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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON THURSDAY, 16TH JUNE,
2011 AT THE NHIF AUDITORIUM, NAIROBI**

PRESENT

Ahmed Farah

Presiding Chair, Kenya

Ronald Slye

Commissioner, USA

Gertrude Chawatama

Commissioner, Zambia

Berhanu Dinka

Commissioner, Ethiopia

Margaret Shava

Commissioner, Kenya

(The Commission commenced at 12.00 Noon)

(Opening Prayers)

The Presiding Chair (Commissioner Farah): Good afternoon. I welcome you to today's hearing. As it has been our tradition, let me introduce the panel.

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

The Presiding Chair (Commissioner Farah): Our process is well known to all of you by now but, just in case there are one or two people who have just come in, the witnesses will be brought in and sworn and they will give their testimony. The Leader of Evidence will lead the questioning in their testimony. On completion, the panel of Commissioners will pose further questions to witnesses and that will be our procedure.

I request everybody in this hall to respect the witness as he or she gives their testimony, even though we may not agree with them on what they say. I request all of you to switch off your mobile phones. Do not put it on silence because once it rings, you will hear the vibration and you will automatically be forced to answer it. You will then start walking out and that upheaval will create distraction.

Are there any counsel present in the auditorium today? I can see none on both sides of the aisles. If there are no counsel, then it means there are no preliminary issues to be raised. In that case, Leader of Evidence, please, proceed, bring the witness, swear him and start leading the evidence.

Just before you start swearing the witness in, I want to repeat that no flash photography is allowed because it will distract us and no taking of photos while the witness is giving evidence.

(Mr. Paul Murimi took the oath)

Mr. Tom Chavangi: Thank you Commissioners. Before I start leading the witness, I must say that this witness was neither invited nor summoned by this Commission. However, as a result of having gotten his contacts from the CEO, he was called and he is here on his own volition. He has appeared voluntarily and I think that is an encouragement to this Commission such that he wants to share information that will help this Commission.

Mr. Murimi, for the sake of record, kindly state your name again.

Mr. Paul Murimi: My name is Paul Murimi, a former intelligence officer and in this particular case, I visited Wajir and Mandera.

Mr. Tom Chavangi: Mr. Murimi, I will be leading you; then, you will be answering to my questions. So, there are a few issues that we will need to clarify as you answer the questions.

I have just shared a statement with you dated 16th February, 1984. Kindly confirm if that statement or report dated 16th February, 1984 and signed by yourself is a true reflection of your thoughts.

Mr. Paul Murimi: Yes, it is.

Mr. Tom Chavangi: Would you wish to admit that report to this Commission?

Mr. Paul Murimi: Yes, I would.

Mr. Tom Chavangi: Commissioners, I wish that the report Mr. Murimi did on the 16th of February, 1984 be admitted as an exhibit.

The Presiding Chair (Commissioner Farah): So admitted.

Mr. Tom Chavangi: What were you then in 1984?

Mr. Paul Murimi: In 1984, I was working in the National Intelligence Headquarters as one of the officers there and I was directed by the then Director of Intelligence to accompany the members of the Kenya Intelligence Committee to North Eastern for a visit.

Mr. Tom Chavangi: For how long did you serve as an Intelligence Officer?

Mr. Paul Murimi: I served for thirty years.

Mr. Tom Chavangi: Can you remember the name of the person who directed you to accompany KIC to the northern region?

Mr. Paul Murimi: He was called Mr. Kanyotu.

Mr. Tom Chavangi: Is Mr. Kanyotu alive today or is he deceased?

Mr. Paul Murimi: He is dead.

Mr. Tom Chavangi: Do you know who organized the KIC meeting to the northern region?

Mr. Paul Murimi: The meeting was organized by the Office of the President and the idea behind it was to go and find out what really plagued that place. Several reports had been received by the Kenya Intelligence Committee on the situation in that place which was not pleasant and they wanted to go and see the situation on the ground.

Mr. Tom Chavangi: Some of the witnesses who have appeared before this Commission have actually mentioned three organs; the KIC, the KSC and the NAC. The KIC is the Kenya Intelligence Committee, the KSC is the Kenya Security Committee and the NAC is the National Security Committee. As an intelligence officer who has served for about thirty years, can you give us the link between the KIC, KSC and NAC and how they operate?

Mr. Paul Murimi: The Kenya Intelligence Committee is composed of representatives from the army, the police, intelligence service and Permanent Secretaries Internal Security and at that time, we had information. I cannot remember the whole list of them but there were several Permanent Secretaries involved, including Home Affairs.

The Kenya Security Committee by then was chaired by the Vice-President and in his absence, it was chaired by either the Minister for Internal Security or one of the members, depending on the situation.

The National Security Committee includes the Director of Intelligence, the Commissioner of Police, the CGS and they directly report to the President.

Mr. Tom Chavangi: What is the link between these three organs and how do they function? Which one is more superior to the other in terms of reporting and hierarchy?

Mr. Paul Murimi: The KIC simply collects information as it is in the country and that report is then presented to the Kenya Security Committee where ministers are involved. The members who collect that intelligence report are the ones listed as members of the KIC. They report to the Kenya Security Committee and then the Committee discusses what could be the way out of the various problems noted at that particular time.

Mr. Tom Chavangi: In the report that you did on the 16th of February, there are certain points that you noted in alphabetical order. We shall look through some points so that we can get some clarity from you.

If you look at page one on tribal animosity, the second last sentence where it says that their conflicts, therefore, extends across the border and tribal clashes are a common phenomenon--- Several solutions were tabulated by yourself, one of them being continued security patrols and operations to diffuse tribal tensions. Was the first solution discussed at the meeting that was held at Wajir?

Mr. Paul Murimi: I do not recollect in detail what was discussed in Wajir but all I remember is that the District Security Committee had a chance to tell us what really happened in their place. The major task of the team was just to find out what was happening and they were relying on what they were told by the people on the ground. This issue of patrols was very important as a way of pre-empting the clashes that arose from time to time in those parts. It was not discussed that a, b c d should be done but one way of maintaining security in the area was by having intensified patrols in the areas where tribal tension and other issues of insecurity have been experienced.

Mr. Tom Chavangi: That takes me to my next question. Was this report that was generated a report to your bosses?

Mr. Paul Murimi: This report was to my director because wherever he went out with a team, he would wish to be appraised on what happened so that when he goes to the next meeting, he will know exactly what happened and at what time.

Mr. Tom Chavangi: What you are telling us is that while the DC, who was the head of the DSC at that time was talking, is when you developed this report or was this report generated from minutes from the DSC meeting?

Mr. Paul Murimi: There was a secretary to the committee and if I recall, I think it was Mr. Mwangovya, and he is the one who was taking the minutes. These were just my personal notes to my Director to appraise him because he should have been the one in the meeting but he could not make it. Therefore, I had to give him a comprehensive report of what transpired so that when he goes to the meeting, he will know exactly what happened and where it happened.

Mr. Tom Chavangi: I must confess that I did not share this with you, but there was the initial list of members of the KIC who were supposed to visit the region during that time. That list says that the visit was supposed to start on the Wednesday of 8th to Friday 10th February, 1984. Commissioners, I am referring to a list from Office of the President which was done by one of the officers who appeared before us.

Commissioner Chawatama: Leader of Evidence, through the Chair, we have two lists; the list of 24th and the list of 29th. Which list are you referring to?

Mr. Tom Chavangi: I am referring to the list of 24th. On the second page, the name of Mr. Murimi is appearing on the list of the 24 as number five: Mr. P M Murimi, Directorate of Intelligence. On the list that is marked "Tour of North Eastern Province", Kenya Intelligence Committee which brings out the itinerary, his name does not appear

but instead, it is a gentleman by the name of Mr. C K Gachuhi, Deputy Secretary/Directorate of Intelligence.

Mr. Murimi, I did not share this list with you. From the subsequent list, your name appears as number five, Mr. P M Murimi, Directorate of Intelligence and on the first list, your name does not appear as one of the persons who were supposed to go to that region. Did you then replace Mr. Gachuhi at that particular time?

