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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION HELD ON WEDNESDAY, 5TH
OCTOBER, 2011 AT THE ELDORET COUNTY COUNCIL HALL**

PRESENT

Tecla Wanjala Namachanja	-	The Acting Chair, Kenya
Margaret Shava	-	Commissioner, Kenya
Tom Ojienda	-	Commissioner, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia
Gertrude Chawatama	-	Commissioner, Zambia

(The Commission commenced at 9.20 a.m.)

The Acting Chair (Commissioner Namachanja): Welcome to the third day of the TJRC hearing in Eldoret. On behalf of the Commissioners, I would to thank you for the respectful way in which you have been participating in this process. I request you to maintain the same; that we listen with respect and minimize the movements in and out so that we do not disrupt the process. Please keep your phones off because if you put them on silence mode, whenever you move out, you will be disrupting the process. The procedure is the same. We shall have the witness being sworn in. Thereafter, he will give his testimony; after which the leader of evidence will ask some questions for clarifications. Then the Commissioners will also get a chance to ask questions. Thank you. Hearing clerk, please swear in the first witness.

(Prof. Harun Ngeny Mengich took the oath)

Mr. Tom Chavangi: Thank you Professor Mengich. For the second time, kindly state your name to the Commission.

Prof. Harun Ngeny Mengich: My name is Harun Ngeny Kipkemboi Arap Mengich.

Mr. Tom Chavangi: What do you do?

Prof. Harun Ngeny Mengich: I am a professor of mental health at Moi University School of Medicine.

Mr. Tom Chavangi: You gave a statement to this Commission about post election violence that took place in 2007 and your participation as the head of Moi Teaching and Referral Hospital. You were the Director of Moi Teaching and Referral Hospital during the post election violence. Kindly states what happened in relation to the actions *vis a vis* the action of the police and the larger community within Eldoret.

Prof. Harun Ngeny Mengich: I have to go back to the time just before the general election in this country, when I took my usual end of year leave with the intention of

celebrating Christmas and voting. Before this, I consulted the District Commissioner to find out if it was okay for me to leave the hospital and he assured me that he did not expect any problems whatsoever during that period. I proceeded on my leave and we had in my view, a very successful general elections, especially for the councilors and the members of parliament. It was around 29th of December when I was checking how things were at the hospital only to be told that there was some degree of tension. The next day, I received a phone call from my Permanent Secretary to get back to the hospital because things were not as good as my Acting Director had told me. I made about three attempts to go to the hospital around the 1st, but I was not successful. I did communicate back to my Permanent Secretary and he was able to prepare an escort for me to come back to the hospital. All along the way, all roads almost up to the hospital were blocked by youths and any attempt to allow me or to escort me did not succeed.

On arrival at the hospital, the whole situation was chaotic. Staff who had been on duty had been unable to leave and go to their homes. The staff who were supposed to replace them, had not been able to come to work. The supplies of the hospital had run out. Some of the surgeons that we required for some of the patients were unable to access the hospital. The mortuary had by that time over a hundred bodies and the capacity is 190. Most of the bodies were on the floor of the mortuary.

I did communicate back to my Permanent Secretary and the Director of Medical Services that the situation was deteriorating at a fast rate at the hospital and that, if we did not have some emergency supplies, we would not be able to help any of the victims that were being brought to the hospital. In consultation with the offices of the Permanent Secretary and the Director of Medical Services, we were able to persuade the International Committee of the Red Cross to fly in supplies. This was risky because some of the supplies they had to fly in were refrigerated in pressurized oxygen. In the initial incidents of the first few days, the center of the town was relatively calm with quite a number of youth demonstrating. It became evident that some of the victims we were getting in the hospital came from residential areas outside the town center. It was a few days later that the police came in and then we started receiving bodies and victims of gun shots. It is also important to note that the number of bodies that we received ultimately were 165. But, to us, that was an under-estimate because many of the relatives, who brought their bodies on realizing that the mortuaries were full, went back with their bodies.

We were also concerned about a clinic that we had started in May 2007. The clinic is called CARE which stands for Center for Assault and Recovery in Eldoret. We were also concerned about patients who are on HIV medication because our fear was that if they do not continue with the medication, they will build resistance to the drugs. What struck the CARE center is that, at the beginning, we did not receive any clients at all and we attribute this largely to the fact that nobody could access the hospital except with the escort of police. Shortly after, the numbers of sexually assaulted victims started rising. What we did as a result of working with the police was to ensure that all the staff required at the hospital were escorted to the hospital so that our operations could continue. Some of our staff had had their homes destroyed and we set up a facility within the hospital to accommodate them so that we could feed them. We also organized a team of intervention

personnel headed by one psychiatrist so that they could go out and identify some of our patients in number and see if they could give intervention measures for those who had been displaced.

Thereafter, things happened very fast. The one incident that I can recall very vividly and which happened at around 1.30 p.m. is when the police tried to invade the hospital. We mobilized ourselves as staff and told them that the hospital is a place where those who are suffering should look for help. They were very reluctant to leave and, unfortunately, I had the telephone number of the Commissioner of Police who in turn called the PPO Rift Valley, who then ordered his police to leave the hospital ground. They left after lobbying about four or five teargas canisters within the hospital grounds and some of my security personnel were injured by that.

Mr. Tom Chavangi: I will ask you a few questions then I will hand you over to the Commissioners who will also ask questions for clarification.

You said that during that time, you called the PS for assistance. Who was this PS?

Prof. Harun Ngeny Mengich: The PS was called Dr. Nyangito.

Mr. Tom Chavangi: And the Director of Medical Services?

Prof. Harun Ngeny Mengich: The Director was Dr Nyikal.

Mr. Tom Chavangi: You also said that while you were trying to access the hospital, you actually made four attempts and in those attempts, you did not manage to get to the hospital until you sought assistance from the police. Why were you not able to get to the hospital?

Prof. Harun Ngeny Mengich: All the roads accessing the hospital were blocked by youths. They had stones across the road, some had felled trees and put them across the road and in one occasion, they had lorry loads of sand across the road.

Mr. Tom Chavangi: Were those young men armed?

Prof. Harun Ngeny Mengich: Most of them were not armed.

Mr. Tom Chavangi: So, they just blocked the road but they were not armed?

Prof. Harun Ngeny Mengich: They blocked the road but they were not armed and, as far as I could tell, they were not assaulting anybody who was trying to come toward the town.

Mr. Tom Chavangi: In terms of capacity in the morgue during the two weeks, was it unusual to have many bodies beyond capacity?

Prof. Harun Ngeny Mengich: As I said, we have a capacity of 90 bodies in the mortuary. We have another one for forensic purposes for police cases which can accommodate another 30. The one for normal purposes normally accommodates 48 bodies but we can easily double without experiencing any problems.

Mr. Tom Chavangi: You also said that the bodies had bullet wounds. How did you know that the bodies had bullet wounds?

Prof. Harun Ngeny Mengich: Seventy one bodies had bullet wounds because all the bodies underwent postmortem examination.

Mr. Tom Chavangi: You also said that at some point the police wanted to invade the hospital. Did you ever know the reasons as to why they wanted to invade the hospital?

Is it usual for police officers to want to invade hospitals?

Prof. Harun Ngeny Mengich: It is not usual and I did call the District Commissioner to find out why this was happening and the answer he gave me was that it was beyond his control. I can only speculate that this is the time when relatives come to the hospitals to see their sick and this is the time when my staff break for lunch. When they were running back to the hospital, the police must have assumed that those were some of the people who were demonstrating in town. But that is just speculation.

Mr. Tom Chavangi: Thank you very much Prof. I will now hand you over to the Commissioners who will ask you a few questions.

Commissioner Ojienda: Thank you Prof Mengich, for giving us the details of the experiences that you went through during the post election violence and the role that the Moi Teaching and Referral Hospital played. I want to ask you to briefly tell us whether there are constant challenges to the delivery of services to the public at the hospital. I am just asking about capacity requirements and whether you think that there are any recommendations that this Commission can make to improve the delivery of services at the teaching hospital for the benefit of the people of this country and specifically the people of Eldoret.

Prof. Harun Ngeny Mengich: Those of us who live around Eldoret would know that the Moi Teaching and Referral Hospital was upgraded from a district hospital into a teaching and referral hospital to assist the new medical school that was established at Moi University. That posed a number of challenges, from inadequate physical infrastructure, shortage of finances in the day to day running of the facility, lack of attraction of experienced senior medical personnel and an influx of patients from the whole of western Kenya who believe that, that facility was at par with Kenyatta National Hospital; which is not the case. It is still at the stage of development and for it to provide the services, it is supposed to--- We estimate that the Government must find a minimum of Kshs2 billion because it serves the whole of western Kenya.

Commissioner Ojienda: How many doctors and nurses do you have and what specific facilities do you think should be installed and improved for the hospital to reach to the level it can deliver the expected services?

Prof. Harun Ngeny Mengich: The hospital has about 150 consultants and 400 plus nurses. The hospital's bed capacity is about 700 and for the diversity of clinical cases that we expect our students to encounter, we would need to, at least, double the number of beds in the hospital. The hospital has been lucky in getting external support but, as it strives to offer project programs, that support has proved to be inadequate. We need to have centers for cancer treatment, heart problems, HIV AIDS pandemic, mental health illnesses and we need to build a robust research infrastructure.

