



REFERENCES TO THE WORDS ABOUT “LAND”

Specifically:

**Land – Dispossession- Estate – Eviction-Expropriation- Farm– Farmer-
Labour-Land Act -Property–Redistributive-Resource-Tenure**

**Truth, Justice and Reconciliation Commission Report
Kenya**

Dr. Mesut Yilmaz



**THE CONFRONTING
ATROCITY PROJECT**

June 2021

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Note on access:

This document is a research project prepared for the Centre for Human Rights and Restorative Justice. It can be downloaded from the research project's web page:

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Note on Word Frequency Query:

Minimum 4 letter words were chosen (rather than 3 letter word length)

4 letter words were preferred so that years (such as 2020, 2021, and so on) can also be found.

Note on software:

The word references analysis was done by NVivo software.

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Word Frequency Query

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Researcher Notes on the Truth, Justice and Reconciliation Commission Report Details:

- Published in 2013
- The report has 4 volumes, however, the Pdf has 598 pages with just 3 volumes.
- Pdf doesn't have Volume II
- Each chapter has Table of Contents.

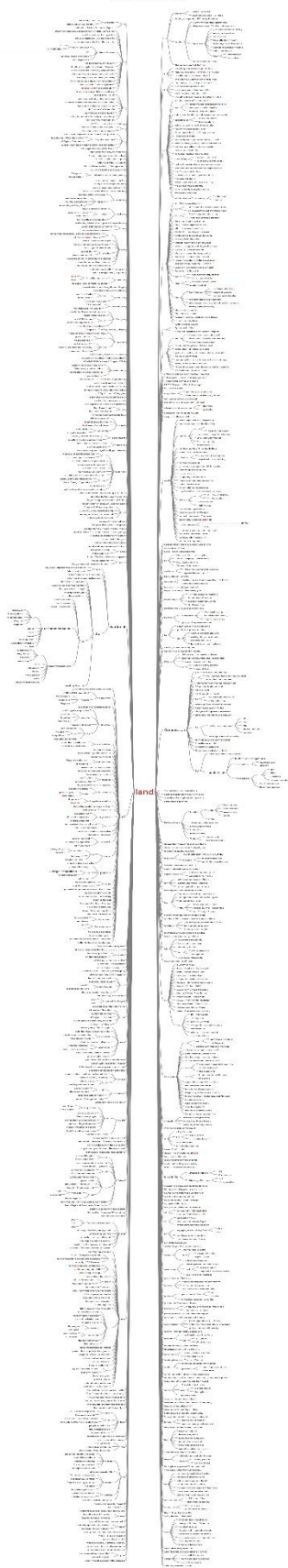
Kenya Report Word Cloud



References to “Land” Word Cloud



1881



Name: References to Land in Kenya Report

<Files\\Kenya Report> - \$ 369 references coded [5.48% Coverage]

Reference 1 - 0.02% Coverage

during the 2013 elections. Nor can it convey the horrid experience of a woman who had to carry the head of her slain husband all the way from Nakuru to Kisumu. It can neither convey the tears that were shed before this Commission nor the tears that were shed by the Commission's staff and Commissioners. The stories in these pages are horrid but they did happen, here on our land. In a nutshell, there has been, there is, suffering in the land.

Reference 2 - 0.01% Coverage

of historical injustices and gross violations of human rights (including violations of not just the traditional bodily integrity rights, but all of the aforementioned plus socioeconomic rights, corruption, land, and economic marginalization) over a forty-five year period would be a daunting task to complete in four years, much less two and

Reference 3 - 0.03% Coverage

After four years, we are truly humbled by the enormity of the task facing this great country of ours. While we have made a small, yet we hope significant, contribution to addressing the legacy of gross violations of human rights and historical injustices, there is much still to be done. Yet, we take faith in the reforms that have already occurred, including the adoption of the 2010 Constitution, and those currently in process. Even more importantly, we are humbled by and also draw strength from the millions of Kenyans who, in the face of sometimes insurmountable odds, struggle to provide for themselves, their families, their communities, and the nation at large. It is that spirit of perseverance in the face of adversity, the willingness and ability to rise up above such challenges with dignity and integrity, which we saw in Kenyans throughout this great land that gives us hope for the future of this beautiful country.

Reference 4 - 0.03% Coverage

□ The Commission finds that between 1895 and 1963, the British Colonial administration in Kenya was responsible for unspeakable and horrific gross violations of human rights. In order to establish its authority in Kenya, the colonial government employed violence on the local population on an unprecedented scale. Such violence included massacres, torture and ill-treatment and various forms of sexual violence. The Commission also finds that the British Colonial administration adopted a divide and rule approach to the local population that created a negative dynamic of ethnicity, the consequences of which are still being felt today. At the same time the Colonial administration stole large amounts of highly productive land from the local population, and removed communities from their ancestral lands.

Reference 5 - 0.01% Coverage

o illegal and irregular acquisition of land by the highest government

Reference 6 - 0.01% Coverage

o Assassinations, including of Dr. Robert Ouko; o Illegal and irregular allocations of land; and o economic crimes and grand corruption.

Reference 7 - 0.01% Coverage

□ The Commission finds that historical grievances over land constitute the single most important driver of conflicts and ethnic tension in Kenya. Close to 50 percent of statements and memorandum received by the Commission related to or touched on claims over land.

Reference 8 - 0.02% Coverage

□ The Commission finds that minority groups and indigenous people suffered state sanctioned systematic discrimination during the mandate period (1963-2008). In particular, minority groups have suffered discrimination in relation to political participation and access to national identity cards. Other violations that minority groups and indigenous people have suffered include: collective punishment; and violation of land rights and the right to development.

Reference 9 - 0.01% Coverage

Volume IIB focuses on some of the unique parts of the Commission's mandate concerning historical injustices in Kenya. The volume has three chapters: land and conflict; economic marginalization and violation of socio-economic rights; and economic crimes and grand corruption.

Reference 10 - 0.01% Coverage

harsh and inhuman or degrading conditions. The colonial government was also responsible for massive displacement of thousands of people from their lands. More than five million acres of land were taken away from the original inhabitants. This displacement created the conflicts over land that remain the cause and driver of conflict and ethnic tension in Kenya today.

Reference 11 - 0.02% Coverage

These expectations never materialized. President Kenyatta made no substantial changes to the structure of the state. Nor did he commit to or put in place mechanisms to redress the land problems that had been created by the colonial administration. Instead, President Kenyatta embarked on consolidating his power. Under his administration, any political dissent was met with quick rebuke and reprisals in effect forcing the populace into a silence of fear. Reprisals included harassment, various forms of intimidation, attacks on the person, detention and even assassination. Many fled into exile

Reference 12 - 0.02% Coverage

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, with the advent of multi-party politics, elections began to be identified with violence. Ethnicity became an even more potent tool for political organising and access to state resources. Like his predecessor, President Moi lacked the commitment to address grievances related to land. Instead, irregular and illegal allocation of land became rampant during his era in power.

Reference 13 - 0.01% Coverage

The period leading up to the 2007 General Election was characterised by intense violent activities by militia groups, especially the Mungiki sect and Sabaoth Land Defence Force (SLDF). The government responded to the violence with excessive force. In effect, the General Elections of 27 December 2007 were conducted in a volatile environment in

Reference 14 - 0.02% Coverage

It is therefore not surprising that the use of excessive and fatal force by security agents, especially by the police, against citizens has been a recurring theme throughout Kenya's post-independence. Indeed, incidents of extra-judicial killings go back to colonial period. The practice continued into the post-colonial period. Research and investigations conducted by the Commission, coupled with testimonies it received during its hearings, show that during the mandate period, there was a common trend and pattern of extrajudicial killings and enforced disappearances of members of illegal organizations such as Mungiki and Sabaoth Land Defence Force.

Reference 15 - 0.01% Coverage

□ most recently in 2008 during Operation Okoa Maisha, a security operation to flush out members of the Sabaoth Land Defence Force (SLDF) in the Mount Elgon region.

Reference 16 - 0.13% Coverage

Volume I EXECUTIVE SUMMARY Land and conflict

For the majority of Kenyans, land is the basic, and in most cases, the only economic resource from which they eke out a livelihood. The ability to access, own, use and control land has a profound impact on their ability to feed and provide for their families and to establish their socio-economic and political standing in society. However, tensions and structural conflicts related to land have simmered in all parts of Kenya throughout the years of independence. In recent years, many land related problems have degenerated into social unrest and violence.

Illegal acquisition of large tracts of land from indigenous communities during the colonial period rendered many communities at the Coast and in mainland Kenya landless. While affected communities expected redress through resettlement, restoration of their land and compensation from the Kenyatta and subsequent post-independence administrations, the government, instead alienated more land from already affected communities for the benefit of politically privileged ethnic communities and the political elite. This led to deeply held resentments against specific ethnic communities who benefited from resettlement at the expense of those who believe they are the rightful owners of the land.

The Commission confirmed that land has been and remains one of the major causes of intra and inter-ethnic conflicts in the country. However, addressing historical and post-independence land injustices has not been genuinely prioritised by successive governments despite the critical importance of land to the country's economic development. There has never been any sustained effort to address land injustices that have occurred since colonial times.

The Akiwumi Commission of Inquiry established in 1998 to look into the ethnic clashes related to the 1997 General Election vividly demonstrated how the skewed land allocation and ownership has fuelled ethnic tension and led to violent conflicts throughout Kenya and particularly in the Rift Valley and Coast regions. During the mandate period, land-related grievances led to the emergence of militia groups in some parts of the country. The stated aims of these militia groups often relates to the reclamation of lands, and the

removal by violent means, of current occupants who they claim rendered them squatters. The Sabaot, for example, took up arms in 2006 in the Mount Elgon region to reclaim what they consider to be their land. Politicians often exploit the real or perceived land injustices especially around election time, for personal gain. The

dangerous mix of land-related claims with political aspirations of specific groups or individuals remains a tinderbox that could ignite at any time.

The Commission found that the 'willing-buyer, willing-seller' land tenure approach was grossly abused and is one of the major factors causing disinheritance and landlessness, especially in the face of rising human populations.

The unresolved land injustices have led to discriminatory and exclusionary practices that work against nationhood. The increasing feeling among the long-disadvantaged pastoral communities and the Kalenjin in particular (both herders and farmers) that they should fight at all cost to reclaim their 'stolen' land from the rich 'foreign' (non-Kalenjin) settlers is one example. Although no attempt was made by President Moi's government to revoke the land settlements of President Kenyatta's regime, it became increasingly difficult for 'non-indigenous' people to buy land north of Nakuru. Non-Kalenjin individuals and groups who bought parcels of land in Kalenjin-dominated areas found it hard to get them demarcated or obtain title deeds.

Reference 17 - 0.04% Coverage

The litany of historical injustices relating to land involves a complex variety of permutations. Almost every type of public land was affected: from forest land, to water catchments, public school playgrounds, road reserves, research farms, public trust lands and land owned by public corporations and private individuals. Perpetrators of the injustices were equally varied and include holders of public office and government leaders at every level, the political and economic elite, church organisations, individuals and communities. Those who held sway usurped the institutions of government to their bidding including the legislature, the executive and the judiciary.

Officials who were supposed act as custodians of public land under the public trust doctrine, became the facilitators of illegal allocation, increasing landlessness and land scarcity. The practice of land grabbing in many cases resulted in violence, as squatters resisted eviction from government land that was often subsequently lost to land grabbers. State corporations became conduits for 'get-rich-schemes' in which public lands were transferred to individuals and then quickly bought off at exorbitant prices by state corporations.

Reference 18 - 0.02% Coverage

The Commission experienced a challenge in getting reliable and quality data, particularly on state funding of social programmes and infrastructure over the years in regions identified as marginalised. In making its assessment the Commission used a number of indicators of marginalisation including physical infrastructure, employment (especially in the public sector), education, health, housing, access to land, water, sanitation and food security.

Reference 19 - 0.04% Coverage

In the case of North Eastern Province, employment, land, infrastructure, poverty, education and the institutional framework and capacity were the key indicators of the marginalisation of the region. One of the greatest impediments to development of the region is the lack of land registries in the region. As for infrastructure, which includes public utilities and is a major determinant of development and progress, the region has no tarmac road except the Isiolo-Moyale road, which is still under construction. The region has

the highest rural population living under the poverty line at 70 percent, compared to 32 percent for Central province. Lack of food security is compounded by the erratic and low rainfall and declining pastures and other resources. This in turn creates conflict over these resources, further depleting the limited resources and the livestock. The paucity of schools and their relatively prohibitive cost in an area of widespread poverty has affected access to the limited education opportunities. School enrolment stands at about 18 percent for primary schools and 4.5 percent for secondary schools compared to the national average of about 88 percent and 22 per cent respectively for primary and secondary schools respectively.

Reference 20 - 0.02% Coverage

The face of marginalisation was found to be different in different regions. The relatively fertile land and relative security of Western province tended to underplay the indicators and perceptions of marginalisation. While marginalisation has not reached the extent of that in North Eastern or Nyanza, Western was found to be forgotten in the development agenda with cash crops and related industries (cotton, sugarcane, rice and fisheries) completely ignored or badly mismanaged when compared to those of other regions.

Reference 21 - 0.02% Coverage

Landlessness is the major indicator of marginalisation at the Coast; land is the most intractable of the problems because of its historical origins. The original local inhabitants were dispossessed of their land, first by the colonialists, and later by fraudulent transactions that again ignored the original owners of the land. This left most of the land in the 10-mile Coastal Strip in the hands of absentee landlords. After independence, the dispossession of the local people was confirmed and certified instead of being rectified, which led to a palpable sense of a conspiracy against coastal communities orchestrated by people from up-country.

Reference 22 - 0.01% Coverage

marginalisation, deepened their poverty and created conflict with neighbours. For instance, the Endorois were brutally evicted from the trust land they inhabited around lake Bogoria when the government declared the area a game reserve. They were displaced, lost property and denied access to traditional cultural and religious areas.

Reference 23 - 0.02% Coverage

Fourthly, the colonial land policy, particularly in the so-called 'white highlands' contributed enormously to regional and ethnic marginalisation from the economy. Colonial land policies resulted in displacement, the creation of 'native reserves', as well as the movement of masses of people from areas of their habitual residence to completely different regions and settling them on lands that traditionally belonged to other communities.

Reference 24 - 0.03% Coverage

□ Ethnicity and access to public office: The perception that ethnic representation in government results in direct economic and other benefits to the represented community is pervasive in Kenya. While the Commission acquired evidence that such benefits do not necessarily accrue to those communities who are represented - even in the highest offices of the land - the perception that they do leads to intense competition for such representation, and thus increases the likelihood of violence during elections.

To demonstrate the complicated mix of land, ethnicity, politics and violence, the Commission includes an analysis of ethnic violence in the Mt. Elgon region. While the history of violence in Mt. Elgon is unique, many aspects of the causes of violence and its impact are typical in many other parts of the country.

Reference 25 - 0.02% Coverage

For decades, Kenya has remained a nation in which communities stand divided along ethnic and regional lines suspicious and distrustful of one another. Over the decades feelings of inter-communities distrust, even hatred, have festered mainly because a myriad of issues which are at the core of nation building have largely remained unresolved. These issues include conflicts over land, inequality and regional imbalances, and impunity combined with a lack of transparency and accountability. These issues have eroded a sense of

Reference 26 - 0.01% Coverage

Oh God of all creation Bless this our land and nation Justice be our shield and defender May we dwell in unity Peace and liberty Plenty be found within our borders

Reference 27 - 0.02% Coverage

12. Political activists and individuals who dared oppose President Moi's rule were routinely detained and tortured. Security agencies systematically committed untold atrocities against citizens they were sworn to protect. The judiciary became an accomplice in the perpetuation of violations, while parliament was transformed into a puppet controlled by the heavy hand of the executive. Corruption and especially the illegal and irregular allocation of land became institutionalised and normalised. Political patronage and centralisation of economic power in the hands of a few characterised the Moi era.

Reference 28 - 0.01% Coverage

□ establishment by the President, in June 2003, of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land; and

Reference 29 - 0.02% Coverage

The period towards the general election was also characterised by intense violent activities by militia groups, especially the Mungiki sect and Sabaot Land Defence Force (SLDF). The government responded to the violence with great force. In November 2007, the 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,¹²

Reference 30 - 0.02% Coverage

□ The Commission would inquire into human rights violations, including those committed by the State, groups or individuals. Such inquiry was to include but not be limited to politically-motivated violence, assassinations, community displacements, settlements and evictions. The Commission was also to inquire into major economic crimes, in particular grand corruption, historical land injustices and the illegal and irregular acquisition of land, especially as related to conflict or violence. Other historical injustices were also to be investigated.

Reference 31 - 0.02% Coverage

17. Moreover, many ordinary citizens did not file statements with the Commission. Thus, the Commission is acutely aware that for every statement it received and every story it heard, many more statements and stories, in their thousands, remain unwritten and unheard. The Commission tried to reach out to victims and witnesses in all parts of Kenya. Their stories are reflective of the array of experiences and the suffering of victims across the land.

Reference 32 - 0.03% Coverage

82. During the KNDR negotiations, this list was expanded to include numerous other issues and particularly, a category of issues falling under the rubric of historical injustices. In this regard, the TJRC Agreement states: The Commission will inquire into human rights violations, including those committed by the state, groups, or individuals. This includes but is not limited to politically motivated violence, assassinations, community displacements, settlements and evictions. The Commission will also inquire into major economic crimes, in particular grand corruption, historical land injustices, and the illegal and irregular acquisition of land, especially as these relate to conflict or violence. Other historical injustices shall be investigated.

Reference 33 - 0.01% Coverage

105. Secondly, it refers to dispossession and inequalities in the allocation of land in a variety of ways by successive governments (or those associated with them) in pre-independence and post-independence Kenya. For instance, during the parliamentary debate that preceded the enactment of the TJR Act, a member of Parliament observed that:

Reference 34 - 0.05% Coverage

One of the functions of this Commission is to find the so-called historical injustices. I am one of the people who have been unable to understand what this so-called historical injustice is. I am saying this because it is more related to land, and more particularly, land in the Rift Valley.⁵¹

106. In other words, the term historical injustice has been used to describe issues of marginalisation and dispossession that resulted in disparities of income, wealth and opportunity that lie at the heart of many of the current conflicts in Kenya. In its report, the Commission of Inquiry into Post Election Violence, for instance, makes reference to 'historical marginalisation, arising from perceived inequities concerning the allocation of land and other national resources as well as access to public goods and services' as one of the main causes of inter-ethnic tensions and conflict.⁵²

107. Thus, although the TJR Act does not expressly refer to historical injustices, it mandates the Commission to inquire into issues that fall under this term. First, section 6(p) mandates the Commission to 'inquire into and establish the reality or otherwise of perceived economic marginalisation of communities and make recommendations on how to address the marginalisation'. Second, section 6(o) mandates the Commission to 'inquire into the irregular and illegal acquisition of public land and make recommendations on the repossession of such land or the determination of cases relating thereto'.

Reference 35 - 0.03% Coverage

109. As can be gleaned from the foregoing discussion, the Commission's mandate was both materially vast and complex. Truth commissions are ordinarily mandated to focus only on gross violations of human rights.

In addition to being mandated to investigate gross violations of human rights, the Commission was also mandated to investigate historical injustices and other issues that are rarely the focus of a truth commission. The enormity of the task handed to the Commission is well illustrated by the testimony of a witness who, speaking of only a single event, the Wagalla Massacre, observed that: If all the water is turned into ink with which to write, all the trees are turned into pens with which to write, and all the land is turned into paper on which to write, the history of Wagalla cannot be covered.⁵³

Reference 36 - 0.02% Coverage

113. As such, while the Commission primarily focused on violations perpetrated by the state and its agents, in certain respects it considered the actions of non-state actors, especially militia groups such as Mungiki, Chinkororo and the Sabao Land Defence Force (SLDF). The Commission's inclusion of non-state actors in its definition of perpetrators was fortified by the fact that this inclusion was necessary for the establishment of an accurate, complete and historical record of historical injustices and gross violations of human rights.

Reference 37 - 0.02% Coverage

114. The Commission held a total of 14 thematic hearings focusing on the following subjects: □ Access to justice; □ Economic marginalisation and minorities; □ Land; □ Armed militia groups; □ Prisons and detention centres; □ Torture; □ Ethnic tensions and violence; □ The 1982 attempted coup; □ Security agencies, extra-judicial killings and massacres; □ Persons with disabilities (PWDs); □ Women; □ Children; □ Internally Displaced Persons (IDPs); and □ Political assassinations.

Reference 38 - 0.01% Coverage

14 Land: Historical injustices and illegal/irregular allocation of public land

Reference 39 - 0.02% Coverage

Some of those raising concerns about Ambassador Kiplagat at this initial stage were more specific, asserting that he presented a direct conflict of interest with respect to three issues in the Commission's mandate: he was a beneficiary of illegal or irregular allocations of land; he was a key witness to the events leading to the murder of the Honourable Dr. Robert Ouko who was at the time of his death Kenya's Minister of Foreign Affairs; and he was involved in one or more meetings in Wajir related to the planning of the security operation that ended in the Wagalla Massacre.

Reference 40 - 0.02% Coverage

In response to the documents submitted to the Commission, Ambassador Kiplagat met with all the Commissioners and admitted to having bought the plots of land that he was alleged to have received illegally or irregularly (including a plot mentioned in the Report of the Commission of Inquiry into Illegal/Irregular Allocation of Land (Ndung'u Report). However, he insisted that he had followed all of the then existing procedures for the acquisition of such land.

Reference 41 - 0.04% Coverage

41. A week later, Ambassador Kiplagat moved to the High Court for an ex parte application requesting a stay of the proceedings of the Tribunal while he sought legal review of the rejection by the Tribunal of his

motion challenging its jurisdiction. The High Court granted the stay of the Tribunal's proceedings on 27 April 2010. In doing so, the High Court made an important point that initially informed the Commission's decision to petition for the formation of the Tribunal. It stated: The issue is not whether the allegations being levelled against him [Ambassador Kiplagat] are true. What is material is that the Commission will want to investigate the circumstances surrounding the death of Robert Ouko, the Wagalla Massacre and the Ndung'u Report on Illegal/Irregular Allocation of Public Land and in each case he is being adversely mentioned. He cannot sit in judgment when the issues are being discussed. Justice will cry if he were allowed to sit in judgment, be a witness and an accused, all at the same time. My advise (sic) is that he should do the honourable thing.

Reference 42 - 0.03% Coverage

68. Up until the interventions of the Ministry of Justice and CAJ, the other Commissioners had publicly stated that they would honour the High Court judgement and not bar Ambassador Kiplagat from entering the Commission's offices. However, they would not work directly with him unless and until the issues raised by his conflicts of interest had been properly investigated and adjudicated by an independent process. This position was reflected in their press statement of 27 February 2012, which also noted that Ambassador Kiplagat had been named adversely by dozens of witnesses before the Commission and that he had already appeared as an adversely mentioned person before the Commission with respect to the Wagalla Massacre. The Commission also planned to call him again as an adversely mentioned person with respect to irregular land acquisition and the assassination of the Honourable Dr. Robert Ouko.

Reference 43 - 0.03% Coverage

71. At a meeting held at the offices of the Ministry of Justice on 12 April 2012 and attended by all Commissioners, Ambassador Kiplagat agreed in principle not to be involved in the parts of the Report in which he had a conflict of interest. But he raised concerns about the definitions of conflict of interest involving him. He asked, for example, whether he would be kept out of all sections of the Report dealing with land or just those sections dealing with the specific land that is claimed he irregularly or illegally acquired. Ambassador Kiplagat and the other Commissioners agreed to work out these details among themselves. As a result of this agreement, the Minister of Justice immediately announced that Ambassador Kiplagat and the other Commissioners had reconciled.

Reference 44 - 0.01% Coverage

land. Ambassador Kiplagat will be given the same rights and opportunities as any other adversely mentioned person. Thus if the Report includes an adverse finding concerning Ambassador Kiplagat, he will be given the same opportunity as other adversely mentioned individuals to respond to that finding and to have his response taken into account in the final drafting of that finding.

Reference 45 - 0.03% Coverage

Commission meeting in March 2013, almost a year after the Aide Memoire was given to him, Ambassador Kiplagat claimed that he did not understand that there was any agreement between himself and the other Commissioners as set forth in the Aide Memoire, and that he wanted access and the ability to comment on drafts of the three chapters in which he has a conflict of interest. The other Commissioners refused to renegotiate the agreement at this late date. As such, the Commission can categorically state that the final drafts of the chapters of the Report dealing with land, political assassinations, and massacres were drafted

without any input or influence by Kiplagat. As a Commissioner, Ambassador Kiplagat was allowed to read these three chapters after they were finalized so that he could decide whether or not to write a response or dissenting opinion to the Report setting out any differences he may have with the content of those three chapters.

Reference 46 - 0.02% Coverage

114. Examples abound of how, soon after signing of the National Accord, state agencies once again started sliding back to past practices. In 2008, for instance, in a security operation dubbed Operation Okoa Maisha, the army tortured and maimed suspected members of the Saboot Land Defence Force (SLDF) in the Mount Elgon region. Reports of economic crimes and grand corruption involving top government officials continued to hit the headlines. Between July 2008 and January 2009, KNDR Monitoring Project listed at least six cases of corruption in which government officials were allegedly or reportedly involved:¹⁵

Reference 47 - 0.01% Coverage

15 KNDR Monitoring Project Review Report: Agenda Item IV, Long Standing Issues and Solutions (2009); See also 'Land of scandals' Daily Nation, 15 Jan 2009.

Reference 48 - 0.02% Coverage

Commissioner Prof Tom Ojienda is a past President of the East African Law Society, past Chair of the Law Society of Kenya and Financial Secretary and Vice President of the Pan-African Lawyers Union (PALU). A Chevening Scholar, Ojienda obtained his LLB from the University of Nairobi, an LLM Degree from Kings College, and an LLD Degree from the University of South Africa. A seasoned lawyer and land expert, Ojienda was a consultant for both the Njonjo and Ndungu Land Commissions, and served as a member of the Legal and Technical Working Group in the National Land Policy formulation process.

Reference 49 - 0.02% Coverage

nent lawyers appointed by the International Bar Association on a mission to the DRC. Commissioner Ojienda chairs the Land Acquisition Compensation Tribunal, sits on the Council of Legal Education, the Board of the American Biographical Institute, the International Bar Association, the Kenya Industrial Property Institute and has previously chaired Legal Clinics at the School of Law, Moi University.

He has written two books on land law, one on the Law of the Sea and another on corruption. He has also edited two books on

democracy and constitutional change. He has consulted for the World Bank, USAID, ACCORD and EAC and continues to consult in the area of land reform, human rights, gender and legal practice.

Reference 50 - 0.01% Coverage

6. illegal and irregular acquisition of public land; exploitation of natural or public resources

Reference 51 - 0.01% Coverage

8. Economic marginalisation of communities; Multiple and systematic violations of the right to education, health, property (land)

Reference 52 - 0.01% Coverage

Including bribery; fraud; embezzlement or misappropriation of public funds; abuse of office; breach of trust; offences related to procurement and tendering Multiple and systematic violations of the right to property (land)

Including forced removal (evictions), title violations, non-compensation, illegal and irregular acquisition/allocation of land

Reference 53 - 0.01% Coverage

In this part, the Commission would like to obtain the following information with respect to specific violations and incidents related to Socio-Economic Rights: (Land; grand corruption; economic crimes; education; health; access to employment):

Reference 54 - 0.01% Coverage

Reason for violation? (eg Mpenda Vitu said the land was his; they said we don't belong there; Mkubwa wanted to employ his own people; we had no ability of questioning the use of LATF or CDF money)

.....

Reference 55 - 0.02% Coverage

Was there any investigation, inquiry, court case, intervention by elders? ETC If yes, what was the outcome? (for example, was the matter reported to Anti Corruption Commission, Department of Lands, police? Did you go to court over ownership of the land? Was the alleged discrimination reported to the Education Officer (Division, District or Provincial?) Was anyone ever arrested, prosecuted, convicted?)

.....

Reference 56 - 0.01% Coverage

Did this violation affect other people you know? Members of the community? (note that violations relating to land, education, health, grand corruption, systematic discrimination tend to affect communities and groups of people rather than individuals strictly) If YES, please provide list of other victims you know indicating relationship with you.

Reference 57 - 0.02% Coverage

Describe briefly the situation at the time of each incident (of alleged violations) (for example, Shifta War; Company XY acquiring land; XX Settlement Scheme; I went to the public office to process XX document for my daughter; Structural Adjustment Program; Airport/Airtrip expansion; Burnt Forest violence (1993); Mt Elgon violence (police operation, SLDF attack etc); floods; Kikambala evictions (1997), elections (1992); natural disaster)

Reference 58 - 0.01% Coverage

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Describe briefly the situation at the time of each incident (of alleged violations) (for example, Shifta War; Company XY acquiring land; XX Settlement Scheme; I went to the public office to process XX document for my daughter; Structural Adjustment Program; Airport/Airtrip expansion; Burnt Forest violence (1993); Mt Elgon violence (police operation, SLDF attack etc); floods; Kikambala evictions (1997), elections (1992); natural disaster)

Reference 62 - 0.01% Coverage

(for example, before I was imprisoned/tortured/lost my land, I was able to work and take care of my family, now I can't; I lost my farm; my business premises burnt down; I am now disabled and cannot be engaged in gainful employment)

Reference 63 - 0.01% Coverage

(for example) Land Title deed/ Allotment Letter

Reference 64 - 0.03% Coverage

Economic marginalization is produced by the process through which groups are discriminated directly or indirectly, in the distribution of social goods and services such as healthcare, education, social security, water and food, housing, land and physical infrastructure (roads, schools, health facilities): in general, expenditure on development. While in the economic sphere individuals and groups could be pushed to the margins by the operation of market forces and this is found perfectly legal, it is the intervention of the state and its agents in a variety of ways to tip the balance unfairly in favour of particular regions or groups — or its failure to intervene in favour of the vulnerable that is blameworthy and therefore subject of this inquiry.

Reference 65 - 0.01% Coverage

o Representation in public employment (public/civil service)? o Probe further to establish whether it relates to distribution of land (or other injustices around land), a primary means of production?

Reference 66 - 0.01% Coverage

Let discussion flow freely but probe appropriately to establish whether it is their culture? Lifestyle? Unsustainable economic activity? Examples can be: reliance on rain-fed agriculture; pastoralism (other than being unsustainable economically, it interferes with children's education etc)? Is it customs that bar members of their community from owning land or engaging economically?

Reference 67 - 0.01% Coverage

Probe further to establish specific things about the new constitution that should be emphasized. These can relate to: the Bill of Rights; Devolution; Equalisation fund; land reforms etc

Reference 68 - 0.01% Coverage

o Representation in public employment (public/civil service)? o Probe further to establish whether it relates to distribution of land (or other injustices around land), a primary means of production and survival for certain ethnic minorities and indigenous people?

Reference 69 - 0.01% Coverage

Let discussion flow freely but probe appropriately to establish whether it is their culture? Lifestyle? Unsustainable economic activity? Examples can be: reliance on rain-fed agriculture; pastoralism (other than being unsustainable economically, it interferes with children's education etc)? Is it customs that bar members of their community from owning land or engaging economically?

Reference 70 - 0.01% Coverage

Probe further to establish specific things about the new constitution that should be emphasized. These can relate to: the Bill of Rights; Devolution; Equalisation fund; land reforms etc What do they see as their role in addressing their (previous) economic marginalisation?

Reference 71 - 0.01% Coverage

o Representation in public employment (public/civil service)? o Probe further to establish whether it relates to discriminatory land ownership laws (or other injustices around land)?

Reference 72 - 0.01% Coverage

Let discussion flow freely but probe appropriately to establish whether it is their culture? Lifestyle? Unsustainable economic activity? Examples can be: reliance on rain-fed agriculture; pastoralism (other than being unsustainable economically, it interferes with children's education etc)? Is it customs that bar members of their community from owning land or engaging economically?

Reference 73 - 0.01% Coverage

Probe further to establish specific things about the new constitution that should be emphasized. These can relate to: the Bill of Rights; Devolution; Equalisation fund; land reforms etc

Reference 74 - 0.01% Coverage

o Representation in public employment (public/civil service)? o Probe further to establish whether it access to land, a major means of production? o Taxation and labour laws? o Other things done/not done?

