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Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts - Rift Valley - Eldoret - RTJRC03.10 (Eldoret Municipal Hall)" (2011). *I. Core TJRC Related Documents*. 104.
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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON MONDAY 3RD OCTOBER,
2011 AT THE ELDORET MUNICIPAL HALL**

PRESENT

Berhanu Dinka	-	The Presiding Chair, Ethiopia
Gertrude Chawatama	-	Commissioner, Zambia
Tecla W. Namachanja	-	The Acting Chair, Kenya
Ahmed Farah	-	Commissioner, Kenya

(The Commission commenced at 10.30 a.m.)

The Presiding Chair (Commissioner Dinka): Good morning. It is a pleasure for me and the rest of the Commissioners to be in Eldoret. Before we start, I would like to tell you the ground rules about public hearings. First and foremost, please, switch off your mobile phones. Remain silent and listen to the witness. You may agree or not agree with what the witness says, but, please, give him or her dignity and respect that they deserve. Anybody who deliberately disturbs the peace of this public hearing will be asked politely to leave the hall.

The witness will be called by the Evidence Clerk. The oath will be performed and then the witness will testify guided by the Leader of Evidence. After that, the Commissioners might ask questions. We will then let the witness go and call another one.

(The Presiding Chair introduced himself and other Commissioners)

(Maj. John Ayabei Seii took the oath)

The Commission Secretary (Ms. Nyaundi): Welcome to the Commission. Please, tell us your names, where you reside and your current occupation.

Maj. John Ayabei Seii: I am Major. John Ayabei Seii. I come from Uasin Gishu County, Eldoret Town. My ancestral home is Keiyo which is part of Elgeyo Marakwet County. Currently, I am involved in matters of peace, reconciliation, cohesion and integration in the region. I am the Chairman of the Kalenjin Council of Elders taking care of the Kalenjin community wherever they are in this region and beyond.

The Commission Secretary (Ms. Nyaundi): We are, indeed, honoured to have you as a witness. You recorded a statement with the Commission on 19th July, 2011. I now invite you to present that statement to the Commission.

Maj. John Ayabei Seii: First and foremost, I would like to express my gratitude for being present in this hearing. I recognize all the Commissioners and the elders of the

community who are here present. I feel grateful that at last this sitting is taking place here in Eldoret.

Before I go through my statement I would like to make some observations. I am here on behalf of the entire Kalenjin Community. Secondly, some time ago the Kalenjin Council of Elders made an observation in relation to what took place at the initial stages of this Commission concerning Amb. Kiplagat. The community took a very strong stance and expressed its dissatisfaction that a senior Kalenjin person was not present in the Commission. I was informed by the Acting Chair that things are under control and the Commission will take care and note everything as if a senior Kalenjin was present.

As much as I understood that statement, we, as a community, have been stigmatized many times in many commissions. At the end of every commission, a finger has been pointed at the community. It is primarily because Kalenjins have not been involved in the preparation of the final reports. Therefore, once bitten, twice shy. Bear with us because that is what the community still feels to this day and wonders how this commission will come out with a balanced position concerning the Kalenjin people.

The sitting here in Eldoret is meant to take three days but taking note of the communities around here, we feel this time is not enough. I am informed that the meeting here takes care of the Nandi County, Elgeyo Marakwet County and Uasin Gishu County. Looking at the structures of these counties, the Nandi, Keiyo, and Marakwet districts are homogeneous. They have issues which are special and peculiar to them. Uasin Gishu, being a cosmopolitan community, deserves special time for itself. We are aware that time is not on your side, but truth and justice must be done. So, bearing in mind that you operate within a time limit, we are not blaming you, but we are saying that as you did last time to extend the life of the Commission, we wish that the sitting here in Eldoret takes at least five days. Those are the observations I wanted to make before going to my presentation.

As far as my presentation is concerned, I am not going to give facts, figures, distances, sizes, and dates, I am going to present the spirit of the moment. I know we have elders present amongst us from the Kalenjin Community. As I proceed, Presiding Chair, kindly allow those elders who are here to stand up.

The Presiding Chair (Commissioner Dinka): The Kalenjin elders who are here present, would you, please, stand up. We recognize your presence.

(The Kalenjin elders stood in their places)

Maj. John Ayabei Seii: As I said, the issue of land in Uasin Gishu is as thorny as it is in other cosmopolitan areas in the Rift Valley. Conflict issues in this region are primarily about land. The issue of land is not a matter of who occupies where in terms of the land size and ownership of property. The history of land ownership in Uasin Gishu goes back to the colonial days. When the colonial farmers and administrators came, they pushed the indigenous people to what they called African reserves. For those who understand the

history of South Africa it was similar to Bantustans. Because of the repressive regime of the colonial Government, the Africans lived in their reserved areas while the white dominating force occupied and tilled the land. There was an agreement between the indigenous people who were evicted from their land and the white farmer. They had a contract known as Blue. The pastoral communities, that is, the Keiyos, Nandis, and Marakwets signed those contracts with the *Wazungus* and they co-existed as part labourer and, at the same time, rightful owner of the land. They were given rights to take care of the animals.

A time came when the white farmers had to leave. The people believed that they would go back and repossess the land. Documents exist, which I cannot table here, stating that the white settlers had agreed that as soon as they leave the land, the indigenous owners would move in and occupy their land. Independence came and the white settlers left either voluntarily or otherwise. The indigenous people knew time had come for them to reoccupy their ancestral land. That never was because as soon as the white settlers left and the African Government took over, the funds that were given by the British Government to purchase the white settler farms did not do that. A decision was made that it was open land for anybody to move in. It was unfortunate that the indigenous people could not get access to funds to purchase this land. Others who had access to money bought the land.

Things became bad in 1969 when a number of Kalenjin people had taken a portion of the land in a place called Kondoo Farm. While they were settling down, the Provincial Administration at that time brought in a group of people from other parts of this nation, mainly, Central Province and using the authority of the Government pushed the people and said, "You are not the rightful owners of this land. Other people have been given this land". The first fracas took place at that time. It took the hand of the highest Government organ to stop that violence. From that time on, people from outside this region began to move in and acquire land. The Government did not make any effort to ensure that the new people interacted with the indigenous or host community. So, the two communities lived in fear and suspicion of each other. That continued up to today.

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. You could have a Nandi going to settle in Keiyo, he would be called *Bunot*. In English language which does not carry our spirit, we call those people foreigners or sojourners describing that they are not the people of the land, but they have come to live with the host community. There is a process that the Kalenjin people carry out to assimilate those people into a cohesive life. In Uasin Gishu County, when the Kikuyu Community or other communities came to settle and live alongside the Kalenjin Community, that kind of process never took place. This, therefore, has left these people living parallel lives all along. They have worked together in business, intermarried and live side by side, but that spirit that brings people together was never developed. This is the root cause of conflict in this region. This is why during elections there is a weak spot in this delicate relationship. It is primarily because the people from outside this region vote contrary to the voting pattern of the people

within the area. So, our people take it that these are not our people and we cannot live with them.

The story that the issue of violence in Uasin Gishu is because of land, I stand here to differ with that opinion. In 1992 when the terrible tribal clashes took place in Uasin Gishu many non-Kalenjins, particularly the Kikuyu vacated their land. Some went away for two years and others even seven years. When they came back they found their land intact meaning that the interest of the land was not the cause of the fighting. The Kalenjin Community believes in the cardinal rule: You cannot remove the beacons of a boundary. In Kalenjin we say: “*moginoktoy koyip rotiot*”. Therefore, the Kalenjin Community respects land documents that have been given to individuals. The title deeds that are owned by individuals are protected by the Kalenjin culture. We do not remove the beacons of a boundary. 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*. Once they do that, we will sing *halleluya*.

(Applause)

Finally, names have a meaning. When the Kalenjin Community came back to Uasin Gishu, they knew the names of particular areas. However, we have problems with names. When our brothers from Central or when the children of Mumbi came to Uasin Gishu, they came with their names. From the Kalenjin perspective, the soil is alive. The soil has its spirit. That is where languages clash. The soil is alive and it knows its owners and its name. However, when somebody else brings a name, there is a clash. The soil says, “What is this name? What is your totem? What is your clan?” I do not blame the Kikuyu Community. However, we would like to tell them that the names they have given the lands they have occupied continue to create conflict in the spiritual realm. For that reason, conflict demonstrates itself practically.

(Applause)

With all due respect to the Kikuyu Community, you are our brothers. We relate to each other, but we want the indigenous names of those areas to be restored and we will live in peace.

(Applause)

The Presiding Chair (Commissioner Dinka): May I ask the audience that in our rules of procedure, no applause is allowed. Please, do not clap.

Maj. John Ayabei Seii: Thank you, Presiding Chair. I also got concerned about that.

I would like to conclude by making a statement concerning myself.

The Presiding Chair (Commissioner Dinka): Before you do that, can you, please, repeat your last sentence about the Kikuyu Community? I was not paying attention because of the applause.

Maj. John Ayabei Seii: I requested the Kikuyu Community to accept the renaming of the areas they occupy because when we give back the original name, the spirit of the soil will agree and peace will prevail.

When I introduced myself, I said that my names are Major. John Ayabei Seii. I did not use the word “retired”. Commissioner Gen. Farah goes by the name “retired” because proper procedures of retirement were implemented and he retired with all the honour and respect bestowed in that process. My departure from the military was one of the most humiliating experiences that I have ever undergone in my life. At the age of 40, which was the beginning of my life, having devoted my life to serving this nation in the military and having taken all the courses required to provide me with tools of leadership, I was relieved of my duties for no apparent reason, except for the fact that my wife was involved in politics.

To be dismissed in the military, you must have committed a very serious crime. It could be crime against the military rules and regulations or crime against the rules of the land. I was relieved of my duties not because I had committed any of those two crimes. For someone to leave the military in that way, charges must be preferred so that you are told the offence you committed and the punishment you deserve. Neither of those things was done. I was treated like a dog that ate stinking meat – that is a Kalenjin saying. I was told, “*kazi imekwisha* and so you can go where you want to go and see who you want to see and we will find out how far you want to go”. If there was anything called impunity, then that was impunity at its climax.

For 15 years I went through trauma. I would dream every night that I was back to the service and that I was in my uniform which I loved most and that I was doing my work which I loved best. My dear wife thought that I was going to break down. By the grace of God I never did. ---

I request this Commission to ensure that my commission is restored, so that I can receive honourable retirement and go through the normal process of retirement. It is not just about saying: “Go home, here is some money; *kwaheri*.” I did not join the army that way; I joined it through a proper procedure. So, my final statement is that the termination be reinstated so that I retire honourably and be compensated for wrongful termination of service. Those who know statistics will do the calculation.

Presiding Chair, Commissioners, my fellow Kalenjin elders, the Kalenjin Community, the Kikuyu Community, Luhyas, Luos, Turkanas, Tesos and all those who are present here, thank you for listening to me. My dear people, the Ogiek Community who are here, who have suffered untold suffering and whose respect is less than that of a tree, I would

like the Commission to take their plight very seriously. The Ogiek Community here is in full strength. When the Commission was in Nakuru some statements were made concerning the people of Likia. I take this opportunity as the Chairman of the community to say that this Commission needs to do something, so that those people in Likia may rightfully own the land and that the documents that they have may be legally recognized and they stay in peace.

I note with great respect the presence of my dear bishop, Bishop Korir, who has been the torch bearer of peace in this region. I would like to tell the TJRC that together with Bishop Korir and other elders, given the rightful atmosphere to operate--- When the report of this Commission is published and we read it and it meets the requirements, I want to assure this Commission and every person here in Uasin Gishu County and Rift Valley and the entire nation that Uasin Gishu County which has been termed as the epicenter of violence, will live in peace.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. I will just ask a few questions for purposes of clarity. When I am done if the Commissioners wish, they will also ask you additional questions.

You have told us that you are the Chair of the Kalenjin Council of Elders and that, in fact, you speak on behalf of the Kalenjins across the country. Is it my understanding that in this region, apart from the Kalenjin Council of Elders, there are elders from other communities?

Maj. John Ayabei Seii: We do have other councils of elders. The one that has been active and is formally recognized is the Kikuyu Council of Elders for Peace Initiative. For that reason I beg your permission that should there be any of the Kikuyu Elders for Peace Initiative here, he should be recognized as well.

Again, we have the Luhya Council of Elders and even the Luo Council of Elders, but those who are here are just mere representatives and not a fully-fledged body. But the Kikuyu group is well established.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. You gave a statement in Kalenjin and, unfortunately, I do not understand the language. What I got was “*mogin*” and I did not get the rest. If you can just repeat that, so that we can understand what you said, we would appreciate.

Maj. John Ayabei Seii: The statement I gave was *moginoktoy koyip rotiot*, in other words you cannot remove the beacons of a boundary.

The Commission Secretary (Ms. Nyaundi): Thank you very much. Now, I understand that. You have given us a very clear history of land in this region. With the greatest respect to the number of years that you have spent, it is true that sometimes we are not in control of our past, but we can do a lot to take care of our future. That is what this Commission is really looking into. What really can we do to make sure that we have the

future which we all desire as Kenyans? As the Chair of the Kalenjin Council of Elders, I now want to invite you to just share your vision for this country and this region. What do you see as your role as the Kalenjin Council of Elders and maybe the specific recommendations that you would wish to give to the Commission?

Maj. John Ayabei Seii: I am aware of the fact that we cannot rewind the clock or time. But in order to correct the past, there are two aspects to it. First of all, we need to acknowledge that something unfair or wrong was done. I will give an example. If somebody steps on your toe and you feel pain, if that person turns to you and says: "I am sorry, I did not even see and mean to do that," how do you feel? I know that your emotional reaction which is generated by pain will go down because that person has acknowledged, but that injury has been caused. Because he has said sorry, life continues from there. We need to say sorry and somebody has to acknowledge the past wrongs, so that we can face today.