Commissioner Ojienda: I want to understand one thing. Your reappointment as director of the hospital has in the recent past been mired in political controversy. I want you to tell us to what extent and why politics has taken center stage in the running of the affairs of the hospital and what the real political interests are. This is a very important facility and service should be the driving force and not politics. I think you ought to tell us something about that. We may make some recommendations that would help the hospital in future.

Prof. Harun Ngeny Mengich: I wish you could understand the thinking of politicians but, a year before the end of my contract, which was ending in mid March this year, I indicated the wish that we should probably start looking for somebody to take over. At this point, we had a number of projects lined up from the donor community. We were negotiating with Brown and Duke University and the International Atomic Agency in Vienna to start a state of the art cancer center. We had just received substantial funding from the National Institute of Health in America to start centers of excellence in respiratory diseases, cardiovascular diseases and mental health diseases. The Board then asked me to reconsider my wish to leave given the number of projects that were in the offing. The other project we had was a children hospital. I said I would apply for the job if only to serve one or two years. The job was advertised, I applied, I was interviewed and I was told I was top of the panel and my name was forwarded to the minister. It is the minister, I understand, who declined to put up the name. So, I am back teaching at the university.

Commissioner Ojienda: Thank you very much Professor. I wish you well as always.

Commissioner Chawatama: Morning Professor! My apologies because I missed the best part of your testimony. However, I have a question that you might be able to respond to and if you are unable to, I will understand. My question comes from the fact that you have also had an opportunity to deal with IDPs. One of the most distressing things that we have heard as a Commission is we have IDPs who have ran away or have been forcibly evicted, they have lost all their property and they have lost businesses. When they have a patient who is sick and maybe dies, they are unable to pay hospital bills or mortuary bills and once the sick have recovered, they are not released. The dead are also not released because they are unable to pay the bills. As a professional, after the post election violence, did you ever sit down to think of the plight of such people? Did you

make recommendations to the Government and if not, how do you think those people ought to be treated?

Prof. Harun Ngeny Mengich: Thank you for the question, Judge. We had a series of meetings at the hospital as hospital management and we made a decision that none of the victims of the post election violence will be charged for any services whatsoever at the hospital. We communicated that information and what it was going to cost the hospital because the hospital is expected to raise some funds for its own recurrent expenditure with the hope that the Government will compensate the hospital. We set a timeline and we said that for any case where we had evidence that, that was a post election violence victim, he/she would benefit from what we had agreed. We did this for a whole year. What we noticed after a year because we were able to send our social workers to look at the background, was that a number of people who were not post election violence victims started taking advantage of this. The Government has, in fact, paid the hospital part of what we billed them for this purpose.

Commissioner Chawatama: Thank you very much. That is the only question I had.

Commissioner Dinka: Professor, thank you very much for your testimony. My question is about the police action. The police have the structures of who gives commands. When they came to invade the hospital, particularly when they started throwing teargas into the compound where the patients were, who was the commander of that operation and who is the commander who sent them? Has that been determined?

Prof. Harun Ngeny Mengich: I do not know and I do not think we pursued that. But I communicated with the District Commissioner in his capacity as the Chairman of the District Security Committee.

Commissioner Dinka: But they had not penetrated into the hospital compound. Were they able to capture even one rioter or somebody who was doing criminal acts outside and ran into the hospital? Did they ever discover one?

Prof. Harun Ngeny Mengich: No, they did not.

Commissioner Dinka: In your knowledge, have you ever heard of either the DC or the security committee taking any kind of disciplinary measures against those policemen?

Prof. Harun Ngeny Mengich: I have not heard any and as I had indicated earlier, the DC informed me that everything was beyond him.

Commissioner Shava: Thank you Professor Mengich for your testimony. I also came in as you were on your feet but I have one question for you which is with regard to the road block. You said that the youth were mainly not armed and they were erecting road blocks using felled trees and some barriers. You said that nobody was being assaulted. So, in your view, what was the purpose of those road blocks?

Prof. Harun Ngeny Mengich: I think it is important first to appreciate where I was coming from. My farm is near a place called Moi's Bridge which is on the way to Kitale and to access the hospital, there are about three main routes from Kitale. There was one road block immediately after Moi's Bridge and it was manned by large groups of youths with all sorts of stones and logs across the road. This is the first encounter I had with the road blocks and I had a chat with those youth and, much as I pleaded with them that I was a doctor and needed to get to the hospital, they told me that they had given up hope as youths. They had hoped that, after the elections, there would be change. There will be an opportunity for them to get jobs and therefore, they did not care whether I went to the hospital or not. I tried to plead with them and asked if one of them could escort me. They told me that it was not just one road block. There were road blocks all the way to town and it would have been risky for me to go without escort. The other one that comes through Ziwa was similarly blocked by the same youth.

They were keen to tell me that they were mainly university and polytechnic graduates whose parents had sold their pieces of land and their animals to enable them graduate, but they are poorer at home than when they had not gone to university. They felt that they did not have a future.

Commissioner Shava: Thank you very much Professor. You have answered my question very well.

The Acting Chair (Commissioner Namachanja): Before we continue, I would like to recognize the presence of Reverend Commissioner Bomet of the National Cohesion and Integration Commission.

Thank you, Professor, for sharing your story with us. I just have one dilemma that I would like to share with you and maybe you can give us recommendations. One of the challenges that this Commission is confronted with is how to deal with the societal trauma that is caused by the massacres, the armed conflicts and ethnic clashes. This has been very evident especially during the hearings. It is overwhelming. As a psychiatrist professor, do you have any recommendation on how to deal with societal trauma for long-term healing of Kenyans?

Prof. Harun Ngeny Mengich: I think the establishment of this Commission in itself is an acceptance that we have trouble and that we need to dialogue. Through dialogue, the suffering could be minimized. I also think that we have professional bodies within this country that have not been fully exploited. We have left the politicians to spearhead this process of reconciliation. If we involved the relevant associations of counseling, that include educational, psychological and clinical counselors, association of psychiatrists and associations that exist in this country and the neighbouring countries, we can attempt to address the issue.

In my profession, suffering never completely disappears, it is ameliorated.

The Acting Chair (Commissioner Namachanja): Would you mind helping us to take the first step in maybe organizing a meeting of these bodies so that we start?

Prof. Harun Ngeny Mengich: I would definitely be willing to do that. As I said, I organize a team headed by a clinical psychologist and other nurses who have been trained in counseling to visit the various IDP camps in Kitale, Eldoret *et cetera* and that team is still intact. They would be able to assist me because there is a long term follow up of some of the cases.

The Acting Chair (Commissioner Namachanja): Professor, thank you so much for coming to share with this Commission. I know it was not easy for you and your staff during that period and my appeal is, please, step in to help us deal with this societal trauma. Studies have shown that unhealed trauma leads to a vicious cycle of violence. If we have to stop the vicious cycle, we have to come out and deal with the societal trauma that Kenyans have gone through right from the colonial period to date.

Thank you so much.

Leader of Evidence, please step down the witness and swear in the next witness.

Mr. Tom Chavangi: Professor Mengich has given me a document showing a summary of bodies released for burial at Moi Teaching and Referral Hospital during the post election violence. I pray that this document be admitted as an exhibit.

Prof. Harun Ngeny Mengich: Madam Chair, I realize that the dates when the bodies were received in the document I had given earlier were wrong, so please correct that one.

The Acting Chair (Commissioner Namachanja): The document is accepted.

Mr. Tom Chavangi: Commissioners, we have Eldoret 16; Wilson Too. I have given a green folder with two memos. I have discussed with Wilson on the first document which is a memorandum from Kaptich Company Limited. He will read to us the first two pages and on the second memo; AIC Tebeson, he will read the first page. As the rest of the documents are with the Commission, we are actually aware of what the documents are all about.

(Mr. Wilson Too took the oath)

Mr. Tom Chavangi: Please repeat your name for record purposes.

Mr. Wilson Too: My name is Wilson Too. I am a retired teacher having taught for 33 years. I have a family of 2 wives and 15 children, blessed by God. They are serving in other parts of the country and internationally. I am currently the Chairman of the Board of Governors of a secondary school in Nandi North.

The first memorandum is about land issue 11963/2 North West of Eldoret about 10 kilometers from here. The land is 1063 acres and I have attached copies of letters for your perusal. The key players of the grabbing of this portion are the State House and the District Commissioner, Uasin Gishu, the late Ishmael Chelanga and Chief Lesero Nelson Serem, now retired. He was commanding the AP's who demolished our homes and who arrested our members; there is also an assistant chief Kipkeis Arap Too, who was participating in the arrest and demolition of houses.

They are now retired and they should be recalled to come to the Commission and be questioned in connection with this crime. Mr. Kipchoge Keino and his wife Phyllis Keino should also be summoned to shed light on the issue. Mr. David Neville Craig of Lewa Downs Limited in Isiolo should also be summoned to explain how he was called to State House, who called him and the conversation between him and the caller.

The Commissioner of Police at that time should be summoned to come and tell us why he arrested us and put us in cells in Eldoret. An OCPD called Lawrence Rotich of Kipkaren Farm now retired benefited. I have attached a list of names of the beneficiaries. Also the retired President Daniel Arap Moi should be summoned to this Commission to shed light on whether he called Craig to State House.

After all these people have been summoned, they should repent before members of the public and then fulfill the following conditions. It is 23 years since they grabbed this land and they should calculate 1063 acres and multiply by the production per acre which is 60 bags of maize or wheat at a price of Kshs3, 000. They can get a total of how much they have to compensate us.