Reference 75 - 0.01% Coverage

Probe further to establish specific things about the new constitution that should be emphasized. These can relate to: the Bill of Rights; Devolution; Affirmative action; Equalisation fund; land reforms etc

Reference 76 - 0.03% Coverage

"For me, the applicant is faced with a serious moral issue. His appointment was on the basis that his conduct, character and integrity were beyond reproach, and that he was going to be an impartial arbiter in whatever proceedings that were going to be conducted by him. It was expected that he was not involved, implicated, linked or associated with human rights violations of any kind or in any matter which the Commission is supposed to investigate. But now, he is faced with a situation where his past has allegedly been dug out and his own Commission may very well be seeking to investigate him. The issue is not whether the allegations being levelled against him are true. What is material is that the Commission will want to investigate the circumstances surrounding the death of Robert Ouko, the Wagalla Massacre and the Ndung'u Report on illegal/irregular allocation of public land and in each case he is being adversely

Reference 77 - 0.01% Coverage

o Ambassador Kiplagat has admitted to having been involved in land transactions that were labeled by the Ndung'u Commission of Inquiry as irregular and illegal.

Reference 78 - 0.01% Coverage

The Commission is required by its mandate to investigate all three of the areas listed above in which Ambassador Kiplagat is involved or linked: massacres, political assassinations, and irregular and illegal land transactions.

Reference 79 - 0.02% Coverage

2) Ambassador Kiplagat will not be allowed to review those sections of the report that concern areas in which he has a conflict of interest, including those parts of the report concerning massacres, political assassinations, and land. Ambassador Kiplagat will be given the same rights and opportunities as any other adversely mentioned person. Thus if the report includes an adverse finding concerning Ambassador Kiplagat, he will be given the same opportunity as other adversely mentioned individuals to respond to that finding and to have his response taken into account in the final drafting of that finding.

Reference 80 - 0.06% Coverage

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Reference 81 - 0.04% Coverage

While ethnicity and ethnic tension are discussed throughout the Report, we include here a case study on Mt. Elgon to provide a deeper analysis of the history of ethnicity in Kenya and its relationship to politics, land, and violence. The Mt. Elgon case study is unique because of the peculiar mix of ethnicity in the region, and the fact that ethnic tensions gave rise to a well-organized militia that terrorized the local population, which in turn led the state to engage in a military operation to stop the militia, but which also resulted in additional violations of the local population. Yet, the story of Mt. Elgon is typical in that it combines aspects of historical injustices that the Commission had seen in many other parts of the country. Firstly, the use of ethnicity to divide a local community and the combining of ethnic tension with disputes over land. Secondly, ethnic tension over land and identity spilling over into overt violence. Thirdly, the creation of organized militia groups to harden tensions based upon land and ethnicity. Fourthly, the influence of all of these forces on the political dynamics of the region, underscored by the role that

Reference 82 - 0.01% Coverage

politicians have and continue to play with respect to ethnic tension, land, militias, and other violence. Finally, the intervention of the state to combat the militia groups and to protect the local population resulting in further violations.

Reference 83 - 0.01% Coverage

Regional Boundaries Commission Sabao Land Defence Force

Reference 84 - 0.02% Coverage

This Chapter should be read together with two other Chapters contained in this Report: The Chapter on 'Economic Marginalisation and Violations of SocioEconomic Rights' which deals in great detail with the nexus between ethnic relations and economic marginalisation; and the Chapter on Land and conflict which deals in great details with the nexus between ethnic relations and land relate grievances. The next Chapter in this Volume focuses on a case study of the intersection between ethnic relations, land and politics.

Reference 85 - 0.02% Coverage

defined productive if they contributed to the economic benefit of the colonial power. Thus, fertile agricultural land and areas important for transporting goods were singled out for infrastructure

development. The preferential treatment given to some areas of the country because of their clear productivity thus led to differential treatment of ethnic communities that were patterned around the ethnic enclaves created by the colonial government.

Reference 86 - 0.02% Coverage

The colonial land policy, particularly in the so-called 'white highlands' contributed enormously to regional and ethnic marginalisation from the economy. Colonial land policies resulted in displacement, the creation of 'native reserves', as well as the movement of masses of population from areas of their habitual residence to completely different regions and settling them on lands that traditionally belonged to other communities. The creation of native reserves ensured that rural areas outside the European domain were demarcated and administered largely as tribal units. The colonial government restricted trade and contact between administrative units

Reference 87 - 0.03% Coverage

25. During the Commission's hearings, a leading political science scholar, Professor Walter Oyugi, succinctly summarised this history: Before the British settled in this country, [various ethnic] groups existed. They existed as neighbours and they interacted out of need because there were certain resources which were only available in certain areas. They accessed them through the exchange mechanism. There were also conflicting relationships depending on the culture of the neighbouring groups like cattle rustling especially between the Maasai and the Akamba, the Luo and the Nandis and so on. There was interaction and, therefore occasional rivalry over land, particularly over pasture and water, was common. Later on, this extended to agricultural

Reference 88 - 0.04% Coverage

of World War I, what the British did which contributed to the emergence of consciousness of various ethnic groups was the idea of containment. Before colonialism, people were moving freely depending on their ability to conquer; but with colonialism, they were now confined to a territory. Administrative units were created and there was an association of people within an area. Over the years, a sense of feeling that "this is our area" or "this is our territory" or "this is our land" developed. Hence, the emergence of Nandi district, Kisii district, Kiambu district and so on. So, you are there because of colonial convenience but over the years, a consciousness of ownership of that particular asset called land began to emerge. Therefore, you begin to see the convergence of territory and ethnic groups. The association of certain ethnic groups emerged. For example, Central province belonged to Kikuyu, Nyanza for the Luos and Kisii, Western for Luhyas, Rift Valley for KAMATUSA; that is, Kalenjin, Maasai, Turkana and Samburu.¹⁶

Reference 89 - 0.03% Coverage

26. As a result of the ethnic biases that coloured development and land policies of the colonial government, Kenya, like many other African countries, entered the era of independence with a heightened sense of ethnicity that continued to divide rather than unite the country. This ethnocentrism had manifold implications. It encouraged the politicisation and manipulation of ethnic identities, resulting in the exclusion of some communities from participating fully in the core social, economic and political activities of the country.¹⁷ Consequently, one of the most acute problems the country faces is the endless struggle to integrate its different communities into a democratic modern nation, without compromising their respective ethnic identities.¹⁸

Reference 90 - 0.01% Coverage

In the coastal region, members of the Mijikenda community, who regard themselves as indigenes of the coast, view non-Mijikenda individuals such as Kamba, Kikuyu, and Luo who have migrated or settled in the region as 'outsiders'. The 'outsiders' are regarded as 'wabara' and are viewed as a people who have unfairly appropriated to themselves local resources, particularly land.

Reference 91 - 0.05% Coverage

In the Rift Valley, members of the Kalenjin assert a superior claim over the region and view non-Kalenjins resident in the region as foreigners. Indeed, the region has been the site of violent ethnic clashes. In particular, during the 1992, 1997 and 2007 general elections, those considered foreigners were forcefully and violently evicted from their farms. This has been particularly the case in settlement schemes that were created in Rift Valley following independence. Non-Kalenjins living in these settlement schemes are regarded as foreigners or bunot. As explained by a member of the Kalenjin Council of Elders: According to the Kalenjin culture, visitors are received in a special way. In the language of the Kalenjin we call those people Bunot. Bunot is not a derogatory name; it is a name that describes that you do not come from that area. There is a process that the Kalenjin people carry out to assimilate those people into a cohesive life. [...] So, the Kalenjin Community requires nothing but recognition by those who came that they are Bunot and the others are the indigenous people. To bring about healing, the Kalenjin Community would like to ask the other communities and particularly the Kikuyu Community because they are predominant, they are our neighbours, they own land and we have intermarried, to recognize that they are Bunot.²¹

Reference 92 - 0.02% Coverage

Ethnic tension and violence in specific parts of the country is influenced by the dynamics of cattle rustling and other resource-based conflicts. While electioneering and insider/outsider dynamics are factors that help to explain ethnic tension and violence among pastoralist communities, resource-based conflicts are equally important. This is not surprising as access to important resources such as grazing land and water has diminished over time with the increase in the pastoralist population and the encroachment into pastoralist areas by sedentary communities.

Reference 93 - 0.07% Coverage

[W]e are a community that has been offended for a long time. History tells us that the first offence was committed in 1918 when our community was invited for a meeting in a place called Chepkesin in Ng'orora. During this incident, the meeting was expected to be a peace meeting but we are told that everyone in the meeting had a weapon. Our men were told to untie their bows. This is what happened and our people were massively killed. Down the line in 1977 to 1979, our neighbour community invaded our land causing a number of injuries and a large number of livestock were taken away. Most of us moved away. Up to date, I can tell you most of our people are living as far away as Nakuru, Eldoret, Trans Nzoia and so on because of the harsh raids by our neighbour. After 1987, the same problem emerged. That is when the sophisticated weapons were used. The AK47 was used and we began losing lives. This was serious because people were killed even on the wayside. People moved massively. It became more serious when we lost one of our great athletes, a standard six boy, in 2006 in a place called Sitegi in Kaptura Sub-Location, Ng'orora Location. This time round, it made so many families to leave their homes and so many children leave school. During the post-election violence of 2007, this became very serious. We identified one of the raids as a massacre

because in a village called Kamwotyo we lost seven people at one time. A lot of animals were taken away. There were gunshots all over. Our people moved towards Kerio Valley. Today, we have people who are settled along River Kerio as IDPs. [...] We lament because ours is a community that will never counter-attack anybody at all. This community has been very bitter. Most of our people call upon the Government to come to their rescue when these incidents happen to them. Unfortunately, the Government has never shown any commitment let alone disarming our dangerous neighbours.³⁶

Reference 94 - 0.01% Coverage

□ Diminished access to important resources such as water and grazing land has led ethnic groups to increase their efforts to control resource rich territories, and has also led to election-related violence as ethnic groups and clans compete to increase areas controlled by members of their community.⁴²

Reference 95 - 0.03% Coverage

introduction of multi-party politics in the country in the early 1990s. The introduction of multiparty politics and elections coincided with a wave of ethnic violence in parts of the country. The NCIC summarizes Moi's tenure as president in the following terms: Despite the Nyayo philosophy of peace, love and unity, there was insufficient attention to past grievances among Kenyans in the 1980s through to the 1990s. Specifically, there was: (i) lack of decisive land reforms, and land-based conflicts persisted; (ii) little regard to Kenya's diversity in employing or appointing public sector employees; (iii) inequitable distribution of budgetary resources; (iv) mismanagement of public resources; and (v) autocratic governance; among other challenges⁵⁵

Reference 96 - 0.01% Coverage

Volume III Chapter ONE Land

69. Land is a key factor in understanding ethnic tension and violence in Kenya. When the white settlers came to Kenya, they found some parts of the country unsuitable for their settlement, "either because of the climate or because it was infested by tsetse fly."⁵⁶

However, the land between the Gikuyu escarpment and Lake Victoria

Reference 97 - 0.03% Coverage

same time the colonial government began to impose restrictions access to land by the existing Kenyan residents. The NCIC recently summarized this restrictive and discriminatory history: During the colonial era, there was extensive land expropriation and resettlement by the colonialists from the indigenous communities. Land expropriation was extensive, from 2 million hectares in 1914 to 3 million hectares on the eve of independence. The expropriation was achieved through various laws, ordinances and promulgations, including the Native Trust Bill of 1926 which restricted indigenous groups to the Native Reserves. These realities raised the profile of land ownership and required extensive attention into independence to reduce their adverse impact on national cohesion and integration in Kenya. Land-related issues continue to be a lingering source of conflict to date.⁵⁹

Reference 98 - 0.01% Coverage

71. Kenyans displaced from their land by the colonial government were concentrated in reserves, something that considerably restricted their socio-economic life.⁶¹ Those who did not prefer to live in the reserves remained in European farms either as squatters or as labourers, or sought employment in urban areas.⁶²

Reference 99 - 0.01% Coverage

73. Central to many of the ethnic tensions in post-independence Kenya is the issue of redistribution of the land formerly occupied by white settlers.⁶⁵

Reference 100 - 0.01% Coverage

post-colonial land redistribution policy that was deliberately designed to favour the ruling class and not the landless masses, it is now estimated that more than half of the arable land in the country is in the hands of only 20% of the population.⁶⁶ Politicians in successive governments used land to induce patronage and build political alliances.⁶⁷

Much of the most valuable and productive land has ended up

Reference 101 - 0.01% Coverage

66 See generally G Njuguna The lie of the land evictions and Kenya's crisis, 2 African Policy Brief (2008). 67 Kenya National Commission on Human Rights 'Unjust enrichment' (2004) 1. 68. As above.

Reference 102 - 0.02% Coverage

The practice of illegal allocation and distribution of land has led to a general feeling of marginalisation among some communities as well as the ethnicization of the land question. The Commission of Inquiry into the Illegal/Irregular Allocation of Public Land (the Ndung'u Commission) noted that throughout the 1980s and 1990s public land was illegally and irregularly allocated "in total disregard of the public interest and in circumstances that fly in the face of the law."⁶⁹

Reference 103 - 0.01% Coverage

Further, through its policies that favour the investment of resources in only high potential areas that have ample rainfall and fertile lands, the government has encouraged asymmetrical development in the country that, because of the ethnic dimension of land allocation and ownership, itself has ethnic consequences.⁷⁰

Reference 104 - 0.06% Coverage

relationship among land ownership, development, and ethnicity is summarized in a recent report by the NCIC: The Sessional Paper No. 10 of 1965 on African Socialism and its Application to Development and Planning sought to empower Kenyan citizens of the new nation through the provision of services and expansion of economic opportunities. In doing so, the Government adopted the Africanization Policy to replace the departing European and Asian communities with educated or skilled Africans. Most jobs, firms and businesses were taken over by the African elite but in an ethnically biased manner that also led to the exclusion of Kenyan Asians and Europeans from citizenship and appointments in the civil service. In addition, Sessional Paper No. 10 dismissed the livestock-based pastoralist economy and in the process contributed to unequal development patterns and the marginalization of non-crop-farming communities. There are historical legislative frameworks and policies that facilitate undesirable ethnic and race divisions. Examples

of these frameworks and policies are: the Stock and Produce Theft Act which came into operation on 5th May 1933 and is still in force; Sessional Paper No 10 of 1965 that highlighted the areas with potential for growth and relegated other areas to underdevelopment without regard to the people who live there; and The Indemnity Act of 1970 which gives immunity to perpetrators of state violence against its citizens in Northern Kenya. Legislative frameworks that would have enhanced harmonious ethnic and racial coexistence were largely ignored or subverted. In addition, poor and lopsided economic policies and planning have enhanced inequality and ethnic tensions.⁷¹

Reference 105 - 0.06% Coverage

various ethnic communities and regions of the country perpetuated by the colonial administration provided the ethno-regionalised basis for political and economic discrimination of some citizens in post-colonial Kenya. Explaining this phenomenon within the context of the ethnic tensions and violence in the Rift Valley and Central provinces, the KNCHR noted: The colonial government alienated most of the agriculturally productive land for settler agriculture particularly in Rift Valley and Central. This alienation generated a large number of squatters especially among the Kikuyu. At independence, the Kenyatta government created a land market of 'willing seller willing buyer' with many of the landless being encouraged to join land-buying companies. Rift Valley Province was earmarked for settlement of the landless through this scheme. However, land did not necessarily revert to those who had lost it through colonialism. [...] Over the years, as the population of the Kalenjin who view Rift Valley as their 'ancestral home' increased, the perception also grew that the post-colonial land policies had disadvantaged the community. These grievances featured prominently in the 1990s violence as well as the 2002 elections that saw the election of President Mwai Kibaki and the National Rainbow Coalition (NARC) government.⁷⁴

77. Historical injustices related to land is thus one of the major causes of ethnic tensions and violence in the country. The Ministry of Justice, National Cohesion and Constitutional Affairs underscores this point: Although there was need for massive land redistribution [at independence], this was not implemented effectively and equitably. Land redistribution initiatives were generally mismanaged and resulted in unequal access to land. The mismanagement heightened conflict between various societal groups, given the importance of land as a source of wealth.⁷⁵

Reference 106 - 0.01% Coverage

Instead of redistributing land to those communities who had been displaced at independence, the government adopted a "willing buyer willing seller" program. Professor Walter Oyugi testified before the Commission about how the willingbuyer-willing-seller redistribution policy was abused, leading to ethnic tensions in the country:

Reference 107 - 0.09% Coverage

This policy of willing-buyer, willing-seller would benefit mainly people who could access financial resources. Somebody advised the people from Central Province that the best thing to do is to form land buying companies. The land buying companies were formed. They included the Ngwataniro, Nyakinyua and Mabati group. The Mabati Group meant a group of women helping one another to roof their houses and so on, but they also became land buying groups. They were assisted by the state and, therefore, the feeling of preferential access and the resentment that accompanied that. It continued under the leadership of the then Minister for Lands and Settlement, throughout the 1960s into the 1970s. But there would be a change in late 1970s, after Mzee died and Moi came into power. He inherited the Kenyatta infrastructure of governance and promised that he would follow his footsteps. He did by and large, but on the issue of land,

which actually took place under his watch as the Vice-President, soon after he came into power, he completely disorganized the land buying companies and disbanded them, but I thought that it was too late at that time.⁷⁶

79. Land, particularly access to rich and productive land, was also a factor in ethnic violence in the Rift Valley during elections. Some scholars have noted: In 1991, much of the violence was centred around farms which were formerly part of the so-called 'white highlands', land appropriated from those communities who customarily owned and occupied it by the colonial government for white settler farming. Mitetei farm in Tinderet Division, Nandi District, provides an example: purchased by members of the Kikuyu, Kamba, Luhya, Luo and Kisii communities, it is located in traditionally Kalenjin land. Some local Kalenjin argued that they should also receive shares in the farm, leading to a dispute in which the local authorities took the side of the Kalenjin, because of ethnic affiliations and party politics. This farm was the scene of attacks by Kalenjin on the 29th October, 1991, causing all non-Kalenjin occupiers to flee. In or about June, 1992, the farm was surveyed and shared among local Kalenjin people, and titles were issued to them to the exclusion of those who had been forcibly displaced. Those who took over the property refused to reimburse the IDPs for the cost of their shares, arguing that it was 'rent' for land which really belonged to Kalenjin. Owiro farm in Songhor location, Tinderet Division, is another property bought from a European by non-Kalenjin (Luo) individuals using bridging finance from the Agricultural Finance Corporation (AFC). The owners of this farm were also killed or forcibly displaced during the 1991 violence.⁷⁷

Reference 108 - 0.01% Coverage

The finer details of the inter-section between grievances over land and ethnic relations have been dealt with in greater detail in the chapter on land and conflict.

76 TJRC/Hansard/Thematic Hearing on Ethnic Tension/2 February 2012/p. 7. 77 J Wakhungu, E Nyukuri and C Huggins Land tenure and violent conflict in Kenya (2008) 15.

Reference 109 - 0.03% Coverage

The perception that ethnic representation in government results in direct economic and other benefits to the represented community is pervasive in Kenya. While the Commission acquired evidence that such benefits do not necessarily accrue to those communities who are represented - even in the highest offices of the land - the perception that they do leads to intense competition for such representation, and thus increases the likelihood of violence during elections. According to Prof. Walter Oyugi: Ethnicity is an expression of ethnic consciousness in a competitive environment. When people feel that they are being marginalized in the competitive process, their consciousness is heightened. When they think there is exclusion in the structure of access, their consciousness is heightened and mobilization is very easy by the politicians.⁷⁸

Reference 110 - 0.01% Coverage

to those communities who are represented - even in the highest offices of the land - the perception that they do leads to intense competition for such representation, and thus increases the likelihood of violence during election.

Reference 111 - 0.03% Coverage

86. Various reports by human rights and humanitarians organisations have highlighted not just the plight of IDPs in camps but the lack of a coherent response from the various governmental agencies responsible

for IDPs issues. This give an inclination of a serious absence of political will to effectively resolve the issues of displaced people. A report by the KNCHR/FIDH discusses how the National IDPs Network together with KHRC petitioned the office of the President, the Ministry of Justice and the Ministry of Lands which subsequently made the government to respond to their concerns especially from the security, land and governance perspective.⁸⁵ November 2004 President Kibaki set up a Task Force aiming at collecting data on IDPs, registering them and making recommendations for their assistance.⁸⁶

Reference 112 - 0.04% Coverage

Ethnic tension, particularly the tendency to view people who are different as 'the other' and thus not identify with, and either fear or scapegoat them, is unfortunately as old as human history. To understand the continued presence of ethnic tension today, and its evolution during the mandate period, the Commission traced the roots of ethnic tension to the colonial period, for it was under the colonial power that the political entity today known as Kenya was formed. Any discussion of ethnic tension in present-day Kenya would be incomplete without a discussion of the relationship between ethnicity and politics. It is an unfortunate fact that who joins a political party, and which politicians or parties form alliances, can be more often explained by ethnicity over any other factor. It is this potent, and at times volatile, combination of ethnicity and politics that has unfortunately spiralled into ethnic violence far too many times in our history. In the end, it must be appreciated that tackling ethnic tension requires a multifaceted approach aimed at addressing the root causes, including long standing land grievances and economic and political marginalisation.

Reference 113 - 0.01% Coverage

Ethnic Tension, Land and Politics: A Case Study of the Mount Elgon Conflict

Reference 114 - 0.02% Coverage

victims of sexual violence may run into the hundreds. Up to 45,000 people were displaced. The Commission presents the Mount Elgon conflict as a case study of a conflict that sits at the intersection of three volatile trends that dominated the mandate period. These trends are: ethnic identity and land and electoral politics. Individually these trends are disruptive. Collectively, however, they carry the potential for deep and sustained crisis with serious implications for the protection and violation of human rights. This is then the case study that Mount Elgon presents.

Reference 115 - 0.02% Coverage

group that—obviously—the Sabaot Land Defence Force takes its name from. The Sabaot are best understood as a collection made up of four sub-groups known as the Sabiny (or the Sebei in Uganda), the Bongomek, the Kony and the Bok. The name Sabaot has a very specific, recent and traceable history. It emerged in 1949 as name that these four groups assigned to themselves as, it has been argued, to the creation of another supra-ethnic group in the region, the Luhya.⁴

Reference 116 - 0.01% Coverage

"We are not Sharing Mount Elgon": Land and the Mountain

Reference 117 - 0.06% Coverage

9. Mount Elgon, like so many other parts of Kenya, was profoundly affected by the colonial administration's decision to open up parts of the country to European settlement. In 1926, a branch of the railway reached Kitale. The region's temperate climate and fertile soils proved irresistible and soon afterwards Uasin Gishu and Trans Nzoia were set aside exclusively for European use. Indigenes were evicted further westwards into the Kavirondo Native Reserve which included Mount Elgon. This was how many Sabaots found themselves on the mountain. Trans Nzoia and Uasin Gishu were entirely shut off to them except if they took up employment as labourers on European farms. In 1932, there was another critical development with the Carter Land Commission. The Carter Commission represented a seminal attempt to tackle land needs and tenure in colonial Kenya. In Mount Elgon, Carter made the critical decision to create another Native Reserve in the moorlands. The reserve consisted of 40 000 acres at altitude and above the forest belt in Chepkitale. Its occupants consisted of a community that colonialists referred to as the "El Gony" but who are more—as per the discussion above—are more properly described as the Ogiek with (possibly) Bok elements: The Moorland area of Mount Elgon, comprising some 40,000 acres, should be added to the Kavirondo Native Reserve and set aside for the use of the El Gony, who should also be able to find accommodation in other parts of the Kavirondo Native Reserve, or to the extent that the Uganda Government may be willing to accommodate more El Gony in its territory, they should have an option of going there.¹⁴

Reference 118 - 0.01% Coverage

14 Claire Medard, "'Indigenous' Land Claims in Kenya: A Case Study of Chebyuk, Mount Elgon District' in Ward Anseeuw and Chris Alden (eds), *The Struggle over Land in Africa: Conflicts, Politics and Change* (Cape Town, 2010), p. 22.

Reference 119 - 0.03% Coverage

The residents of Mount Elgon are incredibly conversant with this history. They speak eloquently about events that took place nearly eight decades ago and add their own personal and pained feelings about the fate that befell them as a result of the Carter Commission: I can summarize the problems of Mount Elgon in a very short manner. It is based on the arrival of the colonial government. Before that the Sabaot were able to look after themselves successfully. Unfortunately when the Europeans came, they removed them from their ancestral land which is currently known as Trans Nzoia and Bungoma including Mount Elgon itself. The Europeans removed Sabaot because they wanted to use their land to settle their own Europeans. To do that, they physically removed them. They were taken in Uganda as shown in our records. The Sabaots have been living under a lot of humiliation. They have been marginalized and persecuted. They were prosecuted and dispersed.¹⁵

Reference 120 - 0.02% Coverage

The Commission also heard from another extraordinary 91 year old witness who had even more vivid memories about the demarcation of the Chepkitale reserve: After the white settlers came, they said that we were living with animals. They tried to put the boundaries between the forest and the land. They took the soil to test it and establish where the boundary of the forest was. Those Europeans they put beacons to show the boundaries of the Soy and the Mosop. The name "Soy" shows where the boundary was. They called the other side "Reserve".¹⁶

Reference 121 - 0.03% Coverage

The mountain approached Independence with trepidation. The decision to leave the boundaries unchanged was angrily received. Added to this was a heated political atmosphere occasioned by competition between the two main parties – KANU and KADU – and their ethnically defined constituents. In 1963, violence broke out on the mountain. While the violence went both ways (anti-Bukusu and anti-Sabaot), the Bukusu seemed particularly badly hit. Once again, this is something that current residents continue to remember and speak about with a great deal of pain: In 1963 when we elected the first MP for Mount Elgon, we had clashes. Houses were burnt and cattle stolen, homes were destroyed...From 1961 to 1974, we had the infamous tribal clashes. Those really affected us very much. People were killed, cattle stolen and homes destroyed. During that period, about 556 Bukus were killed across Mount Elgon and Trans Nzoia and 50 Bukus displaced. During that time, land was taken by the Sabaots.¹⁸

Reference 122 - 0.01% Coverage

Identity and land provided the structural underpinnings to the SLDF. The actual catalyst, however, was the Chebyuk Settlement Scheme. Chebyuk has a long, complicated and ultimately unavoidable history that holds the keys to understanding the emergence of a complicated militia.

Reference 123 - 0.02% Coverage

18. Most Ogiek agree that – attachment to the land aside – life in Chepkitale was difficult. An Ogiek elder sketched out an unhappy picture for the Commission: These people did not have schools, before and even after Uhuru. When Kenya attained independence, these people were forgotten. They were not offered school education and from 1963, there were no primary schools in Chepkitale. If it was there, it was only one that went up to Standard Three. That was a big problem. There was no hospital, no security personnel and because of this, the animals were stolen by the Sebei of Uganda. These people had great suffering.¹⁹

Reference 124 - 0.02% Coverage

made when the scheme was first announced. Families with no titles then proceeded to sub-divide and re-sell their self-claimed allocations. The main recipients/beneficiaries of this redistribution were Soy locals and neighbours who had helped in the clearing of forest. Chebyuk also attracted huge numbers of people who had not been included in the original plans. Landless Soy families who had missed out on nearby settlement schemes in Trans Nzoia streamed into Chebyuk hoping to benefit from the lack of legal structure to install themselves on plots of land.

Reference 125 - 0.02% Coverage

The movement of the Ndorobo to the Chebyuk Settlement Scheme did not take place when it was conceived in 1965 because of logistics. The Ndorobo as they were referred to were moved in 1971 by the then Government. Allow me now to say that the Government did not do its work because it never identified how much land out of the forest was going to be allocated to these Ndorobo. So the excision exercise did not take place. The Government did not appoint a Commission or a Committee which was credible to settle those people. The Government left those people to settle themselves.²¹

Reference 126 - 0.03% Coverage

What happened is that they invited their brothers the Soy to clear the forest because this was forest land. Some of them decided to sell certain pieces of land to facilitate themselves to till the land. The Government

did not facilitate them. This is how the Soy came in. However, that is not the only way the Soy entered Mount Elgon. There are those who bought land in the so-called Mount Elgon Chebyuk Settlement Scheme from the Ndorobo. When Chebyuk Settlement Scheme was taking shape, there were pockets of land which were left as islands in the proposed scheme. Some of them are the current Cheptoror. The Soy people grabbed land and settled themselves. The current Cheptoror was then referred to as Shauri Yako. The reason for this was because they had not been allocated the land.²²

Reference 127 - 0.01% Coverage

25. Chebyuk Phase One and the three year delay involved in its establishment left a lot of unhappy people in its wake. Nobody seemed entirely satisfied with the way that things had turned out. The biggest problem was a large constituency of people believed that they had been unfairly shut out of the scheme. The disgruntled included Soy who claimed that they had either been given or had bought land

Reference 128 - 0.09% Coverage

from the Mosop and had been wrongly overlooked and subsequently evicted by the committee that had decided on final allocations in Phase One. There were also those who had simply allocated themselves large tracts of land in Chebyuk; they had lived there for many years and wanted their squatter and user rights recognized.

26. While they were the primary beneficiaries of the scheme, the Mosop began to take a much harder line on Chebyuk land. The twenty acres per family apparently agreed upon when the scheme was first announced do not seem to have materialized with each household eventually receiving much less land than they had anticipated. Another of their main arguments became that the 6500 hectares that they had been allocated in Chebyuk was inadequate compensation for 35 000 hectares they had lost in Chepkitale. Indeed, some even tried to move back up into the moorlands even though Chepkitale had been turned into a game reserve in 1968 and thus not licensed for human activity and settlement. They were forcefully and violently evicted by administration police. The Mosop also turned their attention to the presence of Soy and other so-called outsiders within Chebyuk itself who had bought or otherwise acquired land in the scheme. They demanded this land back. The Soi (and to a lesser extent Bukusu and Teso) who had bought land from the Mosop counter-demanded their money back and, failing that, simply refused to move. A Commission witness described Mosop unhappiness with the situation that prevailed in the late 1970s and early 1980s: In 1979, the Government went and chased those who had remained in Chepkitale. During this process some of the animals were shot and killed. In the 1980s when we were in Chebyuk, the rulers who were imposed on us ruled us ruthlessly. They were predominantly from the Soi community. We suffered greatly because we had no chief, no political leader and we were ruled ruthlessly.²³

27. Although the Commission has been unable to establish the specifics, a series of petitions and representations were made concerning the situation in Chebyuk. Eventually in 1979 President Moi set aside yet more land for additional settlement. This is what became known as Chebyuk Phase Two. It came as no surprise to the Commission that many of the same problems that bedevilled Phase One manifested in Phase Two. The legal framework required to anchor the settlement (degazettement) was entirely non-existent. There was also no clear understanding as to how the land would be divided amongst the many different claimants. The perennial issue of squatters and the apparent buyers of Mount Elgon also could not be addressed. As such, the 1980s were tense and difficult years in Chepyuk. Some Commission witnesses have spoken about

Reference 129 - 0.01% Coverage

In 1988, a delegation of Mosop elders met with President Moi and presented him with a memorandum outlining their many concerns about the land situation in Mount Elgon. They expressed deep anxieties about the adjudication and allocation in Chepyuk Phase Two accusing the local Member of Parliament, Mr. Wilberforce Kisiero and a local chief of corrupting the process for the benefit of their families, friends and associates.²⁴

Reference 130 - 0.01% Coverage

Assistant Ministerial position at the Ministry of Education. He then announced the appointment of a team to re-evaluate and streamline the allocation of land in both Chebyuk Phase One and Phase Two. That team consisted of Mr. Lekoolool (who was at this point the Commissioner of Western Province), Mr. Changole (District Commissioner Bungoma) and a Mr. Muchumbet (a government surveyor). They began work in early 1989.