The people from other communities are living with us, the host community. They are the rightful owners of whatever they have. I can say with total certainty that the healing process will begin when they accept that they are *bunot*. We desire to see a bright tomorrow. We who are of this age, the sunset is not far. We would like to live the last days of our lives in peace. We would like to see our children and grandchildren live in peace. This is the work of the elders; to ensure that peace, cohesion and integration prevail. This is my calling and that of the elders, including my dear bishop here; to see that people live in peace. So, our task is to talk to our people and for them to acknowledge that they have stepped on each other's toes. They need to apologize and where reparation can be done, let it be done. *Maji yaliomwagika hayazoleki*, in other words, if water has passed under the bridge there is nothing you can do about it. It is to create a new spirit of love and understanding. Thank you for asking that question, because that is the thorny issue in this land. The Kalenjin Community is asking: "When will these *Bunot* accept that they came from somewhere else?" When that individual accepts that this is not my original home, but I have a right to live here, the Kalenjin Community will have no problem with that person. So, it is for the community of Kalenjin elders and the Kikuyu Council of Elders together with the other instruments of Government to work together towards bringing people together.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. That is extremely useful to the Commission. I just need to understand the working of the Kalenjin Council of Elders. Does this council include women or how has it brought on board the concerns of the women within this region?

Maj. John Ayabei Seii: The Council of Elders has existed for centuries, but when the new governance was introduced by the western structures, the voice of the elders began to recede to the point that it could never be heard again. We who knew something about our people, culture, customs and traditions decided to restore the destroyed structure of the council of elders. The council of elders of the Kalenjin people was predominantly male, but there were women of a certain age who could be inducted into the system and work together with the elders. The present Kalenjin Council of Elders, at its national

structure, is purely male. At the *bororiet* level or ethnic level, whether it is Pokot or Marakwet, they have women according to their traditions.

Objective number one of the Kalenjin Council of Elders is not only to restore the values that were lost, but also to see how we can be inclusive by having women in the council of elders, at the national level. But they are there at the *bororiet* level, in other words, the sub-unit level.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. Today you have introduced me to a new word “bunot” and actually, I am also a *bunot*, at least, for three days here in Eldoret. I just wanted to understand this *bunot* and the Constitution that we promulgated on 27th August. It really has a broad vision for this country. It says that any Kenyan can live and own land anywhere. I was just wondering whether this *bunot* contradicts or agrees with the Constitution. I speak as a *bunot*.

Maj. John Ayabei Seii: If you are here for only three days, you are a visitor. We welcome visitors and ask them when they are going back to where they came from, but for *bunot*, we do not. He is there to stay if he wishes. We call you *bunot* when you have actually settled down; in other words, we have accepted your presence. So, the term “*bunot*” does not contradict the articles that protect individuals living in certain areas and owning property. *Bunot* is simply to say that you came from somewhere else to settle here. So, there is no contradiction there.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. I do appreciate. One of your recommendations is that if the original names of some places could be restored--- For the benefit of the Commission, if you could give us some examples, in your view, of some places, we would appreciate. You spoke a very poetic language that the soil knows the names of those places. If you could give us names of those places that you were referring to.

Maj. John Ayabei Seii: I have made that statement with the authority of the communities that live in the area. Many times in many fora, whether on our own or with the Government officials, this observation has featured in the discussions. Whether you talk of Kamuyu or Kiambaa or many other names that came from Central Province, our people are saying that when that name is mentioned, the spirit of the land shrinks. So, ever since that new name was introduced, the spirits of the land are in agony. They want to be liberated and that will come when the old name is restored. This is really a plea that we wish--- Even if it is not understood, let it be done so that the spirit is released and peace prevails.

The Commission Secretary (Ms. Nyaundi): Thank you, Major. You also gave a personal statement relating to your career in the Armed Forces. In which year did you join the Armed Forces?

Maj. John Ayabei Seii: I joined the forces on 2nd February, 1966.

The Commission Secretary (Ms. Nyaundi): At what rank?

Maj. John Ayabei Seii: I joined as Officer Cadet. I took a training of two years overseas. I wish to state here that I received the best military training that any person could acquire in the world. Ex-military people who are here, including Commissioner Farah, Colonels and Majors, you know of the prestigious Royal Military Academy, Sandhurst. I joined it and trained for two years. I got my commission as a full Lieutenant.

The Commission Secretary (Ms. Nyaundi): I assume you rose to the rank of Major.

Maj. John Ayabei Seii: Rightly so. I went through the ranks that are there of Commissioned Officers, through all the trainings required, including the area of competence and discipline. I then rose to the rank of Major. I wish to state here that by the time I left, the board was just about to sit to promote certain officers. Although I possess no document, I can say without fear of contradiction that I was in the list of those who were going to be promoted to the next rank.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. You have said that you associate your dismissal from the forces with the fact that your spouse – wife – was engaged in politics. I am going to ask you to elaborate more on this point by telling us the name of your spouse and what was her engagement in politics.

Maj. John Ayabei Seii: I will start by giving the name of my wife. According to the rank, honour or respect that she has been given, she is known by the name of Amb. Tabitha Cheptoo Seii. In the year 1982, when I was out of the country for a course, you know what happened in August, 1982. When I returned into the country in 1983, and the country was the way it was, I did mention to my wife that this nation of Kenya required clear minded people; people of integrity and unwavering loyalty to serve in the august House called Parliament. I said: “Since you have what it takes and you are a civilian; you have nothing to do with the military, why do you not vie for a seat in Parliament? But, of course, a question arose. As a spouse of a military officer, what does the Armed Forces Act say in that regard? I went to the highest office in the military seeking guidance so that we could not break any law. The word was that the Military Act is silent and my wife is not in the military. If she dies, she will not be given a military funeral. So, she is a private citizen of this land. So, I gave her a go-ahead because there was no contradiction. But lo and behold, little did I know that her engagement in politics would destabilize the position of some powerful individuals. So, they felt that the best way to discourage the lady was to destabilize the career of the husband. So, they carried out the process that culminated in me appearing before the Army Commander. For those who know the military structures and rules, to appear before a senior officer; whether on disciplinary matters or otherwise, there must be charges preferred. As I said earlier, there was no charge preferred against me. The only mistake I did was this: “Why did you allow your wife to join politics? This is not Tanzania.” What hurt me most was that the very man who told me that the Armed Forces Act was silent was the very person who was telling me that this is not Tanzania. In normal circumstances, as I said earlier, a charge sheet would have been preferred against me and I would have been told that on such and such a

day I did this which is contrary to the Armed Forces Act, a certain chapter or clause, but that never was the case. The only statement that came from the senior officer was: "Sorry, we have to inform you that your work is finished. Your commission has been terminated." I was given a warning. I was told: "Go home in silence. If you talk, you know where you will go through." As a military officer, of course, I knew. In the army as it is, there is no place you can go. There is no union and in my situation, there was no redress. I could not appeal to anybody and so, I went home a broken-hearted man whose future, at the age of 40, was cut short. Let me say without fear of contradiction that I left the military with the cleanest record that ever was. Going back to the records even today, my record will speak for itself. So, my future was bright and I could have become even the highest person. That is what hurt me when my services were terminated at that time.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. Just for clarity, was your wife contesting election at Parliamentary or what level?

Maj. John Ayabei Seii: Yes. She was contesting a Parliamentary seat. It was Keiyo South Constituency.

The Commission Secretary (Ms. Nyaundi): Who were the other persons she was competing against?

Maj. John Ayabei Seii: At that time when she contested the seat, there were quite a number of candidates. There was the incumbent MP, Nicholas Biwott, Joseph Barsulai, Joseph and my wife. They were four of them.

The Commission Secretary (Ms. Nyaundi): Was she successful?

Maj. John Ayabei Seii: No, she was not successful. As a matter of fact, she was given a technical knockout that she never passed the Kiswahili test and yet, she was a graduate from Makerere University.

The Commission Secretary (Ms. Nyaundi): So, we can of course, take notice that if you graduated from Makerere, you must have some basic understanding of Kiswahili.

Maj. John Ayabei Seii: Yes. I think at that time you also had to pass Kiswahili.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. Now, when you were discharged from the military, was this communicated to you in writing?

Maj. John Ayabei Seii: Yes. First of all, I was told verbally that my commission had been terminated. The second letter was that I needed to go to the headquarters to sign my discharge papers. There was no letter of explanation saying that I had been relieved of my duties and my commission terminated for any reason. So, the only letter that came said: "Come and sign your papers."

The Commission Secretary (Ms. Nyaundi): So that we are able to follow up, did you have a file reference number while you served in the military? Do you remember it?

Maj. John Ayabei Seii: I have to state here that, unfortunately, due to some movement in the recent past when my wife and I came back from South Africa and moved houses, we seem to have misplaced those documents. I wish to state here that I am still looking for them and as soon as I get them, I will be able to hand them over to the Commission.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Major. We will be happy to receive those documents. Were you paid your terminal dues upon dismissal?

Maj. John Ayabei Seii: Yes, I was paid my terminal dues. However, strictly speaking when the service of this commission is terminated, there are procedures to be followed before you can be paid your benefits. I highly doubt whether there was any procedure followed when they were paying me my dues.

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

Presiding Chair (Commissioner Dinka): Before I give the floor to my colleagues to ask you questions I would like to acknowledge the presence of Lina Kilimo, MP and Assistant Minister for Co-operative Development and Marketing. Welcome madam.

I would like to comment on two points that the witness has raised. One is the absence of Amb. Kiplagat or any Kalenjin for that matter to replace Amb. Kiplagat in the Commission. That has raised some concern among the Kalenjin Community as to the fairness and objectivity of the final report of the Commission. I would like to assure and reassure the Kalenjin Community through you as the Chairman of the Kalenjin Community that the members of the TJRC are cognizant of the fact that they have taken the oath of office administered by the Chief Justice of the Republic of Kenya. Also, their background, training, experience and commitment to the whole concept of reconciliation and justice, exercise and adhere to the highest standard of fairness and objectivity. I would urge you to go back to your community and on our behalf, assure them that whether any member of the community is present among us or not, when we write recommendations, we will be guided by the highest standard of fairness and objectivity. You can rest assured of that. I hope you will convey this message to your community.

The second issue is very easy to answer and that is that the time allotted for Eldoret may not be sufficient. But as you know, the Commission has spent the first few months going back and forth, first on the issue of credibility. Second and most importantly, the money that was supposed to come to the Commission from the Government budget was not allocated to Commission. Therefore, the Commission has spent over six months doing nothing, except desk work where we prepared papers and planned our procedures and elaborated our rules. We did not go out into the countryside to talk to the people in terms of civic education or public hearings because we simply had no money and had not even hired staff. So, as you remember a few weeks ago, Parliament extended the life of

Commission by six more months because of the realization of that fact. So, when we made our schedule for the entire hearings throughout the country, we had to compact the hearings into the given period then the report has to be presented on 3rd May. So, taking that time into account, we had to compress the date. We know that time is not sufficient; not only for Eldoret, but for most of the other places as well. It is something beyond our control and we just do not have any other alternative, but to compress the time. I hope you and your people will understand what I have just explained.

Having said that, let me now give the floor to my colleagues to make their comments and ask you some questions. I will start with Maj. Gen. Farah.

Commissioner Farah: You told me not to refer to you as Major Retired because you were unfairly treated. Your termination of commission was very unfortunate and very unfair. You were trained in the Royal Military Academy Sandhurst which is a top military academy in the United Kingdom. I know of friends who followed you and did not even go to Sandhurst. However, later on, they rose to become army commanders in 1983 at the time your service was terminated. When you say you were unfairly treated, it is understandable because at the age of 40, your shining star was dimmed. This happened not because of your mistake. That is why this Commission was set up to actually deal with impunities. In 1966, when you joined Royal Military Sandhurst, I joined Britania Royal Naval College Dartmouth, the top level academy in the United Kingdom. I became Major General because my wife did not join politics. That was at the height of impunity. In those days I remember very well the military was very rigid. It was Gen. Tonje who started the modernization of the army. We hope that the current CGS will further modernize the military, so that it is in conformity with the new Constitution. This Commission was set up because of gross human rights violations, other human rights violations, corruption and things that our institution of justice could not deal with. We are glad we are hearing this at a time when we have a new Chief Justice and the Judiciary is being reformed. By the time we finish our report and we submit it to the President, we will also release it to all the media houses, including international media. We will also submit it to Parliament. We will also have an implementation regime which is binding because our Act says our recommendations shall be implemented. The reason why the Leader of Evidence was asking for those documents is because we want to follow it up. Let me put that to rest there.

After you left the military, you became the Chairman of the Kalenjin Council of Elders. If you had remained in the military you would have rose to become the Chief of General Staff. You have already shown your qualities. We now have a new Constitution. A land commission will be set up. That is what our Constitution says. Before it is put in place, we will have submitted our report. As an elder and a man of peace and in order to bring reconciliation now, what do we need to do? Even though a land commission will be set up, can you tell me whether your community will respect private ownership of land? What is your vision in as far as indigenous land, community land, Government land or private land is concerned so that in future when elections are held *watu wasitimuliwe kutoka kwa ardhi yao*? We do not want to see people being forcefully evicted during the next general election.

Maj. John Ayabei Seii: First of all, may I take a moment to appreciate the time you took to put my position in perspective as regards my star in the military. I am glad you went to Dartmouth which is equivalent to Sandhurst.

As regards land, the Constitution has been passed. Different classifications of land have been put in the Constitution. In as much as some of the terminologies are so foreign I think the Kalenjin Community is willing to accommodate them. We will accommodate all the definitions of classification of land bearing in mind that even the word “Government land” is an anomaly in itself. The Government does not own land strictly speaking; the land belongs to the people. For the sake of management, it has to be classified.

The reason why people live in and destroy forests is because they think that it belongs to somebody else. This is because the Government has said this is our forest. Sometimes, people have no respect for it. If people are given to understand that land or forest is theirs, they will take care of it. For example, it is said there is no human being on earth who is friendly to the bush, trees and rivers like the Ogiek. So, when somebody takes upon himself to say this land belongs to him, I think he is not sincere. Then it goes back to the old story. When we were young in school, when we were given free things, we would break them and say they belonged to somebody else. You say it is not yours because you did not sweat to get it. On the issue of land, when classifying land there is need to involve communities so that proper definition is put in perspective. Otherwise, when we talk of community land the Kalenjin people will say the Eldoret side of Pioneer is the community land for the Nandis. Where we are seated today at Town Hall, is between the Marakwet and the Keiyos. However, that is now history. The Kalenjin people respect land ownership. We respect title deeds. We respect the boundaries that have been made. So, we cannot remove the stones that divide land. The people who left their land in 1992 found their land intact. There is nobody who will be chased away from his land. He will only run away from the land if there is insecurity because somebody wants his land.