During that time, three children died after their parents were called at night. So they got pneumonia and died. They should also compensate the families and I have prepared a compensation list. The register of the judiciary is attached here. They arrested us nine times and all cases were terminated. That is about the first portion of the land.

Mr. Tom Chavangi: This memo that you presented on Kaptich Company Limited, would you wish that this memo be produced as an exhibit by the Commission?

Mr. Wilson Too: Yes, Sir.

Mr. Tom Chavangi: Presiding Chair, may it be admitted as an exhibit.

The Acting Chair (Commissioner Namachanja): It is so admitted.

Mr. Wilson Too: I prepared nine copies because the Commissioners are nine and you can take to those who are absent. I will now go to the second memo.

The land we are interested in is another ex-Lewa Down land. The land is LR19183 survey plan 78190, the status of this land is now public land when it was allotted to us by the Commissioner of Land. When the process was going on, an honorable Member of

Parliament wrote a letter to the President accusing me. I have attached the letter of the Member of Parliament of the area. The letter is inside here and you will read for yourselves. I would also like the Member of Parliament to repent to the Commission and the entire country for writing a letter to the highest Government offices about a matter that could have been solved by the two of us. I have nothing else but you will read for yourselves this memo. I have been waiting for this time and I am very bitter about it. If these people cannot repent, I will leave it to God to decide.

I have nothing against anybody and I think God brought this Commission so that we may live in peace. These people created a hostile environment. In the new Constitution, anybody can live anywhere in this country but it is absurd for an honorable Member of Parliament to say that people come from Nandi and they own land in Uasin Gishu. All these people living in Uasin Gishu here came from Nandi, Marakwet, Baringo and Kiambu. But we have to live together in peace.

People should decide how they have to stay together but when leaders begin writing letters of this nature, that is incitement. On Monday, I attended a session and I heard an elder talking about *Kulbunot* although we have passed that stage. *Kulbunot* is somebody who does not belong to your community and that is something that should not come out of an elder. We need to live together and I need all my land back. That is all I have to say.

Mr. Tom Chavangi: Thank you very much Wilson. You must be a very courageous old man. You mentioned this Member of Parliament who wrote a letter to the highest office in this land. Who is this Member of Parliament?

Mr. Wilson Too: The Member of Parliament who wrote a letter to the Head of State is honorable William Ruto of Eldoret Constituency. The letter is attached here and that is his signature.

Mr. Tom Chavangi: What did he want from this office?

Mr. Wilson Too: He was tarnishing my name and the letter is self-explanatory.

Mr. Tom Chavangi: Thank you Mr. Wilson and I must repeat again that you are a very courageous old man. I have no further questions. I will hand you over to the Commissioners.

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Wilson for sharing your testimony. The Commissioners will now ask you some questions or clarifications.

Commissioner Shava: Mzee Wilson Too, I would like on behalf of the Commission to thank you for coming here today and for having so carefully prepared such comprehensive and clear documentation for us to study. I just have one question for you; you made reference to the Constitution under which we are now living. What are your expectations of what Kenya would look like? What would you like Kenya to look like 20 years from now in terms of the counties and given our history; how we have been talking

in this country about devolution and the different points of view that have emerged in the debate? How do you think we should live in these counties and what would you like to see?

Mr. Wilson Too: This document is a God given document. All interests of people of all communities are catered for in this country. When the Government comes to the counties, there would be rapid development and sharing of resources and I think the country will really grow into a great country.

I am urging Kenyans to guard this Constitution jealously. During the referendum, some people were talking of men marrying each other especially the church people. How many weddings have been done in churches among men? None! So this is the best document we have and I am urging the Government to write it in vernacular languages so that people really understand, so as not to be misled by politicians. This is second to the Holy Bible.

Commissioner Chawatama: Thank you very much for your testimony and thank you very much for the last words that you spoke in reference to peace and how Kenyans should live in peace. It was a message of loving your neighbour and one ought to understand who one's neighbour is and that is the person who will be affected by your very actions. From the post election violence, we note some of the things that happened because neighbours decided not to be neighbourly and this resulted in the loss of property and many deaths.

You are also right when you talk about leadership and the need to lead by example and to be faithful in leading God's people. It is a privileged position to be and a hard one which should not be taken lightly. My passion is justice and that is why I am a judge.

I would like to know the experience you had at the hands of the police and also how you were treated when you accessed the court and if you have any recommendations in the way these two institutions should operate.

Mr. Wilson Too: The police were brutal in the way they were handling us and our families. They were not friendly. We need change in the police force. It is becoming a police service. When we got to the courts, we were treated equally and that is why we won all the nine cases. I can see a lot of changes in the judiciary, thanks to God and the authorities. These are instruments and institutions that God has placed on earth so that they look after human beings.

I do not know how the police are trained but I can see now there is a bit of improvement. I have been arrested many times and they could even lock me up without writing in the Occurrence Book. They could even use the chiefs and we have had a lot of bad times. Kenya was in darkness under KANU Government and we should forget that system. Thank God for multiparty politics. Kenyans can now live together and you can move freely, there is no intimidation.

There was a time in 1988 when I presented my papers for Mosop Parliamentary seat. I had been given permission by the Teachers Service Commission, but only to reach the District Commissioner's office and to be told that I had not got permission from my headmaster. That was pure cheating. We were doing elections in this country and the shortest line was the winning one. We should forget that time and move forward.

We hear people grumbling that there have been so many Commissions that have come up with many recommendations but no action has been taken. However, I believe that that was another Government and this is a different one. You will come up with something nice that will help our country.

The cause of election violence is the careless talk by the politicians. Most of our politicians do not care about other human beings. If they cannot change, then God will change them.

Thank you.

Commissioner Chawatama: Thank you very much and we also look forward to a reformed judiciary and a reformed police service and better treatment of the citizens by the police.

The Acting Chair (Commissioner Namachanja): I would like to notify the public that we have also been joined by Commissioner Tororei of the Kenya National Commission on Human Rights.

Thank you so much.

I do not have any other question. Commissioner Ojienda will be the last Commissioner to ask questions.

Commissioner Ojienda: Thank you Wilson. I listened to your testimony on the two parcels of land. Let me start with the last one. You got an allotment letter from the Hon. James Orengo and then I can see a letter written in 2006 by Hon. William Ruto. Let us start with this parcel of land. Your society has a membership of 544 and I can see that they are from different communities. In the letter written by the Hon. William Ruto to President Mwai Kibaki, he accuses you of coming up with a list of people. In fact, he raises questions about the co-operative itself and states that the land should be allocated to a list of squatters that is known to the DC.

My first question would be, after you got the allotment letter signed by Odima Otieno, after you paid Kshs3.7 million, what happened? After paying the Kshs3.7 million, what happened after that?

Mr. Wilson Too: We surveyed the land.

Commissioner Ojienda: And that is as per the agreement you had with the surveyor. After surveying the land?

Mr. Wilson Too: The surveyor was chased away.

Commissioner Ojienda: Was there formal communication from the Commissioner of Lands revoking the allotment?

Mr. Wilson Too: There was.

Commissioner Ojienda: Was that after Hon. William Ruto's letter?

Mr. Wilson Too: Yes after his letter, a letter was written.

Commissioner Ojienda: Was the Kshs3.7 million that had been paid refunded to you?

Mr. Wilson Too: They returned the cheques after receiving this letter.

Commissioner Ojienda: After the surveyors were chased from the land, what happened to the land?

Mr. Wilson Too: It is still intact.

Commissioner Ojienda: Intact in whose name?

Mr. Wilson Too: It is still public land.

Commissioner Ojienda: Who lives on that land and what goes on, on that land?

Mr. Wilson Too: Anybody from anywhere can dig on the land.

Commissioner Ojienda: Have you taken steps to do a search on that land?

Mr. Wilson Too: Yes.

Commissioner Ojienda: Has there been any attempt to acquire that land?

Mr. Wilson Too: No. I had appealed to the Minister and you can see the letter and that matter is now on his desk.

Commissioner Ojienda: Before this process of the company wanting the land, what was the status of that land and what was happening on that land before you applied for allotment?

Mr. Wilson Too: It was just open land.

Commissioner Ojienda: Are you saying that from 1963, nothing has gone on, on that parcel of land?

Mr. Wilson Too: It was owned by a *mzungu* and then the Government acquired it for the development of barracks. Later on, the military took their portion and I have the titles here.

Commissioner Ojienda: Out of the larger parcel, what portion went to the military?

Mr. Wilson Too: The two portions you have; one for ordinance and the other one for 9KA. It remained and we were allotted the remainder.

Commissioner Ojienda: Where are your members and where are they living? Do they have their own land?

Mr. Wilson Too: Some of them are here and they have their own land.

Commissioner Ojienda: So they are not landless people.

Mr. Wilson Too: Some are landless and some have land.

Commissioner Ojienda: Out of these 544 members, how did you intend to ballot and to issue the shares of the 1063 acres?

Mr. Wilson Too: The 1063 is the lower one.

Commissioner Ojienda: Let us talk about the first one. How did you intend to share out this to the members?

Mr. Wilson Too: We were hoping to sell shares.

Commissioner Ojienda: So people had bought shares from Tebeson Cooperative?

Mr. William Too: Yes

Commissioner Ojienda: How much were you selling the shares at and how many shares did you issue?

Mr. Wilson Too: One share was equivalent to two and a half acres and one share cost Kshs25, 000.

Commissioner Ojienda: Let us get to the lower land. We agree that the Hon. William Ruto has not acquired this land and it is still public land.

Mr. Wilson Too: He has not acquired it.