Mr. Paul Murimi: Yes, I replaced Mr. Gachuhi because I was his deputy.

Mr. Tom Chavangi: Why didn't Mr. Gachuhi go to this region as initially planned?

Mr. Paul Murimi: He told me that he had to sort out some business with the office because at that particular time, we did not have a Deputy Director and whenever the Director was not in, he used to stand for the Director. Therefore, he could not go for a long journey because the Director could be called for various appointments and there would be nobody to answer to things concerning the office. That was why I took the journey on his behalf.

Mr. Tom Chavangi: What was the role of intelligence in this mission?

Mr. Paul Murimi: We were the people who collected intelligence in the crowd and compiled it and presented it to the Government. In that particular case, we were doing the same task.

Mr. Tom Chavangi: Did the intelligence that you were collecting from the ground cut across the board or was it just specific intelligence on specific issues? Was it overall intelligence like development, security issues and so on?

Mr. Paul Murimi: Whereas we concentrated on matters of intelligence, we did not divorce ourselves from other issues like development because whatever is done in the country by any particular group of people has a bearing on security. We noted where the function of the Government was being impaired and, therefore, we tried to get the genesis of the matter and advise the Government accordingly and the Government took appropriate action.

Mr. Tom Chavangi: Was the genesis of the KIC mission to the northern region to deal with development issues?

Mr. Paul Murimi: They were mostly development issues but we did not overlook the issue of security because irrespective of whether we would have liked to talk about development, definitely, security had a big impact on development of the area. You note that in the same report, I have mentioned something about development and I have listed problems experienced and why they were being experienced and why security forces were to be involved and so forth.

Mr. Tom Chavangi: I asked that because most of the witnesses who appeared before you stated that this tour was mostly development but, at least, you have come up with a different view to say that beside development, there was also the element of security. Did you at any given time visit any development projects in that region? Were you shown any development projects by the team on the ground?

Mr. Paul Murimi: If I recollect, the only development project I was able to visit was the Mandera Irrigation Project along River Daua. We only had a night stop in Wajir and Garissa. On matters of development, the big problem of the area at that time was security and that security was affecting development in the area and that had to be addressed.

Mr. Tom Chavangi: Are you confirming to this Commission that in your tour of the northern region, the first development project that you came across was in Mandera?

Mr. Paul Murimi: That is the one I actually visited.

Mr. Tom Chavangi: Were you with that team all the time?

Mr. Paul Murimi: I was with them but at one time or another; I was with my officers trying to find out other cross-border issues.

Mr. Tom Chavangi: I am asking that because some witnesses stated here that some development projects were visited in Wajir.

Mr. Paul Murimi: Maybe, that time, I was with my officers because what really happened was that whenever they wanted to visit a project, I would be left with my officers trying to find out what could be done to resolve certain problems, mostly those affecting cross-border issues.

Mr. Tom Chavangi: In terms of intelligence, what was the intelligence on the ground before you arrived in the northern region in relation to security because most of the witnesses who were here before you said that it was an operation zone?

Mr. Paul Murimi: I wish to inform the Commission that by the time we were going there, there were no incidences that had taken place. It was a normal visit to view the area and issues that had been taking place in the area were well known by the members who visited the place. At that particular time, there was no immediate issue that propelled us to go there to resolve; we were going there to note what really goes on in that particular area and appraise ourselves as members of KIC, instead of sitting in the office all the time and receiving reports. The situation in the area was not very volatile in all the districts; the problem that was a bit disturbing was tribal animosities that were noted in the area of Wajir. That was where the problem was but on the day of our visit, we did not have any problems; we were simply going to visit. What arose, thereafter, was after we had departed.

Mr. Tom Chavangi: How were you received by the DSC in Wajir?

Mr. Paul Murimi: Our host was the Provincial Commissioner where he received us at Garissa and took us to all those places where we visited members of the DSC and they were the ones who were briefing us on what they were experiencing.

Mr. Tom Chavangi: So, your host was the PC?

Mr. Paul Murimi: Yes.

Mr. Tom Chavangi: With my little knowledge on issues of protocol, I would think that for such a high-powered delegation, the first stop could have been the headquarters in Garissa, courtesy call to the PC and then from there, you could go to the districts. It seems that the first stop for this high-powered delegation was Wajir.

Mr. Paul Murimi: Actually, we stopped in Garissa and from there, we went to Wajir. We flew to Garissa, then Wajir, Mandera and then came back to Garissa. Garissa was the stopping point.

Mr. Tom Chavangi: Are you confirming to the Commission that the first stop was Garissa, second stop was Wajir and then Mandera?

Mr. Paul Murimi: Yes.

Mr. Tom Chavangi: When you went back to Garissa after Mandera, did you at any given time get intelligence about the beginning of the rounding up of the Degodia men in Wajir?

Mr. Paul Murimi: When we came back from Mandera and into Garissa, I did not receive any information on any problem at Wajir at that particular time because we had just had a night stop and then the following day, we flew out. We did not get any report at that particular time that something had taken place in Wajir. We only heard it when we came to Nairobi that there was a problem in Wajir and that the DSC Wajir, was handling it. That was the initial report that we received but personally, I did not receive it at Garissa.

Mr. Tom Chavangi: What you are saying is that you never received information about the rounding up of the Degodia men in Garissa but you confirm that you came to know about the massacre when you arrived in Nairobi?

We had some witnesses who said that they got to know about that incident while they were in Garissa, when your team was being hosted by the Provincial Commissioner for dinner before departure for Nairobi. Could you have been privy to this kind of information? I am asking this because you were in charge of intelligence.

Mr. Paul Murimi: When we were being hosted in Garissa at the PC's residence, I remember I went out for quite a long period and when I came back, the reception had

already more or less wound up and we simply went for a rest. At that particular time, there was no talk of anything and it is probable that they had been briefed when I was out of the reception but I remember that when I came back here, I received the full details of whatever had happened in Wajir from our office.

Mr. Tom Chavangi: I will take you to your report, page three, point B, headlined “Banditry”. Kindly, just read for us that paragraph, Mr. Murimi.

Mr. Paul Murimi: Armed gangsters operate in the entire North Eastern Province. These are usually *ex-shiftas* who have turned to crime as a way of life, runaway insurgents, tribesmen armed by the neighbouring countries for self defense or those who have purchased arms for the same purpose, poachers and animal rustlers. Some of the acts of banditry are committed by infiltrators passing through our territory for missions to neighbouring countries.

Mr. Tom Chavangi: Do you confirm that this is what you received from the DSC?

Mr. Paul Murimi: Yes, that is what we received.

Mr. Tom Chavangi: Do you confirm that one of the solutions was communal punishment where tribal element is established?

Mr. Paul Murimi: Yes.

Mr. Tom Chavangi: Do you also confirm solution number three, which is detention of known criminal collaborators?

Mr. Paul Murimi: Yes.

Mr. Tom Chavangi: Do you confirm solution number four of disarming the locals and solution number five which is rehabilitation of defectors and surrenderees?

Mr. Paul Murimi: Yes.

Mr. Tom Chavangi: At the time, what was your understanding of communal punishment where tribal element is established?

Mr. Paul Murimi: This is mainly a pastoralist area and the problem that used to happen there was mostly animal rustling from one group to the other. The communal punishment applicable at that particular time was that if one community was known to have aggressed the other by stealing their animals, then if we cannot trace them, then the community would have to share this one. That was contained by the then laws that existed at that particular time.

Mr. Tom Chavangi: Was this communal punishment that you are talking about contained in the laws? Was it provided for in the local laws or the statutory laws?

Mr. Paul Murimi: In the statutory laws. I remember, there was the Public Order Act which was operational at the time and they were contained somewhere there; so, it was not outside the framework of the law at that particular time. In the context of this, we are talking about where animal stealing is concerned, not human beings. That is why the communal law applied in that part of the country. It was mostly applied where animal rustling was rampant.