Commissioner Farah: The next thing is a comment. We are aware that Rift Valley is the largest province. When we were recruiting staff, we recruited two directors from this province and no other province has got two directors. Mr. Beygon is our Director for Research.

Mr. Letangule is our Director for Civic Education. Mr. Beygon is responsible to the Commission through our CEO for all the research work and any other serious assignment. Sitting behind you is our Regional Co-ordinator by the name of Anne. She is from Eldoret. So, even if Mr. Kiplagat is out, people from this province have a strong presence in this Commission. Rest assured that our end product will not be complete without the contribution of Mr. Beygon. So, your concerns have already been addressed. Thank you very much. I will hand you over to Commissioner Chawatama to ask the next set of questions.

Commissioner Chawatama: Thank you very much for your testimony. I did not attend Sandhurst nor did I attend Dartmouth, but I am a Commissioner. I am also a Judge. Justice is my passion. So, I hope that like Commissioner Farah and yourself, I can also walk tall.

I wish to bring up something that I have really laboured over the years. As a Commission, we have heard of the agreements that took place between the white settlers and the indigenous people that they found on the land. I think what is of concern is in what you have called an agreement. What was seen as the role of the Government that was coming in? Did the agreement present some weakness? Could you, please, shed some light on this?

Maj. John Ayabei Seii: There was no way you could have joined Sandhurst or Dartmouth. In those days even the British army did not have women in the military other than nurses. However, today they are in combat.

Before the white settler left, he had people who used to work for him in his land. They were people from all communities. There was an understanding that once the white settle left, the people who worked for him would be given a portion of the land. As a matter of fact, some white settlers were very categorical and said so much acreage would be given to the people who worked on their land. It did not matter whether they were Turkanas, Kalenjins, Luhya, Luos or Kikuyus. Unfortunately, a new dimension took place. The new African Government came up with a very powerful statement. They said Kenya was for all and people were free to settle anywhere. One could own property anywhere. The sale of land was a case of willing buyer willing seller. At that time, priorities were reversed. The historical situation in Central Province became a factor. It is not only in the Rift Valley that the white settlers pushed the Kalenjins to what they called reserves. Even the Kikuyu Community suffered. They were pushed to the periphery, to the hills where the *mzungu* could not till.

So, after we attained independence pressure for land in Central Province was very high. Some individuals were beginning to take a lot of interest in the land that was occupied by the white settlers in Central Province. To ensure that this pressure for land in Central Province was tackled, people were told there was new land. People wanted land; it did not matter whether it was east, west, south or north. People were put on trucks and taken to certain areas. Those areas were in the Rift Valley. They were given new homes and they were grateful. Even if it was me I would have been grateful because before I did not have a piece of land. They were taken to a new environment and they were not told about the people they found there.

In anthropology it is stated that before you go to work, stay, preach or teach people, you need to understand their history. The Kikuyu Community was brought into Rift Valley, but nobody gave it any orientation. Because of that atmosphere, they began to live on their own and the Kalenjin Community began to look at them with suspicion. It is a mess that was created by the first government.

The Kikuyu Community had access to money that was given by the British Government. They were able to buy chunks of land, whether as a company or a society. So, they acquired land. The Kalenjins did not have access to that money. It was a mess. The two communities are trying to sit down and look into this matter and bring people together. I think that is really a very big problem. Even the issue of squatters was mismanaged. This is why there is so much squatter population in Uasin Gishu and the former White Highlands. The squatters who worked on the land were marginalized by the new government and they did not have money to buy land. They were just workers in the White Highlands. It was a terrible injustice.

Commissioner Chawatama: I think in part you have answered my second question. But I think it is also in my simplicity and based on where I come from - in Zambia, I come from the north - if I am asked where I come from I will say I come from the north. That is a fact. That cannot be disputed. I am trying to understand the passion or maybe the spirit behind wanting the acknowledgement of the other tribes. Forgive me because maybe I am simplifying things. But where I come from the understanding is clear. So, maybe I am failing to appreciate the weight behind what you have said. Could you, please, help me understand?

Maj. John Ayabei Seii: In some of my opening remarks, I did mention that there are some things we cannot reverse. We cannot reverse history. The people have come and they have settled. However, I think there is something deep in the heart of a person or a community. This is something called recognition and respect. If the home belongs to me, I would like all those who come to enjoy what is in my house to respect me and to say there is an owner of this house. You do not drink and eat and when you are full, you spit and in the process you spit on the owner of the house. That is an abuse of the highest order.

I have become categorical. I have said very clearly that the question of land is not an issue. It is not an issue in the sense that people have rightfully and legally owned the land. It is the spirit that prevails in terms of relationships among the people of different ethnic groups because people do not accept strangers easily.

We will say this until people understand it; it is the simplest thing. If you want to stop jiggers, clean the environment and kill those that are in the body and you restore good health. This issue of not respecting each other is eating us. Yes, we are together, we are intermarrying; we go to the same supermarkets and shops; we use the same *matatus*; we go to the same schools, but underneath, who am I and who are you? Once we accept who we are; or once it is accepted that I am the host and you are the incoming person, everything will be all right. The other day, during the resettlement of IDPs, the term “host community” was used. I think if we go to the community and look at the term host, we can get the right definition of the word “host”. I said earlier we need to create an environment. We are in the process of doing that, so that we talk to each other.

For somebody to say I am *bunot*, it is not to say I am an outsider who is staying here for a day and then tomorrow he is gone. *Bunot* is somebody who is there to stay. But when you are *bunot* there are certain rules that you must adhere to. That question has provoked a

thought in my mind. According to Kalenjin culture, when you come to my house and you find I have slaughtered a goat, there are four parts of that meat which cannot be eaten by somebody from outside unless you are authorized to do so. The Kalenjin Community knows that the heart belongs to the owner. The tongue belongs to the owner. The chest belongs to the owner. The fourth one, there is no word for it, so I cannot say it. What I am trying to say here is that when *bunot* is with us and we have accepted him or her into the community, gradually, we will tell him that we can allow him now to eat the heart, tongue, chest or any other part.

What we have suffered here is that the other people who came from other communities were not introduced to our culture. So, when they came in and the goat was slaughtered they said they wanted to eat the heart, tongue and chest which belonged to me. This is totally contrary and opposite to the Kalenjin culture. These are the dynamics which even modern law cannot understand. We cannot change, we are Kalenjins and they are Kikuyus. We want to communicate our culture to our friends.

Commissioner Chawatama: Thank you very much. I join Commissioner Farah in saying that the rules of natural justice do not apply in your case the way you were handled. The procedures are there for fairness and transparency and even satisfaction on the part of the displaced. I empathise with the pain that you have gone through, that is you and your family. I wish that it was now and that your dear wife was able to go to court. It would have been very interesting to see the kind of judgement the court would have come up with, and I pray that we get the documents that we need, so that the commission can have the benefit of correcting the wrongs. Thank you for sharing with us some of your culture, traditions and practices. When you speak of authorizing the heart, the tongue and the chest and other unmentionables, it speaks of volumes even to me and I understand. So, maybe I do qualify to be called the *Bonot*. I thank you.

The Acting Chair (Commissioner Namachanja): Good morning, Major Seii.

Maj. John Ayabei Seii: Good morning.

The Acting Chair (Commissioner Namachanja): The Truth Justice and Reconciliation Commission feels honoured by your participation in this process. I thank you for representing your people well and for sharing personal pain. This table where we sit has been a school for learning for the commissioners and participants during our public hearings. We have worked together for 17 years and we have been on wondering why you moved from your military base to go and participate at Uhuru Park in the constitutional review process. I also wondered why you were so passionate about this area. It is the shoe wearer who knows where it pinches; it is because you have suffered. I just have one question for you. In 1997, we were working in the area of peace building and reconciling communities. We went through training and analysis; during the analysis, some of the root causes of the soiled relationship between communities, especially in this area, call for both recognition and integration.

The question I am asking is: What is this that we are not nailing our finger on to promote co-existence? For example, the *Bonot* you talked about, I know we have communities. In these communities we have elders on the Kalenjin and Kikuyu sides. Have you ever tried to explore this and find out how these acknowledgements can come about? I believe that sustainable peace can only come from the grassroots, from the communities themselves; explore some of the issues that spoiled the relationship.

Maj. John Ayabei Seii: Thank you, Acting Chair. I appreciate your kind remarks and I remember the days when we worked together with a lot of fondness. I think looking at the whole scenario, the issues you have aptly put, the person who has always given in--- I believe in the unity of the people. I believe in people living together in peace; I believe that peace comes from our hearts. It is not a product that can be ferried from somewhere in a lorry. It is not food relief to those who are hungry. It is from within us and as you rightly put it, for those years we worked together, I was looking for three things. Where do we enter in this scenario? Which button can we press so that we get the right results? I have noticed that people are afraid of each other. We cannot face each other and talk honestly and frankly to each other. We still feel that we need to hide something because we are not very sure about this person. This is historical.

From the word go, we started on the wrong foot. This has continued to take us in the wrong direction. We need whatever is wrong to be corrected. As I said earlier, when we have the spiritual leaders and the elders working together - when I say elders, I mean men and women - we can create a sound environment for being frank to each other and telling each other what we feel from within. We have played the game of hide and seek for too long. We meet in meetings and conferences and sing songs of unity. We say we are together and we are going to work for a certain cause, but the minute we finish that meeting, you hear somebody saying *Ngui* or *Erobi Chukuwechu*. We begin to back bite each other.

The Commission Secretary (Ms. Nyaundi): With your kind permission, Presiding Chair, he has said two words. I understand one is *Ngui*. For clarity of our records, can the witness say what they mean?

Maj. John Ayabei Seii: Thank you. I said we sit and agree and we are excited about what we have said but the minute we leave the meeting, we begin to describe each other. The Kikuyu may call me a dog and the Kalenjin will say *Kogoyochu* and abuse Kikuyus. Those things do not land on trees but on the hearts of men and women. So, that shows that there is no honesty, transparency and truthfulness in the discussions. This is what we want to break. The minute we stop fearing each other, then we will solve this problem and begin the road to living in peace and harmony.

The Acting Chair (Commissioner Namachanja): Thank you, Sir.

The Presiding Chair (Commissioner Dinka): Thank you, Major Seii, for your testimony. I have only two questions for you. Before I pose my questions, I would like to say something which I am sure you will agree with me on; that is that culture is a very

dynamic and growing factor in the life of any community. In the case of Kenya, for example, the Kalenjin had the idea of cultural norms hundreds of years ago, even when someone from 50 kilometres away was considered *Bonot*. People used to live and die in the village and that was their life. When the change came--- Without going too far, the Hindus came from the coast. The colonial influence and culture also came. They all had their cultures one over the other. Then came independence and people of different nationalities came in. Now, you seem to say that the people before and after independence in Kalenjin land were the white settlers and they were to be considered *Bonot*. They should be called *Bonot* hundreds of years later despite the fact that we have gone through a number of changes over the last 100 years in Kenya from colonial masters forcefully bringing people together to post-independence nation building. Do you still think the maintenance of this idea of *Bonot* is viable in the new dispensation, or is your community prepared to adopt other characteristics of culture, which are basically dynamic?

Maj. John Ayabei Seii: Thank you, Presiding Chair. I want to agree with you that in order for culture to survive, it has to be dynamic but the spirit behind a bad culture cannot change. We have Nubians who came to this country after the First World War. Some are in Nandi and the others are in Baringo. So, some of them have been totally assimilated and they even have local names. When it comes to defining who you are, what is your clan, what is your totem, those are permanent aspects that cannot be changed. The *Bonot* will tell you that this is my home and these are my people and this is my totem and I trace my ancestry to Sudan. For the Kalenjin community, when we use the word *Bonot*, it is to enrich our environment in the sense that we have come from different areas. When we know that somebody comes from Nyanza, Nyeri or Lodwar and they are here in Uasin Gishu, for example, we begin to enjoy the diversity of the people living in the area. There is no other name that I can give you because there are two names. There is *Bonot*; that is to say you have come from somewhere. There is *Chitab Koret*, that is the person of the land; that enriches the environment and the people living together in an area. So, the word *Bonot*, even if the culture is dynamic, cannot change. I am a Keiyo and a Kalenjin. That is finished. I cannot be called a Kenyan without knowing where I come from. So, *Bonot* is not really an offensive word or for looking down upon people. We are not looking down upon people. So, it does not change. Other issues can change but there are things that cannot change. It is permanent like the beacons on the land.

The Presiding Chair (Commissioner Dinka): Thank you very much. To be able to use your example before he or she gets there, during the process of achieving that height, what is expected of them? Which particular behaviour is expected of them before they reach there? This has the tendency of exploding at the election time. What is expected of this *Bonot*?

Maj. John Ayabei Seii: It is a very involving situation. Let me again indulge in the glory of having former military people here, like Commissioner Farah. When you start saying “quick march” and you miss a step--- When one is moving the right hand and the other the left hand, and because you are marching together on one line, you are bound to hit each other; you are moving your hands in opposite directions. Your hands and legs are

not moving in harmony. An order is given which is known “change step”. There is need to carry out something called change step in this county. This is because when other communities, and particularly the Kikuyu community, march according to their own tune, they do not have time to know how the people of the land march. In the process of marching together, we hit each other because everybody is marching differently. We are moving in the same direction, but we are stepping on each other and hitting each other because we are in disharmony. The political arena in this country, and particularly here in Uasin Gishu, has suffered that fate. The other community, particularly the Kikuyu community, failed. We never had time to sit down together to tell them the issues of leadership according to our culture. We should have told them about our community leadership but we left things open and the Kikuyu community, or any other tribe for that matter--- When the time for politics and seeking office came, to them, it was a free game but the Kalenjin community looked at that with a lot of concern. They looked at these *Bunot* with a lot of concern and said: It is not your time to do it because according to the Kalenjin way of looking for leadership, when a *Bonot* has settled down and we see the way he is behaving, a time comes when the elders will tell you that we want you since we have seen that you are a good person and you can seek an office. This was never done and has created political discomfort all along. For that reason, as I said, we need to change step. There is need for dialogue. There is need for us, the Kalenjins, to say that we did not communicate this to our friends. The *Bonot* have come to live with us and we want to understand them; equally. They should not despise us. They thought we were equal in everything. We did not tell them that it was not so. That is why at every election, there is a weak spot, and sometimes the Kalenjins express their dissatisfaction.