Commissioner Ojienda: But farmers have been denied the use of this land and that is why you have appealed to the Minister to consider for allotment.

Mr. Wilson Too: Yes.

Commissioner Ojienda: On the second parcel of land, you accuse the hon. Daniel Arap Moi and Ishmael Chelang'a; why do you accuse the retired President?

Mr. Wilson Too: I accuse the former President because the *Mzungu* has written: "I was called to State House". Because of talking with His Excellency, he was told to terminate the contract. Inside there, there is that letter written by the *Mzungu* mentioning State House. Who was the occupant of the State House? Daniel Moi, the retired President.

Commissioner Ojienda: Mr. Wilson, there are many other people who live in State House.

Mr. Wilson Too: But he is saying, "His Excellency". We have one Excellency in State House.

Commissioner Ojienda: You challenged the termination of the contract, is that true?

Mr. Wilson Too: Yes.

Commissioner Ojienda: What was the finding of the court? You were before Justice Aganyanya.

Mr. Wilson Too: Justice Aganyanya said his hands were tied. We have it in the Court of Appeal where it has taken 20 years. Are we going to get justice really?

Commissioner Ojienda: Were you not granted leave to appeal out of time?

Mr. Wilson Too: They have not. They have sat on it now for five years.

Commissioner Ojienda: Who is your lawyer?

Mr. Wilson Too: Mr. G. Muhoro.

Commissioner Ojienda: I would recommend that since we have a new dispensation, that this appeal is pursued to its logical conclusion. There are issues in the judgment by Aganyanya which I have read. They deserve the appeal that you filed. Because you have followed the route or the path of challenging the decision of the contract for the sale of this parcel of land and you have a lawyer. We have a new court, a new Chief Justice and the Registrar is from Kesses which is just two kilometers from here. I want to encourage you to at least give life to this appeal and conclude that because you have an appeal that raises various issues. Are you still in PNU?

Mr. Wilson Too: I have retired from these parties.

Commissioner Ojienda: Thank you.

The Acting Chair (Commissioner Namachanja): Elder, I just want to assure you that the documents you have shared with us will be looked into for any further investigations. If there is any need for us to get back to you for any clarifications, we shall do so.

Thank you so much.

Mr. Tom Chavangi: Commissioners, the next witness is still Eldoret 16. He is called Kipchoge Samoei. He is from the Talai community. He was in Kericho when the Talai community was presented. However, he says that the Kericho Talai is different from the Eldoret Talai. So he wants to clarify a few issues regarding the Eldoret Talai. I have allowed him to make the clarifications and then go direct to the recommendations.

Commissioner Shava: Sorry, through the Chair, could the clerk, please, approach.

Mr. Tom Chavangi: Commissioners, what you have as Eldoret 16 is supposed to be Eldoret 17 and that is a witness that we had yesterday in camera. Now, this Eldoret 16 has just brought the memo now. Therefore, you might not be having the memos in your folders.

Presiding Chair, should I proceed?

The Acting Chair (Commissioner Namachanja): We do not have the memo but I will let him proceed.

Mr. Tom Chavangi: He is going to be very brief. I think he is going to take ten minutes.

(Mr. Kipchoge Chomu Samoei took the oath)

Mr. Tom Chavangi: Mr. Kipchoge, you presented a memo before this Commission on the Talai community in Eldoret. Kindly let us restrict ourselves to the issues that were not mentioned in Kericho so that we avoid reinventing the wheel or repeating ourselves.

Mr. Kipchoge Chomu Samoei: You already have the history of the Talai community from those who presented in Kericho. We moved from Nandi. The problems of the Talai community began with the colonialists and continued after independence. They were isolated to Kapsesiywa. Most of them who tried to move were either killed or chased back to the concentration area. Kapsesiywa is an island-like place in the heart of Nandi. It is surrounded by rivers. It is now one of the most congested locations in the Nandi County. Its occupants are only the Talai clan. It is the only location in Kenya where one clan has been restricted to, forcefully.

Those in Kapsesiywa were cut off from the other members of the community. When the Government posts teachers to this area, few dare to report to work. Some may come because they are related to the people. There have been attempts from the members of the

clan to move out of Kapsesiywa to buy land elsewhere because of their increased population. Those who have moved out of Kapsesiywa, a number have been chased back. Some have been killed for being members of the Talia clan. You will see in the details in the memorandum, on 8th June, 1989, a man by the name Kipkerong' Yego was killed on Nandi Hills. The culprits were arrested but they were later released under unclear circumstances.

In 1993, Kipchoria Maiyo and his son were killed in Kapsematwa, just around Nandi Hills. In 2000, one member of the Talai clan called was also killed some few kilometers, about five kilometers, up here. That was near Chepkoilel Campus. Those who escaped; relatives, wives, sons and daughters were forced to seek refuge in Kapsesiywa. Examples are one Arap Lel, John Limo, Rongoi Chemng'uk, Arap Isen. Yego's wives and children went back to Kapsesiywa and the rest are in the memorandum.

The second point, when the Talai people were forced to Kapsesiywa, their ancestral lands were taken away. There is one piece of land that remained until very late 1990s. It belonged to Koitalel Arap Samoei who is my great grandfather. By 1970 the community in that region decided to put up a school and resettle some people on that land. They agreed, they approached the multinational, surveyed the land and they did all the necessary things with the Ministry of Lands. However, in 1993 something funny happened; instead of transferring the land to the community and to the school, the land was transferred to a private company owned by a prominent Member of Parliament who is the Member for Tinderet Constituency. He is called Henry Kiprono Kosgey. So currently, the land is owned by the Tinderet Development Trust Company. This is Kosgey's company co-owned by his son. So, all the Talai members who are in Kapsesiywa are in abject poverty. Their attempts to move out have been met by resistance, killing and being driven back.

One thing which is very funny is that all this happens in broad daylight. Many arrests have been made but the politicians bail them out because of one reason or another. The British succeeded in brainwashing members of our Kalenjin community that the Talai are wizards. These are the people who led the Nandi people in resisting the British. Therefore, the colonialists directed their attention on these people. They succeeded in instilling this mentality into our people. It is so unfortunate because to date, they are still under siege. In fact, as we are talking now in this hall, one member of the Talai family has a case in the local chief's office around Segero. There is a delegation of people who have told the administration that the person must go back to Kapsesiywa having stayed there for almost 20 years.

Let me be brief and make the following recommendations;

- (i) The Talai community in Nandi recommends that they be recognized as a marginalized community because in our Constitution, the definition of marginalized community is very relevant to this community. In Article 260 – a marginalized community are those that because of their relatively small population or for any other reason have been unable to fully participate in the

integrated social and economic level of Kenya as a whole. So we recommend that these people be recognized as one of the marginalized people.

- (ii) The Talai Community to be liberated with monetary measures and otherwise. That will alleviate their suffering, compensate their social and moral material losses, thus restoring their fundamental rights. This can be done by resettling them in a less congested area. Kapsesiywa is one of the most densely populated areas. Imagine from the 1930s to date.
- (iii) We, the Talai community request that a commission of inquiry be established to investigate these forceful evictions and brutal murders of our members and those who are directly or indirectly responsible be brought to book. We have discovered that there are some people who have been indirectly responsible. Like the person who was killed in Kapsematwa where a senior civil servant paid some cash and told the people to kill that man and his son.
- (iv) Measures be instituted to end the social ostracism the Talai have gone through; isolation and segregation of the community, then be brought to the mainstream society through programmes so that that the barrier track that has been brought on them can be removed. As we endeavor to reconcile the Kenyan communities, the Talai should also be part and parcel of the reconciliation. For your information, they are the oldest IDPs in Kenya.
- (v) The members of the Talai community, because they have been marginalized for that long, be considered as a matter of urgency in employment in public and private sectors.
- (vi) Resettlement of the Talai community, as I have said, outside Kapsesiywa. There are some members of this community who have been killed. Some died in prison. In fact, my grandfather spent almost 40 years in various prisons. He was detained in almost each and every prison in Kenya. This was from 1930s to 1962. So we recommend that these people be considered as national heroes and some monuments be built in their memory.
- (vii) There are some people who have been standing with the Talai community. These are people like Jean Marie Seroney and the Late Bishop Alexander Kipsang' Muge. These people have been with us although they are not members of our community. We also recommend that something be built in their memory. Their deaths should also be fully investigated because they died under mysterious circumstances.

Finally, the Talai community is very thankful to the Government of Kenya. This is because, for the first time, they have been given time to air their agonies. We are very hopeful that our plight will be finally addressed and long term solutions found. We thank the President of Kenya for being the first President in the independent Kenya to recognize the Talai community and its leaders.

Thank you very much.

Mr. Tom Chavangi: Thank you Kipchoge for your presentation. I will ask you three questions then I will hand you over to the Commissioners for clarifications.

You mentioned some individuals who were killed, why were these people killed?

Mr. Kipchoge Chomu Samoei: As I said, the colonialists told our fellow Kenyans that these people were sorcerers and wizards. Their reason for saying this was that these are the people who advised the Nandi to resist their administration here. So, these people were killed because of lies propagated by the colonists, progressed by collaborators and unfortunately nurtured by the Christian believers. So, it is a belief that these people are wizards. Therefore, anything that happens in the village which does not have any natural explanation, it is the Talai people who take the blame.

Mr. Tom Chavangi: So, these people who were in killed in 1989, 1993, 2000 and 1986 were killed as a result of these rumours?

Mr. Kipchoge Chomu Samoei: Yes.