Mr. Tom Chavangi: My looking at these solutions one to five, apart from solution number two where you say that it applies to animals, the rest seems to apply to human beings. Why is it that number two is very specific to animals and the rest seems to be applying to human beings, because you cannot detain an animal or known criminal collaborators? You cannot disarm an animal or rehabilitate an animal. So, why is it that number two is very specific to animals and the rest to human beings?

Mr. Paul Murimi: We are talking about communal punishment where clans, the Degodia and the Ajuran, at that time were involved in animal rustling and there was to be a solution to it. If the persons who stole were not established and the crime persisted, this could be applied by getting the aggrieving clan some of the animals taken away to repay the clan that has been affected.

Mr. Tom Chavangi: My understanding of that is that it is provided for in their culture and not necessarily the law.

Mr. Paul Murimi: It applies to both.

Mr. Tom Chavangi: Solution number three, detention of known criminal collaborators. Did you at any given time get to know what the DSC meant by detention of known criminal collaborators?

Mr. Paul Murimi: The DSC was saying that for these bandits to operate, they would usually rely on their clansmen to help them do it. Such clansmen who were helping the bandits to operate could be detained.

Mr. Tom Chavangi: I will still take you back to these solutions. If you look at solutions number two, three and four, these are solutions that took place immediately after the visit of 8th. Was it a coincidence that the DSC, where KIC was seated and having a meeting in the DC's office and the DC is talking about solution number two, three and four and twenty four hours later, those solutions are practically applied by rounding up the Degodia men, detaining them, presuming them to be criminal collaborators, disarming them and actually torturing them? Was it a coincidence that your team was also there when the events took place?

Mr. Paul Murimi: As I said from the outset, we were not aware whether the incident will take place and it coincidentally took place after we had left. Note also that these suggestions were not made on that particular day. They had been applicable before, so it

was a continuation of what had been taking place before. I would agree with you that it was just a coincidence and not premeditated by KIC.

Mr. Tom Chavangi: If we look at the development issues of North Eastern Province and development setbacks, loyalty and morale, we do not seem to have solutions to these. Was it also a coincidence that these development issues did not have solutions yet banditry and tribal animosity had immediate solutions? Like in development setbacks, you are giving suggestions of the way forward. For instance, in number two, you say that huge sums of money would be required to develop North Eastern and Treasury can only achieve this through long-term planning, but is that the solution to this development setback?

Mr. Paul Murimi: It was noted by the committee that without development, the problem of insecurity cannot be wholly resolved. So, development goes hand in hand in solving the problem that existed that particular time.

Mr. Tom Chavangi: I am trying to establish that under A and B, the DSC was in a position to give you categorically the solutions and they actually numbered them as 1, 2 and 3, but under the rest, the other forms of development, to me, they do not look more of solutions but future suggests for alleviating some of the sufferings in the northern region. But under banditry and tribal animosity, they are very specific that this is what should be done and it seems as if, as you say, those are things that were happening and continued happening even after your departure. There are specific solutions to specific issues, but under development, we cannot see specific solutions to specific issues. So, why do we have such a report whereby they point specifically and giving solutions to a specific issue and yet, towards the end of the report, it is as if it is watered down?

Mr. Paul Murimi: You cannot wholly say that we overlooked this issue of development. Maybe, what came out may feature by going through the report. Development does not take place in a day. It is a long-term process and we, as members of the KIC, appreciate the fact that without development, the problem cannot be resolved. You also note that I have gone further, with all other issues, and given what the meeting felt about all those issues. So, it is not a question of omitting or concentrating only on security, but rather looking at the overall situation and that is what the KIC had gone to witness. About the elaboration on development, we had people like the Provincial Development Officers who could really go deeper into those issues, but this was a summary of what was happening in those areas.

Mr. Tom Chavangi: That takes me to my next question. There was immediate action on this issue of the disarmament of the Degodias. That was an immediate action after your visit on 8th. A few hours later, action was taken. The Commission was in the northern region one month ago. Twenty seven years ago, there is a report from you to your bosses talking about development and showing what should be done to ensure that the region develops, but our visit to this region one month ago, the same issues that were there 27 years ago are the same issues that are persisting. Why take 27 years or even more in future for development to come yet there was an immediate action of rounding up the

Degodias on this particular day after your visit? There was an immediate action on something that was reported to you that pertains to security but no action has been taken on development 27 years later. It is the same road, the same borehole that your team allegedly saw. Why that difference?

Mr. Paul Murimi: I may not be able to answer that question because there are relevant departments which can handle the area of development. If nothing has taken place, I cannot be able to vouch for that because I was not in a position to implement any of those things. The directorate was not the implementer of all these things.

Mr. Tom Chavangi: But you agree or feel what the Commission feels that there was immediate action on a certain issue and no action on other issues. You can see the mischief in that?

Mr. Paul Murimi: You can take it the way you want, but as I have told you, as a directorate, we do not do development issues. I would also like to tell the Commission that after this particular incident, I went to North Eastern as one of the intelligence officers and served there for three years between 1992 and 1995 and this issue of development was coming up every time. We always used to discuss what we could do. Some things were done or were being done, but whether they were successful, I cannot vouch for that. When I was there in 1992-1995, we had people starting farming in places like Bute and Eastern Garissa and along the River Tana. Those were areas of development. We had people using *pangas* and *jembes* to clear those areas. These were some of the things that we were trying to do to promote those people at that particular time. If nothing substantial has taken place; it is not because the Government was reluctant. It is the nature of the place or the way things have continued to operate in that part of the country.

Mr. Tom Chavangi: You said earlier on that you had the intelligence person in Wajir. You had your officers in Wajir in charge of intelligence. Before you got to Nairobi, the DSC had made a decision to round up the Degodia men in Wajir. By not informing you of this impending or actual rounding up of the men and the end result of the Wagalla Massacre, do you think it was a failure by your officers?

Mr. Paul Murimi: Whereas I was not informed at that particular time, the officers have got communication with my head office and they could have communicated that information. I did not check at that particular time. So, even if they never told me on that particular time, they had already informed my head office about what was happening.

Mr. Tom Chavangi: So, there was no reporting requirement in terms of hierarchy? So, a junior officer, who probably is in charge of some issues, for instance, in charge of some aspects of security in Wajir, does not report to you but can circumvent you and report to your bosses. So, what you are saying is that there was a breakdown?

Mr. Paul Murimi: No, that is not what I am saying. We are talking about this particular incident about Wagalla. I hope it is the one you are referring to.

Mr. Tom Chavangi: I am referring to that.

Mr. Paul Murimi: We were at Garissa and I told you that for some time, I broke from the meeting and went out. You have told me that some members of my team were informed about the issue that particular time and I told you that I came later on but I did not receive any information and went to rest when we were preparing to come the following day. That does not mean that the fact that the report did not come to me at that particular time had great impact or down-looking on my person. The head office or our officers have a right to communicate with the head office whenever something happens, irrespective of their rank.

Mr. Tom Chavangi: Thank you, Mr. Murimi. That was my last question. Commissioners, I hand over the witness to you.

The Presiding Chair (Commissioner Farah): Thank you. The Commissioners will ask you questions and I will start with Commissioner Slye.

Commissioner Slye: Thank you, Presiding Chair, and Leader of Evidence. I want to thank you, Mr. Murimi, for appearing before us today. As the Leader of Evidence had pointed out in the beginning, the fact that you found time to come here and share with us your testimony, we very much appreciate that. The testimony of you and your colleagues is extremely helpful to us as we try to understand the structures of the Government, intelligence, military and security personnel of Kenya and that is where I would like to start. I am also someone who is relatively new to Kenya. I am still trying to understand clearly in my mind what these different bodies are and what their functions are. The Leader of Evidence had asked you about the KIC and the KSC, and if I understand this correctly, the Kenya Intelligence Committee would collect information and they would then pass that information on to the Kenya Security Committee (KSC), and then the KSC would decide whether any action should be taken. Is that correct?

