the Kenya Women Finance Trust (KWFT) has kept on telling us that they could have us arrested because of the loan we owe them Some of us ran away We do not have money with which to repay the loans, because everything was burnt down, but the KWFT do not want to know that They just want their money back We do not have anything to do We do not have anybody to look after us When they started tracing us in connection with the loan, we went to the DC and explained our problem We told him that some of the women had died and asked what we could do? He gave us a letter and told me "Take this letter to the officers of KWFT" We took the letter to them They said "He wants us not to harass them! How are they going to pay?' We do not have any means of paying back the loan [193]

191 TJRC/Statement/00578/p 22

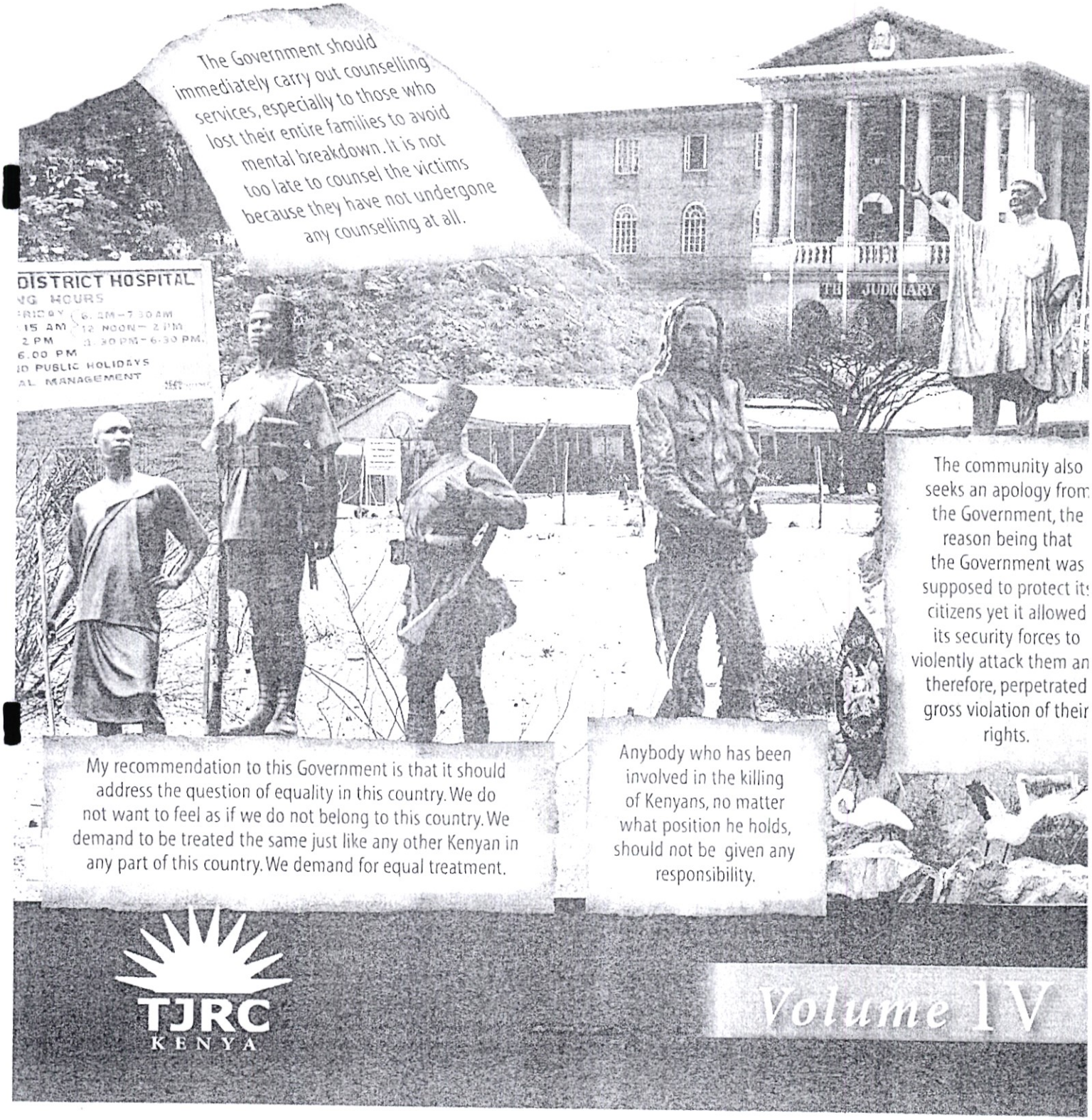
192 Kenya Women Finance Trust was severally mentioned Kenya Women Finance Trust was invited to respond to the allegations made but they did not appear or respond

193 TJRC/Hansard/Women s Hearing/Narok/30 September 2011/p 16



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