Finally, in order for people to live together, when you sing one song, then there is harmony. When it comes to electioneering, it is unfortunate that the people from other tribes, whether they are Luos, Luhyas or Kikuyus or Kisiis, vote for their own tribesmen. If it is a presidential candidate, the Kikuyus here in Uasin Gishu and by extension Rift Valley, will vote for a presidential candidate from Central Province or Nyanza or from wherever. So, we have not had a homogenous political situation in terms of voting. That is still a problem to be dealt with.

The Presiding Chair (Commissioner Dinka): Thank you very much, Major Seii. I do not want to get into the debate with you on this one, but I would ask you politely to think these things through. To me, this is basically that what we will be asked to do is to be less than political, if they have no political authority to decide on their own. Homogeneity in any community--- I do not remember hearing of any other country that is homogenous in its politics. Otherwise why do we need a society for? I leave that to you to think about. I am sure there are Kikuyu and Kalenjin elders. How often do you meet and discuss freely to bring about peace in these communities?

Maj. John Ayabei Seii: The momentum is gathering pace. We meet with the Kikuyu council of elders and we have programmes in place. We have involved the Government, through the Provincial Administration, because we want to carry out a comprehensive civic education revolving around peace, reconciliation, cohesion and integration. We will be touching on those areas starting with the area of *Bonot*. We are all very serious about

this and I am very pleased that the Kikuyu community is very responsive. We have also talked to the Gema officials, the councils of Kikuyus here in North Rift. We also have other elders in Nakuru. There is a lot of work going on and I have a lot of hope that even the concern that you have raised will be addressed. I think the sooner we start that, the sooner we capture the spirit of togetherness the better, so that when 2012 comes, we will be marching on the same foot, expressing different political opinions in terms of parties, but acting as a cohesive community in Uasin Gishu.

The Presiding Chair (Commissioner Dinka): Thank you very much, and I would like to conclude this on a very optimistic note. I wish you and the Kikuyu elders the best in your endeavours. Regarding your own issue with the military, as my colleague has said, it will be taken very seriously. It will be considered and we will make appropriate recommendations on the matter. Leader of Evidence, please.

The Commission Secretary (Ms. Nyaundi): Thank you, Presiding Chair. I will seek your direction since I note that it is 1.00 o'clock. Our next witness is Bishop Cornelius Korir. At the same time, I expect testimonies from three elders, namely hon. Mutwol, hon. Sambu and Mr. Chepkwony. They wish to make representations on behalf of Elgeyo Marakwet, Nandi and Uasin Gishu counties respectively. We have had a discussion with them and they have assured us that they will not take more than five minutes each. I have not asked them to swear. Chair, I will ask for your directions on this. I know we have kept Bishop Korir here this morning and, therefore, I kindly seek your direction on this.

The Presiding Chair (Commissioner Dinka): Thank you very much, Leader of Evidence. I think before we go to that, we need to listen to the bishop because we have kept him waiting for long this morning. The three will contribute later. Swear in the witness.

(Bishop Cornelius Korir took the oath)

The Commission Secretary (Ms. Nyaundi): Thank you and welcome to the Commission. For the record, tell us your names, where you reside and your occupation?

Bishop Cornelius Korir: I am the Bishop of the Catholic Diocese of Eldoret. and I live in Eldoret Town, Nyerere Road, Elgon View.

The Commission Secretary (Ms. Nyaundi): For the record, please, state your names?

Bishop Cornelius Korir: I am Bishop Cornelius Korir.

The Commission Secretary (Ms. Nyaundi): Thank you, Bishop. You have stated that you would like to share with the Commission your understanding of the historical issues relating to land in Uasin Gishu, and the involvement of the diocese in the period during the post-election crisis of 2007 and beginning of 2008. So, I welcome you to make your presentation.

Bishop Cornelius Korir: Thank you, Presiding Chair and your fellow commissioners. I have a few ideas to share with you even though we have stayed for a bit long. I hope that we will finish.

In my presentation, I will be touching on four major issues which are synonymous with conflict in the region. Already, the historical land question has been mentioned and I will just add something about internal displacement, political intolerance, violation, environmental destruction and land problems. I would like to begin with the Ndung'u Report. The land question has always formed an integral part of Kenya's economy and political history, long before and after independence. It was a highly emotive issue in the country. Political discourse and development agenda in the Ndung'u Report--- In a quotation about internal displacement by Kenya Land Alliance, it pointed out that resettling the landless through resettlement schemes was a Government policy at Independence. It was to be a policy of dealing with the colonial legacy of land dispossession. The policy approach was to settle people ordinarily resident in the area of settlement schemes.

At the ratio of 60:40 are landless from other parts of the country. The report further indicates that most of the IDPs interviewed used other approaches to acquire land. For example, they will do so, through land buying companies and farmers' co-operative societies. However, the fact was that these were not typical companies and co-operative societies. They were simply a mode gaining access to land by majority landless who were not residents in the area where land was available. This exacerbated ill feelings. This report further states that the process of land acquisition through companies, and co-operatives was manipulated for political patronage hence promoting ethnicity of the whole resettlement process leading to perpetuation of ethnic internal displacement problem. This is the cause of what we have in the area. The ethnicity problem originates from these areas. The negative effect of the methods of land buying companies and farmers co-operative societies was effective. Therefore, it fitted the original idea 60:40 policy of settlement and increased challenges of integration and cohesion among the communities. Today, it is common to see public utilities such as schools established in the midst of such farmers, generally inaccessible to members of other communities. So, such schools belong to those particular communities. That is entrenching exclusion and null of opportunities for the interaction with children from various ethnic groups. So, this is effectively frustrating the quest of nationhood Kenya. Those are the points I wanted to add that the former witness said.

The second issue was political problem coupled with land matters. The political situation always is like a match box. It took the advantage of ethnicity problem which existed in the land problem. So, here, the biggest problem was political issue. We have seen this from 1992, 1997 and 2007/2008. Also, the political class has been exploiting the issue of ethnic situation. The violence has been as a result of political and ethnicity. In the North Rift, for example, we have to distinguish political violence from cattle rustling. Those are the two problems in this region.

With regard to the illustration of ethnic violence and political differences in the region, Eldoret Diocese has witnessed a perennial outbreak of violence and internal displacement increasing in recent years. Some internal displacement and violent conflicts date back before Independence and early years of Independence. So, the far reaching effects of the pushing of communities by colonial settlers to what was referred to by the witness as reserves. There have been pockets of cattle rustling along the Kerio Valley mainly between Pokot and Marakwet. Secondly, there is the squatter question of Embobut and Kipkorere forests. There was displacement of people by multinational tea estates.

So, political intolerance and competition for power have particularly contributed to the periodic ethnic violence. This has resulted in displacements, especially after the introduction of the multiparty politics in Kenya in early 1990. Politicians take advantage of ethnic blocks to consolidate their hold to power. This has raised tension and clashes. So, the Diocese has witnessed a lot of these clashes. It has spent a number of times and resources on the humanitarian crisis, particularly in the quest for sustainable peace. We have witnessed displacement of thousands of people. Up to today, some of the areas, even if the land is there, people have not gone back. So, both the communities; Kalenjin and Kikuyu, have lost their lives, immense property through the violence and clashes in the last two decades.

However, when it comes to the resettlement of the IDPs, it seems the Government only concentrates on one community leaving others without help. This has continued to cause ill-feeling and hatred by one group of people who are not being assisted.

The second disadvantage of this political arena is the exploitation of the youth because they are unemployed. They are misused by politicians. At the moment, we have families who have not seen their sons since 2008. So, it becomes a torture to the families. So, what the church is doing is to offer the spiritual counselling. If need be, we may have to arrange a sort of funeral whereby we will bring those families together to mourn their sons because they are currently undergoing psychological torture. So, these are the issues that have been the cause of continuous hatred.

In North Rift, we have Ogiek and Sengwer people. These are the smaller tribes in the North Rift. Sometimes, they are marginalised. Nobody recognises them. This marginalization is a challenge. They remain backwards in terms of development of the country. I am just looking at Kerio Valley and other areas.

The third point is destruction of the environment. This caused clashes between people and natural resources. This is why we have drought and famine in this country. So, wanton destruction and regular excision of forest land and public utilities has caused a lot of problems. The environment is destroyed. Various commissions, including Njonjo and Ndung'u, have alerted us on the widespread destruction of the environment and its misuse by the political class to the disadvantage of the common good. To date, the Government has done little to comprehensively implement the recommendations by those commissions. This failure has led to the loss of faith by citizens towards the State leading to lawlessness and growing culture of impunity. A quote from the Ndung'u Report says:

“Most of the excision of forest land was processed without technical consideration for the social, economic and ecological implications. In addition to the violation of the legal provisions, demanding the preparation of the boundary plans, gazettelement and legal notices is the communal procedural means lease of existing forest land. An example in North Rift is the Kapsaret Forest, Namkoi Forest and other forests. The forest land is depleted completely.”

The second is corruption in the Ministry of Lands. The Ministry has been blamed for the haphazard disposal of communal and ancestral land along Kerio Valley and other places.

The fourth point is institutional violations. For example, institutional violation includes nearly three decade conflict. We have an example of neighbours to the military barracks. In Eldoret, we have Moi Barracks. There is always tension between the community and the military personnel. Recently, one child was shot by a stray bullet. So, they need to keep their distance and do their military drilling without interfering with the community.

I have already mentioned about marginalization. It is also good to look into this. There is also failure by the Government to compensate communities displaced by the State to pave way for various developments. The same Government gave forest land for settlement and other development. Of course, we need forest. The same Government has to repossess forest land that it gave to individuals. In the process of repossessing the land, many people have been displaced by the State. It is sad because it is the same Government that issued them with title deeds. So, the State has to take care of these people because they gave them land in search of political power. So, we want the State to settle those people who have been evicted from the forests. Of course, we also expect people to respect Government’s decision because forest is the source of our life. So, we have to say no to the destruction of forests.

The fifth point is efforts by the church and what it has done so far for peace. So far, it seems from 1992 up to date, the church has involved itself in helping people on humanitarian and resettlement fronts. In fact, the church bought some acreage for the displaced people because we saw people were living in deplorable and dehumanizing conditions in the camps. We bought land in Kitale, Nyahururu, Kapseret and other parts of the country. These were all temporary measures that we put in place. Therefore, the Government has to look for land to settle these people once and for all.

So, in our quest for peace, we have commissioned Justice and Peace Department to carry out awareness on human rights and dialogue among various ethnic communities. We have appreciated working with the other stakeholders. In the last two decades, the Catholic Diocese of Eldoret has undertaken various dialogue activities, especially in hot areas, including Kerio Valley, the border of Pokot and Marakwet. I remember very well there was a massacre in Markwet in which over 30 people were killed. That has not healed so well up to today. But the church is continuing with the healing process.

We have had hot places such as Burnt Forest, Kiamumbi, Yamumbin and Timboroa. We do this to enhance a dialogue. We have sponsored a number of peace programmes. For example, we have what we call connecting projects such building of schools, roads, bridges and other markets promoting unity. It is our role to continue. Then we have one way of sustaining peace up to, or one way of making people to have a dialogue. We also organise for sports and water activities. I would like to thank Tecla Lorupe for organising sports activities between Pokots and Marakwets.

The sixth recommendation is to establish a task force to listen and look into the historical land question with the specific view of providing lasting recommendations for the large region of Nandi, Uasin Gishu, Kerio and Marakwet counties. Such a task force should bring together respected elders from all the communities, religious leaders and appointed Government representatives. I want to specify that the church helps all groups; that is, Kalenjin elders, Kikuyu, Kisii and other tribe elders. Secondly, establish strong dialogue committees of respected personalities to promote cohesion and integration. In my thoughts, I have a book called: “Amani Maishani” or “Peace in life” to develop myself out the experience of peace building. I have come to appreciate one of the most sustainable approach to peace is through dialogue. Therefore, the communities require a forum to talk to each other to heal the historical problems with little support or enabling environment.

Through my experience, after listening to the community dialogue, the community themselves came in up, raised the issue on causes of violence and the way forward. In one of the meetings, one elder asked another one: How did you come to be my neighbour? They began explain how they became neighbours.

The third point is to ensure that a comprehensive national peace policy is in place to rationally respond to the dynamic needs of the multi-ethnicity, religious and national Kenya state. The only way of building peace in our nation is through education so that all our children in Kenyan begin peace programmes from the very early stage, so that we have one nation. However, the Government does not have enough funds for education. It has not put education as a priority, especially in the recruitment of teachers. This is particular critical as we enter the critical phase of implementing the new Constitution, and more so, the new County Governments.

Our fourth recommendation is that the Government must provide equal opportunities to all. It must compensate some communities for any denial or marginalization so as to bring peace in the country.

The fifth one recommendation is to do with corporate bodies. These bodies must be made to contribute to development of local communities. We would like to see them being asked to plough back some of its profits to the community development kitty, especially to eradicate poverty in the counties. Some of the violence is because of poverty. So, development has to be done.

The last point is that we would like to see recommendations of this Commission implemented to the letter. We know the recommendations by various commissions were shelved. To date, their recommendations gathers dust in the shelves. We want to see results of these recommendations.

So, Presiding Chair, we hope you would carry the implementation of the recommendations. Otherwise, it would go back to the shelves. Thank you. God bless you.

The Presiding Chair (Commissioner Dinka): Thank you very much, Bishop Cornelius Korir. Leader of evidence!

The Commission Secretary (Ms. Nyaundi): I have seen that you have a written statement. Would you like it to be part of the Commission's record?

Bishop Cornelius Korir: Yes, Presiding Chair.

The Commission Secretary (Mrs. Nyaundi): Presiding Chair, with your permission, I request that you admit the statement that was signed by the Bishop to the records of the Commission.

The Presiding Chair (Commissioner Dinka): So admitted.

The Commission Secretary (Ms. Nyaundi): Bishop, for how long have you served at the diocese?

Bishop Cornelius Korir: I have served for 21 years. Since my arrival here, my life has been a life of tribal clashes.