Mr. Paul Murimi: Yes.

Commissioner Slye: So, that is sort of going down the chain. I am sort of interested, or I want to understand the relationship between the KIC and the various provincial security committees. Is it through the PSCs that the KIC would mostly get its information?

Mr. Paul Murimi: There are two security committees dealing with security matters in the country. At the district level, we have the DIC that collects the information and then there is the DSC that after getting that information decides what action to take on any issue. That is at the district level. At the provincial level, there is the similar body the PIC and the PSC at the provincial level. Issues to do with provincial matters are taken at that level. When you come to the national level, there is the intelligence committee and the security committee. That is how they go. The intelligence committee collects the information and the security committee decides what action can be taken.

Commissioner Slye: So, the intelligence committees; the DIC, PIC and the KIC, will be the ones that would have the most information in terms of intelligence and then the DSC, PSC and the KSC would be the ones that would be more likely to operationalize things based upon that intelligence. Is that correct?

Mr. Paul Murimi: Yes.

Commissioner Slye: In some other minutes of the PSC, we have seen that the PSC might have an issue that they need guidance on and they would indicate in the minutes that they would look to the KIC in terms of action.

So, does that mean that in some cases, the KIC could guide the PSC on what to do? Explain that relationship.

Mr. Paul Murimi: It would depend on the issue at hand. But when you come to operational matters, the people who can operationalize things or who can tell how the situation is and how grave it is are the people on the ground. They may ask for help from higher echelons if they cannot deal with it but if they can deal with it, they can deal with it there and then and then inform the other higher offices what they have done.

Commissioner Slye: So would the PSC in some cases if they felt it wanted to get advice from the KIC and different things that they might have been thinking about in terms of action or further intelligence if they needed---

Mr. Paul Murimi: They may.

Commissioner Slye: To move to my next question of your actual trip which you accompanied the KIC. Let me first make sure that I understand the trip and the documents that you created. On the trip, you, first of all, say that the KIC met with the DSC members on matters concerning security, personnel and administrative problems. That suggests to me that that was the main focus of the trip. In fact, at the end on the last page of the report, you say that the KIC members were impressed by the visit as it enabled them to understand the issues affecting the province. I gather that the issues affecting the province were predominantly issues around security, personnel and administration. Is that correct?

Mr. Paul Murimi: Yes.

Commissioner Slye: But your report is talking about tribal animosity, banditry, divided loyalty, Islamic fanaticism, Government loyalty and morale. All of that really fits under the security, personnel and administrative issues. Is that correct?

Mr. Paul Murimi: Yes.

Commissioner Slye: Is it right to say that the major focus of the trip was security and within security, you said that security is very bad and it includes variety of things

including morale of personnel in the area including development and a variety of things? Is that correct?

Mr. Paul Murimi: Yes.

Commissioner Slye: If somebody said that the main purpose of the trip was development and not security, would that be a correct statement of the purpose of the trip?

Mr. Paul Murimi: I do not know what others said. I just understood that they were talking about development. We did talk about development as it is actually listed there, but the fact of it was that whatever issues happened in the province were largely being hampered by security.

Commissioner Slye: The main purpose was security. Then, you also said that at one point, in response to questions by the Leader of Evidence, that you might not have gone to some of the site visits by members of the delegation. So, when you went to Garissa, Wajir, Mandera and then back to Garissa, did the delegation move together or you split and have separate meetings when you were at different places or how did that work?

Mr. Paul Murimi: I said that, personally, whenever there were no areas concerning my area of operation, I would take time with my officers. This is exactly happens in some of those areas that if there was no issue concerning the plenary meeting, I would retreat with my officers to discuss things concerning our intelligence gathering methods and problems, so that I could come back and also advise, which is not listed here, on the problems they were experiencing and the report they made. That is exactly what I did at that particular time.

Commissioner Slye: So, you could sometimes have separate meetings with intelligence officers in those different locations and so, you might not have been where the other members of the delegation went?

Mr. Paul Murimi: At the development projects.

Commissioner Slye: Do you know whether other members of the delegation had separate meetings with people in their areas?

Mr. Paul Murimi: I recollect that different officers who went there could arrange with their officers what to discuss and where to meet. But I cannot point that so and so met his officers here, and so and so met his there.

Commissioner Slye: Coming back to the document you produced, again on the first page, the first paragraph, the last sentence reads: "Enumerated below is a summary of their observations---" I read that paragraph to mean the KIC. So, if my understanding is correct, then this document is the views of the KIC based upon their visit.

Mr. Paul Murimi: This is what was observed but when we were going there, we were not going to resolve anything. We were going for a study trip. We were not going to give any orders or directives. I called it a study trip by the KIC and whatever happened thereafter was just coincidental. So, whereas these things were mentioned by whoever was giving us the briefings, mostly the DSCs were giving us the briefings from their experiences, we could not close our eyes, but at the same time, the only encouragement that we could give them is to keep on trying to resolve the problem. And even these resolutions that we have there were not applicable only at that particular trip. They had been ongoing, but it was reinforcing them as we were solving the problem that had been recurring in these areas.

Commissioner Slye: Let me express my initial view of what this represents and you tell me whether it is correct. The way I read this is that you wrote the document to reflect the observations of the KIC during that trip and came out with the meanings that they heard from the various DSCs. So, we look at tribal animosities and the solutions, for example. I read that to suggest that in meetings where the DSC, the DSC and the KIC discussed tribal animosity and these various solutions. Will that be a correct understanding of the document?

Mr. Paul Murimi: Yes.

Commissioner Slye: So, in drafting the documents, did you have conversations with the members of the KIC to confirm or understand what their observations were in order for you to create this document?

Mr. Paul Murimi: Basically, whenever we had a plenary, the issues would arise, the members of the DSC would tell us what their problems were and what they were doing. Then the only observation that I can remember is that where they did well, we told them to continue and where they could not resolve the problem immediately, we asked them to look at some of those solutions and how they can apply them.

Commissioner Slye: Is this solely on your memory or did you discuss with other members of the delegation the issues that you laid out here just to confirm that, that was also their understanding? Did you refer the minutes from those meetings to help you to refresh your memory to produce this document?

Mr. Paul Murimi: I being in the meeting, I was also taking some notes regarding the area that affects our department. So, regarding composing these notes, I was taking them as the meeting was going on and the talks were going on. So I have listed them from my notes that I took at that time.

Commissioner Slye: Did you have access to other notes or the minutes of those meetings before or after this in order to help you to report to your superiors about the nature of the trip?

Mr. Paul Murimi: I do not recollect because after this trip and after I had produced my report, other meetings that took place by the KIC members were attended by my superiors. So, whether they discussed those issues, I cannot tell off-head. I am repeating that I drafted this report from my notes that I took during the proceeding. I gave these notes to my superiors and the subsequent meetings that took place, I did not attend. It is my superiors who attended and whether they discussed them or not, I cannot tell.

Commissioner Slye: So, after this trip, you did not attend any other meetings of the KIC?

Mr. Paul Murimi: I did not attend. They were attended by my other superiors.

Commissioner Slye: Just one question on the report. The report is a summary based upon your recollection about what was discussed between the KIC and the various DSCs. Can you tell us a little bit more what those meetings were like? We have heard some information that the DC, Wajir, for example, prepared a brief and he would have presented the brief. Then I assume there was a discussion about it or how did the meeting run? In addition to the brief presented by the DC, what else happened?

Mr. Paul Murimi: I recollect that when we arrived at Wajir, we were met by the DSC team. Then we went to the place of reception. Then we had time for them to tell us how the situation was in the place. As I said, we were on a study tour as members of the KIC. What they said in that meeting is what I tried to shortlist.

Commissioner Slye: So, one function I understand of the KIC was to gather intelligence. So, I assume that one thing that happened in these meetings is that the different DSCs presented their issues, either possible or maybe decided solutions and the purpose of presenting that to the KIC was because the KIC was at the national level, the main body to collect that information. So, they would turn that information over to the KIC. Is that correct?