Reference 131 - 0.05% Coverage

most descriptions, anecdotal and academic, Lekoolool's intervention was dramatic. All the Chepyuk allocations and self-allocations were annulled. The entire process would begin all over again. A vetting committee was created and applications invited afresh. Predictably, the number of applicants far exceeded the amount of land available. Perennial claimants to Chebyuk land, the Mosop and the Soy, put in their claims. There was also a rush of interest from people from many other communities; their applications were based on long term settlement by virtue of having worked or having bought the land. With no other way to balance the amount of land available against the number of applicants, Lekoolool's committee introduced balloting which reduced the entire allocation process to a kind of raffle; those whose names and numbers came up counted themselves lucky. The Committee also capped land parcel sizes at 2 hectares as way of admitting larger numbers into the scheme. At the end of the exercise, a group of Mosop was settled mainly in the Cheptoror and Kaimugul areas of the scheme. The Soy received scattered plots throughout Chepyuk. The vast majority, however, could not prove ownership. They were evicted from their land along with those could prove ownership but had no luck in the balloting. Entire families were uprooted. Landless, people drifted to urban centres such as Kapsakwony, Cheptais and – further afield – Bungoma, Kitale and Webuye.

Reference 132 - 0.02% Coverage

It was a violent and unsettled time on parts of Mount Elgon. Some residents blamed Mr. Lekoolool personally for both the fact and the manner of their eviction from Chebyuk: PC Lekoolool chased away those people who had lived in the forest. When this happened, they burnt people's properties and brought people from Mosop and put them in Cheptoror. They closed every path and said it was a forest where trees would be planted. After they planted trees, we went there and cried wondering what had happened yet we happened to have been given the land by the Government.²⁶

Reference 133 - 0.03% Coverage

36. The central problem with Chebyuk Phase Three was that as with Phase Two, the scheme was introduced into an area already characterized by different forms of land occupation. Moreover as soon as Phase Three was announced, it attracted a slew of newcomers intent upon formulating their own claims to the land. Typically, inertia, confusion and delays set in. At some point the District Commissioner, a Christopher Munguti, attempted to jump-start matters by apparently preparing residents for the infamous and much despised process of balloting. Some kind of preliminary survey was conducted. The Commission is unclear

about Mr Munguti's actual role. Testimonies heard suggest that it was a high-handed one. One witness claimed that at some point in 1998, Mr. Munguti carried out 'balloting for Chebyuk III at Kapsakwony at the office'

Reference 134 - 0.01% Coverage

Another DC by the name Munguti returned evil again into Chebyuk. They brought the map and asked the people to ballot for their land using the map. The land they were asking people to ballot for was already occupied by other people. Once you had participated in the ballot, the surveyors were instructed to go and remove the person who was already on the farm.³²

Reference 135 - 0.02% Coverage

These attempts at surveying and purported evictions inspired yet another visit to see President Moi in Eldoret. Mr. Munguti's handling of Chepyuk Phase Three was apparently the main topic of discussion: We met President Moi at Eldoret where we informed him about the problems we were facing. President Moi was so surprised. He said: "I had given you this land, who is this one that is again interfering with the map?" We told him it was DC Munguti. He asked us where DC Munguti came from. We told him we did not know. He said: "I have heard," and we then came back.³³

Reference 136 - 0.01% Coverage

Soon afterwards, District Commissioner Munguti was transferred out of Mount Elgon. Chebyuk residents attributed the transfer to intervention by the President. The process started again with a much clearer focus on the matter and task at hand: 1732 (mainly Soy) families to be settled on 3464 hectares of land.³⁴ worked out to individual plot sizes of 2 hectares each.

Reference 137 - 0.03% Coverage

In the early 2000s, government machinery finally moved into action. For many of the same reasons already explained, surveying was a slow and difficult process that ran into a number of headwinds including the emergence of a campaign known as Nyumba kwa Nyumba. The chief proponent of Nyumba kwa Nyumba was the then member of parliament, Mr. John Serut. Nyumba kwa Nyumba was a stand borne out the fiercely competitive politics of Mount Elgon which will be discussed shortly. It is best understood as a call for usufructuary rights to be recognised during the survey and allocation. In other words, people would be allocated whatever land they were using and had claimed as their own despite the fact that some of these plots were many times larger than the two hectares that the government intended. Serut is said to have advised people to sit tight and to regard that the survey as a mere formality

Reference 138 - 0.01% Coverage

³⁴ Chebyuk Phase Three is most often described as designed with the Soy in mind as they had been somewhat ignored by Chebyuk Phases One and Two. See Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', ISS Pretoria Monograph No. 152, pp. 17 – 19.

Reference 139 - 0.01% Coverage

that would eventually confirm their ownership of the land. Indeed, many of his constituents voted for him in the 2002 election on the basis that he had promised to 'assist' them to resolve the land issue.³⁵

Reference 140 - 0.04% Coverage

In his depositions on Nyumba kwa Nyumba before the Commission, Mr. Serut stepped back from his trenchant stand of a decade ago. Nyumba kwa Nyumba, was both misstated and misunderstood and that it was never his intention to suggest that each, any and all residents of Chebyuk would be allocated their particular patch of land. That, he argued would result in very small and unproductive plots: a 'slum' of little agricultural and economic value. Serut's current explanations of Nyumba kwa Nyumba maintain that was meant only as a general call for a legitimate survey that respected the rights of 'genuine', long-term squatters: So, what did I mean? I meant this: proper procedures were to be followed. Identification of the genuine people to be settled and; thereafter, those who were already on the ground, should be settled on the same piece of land, not to be moved. So, after vetting, the list should be re-vetted for the people on the ground. If you are already on the ground, it only made sense that you are returned to the same piece of land. That is what I called "Nyumba kwa Nyumba". Not a man coming to squat on land and within two days and then you are told now you have ownership of land.³⁶

Reference 141 - 0.02% Coverage

They were very patient. They went through the process peacefully and involved and engaged the community properly. When we identified the land, we agreed that to identify those who should be beneficiaries, we should use the panel of elders. The panel of elders did its work and in a priority manner. The Ndorobo were told to get 50 per cent and the Soy 50 per cent. We also agreed that those who would be identified as beneficiaries, the list to be held for one month for the public to ventilate and find out whether the people who had been undeserving. When this list had been hung for one month, nobody raised a finger against anybody to say that he or she did not deserve.³⁷

Reference 142 - 0.02% Coverage

44. Land and ethnicity explained the underlying cause and eventual emergence of SLDF. They do not, however, fully explain the timing of the militia or provide a complete answer for why the group activated when it did. For an understanding of timing, the Commission turned to the politics, politicians and political cycles of Mount Elgon. The question of Mount Elgon land was deeply politicized. From the local to the national to the presidential, politicians of all hues were drawn into knotty issue that was Chebyuk settlement scheme. Parliamentary politics though have had the greatest impact.

Reference 143 - 0.02% Coverage

representatives have without exception aligned themselves with the larger Kalenjin bloc and whatever political party housed them. Daniel Moss of KANU was the first politician to represent the mountain in Independent Kenya. He was a trenchant supporter of Sabao land rights and a prime mover behind the establishment of Chebyuk in the mid-1960s. The same can be said of his successor Wilberforce Kisiero who appeared before the Commission to make

Reference 144 - 0.03% Coverage

In 2002, John Serut rose to the pinnacle of Mount Elgon politics defeating the incumbent Joseph Kimkung. Mr. Serut came to politics from the Ministry of Lands where he used to work as a registrar. There was of course nothing accidental or coincidental about this. He presented himself to the electorate as someone with a technical understanding of land issues. The importance of land on the mountain means Elgon politicians structure their campaigns around promises to deliver farms into the waiting arms of the landless. One of the messages of his campaign was that allocations at Chepyuk III would finally be settled to the advantage of all concerned especially his supporters: the Sabaot. The Nyumba kwa Nyumba campaign was a reflection of this popular and populist stand. As the sitting Member of Parliament, Mr. Serut's sentiments carried great weight and some of the Commission's witnesses described their great pride in a leader who was finally standing up for the poor and landless of Mount Elgon.³⁹

Reference 145 - 0.03% Coverage

51. Mount Elgon's "No" vote had fall out had lasting consequences for the open running sore that was Chebyuk. Mr. Serut explained his defence of proposed constitution in high-flowing moral and ethical terms such as opposition to same-sex marriage. The Commission, however, heard consistent evidence that in fact, he ran a hardnosed and nakedly political campaign during which he linked the regularization of Chebyuk land to voting "Yes". Ominously, he linked voting no with dire and unpleasant consequences. At a rally held in the wake of the referendum and Mount Elgon's resounding "No" vote, Mr. Serut was heard chastising constituents for refusing to 'follow bees for honey' and instead choosing to 'follow flies and [to] eat human waste'.⁴²

Reference 146 - 0.03% Coverage

53. Mount Elgon, however, voted no. Almost immediately, drastic changes were introduced into Chebyuk Phase Three. As has been explained above, a scheme that was seen as being previously reserved for the Soy now had to admit the Mosop. The popular explanation in Mount Elgon for this redistribution was that, in Serut's terms, the Mosop had chased the bees. In other words, the Mosop had supported the referendum and even though the cause was a losing one, they were still rewarded with—as it were--the honey. In the process, Mr. Serut began to emerge as a champion of sorts for the Mosop seeking to be considered and included in the allocation of land at Chepyuk. Serut's co-option of Mosop causes would cost him the support of the majority Soy who gradually came

Reference 147 - 0.01% Coverage

had to be found. This, roughly, was the milieu that Fred Chesebe Kapondi stepped into. It was a milieu in which land and specifically Chebyuk land had acquired an overtly political sheen.

Reference 148 - 0.04% Coverage

57. Unlike Mr. Serut, Mr. Kapondi was neatly placed with the triumph of the Orange/No vote against the proposed constitution. Two fortuitous trends seemed to combine. The first concerned the fall-out from the re-drawing of Chebyuk. There was a large group of Soy malcontents who had either been locked out of the scheme altogether or stood to lose huge swathes of land on account of the 2.5 hectares cap. Soy elders who were shell-shocked and disappointed in Mr. Serut's betrayal of their cause began to look around for someone else to represent them in the upcoming elections. This group of elders included Patrick Komon (Wilfred Matakwei's father) and Jason Psongoywo Manyiror who was one of the largest land owners in region. In Mr. Kapondi they found an ideal candidate. Quite apart from his recent break with the hated

Serut, Mr. Kapondi had a long and documented history of working for Saboot and particularly Soy land rights. The elders and those with long memories remembered that as KANU chairman, he had been part of a Saboot delegation that had visited President Moi in 1989 and 1993 to present their claims for additional land.

Reference 149 - 0.03% Coverage

The Commission took this small community based organization (CBO) as the final element responsible for the emergence of the SLDF. The CBO was formed in or around 2002 when intense discussions about the fate of Chebyuk III were being held. Its main goal of the organization has been explained as furthering Saboot land rights at a time when arguments about rationalizing Chebyuk were gathering momentum: The CBO was established to educate people about the problems encountered. The CBO was also supposed to tell the Government about the land problem in Chepkurur. It was one way of looking for money to enable the organization to go on with its programs and also to ask politicians from the area to help. The organization was also intended to go to court and seek redress.⁵⁷

Reference 150 - 0.01% Coverage

The main members of this CBO were drawn from a very specific and distinctive group. Commission witnesses have described them as 'Soy elders' but what they were the men who had owned huge farms by virtue of having allegedly grabbed and settled upon land in the early 1970s when Chebyuk Phase One was first announced.⁵⁸

Reference 151 - 0.03% Coverage

Soy laibon or ritual specialist were the long-term owners of 100 and 200 hectares of Chebyuk land and formed the core of group that stood to lose most from the successive attempts to regularize ownership of land in Mount Elgon. These men were unapologetic in their holding on to such vast spreads. As Mr. Manyiror explained, the land was theirs and had always been; The farm belonged to my father. That is where I was born. It was not possible for anybody to go into that land because it was my grandfather's farm. I was on that farm together with my children and stayed there without any complaint. I had no problem with anybody. Nobody accused me and I did not have any boundary problems. It is jealousy which has brought animosity.⁵⁹

Reference 152 - 0.02% Coverage

The CBO claimed to be entirely peaceful in its goals, methods and aspirations. The CBO seemed to concern itself mainly with the raising of monies to further their campaign and to file court cases meant to protect Saboot land interests using legal and legitimate means. In 2004, members filed an injunction in Eldoret seeking to halt renewed surveying in Chebyuk Phase Three. What became of the case is unclear. Some witnesses claimed that it was thrown out; others that it collapsed. At any rate, disenchantment with Kenya's slow-moving and unresponsive judicial system had set in. Over the next couple of years, the CBO and its members gradually

Reference 153 - 0.03% Coverage

75. April 2006 was a tense and difficult month in Mount Elgon. Much to the disgust of many Soy claimants, Chepyuk Phase Three had to be shared between them and the Mosop. Plots were capped at just two

hectares. The grim news was confirmed when the list of beneficiaries was published and posted in the District Commissioner's office. The lucky ones were to await their letters of allocation. The unlucky ones faced a much less rosy future; dispossession and eviction was their fate. Those most bitter about these developments were a core group of very large land owners who had somehow over many years managed to avoid the Chebyuk dragnet. This time round however, things seemed quite different. Redistribution and eviction looked inevitable.

Reference 154 - 0.02% Coverage

formed part of this coterie of large land owners. He was also Wycliffe Matakwei's father. Matakwei was the previously unremarkable and fairly average young man who became the commander of SLDF. Komon's home was hosting a meeting: It was noon and the clock was ticking towards 1.00 p.m. I saw the son of Patrick Komon. He came to my home and told me: "There is a meeting at our place and my old man needs you." So I just accompanied him to their home. When I reached Mzee Patrick Komon's place, he welcomed me.⁶⁶

Reference 155 - 0.02% Coverage

The witness claimed that a Miss Komon, Mr. Maling'a and Titus Waikei were also present. Attendees were said to be holding discussions about what to do about next about the situation in Chebyuk. A solution was proposed: Leader of Evidence: What did you hear them discuss or what did you see them do? Witness: When Matakwei asked what we were supposed to do, Hon. Kapondi said that we had to protest about this, and that the only way to protest was by fighting so that our land could not be given to the other people. He said: "You must fight so that the Government can realize that your land should not be taken away from you. Then, finally you will be given your land."⁶⁸

Reference 156 - 0.01% Coverage

Further allegations were made surrounding guns that were to be used in the fight for the land:

Reference 157 - 0.01% Coverage

66. TJRC/Hansard/In-Camera Hearing/Nairobi/14 September 2011/p. 30. 67 Nathan Warsama was a well known local politician in Mount Elgon. He stood and was elected unopposed as the councilor for Sasur Ward. From Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 33.

Reference 158 - 0.02% Coverage

Soon afterwards, a second meeting was held at Warsama's residence. The witness did not give details. Those present, however, were described as undergoing an important ritual designed to bind them to each other and to their newfound cause. The ritual was overseen by Psongwoyo Manyiror, the Soy laibon who was also one of the largest land owners in Chebyuk: After the guns were produced during the second meeting, Mzee Jason Psongwoyo said: "Bring one sheep outside." So, a male sheep was taken out and slaughtered. The dung was squeezed out of the intestines, which they used to smear the guns as they talked in tongues.

Reference 159 - 0.01% Coverage

In August 2006, an assistant chief, Shem Cherowo Chemuny, who had been 'implicated in bribery to influence land allocation' was killed along with two guards and his daughter.⁷² This murder was followed by that of Cleophas Sonit, the chief

Reference 160 - 0.01% Coverage

73 See Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 23 and also TJRC/Hansard/Public Hearing/11th

Reference 161 - 0.01% Coverage

74 Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 23.

Reference 162 - 0.02% Coverage

83. As has been explained above, the original and ostensible purpose of the protection of the Soy clan's land interests in Chebyuk Phase Three. Wycliffe Kirui Matakwei volunteered with other young men, mostly from the Soy tribe to take up arms against the evictions. Young people were mobilized by the community to defend them against the evictions: The worst eviction was that of 2006. Most of these boys just went to the forest and formed the militia.⁷⁶

Reference 163 - 0.01% Coverage

85. With time, the militia's ambitions changed somewhat with new rhetoric expanding to include taking back land not just in Mt. Elgon, but also those stretches of Trans-Nzoia which were forcefully taken from the community by the colonialists.⁸⁰

Reference 164 - 0.01% Coverage

land interests echoed claims placed by the Sabaot before the Carter Commission in 1932. The SLDF concentrated its activities in Kopsiro division where Chepyuk settlement scheme is located and in Cheptais where most of the SLDF commanders (including Matakwei) and majority of land claimants in Chepyuk III originally came from.⁸¹

Reference 165 - 0.01% Coverage

80 Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 24

81 See Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 23-24

Reference 166 - 0.03% Coverage

96 See Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya' p. 28 97 Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya' p. 28 98 Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya'. 28 99 Simba, Chui, Nyati and Headquarters

camps headed by Fredrick Kituyi Chesaa, Kijiji Matia Itit, Samson Kanai and Philip Tirot respectively. See TJRC/Hansard/ In-Camera Hearing/Nairobi/14th 100 See TJRC/Hansard/ In-Camera Hearing/Nairobi/14th 101 TJRC/Hansard/In-Camera Hearing/Kimilili/25th 102 TJRC/Hansard/Public Hearing/Kapsakwony/23rd 103 TJRC/Hansard/Women's Hearing /24th

Reference 167 - 0.01% Coverage

145 Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 28

Reference 168 - 0.02% Coverage

by the SLDF have caused many to leave the Mt. Elgon area. This has resulted in shortage of teachers, as recounted to the Commission by a witness: I buried eight teachers and 30 pupils. Many of my teachers were punished. Many of them were given 200 canes. Sometimes, six inch nails would be used to sew up lips. It made teachers to flee this land. Up to now they have not come back. The shortage you are seeing is a result of that. Six schools were closed down and up to this time, they are still closed.¹⁵⁷

Reference 169 - 0.03% Coverage

127. The Mount Elgon conflict is at once unique and typical. For the Commission its uniqueness comes from the fact that the region is home to a very particular mix of ethnicities, historical and contemporary experiences that cannot be reproduced. It is this unique combination that in turn gave rise to the Saboot Land Defence Force (SLDF). The militia and the state's attempts to quash it are unprecedented. For all its uniqueness, however, Mount Elgon sits within an identifiable trend in modern Kenyan history: the inherent instability and disruptive potential of issues surrounding ethnicity, land and politics. The forces that eventually pulled Elgon are by no means limited to the mountain. They feature throughout the country and carry with them the capacity to manifest with similar violence and chaos.

Reference 170 - 0.04% Coverage

Kenya's history has been characterised by tragic episodes of gross violations of human rights. Most of these atrocities were committed between 1963 and 2002 during which Kenya African National Union (KANU) was at the helm of power. KANU, the independence party, and under the leadership of President Jomo Kenyatta and later President Daniel Arap Moi, created an authoritarian, oppressive and corrupt state. It created a traumatised nation of thousands of individuals living with physical and psychological wounds in a country that had no time or space for their experiences and stories. Indeed, for decades, Kenya has remained a nation in which communities stand divided along ethnic and regional lines suspicious and distrustful of one another. Over the decades feelings of intercommunities distrust, even hatred, have festered mainly because a myriad of issues which are at the core of nation building have largely remained unresolved. These issues include land problems, inequality and regional imbalances, and impunity combined with a lack of transparency and accountability. These issues have eroded a sense of belonging, nationhood, and public trust in political and governance institutions.

Reference 171 - 0.09% Coverage

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Reference 172 - 0.01% Coverage

Sabaot Land Defence Force

Reference 173 - 0.02% Coverage

In thinking about and formulating recommendations, the Commission took note of the fact that the Commission was established as part of the Kenya National Dialogue and Reconciliation process which led to the initiation of numerous reforms and mechanisms intended to address long-standing historical issues. As a consequence, many of the issues that the Commission was tasked to address have been addressed (either in whole or in part) or are in the process of been addressed. For instance, the Constitution of Kenya 2010 has dealt with or laid the basis for addressing such issues as historical land injustices and economic marginalization.

Reference 174 - 0.01% Coverage

The Commission was also aware that there have been established in recent time a number of permanent institutions charged with dealing with the very issues that the Commission was mandated to inquire into. These include: □ The National Land Commission, which has the mandate to deal with, among other issues, historical land injustices;

Reference 175 - 0.01% Coverage

The Commission also finds that the British Colonial administration adopted a divide and rule approach to the local population that created a negative dynamic of ethnicity, the consequences of which are still being felt today. At the same time the Colonial administration alienated large amounts of highly productive land from the local population, and removed communities from their ancestral lands.

Reference 176 - 0.01% Coverage

□ illegal and irregular acquisition of land by the highest government officials and their political allies

Reference 177 - 0.01% Coverage

□ assassinations, including that of Dr. Robert Ouko; □ illegal and irregular allocations of land; and □ economic crimes and grand corruption.

Reference 178 - 0.01% Coverage

The Commission finds that historical grievances over land constitute the single most important driver of conflicts and ethnic tension in Kenya. Close to 50 percent of statements and memorandum received by the Commission related to or touched on claims over land.

Reference 179 - 0.02% Coverage

The Commission finds that minority groups and indigenous people suffered statesanctioned systematic discrimination during the mandate period. In particular, minority groups have suffered discrimination in relation to political participation and access to national identity cards. Other violations that minority groups and indigenous people have suffered include: collective punishment, and violation of land rights and the right to development.

Reference 180 - 0.02% Coverage

56. Massacres committed by civilians mostly occurred as a result of cattle rustling and inter-ethnic or inter-communal conflict. The Commission finds that the motivation for inter-ethnic massacres was mostly contestations for control of land for pasture and water. Another motivation includes retaliation. As such, ethnic groups which were victims of massacres were often previously perpetrators of massacres themselves against the attacking group. Inter-ethnic conflict was characterised by reprisals and revenge attacks.

Reference 181 - 0.02% Coverage

133. The Commission finds that in March 2008, as part of Operation Okoa Maisha, state security agents, including Kenya Police and Kenya Army, were involved in the summary execution and/or disappearance of suspected members of Sabao Land Defence Force (SLDF). The Commission finds that the killing and disappearance of suspected members of SLDF was a systematic attack against a civilian population and could thus qualify as a crime against humanity.

Reference 182 - 0.01% Coverage

173. The Commission finds that discriminatory cultural practices relating to access, use and ownership of land remain persistent despite legal provisions which guarantee everyone the right to property, whether they are female or male.

Reference 183 - 0.01% Coverage

181. The Commission finds that women constitute the majority of the poor, a situation that has been aggravated by various factors that range from their lack of access to productive resources (mainly land) and the labour markets.

Reference 184 - 0.03% Coverage

The Commission recommends that within nine months of the issuance of this Report, the government, in conjunction with the UNHCR and the Uganda Government, conducts its own independent survey of the willingness of Kenyan Refugees in Uganda to return to Kenya and immediately facilitate the return and resettlement of those willing to return. The Commission recommends that within twelve months of the issuance of this Report, the government shall ensure that the composition of land dispute tribunals meets the Constitutional gender ratio requirement. The Commission recommends that within twelve months of the issuance of this Report, the Ministry of Health adopts a Plan of Action outlining measures to be taken to increase and improve maternal health facilities in the country and particularly to reduce the number of cases of delivery at home.

Reference 185 - 0.01% Coverage

197. The Commission finds that the Sabao Land Defence Force and Mungiki militia forcefully recruited children into their militia. Some of these children were subsequently involved in atrocities.

Reference 186 - 0.01% Coverage

218. The land regime in Kenya, whether Trust Land, Government land, or Group ranches, has resulted in de facto discrimination and led to the massive dispossession of ancestral lands of pastoralist and hunter-gatherer communities.

Reference 187 - 0.04% Coverage

226. The Commission finds that economic marginalisation experienced by various regions, groups and communities in Kenya since independence has occurred in a historical, socio-economic and political context marked by certain factors. These include: an overly centralised state both in terms of power and resources; ethnicisation of politics and public life in general; an all-powerful 'imperial' presidency marked by lack of accountability, lack of judicial independence, weak rule of law and personalization of power; bad governance and rampant corruption; a stunted economy in which the state was the main dispenser of largesse; and conflicts revolving around land with large swathes of the population unable to access this important resource. All these evolved against a backdrop of historical irredentist/secessionist struggles marked by the 'Shifta War' and its aftermath in Northern Kenya as well as independence claims borne out of perceived marginalisation in the former Coast Province. While some of these factors were the root cause of marginalisation, they produced distortions that worsened the effects of economic marginalization

Reference 188 - 0.01% Coverage

for inequities in land ownership and access in many parts of Kenya (especially in Central, Rift Valley, Western and Coast provinces).

Reference 189 - 0.02% Coverage

□ although the Policy recognized that land was previously owned communally with access regulated through membership in a particular group (clan or ethnic group), it asserted that a system of secure private title to land was necessary to anchor economic growth. Yet, the diversity of claims (that included communal

title that governed property in most communities in the pre-colonial era) as well as the effects of dispossession during the colonial period was not taken into account.

Reference 190 - 0.04% Coverage

239. Like the former North Eastern Province, the NFD in general and Nyanza, the Coast region could be placed in the category of 'politically dissident' regions that have suffered marginalization under successive regimes. However, marginalization experienced in the Coast, especially when understood from the point of view of dispossession, is due also to the confluence of interests arising from the region's strategic value as a principal gateway to the country and the East and Central African region and its valued seafront land resources.

240. Submissions from Coast residents invariably link their state of economic marginalisation marked by poverty, illiteracy and lack of access to basic services to frequent land-related dispossessions. The Commission heard many accounts of police brutality and other kinds of mistreatment by the provincial administration, including extra-judicial killings, arrest and imprisonment of those who agitate for restitution, as well as the destruction of property and evictions of those who live off these lands with contested titles.

Reference 191 - 0.05% Coverage

Volume IV Chapter ONE Land and Conflict

245. The Commission finds that there is a very close linkage between land injustices and ethnic violence in Kenya. More specifically, land related injustices are prominent factors that precipitate violence between and within ethnic tribes in Kenya.

246. The Commission finds that land-related injustices take many forms, including: illegal alienation and acquisition of individual and community land by public and private entities, illegal alienation of public land and trust lands, preferential treatment of members of specific ethnic groups in settlement schemes at the expense of the most deserving landless, forceful settlement of members of a community outside of their homelands, forceful evictions and the phenomenon of land grabbing, especially by government officials.

247. The Commission finds that land-related injustices started recognizably during the period of colonization at the coast by Arabs and, later, by the British both at the coast and in mainland Kenya. However, indigenous Kenyans expected the injustices to be fully addressed soon after independence but the first independence government failed to fully and genuinely address the problems.

248. The Commission finds that all post independence governments have failed to honestly and adequately address land-related injustices that started with colonialism.

Reference 192 - 0.03% Coverage

250. The Commission finds that existing land-related injustices are sometimes taken advantage of or used to address other societal problems, especially political differences.

251. The Commission finds that although land-related injustices have affected virtually every part of Kenya, communities at the coast, especially the Mijikenda, the Taita and Pokomo have suffered the most and the longest.

252. The Commission finds that land-related injustices at the coast constitute one of the key reasons for underdevelopment in the area. Land-related injustices at the coast lie at the root of the emergence of the Mombasa Republican Council (MRC).

253. The Commission finds that the Provincial administration has pervasively and significantly perpetrated land-related injustices including forceful evictions of individuals and communities and land grabbing for personal gain, and should

Reference 193 - 0.02% Coverage

not at all participate in any efforts to redress land related problems in the new constitutional dispensation because of their lack of moral authority and support.

254. The Commission finds that the current constitutional dispensation, including the new constitutional body on land and related laws, provide a sound basis to fully address land-related injustices, including historical ones, but only if there is political will to so use these laws and institutions.

Reference 194 - 0.05% Coverage

The Commission recommends that the National Land Commission commences work with the Ministry of Lands and settlement to undertake adjudication and registration exercises at the coast and all other areas where the same has not been conducted. Measures shall be designed to revoke illegally obtained titles to and re-open all public beaches, beach access routes and fish landing beaches, especially at the coast.

The Commission recommends that the National Land Commission in furtherance of its mandate expedites the process of addressing and/or recovering all irregularly/illegally acquired land. Measures should be designed by the Ministry of Lands and settlement to encourage individuals and entities to surrender illegally acquired land.

The Commission recommends that the Ministry of Land in conjunction with the National Land Commission design and implement measures to revoke illegally obtained titles and restore public easements

The Commission recommends that the National Land Commission develops, maintains and regularly updates a computerized inventory of all lands in Kenya, including private land that should be accessible to all Kenyans as required by law. Land registries country wide should be computerized and made easily accessible as required by the law.

The Commission recommends that the National Land Commission formulates and implement strict guidelines in terms of maximum acreage an individual or company can buy hold in respect of private land.

Reference 195 - 0.01% Coverage

262. The Commission finds that the colonial land policy, particularly in the so-called 'white highlands,' contributed enormously to regional and ethnic marginalisation from the economy. Colonial land policies resulted in displacement, the creation of 'native reserves', as well as the movement of masses of population from areas of

Reference 196 - 0.03% Coverage

□ Ethnicity and access to public office: The perception that ethnic representation in government results in direct economic and other benefits to the represented community is pervasive in Kenya. While the Commission acquired evidence that such benefits do not necessarily accrue to those communities who are represented - even in the highest offices of the land - the perception that they do leads to intense competition for such representation, and thus increases the likelihood of violence during elections.

Ethnic Tension, Land and Politics in Mt. Elgon

265. The Commission finds that the emergence of the Sabaot Land Defence Force in the Mt. Elgon region was precipitated largely by government failure to fully address land-related injustices that members of the Sabaot community have suffered since the colonial period.

Reference 197 - 0.02% Coverage

268. For decades, Kenya has remained a nation in which communities stand divided along ethnic and regional lines, suspicious and distrustful of one another. Over the decades, feelings of inter-community distrust, even hatred, have festered mainly because a myriad of issues which are at the core of nation-building have largely remained unresolved. These issues include access to land, inequality and regional imbalances, and impunity combined with a lack of transparency and accountability. These issues have eroded a sense of belonging, nationhood, and public trust in political and governance institutions.

Reference 198 - 0.01% Coverage

Equitable representation of women in all land dispute tribunals in accordance with the Constitution

Reference 199 - 0.01% Coverage

13 Land

Further investigations of alleged illegal or irregular acquisition of land

Survey, demarcation and registration of public land Adjudication and registration of land at the Coast and other areas where this has not been done

Development and maintenance of a computerized inventory of all land

Reference 200 - 0.01% Coverage

National Land Commission 36 months National Land Commission

Ministry of Lands and National Land Commission

Reparation for historical land injustices Implementation Mechanism and National Land Commission

Reference 201 - 0.01% Coverage

The Committee shall be supported by a Technical Secretariat headed by a Chief Executive Officer and have a core staff comprising of experts in the following fields: communications/outreach; reparations and transitional justice; land; human rights; reconciliation and peacebuilding; and such other experts whose skills may be relevant in the implementation and monitoring of the Commission's Report.

Reference 202 - 0.01% Coverage

North Eastern Province to be tarmacked. There is only one kilometre of tarmac, even as we are talking, in the entire province which is one third of Kenyan land mass. The roads are usually impassable during the rainy season. If that is done urgently, some kind of healing will come up. It will be difficult to ascertain individual compensation because they are in thousands..

Reference 203 - 0.01% Coverage

Category 4. Historical and contemporary land injustices □ Illegal acquisition or occupation of land of communally held land □ State seizure of private, community or Trust lands without sufficient public purpose or for evident personal gain

Reference 204 - 0.02% Coverage

This section details the beneficiaries and benefits available through the reparations programme as recommended by the Commission. Under this programme, both individuals and groups are eligible for reparations, but the criteria for determining who ultimately benefits from reparations are designed to ensure that the programme is manageable. Accordingly, the reparations programme prioritizes extremely vulnerable individuals, groups who have suffered injustice specifically including historical land injustices, and individuals who have been victims of violations of the right to life as well as the right to personal integrity.

Reference 205 - 0.01% Coverage

4. Historical and Contemporary Land Injustices

Reference 206 - 0.01% Coverage

Victim groups in this block are eligible for land reparations, socioeconomic measures, government policy interventions, as well as non-material reparations such as restitution of rights, recognition, self-determination measures, and memorials.