The Commission Secretary (Ms. Nyaundi): Thank you, Bishop. From your presentation, in fact, I could see that you have an understanding of the causes of conflict in this region.

Bishop, what many of us saw in 2008 was how the church used to accommodate within its compound arising out of the post-election violence. Did the church, probably, document the events that took place? Do you have a report to say these are the number of the people who came into the compound of the church, disaggregation, men, women, and the stories that these people had?

Bishop Cornelius Korir: In our department of Justice and Peace, we have some reports. How did we start? First, I remember on 30th, 2007, I was at the office. I saw people running. So, on 30th, I did not open the gates. On 31st December, around 10.00 a.m., I came out of my office. As I approached the gate, I saw people running, running. Then, I said to myself, it is good to open the gate so that whoever is running, if he or she is going to be safe, then she can come to the compound. Little did I know that I was opening the way for thousands and thousands.

So, by the evening, the church compound was full. It continued swelling up. On 1st January, the compound was full. So, we had between 8,000 to 10,000 people in our compound. However, the number was fluctuating.

The first day, we sat with the first witness and then we planned how to help them. So, we decided to have what we call crisis committee. By God's help, we were able to help them. They felt at home. So, we helped the people and we did not have anything. But we also had other churches, not only the cathedral, where people were accommodated. All our churches were full of people. However, the biggest number was at the cathedral.

The Commission Secretary (Ms. Nyaundi): Thank you, Bishop. The Commission would really appreciate if you could share with us the documentation that you have so that we can also appreciate the number of people that you received and the various findings that you observed. Is this information that you would be willing to share with the Commission?

Bishop Cornelius Korir: Yes. I would go back to Justice and Peace and rearrange and give it to you. It would take time, but we will collect and rearrange.

The Commission Secretary (Ms. Nyaundi): Thank you, Bishop. On reflection or in your assessment, how adequate was the Government response to this crisis?

Bishop Cornelius Korir: There was one week; I felt that there was no Government because the police were powerless. It was first days within the week. It was very difficult to say there was a Government. However, after sometime, they responded. In some areas, the Government was not able to reach but I was able to access myself.

The Commission Secretary (Ms. Nyaundi): You have said that the church bought land to resettle people temporarily in Kapseret, Kitale and Nyahururu. I just wanted to be clear, are people still in those places, or they have been relocated?

Bishop Cornelius Korir: In some places, they have left, except the squatters. But in some places, they have refused to leave. They are still there. So, I have asked the Government to help me. Maybe, they can get land for them.

The problem with human beings is that you help them, but they do not appreciate.

The Commission Secretary (Ms. Nyaundi): Bishop, I thank you for your well thought out recommendations that you have shared with the Commission. I notice that in your recommendations, you were able to say part of the challenge that arises here is that some of the violence was politically instigated. I am referring to your recommendations. Have you had time to reflect on, probably, what action can be taken, especially to ensure that politics is not a trigger for the violence? You have said, it is almost cycling, 1992, 1997, 2002, and we had an eruption in 2007. I do not know whether you have reflected on how we can tame politics and politicians.

Bishop Cornelius Korir: I have reflected and I shared one time a breakfast prayer meeting with politicians. His Excellency the President was there and the others. I mentioned the political direction of this country has to change. I am happy now with the new Constitution, we have to have independent Electoral Commission completely independent. It is not at the service of any political power, but independent. Up to now, we have not seen MPs passing that Bill, and the next general election is next year. That is my question: What are we going to do? So, long as that is not there, it is very difficult.

What I am saying is that this political alignment of tribal groups has to change. My prayer is that it does change because we cannot go on like that.

The Commission Secretary (Ms. Nyaundi): Thank you, Bishop. The commissioners will now ask you questions.

The Presiding Chair (Commissioner Dinka): Thank you very much, Bishop Korir, for your testimony which is very informative. Your preceding statements have set for us a very good backdrop for getting discussion. You have been very optimistic and all of us here read your book; *Amani Maishani*, and we have been inspired by it. Thank you very much for what you are trying to do and, in particular, the dialogue between communities which has been very successful. We wish you greater success in this area because you have accepted people from all tribes without discrimination. With that, I would like to give this chance to my colleagues who would like to ask you some questions.

The Acting Chair (Commissioner Namachanja): It is true, Bishop, that it has not been easy for you especially from 1992. Sitting there, the picture I recall of you is one of the documents where during the ethnic clashes, there were a number of bishops and I think you were among them, who formed themselves into a buffer zone to separate the communities that were fighting each other. You said that for you to cross and kill each other, you have to start with us. I have worked in Bungoma Diocese as a Relief and Rehabilitation Coordinator and it was also not easy for my bishop, the late Natundo. He dropped dead. At times, I wonder if we killed him. Please be strong to be there for us, take care of yourself especially when it comes to trauma because it is very traumatizing. You are a father of everybody even when we go for each other's necks during elections. Thank you so much and God bless you.

Commissioner Farah: Bishop, if the international commissioner has read your book and has followed everything, you can rest assured that a Kenyan commissioner like me is even ahead of him. I appreciate all the efforts you have done. Please, continue and that is all I can say. I have no questions. Thank you very much.

Commissioner Chawatama: Thank you very much for the testimony that you have shared with us. We have visited a number of IDP camps and, indeed, the lives in those camps is dehumanizing. It is depressing to still see that there are people in camps and that elections are just round the corner. What they share is heart breaking. We celebrate your life, we celebrate the work that you are doing and yes, the church government existed before civil government and the people in civil governments come from the church. You

said that you hope that we will take legal measures to implement recommendations of past omissions. Indeed, that is part of our mandate. We will look into the work of past commissions, what they recommended, why those recommendations were not followed and fortunately, our recommendations are mandatory. It is mandatory upon Government to make sure that they are implemented otherwise it would have been very difficult with some of the things that I have personally seen, if that assurance was not there. Be at peace that our recommendations and the recommendations of other commissions will be mandatory upon Government to implement and there would be an implementing committee. We have sister Commissions that are permanent like the one on National Cohesion and Integration Commission and Kenya National Human Rights Commission. They would perform that function and the church should do all it can to also make sure that the recommendations are implemented. One of the things - as a non Kenyan - I have often asked is, what is it in Kenya that bring people together to get to that place where they say that we are Kenyans? For us, in Zambia, sometimes, it has been just football and the passion for football. On occasions of football, we are so Zambians that we forget our troubles. Also, the fact that we are a Christian nation as declared in our Constitution and that our values should also point to that fact. What are some of the values that bring Kenyans together? Thank you.

The Presiding Chair (Commissioner Dinka): Thank you very much, Bishop Korir. I know the Honorable Kilimo may want to speak but the time is a bit late. Would you like to be the first speaker in the afternoon because we do not want to keep you here for long?

The Assistant Minister for Cooperative Development and Marketing (Mrs. Linah Chebii Kilimo): Thank you very much for that offer. However, there are senior politicians whose names have been mentioned and culturally, I cannot overtake them. I would request that I speak after them.

The Presiding Chair (Commissioner Dinka): Thank you very much for that great graciousness. I would like to adjourn the meeting until after lunch and we reconvene at 3.00 O'clock.

(The Commission adjourned at 2.00 p.m.)

(The Commission resumed at 3.40 p.m.)

The Presiding Chair (Commissioner Dinka): We now resume our afternoon's sitting. Leader of evidence, you may call the next witness.

The Commission Secretary (Ms. Nyaundi): Thank you, Presiding Chair. I am seated here with three elders that I had introduced before we broke for lunch. While appreciating that they have volunteered on their own to appear before the Commission, I am praying that you speak to them from your seat and impress upon them that we have accommodated them on a full day. They had earlier to take only five minutes and I am praying that they commit to those five minutes and then we can have them address the Commission.

The Presiding Chair (Commissioner Dinka): Thank you, leader of evidence. Welcome and I would like to, first of all, appreciate the fact that you took this initiative to address the Commission and present a memorandum on behalf of your community. This morning, we had two speakers who gave us a very good overview of the situation in the Rift Valley, particularly the entire community of the Kalenjin. Therefore, although we do not usually allow speakers space unless they had given statements earlier on and requested to speak, but your status in the community being such, we are only too happy to accommodate you. I would like to appeal to you that in your case, since we are going to have a memorandum from you, we will study them. I assure you I will give them the consideration that they deserve. What I would appeal to you is that in your oral presentation, please, limit yourselves to gaps that you have detected in the previous statements and do not take more than five minutes. If you do not do that, then we have less time for others who have given statements and registered to speak earlier on. Thank you very much.

The Commission Secretary (Ms. Nyaundi): Thank you, Presiding Chair. We will swear the first one, Mr. Mutwol.

(Mr. Francis Mutwol took the oath)

The Commission Secretary (Ms. Nyaundi): Thank you very much. Please, state your name, where you reside and your current occupation.

Mr. Francis Mutwol: My name is Francis Mutwol, a former Member of Parliament for Kerio Central and a former Member of Parliament for Marakwet West. At the moment, I am a farmer and a business man in Eldoret, Kitale and Elgeyo Marakwet. I want to start by thanking the commissioners for the good work and we are praying for you that in the end, you will bring peace and reconciliation to us. I would like to start by telling the Commission that there were land injustices before independence. For us in Uasin Gishu and Elgeyo Marakwet and Nandi, it started in 1937 when two colonial assistant commissioners were stationed in Eldoret and the other one in Kapsowar in Marakwet. They made their own rules to suit them. They started pushing the Nandis towards Nandi Hills, they pushed the Keiyos towards the escarpment and they pushed the Marakwets towards Cherangany Hills and down to Kerio Valley. That is how we lost our land that time. The people of this region want to live together in villages. When the colonial government introduced what they called hut tax in 1919 - do not ask me where I was - but I know it was in 1919, the natives were not able to pay. They had to reduce their homes so as to avoid paying the taxes or they were forced to work for the colonial farmers without salaries because you were told that your salaries have gone to taxes. Injustice started from there. Uasin Gishu is not a free land. It is somebody's land.

The white man chased us away from our land and then after independence, our own Government started its own land injustices. The President at that time was the late Jomo Kenyatta and instead of addressing the land issue properly, he overlooked one idea. The colonial Government had said that if we get independence, the land belonging to the

white settlers will go to this group, either in Keiyo or Nandi and another one to the Marakwet community. That was not followed. After independence, the British Government gave some locals loans to purchase their land from the white settlers. Unfortunately, the local people never got that money. In Elgeyo Marakwet, only two farmers got. Other communities like the Kikuyu were given loans to come and purchase the land. They came here and found that the land belonged to Kenya. Even if our Constitution says you can live anywhere in Kenya, the truth of the matter is that there is no free land in Kenya where you can live. You have your own land. The ones our Chairman called *Bunot* this morning came to buy the land and others from Kikuyu land were also told to go to Rift Valley because there is free land. They said that it was not for the people but it was for the white man but the settlers never came to Kenya with any land. When they came from Central, the Government gave land to some of them and some of them bought land and we have stayed with them.

The Commission Secretary (Ms. Patricia Nyaundi): I really want to appreciate your testimony but I notice that in substance, you are collaborating what Major Seii told us this morning. I want to assure you that the colonial history and its impact on ownership of land is now very clear to the Commission. I can see that you also wanted to talk about adjustment of boundaries by the colonial Government and also compensation after the 2007/08 elections and extra-judicial killings. I want to ask you if you could just shed some light on those three points.

Mr. Francis Mutwol: Thank you. I will go to that straight away. I do not want to talk about boundaries because it will take a lot of time. I will go straight to compensation after 2007. When the violence started in Uasin Gishu, it affected everybody and it was not only the Kikuyus who were affected. The Government tried to cool it and it came down but when it came to compensation, one of the losers was me. My house in Kimumu worth Kshs2.8 million was burnt. I reported to the police and the police are aware of the people who burnt my house but who will arrest them? I want to tell our Kikuyu friends that they were not the only ones who lost. We lost our houses but the most unfortunate part is that the Government is discriminating during compensation. I was discriminated against just because I am a Kalenjin and up to now, I have not received any compensation. That should be taken note of. How do we talk about peace and reconciliation if you do not do things equally in the eyes of the law and God? You should not expect peace to prevail in this area just like that.

Extra-judicial killings happened during Kenyatta's time. They also happened during Moi's time. They have also happened during Kibaki's time. The worst one was the one of 2008. I can give you an example where somebody at Kapsowar Center was killed by the police.

When the police saw three or five people meeting, they were asked what they were doing. They were told to keep quiet and the police started shooting at them and one of them died. There has been no compensation or arrests up to now.

Another extra-judicial killing was when 61 Marakwets were killed by Pokots. It was a massacre. In the same year, the Government told the people to take their children for Polio vaccination and the Pokot came and killed eleven of them. No compensation and arrests have been made up to now. Those are some of the things that cannot bring peace. In the same Kapsowar, another injustice was done when a number of people were evicted by the Government. Our people landed somewhere in the forest and up to now, they are squatters. The Government has refused to give them that land and now they want to go back to their land. Soon, another problem will start in Marakwet between the Marakwet and the Government. I am appealing to the Commission to address the land issue and we shall have peace in this area.

The Commission Secretary (Ms. Nyaundi): Thank you very much, hon. Mutwol, for the additional insights that you have given to the Commission. You have mentioned that there are a number of IDPs from your community who were affected by the 2007/2008 post-election violence. I would humbly request if you are able to compile a list and furnish it to the Commission. We will really appreciate.

The order that we will follow is that we will hear all the three of you and then the commissioners will ask you questions after you have all talked. Commissioners, if it is agreeable with you, I request that we swear in the second elder.

(Hon. John Sambu took the oath)

The Commission Secretary (Ms. Nyaundi): Thank you very much and welcome to the Commission. Please, tell us your name, where you reside and your current occupation.

Hon. John Sambu: My name is hon. John Kipkorir Sambu. I live in Eldoret Town and in Kabiyet, Nandi. I am a businessman here in town. I have a milk processing plant and I am also a tea farmer in North Nandi.

The Commission Secretary (Ms. Nyaundi): You had requested to make a statement on behalf of the Nandi and historical injustices especially around the tea plantations.

Hon. John Sambu: I want to make this statement concerning historical injustices on land because amongst the Nandi people, historical land injustice is one issue if it is not taken care of, it will always bring instability in the area. I have written a signed statement which I have presented and I shall briefly go through it.