Mr. Paul Murimi: Yes.

Commissioner Slye: So, part of the purpose was for the KIC to understand what issues were affecting the different districts and what the districts were planning to do with those issues. As part of that conversation, did the KIC members express their own views or say, "hi, that is a very good idea, but that is not such a good idea" or "hi, we have come across a problem like this in another part of the country and here is another technique that has been used". Would that be sort of the conversation as well or it is just listening from the DSC to the KIC with the KIC not participating?

Mr. Paul Murimi: I recollect that when the DSCs presented their issues, they would be asked what help they would like to have from the Government. That was the major issue for the KIC, namely, what help can be given to those areas in view of these problems.

Commissioner Slye: So, the KIC would ask that and the DSC would say, “we would like “A”, “B” and “C”?”

Mr. Paul Murimi: Yes.

Commissioner Slye: When I have been in meetings like this or a delegation going somewhere else, I am both receiving information from places on the ground, but I am also giving advice based on my experiences and the experience of my colleagues and I am trying to understand whether that was the nature of these meetings. So, the DSC would lay out their issues and the solutions and the KIC would ask what help you need from the Government and then I assume there would be a conversation where maybe the DSC would say, “we need ‘X’ and the KIC might say, “well that is not realistic, but we could maybe do ‘Y’ ”. So, there would be a give and take. Is that right?

Mr. Paul Murimi: Yes.

Commissioner Slye: So that by the end of the meeting, there would be a general consensus between the two bodies about what the issues were and what the solutions were and why additional resources might be needed in order to address the solutions. Is that right?

Mr. Paul Murimi: Yes.

Commissioner Slye: My last question, which I think you may not be able to answer based on what you have said before that you did not attend the KIC meetings later--- But we have received some evidence to suggest that shortly, I think in April, two months after the Wagalla operation, a directive was given from the KIC to the PIC to say that in future, all security operations should get prior approval of the Ministry before they are undertaken. Do you have any knowledge about such a directive or new policy?

Mr. Paul Murimi: I am not aware.

Commissioner Slye: My very last question. To whom is this document circulated? It is addressed to the Director of Intelligence but who else would have had access to it or would have seen it?

Mr. Paul Murimi: We have different people in our department who had access to it who were dealing with issues concerning the various places. Like the officers who were dealing with the North Eastern desk, they had access to these notes.

Commissioner Slye: And that would be within the intelligence intervention?

Mr. Paul Murimi: Yes, just within its ranges.

Commissioner Slye: Would something like this be shared with other members of the KIC?

Mr. Paul Murimi: It could have been shared because when I gave this document to my director, he was at liberty to use it wherever he wanted.

Commissioner Slye: Thank you very much.

Commissioner Shava: Thank you, Mr. Murimi. I also have a few questions and please bear with me if they sound a bit like something you have been through before. We are really trying to understand the environment in which you were working. First, you said that you were in North Eastern Province between 1992 and 1995. In what position and where were you serving?

Mr. Paul Murimi: I was the Provincial Intelligence Officer stationed at Garissa and I used to organize intelligence matters in the province at that time.

Commissioner Shava: Would you have been called the Provincial Special Branch Officer or what? Had the title changed?

Mr. Paul Murimi: Provincial Intelligence Security Officer.

Commissioner Shava: Okay. We have to learn all these terms. What would your relationship have been with the people at the district level in terms of gathering and analyzing intelligence? I imagine that they were then District Security Intelligence Officers. So, did you have regular meetings? How did you exchange information?

Mr. Paul Murimi: We have two instances, namely, when I was at the headquarters and the province.

Commissioner Shava: When you were at the province. Actually both would be helpful.

Mr. Paul Murimi: At the provincial level, I had to receive reports from my officers every morning and every time an issue arose. The communication was open. I had the role of visiting them as and when necessary in their respective districts and discuss issues. They also had to come to the headquarters to report on various developments in as far as security is concerned. That was the relationship at the provincial level.

At the headquarters level, every provincial head had to report every morning or any other opportune time what was happening in his province, especially the issues of importance. If need be, if the issue was very intricate, he may call the headquarters to come and enlighten us more. The reports would be in written form and not only verbally and all these written reports had to come to the headquarters. It is at the headquarters that reports from both the PC and the DC are collated. After collating those reports, the issues and the matters of national interest were then referred to the KIC. That is how we operated.

Commissioner Shava: So, if for instance we take the instance of Wagalla, the Provincial Officer, that time the Provincial Special Branch Officer or the Provincial Security

Intelligence Officer, would have had to be reporting to the headquarters at all times. What was going on? Not only do a report every day, but you have also said that when there was an incident or a situation developing they would report as necessary, maybe even more than once a day.

Mr. Paul Murimi: Yes.

Commissioner Shava: In investigating thereafter what happened at Wagalla, we have heard testimony that officers came from headquarters to investigate. They would have involved their person on the ground or would they not?

Mr. Paul Murimi: They would involve them.

Commissioner Shava: I know that you were intelligence officer and not a CID, but do you have any knowledge of the procedure that the CID would follow? Would the procedure be the same as yours or different?

Mr. Paul Murimi: It is not very much different.

Commissioner Shava: It would be unusual to you if a team came from the headquarters to investigate and excluded their person on the ground from the fact finding?

Mr. Paul Murimi: I really do not know whether the CID does that because that is a different department all together, but on our part, we would involve our officers because they are the origin of the information.

Commissioner Shava: You said earlier in your testimony that you made this report to your director to apprise him of the issues that had arisen on the tour before he attended the meeting. To what meeting do you refer?

Mr. Paul Murimi: Our Director used to attend the KSC meetings, KIC meetings and used to brief the President every day.

Commissioner Shava: Thank you. That is quite clear now. If we can just look again at your report, and issues to which the Leader of Evidence referred to, after this section of the report that you wrote, it concludes with either solutions or suggestions. Some places, it is solutions and other places, it is just suggestions. Am I right to understand that where it says solutions, those are things that have been or are being applied and it is an agreement? You have said that when you went to Wajir, there was no immediate emergency that caught your eye but there was a situation of tension which needed to be addressed continually. So when you say solutions, am I right in understanding that, that was what the DSC presented and the KIC agreed with it?

Mr. Paul Murimi: I said that the suggestions or solutions given here do not just emanate from this particular meeting. They have been ongoing. So really there was nothing new

that the KIC went to direct the DSC to do because they have been always applicable in the past.

Commissioner Shava: So, that is an ongoing solution. The KIC has gone and said, “this is the information within the knowledge of the KIC and these are the solutions being applied”?

Mr. Paul Murimi: Yes.

Commissioner Shava: Thank you. We have heard about on the spot fact-finding mission on 15th February that went to Wajir. Did you, yourselves, travel on that mission with the DSC?

Mr. Paul Murimi: I was with the KIC team at that particular time. I was representing the Director of Intelligence and my deputy who was not able to go on the *safari*.

Commissioner Shava: I am talking about after the incident at the airfield on 15th of February, when now people had been removed from the airfield. There was on the spot fact-finding mission which included the Chief of General Staff---

Mr. Paul Murimi: I did not go myself.

Commissioner Shava: You were not on that one?

Mr. Paul Murimi: Yes, I did not travel.

Commissioner Shava: With regard to the KIC, this is my final question; I am just trying to understand the relationship. You have told us that the intelligence committees from the district level to the provincial and to the national level and their counterparts which are the security committees, which are more in terms of operationalizing decisions collect intelligence and collate it. I presume that they also advise, because we have heard that KIC was an advisory body. So they would advise in terms of what problems have been identified and what kind of solutions might be applied. But the security committees are the ones, we are told, that decide on how this intelligence is to be applied. We have also heard that at the provincial level, the Provincial Intelligence Committee would meet immediately prior to a PSC meeting and that they did not keep minutes but they just extracted. They took an extract to the PSC meeting and the membership was more or less the same people wearing different hats. Was that replicated even at the national level?