Mr. Tom Chavangi: You also agree that the Talai are soothsayers who can foresee?

Mr. Kipchoge Chomu Samoei: “Soothsaying” is the wrong term. You know God gave everybody common sense then He gave some few some uncommon sense. He then gave some very few extra-ordinary senses. These are the people who have such extra-ordinary sense to know what will happen before it comes to pass.

Mr. Tom Chavangi: In our explanation, how would you call such people who can foresee and predict the future? What is the name you would like people to call them?

Mr. Kipchoge Chomu Samoei: These are the foretellers.

Mr. Tom Chavangi: Did you say that land was grabbed by hon. Kosgey?

Mr. Kipchoge Chomu Samoei: Yes.

Mr. Tom Chavangi: How big is this land?

Mr. Kipchoge Chomu Samoei: I only mentioned the Kapkagon land which is 400 acres. This was grabbed by Kosgey from the Talai community. However, he is known as a serial land grabber in Nandi. He holds almost half of Nandi Hills.

Mr. Tom Chavangi: Are there any documents to show ownership by the Talai Community for these 400 acres?

Mr. Kipchoge Chomu Samoei: It is contained in the background of the memorandum. This is the land that was owned by Koitalel Samoei and his people. But because land registration was not there, then after his death, other members of Talai were isolated. That land stayed until recently when this politician took it. The locals there say that this is Koitalel's land.

Mr. Tom Chavangi: When did he grab this land?

Mr. Kipchoge Chomu Samoei: He took this land in 1994.

Mr. Tom Chavangi: Have you ever taken the matter to court?

Mr. Kipchoge Chomu Samoei: We have never taken this matter to the courts.

(A photographer criss-crossed the floor)

The Acting Chair (Commissioner Namachanja): Excuse me. Photographer, you are disrupting the process. Can you sit down? If you must take photos can you take them from where you are seated? Use the zoom.

Sorry, please, continue.

Mr. Kipchoge Chomu Samoei: I was saying that we have never taken this case to the court but we have raised this issue even with the Head of State and the Ministry of Lands.

Mr. Tom Chavangi: Why have you not taken it to court?

Mr. Kipchoge Chomu Samoei: We were doing the ground work; researching and compiling information. I believe it is now the right time and, more so, our courts now have been given new impetus. We shall pursue the issue.

Mr. Tom Chavangi: Thank you very much Kipchoge. I have no further questions. I will request the Commissioners to ask you questions.

Commissioner Ojienda: Thank you very much witness. Tell us a bit more about your grandfather.

Mr. Kipchoge Chomu Samoei: KoitalelSamoei or which one?

Commissioner Ojienda: You have fondly referred to your grandfather as having been imprisoned; from one prison to another. Is KoitalelSamoei also your grandfather?

Mr. Kipchoge Chomu Samoei: He is my great grandfather. My grandfather was arrested immediately after Kenya became a British colony. The British Government knew the Native Removal Ordinance of 1909 and the Witchcrafts Ordinance of 1925. They said that these people were witches. They had killed Koitalel and they imagined that his son

was coming up to resist them. They arrested him, arraigned him in court in Eldoret and he was imprisoned in Nyeri and Meru from 1924 for almost 11 years. Because he was now the leader of the Nandi community then, the Nandi said: “We need our leader back”.

Therefore, around 1935, he was brought back to Kapsabet and placed under house arrest next to the District Commissioner’s office. This was later followed by the Nandi uprising. There was protest from the Nandi community. So, the British said it was because of this man who had come around. They took him back to the prisons until the 1950s. He got ill and was taken to hospital.

In 1956, the British said other members of his clan in Kapsesiywa had caused more problems. They took 11 members who were his cousins and sons and took them to Mfangano Island. They included BarselienManyei. So, in 1961, Jean Marie Seroney tabled a Motion in Parliament on why the Talai people were imprisoned. They were released in 1962. Some died there. There is one who died in Mfangano and was buried there. The rest were brought back to Kapsesiywa in the name of freedom but you know this is an extension of imprisonment. So, he was brought to Kapsesiywa but he was an old man then. He lived in abject poverty until 1974 when he died as a squatter in Moiben.

That is a brief. The details are in the memorandum.

Commissioner Ojienda: So, you have a list of those you want recognized?

Mr. Kipchoge Chomu Samoei: Yes.

Commissioner Ojienda: Why do you consider Kapsesiywa an extension of detention?

Mr. Kipchoge Chomu Samoei: In the 1940s, the British Government included Kapsesiywa as one of the concentration camps for the Talai members in Nandi. In 1956, it was officially gazetted that Kapsesiywa, Gwasssi, Mfangano and Laibon Village in Kericho were concentration areas for the Talai. For one to come out of Kapsesiywa, even for a visit, you were required to apply for permission from the Provincial Commissioner’s office in Nakuru.

Commissioner Ojienda: That was then, but I am talking of now!

Mr. Kipchoge Chomu Samoei: As I said, Kapsesiywa Location 26 is occupied by only one family; the Talai community. Nobody has come to live with us. Some of us who have tried to move out have been chased back because in their mind, they know this was their camp. That is why we still consider it a concentration camp.

Commissioner Ojienda: You consider it, but it is not. Ordinances are no longer there. I think you need to move on. We are living under a new dispensation and you cannot go back to the ordinances and say that because they were, therefore, you are still imprisoned.

Mr. Kipchoge Chomu Samoei: The ordinances are no longer there but what is in the minds of the people is what is controlling what is happening.

Commissioner Ojienda: Okay. The people must move on and change their minds. Let us get to the point; you have said that you are soothsayers?

Mr. Kipchoge Chomu Samoei: I said, “Soothsaying” is the wrong word. We foretell.

Commissioner Ojienda: So you can pretty much foretell what will happen even here?

Mr. Kipchoge Chomu Samoei: That is it. However, not every member of the Talai does that.

Commissioner Ojienda: Your great grandfather was Koitalel Samoei. So did you inherit that talent yourself?

Mr. Kipchoge Chomu Samoei: In the family there are some people who inherited that.

Commissioner Ojienda: It is that power that has led to the stigmatization of the Talai community?

Mr. Kipchoge Chomu Samoei: Yes.

Commissioner Ojienda: In Kapsesiywa, is there any level of development that has been undertaken by the Government in terms of schools, hospitals, roads and other facilities?

Mr. Kipchoge Chomu Samoei: In Kapsesiywa we only have one secondary school, three or four primary schools and one health centre. The secondary school was started in 1925 but it is still a *harambee* secondary school. I am sure you understand what I mean by “*harambee*”. Therefore, the social amenities are below standard in spite of the population.

Commissioner Ojienda: What is the total population of the Talai? You are talking of minority but the Talai are part of the Nandi. It is a clan, is it not?

Mr. Kipchoge Chomu Samoei: Yes.

Commissioner Ojienda: So what is the population of the Talai and then the wider Nandi?

Mr. Kipchoge Chomu Samoei: Maybe I may not have the details now but Kapsesiywa Location has less than 4,000 people in an area of almost 150 acres.

Commissioner Ojienda: So 4,000 members---

Mr. Kipchoge Chomu Samoei: I am doing some consultations here.

It is an area of 1,500 acres.

Commissioner Ojienda: So you are less than the Ogiek?

Mr. Kipchoge Chomu Samoei: In Kapsesiywa, yes.

Commissioner Ojienda: There is another community that lives in Embobut Forest around here. You know I am asking this question because if every clan within our community is counted, they may qualify to be an ethnic minority. The Marakwet may also claim they are a minority. The Elgeyo may also claim they are a minority. There are other communities that are even smaller. If you go to the level of clans then even sub-clans may claim they are a minority.

I hope you have given us all the details in your memorandum to help the Commission. I know that communities are also marginalized and the Talai are working hard to make sure that they bring development to the fold. We must also learn to live together as one country. In as much as identities must be kept, if we sub-divided ourselves into sub-clans, I do not know where we will be heading as a country.

The Acting Chair (Commissioner Namachanja): Thank you very much for sharing concerns of the Talai community. Have there been any inter-marriages between the Talai people and other Kalenjin community members and other ethnic groups in Kenya?

Mr. Kipchoge Chomu Samoei: When the Nandis are going for engagement we are supposed to identify ourselves by clan and using animal names. So, anytime we are in engagement, you have to be known. Yes, there have been inter-marriages between the Talai community and other communities. In fact, it is easier to marry from other communities than Kalenjin. If you go to Kapsosiwa now, you will find that most women are light skinned because they came from Central Province.

The Acting Chair (Commissioner Namachanja): Do the Talai community have a council of elders?

Mr. Kipchoge Chomu Samoei: Yes.

The Acting Chair (Commissioner Namachanja): Is it represented in the Kalenjin council of elders?

Mr. Kipchoge Chomu Samoei: Yes.

The Acting Chair (Commissioner Namachanja): Has the representative brought the issue of the Talai to the council of elders? What was the result? Most of the issues you have brought up are to do with culture and traditions which can be better handled at the community level.

Mr. Kipchoge Chomu Samoei: As I said, one of the reasons why we are in Kapsesiywais because people still have suspicions. Some elders have really tried to fight that mentality. That is why I was recommending that we should integrate with those people and avoid isolation. If we do so, those things will die off slowly.

The Acting Chair (Commissioner Namachanja): Luckily, in the room, we have the chairman of the council of elders. I would encourage you to meet him and discuss with him some of those issues especially those dealing with culture and tradition so that we can find a lasting solution.