The title is *Historical Land Injustice done to the Nandi people by the British Colonialist*. Between 1896 and 1905, the British colonial powers constructing the railway line from Mombasa to Kisumu declared war on the Nandi people living in Tinderet and the lower Aldai. In October, 20th 1905, they killed the Nandi leader, Koitalel Samoei, and many of his people. The British soldiers thereafter declared that the Nandi people living in the whole of Tinderet must move to the north in the area known as Kabiyet. The eviction was done between November 1905 and December 1906. At the end of the period, all Nandis living in Tinderet had been moved to the north in Kabiyet and nearby areas. From then,

the British allocated the Tinderet land to their settlers who used the land to plant tea in large tea estates. They have occupied that land from that time to date. They have benefited greatly from the tea plantations. They trade on the shares of the tea estates in London and yet no benefit accrues to the Nandi people.

As the Nandi people, we say we have suffered enough. Thank God because the new Constitution that allows the rights of the oppressed people to be addressed under the historical land injustices. I believe this is in Section 67. I may be wrong because I did not get the copy of the Constitution. The Nandi people want their right on their land in Tinderet restored by giving back the land ownership right to the Nandi people. The TJRC should assist us to get back our land from the British settlers. That is all I have to say on that matter.

I have signed my name on behalf of all the Nandi people. Somebody may ask why I call myself honorable. I was a Member of Parliament from 1992 until the recent elections of 2007. During that time, I was also a Minister from 1993 to 1996. I was given the title of EGH (Elder of the Golden Heart). I believe that I am entitled to call myself honorable.

I now want to take a minute or two to talk about the violence and I was a victim. I was a candidate in the elections for Mosop seat. I stood on a KANU ticket which was together with PNU. On 26th of December, a day before the elections, my Subaru Forester car was going round the constituency meeting my agents. At around 3 or 4 o'clock, I am told, though I did not hear it myself, that there was a radio station broadcast that there was a Subaru Forester car that was ferrying votes for Kibaki. As a consequence, the youth and everybody started shouting war songs. At 7.00 p.m., the driver and three other people who were inside went to the assistant chief of Kapkatich in Kurgung but the people who were shouting all came. My people disappeared from the car and at 9.00 p.m., they started burning the car. They took maize stalks, threw into the car and burnt the car to a shell. Up to today, the shell is still standing there.

At 1.00 a.m., in the night, because I was in Eldoret, I rang the police in Kapsabet and they arrived there at one o'clock. They saved my people but the car was burnt. Although the police came and I reported the matter, up to today, nobody has been arrested for burning the car. On 30th after the vote counting tally - I have a farm on the way to the airport here in Eldoret - armed youth came on a Sunday morning into my farm and they chased away the herdsmen and drove away my 20 herd of cattle. Up to today, I have not seen a single one of them. In Nandi at a place called Kipkaren where I have my maize farms, they invaded the maize farms for three nights from 1st to 3rd. They harvested all the maize and they took it away. I have reported all those matters to the Government and nothing has happened. I am not bothering any more because I have one person who will help me, and that is my God, Jehovah.

In reading the Bible, He told me: "Vengeance is mine". He says do not pay any vengeance, I will pay vengeance for you. He will do it for me and I am just waiting for the time.

Thank you so much.

The Commission Secretary (Ms. Nyaundi): Thank you, Mheshimiwa. We regret the loss that you suffered. I would request you if you could make time and give a detailed statement - we would like an appointment with you - you will really enrich the record of the Commission. Thank you very much for coming today.

Commissioners, with your kind permission, I request that we proceed to swear in the third witness.

The Presiding Chair (Commissioner Dinka): Please, do so.

(Mr. Patrice Chepkwony took the oath)

The Commission Secretary (Ms. Nyaundi): Kindly tell us your name, where you live and your current occupation.

Mr. Patrice Chepkwony: My name is Patrice Chepkwony. I was born in 1940. I live in a place called Ziwa and this is my town.

The Commission Secretary (Ms. Nyaundi): Thank you so much, Mr. Chepkwony. We are happy that you volunteered to come and address the Commission. I would like you to briefly tell us about what happened to the Uasin Gishu community and the squatters you have talked about and any reparations.

Mr. Patrice Chepkwony: I want to thank the Commission, Hon. Kilimo and all the people who have come today for this important sitting. We have prayed to God to grant us a forum like this. We are happy that it has happened today. I heard that there is a sister who comes from Zambia. Kenya is not like your country. It is a different country with 42 tribes.

In the 18th Century, when the white man came to this country, the Kalenjins fought with the Maasai on the other side of the Great Rift Valley. The Kalenjins managed to chase away the Maasais and the place we are living now is called Uasin Gishu which is actually a Maasai word. Our forefathers fought them and when the white men came in 1885, they completely vanquished us. They took away everything. They killed our grandfathers and took all our property away. The Kalenjins had a big problem which has not been corrected up to today. Our Government talks about truth and justice, but we do not see it. In 1896, the white man came and took away all our properties and they killed our Laibon the leader of the Kalenjins, Koitalel Arap Samoei. Our people remained orphans until we were born and now as I speak, the people of the Rift Valley have not been happy since then.

This problem is evident from the composition of this Commission where there is no Commissioner from the Rift Valley, despite the fact that the Rift Valley has big problems. We do not know whether they could not get one from Turkana or Maasai. I

have a lot of respect for you, but we would have been happier if one of us from among those who spilt their blood from the white man's guns was sitting in front of us with you. That would have shown that he is also a victim. Our people went to Tanzania, some ran away to Maasai land and others went to Sudan. I am not a politician, I am an elder. Therefore, I will be very brief.

When we got Independence in 1963, the late Kenyatta took over as the leader. In Central, Rift Valley and the Coast, the white man had taken over the land. I just want to ask if the land that was taken away from Central Province by the white man is still there. I am told there is a lot of land in Mombasa and if we want to correct things in this land, then you have to give to Caesar what belongs to Caesar. We should not lie to one another. We should not go round in circles and we should not play around with Government property to talk about truth, justice and reconciliation and yet up to now, our people are squatters in Tanzania.

I have a family in Kasese, Uganda that is squatting right inside the Rift Valley. Our people are squatters in their own land. As Major Sei said in the morning, we would have celebrated 1963 when we got Independence, but we realized other people were brought in by the Late Kenyatta from Central. When we say that, others become very bitter. The father of the nation used to use the word "grab". If he gets in and he has a blanket, add another one to him. Kenyans are looking for truth for everybody in our country. After the conflict of 2007/08, one community is being settled at the expense of 42 tribes, especially the people from the Rift Valley. We have many people in Kipkurere, Mau and Embobut who are scared of going to the camps and they have nowhere to live. The Rift Valley is getting finished and it is said that it belongs to everybody, but other provinces have their owners. Will our children accept this?

(Applause)

The Presiding Chair (Commissioner Dinka): We do not allow and we do not want any applause. This is not a stadium. It is a public hearing to find truth and work towards justice and reconciliation.

Please, let us have the necessary decorum.

Mr. Patrice Chepkwony: As the Kalenjin community, we respect and fear God. We do not take oaths to kill anybody and we do not kill somebody when they are looking the other side. If we have a problem, we kill each other as we look at each other. The Kalenjins love everybody and our love has brought enmity to our community. When somebody knocks on my house in the evening, I will welcome them, regardless of whatever language they speak. Even if he has a gun, he can finish me with his gun, but I will still be hospitable. There are other communities where if you or your chicken or dog gets close to them, they get it, chop it into pieces and give it to you. That is not the Kalenjin behaviour. The people of the Rift Valley love people and we have big hearts.

The Coast and Central provinces have huge tracts of land which used to belong to the white people. The Government is the source of our problems because it does not know the difference between my cloth and another person's clothes. They take my nice clothes and they give it to someone else and they want to force me to put on someone else's bad clothes. Those of us from the Rift Valley would like to live with everybody, but people have to know where they came from. We have welcomed you to live with us but at the end, you must know your home.

That is what I want to tell the Commissioners and if I have erred, please forgive me. I am not a politician, but I know how our children are fighting. It is God who made the soil for man and he said that we will go back to the soil. Somebody in power should not stop others from getting it. We would like to live in harmony with everybody. We have Kikuyus who live here and they were not killed. The problem only came during elections and it is the Government which did that. Mr. Kivuitu was part of the Government and all those who were saying they had won found themselves in trouble.

Nobody had planned anything and we do not want that to happen to our children. We want the Government to know the truth and people should live according to how God placed them. That is, where he wanted them to be. Some are living on rocks like the Turkana, others are living in their places in North Eastern, Central, Eastern and Coast. Those who have come to the Rift Valley must respect us and then we will respect you and then we can live together and the host is always right.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Mr. Chepkwony, for speaking candidly. At the moment, I would like to ask the Commissioners if they have any questions to the three presenters.

The Presiding Chair (Commissioner Dinka): Let us have some silence here please.

Master of Ceremony: What we are saying is very serious. It may seem amusing now, but we appeal for calm because we are not supposed to be laughing. We should treat this sitting with respect. I was very happy about your discipline in the morning, so please let us be calm.

The Presiding Chair (Commissioner Dinka): Thank you very much Leader of Evidence. I would like to thank the three presenters who have shed a lot of light on the problems and challenges facing the people of this region. It has been very educative to all of us. I will now ask my colleagues if they have any questions.

Commissioner Farah: John Kipkorir Sambu, Francis Mutwol and Patrice Chepkwony, thank you very much for your testimony. You have added a lot of light on the land issue which is a passionate issue in this province. You have also given us historical accounts and now we know what is really burning you. I have no questions because your testimony was very clear and, therefore, I will pass on to my international Commissioner who perhaps will have something to clarify because she does not know what the problem is.

Commissioner Chawatama: I would like to thank all three witnesses for making time to testify before the Commission. I recognize the fact that you are leaders and you will continue to be leaders in your community. I also recognize the fact that your people look up to you. The first and second witness shared some of the losses that he experienced. I am not saying that those were good losses, in fact, it was very sad but I am sure some of your people are encouraged to hear that they were not the only people who suffered. In the places we have visited, we have found people who were very poor and after the post election violence, they have been left even poorer. I know that you are able to identify with your people and their losses. Everywhere we have been, women have filled up halls and they have wept and they have said that they are tired of losing their husbands and sons. When are they going to find peace?

As leaders, I encourage you to look to the lesser persons in society and to hear the cry of the widows, the orphans and the poor, so that in all that you say and do, you take these vulnerable people into consideration. As a non-Kenyan, I appreciate the time you took to speak and I am beginning to feel the weight of the passion that you have for your land. I know that passion is for the land of your nation and that all that you will do is in the best interest of your country and your people.

Thank you very much for your contribution.

The Acting Chair (Commissioner Namachanja): Thank you, elders, for addressing this Commission. This Commission has received statements and, just to correct the impression shared by elder Chepkwony, this Commission has received over 3, 000 statements from Rift Valley and especially from here. Among the statements are those who shared their pain. It is true there are people who lost their lives and like in any armed conflict as the one we had in 2007, there are loses on each side. To correct that situation, I want to tell you that many people lost their lives; the Kalenjins, the Kikuyus and other communities that were in the area of the conflict.

Thank you so much for sharing.

The Presiding Chair (Commissioner Dinka): Thank you very much. I would like to say that as my colleague General Farah said, your testimonies were very straightforward and, therefore, did not leave unclear issues. It is very clear to us exactly what you wanted to present and we have gained very important insight into the challenges of this region.

We thank you very much for your evidence. Also, I would like to recognize the fact that the three of you have presented with clarity and passion, the concerns of your communities. That is what gives you the authority and legitimacy of leading your people. I only say that as complete leaders, you should just listen to the heartbeat of your community but at the same time, since they look up to you, give them the right examples. Since you are also opinion leaders for the larger community in the whole Rift Valley, I think you should consider to sometimes counsel and, if necessary, go against the grain in the interest of the larger nation of Kenya.

I thank you very much.

Leader of Evidence, you can now show them to their seats and call the next witness.

The Commission Secretary (Ms. Nyaundi): Presiding Chair, the next witness is hon. Linah Chebii Kilimo.

(Hon. Linah Chebii Kilimo took the oath)

Thank you and welcome to the Commission. Please, state your name, where you reside and your current occupation.

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): My names are Hon. Linah Chebii Kilimo, Member of Parliament for Marakwet East Constituency, the Assistant Minister for Cooperative Development and Marketing. I live in Sambalat, Kaben Village, Tot Division, Marakwet East Constituency. When I am in Parliament, I live in Nairobi, Karen, Fair Acres Road.

The Commission Secretary (Ms. Nyaundi): Thank you very much. You have come to the Commission and my understanding is that you want to speak as a leader and especially as a woman leader. So I welcome you. I will only remind you that we are short on time and I hope that you can help the Commission hear the people whom you serve by keeping your presentation as short as possible.

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): Thank you very much. I am sorry that I will not give my position as a woman because I am here to represent the people of Marakwet East Constituency. I beg this honorable Commission that I give my presentation on women issues tomorrow.

The Commission Secretary (Ms. Nyaundi): I think I have seen the Commissioners nodding in agreement.

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): Thank you very much.

I have three issues concerning Marakwet East Constituency. Some are very personal like the death of my father in-law because of cattle rustling. I have got two submissions here; one covers cattle rustling in the whole of Marakwet and one that is specific to Murkutwo where we lost 44 people overnight. I beg to give the information of who Marakwet people are and where they are found.

We the Marakwet community living along the Kerio Valley, specifically those in Murkutwo Location, Tot Division have suffered a lot. The Marakwet community is among the Kalenjin sub-tribes that include the Pokot, Tugen, Sabaot, Kipsigis, Nandi, Ogiek sometimes referred as Ndorobo or Sengwer, Terik and Keiyo. Our language is

Markweta. We share broadly the same cultural traditions with other highland Nilotic ethnic groups.