Reference 207 - 0.01% Coverage

□ Historical land injustices □ Violations targeting and/or affecting populations of a specific area, such as massacres, environmental degradation

Reference 208 - 0.01% Coverage

Reparations for Historical Land Injustices 27.

The Commission prioritizes historical land injustices in reference to its mandate to examine the causes and consequences of marginalization as well as the root causes of ethnic conflict in Kenya.¹⁰

Reference 209 - 0.02% Coverage

that individuals have also been victims of land injustices, but the Commission's mandate does not require it to deal directly with those violations. It was clear in the Commission's individual public hearings around the country that land injustices are one of the major contributors to conflict and that land loss and development of lands without any benefit to surrounding communities is one of the major contributors to marginalization and ethnic tensions. The Commission recognizes that land injustices are interconnected with many other human rights violations experienced by

Reference 210 - 0.03% Coverage

The Commission also recognizes that groups who have experienced documented and proven historical land injustices shall be eligible for reparations through the National Land Commission (as specifically mandated by Article 67(2)(e) of the 2010 Constitution and the National Land Commission Act No. 5 of 2012). The role of the Implementation Committee shall be limited to processing and forwarding to the National Land Commission all claims of historical land injustices received by the Truth, Justice and Reconciliation Commission. In this regard, the Implementation Committee shall review group claims and make recommendations to the National Land Commission as to the following potential reparations measures:

□ Restitution of land (including conversion of public land to community land when feasible and appropriate)

Reference 211 - 0.01% Coverage

□ Resettlement and/or access to alternative community lands □ Compensation □ Benefit-sharing schemes related to land on which development has taken

Reference 212 - 0.01% Coverage

In processing and reviewing land claims for onward transmission to the National Land Commission, the Implementation Committee shall develop guidelines for:

Reference 213 - 0.01% Coverage

□ Investigating land claims in a participatory manner based on international best practices, and considering examples such as South Africa and New Zealand, and incorporating multiple forms of evidence, such as cultural memory, oral tradition, natural markers (i.e. trees, rivers, etc.), recognition by neighbouring groups, and other forms of evidence as determined in consultation with community groups.

Reference 214 - 0.01% Coverage

□ Identifying overlapping land claims amongst communities and recommend REPORT OF THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION 109

Reference 215 - 0.03% Coverage

□ In recommending reparations measures, the Land Unit will: a. Consider the rights of bonafide third party purchasers in determining the appropriate reparations measure (e.g., compensation instead of restitution); b. Prioritize delineation and registration of community land through an approved Government of Kenya process; c. Whenever possible define community land in terms of ancestral boundaries, and in consideration of mapping exercises that have credibility amongst the community itself (whether those maps are from the colonial period, government surveys, or from recent community mapping exercises); d. Give enhanced weight to ritual and spiritual use of land by communities who are claiming restitution or ownership.

Reference 216 - 0.01% Coverage

These guidelines will also be forwarded to the National Land Commission as recommendations for its work on historical land injustices.

Reference 217 - 0.01% Coverage

37 The pension for individual compensation is proposed because of the problematic implementation of lump-sum payments in multiple contexts, including in Kenya, such as the compensation granted for Maasai land claims. Moreover, the pension scheme is timebound so as to allow the government of Kenya to plan for a defined cost, as opposed to an indefinite term based on the lifetime of the beneficiaries.

Reference 218 - 0.01% Coverage

violent land conflict erupted between the Mosop and Soy clans, in which he shot victims, thereby causing them serious bodily injuries.

Reference 219 - 0.01% Coverage

Allegations denied. That no violence ever took place, but admits that he had a dispute with neighbours over a parcel of land.

Reference 220 - 0.01% Coverage

Some time between 1999 and the year 2000 irregularly and illegally benefitted from irregular allocation of Hombe Forest land, within Mathira Constituency. The said allocation is said to have been orchestrated by the then Central Provincial Commissioner, Mr. Peter Kiilu.

Reference 221 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations.

Reference 222 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 223 - 0.01% Coverage

On or about December 2007 after land demarcation exercise at Chebyuk, was a member of SLDF and participated in the illegal acts and/or omissions of the group including meting out physical violence on innocent civilians at Embakassi Village, Teldet Sub-location, Kisawai Location, Saboti Division, Trans Nzoia District of Rift Valley province.

Reference 224 - 0.01% Coverage

February 2013 He denied the allegations and claimed he was in Kitale, Trans Nzoia District and only came to Kuresoi in 1994 when he bought a parcel of land at Soliat Company.

Reference 225 - 0.02% Coverage

Between 1982 and 1983 during the conflict between residents of Nzalae area and Nzalae Group Ranchers, as Chairman, planned, instigated, ordered and/or abetted torture and forceful eviction of residents of Nzalae from the area; was involved in the looting of property belong to Nzalae residents; in 1988 as a Member of Parliament for Mwingi Constituency, unduly influenced the dismissal of area's administrative officers who did not support your interests regarding the disputed land in Nzalae.

Reference 226 - 0.01% Coverage

Some time in the year 2000 as the area Councilor, he illegally benefitted from irregular allocation of Hombe Forest land, within Mathira Constituency to the tune of 40 acres or thereabouts. The said allocation is said to have been orchestrated by the then Central Provincial Commissioner, Mr. Peter Kiilu.

Reference 227 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations

Reference 228 - 0.01% Coverage

Some time in the year 2000 as the area Councilor, he illegally benefitted from irregular allocation of Hombe Forest land, within Mathira Constituency to the tune of 40 acres or thereabouts. The said allocation is said to have been orchestrated by the then Central Provincial Commissioner, Mr. Peter Kiilu.

Reference 229 - 0.01% Coverage

Some time in the year 2000 as the area Councilor, he illegally benefitted from irregular allocation of Hombe Forest land, within Mathira Constituency to the tune of 40 acres or thereabouts. The said allocation is said to have been orchestrated by the then Central Provincial Commissioner, Mr. Peter Kiilu.

Reference 230 - 0.01% Coverage

Some time in the year 2000 as the area Councilor, he illegally benefitted from irregular allocation of Hombe Forest land, within Mathira Constituency to the tune of 40 acres or thereabouts. The said allocation is said to have been orchestrated by the then Central Provincial Commissioner, Mr. Peter Kiilu.

Reference 231 - 0.02% Coverage

As the Central Province Provincial Commissioner, in the years between 1999-2000, spearheaded the grabbing of a 240 acre piece of forest land Muhuruini in Magutu Location. He also illegally oversaw the excision of 3000 acres of Hombe forest land and irregularly allocated it to himself and others including the then Mathira Constituency MP Matu Wamae, Hon Nyenze Francis (who was then the Minister in charge of forests) and a host of local councilors.

Reference 232 - 0.01% Coverage

Some time in the year 2000 as the area Councilor, he illegally benefitted from irregular allocation of Hombe Forest land, within Mathira Constituency to the tune of 100 acres or thereabouts. The said allocation is said to have been orchestrated by the then Central Provincial Commissioner, Mr. Peter Kiilu.

Reference 233 - 0.01% Coverage

Some time in the year 2000 as the area Councilor, he illegally benefitted from irregular allocation of Hombe Forest land, within Mathira Constituency to the tune of 100 acres or thereabouts. The said allocation is said to have been orchestrated by the then Central Provincial Commissioner, Mr. Peter Kiilu.

Reference 234 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations

Reference 235 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations

Reference 236 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations

Reference 237 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations

Reference 238 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations

Reference 239 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations

Reference 240 - 0.01% Coverage

Some time in the year 2000 as the area Councilor, he illegally benefitted from irregular allocation of Hombe Forest land, within Mathira Constituency to the tune of 40 acres or thereabouts. The said allocation is said to have been orchestrated by the then Central Provincial Commissioner, Mr. Peter Kiilu.

Reference 241 - 0.02% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 147, 148, 149, 150, 151, 152, 153, 154, 155, 156 and 157)

Irregular/illegal allocation of parcels of land meant for Sitatunga Farmers Cooperative Society

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Co-operative Society (Plots no. 11, 12, 25 and 26)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Co-operative Society (Plot Nos. 170, 179, 180, 195, 196, 205, 206, 207 and 232)

Reference 242 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations

Reference 243 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Reference 244 - 0.01% Coverage

The witness requested for more information and claimed that TRANS NZOIA/ SITATUNGA/100 is a first registration under the Registered Land Act, whose effect is preserved under the Land Registration Act, 2012.

Reference 245 - 0.01% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Co-operative Society (Plot Nos. 118, 119, 166, 167, 181, 182, 193, 194, 208 and 209)

Reference 246 - 0.01% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Co-operative Society (Plot Nos. 125, 126, 127, 128, 129, 130, 131, 132, 133 and 134)

Reference 247 - 0.01% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 191 and 192)

Reference 248 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.
Recommendation to the National Land Commission to undertake further investigations.

Reference 249 - 0.01% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 93, 94, 95, 96, 97, 98, 99, 100, 101 and 102)

Reference 250 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.
Recommendation to the National Land Commission to undertake further investigations.
Recommendation to the National Land Commission to undertake further investigations.

Reference 251 - 0.03% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Co-operative Society (Plot Nos. 228, 229 and 230)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 221 and 213)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 231 and 233)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 234 and 235)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 225)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 223)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 221)

Reference 252 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 253 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 254 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 255 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 256 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 257 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 258 - 0.02% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Co-operative Society (Plot Nos.16,17,18,19,20 and 21)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 145)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 140)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 123 and 188)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot No. 144)

Reference 259 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Reference 260 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 261 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 262 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Reference 263 - 0.01% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot No. 124)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 123)

Reference 264 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 265 - 0.04% Coverage

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 116,117,168 and169)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 227)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 222)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 237)

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot No. 14)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot Nos. 188)

Illegal/irregular acquisition of land in Liyavo Farm, Kitale

Irregular/illegal acquisition of parcels of land meant for Sitatunga Farmers Cooperative Society (Plot Nos. 121)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No.7) (25 Hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot Nos. 110)(5 hectares)

Reference 266 - 0.02% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Reference 267 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 268 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations

Recommendation to the National Land Commission to undertake further investigations.

Reference 269 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 270 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 271 - 0.05% Coverage

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot Nos. 83)(10 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot Nos. 9)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 15)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 89)(20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 118)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 108)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 130)(20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 169)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 92)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 172)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 133)(50 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 187)(10 hectares)

Reference 272 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations..

Reference 273 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 274 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Reference 275 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 276 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 277 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 278 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 279 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 280 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 281 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 282 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 283 - 0.05% Coverage

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot Ns 248 and 249) (5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 248 and 249) (20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 90)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No.3)(50 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 5)(50 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 20 (5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 35)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 24)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 19)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 242)(10 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 87)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 11)(5 hectares)

Reference 284 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 285 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 286 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 287 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 288 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 289 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 290 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 291 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 292 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations..

Reference 293 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 294 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 295 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 296 - 0.05% Coverage

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 36)(20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 115)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 11)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 32)(20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 34)(20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 123)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 135)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 176)(5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 8 (20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 6 (30 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 8 (20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 2 (30 hectares)

Reference 297 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 298 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 299 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 300 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 301 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 302 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 303 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 304 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 305 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Recommendation to the National Land Commission for further investigations.

Reference 306 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 307 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 308 - 0.01% Coverage

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 18 (5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 14 (20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 91 (20 hectares)

Reference 309 - 0.01% Coverage

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 212 (5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 112 (5 hectares)

Reference 310 - 0.03% Coverage

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 131 (20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 30 (20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 85 (20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 8 (20 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 117 (5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 125,126, and 127 (15 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 150 (10 hectares)

Reference 311 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 312 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 313 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 314 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 315 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 316 - 0.01% Coverage

Recommendation to the National Land Commission for further investigations.

Reference 317 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 318 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 319 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 320 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 321 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission for further investigations.

Reference 322 - 0.04% Coverage

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 96 (5hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 124 (5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 173 (5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 213 (o.5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Co-operative Society (Plot No. 93 (5 hectares)

Irregular/illegal acquisition of parcels of land meant for Liyavo Farmers Cooperative Society (Plot No. 121 (110 hectares)

In the year 1997, he and others participated in the funding and facilitation of an illegal group "Kabuithu" that evicted over 2,000 Tharaka families. After the eviction, he and others awarded themselves huge tracts of deserted land at Tholoni. The piece on which Mwingi Cottages stand was irregularly and illegally acquired.

Reference 323 - 0.01% Coverage

Irregular allocation of land; irregular allocation of Plot No. 124 belong to Kilivi Self Help Group to a local politician.

Reference 324 - 0.01% Coverage

Participated in the grabbing of 20,000 hectares of land belonging to 19th Mukaambita Ranching & Farmers Cooperative Society, Sultan Hamud, Machakos.

Participated in the grabbing of 20,000 hectares of land belonging to 19th Mukaambita Ranching & Farmers Cooperative Society, Sultan Hamud, Machakos.

Reference 325 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 326 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Recommendation to the National Land Commission to undertake further investigations.

Reference 327 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 328 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 329 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 330 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations in regards to Kabuithu. The Commission was satisfied with the response in respect of the Mwingi cottages.

Reference 331 - 0.01% Coverage

Recommendation to the National Land Commission to undertake investigations.

Reference 332 - 0.01% Coverage

Recommendation to the National Land Commission to undertake investigations.

Reference 333 - 0.01% Coverage

Recommendation to the National Land Commission to undertake investigations.

Reference 334 - 0.01% Coverage

Fraudulent acquisition of land in Koreni, LR. No. 26781 allegedly belonging to the Koreni community; Improper use of the Provincial Administration machinery to suppress the community's claim and evicting them

Reference 335 - 0.01% Coverage

The listed public officers illegally acquired large tracts of land in the Mtwapa Settlement Schemes and Kijipwa Settlement Scheme yet they were not squatters.

Reference 336 - 0.01% Coverage

Recommendation to the National Land Commission to undertake further investigations.

Reference 337 - 0.01% Coverage

Recommendations to the National Land Commission to undertake investigations.
Grabbing of land measuring approximately 81 hectares in Mtwapa.
Recommendations to the National Land Commission to undertake investigation.

Reference 338 - 0.01% Coverage

Fraudulent dealing in land belonging to Kibarani squatters.

Reference 339 - 0.01% Coverage

He illegally acquired a parcel of land belonging to St. Patrick Iten School.

Reference 340 - 0.01% Coverage

The witness appeared before the Commission on his own volition and produced documents in support of his claim that he had leased the land from St Patrick Iten, and has since given it back.

Reference 341 - 0.01% Coverage

He illegally acquired land in Tebeson and Kaptich Farm in Eldoret.

Reference 342 - 0.01% Coverage

He is alleged to have illegally/irregularly acquired a parcel of land in Sitatunga Farm, Trans Nzoia.

Reference 343 - 0.01% Coverage

She is alleged to have illegally/irregularly acquired a parcel of land in Sitatunga Farm, Trans Nzoia.

Reference 344 - 0.01% Coverage

He is alleged to have illegally/irregularly acquired a parcel of land in Sitatunga Farm, Trans Nzoia.

Reference 345 - 0.01% Coverage

He is alleged to have illegally/irregularly acquired a parcel of land in Maridadi Farm, Trans Nzoia.

Reference 346 - 0.01% Coverage

The Company has been adversely mentioned in regards to the illegal encroachment of private land, pollution and environmental degradation in Yala.

Reference 347 - 0.01% Coverage

Recommendations to the National Land Commission to undertake investigation.

Reference 348 - 0.01% Coverage

The parcel of land has since been returned to its rightful owners. The allegations were therefore disproved. Recommendation to the National Land Commission to undertake further investigations.

Reference 349 - 0.01% Coverage

Recommendations to the National Land Commission to undertake further investigations
Recommendations to the National Land Commission to undertake investigations
Recommendations to the National Land Commission to undertake investigations
Recommendations to the National Land Commission to undertake investigations
Recommendations to the National Land Commission to undertake investigations

Reference 350 - 0.01% Coverage

The witness has had a long standing boundary dispute with the Hill Farm owned by the catholic church which has seen the witness and his family suffer persecution. Another witness had been charged with assaulting one Father Ndumia at Hill Farm, whereupon he was harassed and assaulted by state agents. There was corroborative evidence of the allegations of state harassment on account of the land dispute.

Reference 351 - 0.01% Coverage

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 352 - 0.01% Coverage

Recommendations to the National Land Commission for investigations and resolution of the dispute. Recommendations to the Director of Public prosecutions to undertake investigations in respect of the claim of assault.

Reference 353 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights..

Reference 354 - 0.01% Coverage

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 355 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

Reference 356 - 0.01% Coverage

Forceful evictions at Kadzuhoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 357 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

Reference 358 - 0.01% Coverage

Forceful evictions at Kambi ya Waya with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 359 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

Reference 360 - 0.01% Coverage

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 361 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

Reference 362 - 0.01% Coverage

Forceful evictions at Marereni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 363 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

Reference 364 - 0.01% Coverage

Forceful evictions at Kanagoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 365 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

Reference 366 - 0.04% Coverage

The Company's mining activities have resulted in land degradation through loss of vegetative cover, soil erosion, and contamination of water sources and severe dust and noise pollution in Bondora Village. As a result, the inhabitants have contracted respiratory ailments and other occupational lung diseases. Blast activities within the quarry site have led to solid debris flying into the neighbouring residences, thereby endangering the lives of the inhabitants. Heavy vibrations from rock blasting have caused serious cracks in houses and pit latrines, some of which have crumbled. There are concerns that the necessary environmental impact assessments were not conducted prior to the commencement of the mining and blasting project. Following several complaints by the inhabitants against the company, it has in the past promised to put in place measures to mitigate against these environmental concerns but has reneged on them. It has consistently ignored or refused to comply with environmental requirements and specified directives from the Ministry of Environment and Natural Resources. The Company has illegally and/or irregularly expropriated land belonging to inhabitants of Kambe, destroyed trees and crops thereon, and converted the same to access roads for its exclusive usage.

Reference 367 - 0.01% Coverage

Forceful evictions at Kanagoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 368 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

Reference 369 - 0.01% Coverage

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

Name: References to Dispossession in Kenya Report

<Files\\Kenya Report> - 9 references coded [0.19% Coverage]

Reference 1 - 0.03% Coverage

ethnic tension in Kenya today.

On 12 December 1963, Kenya gained independence from British rule. Independence came with high expectations and hopes. It signalled an end to practices that had been institutionalised under British rule; the end of racial segregation, detention camps, torture, massacres, unlawful killings and similar practices that had been institutionalised under colonialism. To the citizens of a new free nation, independence meant the return to lands from which they had been forcibly evicted and of which they had been dispossessed in order to pave the way for British settlers. It was supposed to be the beginning of political and economic emancipation; the start of respect for the rule of law, human rights and dignity and the laying down of the foundations and tenets of democracy. Many envisioned a newly invigorated, united nation.

These expectations never materialized. President

Reference 2 - 0.02% Coverage

the six districts of Turkana.

Landlessness is the major indicator of marginalisation at the Coast; land is the most intractable of the problems because of its historical origins. The original local inhabitants were dispossessed of their land, first by the colonialists, and later by fraudulent transactions that again ignored the original owners of the land. This left most of the land in the 10-mile Coastal Strip in the hands of absentee landlords. After independence, the dispossession of the local people was confirmed and certified instead of being rectified, which led to a palpable sense of a conspiracy against coastal communities orchestrated by people from up-country.

Hearings of the Commission were

Reference 3 - 0.02% Coverage

been institutionalised under colonialism.

6.

To the citizens of a new free nation, independence meant the return to lands from which they had been forcibly evicted and of which they had been dispossessed in order to pave way for British settlers. It was supposed to be the beginning of political and economic emancipation; the start of respect for the rule of law, human rights and dignity and the laying down of the foundations and tenets of democracy. Many envisioned a united nation. The high expectations and hopes of Kenyans at independence were succinctly summarised in the national anthem:

Oh God of all creation

Reference 4 - 0.01% Coverage

violations supportive of this phenomenon.

105. Secondly, it refers to dispossession and inequalities in the allocation of land in a variety of ways by successive governments (or those associated with them) in pre-independence and post-independence Kenya. For instance, during the parliamentary debate that preceded the enactment of the TJR Act, a member of Parliament observed that:

50 Makau Mutua Report (n

Reference 5 - 0.02% Coverage

in the Rift Valley.⁵¹

106. In other words, the term historical injustice has been used to describe issues of marginalisation and dispossession that resulted in disparities of income, wealth and opportunity that lie at the heart of many of the current conflicts in Kenya. In its report, the Commission of Inquiry into Post Election Violence, for instance, makes reference to 'historical marginalisation, arising from perceived inequities concerning the allocation of land and other national resources as well as access to public goods and services' as one of the main causes of inter-ethnic tensions and conflict.⁵²

107. Thus, although the TJR

Reference 6 - 0.03% Coverage

2006: A Call to Arms

75. April 2006 was a tense and difficult month in Mount Elgon. Much to the disgust of many Soy claimants, Chepyuk Phase Three had to be shared between them and the Mosop. Plots were capped at just two hectares. The grim news was confirmed when the list of beneficiaries was published and posted in the District Commissioner's office. The lucky ones were to await their letters of allocation. The unlucky ones faced a much less rosy future; dispossession and eviction was their fate. Those most bitter about these developments were a core group of very large land owners who had somehow over many years managed to avoid the Chebyuk dragnet. This time round however, things seemed quite different. Redistribution and eviction looked inevitable.

76.

The Commission received testimony

Reference 7 - 0.01% Coverage

personal integrity, health, and dignity.

218. The land regime in Kenya, whether Trust Land, Government land, or Group ranches, has resulted in de facto discrimination and led to the massive dispossession of ancestral lands of pastoralist and hunter-gatherer communities.

219. The state's development policies

Reference 8 - 0.02% Coverage

with a limited welfare component.

□ although the Policy recognized that land was previously owned communally with access regulated through membership in a particular group (clan or ethnic group), it asserted that a system of secure private

title to land was necessary to anchor economic growth. Yet, the diversity of claims (that included communal title that governed property in most communities in the pre-colonial era) as well as the effects of dispossession during the colonial period was not taken into account.

232. The restructuring of the

Reference 9 - 0.04% Coverage

1969.

Economic marginalization of Coast

239. Like the former North Eastern Province, the NFD in general and Nyanza, the Coast region could be placed in the category of 'politically dissident' regions that have suffered marginalization under successive regimes. However, marginalization experienced in the Coast, especially when understood from the point of view of dispossession, is due also to the confluence of interests arising from the region's strategic value as a principal gateway to the country and the East and Central African region and its valued seafront land resources.

240. Submissions from Coast residents invariably link their state of economic marginalisation marked by poverty, illiteracy and lack of access to basic services to frequent land-related dispossessions. The Commission heard many accounts of police brutality and other kinds of mistreatment by the provincial administration, including extra-judicial killings, arrest and imprisonment of those who agitate for restitution, as well as the destruction of property and evictions of those who live off these lands with contested titles.

Economic marginalization of Western

241

Name: References to Estate in Kenya Report

<Files\\Kenya Report> - \$ 4 references coded [0.03% Coverage]

Reference 1 - 0.02% Coverage

COMMISSION 171

Volume I APPENDICES

Identification: National ID, Passport or Driving Licence, Refugee ID Number:

Date of birth: (age).....

Sex: Male / Female [circle] Citizenship:

Contact Address: Postal Address: (P.O Box and Postal Code).....

Physical address [Estate/Village] Province: District: Mobile or Telephone No:

Reference 2 - 0.01% Coverage

O Box and Postal Code)

Physical address [Estate/Village) Province: District:

Location: Mobile or Telephone No

Reference 3 - 0.01% Coverage

Date and time of violation?

Where did the violation happen? Place/location of violation (give as much detail as possible including village, Estate, town, area, building):

Please describe how violation occurred

Reference 4 - 0.01% Coverage

Date and time of violation?

Where did the violation happen? Place/location of violation (give as much detail as possible including village, Estate, town, area, building):

Please describe how violation occurred

Name: References to Eviction in Kenya Report

<Files\\Kenya Report> - \$ 63 references coded [0.98% Coverage]

Reference 1 - 0.03% Coverage

On 12 December 1963, Kenya gained independence from British rule. Independence came with high expectations and hopes. It signalled an end to practices that had been institutionalised under British rule; the end of racial segregation, detention camps, torture, massacres, unlawful killings and similar practices that had been institutionalised under colonialism. To the citizens of a new free nation, independence meant the return to lands from which they had been forcibly evicted and of which they had been dispossessed in order to pave the way for British settlers. It was supposed to be the beginning of political and economic emancipation; the start of respect for the rule of law, human rights and dignity and the laying down of the foundations and tenets of democracy. Many envisioned a newly invigorated, united nation.

Reference 2 - 0.01% Coverage

□ in one particular case, the Commission received about 30 statements from women who were raped in Kitui during an eviction referred to as 'Kavamba Operation'. The Commission has recommended the prosecution of Nganda Nyenze who supervised the evictions and the rape of the women.

Reference 3 - 0.02% Coverage

Officials who were supposed act as custodians of public land under the public trust doctrine, became the facilitators of illegal allocation, increasing landlessness and land scarcity. The practice of land grabbing in many cases resulted in violence, as squatters resisted eviction from government land that was often subsequently lost to land grabbers. State corporations became conduits for 'get-rich-schemes' in which public lands were transferred to individuals and then quickly bought off at exorbitant prices by state corporations.

Reference 4 - 0.02% Coverage

Although most women who testified before the Commission were victims of displacement occasioned by the 2007/2008 PEV, many of them had been victims of prior evictions and displacement. During the PEV, women suffered violations during flight to the camps or to places where they hoped they would find refuge. On resettlement of IDPs under Operation Rudi Nyumbani, the Commission's hearings revealed that the corruption and mismanagement which marred the entire process had a particularly devastating impact on women. A considerable number of displaced women told the Commission that they received neither the start-up capital nor the payment in lieu of housing.

Reference 5 - 0.01% Coverage

marginalisation, deepened their poverty and created conflict with neighbours. For instance, the Endorois were brutally evicted from the trust land they inhabited around lake Bogoria when the government declared the area a game reserve. They were displaced, lost property and denied access to traditional cultural and religious areas.

Reference 6 - 0.02% Coverage

To the citizens of a new free nation, independence meant the return to lands from which they had been forcibly evicted and of which they had been dispossessed in order to pave way for British settlers. It was supposed to be the beginning of political and economic emancipation; the start of respect for the rule of law, human rights and dignity and the laying down of the foundations and tenets of democracy. Many envisioned a united nation. The high expectations and hopes of Kenyans at independence were succinctly summarised in the national anthem:

Reference 7 - 0.02% Coverage

□ The Commission would inquire into human rights violations, including those committed by the State, groups or individuals. Such inquiry was to include but not be limited to politically-motivated violence, assassinations, community displacements, settlements and evictions. The Commission was also to inquire into major economic crimes, in particular grand corruption, historical land injustices and the illegal and irregular acquisition of land, especially as related to conflict or violence. Other historical injustices were also to be investigated.

Reference 8 - 0.03% Coverage

82. During the KNDR negotiations, this list was expanded to include numerous other issues and particularly, a category of issues falling under the rubric of historical injustices. In this regard, the TJRC Agreement states: The Commission will inquire into human rights violations, including those committed by the state, groups, or individuals. This includes but is not limited to politically motivated violence, assassinations, community displacements, settlements and evictions. The Commission will also inquire into major economic crimes, in particular grand corruption, historical land injustices, and the illegal and irregular acquisition of land, especially as these relate to conflict or violence. Other historical injustices shall be investigated.

Reference 9 - 0.01% Coverage

Including forced removal (evictions), title violations, non-compensation, illegal and irregular acquisition/allocation of land

Reference 10 - 0.02% Coverage

(for example, Shifta War (Wagalla massacre); Burnt Forest violence (1993); Mt Elgon violence (police operation, SLDF attack etc); there was a demonstration, political rally during, police disarmament, floods, strike or stay-away; Kikambala evictions (1997), elections (1992); voting day; natural disaster, stay-away; boycott; march; political rally; existing laws etc.)
.....

Reference 11 - 0.01% Coverage

(for example, Shifta War (Wagalla massacre); Burnt Forest violence (1993); Mt Elgon violence (police operation, SLDF attack etc); there was a demonstration, political rally during , police disarmament, floods, strike or stay-away; Kikambala evictions (1997), elections (1992); voting day; natural disaster, stay-away; boycott; march; political rally; existing laws etc.)

Reference 12 - 0.02% Coverage

Please describe how violation occurred (eg were forcibly evicted/removed by armed youth; Mr Mkonomrefu, the CDF manager used CDF money allocated for clinic to build his own house; children constantly fall ill in the filthy and congested camps and were denied treatment because we don't have money)

Reference 13 - 0.02% Coverage

Describe briefly the situation at the time of each incident (of alleged violations) (for example, Shifta War; Company XY acquiring land; XX Settlement Scheme; I went to the public office to process XX document for my daughter; Structural Adjustment Program; Airport/Airtrip expansion; Burnt Forest violence (1993); Mt Elgon violence (police operation, SLDF attack etc); floods; Kikambala evictions (1997), elections (1992); natural disaster)

Reference 14 - 0.01% Coverage

Can you specify who did what? Who was in charge? Who gave orders, if any? Who was with him/her/them? (for example, Mr. Mwenyenguvu led the eviction exercise; a band of youths burnt our houses and destroyed our crops; Mrs Mlakit, Chief or Kata Ndogo was present)

Reference 15 - 0.02% Coverage

Please describe how violation occurred (eg were forcibly evicted/removed by armed youth; Mr Mkonomrefu, the CDF manager used CDF money allocated for clinic to build his own house; children constantly fall ill in the filthy and congested camps and were denied treatment because we don't have money)

Reference 16 - 0.02% Coverage

Describe briefly the situation at the time of each incident (of alleged violations) (for example, Shifta War; Company XY acquiring land; XX Settlement Scheme; I went to the public office to process XX document for my daughter; Structural Adjustment Program; Airport/Airtrip expansion; Burnt Forest violence (1993); Mt Elgon violence (police operation, SLDF attack etc); floods; Kikambala evictions (1997), elections (1992); natural disaster)

Reference 17 - 0.01% Coverage

Can you specify who did what? Who was in charge? Who gave orders, if any? Who was with him/her/them? (for example, Mr. Mwenyenguvu led the eviction exercise; a band of youths burnt our houses and destroyed our crops; Mrs Mlakit, Chief or Kata Ndogo was present)

Reference 18 - 0.06% Coverage

In the Rift Valley, members of the Kalenjin assert a superior claim over the region and view non-Kalenjins resident in the region as foreigners. Indeed, the region has been the site of violent ethnic clashes. In particular, during the 1992, 1997 and 2007 general elections, those considered foreigners were forcefully and violently evicted from their farms. This has been particularly the case in settlement schemes that were created in Rift Valley following independence. Non-Kalenjins living in these settlement schemes are

regarded as foreigners or bunot. As explained by a member of the Kalenjin Council of Elders: According to the Kalenjin culture, visitors are received in a special way. In the language of the Kalenjin we call those people Bunot. Bunot is not a derogatory name; it is a name that describes that you do not come from that area. There is a process that the Kalenjin people carry out to assimilate those people into a cohesive life. [...] So, the Kalenjin Community requires nothing but recognition by those who came that they are Bunot and the others are the indigenous people. To bring about healing, the Kalenjin Community would like to ask the other communities and particularly the Kikuyu Community because they are predominant, they are our neighbours, they own land and we have intermarried, to recognize that they are Bunot.²¹

36. Although it was claimed, as quoted above, that the term 'bunot' is not derogatory, non-Kalenjins in the region perceive this characterization both as derogatory and the source of ethnic tension and the violence and eviction that they have experienced in the past. According to a witness: The word "bunot" was explained in detail here as a stranger or a person who has stayed in a place for a while. [...] So, the word "bunot" shows that we Kikuyus are still tagged as strangers and we have never been accepted as residents of this place.²²

Reference 19 - 0.01% Coverage

occupied by Maasai, such as Narok and Kajiado, the Kikuyus in particular are referred to as thabai. According to a witness, who was brutally attacked and forcefully evicted from his farm in Narok during the 2007 PEV: They [the Maasai] used to refer to us as spots and thabai, which is a thorny plant. Thabai is a Kikuyu name for that plant.