Before the members of the Talai leave the room, they could stand up so that we can acknowledge them.

(Members of the Talai stood up)

We acknowledge. You can now sit down.

(Mr. Samuel Kiprotich took oath)

The Acting Chair (Commissioner Namachanja): We have a law that you can only take photographs from where you are seated but, during the testimony, we do not allow the media people to move around because they disrupt the process. Please, take photos from where you are seated or come to the area designated for the media.

Mr. Tom Chavangi: Thank you very much, Acting Chair. Before the Commission we have the Marakwet community. This is Eldoret 17 divided into Endo, Sogom, Kaben and Murukuto. These are four gentlemen representing the four sub-clans of the Marakwet namely, Samuel Ruto Rotich, John Kipkoe, Benjamin Kirmoyo and Felix Cheptarus. Andrew Chelimo has chosen to testify in Kitale. The first witness is Samuel Ruto who is going to speak about the Kaben community. The other witnesses will just fill in the gaps.

What language do you want to use to address the Commission?

Mr. Samuel Kiprotich: I would like to use Kiswahili.

Mr. Tom Chavangi: For record purposes, please state your name and your current occupation.

Mr. Samuel Kiprotich: My name is Samuel Ruto Kiprotich. I am a farmer and an elder.

Mr. Tom Chavangi: There are some documents that you have brought before the Commission concerning the Kaben community from the Marakwet. What would you want to say about that community?

Mr. Samuel Kiprotich: I would like to talk about boundaries in Kaben in Marakwet area. There is a farm that we lived in before but when the borders were demarcated, the

area went to West Pokot. We were told that we would continue farming but after a short time, a chief from Pokot called Joshua told us to move to the Marakwet side. After that, they fenced off the area for grazing. We were also told not to cultivate in the area. Recently, we started fighting in the area. The Pokots claimed that the land is on their side. That brought problems between the Marakwet and the Pokots. The elders were supposed to resolve the issue between the Pokots and the Marakwets. That affected even the administration because the two chiefs from both sides could not agree. The elders resolved that the land was on Pokot side and there was no negotiation about it. Even right now, there is still conflict over that land. We want the District Commissioner (DC) to come and make sure that the land is brought back to Marakwet.

There is another one near Kerio. When they started the youth programme, our youth wanted to join the programme but there was a problem which nearly led to a conflict. We hope that the Government, together with the elders, will come and solve the problem. That also includes Kamuria and Soilo areas. When you look at the previous boundaries, you will see that the farms are on our side.

Regarding the clashes between us and the Pokots, it is historical. The pokots attacked us from 1975 and took away our property and many lives were lost. We were not assisted by anybody. No action was taken and we are still crying about it. That can bring a serious conflict between the Pokots and the Marakwets. From 1976 to 1982, so many people died. We requested the Government to beef up security. In 1997 we were told to build houses for police officers. We did so and we were assisted by the churches. Despite us doing so, the Government did not bring police officers. The houses remained vacant until they became dilapidated. Right now, we still have problems although there are some agreements. We are still sad because we lost loved ones, our land and our property. But we have not started any conflict.

In 1992, the Pokots invaded Kaben Location and killed people. They also went away with 10,000 head of cattle and goats. Nearly 30 people were killed and property looted.

We were doing our businesses in a place called Cheseгон. They demolished our houses and the buildings where we were running our business. There is a river that divides us and the Pokots. They took away the building materials and we were forced to move away. There were police officers in that area but they did not prevent the crimes from being perpetuated. So, we moved to another area called Liten and Sambalat. That is all I can say for today. Let those who are with me add something.

Mr. Tom Chavangi: Thank you, Mzee Kiprotich. I wanted you to talk about Cheseгон but probably the other gentlemen could give us their recommendations.

Mr. Benard Limai: Thank you. As the Marakwet community, we are appealing to the Government, through this Commission, to come forward and assist the Marakwet community to get justice. Due to what happened, especially regarding the war between the Pokots and the Marakwets, we are demanding compensation to all the affected families. There are those who lost their loved ones and we recommend that they be

compensated. They should be assisted to educate their children and also feed them. They should also be assisted so that they can construct their houses.

There are also families which were affected by landslides. They moved because of the landslides. So, we are recommending that those families should be allocated alternative land so that they can settle.

The Government should also assist the Marakwet community to construct schools so that the children can get education. Above all, Marakwet community does not have administrative structures. So, we are recommending that the Government should provide administrative structures in the Marakwet side along the Chesegon side where trade was affected. Thank you very much. I will give an opportunity to one of my colleagues.

Mr. Tom Chavangi: Commissioners, these witnesses are from the Kaben community which is a sub-klan of the Marakwet. I will seek your guidance whether to ask this sub-klan of the Marakwet some questions before we bring in the others or do we listen to all of them first and then ask questions generally.

The Acting Chair (Commissioner Namachanja): We shall have brief questions for the Marakwet community so that we are through with them. Then you can bring in others.

Mr. Tom Chavangi: Thank you very much, Acting Chair. I will ask Mzee Ruto some questions. Why are there problems between Marakwets and Pokots?

Mr. Samuel Kiprotich: The main problem is the boundary dispute and grazing land. The Pokots and the Marakwets are neighbours and we even inter-marry.

Mr. Tom Chavangi: Are you pastoralists or farmers?

Mr. Samuel Kiprotich: We are pastoralists and also farmers.

Mr. Tom Chavangi: Is the problem between you and the Pokots about land or pasture?

Mr. Samuel Kiprotich: It is both.

Mr. Tom Chavangi: How do you co-exist right now?

Mr. Samuel Kiprotich: We are co-existing. We are not fighting right now. Every community lives in its side but we graze in the same area.

Mr. Tom Chavangi: So, at the moment, the security has improved?

Mr. Samuel Kiprotich: We still have dispute over the pieces of land but, generally, security has improved.

Mr. Tom Chavangi: You said that you were evicted from Chesegon. Who evicted you?

Mr. Samuel Kiprotich: It was the Pokots. They were armed with guns. Right now, they live near that market and have built houses there. For us, we now live in the upper side.

Mr. Tom Chavangi: Does Chesegeon belong to Pokots or Marakwets?

Mr. Samuel Kiprotich: Chesegeon is Marakwetland. It was part of the Soilo Farm. At some point, they came and took the upper part of it and left one part for us. Chesegeon was the shopping centre for the Marakwet.

Mr. Tom Chavangi: You said that you did not get any help from the Government?

Mr. Samuel Kiprotich: We did not get any help from the Government.

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Kiprotich. This is the chance for Commissioners to ask you questions.

Commissioner Shava: Thank you for your testimony. Early in your testimony, you referred to some agreements that you entered into with the Pokots. What was the content of those agreements?

Mr. Samuel Kiprotich: The agreements stated that we should have peace by stopping killings and raids.

Commissioner Shava: Was it only one item?

Mr. Samuel Kiprotich: Yes.

The Acting Chair (Commissioner Namachanja): Mzee, the issue of cattle rustling is very disturbing. Research shows that it used to be a cultural activity where youths used to go out to get cows from neighbours for marriage. The activity also had its rules. For example, during cattle rustling, innocent women and children were not supposed to be killed. On the first day of our hearing, we heard of a disturbing incident in which about 11 babies who were undergoing polio vaccination were killed. Mzee, in your view, what has gone wrong?

Mr. Samuel Kiprotich: It was not part of our culture to do cattle rustling to pay dowry, but people who were marrying decided to do it in order to pay dowry. There is no culture that encourages that.

The hospital where children were being given polio vaccination is near Kerio and Pokots were near there. They thought that, for the women to move, they had to kill children. They wanted people to move so that they could get a chance to raid cattle on the other side. So, they attacked the children in Tot Health Centre. When the children were killed, we did not see the Government taking any steps to stop such attacks.

The Acting Chair (Commissioner Namachanja): Do you see a political hand in the cattle rustling incidences?

Mr. Samuel Kiprotich: Yes. Politics are involved. When they take cattle, they use the road that the Government knows. Sometimes, the cattle are transported in lorries in the full view of police. They even use roads that are manned by security officers but nothing happens. Sometimes, the officers tell us to go after the cattle ourselves.

(Mr. Benjamin Kirimoyo took oath)

Mr. Tom Chavangi: For the record, could you tell us your name, what you do and where you live.

Mr. Benjamin Kirimoyo: My name is Benjamin Kirimoyo, a businessman and a peasant farmer from Sokong community, a sub-clan of Marakwet.

Mr. Tom Chavangi: Commissioners, the gentleman before you is coming to talk about the issue of the General Service Unit (GSU) officers in Marakwet. Mr. Kirimoyo, kindly explain to the Commission about the GSU within Marakwet Division.

Mr. Benjamin Kirimoyo: Thank you so much. I am going to state about operations in Marakwet. Before doing so, I would want to say that there were incidents which happened in Marakwet, and particularly in Sokongo. This is about what happened in 1992 and 1997, and in 1999 during an operation by the Kenya Army. Again, I would like to request the Commission to allow me to talk about an incident that happened in 2000, which affected me as a person and, again, in 2002, before the elections. Let me state about the operation by the Kenya Army, which happened in 1999.