The community was purely hunters and gatherers before the colonial period. The Marakwet regarded the Pokot who are their immediate neighbours in the west and eastern regions from time immemorial as their sworn enemies. According to the Centre for Minority Rights and Development, Marakwet community is classified among the northern frontier districts. These are districts that have been marginalized since colonial time, probably because of their unproductive land or our uneconomical lifestyles. We live in the arid and semi-arid land but not all of Marakwet is like that. Therefore, Marakwet East and West is classified in Kerio Valley areas covering Tot and Tunyo divisions and this is where we have a lot of problems---

The Commission Secretary (Ms. Nyaundi): Mheshimiwa, with the greatest respect, I can see that you have that memo and that it is in writing. The Commission will admit it. I will request that you do not read it but just summarize it and then we can admit it. The Commission will then have an opportunity to look at it and make findings.

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): Thank you very much. I will submit the first list of Murkutwo where on , Monday morning, 44 people were killed. The recommendations are there. Definitely the most immediate one is the psycho-social support because many people were going mad.

The second one is a list from 1992, the advent of multi-party politics, where we feel that cattle rustling was actually human rustling that was politically motivated. The list I have has a total of 182 people. These are just a few. I submit that as list No.2.

The last one is the issue of Embobut Forest. In 1932, there was a landslide. The Agricultural Officer then, Mr. Spencer who was a colonial person moved people from the escarpment to places in the forest called glades. We have seven glades in Marakwet. The other groups of people found in the forest were given right holder permits and the people confused them for title deeds and lived on the glades.

The other Embobut squatters are the Sengwer community. We refer to them as Kimala. They are hunters and gatherers. I do not have their list here but I can avail it to you. About 21 times, they have been burnt and chased away. The 22nd time is when I was their MP in 2009. We profiled these people. We have 2,964 families who believe that they are rightfully in the forest because they were resettled by the colonial Government, they have right holder permits or because they were hunters and gatherers who lived in the forest. However, in the spirit of conservation, they accepted to agree with the Government to move out of the forest. How sad!

Up to now, they have been profiled but have not been resettled. The Government has been saying that they have land, they have money but they have never been considered. All that we see are Post Election Violence (PEV) victims being resettled yet when you check where they came from and if they can show their homes---

The people in Embobut Forest can show you their right holder permit. Their names are in the National Archive and they were settled by Mr. Spencer, yet they have never been resettled up to now. These are the injustices of the people whom I represent.

I have an example and I want to submit the fourth one of the many women and men who were maimed because of cattle rustling. If you did not die, then you have some of your limbs missing. Here is one example. I have a sad one - I do not have the record here - of a chief who stood to tell the President: "Marakwets are dying, my people are dying". He was sacked on the spot. The Assistant Chief Chemwaka of Chepkuu was in 1992 dismissed on the spot without benefits.

We have children who came for the polio vaccination and they are all over here. I went to Parliament because I wanted to seek justice. I thought that when I become MP and I cry as a woman that my people are dying, somebody somewhere will listen. I did not get that opportunity until now. This is what I was looking for when I wanted to be an MP. I wanted to air the cries of the Marakwet community. The question that we still ask is; whom are we going to forgive as no arrests have been made? We want to forgive and forget but we want to know whom to forgive so that we can forget and live. We still have pain embedded in our hearts that we were neglected by the very Government. We were alienated. Thanks to the change of regime because when President Mwai Kibaki became the President in 2003, the Marakwet community got independence.

Thank you.

The Commission Secretary (Ms. Nyaundi): Thank you very much.

Presiding Chair, I pray that you admit onto the record of the Commission photographs of Soti Tabarno Kiptum of Samar Village. I also pray that you admit onto the record of the Commission the list of 182 victims of the cattle rustling and, finally, I pray that you admit onto the record of the Commission the statement regarding the Murkutwo Massacre. All three have been presented by the witness.

The Presiding Chair (Commissioner Dinka): It is so ordered that the three be admitted.

The Commission Secretary (Ms. Nyaundi): Thank you. I believe that the witness has articulated herself clearly. I will not ask her any questions.

The Acting Chair (Commissioner Namachanja): Thank you my sister and thank you for coming to represent your people. This Commission has toured almost three quarters of Kenya. Each time the community's men stand up to share their pain. I think the people are blessed to have a leader like you who can leave her busy schedule not only to come and represent them but also listen to their pain not for one day but two days.

I travelled with Mheshimiwa and told her: “I wish you could spend another day just to hear what women go through”. These are not just women from Marakwet but women from all over the country. I am happy to hear that you will be there.

It does a lot to affirm the pain. That is what the public hearings are all about. We patiently listen to each other, acknowledge what we have gone through and affirm the pain that is shared.

God bless you.

Commissioner Farah: Hon. Kilimo, I just want a bit of clarification on the Embobut Forest. You said that in 1975, because of a land slide the *Mzungu* administrator moved 2,964 families to the glades, can you explain this a little bit more clearly to me and why our Government does not want to resettle them?

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): The first recorded land slide was in 1932. The Agricultural Officer Mr. Spencer moved people from the escarpment of Kamoi up to Katilit to Kaptirbai glade because that was a flat area fit for human habitation.

In 1961, there was another massive landslide that swept the whole of Kamoi Village into Embobut River. Some people were resettled in Cherang’any and others went to Kaptirbai glade to stay with their brothers. The terrain of Marakwet East Constituency especially Embobut Location is very steep. So these people stayed in the glades which are empty places in the forest. With procreation over time, they destroyed the forest. Out of the 21,000 hectares, 16,000 hectares have been destroyed. Embobut is part of the water tower of Cherang’any. Because of the degradation of the forest, we do not have enough water for irrigation in the valley.

From 1961 when those people moved there, the Government in the spirit of conservation used to chase people out of the forest. Because there was nowhere to go, they burnt the houses but people went back. As they went back, they destroyed more forest. This happened until 2009 when I said enough is enough; we need the Government to find alternative land for these people.

We started profiling the people living in the forest. Out of the 15,000, we put them into family trees and social groupings and we got 2,964 families. We have presented this to the Government and they have promised to resettle them. However, from 2009 up to now, these people are still staying in the glades without food. This happens when those displaced as a result of the PEV are being given food and being resettled. People in Embobut can justify why they are in the forest. They show right holder permits given by the colonial government. The list of those moved by Mr. Spencer is at the National Archive.

Three years down the line, they cannot support their families. This year they planted maize. As I speak now, the Government went and sprayed the maize. The maize that had grown was cut down and they were left with nothing. I am left helpless.

Commissioner Farah: Thank you. Now I understand. Can you give the Commission then a clear recommendation on where these people should be resettled? Where can land be found? What is your recommendation to the Commission so that we solve this problem so that we do not destroy the water towers or harm our people?

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): The Government gets land and resettles these people. I do not have the list here but I can bring it tomorrow. The names are there. The social groupings are there. We have waited and I cannot tell them not to go to the forest any more. My plea is to the Government to resettle the people of Embobut Forest who accepted to move out from the forest to pave way for conservation. We can show where we moved from. Where is justice for us? You are resettling people who cannot even tell you where they came from. You cannot see their homes but you can see our homes.

Commissioner Farah: Thank you very much. I think we are together. You have helped us. Help us and we will help you. You have said you have come to the right place and we assure you this is the right place. We will submit proper recommendations. This is a very serious matter. Give us all that data and we will recommend appropriately.

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): Thank you very much and I hope you will take into account those who suffered because of cattle rustling.

Commissioner Farah: I think now, I understand the plight of the Embobut Forest residents. However, the cattle rustling victims are across the board; both in Marakwet and Pokot. I think we need a solution to the root cause rather than settling people and tomorrow there will be cattle rustling again. Then they will be displaced again.

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): I wish you had allowed me to read my recommendations. Cattle rustling does not take place at the boundary. We were killed in our own land in our own houses. Go to Murkutwo Location, people were burnt in their houses. There was no cattle rustling at the boundaries of Pokot and the Marakwet. Because we are sedentary in nature, the perpetrators came and killed us in our own homes. As I said, right now, many people are mad. The latest one is in January where we lost a teacher because she saw her first born being killed. She suffers mental disorder.

Our recommendation is that, we want the Government to arrest the perpetrators so that we can now move to forgive and forget. We have the biggest concentration of man-made widows because their husbands were killed while giving protection to the community. We are saying these are injustices. They used to write letters to us and say: “We are coming” and they would come.

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

Commissioner Chawatama: Hon. Kilimo, I have heard you and you have answered the question that I had for you. However, I am honored and privileged to be able to be part of a Commission that has afforded you a platform such as this for you to air the experiences of the people that you lead. It is good for more people to come and listen to the truth commission hearings such as this because it is not every person who will end up with the report in their hands. So, it is very important that leaders such as yourself come to these hearings.

I think you have shown that you care about your people and the experiences that they are going through. I look forward to spending time with you tomorrow at the women's meeting.

Thank you.

The Presiding Chair (Commissioner Dinka): Thank you very much hon. Kilimo. Can you read your recommendations for one minute just for the record? We need it for the sake of the HANSARD.

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): We want the Government to acknowledge that they failed in their responsibility to protect the Marakwet community and our property. Most of all, they failed to give us a safe environment.

We also want the Government to apprehend the perpetrators; especially the Pokot community who we suspect visited this on us. We want compensation for all the families who lost their loved ones. Details of the bereaved and deceased are here. It is something man-made. All their names are here and others will be brought to you.

We also want the Government to provide psycho-social support services especially for those who lost their entire families to avoid mental breakdown. It is not too late to counsel the victims because they have not undergone any counseling at all. People are still traumatized.

We lost so many animals yet we are supposed to educate our children by selling our animals and at the moment, we have nothing. We want the Government to give us animals to re-stock and help us educate our children.

Through the Ministry of Education, the Government should allocate funds to the secondary schools along the valley in Marakwet because we cannot afford to pay the fees.

We also want a monument in memory of all the people we lost. We also want to give an olive branch to our neighbours; the Pokot. This is what I have done since I came to Parliament in 2003. That is why we have peace. We want the Government to carry out specific activities for our neighbours in terms of education, water and healthcare. They still come to us for healthcare. We have plenty of water. Let the Government give them

water so that they can live as a community and we live also live as a community. We are not so sure whether the peace of nine years will be sustained or not.

We also want the Government to ascertain the boundary between the Pokot and Marakwet. Initially, it was across River Kerio, along where elephants used to pass, but now they take it to be River Kerio itself. Because our land is wet, they come and graze their animals in our land. We fear that one day, they will lay claim.

Thank you.

The Presiding Chair (Commissioner Dinka): Thank you very much for that. We have heard you and I assure you that the Commission will look very carefully at the memorandum and the list you have presented to us. We will have the necessary findings and recommendations at the end.

I thank you again for taking your time and coming and talking to us. Tomorrow, of course, you will be taking advantage of the women's forum and make your presentation.

The Assistant Minister for Co-operative Development and Marketing (Hon. Linah Chebii Kilimo): I thank the Commission because I had only two agendas for being a Member of Parliament; to end the conflict between the Pokot and Marakwet and to get justice for the Marakwet community. I want to take this opportunity to thank Bishop Cornelius Korir. He was the Government we knew. He was our father. He was our MP when no one could listen. When no one listened to the Members of Parliament, he was our MP. Posthumously, I would like to thank the former MP Fredrick Cheserek who was also hunted down because of standing with the community. I trust you, the TJRC, that we shall get justice.

However, you will help us to wipe our tears and walk us along the path of forgiving and forgetting for that is what we want.

The Commission Secretary (Ms. Nyaundi): Presiding Chair, as the witness leaves, I will invite Joseph Kandie, witness No.4 in the folders. As he is coming, with your permission, I have received a memorandum from the family of Father Jude Kimeli Kibor who would like the Commission to inquire further into the circumstances that led to his death.

I request that you admit this statement onto the record of the Commission and I would also request that the representatives of that family stand up so that the Commission can recognize their presence here today and you can give them the assurance of the steps that the Commission will take.

The Presiding Chair (Commissioner Dinka): Will you please stand up.

(A group of people stood up)

Thank you very much. Please, have a seat. It has been ordered now that the memorandum be admitted.

(Mr. Joseph Kandie took the oath)

The Commission Secretary (Ms. Patricia Nyaundi): Thank you very much and welcome to the Commission. I request that for the record you tell us your name, where you stay and your current occupation.

Mr. Joseph Kandie: My name is Joseph Kandie, I live in Keiyo District, Ng'etia.

The Commission Secretary (Ms. Nyaundi): I can see that you are accompanied by two people. Could you please identify them before the Commission?

Mr. Joseph Kandie: I am a chairman of a welfare group and the lady who has accompanied me will talk about the problems that face them. The other person will read our memorandum. I would like to inform the Commission that there are so many people who have accompanied us from fluorspar and I urge the Commission to allow them to stand so that they can see them.

(Wananchi stood up)

The Commission Secretary (Ms. Nyaundi): Could you tell us the names of the people who are seated near you?

Mr. Joseph Kandie: The lady next to me is Kimoi Kemei and the other one is Mr. David, the secretary of the group.

The Commission Secretary (Ms. Nyaundi): Welcome and briefly tell us the complaints by the people from fluorspar.

Mr. Joseph Kandie: First of all, I would like to thank this Commission. Initially, we had a Commission led by Mr. Njonjo and we presented to them our complaints, but we discovered that nothing was being done. I would like to ask this Commission to listen to us and whatever we will present before you should be implemented.

When the fluorspar industry came, we thought that it was a blessing. But we realized that it was a problem. We have not been given alternative land and we have nowhere to graze our animals. There is also contaminated water flowing into the river and so, we cannot get clean water. We have tried to seek assistance from the Government through the Commissioner of Mines and Geology but they do not assist us. The residents there cannot even do farming because the company does not allow. We have so many problems there. I do not want to talk because it hurts when I speak and that is why I decided to bring somebody with me so that he can present the memorandum.

I have a photograph which shows some of the problems we have. I also have a copy of a letter that we wrote to the Commissioner of Mines and Geology but nothing was done. There is a time some of our cows fell into the mines and died, but nothing was done. I

would like to urge the Commission to investigate further. I will invite the lady who accompanied me to talk and then later on someone else will present the memorandum.

(Mrs. Kimoi Kemei took the oath)

The Commission Secretary (Ms. Nyaundi): Thank you and welcome to the Commission. Please tell us your name, where you stay and what you do for a living.

Mrs. Kimoi Kemei: My name is Kimoi Kemei and I live in Gewapkony.

The Commission Secretary (Ms. Nyaundi): Mr. Kandie has said that you will tell us the problems that the women have suffered because of the factory. So, please, tell us.