Reference 20 - 0.01% Coverage

66 See generally G Njuguna The lie of the land evictions and Kenya's crisis, 2 African Policy Brief (2008). 67 Kenya National Commission on Human Rights 'Unjust enrichment' (2004) 1. 68. As above.

Reference 21 - 0.01% Coverage

5 Memorandum to the TJRC relating to the plight of Bong'om/Mbong'omok Forced eviction from ancestral territory, 9th July 2011.

Reference 22 - 0.06% Coverage

9. Mount Elgon, like so many other parts of Kenya, was profoundly affected by the colonial administration's decision to open up parts of the country to European settlement. In 1926, a branch of the railway reached Kitale. The region's temperate climate and fertile soils proved irresistible and soon afterwards Uasin Gishu and Trans Nzoia were set aside exclusively for European use. Indigenes were evicted further westwards into the Kavirondo Native Reserve which included Mount Elgon. This was how many Sabaots found themselves on the mountain. Trans Nzoia and Uasin Gishu were entirely shut off to them except if they took up employment as labourers on European farms. In 1932, there was another critical development with the Carter Land Commission. The Carter Commission represented a seminal attempt to tackle land needs and tenure in colonial Kenya. In Mount Elgon, Carter made the critical decision to create another Native Reserve in the moorlands. The reserve consisted of 40 000 acres at altitude and above the forest belt in Chepkitala. Its occupants consisted of a community that colonialists referred to as the "El Gony" but who are more—as per the discussion above—are more properly described as the Ogiek with (possibly) Bok elements: The Moorland area of Mount Elgon, comprising some 40,000 acres, should be added to the Kavirondo Native Reserve and set aside for the use of the El Gony, who should also be able to find accommodation in other

parts of the Kavirondo Native Reserve, or to the extent that the Uganda Government may be willing to accommodate more El Gony in its territory, they should have an option of going there.¹⁴

Reference 23 - 0.07% Coverage

from the Mosop and had been wrongly overlooked and subsequently evicted by the committee that had decided on final allocations in Phase One. There were also those who had simply allocated themselves large tracts of land in Chebyuk; they had lived there for many years and wanted their squatter and user rights recognized.

26. While they were the primary beneficiaries of the scheme, the Mosop began to take a much harder line on Chebyuk land. The twenty acres per family apparently agreed upon when the scheme was first announced do not seem to have materialized with each household eventually receiving much less land than they had anticipated. Another of their main arguments became that the 6500 hectares that they had been allocated in Chebyuk was inadequate compensation for 35 000 hectares they had lost in Chepkitale. Indeed, some even tried to move back up into the moorlands even though Chepkitale had been turned into a game reserve in 1968 and thus not licensed for human activity and settlement. They were forcefully and violently evicted by administration police. The Mosop also turned their attention to the presence of Soy and other so-called outsiders within Chebyuk itself who had bought or otherwise acquired land in the scheme. They demanded this land back. The Soi (and to a lesser extent Bukusu and Teso) who had bought land from the Mosop counter-demanded their money back and, failing that, simply refused to move. A Commission witness described Mosop unhappiness with the situation that prevailed in the late 1970s and early 1980s: In 1979, the Government went and chased those who had remained in Chepkitale. During this process some of the animals were shot and killed. In the 1980s when we were in Chebyuk, the rulers who were imposed on us ruled us ruthlessly. They were predominantly from the Soi community. We suffered greatly because we had no chief, no political leader and we were ruled ruthlessly.²³

Reference 24 - 0.05% Coverage

most descriptions, anecdotal and academic, Lekoolol's intervention was dramatic. All the Chepyuk allocations and self-allocations were annulled. The entire process would begin all over again. A vetting committee was created and applications invited afresh. Predictably, the number of applicants far exceeded the amount of land available. Perennial claimants to Chebyuk land, the Mosop and the Soy, put in their claims. There was also a rush of interest from people from many other communities; their applications were based on long term settlement by virtue of having worked or having bought the land. With no other way to balance the amount of land available against the number of applicants, Lekoolol's committee introduced balloting which reduced the entire allocation process to a kind of raffle; those whose names and numbers came up counted themselves lucky. The Committee also capped land parcel sizes at 2 hectares as way of admitting larger numbers into the scheme. At the end of the exercise, a group of Mosop was settled mainly in the Cheptor and Kaimugul areas of the scheme. The Soy received scattered plots throughout Chepyuk. The vast majority, however, could not prove ownership. They were evicted from their land along with those could prove ownership but had no luck in the balloting. Entire families were uprooted. Landless, people drifted to urban centres such as Kapsakwony, Cheptais and – further afield – Bungoma, Kitale and Webuye.

Reference 25 - 0.02% Coverage

It was a violent and unsettled time on parts of Mount Elgon. Some residents blamed Mr. Lekoolol personally for both the fact and the manner of their eviction from Chebyuk: PC Lekoolol chased away those people who had lived in the forest. When this happened, they burnt people's properties and brought people from

Mosop and put them in Cheptoror. They closed every path and said it was a forest where trees would be planted. After they planted trees, we went there and cried wondering what had happened yet we happened to have been given the land by the Government.²⁶

Reference 26 - 0.02% Coverage

These attempts at surveying and purported evictions inspired yet another visit to see President Moi in Eldoret. Mr. Munguti's handling of Chepyuk Phase Three was apparently the main topic of discussion: We met President Moi at Eldoret where we informed him about the problems we were facing. President Moi was so surprised. He said: "I had given you this land, who is this one that is again interfering with the map?" We told him it was DC Munguti. He asked us where DC Munguti came from. We told him we did not know. He said: "I have heard," and we then came back.³³

Reference 27 - 0.03% Coverage

75. April 2006 was a tense and difficult month in Mount Elgon. Much to the disgust of many Soy claimants, Chepyuk Phase Three had to be shared between them and the Mosop. Plots were capped at just two hectares. The grim news was confirmed when the list of beneficiaries was published and posted in the District Commissioner's office. The lucky ones were to await their letters of allocation. The unlucky ones faced a much less rosy future; dispossession and eviction was their fate. Those most bitter about these developments were a core group of very large land owners who had somehow over many years managed to avoid the Chebyuk dragnet. This time round however, things seemed quite different. Redistribution and eviction looked inevitable.

Reference 28 - 0.02% Coverage

83. As has been explained above, the original and ostensible purpose of the protection of the Soy clan's land interests in Chebyuk Phase Three. Wycliffe Kirui Matakwei volunteered with other young men, mostly from the Soy tribe to take up arms against the evictions. Young people were mobilized by the community to defend them against the evictions: The worst eviction was that of 2006. Most of these boys just went to the forest and formed the militia.⁷⁶

Reference 29 - 0.01% Coverage

151. The Commission finds that sexual violence against women was rampant during forceful evictions conducted by the state and/or its agents. In one particular case, the Commission received about 30 statements from women who were raped in Kitui during an eviction referred to as 'Kavamba operation'.

Reference 30 - 0.01% Coverage

177. The Commission finds that although awareness on the subject of HIV/AIDS has permeated most parts of the country, discrimination and social stigma is still relatively common. Many HIV positive women are routinely evicted from their matrimonial homes after the death of their spouses. Moreover, patriarchal social norms make it difficult for women to exercise autonomy over matters of sex, and specifically, to negotiate safe sex.

Reference 31 - 0.01% Coverage

228. The failure of subsequent governments (in particular the Kenyatta government), to correct this injustice by restoring communities to their lands from which they had been forcibly evicted by the colonial government can be said to be largely to blame

Reference 32 - 0.02% Coverage

240. Submissions from Coast residents invariably link their state of economic marginalisation marked by poverty, illiteracy and lack of access to basic services to frequent land-related dispossessions. The Commission heard many accounts of police brutality and other kinds of mistreatment by the provincial administration, including extra-judicial killings, arrest and imprisonment of those who agitate for restitution, as well as the destruction of property and evictions of those who live off these lands with contested titles.

Reference 33 - 0.02% Coverage

246. The Commission finds that land-related injustices take many forms, including: illegal alienation and acquisition of individual and community land by public and private entities, illegal alienation of public land and trust lands, preferential treatment of members of specific ethnic groups in settlement schemes at the expense of the most deserving landless, forceful settlement of members of a community outside of their homelands, forceful evictions and the phenomenon of land grabbing, especially by government officials.

Reference 34 - 0.01% Coverage

253. The Commission finds that the Provincial administration has pervasively and significantly perpetrated land-related injustices including forceful evictions of individuals and communities and land grabbing for personal gain, and should

Reference 35 - 0.02% Coverage

Between 2001 and 2004 while leading a group called "Ndieeteleka", incited members to violence, which led to torture and grievous harm to innocent individuals; forceful eviction, arson and looting of property; rape and sexual abuse on residents of Mwakini village, Mwakini farm, Kitui County, an operation which came to be known as "Kavamba Operation." He drove the gang using his own motor vehicle, Registration Number KAA 197X canter lorry.

Reference 36 - 0.01% Coverage

Incitement of the Pokots and facilitating the youths to attack & evict non-pokots during his tenure as M.P. He also held public meetings where he would incite the Pokots to fight the other communities for instance in Kolongolo area, in Kitale.

Reference 37 - 0.01% Coverage

In 1997, he participated in the funding and facilitation of an illegal group "Kabuithu" that illegally and forcefully evicted over 2,000 Tharaka families

Reference 38 - 0.01% Coverage

Between January and February 2008 at Kalaha Farm, Teldet Sub-Location, Kisawai Location, Saboti Division, Trans Nzoia District of Rift Valley Province, he conducted violent attacks against members of other communities living within the said area, which acts led to the forceful eviction, killing and grievous assault of innocent individuals.

Reference 39 - 0.01% Coverage

Between January and February 2008 at Kalaha Farm, Teldet Sub-Location, Kisawai Location, Saboti Division, Trans Nzoia District of Rift Valley Province, he conducted violent attacks against members of other communities living within the said area, which acts led to the forceful eviction, killing and grievous assault of innocent individuals.

Reference 40 - 0.01% Coverage

Between 1982 and 1983 during the conflict between residents of Nzalae area and Nzalae Group Ranchers, as Chairman, he planned, instigated, ordered and/or abetted torture and forceful eviction of residents of Nzalae from the area; was involved in the looting of property belong to Nzalae residents.

Reference 41 - 0.01% Coverage

In the years 1972, 1978 and in 1989, severally led a group of youth in forcefully evicting non-Maasais from Kalembwani village, Kapatai Location, Kajiado District, Rift Valley Province.

Reference 42 - 0.02% Coverage

Between 1982 and 1983 during the conflict between residents of Nzalae area and Nzalae Group Ranchers, as Chairman, planned, instigated, ordered and/or abetted torture and forceful eviction of residents of Nzalae from the area; was involved in the looting of property belong to Nzalae residents; in 1988 as a Member of Parliament for Mwingi Constituency, unduly influenced the dismissal of area's administrative officers who did not support your interests regarding the disputed land in Nzalae.

Reference 43 - 0.01% Coverage

He planned, instigated, ordered and/ or abetted several raids and forceful evictions during the Kalembwani ethnic clashes of 1972 and 1992.

Reference 44 - 0.01% Coverage

ordered and/or abetted the forceful eviction of members of Gabbra community from Saku Constituency in Marsabit.

Reference 45 - 0.01% Coverage

ordered and/or abetted the forceful eviction of members of Gabbra community from Saku Constituency in Marsabit.

Reference 46 - 0.01% Coverage

He planned, instigated, ordered and/ or abetted several raids and forceful evictions during the 1972 and 1992 Kalem bwani ethnic clashes.

Reference 47 - 0.01% Coverage

Between 2001 and 2004 while leading a group called "Ndieeteleka", he incited members to violence, which led to torture and grievous harm to innocent individuals; forceful eviction, arson and looting of property; rape and sexual abuse on residents of certain two villages.

Reference 48 - 0.01% Coverage

Some time in the year 1992 at different locations and as a respected Maasai leader and elder, made utterances capable of inciting ethnic violence against non-Maasai community members living in Enoosupukia of Narok District and particularly within Sintagara area. This led to the killings of scores of individuals, destruction of property and mass evictions.

Reference 49 - 0.01% Coverage

Some time in the year 1992 as the local area Assistant Chief, led a group of Maasai youths in a violent attack targeting non-Maasai community members living in Sintagara, Enoosupukia, Narok District, leading to the killing of individuals, destruction of property and mass evictions.

Reference 50 - 0.01% Coverage

That some time in year 1992 in his capacity as a local area Councillor, he led a group of Maasai youths in a violent attack targeting non-Maasai community members living Sintagara, Enoosupukia, Narok District. This led to the killing of scores of individuals, destruction of property and mass evictions.

Reference 51 - 0.01% Coverage

In the year 1997, he and others participated in the funding and facilitation of an illegal group "Kabuithu" that evicted over 2,000 Tharaka families. After the eviction, he and others awarded themselves huge tracts of deserted land at Tholoni. The piece on which Mwingi Cottages stand was irregularly and illegally acquired.

Reference 52 - 0.01% Coverage

He denied the allegations that he sponsored the eviction. The vendor for Mwingi cottages produced evidence of sale of the property to Hon Kalonzo Musyoka.

Reference 53 - 0.01% Coverage

Fraudulent acquisition of land in Koreni, LR. No. 26781 allegedly belonging to the Koreni community; Improper use of the Provincial Administration machinery to suppress the community's claim and evicting them

Reference 54 - 0.01% Coverage

While serving as the area Member of Parliament, he was involved in the forceful evictions of persons within Trans Mara on 2nd

Reference 55 - 0.01% Coverage

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 56 - 0.01% Coverage

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 57 - 0.01% Coverage

Forceful evictions at Kadzuhoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 58 - 0.01% Coverage

Forceful evictions at Kambi ya Waya with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 59 - 0.01% Coverage

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 60 - 0.01% Coverage

Forceful evictions at Marereni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 61 - 0.01% Coverage

Forceful evictions at Kanagoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 62 - 0.01% Coverage

Forceful evictions at Kanagoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

Reference 63 - 0.01% Coverage

Eviction of people from their houses during 2007/2008 PEV

Name: References to Expropriation in Kenya Report

<Files\\Kenya Report> - § 2 references coded [0.07% Coverage]

Reference 1 - 0.03% Coverage

58

Thus, from At the

same time the colonial government began to impose restrictions access to land by the existing Kenyan residents. The NCIC recently summarized this restrictive and discriminatory history: During the colonial era, there was extensive land expropriation and resettlement by the colonialists from the indigenous communities. Land expropriation was extensive, from 2 million hectares in 1914 to 3 million hectares on the eve of independence. The expropriation was achieved through various laws, ordinances and promulgations, including the Native Trust Bill of 1926 which restricted indigenous groups to the Native Reserves. These realities raised the profile of land ownership and required extensive attention into independence to reduce their adverse impact on national cohesion and integration in Kenya. Land-related issues continue to be a lingering source of conflict to date.⁵⁹

70.

The European invasion of

Reference 2 - 0.04% Coverage

TJRC/L/10/108/2013

The Company's mining activities have resulted in land degradation through loss of vegetative cover, soil erosion, and contamination of water sources and severe dust and noise pollution in Bondora Village. As a result, the inhabitants have contracted respiratory ailments and other occupational lung diseases. Blast activities within the quarry site have led to solid debris flying into the neighbouring residences, thereby endangering the lives of the inhabitants. Heavy vibrations from rock blasting have caused serious cracks in houses and pit latrines, some of which have crumbled. There are concerns that the necessary environmental impact assessments were not conducted prior to the commencement of the mining and blasting project. Following several complaints by the inhabitants against the company, it has in the past promised to put in place measures to mitigate against these environmental concerns but has reneged on them. It has consistently ignored or refused to comply with environmental requirements and specified directives from the Ministry of Environment and Natural Resources. The Company has illegally and/or irregularly expropriated land belonging to inhabitants of Kambe, destroyed trees and crops thereon, and converted the same to access roads for its exclusive usage.

255 KURAWA INDUSTRIES LIMITED TJRC

Name: References to Farm in Kenya Report

<Files\\Kenya Report> - \$ 45 references coded [0.66% Coverage]

Reference 1 - 0.02% Coverage

able to access political power.

The litany of historical injustices relating to land involves a complex variety of permutations. Almost every type of public land was affected: from forest land, to water catchments, public school playgrounds, road reserves, research farms, public trust lands and land owned by public corporations and private individuals. Perpetrators of the injustices were equally varied and include holders of public office and government leaders at every level, the political and economic elite, church organisations, individuals and communities. Those who held sway usurped the institutions of government to their bidding including the legislature, the executive and the judiciary.

Officials who were supposed act

Reference 2 - 0.02% Coverage

community justice and conflict resolution?)

.....
.....
.....

6.6 Did the violation affect relationships with friends, family, partner or children? (for example, we are no longer on talking terms with our neighbours; we don't mix with outsiders anymore; I have lost contact with them; my marriage broke down; my son is in jail, we are squatters, business collapse; farming etc.)

.....
.....
.....
.....

6.7 How did the

Reference 3 - 0.01% Coverage

resettled)

.....
.....
.....

6.9.4 Finances

(for example, before I was imprisoned/tortured/lost my land, I was able to work and take care of my family, now I can't; I lost my farm; my business premises burnt down; I am now disabled and cannot be engaged in gainful employment)

.....
.....
.....
.....

7. EXPECTATIONS

An important part

Reference 4 - 0.05% Coverage

Volume III Chapter ONE 35.

In the Rift Valley, members of the Kalenjin assert a superior claim over the region and view non-Kalenjins resident in the region as foreigners. Indeed, the region has been the site of violent ethnic clashes. In particular, during the 1992, 1997 and 2007 general elections, those considered foreigners were forcefully and violently evicted from their farms. This has been particularly the case in settlement schemes that were created in Rift Valley following independence. Non-Kalenjins living in these settlement schemes are regarded as foreigners or bunot. As explained by a member of the Kalenjin Council of Elders: According to the Kalenjin culture, visitors are received in a special way. In the language of the Kalenjin we call those people Bunot. Bunot is not a derogatory name; it is a name that describes that you do not come from that area. There is a process that the Kalenjin people carry out to assimilate those people into a cohesive life. [...] So, the Kalenjin Community requires nothing but recognition by those who came that they are Bunot and the others are the indigenous people. To bring about healing, the Kalenjin Community would like to ask the other communities and particularly the Kikuyu Community because they are predominant, they are our neighbours, they own land and we have intermarried, to recognize that they are Bunot.²¹

36. Although it was claimed

Reference 5 - 0.01% Coverage

madoadoa.²⁴

In areas predominantly

occupied by Maasai, such as Narok and Kajiado, the Kikuyus in particular are referred to as thabai. According to a witness, who was brutally attacked and forcefully evicted from his farm in Narok during the 2007 PEV: They [the Maasai] used to refer to us as spots and thabai, which is a thorny plant. Thabai is a Kikuyu name for that plant.

21. TJRC/Hansard/Public Hearing

Reference 6 - 0.02% Coverage

marginalisation of other communities.

48.

The colonial government's response to the Mau Mau rebellion included perpetuating stereotypes and dividing Kenyans based upon ethnicity. For example, the colonial government hired large numbers of Luo to work on white farms to replace the 'untrustworthy' Kikuyu and included disproportionately large numbers of the Kamba community in the army. The country was thus easily balkanised in the early 1960s when the colonial government declared its intention to grant Kenya independence.

Culture and stereotypes

49. While

Reference 7 - 0.01% Coverage

from their traditional homeland.⁶⁰

71. Kenyans displaced from their land by the colonial government were concentrated in reserves, something that considerably restricted their socio-economic life.⁶¹ Those who did not prefer to live in the reserves remained in European farms either as squatters or as labourers, or sought employment in urban areas.⁶²

72.
The Mau Mau rebellion

Reference 8 - 0.06% Coverage

has ethnic consequences.⁷⁰

The

relationship among land ownership, development, and ethnicity is summarized in a recent report by the NCIC: The Sessional Paper No. 10 of 1965 on African Socialism and its Application to Development and Planning sought to empower Kenyan citizens of the new nation through the provision of services and expansion of economic opportunities. In doing so, the Government adopted the Africanization Policy to replace the departing European and Asian communities with educated or skilled Africans. Most jobs, firms and businesses were taken over by the African elite but in an ethnically biased manner that also led to the exclusion of Kenyan Asians and Europeans from citizenship and appointments in the civil service. In addition, Sessional Paper No. 10 dismissed the livestock-based pastoralist economy and in the process contributed to unequal development patterns and the marginalization of non-crop-farming communities. There are historical legislative frameworks and policies that facilitate undesirable ethnic and race divisions. Examples of these frameworks and policies are: the Stock and Produce Theft Act which came into operation on 5th May 1933 and is still in force; Sessional Paper No 10 of 1965 that highlighted the areas with potential for growth and relegated other areas to underdevelopment without regard to the people who live there; and The Indemnity Act of 1970 which gives immunity to perpetrators of state violence against its citizens in Northern Kenya. Legislative frameworks that would have enhanced harmonious ethnic and racial coexistence were largely ignored or subverted. In addition, poor and lopsided economic policies and planning have enhanced inequality and ethnic tensions.⁷¹

⁶⁹ Republic of Kenya 'Report

Reference 9 - 0.05% Coverage

late at that time.⁷⁶

79. Land, particularly access to rich and productive land, was also a factor in ethnic violence in the Rift Valley during elections. Some scholars have noted: In 1991, much of the violence was centred around farms which were formerly part of the so-called 'white highlands', land appropriated from those communities who customarily owned and occupied it by the colonial government for white settler farming. Mitetei farm in Tinderet Division, Nandi District, provides an example: purchased by members of the Kikuyu, Kamba, Luhya, Luo and Kisii communities, it is located in traditionally Kalenjin land. Some local Kalenjin argued that they should also receive shares in the farm, leading to a dispute in which the local authorities took the side of the Kalenjin, because of ethnic affiliations and party politics. This farm was the scene of attacks by Kalenjin on the 29th October, 1991, causing all non-Kalenjin occupiers to flee. In or about June, 1992, the farm was surveyed and shared among local Kalenjin people, and titles were issued to them to the exclusion of those who had been forcibly displaced. Those who took over the property refused to reimburse the IDPs for the cost of their shares, arguing that it was 'rent' for land which really belonged to Kalenjin. Owiro farm in Songhor location, Tinderet Division, is another property bought from a European by non-Kalenjin (Luo)

individuals using bridging finance from the Agricultural Finance Corporation (AFC). The owners of this farm were also killed or forcibly displaced during the 1991 violence.⁷⁷

80.

The finer details of

Reference 10 - 0.06% Coverage

a very recent, colonial phenomenon.

9. Mount Elgon, like so many other parts of Kenya, was profoundly affected by the colonial administration's decision to open up parts of the country to European settlement. In 1926, a branch of the railway reached Kitale. The region's temperate climate and fertile soils proved irresistible and soon afterwards Uasin Gishu and Trans Nzoia were set aside exclusively for European use. Indigenes were evicted further westwards into the Kavirondo Native Reserve which included Mount Elgon. This was how many Sabots found themselves on the mountain. Trans Nzoia and Uasin Gishu were entirely shut off to them except if they took up employment as labourers on European farms. In 1932, there was another critical development with the Carter Land Commission. The Carter Commission represented a seminal attempt to tackle land needs and tenure in colonial Kenya. In Mount Elgon, Carter made the critical decision to create another Native Reserve in the moorlands. The reserve consisted of 40 000 acres at altitude and above the forest belt in Chepkitala. Its occupants consisted of a community that colonialists referred to as the "El Gony" but who are more—as per the discussion above—are more properly described as the Ogiek with (possibly) Bok elements: The Moorland area of Mount Elgon, comprising some 40,000 acres, should be added to the Kavirondo Native Reserve and set aside for the use of the El Gony, who should also be able to find accommodation in other parts of the Kavirondo Native Reserve, or to the extent that the Uganda Government may be willing to accommodate more El Gony in its territory, they should have an option of going there.¹⁴

11 TJRC/Hansard/Public Hearing

Reference 11 - 0.04% Coverage

30

Chebyuk Phase III 35.

In January 1993 two minibuses full of elders and local notables motored out of Mount Elgon. Their destination and mission were familiar ones: an appointment with President Moi to discuss the perennially thorny issue of Chebyuk settlement scheme. The elders and notables represented an equally familiar group of petitioners. Chebyuk Phase Two had created a bad-tempered cocktail of losers easily recognized by the Commission. One ingredient in this cocktail consisted of the group of people who since the 1970s and the advent of Chebyuk I, had (often illegally) carved out sizeable farms for themselves and their families. Some of these farms were very large indeed (80 hectares); their owners were forced to downsize under Lekolool's arrangement. Another ingredient was the group of people whose numbers did not come up in the balloting at all. They missed out completely on the chance to be settled in Chebyuk. All belonged to the very large group of hopefuls that had grown up around the successive attempts to redistribute and resettle Chebyuk. Once again, their petitions were well received by President Moi. The creation of Chebyuk Phase Three in the locales of Chepkurkur and Korng'otuny was announced.

36. The central problem with

Reference 12 - 0.01% Coverage

Chebyuk III.'31

sinister terms:

Another DC by the name Munguti returned evil again into Chebyuk. They brought the map and asked the people to ballot for their land using the map. The land they were asking people to ballot for was already occupied by other people. Once you had participated in the ballot, the surveyors were instructed to go and remove the person who was already on the farm.³²

37.

These attempts at surveying

Reference 13 - 0.03% Coverage

COMMISSION

Volume III Chapter TWO

In 2002, John Serut rose to the pinnacle of Mount Elgon politics defeating the incumbent Joseph Kimkung. Mr. Serut came to politics from the Ministry of Lands where he used to work as a registrar. There was of course nothing accidental or coincidental about this. He presented himself to the electorate as someone with a technical understanding of land issues. The importance of land on the mountain means Elgon politicians structure their campaigns around promises to deliver farms into the waiting arms of the landless. One of the messages of his campaign was that allocations at Chepyuk III would finally be settled to the advantage of all concerned especially his supporters: the Sabaot. The Nyumba kwa Nyumba campaign was a reflection of this popular and populist stand. As the sitting Member of Parliament, Mr. Serut's sentiments carried great weight and some of the Commission's witnesses described their great pride in a leader who was finally standing up for the poor and landless of Mount Elgon.³⁹

48. Mount Elgon, however did

Reference 14 - 0.01% Coverage

and seek redress.⁵⁷

67.

The main members of this CBO were drawn from a very specific and distinctive group. Commission witnesses have described them as 'Soy elders' but what they were the men who had owned huge farms by virtue of having allegedly grabbed and settled upon land in the early 1970s when Chebyuk Phase One was first announced.⁵⁸

Men like Patrick Komon and

Reference 15 - 0.03% Coverage

Jason Psongoywo Manyiror Tirop a

Soy laibon or ritual specialist were the long-term owners of 100 and 200 hectares of Chebyuk land and formed the core of group that stood to lose most from the successive attempts to regularize ownership of land in Mount Elgon. These men were unapologetic in their holding on to such vast spreads. As Mr. Manyiror explained, the land was theirs and had always been; The farm belonged to my father. That is where I was born. It was not possible for anybody to go into that land because it was my grandfather's farm. I was on that farm together with my children and stayed there without any complaint. I had no problem with

anybody. Nobody accused me and I did not have any boundary problems. It is jealousy which has brought animosity.⁵⁹

68.

The CBO claimed to

Reference 16 - 0.02% Coverage

to have been close to

members of the Sangulas; the family of a prominent Mosop laibon who provided spiritual inspiration and ritual protection for MDF fighters. The literature suggests that neither of these two groups seems have had much of an impact and any missions/operations that they launched were sporadic and limited in scope. Also, the witnesses may have erred in associating Mr. Serut with the Political Revenge Force. That was an entirely different group that did not feature in the Mount Elgon conflict. In March 2008 police raided the Kwanza farm of Mr. David Nakitare, the former Member of Parliament for Sabaoti.¹¹⁹

Two hundred young men calling

Reference 17 - 0.01% Coverage

Furthermore, the economy suffered greatly

due to disruptions to the farming environment because of displacement. This caused a negative impact on "food security, food prices, and nutrition in the district and beyond."¹⁴⁹

¹⁴³ London Wikileaks. Kenya/CT

Reference 18 - 0.02% Coverage

COMMISSION

Volume III Chapter THREE

problems regarding security with our neighbours because we are farmers and they are pastoralists. They are the ones who are usually the aggressors because they bring their livestock into our farms. In 2001, there was a conflict between us and the others, but instead of the Government being neutral to ensure security in a fair way, we realized that the Kenya Police Reservists had been deployed in so many areas. The weapons being held by the Pokomos were withdrawn by the Government. This left us exposed and led to the problem that we have had. Such issues are the ones which lead us to believe that it is a deliberate plot by the Government against us as a community to marginalise us and deny us our rights.³⁵

68.

The Commission learnt that

Reference 19 - 0.02% Coverage

Timothy Komora stated as follows:

I know that there are committees that are trying to bring all the communities together in security issues. The important thing that we would want is that these committees should go on sensitizing both areas, so that each community will respect the other. We, as pastoralists, know that farming or agriculture is what the

farmer depends on and it is just as important as his livestock so that every person respects the property of the other person. If we have that respect there will be no problem.³⁸

37 TJRC/Hansard/Thematic Hearing

Reference 20 - 0.02% Coverage

ITR/038/13

ALLEGED VIOLATION

Between 2001 and 2004 while leading a group called “Ndieeteleka”, incited members to violence, which led to torture and grievous harm to innocent individuals; forceful eviction, arson and looting of property; rape and sexual abuse on residents of Mwakini village, Mwakini farm, Kitui County, an operation which came to be known as “Kavamba Operation.” He drove the gang using his own motor vehicle, Registration Number KAA 197X canter lorry.

2

AMOS CHEBOI (Former OCPD

Reference 21 - 0.01% Coverage

TJRC/L/IRT/044/13

Directly involved in the perpetration of the 2007/2008 post-election violence at Kimura Village, Kagama Farm in Timboroa Sub-Location, Rift Valley province where three civilians were killed as a result of his conduct.

78

SHADRACK LANGAT TJRC/L

Reference 22 - 0.01% Coverage

STANLEY KIPKOECH TJRC/L/046

On or about late 2007, was privy to illegal meetings that coordinated, directed and/ or facilitated the attacks at Kio Farm in Kuresoi Location, Kuresoi District, Rift Valley Province, leading to loss of lives and destruction of property.

80

FRANCIS CHEPTALAM TJRC/L

Reference 23 - 0.01% Coverage

TJRC/L/IRT/050/13

Between January and February 2008 at Kalaha Farm, Teldet Sub-Location, Kisawai Location, Saboti Division, Trans Nzoia District of Rift Valley Province, he conducted violent attacks against members of other communities living within the said area, which acts led to the forceful eviction, killing and grievous assault of innocent individuals.

138

DATE OF NOTICE/ SUMMONS

Reference 24 - 0.01% Coverage

TJRC/L/ITR/051/13

Involved in the planning, facilitating and/or executing 2007/8 Post-election Violence at Kio Farm in Kuresoi Location, Kuresoi District, Rift Valley Province, which led to the killing of civilians and destruction of property.

83

SAMUEL NAMUNI TJRC/L

Reference 25 - 0.01% Coverage

TJRC/L/ITR/052/13

Between January and February 2008 at Kalaha Farm, Teldet Sub-Location, Kisawai Location, Saboti Division, Trans Nzoia District of Rift Valley Province, he conducted violent attacks against members of other communities living within the said area, which acts led to the forceful eviction, killing and grievous assault of innocent individuals.

85

MODING RENGEI TJRC/L

Reference 26 - 0.01% Coverage

TJRC/L/ITR/054/13

Some time in the year 1993 at Arimi Farm in Kuresoi District, Rift Valley Province, he issued inflammatory statements calculated at inciting members of his community into violence, leading to arson, killing of civilians, rape and destruction of property.

87

JOHN LANGAT TJRC/L

Reference 27 - 0.01% Coverage

TJRC/L/IRT/055/13

Some time in the year 1993 at Arimi Farm in Kuresoi District, Rift Valley Province, issued inflammatory statements calculated at inciting members of his community into violence, leading to arson, killing of civilians, rape and destruction of property.