Mr. Paul Murimi: At the national level, we have said, we involve even Ministers.

Commissioner Shava: Yes, at the national security committee?

Mr. Paul Murimi: Yes, at the national security.

Commissioner Shava: So then my understanding would be that if you do not have minutes - we have heard that they were destroyed at the national level. We do not even know where those minutes of the intelligence committee are but there is a security committee that meets and decides. So, to me, it sounds as if actually the intelligence committees inform the agenda of the security committee because they take, not the whole agenda necessarily, but definitely, at least, a part of the agenda because they meet, identify issues right from intelligence which they think are important, they probably identify solutions that they would advise, and then they take that bit to the security committee. Am I correct?

Mr. Paul Murimi: You are correct but the security committee does more than what may be in the intelligence reports.

Commissioner Shava: Yes, because the security committee would also do more developmental issues and staff morale and so on. But in terms of security, the intelligence committee can actually inform the agenda of the security committee and even the decisions because they will propose solutions, they will advise. So, therefore, it is as if the intelligence committee, through the security committee, can decide on solutions?

Mr. Paul Murimi: As an intelligence officer, you are entitled to give some suggestions. That is actually the work of the intelligence organization; to give some suggestions or advise or whatever it is but the implementing body will be either the security bodies or any other relevant bodies or Ministry.

Commissioner Shava: And at the national level, when I look at the composition of the Kenya Security Committee, the national level one, you said it is chaired, and we have heard from previous witnesses, by the Vice President, and in his absence, maybe the Minister for Home Affairs. But those are not people who are involved in day to day issues. So they will not know. So, I presume that decisions would be made based on the advice given by intelligence. That will play a big part on how decisions are arrived at.

Mr. Paul Murimi: Yes, I remember during our time most of the advice given by the intelligence would be taken.

Commissioner Shava: It would be taken! Thank you very much, Mr. Murimi, I have no further questions.

The Presiding Chair (Commissioner Farah): Yes, Commissioner Dinka!

Commissioner Dinka: Thank you very much, Mr. Murimi, for coming here again on voluntary basis to help the Commission gain some more insights into the situation in the North Eastern in the 1980s. You are very good to us because you said you served as the chief of intelligence of the province in Garissa and then at the headquarters also and then you were removed in the whole matter. After you returned on 10th to Nairobi from the visit of February 9th 1984, already the operation in Wajir was underway. According to you, the District Intelligence Officers sends his report from the ground every morning to

the Provincial Security Officer, and the provincial guy sends every morning to headquarters the full report and sometimes when a new development happens, he sends more than once every day. After you returned on 10th February, did you receive regular reports on the situation that was developing in Wajir?

Mr. Paul Murimi: I did not receive regular reports on Wajir after I returned because my area of concentration was not actually operational. It was the question of dealing with other issues rather than operational issues. So the officer who was in the operational issues is the one who was receiving what was going on.

Commissioner Dinka: If I assume the Directorate had received intelligence beginning from the 9th, 10th, 11th, 12th and whatever, every day from Wajir through Garissa, would I be right?

Mr. Paul Murimi: Yes!

Commissioner Dinka: I would be right! In that case, this being very important development in Wajir, a big security operation, would that reach the desk of the Director or manager?

Mr. Paul Murimi: It would!

Commissioner Dinka: And you mentioned that the Director is also a member of the KIC and also advises the President or briefs him every day?

Mr. Paul Murimi: Yes.

Commissioner Dinka: Again, given the nature of what was happening in Wajir, the Wagalla issue particularly, would I be right if I assume that the Director must have taken it to the KIC and to the President?

Mr. Paul Murimi: I assume so!

Commissioner Dinka: I would be right?

Mr. Paul Murimi: Yes!

Commissioner Dinka: Very good. To go back again to this first paragraph, that will be my last question, enumerated blog is a summary of their observations. When you say their observations, it means the combination of PSC and KIC delegation. So that it reflects what kind of common observations that developed in that meeting?

Mr. Paul Murimi: Yes.

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

Commissioner Chawatama: I join the other Commissioners in thanking you for coming to this Commission and testifying on a voluntary basis. For me, as a non Kenyan, what is important about the step that you have taken is that we are seeing Kenyans taking ownership of this process. Indeed, this is a people's process. I hope a lot of people will also take time for those who have the information to share with us, that they will volunteer and come and share this information so that we can come up with a complete and accurate record. What I would like to hear from you is maybe to walk us through from Nairobi to Wajir. So you were told by your superiors: "Go and represent me in this tour and be a part of this delegation." Did you have a brief from the people on the ground or from any department in the institution where you worked just to let you know what to expect?

Mr. Paul Murimi: Yes, I had.

Commissioner Chawatama: And what was in that brief?

Mr. Paul Murimi: Now, my officers on the ground, as I said, communicated with the head office. The purpose of the visit was a study tour by the KIC on the problems affecting this place. So when I went there, I said I would take time off with my officers---

Commissioner Chawatama: No! You need to help me, I was not there. I am taking you by your hand and you now receive instructions from your bosses here in Nairobi that you are going to North Eastern Province on this tour. So I am saying in preparing yourself, while still in Nairobi, did you get a brief on the province that you were going to tour?

Mr. Paul Murimi: Yes, I had a brief and that brief is reflected in my notes: "go and study about the issues concerning security apart from other things".

Commissioner Chawatama: That was your brief?

Mr. Paul Murimi: Yes.

Commissioner Chawatama: Fine. Do you recall whether or not you all received a brief as a delegation, that is, everybody who was now leaving Nairobi to go to North Eastern Province? Did you all receive a further brief as a group?

Mr. Paul Murimi: When we left Nairobi, at the place where we took our plane, Eastleigh, of course, the head of the delegation told us that we were going to North Eastern because of 'a', 'b', 'c', 'd'. We were going to study the problems facing that area and we were going as a team because we had always been receiving reports in the office but, really, we did not know what was happening on the ground. So our purpose for the journey is to see what is happening on the ground instead of just sitting in the office and receiving briefs.

Commissioner Chawatama: Okay! You said you went to Garissa first and then you went to Wajir. So you now land in Wajir; was this your first time to go to Wajir?

Mr. Paul Murimi: It was my first time, yes!

Commissioner Chawatama: Okay! Would you like to share with us your first impression of Wajir?

Mr. Paul Murimi: We arrived in Wajir; I cannot precisely say the time. We were received by the DSC there and they took us to the army camp where we had some drinks. I recollect that after that, the DSC had time to apprise us on what was going on there. At that particular time, they told us the problems they were experiencing and they are listed there.

Commissioner Chawatama: So it was at the army camp where the briefing took place? The briefing did not take place at the DC's Office or was that the second briefing?

Mr. Paul Murimi: That was the first briefing. The following day before we left for Mandera, we had a meeting at the DC's Office.

Commissioner Chawatama: So, now you are driving from the camp?

Mr. Paul Murimi: No, we spent the night at Wajir. When we were leaving the following morning---

Commissioner Chawatama: You had an opportunity to see Wajir Town?

Mr. Paul Murimi: Yes.

Commissioner Chawatama: What were your impressions?

Mr. Paul Murimi: That time, it was a small town with just many temporary shelters, *manyattas*, in some places. The only land mark of importance was the airfield and the DC's office where there were some constructions. I do not recollect going to other places.

Commissioner Chawatana: What about on the streets, were there army or police officers? Did you have any of these officers?

Mr. Paul Murimi: I spent much of the time in my office with my officers.

Commissioner Chawatama: You said that you had opportunity to talk to your officers on the ground. What were some of the things that they discussed with you?

Mr. Paul Murimi: We discussed many issues ranging from their administrative problems to the security issues they were experiencing and more so in the area of intelligence collection hiccups, the areas of problems and why they were there. So, we discussed their financial, operational problems and also their personnel problems in terms of things like accommodation and so on. So we discussed a range of things.

Commissioner Chawatama: Did they tell you that between November 1983 to about February 6th, there were, in fact, about 14 incidences that took place; clashes between the clans? Was this part of your brief?