It was carried out on 25th, May, 1999, at around noon. It was said that there were some animals which had been stolen along the River Kerio. They pursued the raiders with the animals. They said that they went through Sokongo village. On the following day, instead of pursuing the raiders and the animals, the Kenya Army personnel from Kinyek Barracks started an operation in the same village. It was horrible. They used every weapon they had. They used a helicopter. They used anti-personnel grenades and whatever weapon they had. On that fateful day, the Sokong community lost a lot of property. People were injured. Instead of the Government protecting them, they almost destroyed the whole village. They burnt down houses, shot at children and raped women. In Marakwet, women fear to say that they were raped. This is because if they say that they were raped, they are chased away by their husbands. So, they did not mention that they were raped but on that day, the situation was really bad. We wondered whether the whole community had committed any mistake. Worse still, the Government did nothing. There was a GSU camp near that same village. There were regular police officers at Tot, but they never bothered to investigate the incident. Even the Administration Police never bothered. His Excellency the President also never bothered.

As a community, we remained poor and innocent. Through this injustice, we lost property and children. Our children have never gone to school. We are not the same as other communities in our country because at the end of the day, an uneducated society cannot prosper.

Let me make a few comments about what happened in 2001. It was on 11th June, on a Sunday when the Pokot raided our village. On that day, I was grazing about 14 cows. At about noon, the Pokot raiders stopped at our village. I was at Kabeldemet Trading Centre, after running down from the grazing grounds. On reaching Kabeldemet, I saw three gentlemen who had come from the village. I thought that they were Marakwet from Kapsakwony in particular, but they were not. They were raiders. All of a sudden, I was shot on the chest. I stayed there for about an hour before some Good Samaritans took me to hospital. I mean my village-mates.

When we arrived at hospital, I was given first aid. I thought I was the only one who had been shot but there were so many others who had been injured. The raiders were using deadly weapons. It was through the grace of God that we survived. Our people managed to take us to Kapsowar Mission Hospital. Before reaching Kapsowar, we lost one of the persons we were with. Some of us were lucky to survive. Later, after realising---

Mr. Tom Chavangi: Commissioners, the witness wants to show you the scar that was left by the wound caused by the bullet that went through his chest.

(Benjamin Kirimoyo showed the male Commissioners the scar)

The Acting Chair (Commissioner Namachanja): Commissioner Dinka will share with the public what they have observed.

Commissioner Dinka: We have observed that the bullet which hit his right side of the chest exited at the back. It entered through the chest and exited at the back.

The Acting Chair (Commissioner Namachanja): I am sorry for that, Benjamin. Please, continue.

Mr. Benjamin Kirimoyo: After I regained consciousness, we realised that we had lost more people. On that day, we lost about four persons, and more than five people were injured. We also lost a large number of livestock. The hospital bill was big. We lost plenty of money.

Let me go to the recommendations because this is just about reconciliation. One thing I want to add is that this is about the Government that was there. At the time, Kenya was not like Somalia but we never say anything that would make an ordinary person doubt that we had a Government. We are, therefore, recommending that every family which lost a person be compensated. Again, we are recommending that children of this community be given education scholarships, so that the community can be uplifted to the level of

people of other regions. We recommend that schools be built and health centres be established, so that when such problems occur, they can be handled.

I am only worried about one issue. There were so many commissions which went round the country, and we gave them recommendations but there is no improvement on the issues we have talked about. It is also our worry that this Commission is also not going to work on the same. We are talking about reconciliation. Let this be done according to the problems that the people face, so that such issues may not arise again, and so that Kenya can move forward and bring about equality to very community.

I would also like to request the Commission to give a chance to other people who are here to highlight anything that I may have forgotten to highlight.

Mr. Tom Chavangi: Thank you very much, Benjamin. The Commissioners will address the issue of your fears about this Commission, but I have a few questions for you. Which other communities border the Marakwet and the Pokot people?

Mr. Benjamin Kirimoyo: Our neighbours are the Pokot, the Tugen, the Keiyo and the Nandi.

Mr. Tom Chavangi: How did you know that the Pokot were the ones who raided the area where you were shot? How did you come to identify the raiders as belonging to the Pokot community?

Mr. Benjamin Kirimoyo: I identified them because to the east part of our village is East Pokot District. Also, this is something which was happening often and, other than the Pokots, none of our neighbours were attacking us. The Pokots were the only aggressors.

Mr. Tom Chavangi: So, you want to say that the Keiyo, the Tugen and the Nandi are not aggressors?

Mr. Benjamin Kirimoyo: They were not.

Mr. Chavangi: Thank you. Just for our knowledge, where do the Pokots get their weapons from? Are you also armed, as the Marakwets?

Mr. Benjamin Kirimoyo: I cannot tell exactly where the Pokots get their weapons from, but sometimes they say that they get their weapons from Uganda.

Mr. Tom Chavangi: So, you want to say that those are illegal weapons?

Mr. Benjamin Kirimoyo: Yes.

Mr. Tom Chavangi: Do you know why the Government went ahead to sanction this operation in Marakwet?

Mr. Benjamin Kirimoyo: I believe that the Government sanctioned the operation because of political reasons at the time. The Government favoured the Pokots.

Mr. Tom Chavangi: Thank you very much. Commissioners, I have no further questions.

Mr. Benjamin Kirimoyo: Let me add something. The Kenya Army mounted an operation in a small village when we sometimes have issues like the ones in Migingo and other areas, where they need to carry out operations. We have never heard of the Government taking any action in respect of those issues.

Mr. Tom Chavangi: Thank you.

Commissioner Ojienda: Benjamin, I want to ask you a few questions. First of all, what is the state of security around the border between the Marakwet and the Pokot now?

Mr. Benjamin Kirimoyo: Let me say that after the 2002 elections, when the NARC Government took over, there have not been incidents of insecurity apart from the negligence of the Kenya Army, who play with their weapons down there. We had an incident in 2002, around May, when children from our village found a grenade and thought that it was a ball. When they played with it, it caused them great harm. Two boys were killed and two more were injured. At the moment, the security situation in Marakwet is a little better. Apart from incidents where some criminal elements steal, we have not had any serious incident. I would recommend that the Government repossess any illegal arms which may be in the hands of individuals.

Commissioner Ojienda: Are you recommended dis-armament of the Pokots and the Marakwet?

Mr. Benjamin Kirimoyo: Yes, I am recommending dis-armament of the Pokots and the Marakwets, if they have guns.

Commissioner Ojienda: So, the Pokots have small arms and light weapons. What about the Marakwets?

Mr. Benjamin Kirimoyo: There are beliefs that some Marakwets have the same weapons.

Commissioner Ojienda: I want to touch on the problem of small arms and light weapons in this region, and the border issues. You have said that the Pokots secure arms from Uganda. How would insecurity end if the Pokots are disarmed and their Ugandan and Ethiopian counterparts still have small arms?

Mr. Benjamin Kirimoyo: Because of the peace that prevails between the Marakwet and the Pokot communities, criminals on Marakwet and Pokot sides are becoming friends. These are the ones who undertake criminal activities down there. Again, if the

Governments can close the borders, disarm communities in Kenya and prevent intruders in our neighbouring countries from entering Kenya peace will prevail in the entire region.

Commissioner Ojienda: While on their way to school, Kibiwott and Ruto found an object on the way. When they tried to play with it, it exploded and, of course, they got killed. I want to find out whether there is a problem of grenades and other artillery bombs that were abandoned in the region.

Mr. Benjamin Kirimoyo: It is true that the problem is rampant. These weapons were left behind by the Kenya Army. The best thing they can do, since they are the experts on the same, is they had better go down and look for those things.

Commissioner Ojienda: On the question of development, you referred to schools and health centres. What recommendations would you make with respect to this region? Given what you went through after being shot, when you had to be taken to Kapsowar Mission Hospital, what is your recommendation? What would have occurred if there was a good hospital nearby?

Mr. Benjamin Kirimoyo: If there was a good hospital nearby, even the deceased person with whom we were being taken to hospital would have been saved because his injury was not worse than mine.

Again, the issue of infrastructure as a whole should be addressed. It will do us good if the Government constructs some good roads and builds some good schools to spur development in that area.

I would also recommend that the Government gives more funds to the youth and women. That is when the incidents of insecurity will go down. If the youths are economically empowered, they will not have time to engage in criminal activities.

Commissioner Ojienda: Lastly, on the question of rape, you said that during the operation that was mounted by the Kenya Army, women were raped, and that the women did not admit to those violations because of the possibility of being rejected by their husbands. Why is it so? Is it a cultural question?

Mr. Benjamin Kirimoyo: Yes. In the Marakwet culture, a woman belongs to one man, and there is no question of sharing a woman. The women know that if they were to state the truth, their husbands may react negatively. That was why it was not mentioned at all.

Commissioner Ojienda: What would have happened to them if they admitted?

Mr. Benjamin Kirimoyo: They would have been divorced.

Commissioner Ojienda: You mean they would be sent away?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Ojienda: Thank you, Benjamin.

Commissioner Chawatama: Benjamin, thank you for your testimony. Maybe, just some thought on the issue that Commissioner Ojienda has brought up. Who are the people who are involved in cattle rustling? Is it men or women?

Mr. Benjamin Kirimoyo: It is the men.

Commissioner Chawatama: In your opinion, what would the results of cattle rustling be?

Mr. Benjamin Kirimoyo: One, illiteracy---

Commissioner Chawatama: You are not getting my point, Benjamin. If the Pokot, for instance, decide to come and get cattle from you, and you also then get cattle from them, what would happen in instances like those or what has happened, in fact?

Mr. Benjamin Kirimoyo: I have never heard of any time when the Marakwet have carried out acts of aggression against the Pokot. Whenever the Pokot came to raid Marakwet villages, livestock and lives were lost.

Commissioner Chawatama: So, your testimony is that the Marakwet do not involve themselves in cattle rustling?