Mrs. Kimoi Kemei: The moment the fluorspar company started, the water was polluted. We tried to dig wells so that we could get water but we did not succeed. We had to go for very many kilometres with donkeys to look for water near the boundary of Keiyo and Tugen in Baringo District. We only bring a little water and use it to bathe the children and for other purposes. We have many problems and people are becoming sick because of contaminated water. Even our cattle suffered because of the contamination. Right now, there is no other source of water like a river near there. The water that is available is polluted. I request the Government to intervene for our sake.

The Commission Secretary (Ms. Nyaundi): You said that you travel for long distances to get clean water. What is the distance in kilometres?

Mrs. Kimoi Kemei: We walk for more than two kilometres.

The Commission Secretary (Ms. Nyaundi): Thank you very much. We will now hear from the secretary.

(Mr. David Kipruto took the oath)

The Commission Secretary (Ms. Nyaundi): Thank you, please state to the Commission your name, where you stay and your current occupation.

Mr. David Kipruto: My name is David Kipruto, I live in Turesha Sub-location, Soi Location, Soi Division, Keiyo South District. Right now, I do private business in Turesha and sometimes I do voluntary work for the community.

The Commission Secretary (Ms. Nyaundi): Thank you very much Mr. Kipruto. I can see that you have a memorandum dated 27th January, 2011 which you brought to our offices in Nairobi. I will ask you to summarize your presentation by highlighting the important points about the major grievances that you have with fluorspar and your recommendations.

Mr. David Kipruto: Thank you very much. As you have just said, we have already submitted our memorandum in Nairobi but we shall make a brief presentation today. We

will also give you additional information over the same issue. As Mr. Kandie and Mama have said, we have two problems in Kerio Valley which came about because of fluorspar mining in Kerio Valley. When fluorspar was discovered in Kerio Valley in early 1970s, the Government set aside part of our land which is 9,070 acres or 3,664 hectares. The Government used Article 118, Section II of the old Constitution of Kenya to set aside our land to pave way for fluorspar mining.

The Kenya Government also used Cap 288 Laws of Kenya, Gazette Notice No.320 and 321 of 26th January, 1975. The same old Constitution provided that if the Government sets aside a piece of land for mining or for public purposes, then the Government must fully and promptly compensate the affected land owners. But up to now, we have not been compensated. Article 40, Sub-section III of the current Constitution provides that the State shall not deprive a person of property unless the deprivation is for public purpose that requires prompt payment in full or compensation.

We have pursued the issue of compensation for many years, but we have not been successful. Right now, we live as squatters or Internally Displaced Persons (IDPs). Initially, there were good plans from the Government. They were thinking about compensating the people who are affected. That can be proved by two payments for Kshs500,000 and Kshs3,600,000. However, our land was valued at Kshs400 per acre. So, the people declined because the amount was too low and it was being imposed on us. There were no consultations. However, due to time and desperation, some of our people went to the District Commissioners (DCs) office at Iten and took the Kshs400 per acre. According to one DC for Keiyo, through a letter to one of our leaders in 2004, he says that 209 people were compensated and only 400 acres were paid for. The total amount of money paid was Kshs165,000. According to the documents that we have, 4,329 persons were registered as owners of those particular pieces of land and the documents show the acreage per person. In addition, when we rejected that amount, there were other discussions in a place called Kapokpok in Kerio Valley. The leaders at that time said that the people were going to be resettled in Uasin Gishu. The amount of land that was available was 400 acres. But our people said that the land was too small as compared to 9,020 acres. The leaders said that since we declined to take the land, it was to be given to the people of Moiben and Kacholwa. Immediately thereafter, there was a scuffle and one woman called Mama Atungo led a group of women in stripping in protest. In addition, two reporters, Mr. Bargoret and Mr. Macharia were beaten and their equipment destroyed.

Since that incident, we were not able to hold any other meeting because of the frustrations from the police, the Provincial Administration and the local leaders. So, we went underground for ten years. In 2003 when the National Rainbow Coalition Government (NARC) came into power, we started to revive the process. Since then we have conducted a lot of civic education in the community and we have petitioned various Government Ministries and Departments concerning the issue of land compensation and environmental pollution and degradation. In 2003/2004, we presented our grievances to the Commission of Inquiry into Illegal Allocation of Public Land which was also known

as the Ndung'u Commission. As we speak now, we have also taken this matter to the High Court of Kenya at Nairobi. We have attached all the information about that.

The Commission Secretary (Ms. Nyaundi): Thank you very much, Mr. Kipruto. You have said that up to today, the matter remains unresolved?

Mr. David Kipruto: Yes.

The Commission Secretary (Ms. Nyaundi): Are you saying that the issues of environment have not been addressed and the factory is still emitting effluent?

Mr. David Kipruto: When we started talking to the Government in 2003, the personnel from the Ministry of Water and Irrigation and the National Environmental Management Authority (NEMA) came and analyzed the situation. They made their recommendations and the Fluorspar Company has made some improvement. But the main problem which is still persistent is the discharge of factory effluent into River Kerio. It is also very important to note that River Kerio serves Kerio, Marakwet, Pokot, Baringo and Turkana districts. The company normally discharges the affluent at night and during heavy downpour of rain.

The Commission Secretary (Ms. Nyaundi): I have had an opportunity to go through your memorandum. Is it right to also state that contrary to expectation of the community, the factory has not brought any benefits to them?

Mr. David Kipruto: The community has some benefits from the factory. A few of our community member's work in the factory. The company also has recreational facilities like a social hall and a football pitch. They have also constructed a primary school and a dispensary. Although our people normally pay for services there but, to some extent, the community benefits from those facilities.

The Commission Secretary (Ms. Nyaundi): Mr. Kandie showed us some photographs which you must also be familiar with. He also has a copy of a letter addressed to the Commissioner of Mines and Geology dated 26th January, 2009. Would you as secretary submit those photographs together with the letter to the Commission?

Mr. David Kipruto: We would like to urge the Commission to admit the photographs and the letter and also give additional information.

The Commission Secretary (Ms. Nyaundi): The memorandum is signed by you and Mr. Kandie, and is dated 3rd September, 2011.

Mr. David Kipruto: That is true.

The Commission Secretary (Ms. Nyaundi): I would like to urge the Commission to admit it.

The Presiding Chair (Commissioner Dinka): It so admitted.

Mr. David Kipruto: I have one more thing to add. Since we have not been settled, we have been living at the same place where we have even buried our loved ones. In the process of mining, the company exhumes the remains of the dead and buries them anywhere. We have documented a number of the dead in various sub-locations within Soi Division whose remains and their graves have been exhumed.

I now want to give our recommendations. We have a number of recommendations. We are demanding that the Government must proceed and pay compensation to the land owners whose 9,070 acres were acquired as provided for by both the old and the new Constitution. We also propose that compensation should be based on the current market price of land. We demand that the Government should provide land to resettle the affected land owners. The Government should allocate five acres to each individual irrespective of the acreage acquired. We also demand that the Government should compensate such a person with disturbance and relocation money. The other proposal is that we demand that the company should construct schools, health centres, roads, provide water, electricity and telecommunication services. The Government should compensate the affected land owners for the 40 years it has failed to compensate them. We also demand that the Government compels the Fluorspar Factory to stop discharging harmful factory effluent into the rivers or on land. The Government should also compel the factory to compensate the families whose graves of their loved ones were destroyed.

The Kenya Fluorspar Company should also be made to set aside a piece of land as a cemetery for re-burial of the exhumed bodies.

Lastly, we demand that the Government compels the Kenya Fluorspar Company to implement corporate responsibility programmes for the benefit of the local people and the surrounding communities.

Thank you very much.

The Commission Secretary (Ms. Nyaundi): Thank you, Mr. Kipruto. You have given me the clarifications that I sought. I will now hand you over to the Commissioners, who will ask you questions.

The Presiding Chair (Commissioner Dinka): Thank you very much, Mr. Kipruto, for your testimony. I will hand you to Commissioner Farah to ask you any questions he may have.

Commissioner Farah: Mr. Kipruto, I do not have any question for you, because I have the documents with photographs here. We assure you that we will look into the matter carefully.

Commissioner Chawatama: I, too, have no questions for you, but I just thank you. We had an opportunity to meet you in the office, and this sitting just serves to formalise what

we discussed in the office. Thank you for finding time to come and share with us your story. Your recommendations are clear. I have no questions.

The Presiding Chair (Commissioner Dinka): By the way, I need to introduce to you to Commissioner Tom Ojienda, who has just joined us from performing some other duties.

Commissioner Ojienda: Thank you very much, Presiding Chair. Thank you, Mr. Kipruto, for your testimony. I just want to take up your issue from the point of view of remedies, which are legal and immediate. You have indicated to this Commission that you already have a case in court. In your memorandum, you have referred to the failure by the company to undertake or get an environmental impact assessment licence. Under the Environmental Management and Conservation Act, specifically Section 129, the company or individuals have a right to go to an institution called the National Environment Tribunal, which can give an immediate remedy.

If you file an appeal with the Tribunal, the Tribunal will issue an instant stop order of the activities of this company until the answers to the issues raised are given. This is unlike the court, which will take longer. The only problem is that the Tribunal is in Nairobi, and many advocates are not familiar with it. I would urge you to seek advice and go to the Tribunal and invoke its jurisdiction. I speak like this because have I previously sat in that Tribunal; we have dealt with these kinds of cases and stopped such operations. There is a requirement for companies like the one doing fluorspar mining to undertake an annual environmental audit. Clearly, that involves the community. From your testimony, I do not think an audit has been undertaken.

The other question you have raised is about community interests; I would also like to advise you from a legal point of view that, under Chapter Five of the new Constitution, for the first time, communities will have a right to claim back their land once Parliament enacts the National Land Commission Act – a specific law which will deal with the manner and procedure under which communities will benefit from the land. So, there is also a window there. I can see that your MP is here. That law will benefit communities like your community, which have suffered for a long time.

Issues of compensation can be raised at that point. Even before then, if you have lost your livestock, as I have seen on the pictures here, you have an instant recourse for compensation because companies are not allowed by the law to exploit resources and kill vulnerable communities such as yours. As my brother said, we will look at this issue and make appropriate recommendations. The law is on your side, and we are on your side.

Thank you.

Mr. David Kipruto: Thank you, Commissioner Ojienda, for the pieces of advice. As point of information, the Kenya Fluorspar Company has been submitting environmental audit reports every year, since 2004, immediately we started becoming a strong lobby group. The other piece of information that you have just given us, about the Tribunal, we are happy and we are going to pursue the matter along that line. For now, we would like

to thank you, as a Commission. We hope that this time round, we are going to be successful.

Thank you very much.

The Acting Chair (Commissioner Namachanja): Thank you very much, Mr. Kipruto. Mine is to thank the lady who has come here to explain how the fluorspar company has affected her people, especially the women. The lady stated that the water that comes from the factory is not fit for consumption, and they have to walk very long distances to fetch water. I have one question. Could you explain to us how long it takes to get to where you fetch the water and back?

Ms. Kimoi Kemei: We walk for about five hours in a day.

The Acting Chair (Commissioner Namachanja): Is five hours to just make a trip and come back or to make a number of trips?

Ms. Kimoi Kemei: We take five hours to and from, but previously the river was just a stone-throw away.

The Acting Chair (Commissioner Namachanja): When you walk for those many hours, what happens to the other chores that are supposed to be done by the ladies affected?

Ms. Kimoi Kemei: It is, indeed, a waste of time. We have wasted a lot of resources, because we never have time to attend to other duties.

The Acting Chair (Commissioner Namachanja): Those are the only issues I wanted clarified. As a lady, you are supposed to go and fetch water, but you are also supposed to go fetch firewood, prepare the children for school, look for food and cook that food. So, spending so many hours going to fetch water affects the performance of the other household chores; a lady has to do all this even if she has to do it as late as midnight.

Ms. Kimoi Kemei: It, in fact, delays all the other duties. You could have used your time preparing the children to go to school, washing the dishes or performing other household chores.

The Acting Chair (Commissioner Namachanja): I am sorry for the ladies. Your problems have been heard. I thank you very much for volunteering to come here.

The Presiding Chair (Commissioner Dinka): Thank you, Mama Kimoi. I have just one advice for Mr. Kipruto. In our Commission, when it comes to issues of land – matters like yours – we always look to our guru, Commissioner Ojienda, who is a lawyer. So, I urge you to take his advice seriously and approach the environment Tribunal. Otherwise, I have no particular question for. I thank the three of you for coming and testifying this afternoon.

Session Clerk, escort them to their seats and call the next witness, if you have one.

The Commission Secretary (Ms. Nyaundi): Presiding Chair, with your indulgence, when this witness was in the dock, I consulted with the two witnesses whom we had for today, and they indicated that it was getting rather late for them. One of them has actually left. I was bold enough to tell them that we will hear them tomorrow morning. There are witnesses from Kiambaa, who are still in the hall. I am asking, maybe, if you can just give clarification whether we will hear them in the morning and at what time, because I have already indicated to them that time has gone, and that we are likely to hear them tomorrow.

Commissioner Farah: Presiding Chair, I think we have got three witnesses.

The Presiding Chair (Commissioner Dinka): These witnesses have been here the whole day today. We will hear the remaining two public testimonies tomorrow from Brigit Zimmerman and the Kiambaa Church incident. So, tomorrow, we will meet at 9.00 a.m. and listen to those two witnesses.

Before I conclude today's session, I would like to take this opportunity to express the gratitude and the thanks of the Commissioners to the following witnesses who testified in the morning and this afternoon and assisted the Commission to gain more insight into the problems affecting the Rift Valley Region. In this regard, our thanks are due to Maj. John Ayabei Seii, Bishop Cornelius Korir, the hon. Francis Mutwol, the hon. John Kipkorir Sambu, Mr. Patrice Chepkwony, the hon. Linah Jebii Kilimo, Mr. Joseph Kandie, Mama Kimoi Kemei and Mr. David Surei Kipruto.

I also take this opportunity to thank our staff members, the cameramen, the photographers, the interpreters and the HANSARD recorders, for without them, nothing would have been achieved today, and nothing will get on tomorrow.

With that, I would like to thank everybody and declare this meeting adjourned until tomorrow at 9.00 a.m.

(The Commission adjourned at 6.20 p.m.)