88

ALEXANDER NGETICH TJRC/L

Reference 28 - 0.01% Coverage

TJRC/L/IRT/056/13

Some time in the year 1993 at Arimi Farm in Kuresoi District, Rift Valley Province, issued inflammatory statements calculated at inciting members of his community into violence, leading to arson, killing of civilians, rape and destruction of property.

89

SIMON CHESIKTES TJRC/L

Reference 29 - 0.01% Coverage

CHESIKTES TJRC/L/IRT/058

Some time in the year 1993 at Arimi Farm in Kuresoi District, Rift Valley Province, issued inflammatory statements calculated at inciting members of his community into violence, leading to arson, killing of civilians, rape and destruction of property.

DATE OF NOTICE/ SUMMONS

17th

Reference 30 - 0.01% Coverage

TJRC/L/IRT/059/13

In late 2007 and in early 2008, he was privy to illegal meetings that coordinated, directed and/or facilitated the attacks at Kio Farm in Kuresoi Location, Kuresoi District Rift Valley Province, leading to loss of lives and destruction of property.

91

CHELUK KIPKOGE TJRC/L

Reference 31 - 0.01% Coverage

about 30th December 2007, at

Kondoo Farm, Burnt Forest, while in the company of others, he stabbed to death Mr. Henry Mugo Kinuthia.

On or about 1st January

Reference 32 - 0.01% Coverage

Cooperative Society (Plot Nos. 188)

Illegal/irregular acquisition of land in Liyavo Farm, Kitale

Irregular/illegal acquisition of parcels

Reference 33 - 0.01% Coverage

it back.

237 KOMBO MWERU

He illegally acquired land in Tebeson and Kaptich Farm in Eldoret.

238 NATHANIEL TUM

He is

Reference 34 - 0.01% Coverage

in Eldoret.

238 NATHANIEL TUM

He is alleged to have illegally/irregularly acquired a parcel of land in Sitatunga Farm, Trans Nzoia.

239 ELIZABETH KEGODE

She is

Reference 35 - 0.01% Coverage

Trans Nzoia.

239 ELIZABETH KEGODE

She is alleged to have illegally/irregularly acquired a parcel of land in Sitatunga Farm, Trans Nzoia.

240 AINEAS INDAKWA, Clerk, County

Reference 36 - 0.01% Coverage

County Council of Trans Nzoia)

He is alleged to have been involved in the fraudulent allocation of Chebarus Trading Centre, situated in Sitatunga Farm

241 LAZARUS SUMBEIYWO

He is

Reference 37 - 0.01% Coverage

Sitatunga Farm

241 LAZARUS SUMBEIYWO

He is alleged to have illegally/irregularly acquired a parcel of land in Sitatunga Farm, Trans Nzoia.

242 MAJOR (Rtd)WANAMBISI

He

Reference 38 - 0.01% Coverage

Nzoia.

242 MAJOR (Rtd)WANAMBISI

He is alleged to have illegally/irregularly acquired a parcel of land in Maridadi Farm, Trans Nzoia.

243 CHRIS ABIR (MANAGER, DOMINION FARMS , YALA)

The Company has been adversely

Reference 39 - 0.01% Coverage

NYERI TJRC/AMP/LU/007

Alleged boundary dispute between Hill Farm belonging to the Catholic Diocese and the witness who appeared before the Commission.

DATE OF NOTICE/ SUMMONS

Reference 40 - 0.01% Coverage

RESPONSE/ HEARING

NATURE OF RESPONSE

The witness has had a long standing boundary dispute with the Hill Farm owned by the catholic church which has seen the witness and his family suffer persecution. Another witness had been charged with assaulting one Father Ndumia at Hill Farm, whereupon he was harassed and assaulted by state agents. There was corroborative evidence of the allegations of state harassment on account of the land dispute.

Reference 41 - 0.01% Coverage

19911992. Nakuru District Ethnic Incitement

Ethnic Clashes 19911992. Nakuru District Involvement in ethnic clashes in Meteitei Farm

5

Philip Kipserem Karoney, Chief

Reference 42 - 0.01% Coverage

Kipserem Karoney, Chief Miteitei Location

Ethnic Clashes 19911992. Nakuru District Involvement in ethnic clashes in Meteitei Farm

6

Henry Arap Tuwei, Senior

Reference 43 - 0.01% Coverage

Tirop – Chief of Turbo Location

Ethnic Clashes 19911992. Nandi District Involvement in ethnic clashes in Owiro Farm

Ethnic Clashes 19911992. Nandi District

Reference 44 - 0.01% Coverage

Mungai

41 Kiplangat Arap Cherubo

Assistant Chief of Bochege Farm.

42

Elijah Tanui, Local Assistant

Reference 45 - 0.01% Coverage

Involvement in ethnic clashes

87

Samwel K. Moiben – Kaa Farm

Ethnic Clashes 1991 – 1992 Tran

Name: References to Farmer in Kenya Report

<Files\\Kenya Report> - § 1 reference coded [0.02% Coverage]

Reference 1 - 0.02% Coverage

Timothy Komora stated as follows:

I know that there are committees that are trying to bring all the communities together in security issues. The important thing that we would want is that these committees should go on sensitizing both areas, so that each community will respect the other. We, as pastoralists, know that farming or agriculture is what the farmer depends on and it is just as important as his livestock so that every person respects the property of the other person. If we have that respect there will be no problem.³⁸

37 TJRC/Hansard/Thematic Hearing

Name: References to Labour in Kenya Report

<Files\\Kenya Report> - \$ 29 references coded [0.41% Coverage]

Reference 1 - 0.02% Coverage

Kibaki's era (2002 to 2008).

A review of the colonial period by the Commission revealed a litany of offences and atrocities committed by the British administration against the people now known as Kenyans. These violations included massacres, torture, arbitrary detention, and sexual violence, most of which were committed, initially, when the British government forced its authority on the local population, and later, when it violently sought to quash the Mau Mau rebellion. Between 1952 onwards, the British administration established detention camps in which suspected members of Mau Mau and/or their sympathisers were tortured and ill-treated. Others were detained in restricted villages where they were used as forced labour under

viii REPORT OF THE TRUTH

Reference 2 - 0.01% Coverage

3

Volume I Chapter ONE

Let all with one accord In common bond united Build this our nation together And the glory of Kenya The fruit of our labour Fill every heart with thanksgiving

7. What followed this moment

Reference 3 - 0.01% Coverage

social security; water and food?

o Representation in public employment (public/civil service)? o Probe further to establish whether it access to land, a major means of production? o Taxation and labour laws? o Other things done/not done?

•

Probe to establish whether factors

Reference 4 - 0.01% Coverage

Other things done/not done?

•

Probe to establish whether factors such as poor education/illiteracy; discrimination (re labour market); location (remoteness); lack of (adequate) social spending on poverty etc have contributed to their situation.

3.

Who do you blame

Reference 5 - 0.01% Coverage

Or when things were better?

4. How to rate government interventions, if any? These include labour laws, minimum wage; education, public spending and poverty eradication programs?

5.

Other than the government

Reference 6 - 0.01% Coverage

from their traditional homeland.⁶⁰

71. Kenyans displaced from their land by the colonial government were concentrated in reserves, something that considerably restricted their socio-economic life.⁶¹ Those who did not prefer to live in the reserves remained in European farms either as squatters or as labourers, or sought employment in urban areas.⁶²

72.

The Mau Mau rebellion

Reference 7 - 0.02% Coverage

to specific people".⁹⁴

92.

These sentiments of discrimination in other relief programmes that were carried out by the government were shared by victims of displacement else where in the country who testified before the Commission in Kisumu. "While other regions are getting fertilizer, seeds, houses, medical aid and regular food supplies, victims in Nyanza, that is, those who were displaced from outside Nyanza and those who come from this area are confined to Kshs10,000 and not everybody got it. The assumption is that the people who came from outside did not own property and were not living any meaningful life but were just labourers and, therefore, all they lost was their wages." ⁹⁵

93 Ibid, 17 94. TJRC

Reference 8 - 0.06% Coverage

a very recent, colonial phenomenon.

9. Mount Elgon, like so many other parts of Kenya, was profoundly affected by the colonial administration's decision to open up parts of the country to European settlement. In 1926, a branch of the railway reached Kitale. The region's temperate climate and fertile soils proved irresistible and soon afterwards Uasin Gishu and Trans Nzoia were set aside exclusively for European use. Indigenes were evicted further westwards into the Kavirondo Native Reserve which included Mount Elgon. This was how many Sababots found themselves on the mountain. Trans Nzoia and Uasin Gishu were entirely shut off to them except if they took up employment as labourers on European farms. In 1932, there was another critical development with the Carter Land Commission. The Carter Commission represented a seminal attempt to tackle land needs and tenure in colonial Kenya. In Mount Elgon, Carter made the critical decision to create another Native Reserve in the moorlands. The reserve consisted of 40 000 acres at altitude and above the forest belt in Chepkitala. Its occupants consisted of a community that colonialists referred to as the "El Gony" but who are more—as per the discussion above—are more properly described as the Ogiek with (possibly) Bok elements: The Moorland area of Mount Elgon, comprising some 40,000 acres, should be added to the Kavirondo Native Reserve and set aside for the use of the El Gony, who should also be able to find accommodation in other

parts of the Kavirondo Native Reserve, or to the extent that the Uganda Government may be willing to accommodate more El Gony in its territory, they should have an option of going there.¹⁴

11 TJRC/Hansard/Public Hearing

Reference 9 - 0.01% Coverage

Criminal Court Internally Displaced Person
International Labour Organization Kenya Intelligence Committee
Kenya National Commission on Human

Reference 10 - 0.02% Coverage

treaties of 1904 and 1911.

39. After violently bringing the local population into some form of submission, the Colonial administration proceeded to find means of making the colonial territory self-financing. This was achieved through the creation of the chief as agents of local administration who were tasked with the responsibility of tax collection, maintenance of law and order and mobilization of labour for settler requirements. Chiefs were empowered by a series of labour laws to call out any number of able-bodied persons to labour without pay. This mandate was extended at the outbreak of World War 1 to finding able-bodied manpower for the war. Chiefs had retainers who in the process of tax collection, confiscated peoples' animals and produce,

REPORT OF THE TRUTH, JUSTICE

Reference 11 - 0.01% Coverage

COMMISSION
Volume IV Chapter ONE

181. The Commission finds that women constitute the majority of the poor, a situation that has been aggravated by various factors that range from their lack of access to productive resources (mainly land) and the labour markets.

182. The Commission finds that

Reference 12 - 0.02% Coverage

a good number of families.

203. The Commission finds that child labour is an increasing problem, and is often the product of the vulnerable economic status of families. Children from indigent families are forced to fend for themselves and their families. HIV/AIDS infections and health crises in general have also increased the number of orphaned children and made them more vulnerable for child labour recruitment. Domestic violence also potentially increases the vulnerability of children to child labour. The absence or loss of parents often leads to children fending for themselves, leaving them susceptible to being exploited for labour.

204. The Commission finds that

Reference 13 - 0.01% Coverage

TJRC/L/10/114/2013

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013

COMMISSION'S FINDINGS

Reference 14 - 0.01% Coverage

further investigations.

5th March 2013

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights..

REPORT OF THE TRUTH, JUSTICE

Reference 15 - 0.01% Coverage

TJRC/L/10/112/2013

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

DATE OF NOTICE/ SUMMONS

5TH

Reference 16 - 0.01% Coverage

OF RESPONSE

COMMISSION'S FINDINGS & RECOMMENDATIONS

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

249 KENSALT LIMITED TJRC/L

Reference 17 - 0.01% Coverage

TJRC/L/10/109/2013

Forceful evictions at Kadzuhoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and

confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013

Recommendation to

Reference 18 - 0.01% Coverage

labour rights.

5th March 2013

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

250 MALINDI SALT WORKS LIMITED

Reference 19 - 0.01% Coverage

TJRC/L/10/111/2013

Forceful evictions at Kambi ya Waya with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013 2nd April

Reference 20 - 0.01% Coverage

2nd April 2013 Allegations denied

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

158 REPORT OF THE TRUTH

Reference 21 - 0.01% Coverage

LIMITED TJRC/L/115/2013

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

DATE OF NOTICE/ SUMMONS

RECEIPT

Reference 22 - 0.01% Coverage

OF RESPONSE

COMMISSION'S FINDINGS & RECOMMENDATIONS

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

252 KRYSTALLINE SALT LIMITED TJRC

Reference 23 - 0.01% Coverage

TJRC/L/10/110/2013

Forceful evictions at Marereni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013 3rd April

Reference 24 - 0.01% Coverage

3rd April 2013 Allegations denied

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

253 KEMUSALT WORKS LTD TJRC

Reference 25 - 0.01% Coverage

TJRC/L/10/107/2013

Forceful evictions at Kanagoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013

Recommendation to

Reference 26 - 0.01% Coverage

labour rights.

5th March 2013

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive

Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

REPORT OF THE TRUTH, JUSTICE

Reference 27 - 0.01% Coverage

TJRC/L/10/113/2013

Forceful evictions at Kanagoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

DATE OF NOTICE/ SUMMONS

5th

Reference 28 - 0.01% Coverage

OF RESPONSE

COMMISSION'S FINDINGS & RECOMMENDATIONS

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

5th March 2013

Appeared before

Reference 29 - 0.01% Coverage

Commission on 10th

2013. April

Recommendation to the National Land Commission to investigate the circumstances of acquisition of the said parcels of land; National Environmental Management Authority to undertake comprehensive Environmental Audits and sanction accordingly for non-compliance; Ministry of Labour to address the concerns on the protection of labour rights.

160 REPORT OF THE TRUTH

Name: References to Land Act in Kenya Report

<Files\\Kenya Report> - \$ 1 reference coded [0.01% Coverage]

Reference 1 - 0.01% Coverage

February 2013 6th March 2013

The witness requested for more information and claimed that TRANS NZOIA/ SITATUNGA/100 is a first registration under the Registered Land Act, whose effect is preserved under the Land Registration Act, 2012.

142 DR. N.W.WAMBUGU

Name: References to Property in Kenya Report

<Files\\Kenya Report> - § 84 references coded [1.17% Coverage]

Reference 1 - 0.02% Coverage

ill-treatment, and sexual violence.

□ The Commission finds that Northern Kenya (comprising formerly of North Eastern Province, Upper Eastern and North Rift) has been the epicenter of gross violations of human rights by state security agencies. Almost without exception, security operations in Northern Kenya has been accompanied by massacres of largely innocent citizens, systematic and widespread torture, rape and sexual violence of girls and women, looting and burning of property and the killing and confiscation of cattle.

□ The Commission finds that state

Reference 2 - 0.05% Coverage

Report that documents those atrocities.

Under President Moi the status quo remained for a couple of years before becoming notably worse after the coup attempt of 1 August 1982. In the aftermath of the coup, members of the Kenya Air Force were rounded up and transported to prison facilities and other locations where they were tortured and subjected to inhuman and degrading treatment. Thereafter, President Moi stepped up measures aimed at controlling the state and further consolidating his power. He filled government positions with loyalists, mainly from his own Kalenjin community. His government, which had in June 1982, amended the constitution to make Kenya a de jure one party state, removed security of tenure for constitutional office holders such as judges. The patterns of violence that started under Kenyatta continued under President Moi's administration. Notably, members of state security agencies routinely committed atrocities against a people they had sworn to protect. Security operations, particularly in Northern Kenya often resulted in the massacres of innocent citizens. Almost without exception, security operations entailed the following atrocities: torture and illtreatment, rape and sexual violence, looting of property and burning of houses. These systematic attacks against civilians have all of the attributes of a crime against humanity.

REPORT OF THE TRUTH, JUSTICE

Reference 3 - 0.01% Coverage

ODM claimed victory, violence erupted.

The scale of the post-election violence (PEV) was unprecedented. It lasted for a period of two months and substantially affected all but two provinces in the country. It is estimated that 1,133 people were killed, thousands assaulted and raped, hundreds of thousands more displaced from their homes, and property worth billions of shillings destroyed. It was one of the darkest episodes in Kenya's post-independence history

Security Agencies: The police and

Reference 4 - 0.03% Coverage

non-state actors to occur.

Across the country, the Commission heard horrendous accounts of atrocities committed against innocent citizens by the police and the military. The history of security operations conducted by these two institutions, either jointly or severally, is dominated by tales of brutal use of force, unlawful killings (sometimes on a large scale), rape and sexual violence, and burning and looting of property. In security operations, the police and the military often employed collective punishment: the indiscriminate rounding up of individuals in a specific area, then brutally punishing them, all with the expectation that this would yield the desired results of increased security. 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.

In this regard, the Commission

Reference 5 - 0.01% Coverage

ancestral lands also increased their

marginalisation, deepened their poverty and created conflict with neighbours. For instance, the Endorois were brutally evicted from the trust land they inhabited around lake Bogoria when the government declared the area a game reserve. They were displaced, lost property and denied access to traditional cultural and religious areas.

The small population size that

Reference 6 - 0.01% Coverage

were displaced from their homes¹⁴

and property worth billions of shillings destroyed through arson and other forms of attacks. It

Reference 7 - 0.01% Coverage

that they become aware of;

□ to promptly deliver to the Commission all property of the Commission whenever requested or in any event upon termination of employment;

□ not to engage in other

Reference 8 - 0.03% Coverage

with their own ears.¹⁷

35. While the hearings had a therapeutic effect for individuals like Omar Qutara, it was not so for some who testified before the Commission. Even as it conducted its hearings, the Commission sufficiently warned itself of the potential of hearings or truth-telling to re-traumatise victims. Such was the experience of a victim who testified before the Commission in Kapenguria: When I think about those issues, I feel so bad. I do not see the reason why we should talk over such issues, because it will not help me. I do not have any children; one of my ears cannot hear; I do not have any property; my son, who was a man, died because there was nobody who could take care of him when he was sick. I failed to get another person, a man, who will inherit

my wealth. Even if I talk from here, I do not know whether the government can really help somebody. What is the importance of all these discussions as we sit here?¹⁸

36.

To mitigate the effects

Reference 9 - 0.01% Coverage

ill-treatment of any person;

(b) imprisonment or other severe deprivation of physical property; (c) rape or any other form of sexual violence; (d) enforced disappearance of persons;

(e) persecution against any identifiable

Reference 10 - 0.02% Coverage

violations of socio-economic rights.

99. One of the findings of the Commission in this regard, for instance, is that most security operations in the country in which killings, torture and sexual crimes were committed, were also characterized by the burning of houses, theft or killing of cattle, looting of property and destruction of crops. The impact of these violations was particularly borne by the most vulnerable in society such as women, children, persons with disabilities and the elderly.

REPORT OF THE TRUTH, JUSTICE

Reference 11 - 0.04% Coverage

in Mandera in April 2011:

Let me also take this opportunity to thank those who recorded statements with the Commission. In total, the Commission received over 30,000 statements and 300 memoranda. Because of time limitation and the nature of Truth Commissions, we shall not be able to conduct hearings for all the statements recorded. The Commission has, therefore, selected a few statements to conduct the hearings on what would give a global picture of the violations suffered by people from this region. In the next three days, for example, we shall hear testimonies on the history of events and violations in Mandera; violations suffered by women, testimonies on torture, marginalization, massacres, extrajudicial killings, detentions, loss of property, serious injuries suffered during postelection violence and police brutality. Although a few people will be giving testimonies concerning violations suffered in Mandera, most of you will relate with the testimonies shared because most of you have suffered similar violations. However, I want to assure you that every statement recorded will be part of the report when the Commission finishes its work.⁸

69.

To ensure that a

Reference 12 - 0.01% Coverage

Professor Tom Ojienda - Commissioner, Kenya

nent lawyers appointed by the International Bar Association on a mission to the DRC. Commissioner Ojienda chairs the Land Acquisition Compensation Tribunal, sits on the Council of Legal Education, the Board of the

American Biographical Institute, the International Bar Association, the Kenya Industrial Property Institute and has previously chaired Legal Clinics at the School of Law, Moi University.
He has written two books

Reference 13 - 0.01% Coverage

ethnic, cultural, religious or gender

5. Economic Crimes, including fraudulent or unlawful acquisition, disposal, mortgaging, charging or damage of public property; tax evasion; offences related to tenders and improper procurement;

6. illegal and irregular acquisition

Reference 14 - 0.01% Coverage

of office; breach of trust

8. Economic marginalisation of communities; Multiple and systematic violations of the right to education, health, property (land)

9. Crimes against humanity

10

Reference 15 - 0.01% Coverage

SOCIO-ECONOMIC RIGHTS Economic Crimes

Including fraudulent or unlawful acquisition, disposal, mortgaging, charging or damage of public property (including money); tax evasion; serious offences related to tenders and improper procurement

Grand corruption

Including bribery; fraud

Reference 16 - 0.01% Coverage

and improper procurement

Grand corruption

Including bribery; fraud; embezzlement or misappropriation of public funds; abuse of office; breach of trust; offences related to procurement and tendering Multiple and systematic violations of the right to property (land)

Including forced removal (evictions), title

Reference 17 - 0.05% Coverage

late at that time.⁷⁶

79. Land, particularly access to rich and productive land, was also a factor in ethnic violence in the Rift Valley during elections. Some scholars have noted: In 1991, much of the violence was centred around farms which were formerly part of the so-called 'white highlands', land appropriated from those communities who customarily owned and occupied it by the colonial government for white settler farming. Mitetei farm in

Tinderet Division, Nandi District, provides an example: purchased by members of the Kikuyu, Kamba, Luhya, Luo and Kisii communities, it is located in traditionally Kalenjin land. Some local Kalenjin argued that they should also receive shares in the farm, leading to a dispute in which the local authorities took the side of the Kalenjin, because of ethnic affiliations and party politics. This farm was the scene of attacks by Kalenjin on the 29th October, 1991, causing all non-Kalenjin occupiers to flee. In or about June, 1992, the farm was surveyed and shared among local Kalenjin people, and titles were issued to them to the exclusion of those who had been forcibly displaced. Those who took over the property refused to reimburse the IDPs for the cost of their shares, arguing that it was 'rent' for land which really belonged to Kalenjin. Owiro farm in Songhor location, Tinderet Division, is another property bought from a European by non-Kalenjin (Luo) individuals using bridging finance from the Agricultural Finance Corporation (AFC). The owners of this farm were also killed or forcibly displaced during the 1991 violence.⁷⁷

80.

The finer details of

Reference 18 - 0.05% Coverage

Volume III Chapter ONE 90.

The perception of bias and discrimination have also emerged in relation to financial assistance and housing. The Commission found a study by UNDP revealing on the unfortunate situation that faced IDPs that noted with alarm; "Among the returnees to ancestral homes, reconciliation efforts have been compromised by governments' compensation and resettlement approach. Most of the returnees to the ancestral homes were paid KES 10,000 to restart life. However, other victims of violence who lost property and houses were paid an additional KES 25,000. In Nyanza

(Kisumu) where most of the returnees to ancestral homes are currently living, some 'non-natives' victims (Kikuyus and Kambas) were paid KES 10,000 and KES 25,000 for loss of property and houses. This has caused a feeling of discrimination against native Luos. There was a feeling among the Luos that the government was discriminating against them and favouring non-Luos particularly, the Kikuyus with regards to compensation. Other government efforts such as the resettlement programme are also perceived to be favouring non-Luos. Reconciliation is further constrained by the fact that the victims who lost their property to neighbours still see their property at their neighbours, yet they find themselves unable to reclaim it. Moreover, reconciliation efforts are rendered elusive owing to the fact that people who were violated continue to wait for justice".⁹³

91. After displacement cases of

Reference 19 - 0.02% Coverage

to specific people". ⁹⁴

92.

These sentiments of discrimination in other relief programmes that were carried out by the government were shared by victims of displacement else where in the country who testified before the Commission in Kisumu. "While other regions are getting fertilizer, seeds, houses, medical aid and regular food supplies, victims in Nyanza, that is, those who were displaced from outside Nyanza and those who come from this area are confined to Kshs10,000 and not everybody got it. The assumption is that the people who came from outside did not own property and were not living any meaningful life but were just labourers and, therefore, all they lost was their wages." ⁹⁵

93 Ibid, 17 94. TJRC

Reference 20 - 0.02% Coverage

Volume III Chapter TWO 30.

It was a violent and unsettled time on parts of Mount Elgon. Some residents blamed Mr. Lekolool personally for both the fact and the manner of their eviction from Chebyuk: PC Lekolool chased away those people who had lived in the forest. When this happened, they burnt people's properties and brought people from Mosop and put them in Cheptoror. They closed every path and said it was a forest where trees would be planted. After they planted trees, we went there and cried wondering what had happened yet we happened to have been given the land by the Government.²⁶

31.

The former Provincial Commissioner

Reference 21 - 0.03% Coverage

he became very popular.⁴⁹

59. Mr. Kapondi's campaign for the Mount Elgon seat in the General Election of 2007 was an extraordinary one. The reason for this was that on the 13 April 2007 he was arraigned in court on charges of robbery with violence for the killing of a Jackson Kaibei Matei on the 17 of August 2006 after robbing him of 55, 000 shillings in cash and one cow worth 10,000 shillings while armed with an AK47 rifle. He was also charged with the wilful destruction of property, and promotion of war-like activities. Kapondi's position was that the charges were false, trumped up and politically motivated. He accused the then area Member of Parliament, Serut, of capitalizing on insecurity in the district to harass his political opponents. He remained in police custody for seven months.

49. TJRC/Hansard/In-Camera

Reference 22 - 0.01% Coverage

violations.

Parachute Battalion from Impact

118. It was difficult for community members to distinguish SLDF fighters from government security agents because they deliberately wore very similar uniforms. This enabled the group to invade homes, attack and harass individuals, and extort money and property.¹⁴⁴

own homes, they remained integrated

Reference 23 - 0.02% Coverage

81

Volume III Chapter THREE

their forefathers and mothers. Until now, the scale and impact of human rights violations and historical injustices have neither been fully acknowledged nor sufficiently addressed. This has in turn nurtured an atmosphere of latent tension, hatred and suspicion among individuals and communities. This tension flared up in December 2007 following the declaration of the results of the Presidential Election. The outcome was an unprecedented tragedy in Kenya's history: a violent conflict in which an estimated 1,133 people died

while approximately 650,000 were displaced from their homes and property worth billions of shillings destroyed through arson and other forms of attacks.

3.

In the aftermath of

Reference 24 - 0.04% Coverage

their own ears.¹¹

24.

Not all of the victims who testified before the Commission experienced healing and reconciliation. For some of those victims, their experiences were too painful and grave that nothing, including narration and compensation, would make them feel better. Following the Commission's thematic workshop on the media, for instance, a survivor of the Mwakenya crackdown questioned not only 'the rationale of us as a nation re-living these horrors' but also 'the whole meaning' of the Commission. Another victim told the Commission that: When I think about those issues, I feel so bad. I do not see the reason why we should talk over such issues, because it will not help me. I do not have any children. One of my ears cannot hear. I do not have any property. My son, who was a man, died because there was nobody who could take care of him when he was sick. I failed to get another person, who is a man, who will now inherit my wealth. Even if I talk from here, I do not know whether the Government that can really help somebody. What is the importance of all these discussions as we sit here?¹²

25.

In most forums, it

Reference 25 - 0.02% Coverage

prerequisite for forgiveness and reconciliation.

34. Ms. Nyarinda Moikobu's testimony is a clear indication of the conditions that some of the victims attached to forgiveness and ultimately reconciliation. While testifying on how her property had, on many occasions that coincides with the general elections, been looted, Ms. Nyarinda Moikobu stated as follows: In conclusion, I would want to say that while people are going round asking for forgiveness, justice and reconciliation, if at all somebody is coming to say that "Nyarinda, I apologise", he or she must confess what he did before I forgive him. If they tell me that they took my property, I am ready to forgive them. We are very ready to forgive but we

REPORT OF THE TRUTH, JUSTICE

Reference 26 - 0.02% Coverage

I request the Government.³¹

62. While testifying about the destruction of property experienced in 2007/2008 post election violence, Hon. Samuel Omweri Kibwage wondered how people were expected to reconcile when they were still struggling to earn a livelihood: How do you reconcile such cases? How do you help? So we feel the Commission should help us. Even if we are seeking peace, some of these people should be compensated just to comfort them and wipe their tears.³²

63. While addressing the question

Reference 27 - 0.02% Coverage

Timothy Komora stated as follows:

I know that there are committees that are trying to bring all the communities together in security issues. The important thing that we would want is that these committees should go on sensitizing both areas, so that each community will respect the other. We, as pastoralists, know that farming or agriculture is what the farmer depends on and it is just as important as his livestock so that every person respects the property of the other person. If we have that respect there will be no problem.³⁸

37 TJRC/Hansard/Thematic Hearing

Reference 28 - 0.02% Coverage

treatment, and sexual violence.

28.

The Commission finds that Northern Kenya (comprised of the former North Eastern Province, Upper Eastern and North Rift) has been the epicenter of gross violations of human rights by state security agencies. Almost without exception, security operations in Northern Kenya have been accompanied by massacres of largely innocent citizens, systematic and widespread torture, rape and sexual violence of girls and women, looting and burning of property, and the killing and confiscation of cattle and other livestock.

29.

The Commission finds that

Reference 29 - 0.02% Coverage

and Injustices

Colonial Era 36.

The Commission finds that in order to establish and consolidate its rule in Kenya, the British government employed violence on a locally unprecedented scale. To force the local population into submission, the colonial administration in Kenya conducted punitive expeditions in the 1890 and 1920 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 Kisii in 1904, 1908 and 1914, against the Kipsigis in 1905 and against the Abagishu and Kabras in 1907. These military expeditions were characterised by massacres, torture, sexual violence, and destruction of property.

37.

The British administration divided

Reference 30 - 0.01% Coverage

15

Volume IV Chapter ONE

gender-based violations, torture, enforced disappearances and destruction of property.

59.

The Commission finds that

Reference 31 - 0.01% Coverage

Karatasi/Garissa Gubai Massacre 67.

The Commission finds that the security operation conducted in Garissa in November 1980 resulted in the massacre of hundreds of civilians. Numerous other atrocities were committed by state security agents (the regular police, administration police, General Service Unit, and the Kenya Army), including torture, brutal beatings, rape and sexual violence, burning of houses and looting of property.

68.

The Commission finds that

Reference 32 - 0.01% Coverage

and looting of property.

68.

The Commission finds that the Bulla Karatasi Massacre, and the detention, torture, rape and sexual violation of women, burning of houses and the looting of property, was a systematic attack against a civilian population and thus qualifies as a crime against humanity.

69. 70.

The Commission finds

Reference 33 - 0.01% Coverage

to account.

Wagalla Massacre 75.

The Commission finds that the security operation conducted in Wagalla, Wajir, in February 1984 resulted in the massacre of hundreds of civilians. Numerous other atrocities were committed by state security agents including torture, brutal beatings, rape and sexual violence, burning of houses and looting of property

76.

The Commission finds that

Reference 34 - 0.03% Coverage

based on international standards.

In

particular, Force Standing Order 51, which allows the use of lethal force to protect property, should be repealed. The Commission recommends the prosecution of police officers and other state agents who were involved in the torture and ill-treatment of individuals during the mandate period. The Commission has identified individuals who were involved in the torture and ill-treatment of, amongst others, Mwakenya and FERA suspects and recommends their investigation and, where there is sufficient evidence, prosecution. In particular, the Commission recommends the prosecution of the following: James Opiyo; James Mathenge; Sam Chelimo; Munene Muhindi; John Mburu; SP Okwemba; Petkay Miriti; G Koskey; James Kilonzo; James Gachanja Kariuki; Christopher Karanja Kiarie; Noah Arap Too; Geoffrey Kinoti; Leonard Wachira; Elias Mjomba; Thomas Kiarie; Nyaga Wambora; and Benjamin Ogol.

The Commission recommends that the

Reference 35 - 0.01% Coverage

disability have also been targeted.

158. The Commission finds that victims of sexual violence range from the very young to the very old. The Commission finds that most victims of sexual violence also experienced other forms of violations including displacements, loss of family members, loss of property, and torture.