Mr. Paul Murimi: Yes, it was part of the brief. I cannot remember precisely what number they gave but that was part of the brief they gave me.

Commissioner Chawatama: And at that point, you did not think that there was a very serious security issue to be addressed?

Mr. Paul Murimi: I as a person?

Commissioner Chawatama: Yes, you as a person!

Mr. Paul Murimi: At that particular time, they told me the incidences which had taken place and how they were trying to resolve them, and from my experiences in resolving problems, we thought we could solve them as a department.

Commissioner Chawatama: And I take it you were able to give them some counsel on how they could handle such situations?

Mr. Paul Murimi: Yes.

Commissioner Chawatama: Did you also encourage them that communication was very important on things that they saw and heard?

Mr. Paul Murimi: This is part of their duties, yes.

Commissioner Chawatama: When you joined the rest of the team after you were through talking to your officers, did you share some of the information with the rest of the delegation that you had travelled with on some of the concerns that your officers were bringing up?

Mr. Paul Murimi: If I recollect, informally!

Commissioner Chawatama: Informally! Did you share with them, for example, that your officers had told you of the number of clashes that had taken place between November and February or maybe even longer, but just that there were clashes and up to about 6th because you were there now on 8th? But up to around 6th, there were some disturbances that had taken place? Was that information shared with the rest of the delegation?

Mr. Paul Murimi: Let me put it this way; the intelligence reports that were coming from Wajir, all those people who were there were recipients of those written reports. So, they were as much informed about the reports as I was briefed.

Commissioner Chawatama: But they were not party to the briefs that you were having with your officers?

Mr. Paul Murimi: Actually, even those briefs that I was having with my officers were some of the things that they had also received through either our office or through the other offices.

Commissioner Chawatama: Okay! When you look at page two of your report under solution number 2, the one that deals with communal punishment with tribal elements is established, I know that you have explained that this is as a result of the provision from an Act. But on the face of what is in your report, how does one know that this applies to a situation where cattle rustling is concerned and not human beings?

Mr. Paul Murimi: Firstly, about communal punishment, it is not just taken arbitrarily. It is taken as a last resort, if it is to be taken. How would the intelligence department or security committee know about it? They would know it from the ground by going to the ground and getting the information from the ground. The operations as we found them about those communities was that every community was privy to the security activities such that if a crime was committed by a particular community, members of that community will not reveal it; that a man did it or a group did it.

Commissioner Chawatama: As it relates to livestock?

Mr. Paul Murimi: We are talking about livestock.

Commissioner Chawatama: I think what puzzles me is also the use of the word “tribal element”. What did you mean?

Mr. Paul Murimi: What we meant is that if one clan---, we are talking about clans, sorry. The correct word here is clan, and not tribal because the Ajuran and Degodia there they call themselves tribes but I think the real name should be clans.

Commissioner Chawatama: This is particularly important, maybe my Kenyan colleagues understand but, definitely, I do not because what we have heard from earlier witnesses is the collective punishment that was obtaining in North Eastern Province. This is how Wagalla resulted in the rounding up of Degodia men and taking them to the airstrip. There was a round up in Garissa as well where people were taken to the primary school grounds. We are also trying to think where the DSC would draw those powers from. What is it that gave them the power to act that way, to collectively bring people and collectively punish them? So this has nothing to do with collective punishment of persons. Is that what you are saying?

Mr. Paul Murimi: I said that mostly communal punishment dealt with where one clan aggrieved the other in terms of animal rustling, then the proper option would be, because they cannot get the person who did it, if they got livestock from that clan, then the clan

perhaps would learn a lesson. Even if they hid the perpetrators, they would not get away with it. That way, I recollect that although that form of punishment was widely applied, I do not recall using it during my time. They will be a bit cautious to repeat the same next time because they know that if they do it, their animals will be rounded up, affecting even the most innocent.

Commissioner Chawatama: What were your impressions of how the Kenya police and the Administration Police were operating in Wajir? What were your impressions?

Mr. Paul Murimi: During my first visit there, I was informed that in most cases, they were holding joint operations. The police would give their men and the DC would give his men and they go for patrols or operations jointly. That is how they were doing it. However, there was that problem that if you were a member of whatever clan and you are in the operation and somebody got the information, some of them would not wish to divulge what their clansmen had done even if they were in the operation.

Commissioner Chawatama: The reason why I have asked you this question, because you are an intelligence person, one gets the impression that the police did not really know their role, the Army did not know their role and as for the judiciary, I do not know whether there were any courts at that time so that the roles of the different institutions or departments were so blurred that nobody knew who was to do what. Did you get that impression or were you satisfied that everybody knew what their role was?

Mr. Paul Murimi: Well, from my knowledge, I thought the APs and the regular police used to hold joint operations generally. The army could only come as a back-up in case of a serious issue. But how they operated in this particular incident, whether one group overplayed the issue, I really cannot tell because this took place when we were not in Wajir. It took place when we were out of the place.

Commissioner Chawatama: Do you recall when you came back to Nairobi – I do not know when you handed in your report – but were you called again by your bosses after the Wagalla Massacre to just, may be, try and shed more light as a person on the ground on what could have triggered off such an incident?

Mr. Paul Murimi: I remember reading the briefs that came. I went back to the office and went through the briefs.

Commissioner Chawatama: But you, as a person on the ground, were not called to shed some light on maybe something that you saw or something that you heard that could have triggered---

Mr. Paul Murimi: The incident took place after we left Wajir. So what I was reading is what happened after I left.

Commissioner Chawatama: You did not get my question or maybe I am misunderstanding you. I said after you got back to Nairobi, did the Director of

Intelligence, for example, call you to just maybe try to get more information from you to help them understand what could have taken place? Or you just handed in your report and that was it? You were not called?

Mr. Paul Murimi: I am sorry, I was not called. That may not have been an oversight because they were in charge with the head of our office in Garissa. We were always in touch with our provincial boss. He was abreast about all the issues.

Commissioner Chawatama: But you also would have been an independent mind? Is it not?

Mr. Paul Murimi: If he called me, then I will

Commissioner Chawatama: Thank you so much.

The Presiding Chair (Commissioner Farah): Thank you, Mr. Murimi. I would just ask you a few questions. Please, bear with us. You have been very co-operative so far. If I may start with my first question, during your service, you belonged to the Special Branch and not the National Security Intelligence Service (NSIS)? Is that correct?

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): At that time, the Special Branch was part of the police. Correct?

Mr. Paul Murimi: Yes!

The Presiding Chair (Commissioner Farah): Therefore, you had a rank like any other police officer?

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): Here in your report, I see that the man whom you replaced when you were going to Gatuiya, you refer to him as a Deputy Secretary. A Deputy Secretary is a rank of a civil servant. What was his police rank?

Mr. Paul Murimi: He did not have a police rank. He was seconded to us by the Office of the President.

The Presiding Chair (Commissioner Farah): So you had some civilians seconded to you? Did you train them?

Mr. Paul Murimi: Yes, they were trained.

The Presiding Chair (Commissioner Farah): Now, do you agree with me that at the time of the Garissa/Bulla-Karatasi incident in 1980, and also the one of Wagalla, the Special

Branch was a very powerful organ in the Government of Kenya? Do you agree with me? It was powerful in the sense that whatever you said was taken very seriously and you had a lot of influence in decision-making within the Government even though silently. You agree with me on that?

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): Good! It was not like the NSIS now who just make reports to the President but yours was a police sort of action. You had the power to arrest and detain. You had a lot of powers. A while ago when my fellow Commissioner was asking you about the communal punishment, let us be very honest on this one. Communal punishment in the way of animal rustling was not a phenomenon that was normal and usual in North Eastern Province like in Pokot and Turkana areas. What you were dealing with was banditry. Is that correct?