REPORT OF THE TRUTH, JUSTICE

Reference 36 - 0.01% Coverage

women living in these regions.

173. The Commission finds that discriminatory cultural practices relating to access, use and ownership of land remain persistent despite legal provisions which guarantee everyone the right to property, whether they are female or male.

174. The Commission finds that

Reference 37 - 0.01% Coverage

women's enjoyment of human rights.

The Commission recommends that the Attorney General and Parliament expedites the enactment of the following bills relating to women's rights: Marriage Bill, 2007; Matrimonial Property Bill, 2007; Family Protection Bill, 2007; Equal Opportunities Bill, 2007

The Commission recommends that within

Reference 38 - 0.01% Coverage

45

Volume IV Chapter ONE

213. The state failed in its responsibility to protect communities in predominantly pastoralist areas from inter-communal violence. This failure has resulted in thousands of deaths, injuries, forced displacement, sexual violence, loss of property and destruction of entire homesteads and villages over a period of more than 40 years.

214. The state engaged in

Reference 39 - 0.02% Coverage

with a limited welfare component.

□ although the Policy recognized that land was previously owned communally with access regulated through membership in a particular group (clan or ethnic group), it asserted that a system of secure private title to land was necessary to anchor economic growth. Yet, the diversity of claims (that included communal title that governed property in most communities in the pre-colonial era) as well as the effects of dispossession during the colonial period was not taken into account.

232. The restructuring of the

Reference 40 - 0.01% Coverage

Kenya that was brutally muzzled

235. The state has also been directly responsible for economic marginalisation as a result of deprivations visited on residents because of policies aimed at enhancing security. In particular the numerous security operations conducted in this region have often resulted in loss and confiscation of property, especially cattle, by state security agents.

236. Difficulties encountered by residents

Reference 41 - 0.02% Coverage

its valued seafront land resources.

240. Submissions from Coast residents invariably link their state of economic marginalisation marked by poverty, illiteracy and lack of access to basic services to frequent land-related dispossessions. The Commission heard many accounts of police brutality and other kinds of mistreatment by the provincial administration, including extra-judicial killings, arrest and imprisonment of those who agitate for restitution, as well as the destruction of property and evictions of those who live off these lands with contested titles.

Economic marginalization of Western

241

Reference 42 - 0.01% Coverage

awareness about harmful cultural practices

Enactment of relevant laws (e.g. marriage; matrimonial property; family protection/domestic violence)

Adoption and implementation of a

Reference 43 - 0.01% Coverage

corporate name, be capable of —

□ suing and being sued; □ acquiring, holding, charging and disposing of movable and immovable property;

□ borrowing and raising money from

Reference 44 - 0.01% Coverage

Administration Incorporation of the Committee

3. (1) The Committee shall be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of — a) suing and being sued; b) acquiring, holding, charging and disposing of movable and immovable property;

c) borrowing and raising money

Reference 45 - 0.01% Coverage

and burial

Annual religious service

Recovery of stolen funds/property Affirmative action

Replacement of goods Community service

Reference 46 - 0.02% Coverage

ITR/038/13

ALLEGED VIOLATION

Between 2001 and 2004 while leading a group called "Ndieeteleka", incited members to violence, which led to torture and grievous harm to innocent individuals; forceful eviction, arson and looting of property; rape and sexual abuse on residents of Mwakini village, Mwakini farm, Kitui County, an operation which came to be known as "Kavamba Operation." He drove the gang using his own motor vehicle, Registration Number KAA 197X canter lorry.

2

AMOS CHEBOI (Former OCPD

Reference 47 - 0.02% Coverage

diverse dates between 27th - 31st

December 2007, issued inflammatory statement calculated at inciting other communities and/or perceived sympathizers of President Kibaki living in Kasarani Constituency, Mathare North Area kijiji cha Chewa. She publicly directed and/or urged the removal; of "madoadoa" (Kikuyu and Kamba communities) from the aforesaid areas. As a result of the statements, houses of persons of Kikuyu and Kamba descent were burnt, property looted and lives lost as her supporters carried out her above stated directives.

25 JACKSON KIBOR

Financed and

Reference 48 - 0.01% Coverage

attend.

26 HON JOSHUA KUTTUNY

Planned, facilitated, and/or directed attacks against non-Kalenjins living within Cherangany area, acts which led to the displacement, serious injuries, deaths and loss of property during 2007/8 Post-Election Violence in Eldoret.

27

FRANCIS SIGEI (Former District

Reference 49 - 0.01% Coverage

and objected to the proceedings.

He is alleged to have been directly involved in financing, planning and instigating violence in Mount Elgon between 2006 and 2008, which acts led to death, serious injuries, displacement and destruction of property.
32 HON FRED CHESEBE KAPONDI

Reference 50 - 0.01% Coverage

32 HON FRED CHESEBE KAPONDI

He is alleged to have been directly involved in financing, planning and instigating violence in Mount Elgon between 2006 and 2008, which acts led to death, serious injuries, displacement and destruction of property.
The witness on two occasions

Reference 51 - 0.01% Coverage

35 COL STEPHEN K. BOIYWO

While serving as the Commanding Officer during the military intervention in Mount Elgon in 2008, dubbed, "Operation Okoa Maisha", he allegedly instigated and/or directed the commission of gross violations of human rights including but not limited to extra-judicial killings, torture, maiming, illegal detentions, destruction and loss of property of the residents of Mount Elgon.

36 JACKSON PSONGOIYWO

As the

Reference 52 - 0.01% Coverage

Mount Elgon.

36 JACKSON PSONGOIYWO

As the "mawoitwo" (spiritual leader), he is alleged to have administered unlawful oath to the SLDF members, and was directly involved in planning and instigating violence in Mount Elgon between 2006 and 2008, which acts led to death, serious injuries, displacement and destruction of property.

The Commission was unable to

Reference 53 - 0.01% Coverage

TJRC/L/ITR/085/13

In 1983, while he was a DO in Msambweni in 1983, he authorized the unlawful arrest of residents in Msambweni, Kwale district in Coast Province and detained residents and destroyed property.

57 JUMA NASSORO MWANYALU TJRC

Reference 54 - 0.01% Coverage

TJRC/L/ITR/086/13

While a Chief in Msambweni, authorized the arrest of residents of Nyumba Sita, Msambweni, Kwale District of Coast Province; intimidation, arrest and unlawful detention of residents and destruction of property

MSHENG RUGA TJRC/L

Reference 55 - 0.01% Coverage

TJRC/L/ITR/087/13

While being the Chair, Kwale County Council, authorized the arrest of residents of Nyumba Sita, Msambweni, Kwale District of Coast Province; intimidation, arrest and unlawful detention of residents and destruction of property

23rd January 2013

Our investigations

Reference 56 - 0.01% Coverage

on or about 3rd July

2007 by the SLDF militia group, in which he was a member, he planned, instigated and/or ordered the killing of persons within Kapnashome Village, Cheptais Division, Mt Elgon; During the said attack, he was involved in collecting fines and looting property.

69

AMOS CHEMINGWA TJRC/L

Reference 57 - 0.01% Coverage

on or about 3rd July

2007 by the SLDF militia group, in which he was a member, he planned, instigated and/or ordered the killing of persons within Kapnashome Village, Cheptais Division, Mt Elgon; During the said attack, he was involved in collecting fines and looting property.

70

KISO SIOI TJRC/L

Reference 58 - 0.01% Coverage

TJRC/L/IRT/042/13

Directly involved in perpetrating violence during PEV of 2007/2008 at Jogoo Village in Mau Summit Location, Kamara Division Molo District in Rift Valley Province, which led to the killing of civilians, arson, looting and destruction of property within the area.

76

RICHARD ROTICH TJRC/L

Reference 59 - 0.01% Coverage

TJRC/L/IRT/043/13

He was directly involved in perpetrating violence during PEV of 2007/2008 at Total Molo District in Rift Valley Province, which led to the killing of civilians, arson, looting and destruction of property within the area.

77

ERIC KIBET TJRC/L

Reference 60 - 0.01% Coverage

STANLEY KIPKOECH TJRC/L/046

On or about late 2007, was privy to illegal meetings that coordinated, directed and/ or facilitated the attacks at Kio Farm in Kuresoi Location, Kuresoi District, Rift Valley Province, leading to loss of lives and destruction of property.

80

FRANCIS CHEPTALAM TJRC/L

Reference 61 - 0.01% Coverage

TJRC/L/ITR/051/13

Involved in the planning, facilitating and/or executing 2007/8 Post-election Violence at Kio Farm in Kuresoi Location, Kuresoi District, Rift Valley Province, which led to the killing of civilians and destruction of property.

83

SAMUEL NAMUNI TJRC/L

Reference 62 - 0.01% Coverage

TJRC/L/ITR/054/13

Some time in the year 1993 at Arimi Farm in Kuresoi District, Rift Valley Province, he issued inflammatory statements calculated at inciting members of his community into violence, leading to arson, killing of civilians, rape and destruction of property.

87

JOHN LANGAT TJRC/L

Reference 63 - 0.01% Coverage

TJRC/L/IRT/055/13

Some time in the year 1993 at Arimi Farm in Kuresoi District, Rift Valley Province, issued inflammatory statements calculated at inciting members of his community into violence, leading to arson, killing of civilians, rape and destruction of property.

88

ALEXANDER NGETICH TJRC/L

Reference 64 - 0.01% Coverage

TJRC/L/IRT/056/13

Some time in the year 1993 at Arimi Farm in Kuresoi District, Rift Valley Province, issued inflammatory statements calculated at inciting members of his community into violence, leading to arson, killing of civilians, rape and destruction of property.

89

SIMON CHESIKTES TJRC/L

Reference 65 - 0.01% Coverage

CHESIKTES TJRC/L/IRT/058

Some time in the year 1993 at Arimi Farm in Kuresoi District, Rift Valley Province, issued inflammatory statements calculated at inciting members of his community into violence, leading to arson, killing of civilians, rape and destruction of property.

DATE OF NOTICE/ SUMMONS

17th

Reference 66 - 0.01% Coverage

TJRC/L/IRT/059/13

In late 2007 and in early 2008, he was privy to illegal meetings that coordinated, directed and/or facilitated the attacks at Kio Farm in Kuresoi Location, Kuresoi District Rift Valley Province, leading to loss of lives and destruction of property.

91

CHELUK KIPKOGE TJRC/L

Reference 67 - 0.01% Coverage

TJRC/L/ITR/070/13

Between 1982 and 1983 during the conflict between residents of Nzalae area and Nzalae Group Ranchers, as Chairman, he planned, instigated, ordered and/or abetted torture and forceful eviction of residents of Nzalae from the area; was involved in the looting of property belong to Nzalae residents.

99

CHIEF OLENKOI TJRC/L

Reference 68 - 0.02% Coverage

TJRC/L/ITR/073/13

Between 1982 and 1983 during the conflict between residents of Nzalae area and Nzalae Group Ranchers, as Chairman, planned, instigated, ordered and/or abetted torture and forceful eviction of residents of Nzalae from the area; was involved in the looting of property belong to Nzalae residents; in 1988 as a Member of Parliament for Mwingi Constituency, unduly influenced the dismissal of area's administrative officers who did not support your interests regarding the disputed land in Nzalae.

102 MAJOR HALKANO TJRC/L

Reference 69 - 0.01% Coverage

executed them in Toiboto area.

Between 2001 and 2004 while leading a group called "Ndieeteleka", he incited members to violence, which led to torture and grievous harm to innocent individuals; forceful eviction, arson and looting of property; rape and sexual abuse on residents of certain two villages.

110 OWINO OTANDA TJRC/L

Reference 70 - 0.01% Coverage

TJRC/L/ITR/097/13

Some time in the year 1992 at different locations and as a respected Maasai leader and elder, made utterances capable of inciting ethnic violence against non-Maasai community members living in Enoosupukia of Narok District and particularly within Sintagara area. This led to the killings of scores of individuals, destruction of property and mass evictions.

118 WILLIAM OLE LITIET TJRC

Reference 71 - 0.01% Coverage

TJRC/L/ITR/098/13

Some time in the year 1992 as the local area Assistant Chief, led a group of Maasai youths in a violent attack targeting non-Maasai community members living in Sintagara, Enoosupukia, Narok District, leading to the killing of individuals, destruction of property and mass evictions.

119 KWAMBAI TJRC/L/099

Reference 72 - 0.01% Coverage

GETISHE TJRC/ITR/0103/13

That some time in year 1992 in his capacity as a local area Councillor, he led a group of Maasai youths in a violent attack targeting non-Maasai community members living Sintagara, Enoosupukia, Narok District. This led to the killing of scores of individuals, destruction of property and mass evictions.

124 SIMEON NG'ETICH TJRC/L

Reference 73 - 0.01% Coverage

1st January 2008, in the

company of other youths from the Kalenjin community and while armed with crude weapons, he participated in the destruction and looting of property belonging to the non-Kalenjin community living in Kiambaa of Uasin Gishu District of Rift Valley. Further, he similarly participated in the torching of Kiambaa KAG Church, an act which led to the death of many innocent civilians.

126 HON NORMAN G.K

Reference 74 - 0.01% Coverage

TJRC/L/ITR/084/13

While a DC in Msambweni, he authorized the arrest of residents of Nyumba Sita, Msambweni, Kwale District of Coast Province; intimidation, arrest and unlawful detention of residents and destruction of property
128 EPHANTUS NJUHIU TJRC/L

Reference 75 - 0.01% Coverage

March 2013 5th April 2013

He denied the allegations that he sponsored the eviction. The vendor for Mwingi cottages produced evidence of sale of the property to Hon Kalonzo Musyoka.
Recommendation to the National Land

Reference 76 - 0.01% Coverage

within Trans Mara on 2nd

February, 1989 where lives were lost, women raped, property lost.
236 HON LUCAS CHEPKITONY (Former

Reference 77 - 0.01% Coverage

TJRC/L/10/114/2013

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013

COMMISSION'S FINDINGS

Reference 78 - 0.01% Coverage

TJRC/L/10/112/2013

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

DATE OF NOTICE/ SUMMONS

5TH

Reference 79 - 0.01% Coverage

TJRC/L/10/109/2013

Forceful evictions at Kadzuhoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013

Recommendation to

Reference 80 - 0.01% Coverage

TJRC/L/10/111/2013

Forceful evictions at Kambi ya Waya with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013 2nd April

Reference 81 - 0.01% Coverage

LIMITED TJRC/L/115/2013

Forceful evictions at Msumarini with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

DATE OF NOTICE/ SUMMONS

RECEIPT

Reference 82 - 0.01% Coverage

TJRC/L/10/110/2013

Forceful evictions at Marereni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013 3rd April

Reference 83 - 0.01% Coverage

TJRC/L/10/107/2013

Forceful evictions at Kanagoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

5th March 2013

Recommendation to

Reference 84 - 0.01% Coverage

TJRC/L/10/113/2013

Forceful evictions at Kanagoni with the help of the state security agents and the local provincial administration; and encroachment into private land under the false pretence of future compensation and confiscation of property, beating of victims of eviction; environmental degradation of the ecosystems adjacent to the industrial areas, lack of audits and assessments; violation of various labour rights.

DATE OF NOTICE/ SUMMONS

5th

Name: References to Redistribute in Kenya Report

<Files\\Kenya Report> - § 12 references coded [0.22% Coverage]

Reference 1 - 0.01% Coverage

outlining the essential elements of reconciliation rather than defining the term. The elements it identified include that: reconciliation is both a goal and a process; it is experienced at different levels (intra-personal, inter-personal, community and national); and that reconciliation has linkages to redistribution in terms of material reconstruction and the restoration of dignity. Similarly, the Sierra Leone Truth and

Reference 2 - 0.01% Coverage

□ There exists both conceptual and practical links between reconciliation and the notion of justice. Justice includes redistributive, retributive and reparative justice. Reconciliation is fostered when those who have suffered

Reference 3 - 0.01% Coverage

73. Central to many of the ethnic tensions in post-independence Kenya is the issue of redistribution of the land formerly occupied by white settlers.⁶⁵

Reference 4 - 0.01% Coverage

post-colonial land redistribution policy that was deliberately designed to favour the ruling class and not the landless masses, it is now estimated that more than half of the arable land in the country is in the hands of only 20% of the population.⁶⁶ Politicians in successive governments used land to induce patronage and build political alliances.⁶⁷

Reference 5 - 0.02% Coverage

77. Historical injustices related to land is thus one of the major causes of ethnic tensions and violence in the country. The Ministry of Justice, National Cohesion and Constitutional Affairs underscores this point: Although there was need for massive land redistribution [at independence], this was not implemented effectively and equitably. Land redistribution initiatives were generally mismanaged and resulted in unequal access to land. The mismanagement heightened conflict between various societal groups, given the importance of land as a source of wealth.⁷⁵

Reference 6 - 0.01% Coverage

Instead of redistributing land to those communities who had been displaced at independence, the government adopted a "willing buyer willing seller" program. Professor Walter Oyugi testified before the Commission about how the willingbuyer-willing-seller redistribution policy was abused, leading to ethnic tensions in the country:

Reference 7 - 0.02% Coverage

made when the scheme was first announced. Families with no titles then proceeded to sub-divide and re-sell their self-claimed allocations. The main recipients/beneficiaries of this redistribution were Soy locals and neighbours who had helped in the clearing of forest. Chebyuk also attracted huge numbers of people who had not been included in the original plans. Landless Soy families who had missed out on nearby settlement schemes in Trans Nzoia streamed into Chebyuk hoping to benefit from the lack of legal structure to install themselves on plots of land.

Reference 8 - 0.04% Coverage

In January 1993 two minibuses full of elders and local notables motored out of Mount Elgon. Their destination and mission were familiar ones: an appointment with President Moi to discuss the perennially thorny issue of Chebyuk settlement scheme. The elders and notables represented an equally familiar group of petitioners. Chebyuk Phase Two had created a bad-tempered cocktail of losers easily recognized by the Commission. One ingredient in this cocktail consisted of the group of people who since the 1970s and the advent of Chebyuk I, had (often illegally) carved out sizeable farms for themselves and their families. Some of these farms were very large indeed (80 hectares); their owners were forced to downsize under Lekoolool's arrangement. Another ingredient was the group of people whose numbers did not come up in the balloting at all. They missed out completely on the chance to be settled in Chebyuk. All belonged to the very large group of hopefuls that had grown up around the successive attempts to redistribute and resettle Chebyuk. Once again, their petitions were well received by President Moi. The creation of Chebyuk Phase Three in the locales of Chepkurkur and Korng'otuny was announced.

Reference 9 - 0.03% Coverage

53. Mount Elgon, however, voted no. Almost immediately, drastic changes were introduced into Chebyuk Phase Three. As has been explained above, a scheme that was seen as being previously reserved for the Soy now had to admit the Mosop. The popular explanation in Mount Elgon for this redistribution was that, in Serut's terms, the Mosop had chased the bees. In other words, the Mosop had supported the referendum and even though the cause was a losing one, they were still rewarded with—as it were--the honey. In the process, Mr. Serut began to emerge as a champion of sorts for the Mosop seeking to be considered and included in the allocation of land at Chepyuk. Serut's co-option of Mosop causes would cost him the support of the majority Soy who gradually came

Reference 10 - 0.03% Coverage

75. April 2006 was a tense and difficult month in Mount Elgon. Much to the disgust of many Soy claimants, Chepyuk Phase Three had to be shared between them and the Mosop. Plots were capped at just two hectares. The grim news was confirmed when the list of beneficiaries was published and posted in the District Commissioner's office. The lucky ones were to await their letters of allocation. The unlucky ones faced a much less rosy future; dispossession and eviction was their fate. Those most bitter about these developments were a core group of very large land owners who had somehow over many years managed to avoid the Chebyuk dragnet. This time round however, things seemed quite different. Redistribution and eviction looked inevitable.

Reference 11 - 0.02% Coverage

justifiably so, with outlining the essential elements of reconciliation rather than defining the term. The elements it identified include that: reconciliation is both a goal and a process; it is experienced at different

levels (intra-personal, inter-personal, community and national); and that reconciliation has linkages to redistribution in terms of material reconstruction and the restoration of dignity. Similarly, the Sierra Leone Truth and Reconciliation Commission conducted its reconciliation work on the premise that 'there is no universal model of reconciliation that can apply to all countries'.³

Reference 12 - 0.02% Coverage

6. Informed by comparative experience and our own context, the TJRC places emphasis on the conceptual and practical links between reconciliation & national healing and justice, which includes redistributive justice, retributive justice and reparative justice. The goal of reconciliation at various levels will remain elusive unless those who have suffered are restored and repaired; unless those who were excluded are included in meaningful ways; and unless those in dire want as a result of marginalization are materially enabled to move forward.

Name: References to Resource in Kenya Report

<Files\\Kenya Report> - \$ 81 references coded [1.47% Coverage]

Reference 1 - 0.05% Coverage

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Reference 2 - 0.03% Coverage

numbers of statements we collected.

What we can say with confidence, however, is that the record number of statements collected affirms our individual perceptions as we travelled the length and breadth of the country: there is a hunger, a desire, even a demand for the injustices of the past to be addressed so that those individuals who have borne the brunt of those injustices, and the nation as a whole, may move on. The 2003 Task Force on the Establishment of a Truth, Justice and Reconciliation Commission reported that over 90 percent of Kenyans wanted a truth justice and reconciliation commission. We are not in a position to confirm that percentage, but we can with full confidence, on the basis on our collective experience, report that the vast majority of Kenyans not only wanted such a commission, but were willing to spend a significant amount of their own time, and sometimes money and other resources, to participate in a truth-telling process.

This is a Report. It

Reference 3 - 0.02% Coverage

critical of, the established regime.

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, with the advent of multi-party politics, elections began to be identified with violence. Ethnicity became an even more potent tool for political organising and access to state resources. Like his predecessor, President Moi lacked the commitment to address grievances related to land. Instead, irregular and illegal allocation of land became rampant during his era in power.

In December 2002, KANU was

Reference 4 - 0.02% Coverage

EXECUTIVE SUMMARY Land and conflict

For the majority of Kenyans, land is the basic, and in most cases, the only economic resource from which they eke out a livelihood. The ability to access, own, use and control land has a profound impact on their ability to feed and provide for their families and to establish their socio-economic and political standing in society. However, tensions and structural conflicts related to land have simmered in all parts of Kenya throughout the years of independence. In recent years, many land related problems have degenerated into social unrest and violence.

Illegal acquisition of large tracts

Reference 5 - 0.04% Coverage

social and economic problems unaddressed.

In the case of North Eastern Province, employment, land, infrastructure, poverty, education and the institutional framework and capacity were the key indicators of the marginalisation of the region. One of the greatest impediments to development of the region is the lack of land registries in the region. As for infrastructure, which includes public utilities and is a major determinant of development and progress, the region has no tarmac road except the Isiolo-Moyale road, which is still under construction. The region has the highest rural population living under the poverty line at 70 percent, compared to 32 percent for Central province. Lack of food security is compounded by the erratic and low rainfall and declining pastures and other resources. This in turn creates conflict over these resources, further depleting the limited resources and the livestock. The paucity of schools and their relatively prohibitive cost in an area of widespread poverty has affected access to the limited education opportunities. School enrolment stands at about 18 percent for primary schools and 4.5 percent for secondary schools compared to the national average of about 88 percent and 22 per cent respectively for primary and secondary schools respectively.

REPORT OF THE TRUTH, JUSTICE

Reference 6 - 0.01% Coverage

effectively.

In addition, the Commission

was concerned that the implementation mechanism be sufficiently resourced in terms of time and staff to ensure effective monitoring and that its recommendations were in fact implemented.

Based upon these and other

Reference 7 - 0.01% Coverage

characterised the Moi era.

13.

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.

14. By 2002, when KANU

Reference 8 - 0.01% Coverage

Behaving Badly'.¹¹

The Report

documented blatant violations of the electoral code, including misuse and misappropriation of public resources, the participation of public officers in political campaigns and incitement to and incidences of violence.

9 Kenya National Commission on

Reference 9 - 0.02% Coverage

under this Act'.²⁷

63.

The Selection Panel sub-contracted a human resources firm to conduct shortlisting of applicants on its behalf. The firm received a total of 254 applications. Out of these, 47 applicants were selected for interview by the Panel. After conducting interviews, 15 names were forwarded to the National Assembly for consideration. The National Assembly deliberated the suitability of the 15 individuals and narrowed the number of candidates to nine.²⁸

The Panel of Eminent African

Reference 10 - 0.01% Coverage

working groups were as follows:

□ Structure Working Group □ Gender Working Group □ Stakeholder Collaboration Working Group □ Rules of Procedure Working Group □ Human Resources Working Group □ Security Working Group □ Outreach and Public Awareness Working Group □ Internal Rules and Policy Working Group □ Communications and Media Working Group □ Legal Affairs Working Group

REPORT OF THE TRUTH, JUSTICE

Reference 11 - 0.01% Coverage

Reconciliation Committee; and □ Amnesty Committee.

77. Administrative committees provided policy guidance for the daily functioning of the Commission. Three committees and one sub-committee were established for this purpose: □ Committee on Finance and Administration and its sub-committee on Recruitment and Human Resources;

□ Committee on Logistics, Security and

Reference 12 - 0.01% Coverage

Legal Finance/ Administration

Special Support

Investigations Communications Human Resource Accounting Security Procurement Regional Coordinators

Chart 2: Inter-departmental synergies Research Finance & Admin

Recruitment of staff 81.

The

Reference 13 - 0.03% Coverage

just less than 45 years.

103. Beyond the magnitude of the task the Commission faced several challenges and difficulties that had the effect of hampering its work and slowing implementation of its mandate. In particular, the Commission lost considerable time and credibility at the beginning of its term due to the controversy that surrounded the suitability of its Chairperson which lasted fifteen months from the appointment of the Commissioners in August 2009, to the stepping aside of the Chairperson in November 2010. The Commission also suffered financial and resource constraints that stalled its operations for the better part of its first year of operations. As a result, the Commission was not able to begin operating substantively and effectively until September 2010, a full year after its establishment.

The first extension (November 2011

Reference 14 - 0.03% Coverage

rights and economic rights.

8.

By requiring the Commission to establish a complete historical record of violations and abuses committed within a 45-year period, section 5(a) imposed on the Commission an ambitious and almost insurmountable task. Section 5(b) took a more permissive language as it required the Commission to establish 'as complete a picture as possible'. In essence, section 5(b) implicitly recognised that establishing a complete picture of the causes, nature and extent of violations could not be practically achieved. On the whole, however, given the fact that the Commission was a temporary body with limited resources, the contents of this Report are not exhaustive in terms of establishing a complete record of gross violations of human rights or painting a complete picture of the causes, nature and extent of these violations.

REPORT OF THE TRUTH, JUSTICE

Reference 15 - 0.01% Coverage

in relation to its mandate:

Given the resources available to the Commission, in terms of professional researchers and investigators, not to mention its very short lifespan, Parliament was surely ambitious in thinking that the Commission could create anything resembling a comprehensive historical record of the conflict in Sierra Leone.⁶

11.

That truth commissions are

Reference 16 - 0.03% Coverage

experiences of such violations.

14.

In the debates that preceded the creation of the Commission and indeed for the larger part of its tenure, critics argued that everyone knows the truth about historical injustices and violations. Some wondered whether it was at all important to invest both time and resources in establishing what they considered to be matters of public knowledge. While the Commission can see that there is some basis for this position, ultimately the value of the Commission and its work goes far beyond what is currently in the public record. In the first place there is much of Kenya's past that is not a matter of public knowledge. The Commission was tasked with investigating matters buried deep in Kenya's history and providing answers to numerous questions. Secondly, some of what was considered public knowledge was often based on rumour, innuendo and bias. It was an important mission of the Commission to separate fact from fiction and to debunk myths.

15.

In so doing, the

Reference 17 - 0.03% Coverage

and commence a
healing process.

In respect to determining perpetrators of violations, the Commission has published in this report names of individuals who were alleged to have committed gross violations of human rights during its mandate period. The Commission received allegations against 54,000 individuals. However, the list of alleged perpetrators contained in this report is only limited to those who were afforded an opportunity to respond to allegations levelled against them. Due to limited resources and time constraints, the Commission could not notify all alleged perpetrators of the nature of allegations raised against them. As such, the Commission had to prioritise its work in relation to sending out notifications to alleged perpetrators. The criteria used included looking at the gravity of the violations and the frequency of an individual's appearance in the Commission's database as a perpetrator.

On the report 62.

The

Reference 18 - 0.01% Coverage

elsewhere.⁴⁹

Despite contextual differences

between Kenya's and other countries, there was no need for the Commission to reinvent the wheel on this specific issue. The second reason was a matter of policy and practical considerations. The Commission could not, even if it chose to do so, inquire into all human rights violations, however petty, within a 45-year period. It was not practical, in view of time and resource constraints.

93. Having made the decision

Reference 19 - 0.02% Coverage

in the Rift Valley.⁵¹

106. In other words, the term historical injustice has been used to describe issues of marginalisation and dispossession that resulted in disparities of income, wealth and opportunity that lie at the heart of many of the current conflicts in Kenya. In its report, the Commission of Inquiry into Post Election Violence, for instance, makes reference to 'historical marginalisation, arising from perceived inequities concerning the allocation of land and other national resources as well as access to public goods and services' as one of the main causes of inter-ethnic tensions and conflict.⁵²

107. Thus, although the TJR

Reference 20 - 0.01% Coverage

Wagalla cannot be covered.⁵³

110. The breadth and complexity of its mandate, as measured against its resources and life span, imposed on the Commission intense pressure. It also partly contributed to the Commission's inability to present its Report as it had been initially scheduled.

Responsibility for Violations and Injustices

Reference 21 - 0.02% Coverage

of the laws of Kenya.

130. From its inception, concerns were raised about the impact of the Indemnity Act on the Commission's work. Some were concerned that the Indemnity Act prevented the Commission from investigating, researching, discussing, or commenting on violations that occurred in the areas and during the times covered by the Act. Others argued that the Commission should devote some of its operational resources to pushing for repeal of the Indemnity Act. Still others refused to engage with the Commission unless and until the Act was repealed.

131. Speaking of the Indemnity

Reference 22 - 0.03% Coverage

Initial Statement-Taking Exercise 19.

The Commission undertook an initial statement taking exercise in Mt Elgon in May and June 2010. This was, in effect, a pilot project conducted for two reasons. Firstly, the Commission used the exercise to get feedback from victims and other witnesses about the statement-taking methodology, including the Statement Form. Secondly, the exercise enabled the Commission to begin its main operational activities immediately, despite the fact that resources to hire staff were yet to be received. This inadequacy of financial and human resources through the first year of the Commission's establishment hindered the start of a nation-wide exercise until July 2010. Rather than wait for the availability of adequate resources, the Commission took the opportunity of the initial exercise to strengthen the tools it would work with and learn from the mistakes of other truth commissions that had not field-tested their statement-taking form and methodology.

20.

The Commission found the

Reference 23 - 0.01% Coverage

covered the entire database.

46.

In the end the following tasks related to the design of the database were completed: determination of database specifications and requirements; collection of variables and initial quality analysis for statements emanating from North Eastern Province; a preliminary determination of the human resources required for coding and data entry; and determination of ICT assurance and data security protocols.

REPORT OF THE TRUTH, JUSTICE

Reference 24 - 0.01% Coverage

Raha Palace Hotel Jabane Hall

Arid Lands Resource Management Project Guest House.

Nomad's Trail Rest House Conference

Reference 25 - 0.01% Coverage

Chapter THREE

Referral Mechanisms 95.

There were high expectations among victims in almost all places that the Commission visited that the Commission would at the very least meet their immediate needs both in monetary or material terms. This was outside the direct mandate of the Commission. Furthermore, the Commission did not have resources beyond what was allocated for providing transport and accommodation to victims who testified.

96. As a stopgap measure

Reference 26 - 0.02% Coverage

such as the Wagalla Massacre.

101. The evaluation report also raised a number of concerns including that: the hearings were legalistic and court-like; the extent of victim participation in the planning and conduct of the hearings was unclear; information about the Commission's resources and procedures for provision of psychosocial support were not widely and publicly available; and that the Commission's dissemination of information relating to hearings fell below expectation.

102. The Commission did not

Reference 27 - 0.01% Coverage

classified by region and event.

□ Resource Centre: This feature provided a collection of documents, policies, and publications.

□ Newsletter Sign Up and/or

Reference 28 - 0.01% Coverage

carry out never took off.

132. Reconciliation is a long term process and given the Commission's resource constraints it embarked on developing a National Reconciliation Agenda to serve

120 REPORT OF THE TRUTH

Reference 29 - 0.01% Coverage

and elsewhere in the world.

2. While there were many impediments to the work of the Commission, only four major challenges are discussed here: the controversy surrounding the credibility and suitability of the Chairperson; financial and other resource constraints; legal challenges; and, the lack of sufficient state and political will to support the work and implementation of the objectives for which the Commission was established.

3.

Other challenges generally stemmed

Reference 30 - 0.01% Coverage

to the Wagalla Massacre.⁹

Financial and Resource Challenges 86.

The second great challenge that the Commission faced from inception was the lack of sufficient funds and resources to efficiently and effectively conduct its operations. Although Parties to KNDR encouraged 'strong financial support to the Commission',¹⁰

the Commission operated on a

Reference 31 - 0.01% Coverage

a process which delayed activities;

b) individual Commissioners had to rely on their personal resources when the Commission's requests were delayed or denied;

c) it had no authority

Reference 32 - 0.02% Coverage

meetings in only two provinces.

□ The Commission was unable to conduct intensive training sessions for Statement Takers, especially in relation to trauma management and identification. Many Statement Takers were subject to trauma but the Commission could only organise two debriefing sessions for them. These were during the review meetings and at the end of the official statement taking period. The statement taking process identified many victims and witnesses who needed counseling but given the Commission's limited financial and other resources, limited counseling services were provided.

□ The Commission's launch of public

Reference 33 - 0.01% Coverage

ONE Lack of Political Will

106. The two major challenges discussed above – the response to the controversy around the Chairperson and the financial and resource constraints that the Commission faced – were products of and symptomatic of a bigger challenge: the lack of sufficient political will on the part of the state to give the Commission the support it needed and to commit to pursue the objectives for which the Commission was established.

107. The state's lack of

Reference 34 - 0.02% Coverage

operations in the international arena.

At his last appointment at Kenya's National Defence College, he was part of the directorate and responsible for overseeing strict adherence to the curriculum by university lecturers in addition to formulating lecture guides. His emphasis was on domestic and foreign policy studies. He has a track record as a resourceful, reliable and capable manager, whether at corporate level in the private sector or at strategic and policy level in government.

After retiring from the Department

Reference 35 - 0.02% Coverage

APPENDICES Margaret Shava - Commissioner, Kenya

A committed and accomplished professional, Commissioner Shava was educated in law and democracy in UK and has over 17 years experience working in law, management and peacebuilding. An advocate of the High Court of Kenya, she has also practiced conveyancing and commercial law with a leading Nairobi law firm and excels in modern corporate and human resources management. With her experience in the economic sectors as well as the UN and national & international NGOs specializing in human rights, governance and international refugee law, she brings a very special set of skills to her task as Commissioner.

Regional Senior Programme Officer; 1998

Reference 36 - 0.01% Coverage

Assistant Director Research

Investigator Driver

Regional Coordinator Rift Valley Assistant Director Human Resource

Assistant Director, Finance Driver

Bodyguard

Reference 37 - 0.01% Coverage

Hansard Intern Data entry clerk

Intern Human Resource Intern Intern Intern Intern Intern Intern

List of Consultants and Resource Persons

1. Abraham Waithima 2. Amriptal

Reference 38 - 0.01% Coverage

to tenders and improper procurement;

6. illegal and irregular acquisition of public land; exploitation of natural or public resources

7. Economic crimes especially grand

Reference 39 - 0.01% Coverage

irregular acquisition/allocation of land

Multiple and systematic violations of the right to education Including systematic discrimination as well as legal, policy and administrative obstacles Multiple and systematic violations of the right to health Including failure to access emergency services; allocation of resources and distribution of centres

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Reference 40 - 0.02% Coverage

therefore subject of this inquiry.

For our purposes, discrimination is understood as 'any distinction, exclusion, restriction or preference based on any ground such as race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of rights or social goods and services. While economic marginalisation is a distinct concept, it is linked with social and political marginalisation. Economically marginalized groups tend to be socially marginalized as well: they are disadvantaged with respect to both resources and power.

The Idea of 'Perception' Perception

Reference 41 - 0.04% Coverage

coexistence among ethnic communities'.

7.

This Chapter documents the main causes and effects of ethnic tension in Kenya. The chapter is based mainly on testimonies that the Commission heard during its hearings across the country. In addition to holding such hearings, the Commission also organized a thematic hearing on ethnic tension and violence on 2 February 2012 in Nairobi. During this thematic hearing the Commission heard presentations by experts and relevant institutions such as: the National Cohesion and Integration Commission (NCIC). The objective of the thematic hearing was well summarized by Commissioner Berhanu Dinka during the opening of the hearing. He said: In the last ten months, the Commission has travelled the length and breadth of this country. We have listened to testimonies of victims and witnesses of ethnic clashes and political or electoral violence. The stories are sad and revealing. Today, the thematic hearing seeks to further interrogate the issue of ethnicity and its nexus with violence, governance, political transition and distribution of resources.⁵

8.

This Chapter should be

Reference 42 - 0.02% Coverage

the sense of 'otherness'.

20.

In addition, colonial government created ethnically defined administrative boundaries. In determining such boundaries, no serious thought, if at all, was given to historical inter-ethnic interactions and relations. For instance, the people of what was known as Northern Frontier District were divided into two main groups: Somali and Galla with each group accorded its own territory. Sub-groups within these two main groups were further restricted within specific territorial boundaries. The arbitrary manner in which these boundaries were created and the arbitrary nature by which previously independent communities were brought within one administrative unit encouraged competition for resources and ethnic tension.

21. Moreover, the colonial government

Reference 43 - 0.01% Coverage

by the colonial government.

22.

It is therefore not surprising that underlying regional imbalances and the attendant inter-ethnic inequalities continue to inform the struggle for the Country's resources and access to public services. Competition over public resources often takes on an ethnic dimension and contributes to ethnic tension, conflict and violence.

23.

The colonial land policy

Reference 44 - 0.05% Coverage

and contact between administrative units

24. By the time Kenya attained independence on 12 December 1963 the colonial power had imposed elements of a modern state structure on communities that historically lacked inter-communal coherence. By forcing ethnic communities that previously lived independent of each other to live together, the British colonisers appeared to be indifferent to the resulting ethnic polarisation. Furthermore, through its policies that favoured the investment of resources only in 'productive areas', colonialism encouraged and created the foundation for discriminatory development in Kenya.¹⁵

25. During the Commission's hearings, a leading political science scholar, Professor Walter Oyugi, succinctly summarised this history: Before the British settled in this country, [various ethnic] groups existed. They existed as neighbours and they interacted out of need because there were certain resources which were only available in certain areas. They accessed them through the exchange mechanism. There were also conflicting relationships depending on the culture of the neighbouring groups like cattle rustling especially between the Maasai and the Akamba, the Luo and the Nandis and so on. There was interaction and, therefore occasional rivalry over land, particularly over pasture and water, was common. Later on, this extended to agricultural

¹⁵ See African Peer Review

Reference 45 - 0.01% Coverage

potential for ethnic violence.

31.

In the coastal region, members of the Mijikenda community, who regard themselves as indigenes of the coast, view non-Mijikenda individuals such as Kamba, Kikuyu, and Luo who have migrated or settled in the region as 'outsiders'. The 'outsiders' are regarded as 'wabara' and are viewed as a people who have unfairly appropriated to themselves local resources, particularly land.

32. There exist perceptions that

Reference 46 - 0.02% Coverage

aircraft on the runway.¹⁹

33. A perception exists also that public resources allocated for 'insiders' are often diverted to 'outsiders' within the region. For instance, a witness testified that while he had lobbied for an ambulance to be allocated to Lamu District Hospital, the same was diverted to Mpeketoni sub-district hospital: I went to the Provincial Director of Medical Health Services. We did everything right. However, when the ambulance came it was taken to Mpeketoni. It was shown as belonging to Lamu District Hospital, but it was sent to Mpeketoni sub-district hospital. I went to the PDA to inquire but I was told it was an order from Nairobi that it be taken to Mpeketoni. There is nothing we could do.²⁰

34. While the Commission could

Reference 47 - 0.03% Coverage

tension amongst pastoralist communities ⁵³.

Ethnic tension and violence in specific parts of the country is influenced by the dynamics of cattle rustling and other resource-based conflicts. While electioneering and insider/outsider dynamics are factors that help to explain ethnic tension and violence among pastoralist communities, resource-based conflicts are equally important. This is not surprising as access to important resources such as grazing land and water has diminished over time with the increase in the pastoralist population and the encroachment into pastoralist areas by sedentary communities.

54. Reuben Kendagor testified before the Commission about cattle rustling between the Tugen Community of Baringo North and the Pokot. His testimony highlights the long history of such clashes, the intersection of ethnicity and resource-based conflicts, the escalation of violence with the introduction of high powered weapons, and the inability or unwillingness of the Government to provide security to these communities:

18 REPORT OF THE TRUTH

Reference 48 - 0.01% Coverage

Pastoralist communities in the north

and north eastern regions of the country also have a long history of ethnically based resource conflicts, including cattle rustling.³⁸ The practice, however, has become more dangerous due to proliferation of firearms and ammunition into the region from neighbouring Ethiopia and Somalia, leading to banditry and general insecurity.³⁹

56. According to the Akiwumi

Reference 49 - 0.01% Coverage

advance interests or solve disputes.

□ Diminished access to important resources such as water and grazing land has led ethnic groups to increase their efforts to control resource rich territories, and has also led to election-related violence as ethnic groups and clans compete to increase areas controlled by members of their community.⁴²

58.

The political dimension of

Reference 50 - 0.03% Coverage

his testimony before the Commission:

Sometimes you cannot differentiate between peace, natural resource based and political interest based conflicts. For example, what is happening in Moyale today is not so easy for anybody to differentiate. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Report showed that it was based on water and pasture problems, whereas many others stood up and said that there is nothing to do with pasture and water. After all, they have received the highest rainfall in the last ten years in that region. So, it is not very easy to tell the differences in some of the instances, but we need a lot of reinforcement of security because of illicit arms. In most of the situations, without any provocation or struggle for resources, availability of firearms has also led to or promoted lawlessness, insecurity and violence [...].⁴³

42 As above, 280. 43

Reference 51 - 0.03% Coverage

particularly evident after the re-

introduction of multi-party politics in the country in the early 1990s. The introduction of multiparty politics and elections coincided with a wave of ethnic violence in parts of the country. The NCIC summarizes Moi's tenure as president in the following terms: Despite the Nyayo philosophy of peace, love and unity, there was insufficient attention to past grievances among Kenyans in the 1980s through to the 1990s. Specifically, there was: (i) lack of decisive land reforms, and land-based conflicts persisted; (ii) little regard to Kenya's diversity in employing or appointing public sector employees; (iii) inequitable distribution of budgetary resources; (iv) mismanagement of public resources; and (v) autocratic governance; among other challenges⁵⁵

50 A Sjögren and P

Reference 52 - 0.01% Coverage

Valley and Coast Provinces.

75.

Further, through its policies that favour the investment of resources in only high potential areas that have ample rainfall and fertile lands, the government has encouraged asymmetrical development in the country that, because of the ethnic dimension of land allocation and ownership, itself has ethnic consequences.⁷⁰

The

relationship among land ownership

Reference 53 - 0.04% Coverage

COMMISSION

Volume III Chapter ONE

This policy of willing-buyer, willing-seller would benefit mainly people who could access financial resources. Somebody advised the people from Central Province that the best thing to do is to form land buying companies. The land buying companies were formed. They included the Ngwataniro, Nyakinyua and Mabati group. The Mabati Group meant a group of women helping one another to roof their houses and so on, but they also became land buying groups. They were assisted by the state and, therefore, the feeling of preferential access and the resentment that accompanied that. It continued under the leadership of the then Minister for Lands and Settlement, throughout the 1960s into the 1970s. But there would be a change in late 1970s, after Mzee died and Moi came into power. He inherited the Kenyatta infrastructure of governance and promised that he would follow his footsteps. He did by and large, but on the issue of land, which actually took place under his watch as the Vice-President, soon after he came into power, he completely disorganized the land buying companies and disbanded them, but I thought that it was too late at that time.⁷⁶

79. Land, particularly access to

Reference 54 - 0.01% Coverage

12.

September 2011/p.12.

34 Chebyuk Phase Three is most often described as designed with the Soy in mind as they had been somewhat ignored by Chebyuk Phases One and Two. See Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', ISS Pretoria Monograph No. 152, pp. 17 – 19.

Others described Munguti's actions in

Reference 55 - 0.02% Coverage

acquired an overtly political sheen.

54. Mr. Kapondi was no stranger either to Mr. Serut or to the rough and tumble world of Mount Elgon politics. Mr. Serut himself describes Mr. Kapondi as a relative through marriage to his first cousin and a kind of dependent for whom he paid rent and whom he had helped to find employment when he was younger.⁴⁶ At some point, Mr. Kapondi even campaigned on behalf of Mr. Serut. Fred Kapondi describes his own political career as stretching back over two decades in capacities and parties that typify the broad ebb and flow of Mount Elgon politics: I was a force in Mount Elgon politics from 1992. As a young man in 1992 with a lot of energy and without resources, I believed in myself that I could make it to Parliament.

I

managed to crisscross Mount

Reference 56 - 0.01% Coverage

amounted to eight guns.⁶⁹

66. TJRC/Hansard/In-Camera Hearing/Nairobi/14 September 2011/p. 30. 67 Nathan Warsama was a well known local politician in Mount Elgon. He stood and was elected unopposed as the councilor for Sasur

Ward. From Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 33.

68. TJRC/Hansard/In-Camera

Reference 57 - 0.01% Coverage

18 September 2011/ p. 12

73 See Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 23 and also TJRC/Hansard/Public Hearing/11th

July 2011/p.10.

74

Reference 58 - 0.01% Coverage

11th

July 2011/p.10.

74 Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 23.

75 TJRC/Hansard/Public Hearing

Reference 59 - 0.01% Coverage

13 September 2011/p. 23

80 Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 24

81 See Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 23-24

82 TJRC/Hansard/ In-Camera

Reference 60 - 0.03% Coverage

27 July 2011/p. 27

96 See Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya'p. 28 97 Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya'p. 28 98 Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya'. 28 99 Simba, Chui, Nyati and Headquarters camps headed by Fredrick Kituyi Chesaa, Kijiji Matia Itit, Samson Kanai and Philip Tirot respectively. See TJRC/Hansard/ In-Camera Hearing/Nairobi/14th 100 See TJRC/Hansard/ In-Camera Hearing/Nairobi/14th 101 TJRC/Hansard/In-Camera Hearing/Kimilili/25th 102 TJRC/Hansard/Public Hearing/Kapsakwony/23rd 103 TJRC/Hansard/Women's Hearing /24th

September 2011/p.14 September

Reference 61 - 0.01% Coverage

25th May 2011/p. 18

145 Robert Romborah Simiyu, 'Militanisation of Resource Conflicts: The case of land-based conflict in the Mt. Elgon Region of Western Kenya', p. 28

146 TJRC/Hansard/Women's Hearing

Reference 62 - 0.02% Coverage

critical first step to reconciliation.

4.3. In a context where inter-ethnic rancour and disharmony triggered by the struggles for power, resources, identity etc., has underpinned or facilitated some gross violations of human rights, the mending of social relations is an important goal for the TJRC. Communities include ethnic, religious groups and other groups. The TJRC will facilitate dialogues and other activities that commence the process of inter-community reconciliation.

4.4. Healing is closely

Reference 63 - 0.02% Coverage

Volume III Chapter THREE 71.

The Act also criminalise harassment, hate speech, threatening, abusive or insulting conduct, and discrimination in employment based on ethnicity. In outlawing the distribution of resources by a public officer in an ethnically inequitable manner, the Act sets 30 per cent as the maximum share of employees of a public office that may come from one ethnic group. The Act and the NCIC present a mechanism to effectively manage the effects of hate speech, skewed employment in the public service, and discrimination on ethnic grounds, which have presented significant challenges to the achievement of national cohesion and integration in Kenya since the attainment of independence in 1963.

72.

The Constitution of Kenya

Reference 64 - 0.03% Coverage

and after that period.

7.

Some also asked about the role of the Commission with respect to the 2007 PEV. As noted earlier, it was the 2007 PEV that provided the immediate impetus for the creation of the Commission, and that period of Kenya's history is clearly within the temporal mandate of the Commission. Consequently the Commission heard a good deal of testimony concerning the PEV. The Commission, however, limited the amount of resources that it devoted to that period for three reasons. First, the period of post-election violence was a very small part of the time period in which the Commission was to examine historical injustices and gross violations of human rights. Second, a previous commission of inquiry – the Commission of Inquiry on the Post-Election Violence, also known as the Waki Commission – had focused specifically and narrowly on violations during this period. Third, through its focus on initially six, and now three, individuals, the ICC was and is investigating this period of Kenya's history.

In other words, it was

Reference 65 - 0.01% Coverage

the view of the Commission

that a good deal of time and resources had already been, and were continuing to be, focused on this period within the mandate. Without commenting on the quality of either of these separate investigative institutions, it was the considered view of the Commission that its limited time and resources would be better served focusing on those broad areas of the mandate that were not the subject of any other investigative process.

8.

The TJR Act also

Reference 66 - 0.01% Coverage

Massacre.

92. 93. 94. 95.

The Commission finds that preceding the Turbi and Bubisa Massacres were numerous resource-based conflicts between the Borana and Gabbra communities.

The Commission finds that about

Reference 67 - 0.01% Coverage

COMMISSION

Volume IV Chapter ONE

181. The Commission finds that women constitute the majority of the poor, a situation that has been aggravated by various factors that range from their lack of access to productive resources (mainly land) and the labour markets.

182. The Commission finds that

Reference 68 - 0.01% Coverage

39

Volume IV Chapter ONE

in religious institutions. Further, many women who aspire to be leaders lack the requisite resources to undertake political campaigns and have also been subjected to violence or threat of it.

187. The Commission finds that

Reference 69 - 0.02% Coverage

were subsequently involved in atrocities.

198. The Commission finds that with the introduction of free primary education in Kenya in 2003, many children are now able to attend school. However, there still remain real impediments that prevent children from accessing education, such as lack of school uniforms and writing materials. Children with disabilities

face particular challenges in this regard. Institutions catering for the education of children with disabilities are few and inadequately resourced.

199. The Commission finds that

Reference 70 - 0.01% Coverage

of their parents or guardians.

208. The Commission finds that whereas there have been attempts by the Government to establish institutions crucial to the protection and enforcement of children's rights, such institutions remain understaffed and do not have adequate resources. Where staff exists, they either lack proper training on children's rights or are stationed at the district level, and as a consequence the majority of children are not reached.

209. Non-state actors such

Reference 71 - 0.04% Coverage

factor

Context of economic marginalization

226. The Commission finds that economic marginalisation experienced by various regions, groups and communities in Kenya since independence has occurred in a historical, socio-economic and political context marked by certain factors. These include: an overly centralised state both in terms of power and resources; ethnicisation of politics and public life in general; an all-powerful 'imperial' presidency marked by lack of accountability, lack of judicial independence, weak rule of law and personalization of power; bad governance and rampant corruption; a stunted economy in which the state was the main dispenser of largesse; and conflicts revolving around land with large swathes of the population unable to access this important resource. All these evolved against a backdrop of historical irredentist/secessionist struggles marked by the 'Shifty War' and its aftermath in Northern Kenya as well as independence claims borne out of perceived marginalisation in the former Coast Province. While some of these factors were the root cause of marginalisation, they produced distortions that worsened the effects of economic marginalization

227. The Commission finds that

Reference 72 - 0.02% Coverage

1969.

Economic marginalization of Coast

239. Like the former North Eastern Province, the NFD in general and Nyanza, the Coast region could be placed in the category of 'politically dissident' regions that have suffered marginalization under successive regimes. However, marginalization experienced in the Coast, especially when understood from the point of view of dispossession, is due also to the confluence of interests arising from the region's strategic value as a principal gateway to the country and the East and Central African region and its valued seafront land resources.

240. Submissions from Coast residents

Reference 73 - 0.01% Coverage

less able to defend themselves.

258. Poor people are affected by corruption because it diverts resources from investment in infrastructure that is crucial to lift them out of poverty. Corruption undermines the quality of public services on which the poor depend particularly to meet their basic needs. Minority and indigenous people suffer effects of corruption when they are displaced by, for example, corruptly approved infrastructure developments.

Recommendations

The Commission recommends the

Reference 74 - 0.01% Coverage

required to implement the recommendations.

□ In the event that the State cites resource constraints as the cause for noncompliance, the State shall be required to demonstrate that the resources are not available and further articulate an action plan for resource mobilization.

1 TJR Act, sec 50

Reference 75 - 0.06% Coverage

was concerned that the implementation

mechanism be sufficiently resourced in terms of time and staff to ensure effective monitoring and that its recommendations were in fact implemented. With effective monitoring and other related activity it is more likely that the recommendations would be implemented thus ensuring that Kenya would not be subject to the same criticism as other countries which had created truth commissions but then done little or nothing to provide for reparations and the fulfilment of other important recommendations.

14. Based upon these and other considerations, the Commission decided not to recommend that an already existing organization be the primary entity tasked with monitoring and implementing the Commission's recommendations. First, those existing independent organizations whose mandate is related to the work of the Commission (such as the KNCHR and NCIC) already have a full plate of activities and already face challenges with respect to inadequate resources to fulfil their current obligations. Placing even more obligations on such bodies would risk them being spread too thin with inadequate resources, or force them to choose between their existing activities with those activities related to the Commission. Second, while government agencies are less likely to have resource constraints, they are tasked with implementing many of the recommendations in this Report and thus would not be able to provide the independent and credible monitoring of their own activities. Finally, given that the implementation mechanism will also be continuing some of the work of the Commission – most notably administering the Reparations Fund – it is proper that the mechanism be an independent legal entity in the same way that the Commission was.

15.

The Commission thus recommends

Reference 76 - 0.03% Coverage

to protect confidential information'.

This model is proposed in order to ensure maximum efficiency of the reparations programme and to ensure that entities with relevant expertise are mobilized to carry out the reparations mandate. Because resources are necessarily limited, it is critical to ensure that any reparations structure does not create a large bureaucracy that consumes resources that could otherwise be directly used on reparations programmes. It must be made clear in any enabling legislation that government bodies at the national and local level have a responsibility to cooperate with the Implementation Committee and to provide such staff and support as is reasonably requested. This will also require that the enabling legislation mandate ministries to allocate funds for reparations support and implementation in their budgets.

7 8

Guidelines related to

Reference 77 - 0.01% Coverage

below can also be distinguished

according to the beneficiary of the measure. Individual reparation measures will be available for certain individuals, while collective reparation measures will benefit a group of people or a community. Collective reparation measures aim to reach a larger group of people both from the perspective of increasing the effective use of resources and improving sustainability.

8.

Another distinction is made

Reference 78 - 0.02% Coverage

Priority B: Collective Reparations 24.

This reparation framework adopts a deliberate policy of encouraging collective reparation so as to maximize the efficient use of available resources for reparations and because a substantial percentage of the grievances raised before the Commission relate to policies and practices that negatively impacted entire groups of people. As a result, collective reparation measures will receive the second highest priority for registration and processing. Collective reparation measures will be specifically handled by a Group Claims unit that will focus on helping communities document, register and administer a multidimensional for reparation package.

Who is eligible under Priority

Reference 79 - 0.01% Coverage

107

Volume IV Chapter THREE

promote collective reconciliation and/or facilitate optimal use of available resources. Such measures may include enhancing victims' ability to secure micro-financing for business opportunities; provision of health services to groups or regions; peer group support and counselling; and skills training.

□ To address structural inequalities such

Reference 80 - 0.01% Coverage

and; guarantees of non-repetition.

3. While the scope of reparations is broad, the resources of the Victims' Reparations Fund shall be applied for the following purposes: a. Compensation of victims, both individually and communally b. Rehabilitation of victims by providing medical and psychosocial assistance c. Memorialization d. Exhumation, identification and reburial of victims

4. The Commission appreciates that

Reference 81 - 0.04% Coverage

TJRC/L/10/108/2013

The Company's mining activities have resulted in land degradation through loss of vegetative cover, soil erosion, and contamination of water sources and severe dust and noise pollution in Bondora Village. As a result, the inhabitants have contracted respiratory ailments and other occupational lung diseases. Blast activities within the quarry site have led to solid debris flying into the neighbouring residences, thereby endangering the lives of the inhabitants. Heavy vibrations from rock blasting have caused serious cracks in houses and pit latrines, some of which have crumbled. There are concerns that the necessary environmental impact assessments were not conducted prior to the commencement of the mining and blasting project. Following several complaints by the inhabitants against the company, it has in the past promised to put in place measures to mitigate against these environmental concerns but has reneged on them. It has consistently ignored or refused to comply with environmental requirements and specified directives from the Ministry of Environment and Natural Resources. The Company has illegally and/or irregularly expropriated land belonging to inhabitants of Kambe, destroyed trees and crops thereon, and converted the same to access roads for its exclusive usage.

255 KURAWA INDUSTRIES LIMITED TJRC

Name: References to Tenure in Kenya Report

<Files\\Kenya Report> - § 15 references coded [0.27% Coverage]

Reference 1 - 0.05% Coverage

Under President Moi the status quo remained for a couple of years before becoming notably worse after the coup attempt of 1 August 1982. In the aftermath of the coup, members of the Kenya Air Force were rounded up and transported to prison facilities and other locations where they were tortured and subjected to inhuman and degrading treatment. Thereafter, President Moi stepped up measures aimed at controlling the state and further consolidating his power. He filled government positions with loyalists, mainly from his own Kalenjin community. His government, which had in June 1982, amended the constitution to make Kenya a de jure one party state, removed security of tenure for constitutional office holders such as judges. The patterns of violence that started under Kenyatta continued under President Moi's administration. Notably, members of state security agencies routinely committed atrocities against a people they had sworn to protect. Security operations, particularly in Northern Kenya often resulted in the massacres of innocent citizens. Almost without exception, security operations entailed the following atrocities: torture and illtreatment, rape and sexual violence, looting of property and burning of houses. These systematic attacks against civilians have all of the attributes of a crime against humanity.

Reference 2 - 0.01% Coverage

The Commission found that the 'willing-buyer, willing-seller' land tenure approach was grossly abused and is one of the major factors causing disinheritance and landlessness, especially in the face of rising human populations.

Reference 3 - 0.01% Coverage

The TJR Act designated Nairobi as the Commission's headquarters. Between 2009 and 2010 the Commission had its offices at Delta House, Westlands. The office space at Delta House was found to be inadequate accommodation for the Commission's staffing and other needs. In January 2011, the Commission moved to NHIF Building, where it was housed for the remainder of its tenure.

Reference 4 - 0.03% Coverage

Sections 43 to 47 of the TJR Act provided for the establishment and management of the Commission's funds, which consisted mainly of monies appropriated from the Consolidated Fund. The Commission's funds were managed by the Ministry of Justice during the first fiscal year of establishment and by its Secretary during the remainder of its tenure. The Accounts Unit, comprising an Assistant Director, an accountant and two assistants, was responsible for running the day-to-day financial operations of the Commission. At the level of the Commissioners' the Finance and Administration Committee was responsible for formulating financial policies and exercised an oversight role in relation to all matters of finance and administration.

Reference 5 - 0.01% Coverage

105. Thus, on 24 June 2011, pursuant to section 20(3) of the TJR Act, the Commission requested the National Assembly to extend its tenure for a period of six months as expressly provided for by the Act. The National

Assembly did not consider this request until two months later, on 18 August 2011, whereupon it voted to extend the Commission's term as requested.

Reference 6 - 0.01% Coverage

111. For the above reason, the Commission once again requested an extension of tenure to enable it finalise its report. On 27 November 2012, the National Assembly unanimously voted to extend the Commission's operational period to 3 May 2013.

Reference 7 - 0.03% Coverage

In the debates that preceded the creation of the Commission and indeed for the larger part of its tenure, critics argued that everyone knows the truth about historical injustices and violations. Some wondered whether it was at all important to invest both time and resources in establishing what they considered to be matters of public knowledge. While the Commission can see that there is some basis for this position, ultimately the value of the Commission and its work goes far beyond what is currently in the public record. In the first place there is much of Kenya's past that is not a matter of public knowledge. The Commission was tasked with investigating matters buried deep in Kenya's history and providing answers to numerous questions. Secondly, some of what was considered public knowledge was often based on rumour, innuendo and bias. It was an important mission of the Commission to separate fact from fiction and to debunk myths.

Reference 8 - 0.01% Coverage

President Kibaki in a negative light. The Commission finally settled on KTN for media coverage for the remainder of its tenure.

Reference 9 - 0.01% Coverage

The first President of independent Kenya, Jomo Kenyatta, did little to counter the ethnic divisions created by the colonial government. During his tenure a small elite group popularly referred to as the "Kiambu Mafia" dominated Kenyan politics, resulting in the emergence of a class of capitalists who were mainly members of the Kikuyu community.⁴⁴

Reference 10 - 0.03% Coverage

introduction of multi-party politics in the country in the early 1990s. The introduction of multiparty politics and elections coincided with a wave of ethnic violence in parts of the country. The NCIC summarizes Moi's tenure as president in the following terms: Despite the Nyayo philosophy of peace, love and unity, there was insufficient attention to past grievances among Kenyans in the 1980s through to the 1990s. Specifically, there was: (i) lack of decisive land reforms, and land-based conflicts persisted; (ii) little regard to Kenya's diversity in employing or appointing public sector employees; (iii) inequitable distribution of budgetary resources; (iv) mismanagement of public resources; and (v) autocratic governance; among other challenges⁵⁵

Reference 11 - 0.01% Coverage

76 TJRC/Hansard/Thematic Hearing on Ethnic Tension/2 February 2012/p. 7. 77 J Wakhungu, E Nyukuri and C Huggins Land tenure and violent conflict in Kenya (2008) 15.

Reference 12 - 0.01% Coverage

Throughout Kenya's post-independence history the ethnicity of the president has influenced the composition of the cabinet. According to a study by KIPPRA "The tenure of first government of independent Kenya reflects the disproportionate presence of the president's ethnic Kikuyu group in the cabinet".⁷⁹

Reference 13 - 0.06% Coverage

9. Mount Elgon, like so many other parts of Kenya, was profoundly affected by the colonial administration's decision to open up parts of the country to European settlement. In 1926, a branch of the railway reached Kitale. The region's temperate climate and fertile soils proved irresistible and soon afterwards Uasin Gishu and Trans Nzoia were set aside exclusively for European use. Indigenes were evicted further westwards into the Kavirondo Native Reserve which included Mount Elgon. This was how many Sabaots found themselves on the mountain. Trans Nzoia and Uasin Gishu were entirely shut off to them except if they took up employment as labourers on European farms. In 1932, there was another critical development with the Carter Land Commission. The Carter Commission represented a seminal attempt to tackle land needs and tenure in colonial Kenya. In Mount Elgon, Carter made the critical decision to create another Native Reserve in the moorlands. The reserve consisted of 40 000 acres at altitude and above the forest belt in Chepkitale. Its occupants consisted of a community that colonialists referred to as the "El Gony" but who are more—as per the discussion above—are more properly described as the Ogiek with (possibly) Bok elements: The Moorland area of Mount Elgon, comprising some 40,000 acres, should be added to the Kavirondo Native Reserve and set aside for the use of the El Gony, who should also be able to find accommodation in other parts of the Kavirondo Native Reserve, or to the extent that the Uganda Government may be willing to accommodate more El Gony in its territory, they should have an option of going there.¹⁴

Reference 14 - 0.01% Coverage

Tenure of Office of Chairperson and Members

Reference 15 - 0.01% Coverage

Incitement of the Pokots and facilitating the youths to attack & evict non-pokots during his tenure as M.P. He also held public meetings where he would incite the Pokots to fight the other communities for instance in Kolongolo area, in Kitale.