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): Occasionally, of course, some animals would be taken in the form of banditry attack. So the communal punishment you are talking about was already a tradition that was normal with the people there, that if I am clan A and I kill somebody from clan B, I would pay 100 camels. In fact, up to today, we do not have a judge in North Eastern Province because the laws that operate there are so traditional that you do not even require a judge, up to and including death. Is that correct? There was the blood money. So this communal punishment was something else other than animal taking, if you can agree with me.

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): Agree with me just for the record of the HANSARD. Now, communal punishment would mean to collect people from their homes and gather them in some open area for some days without food and water. That is the communal punishment you talked about in your report. Is it not?

Mr. Paul Murimi: I am not the one.

The Presiding Chair (Commissioner Farah): I am not putting words into your mouth but, please, be co-operative. What did you mean by communal punishment? We have ruled out the animal one now because if you go to one of the chiefs of that clan, if between them so-and-so was killed, 100 camels were collected, paid and that is finished. So why would you punish a community? What did they do?

Mr. Paul Murimi: I do not want to be misunderstood. At no level, did we say that communal punishment is rounding up people and putting them whatever it is. What my understanding was, was that whenever a crime was committed and you could not get the perpetrator, then the clan concerned would be questioned.

The Presiding Chair (Commissioner Farah): How do you question a whole clan?

Mr. Paul Murimi: It will depend on the area. In this particular case, Wagalla and Degodias were there and they were fighting over many things. Like I was told, they could sometimes fight over water; they would sometimes steal animals from one another. They could even kill one another. In the question of killing, if you were a Degodia and you killed an Ajuran in revenge, an Ajuran does not revenge with the person who killed his people. He will revenge with any Degodia miles away and *vice versa*. Those were the norms of the time.

This depends on which area was concerned with the incident. To minimize this, the people in that area would be questioned.

The Presiding Chair (Commissioner Farah): You agree with me that North Eastern Province, unlike the rest of Kenya, has vast distances in between settled locations?

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): So communal punishment after one clan kills from the other clan, you collect all the other clans in that particular area? Is it not? Why was that not done in Bute where the deaths occurred and assembling of people was just limited to Bute? Why did you have to collect all the Degodia people from Habaswein all the way and bring them in Wagalla Airstrip which is hundreds and hundreds of miles away? About 20 lorries of army were used. That was a big disservice.

Mr. Paul Murimi: This was not done because of the KIC visit at that particular place.

The Presiding Chair (Commissioner Farah): As an intelligence officer, please, the DSC itself had a junior person to you, who was called a District Special Branch Officer. Is that correct?

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): So, why did he not advise them not to do that and instead collect the men within Bute Town alone and ask them to surrender their guns?

Mr. Paul Murimi: I cannot answer for him.

The Presiding Chair (Commissioner Farah): But you know it was wrong?

Mr. Paul Murimi: I cannot answer for him.

The Presiding Chair (Commissioner Farah): But you know it was wrong?

Mr. Paul Murimi: If it were me, perhaps, I would not have done that.

The Presiding Chair (Commissioner Farah): Good. For the sake of the HANSARD, I wanted you to state that, that was wrong. If the communal punishment you talked about was actually provided for in the statute as you said, I have read here Cap.56 of the Laws of Kenya - Preservation of Public Security Act. At nowhere in that chapter from point A up to the last where it says a community can be collected from very far afield and brought to one place. It just talks about restriction of people's movement. Maybe if you did not want anybody to come out of Wajir Town, you create a roadblock outside Wajir on the road to Isiolo and another one on the road to Mandera, and another one on the road to Moyale. That way, you preserve but never collect people and gather them in one place. This happened not in Wagalla alone. Earlier on in 1980, it happened in Garissa and in 1989, it happened in Garimagalla.

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): Do you agree with me that for the sake of our records that this was nothing in the statutes of Kenya, it was just regulations which were made by powerful administrators to punish people, if I may put it that way?

Mr. Paul Murimi: You may be right that the thing might have been overdone and that it was out of place to collect people from all those areas. I agree with you in that sense.

The Presiding Chair (Commissioner Farah): Absolutely!

Mr. Paul Murimi: I also agree that it is not always necessary to go to that extent. But my point is that that operation, whenever it took place, the people who can be held accountable are the ones who were there at that time.

The Presiding Chair (Commissioner Farah): Let us leave Wagalla and come to Garissa. Although you were not here, Mr. Kaaria told us that when four people were killed in a bar, the DSC, with an intelligence officer, met and thought that these must be bandits from Somalia who had come to attack Garissa. Because you have been involved in intelligence gathering for a long time, would it not have been better to look for the intelligence before acting? In other words, was it not wrong to collect all the people of Garissa and assemble them in an open primary school ground in order to ask them to tell you where the bandits were? When I say intelligence people like you, it means you had some friends within the community from whom you were gathering information from. Correct? Do you agree with me?

Mr. Paul Murimi: Yes.

The Presiding Chair (Commissioner Farah): Would it not have been better to do it that way rather than collect people and assemble them in an open ground?

Mr. Paul Murimi: According to our training, we are not supposed to go to that extent.

The Presiding Chair (Commissioner Farah): Yes.

Mr. Paul Murimi: According to our training we are not supposed to go to that extent. In fact, we are not even supposed to be in the operation---

The Presiding Chair (Commissioner Farah): When collecting information from a large group, you are supposed to infiltrate the people and gather information slowly and find out where these bandits were from and where they were going. After all, the public was assisting.

However, you agree with me that by collecting the people together in Garissa open primary school, you were making them not to give you information by punishing them. Rather, if you would have done it silently you would have got more information. Is that correct or not?

Mr. Paul Murimi: I think that was wrong. I said from training they are not supposed to do that.

The Presiding Chair (Commissioner Farah): Thank you very much. You have been very helpful.

Tell me; the North Eastern Province Security Scheme; was it not the Special Branch who offered it and gave it to Kaaria?

Mr. Paul Murimi: I am not sure.

The Presiding Chair (Commissioner Farah): You are not sure but you have heard about that scheme?

Mr. Paul Murimi: I have not even seen it. I never saw it.

The Presiding Chair (Commissioner Farah): It has Special Branch codes in it.

Mr. Paul Murimi: I have not seen it.

The Presiding Chair (Commissioner Farah): But you worked at the headquarters as well as at the provinces.

Mr. Paul Murimi: I am saying I am not aware because I worked there and I never saw it there.

The Presiding Chair (Commissioner Farah): So, it is a foreign document to you?

Mr. Paul Murimi: To me, it is foreign.

The Presiding Chair (Commissioner Farah): And it has no legal basis?

Mr. Paul Murimi: I am not aware of that.

The Presiding Chair (Commissioner Farah): Thank you very much. I have no further questions for you. Thank you for cooperating with us. Again, I join all the Commissioners in commending you for having volunteered to come forward and give us information. This is the spirit of our investigations. This is the spirit of our truth telling and this is the spirit of the TJRC Act.

We have to investigate our part. We have to record all our historical injustices. We have to find out the reasons why these injustices occurred. We have to make recommendations, reparations and amnesty. You have been of great help and I thank you very much.

Leader of Evidence, unless you have another witness, which I doubt, it is 2.00 p.m. I think we should go for lunch. There are no hearings tomorrow so tell us the programme ahead.

Mr. Tom Chavangi: Commissioners, we have consulted and the investigation team has identified a very crucial witness in the name of Lt. Col. Muhindi. We suggested that we hear that witness on the 23rd of this month at this venue from 9.00 a.m. It will be a Thursday.

We also suggest, with your wisdom, that Mr. *ole* Serien who is the PC for the North Eastern Province at the moment, be contacted for the purposes of giving a statement because he is a witness who is not at the moment relevant in this particular session. He can give a statement in regard to what the Commission feels is relevant. Then there is one witness for Wajir called Mr. Bishar. I have just contacted him and I have told him that we shall hear him during the massacre hearings or the massacre week within our calendar.

Thank you.

The Presiding Chair (Commissioner Farah): Thank you very much.

Master of Ceremony, take over and lead us in prayers.

(Closing prayers)

(The Commission adjourned at 2.05 p.m.)