Mr. Benjamin Kirimoyo: They do not.

Commissioner Chawatama: The previous witness said that the parties – the Marakwet and the Pokots – entered into a peace agreement. Why would you enter into a peace agreement if you are not an offender?

Mr. Benjamin Kirimoyo: Of course, we had to enter into the peace agreement because the Marakwet people are robbed by the Pokots. They did this in order for their children to go to school. They realised that they should show some kind of humility, so that Pokot's tempers cooled down.

Commissioner Chawatama: What brings about their tempers?

Mr. Benjamin Kirimoyo: Their tempers were high because they were the aggressors, and most of them had not gone to school. They even regard such raids as a hobby.

Commissioner Chawatama: You also talked about reconciliation. I am trying to imagine a situation where one would try to facilitate reconciliation. That is one of the things we would want to see as a Commission – Kenyans reconciling. I am trying to imagine a situation where the Marakwet and the Pokot communities are reconciled. Some of the things they may have to admit to one another are the wrongs that they may have

done towards each other, and how these wrongs are going to come to an end. What would the Marakwet say to the Pokot, for example, if reconciliation was facilitated?

Mr. Benjamin Kirimoyo: I believe and hope that the Marakwet have already reconciled with the Pokot. The only thing that needs to be done is follow up and facilitate. Since May, 2002, when the NARC Government came in, there have been no more raids. The MP who took over the Pokot parliamentary seat has made some efforts to get Pokot children to school. If the Government could make an effort to build more schools in Pokotland, this would bring about reconciliation and address many other issues.

Commissioner Chawatama: Thank you very much. I have heard you talk about building of schools and hospitals. Do you have a magistrate's court in Marakwet?

Mr. Benjamin Kirimoyo: Thank you for that very good question, Commissioner. We do not have any magistrate's court in Marakwet. Even petty offenders from that area are prosecuted in Iten or Eldoret.

Commissioner Chawatama: How many kilometres away is the nearest magistrate's court to Marakwet?

Mr. Benjamin Kirimoyo: To the eastern part of it, it is about 150 kilometres away. To the west, it is about 60 kilometres away.

Commissioner Chawatama: Thank you very much for your testimony.

Commissioner Dinka: Thank you for your testimony, Benjamin. I have a few questions just in order for me to be very clear in my mind. How frequent were the raids by the Pokot in Marakwet villages?

Mr. Benjamin Kirimoyo: I talked about the raids since 1992. I may not have touched on the same in the year 1991 going backwards, but since 1992, the raids were quite often. I have just talked about what happened to the Sokong community, but there were so many raids that happened. Even during an anti-polio campaign, more than 15 children were massacred at Tot Health Centre.

Commissioner Dinka: When was the last raid?

Mr. Benjamin Kirimoyo: I can remember that the last raid was that at Murkuto Makaka.

Commissioner Dinka: Which happened in which year?

Mr. Benjamin Kirimoyo: It happened in 2001.

Commissioner Dinka: That is ten years ago?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Dinka: So, that was the last raid?

Mr. Benjamin Kirimoyo: That was the last major raid that happened in Marakwet.

Commissioner Dinka: Every time that a raid happened, what happened from the side of the Government? Did they send the military or the police or---

When was that?

Mr. Benjamin Kirimoyo: I cannot remember the time.

Commissioner Dinka: Not the date, but the year.

Mr. Benjamin Kirimoyo: It was in 2001.

Commissioner Dinka: That is ten years ago?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Dinka: So, that was the last raid?

Mr. Benjamin Kirimoyo: That was a major raid that happened in Marakwet.

Commissioner Dinka: Now, every time the raid occurs, what happens from the side of the Government? Do they send military; the police or a combination of both?

Mr. Benjamin Kirimoyo: I said that there was no any kind of assistance from the Kenyan Government. So, if we talked about the Sokomu community, the General Service Unit (GSU) is actually a kilometre away. If we talked about Tot massacre, during the polio campaign; the GSU camp is less than two kilometres away and the headquarters of Tot Division is just a kilometre away from the centre.

Commissioner Dinka: Which division?

Mr. Benjamin Kirimoyo: Tot Division.

Commissioner Dinka: Okay.

Mr. Benjamin Kirimoyo: And there are policemen around there. Again, if we talk about Murgot Massacre; it is actually a kilometre away from the Anti-Stock Theft Unit (ASTU).

Commissioner Dinka: Then what happened? Did the GSU, the police and the ASTU react, or did they not?

Mr. Benjamin Kirimoyo: There were no reactions.

Commissioner Dinka: There was no reaction on the Government on security?

Mr. Benjamin Kirimoyo: Yes. I remember even when we wanted to make a peaceful petition to them; during the Kenya Army operations, we were almost locked up by the GSU.

Commissioner Dinka: Okay. Are you saying that every time these raids takes place - although the security agencies have representation in different parts of those regions and are not very far from where the raids take place - there is no any response from the Government security services at all?

Mr. Benjamin Kirimoyo: I can say there were no responses because if there was any response, we would have not lost a lot of cattle.

Commissioner Dinka: Okay. Let us take the other side of it; these are essentially cultural issues of not being educated and not having the right information; particularly modern information, and so on. They are stuck in the past. That is why these raids take place. Has there been any kind of intervention from the side of the societies themselves; from the Pokot and Marakwet? Have they done anything? Have they, for example, brought the youth of the two sides together, those who are the main actors in these wrongs; bring them together and try to give them a new vision whereby the youth of the two communities can work together for a better future instead of raiding and killing each other? Has there been any effort - I am not talking about Government security now - on the part of the society, elders and people like yourself who more enlightened? What is happening?

Mr. Benjamin Kirimoyo: Thank you so much. I can say it happened. The elders took an initiative of holding some barazas; and I even got involved.

Commissioner Dinka: To get them?

Mr. Benjamin Kirimoyo: Yes, the World Vision did a lot of work trying to reconcile these communities and even the Catholic priests and churches did the same. As I have told you, it never happened again since 2002. That was when people mingled together; did business together and got some kind of facilitation that was not there before.

Commissioner Dinka: So, has that attempt or effort borne fruits?

Mr. Benjamin Kirimoyo: Yes, it has borne fruits.

Commissioner Dinka: Now, do you not think it is important to continue with that kind of effort ceaselessly until the whole thing is settled down; instead of waiting for the GSU to come and assist you? What you have said shows that the interaction between the two communities was on a peaceful basis; the youth, elders and so on; had become very

productive or positive. So, is there a continuous effort or it has stopped? Should that not be a continuous effort?

Mr. Benjamin Kirimoyo: It should continue, Acting Chair. As I said, we need to build schools on both sides of Pokot and Marakwet in order to accommodate pupils from the entire region so that they can mingle together. Again, it should continue when there is facilitation in terms of infrastructure and other economic activities.

Commissioner Dinka: So, it is continuing now. The efforts by the elders and the youth on both sides are so good.

Mr. Benjamin Kirimoyo: Oh, yes!

Commissioner Dinka: Very good. Thank you very much. That is all I have for you.

The Acting Chair (Commissioner Namachanja): Benjamin, would you highlight more concerning the state of roads in this region? Has the road between Iten to Tot been tarmacked? I am asking this because the last time I used it to Tot was in 1997. Has there been any improvement?

Mr. Benjamin Kirimoyo: Acting Chair, the state of roads in Keiyo and Marakwet County is still pathetic. It is only that the other day there was some small tarmac done on the road from Kapsowar to Chesoi and from Chesoi to Chesongoch. They had made a little improvement from Biloto to Chesegeon. It is still a bad road and from Iten to Kapsowar and also from Chesoi-Sambalat-Chesegeon. From Chesoi to Kabieyo, the road is still bad. Even connections to Pokot and East Baringo are still bad.

The Acting Chair (Commissioner Namachanja): Unfortunately, commissioners, we do not have enough time. You need to travel on these roads for you to appreciate the state of affairs being described here. The last time I used it, I refused to come back through the same road. I had to go all the way to Ortum. It is a very bad state.

I will ask Commissioner Shava to ask her questions and in the process, you can also respond to the question of implementation.

Commissioner Shava: Thank you, Presiding Chair.

Thank you for your testimony, Benjamin. First, I would like to understand a bit about the politics of the day at the time when there were different raids coming from Pokot into your area. You said two things; that the police operation was based on the politics of the day which favoured the Pokot. You also said - which you did not seem to explain - that after the 2002 elections, the insecurity incidents dramatically died. I am trying to understand what you meant by saying that the Pokot were the aggressors. So, in your view, the Marakwet were never aggressors. Is that correct?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Shava: So, it was always the Pokot who came to Marakwet area to carry out these raids?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Shava: When they came, were they armed with firearms?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Shava: Maybe, you can help me understand why the Marakwet had firearms.

Mr. Benjamin Kirimoyo: By then, the Marakwet had no firearms.

Commissioner Shava: There was enough time and a lot of programmes around disarmament involving neighbouring communities such as the Samburu and the Turkana, who also neighbour the Pokot. Which people were being disarmed?

Mr. Benjamin Kirimoyo: There had not been any disarmament apart from in 1984 when there was some disarmament in Kacheliba, West Pokot. I have never heard of any disarmament since then. This kind of raids stopped in 2002.

Commissioner Shava: So, what you are saying is that, in your view, the Pokot had arms, they could come and raid Marakwet area at will; and then the security forces would come and penalize the Marakwet. Is that what you are saying?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Shava: Why would that happen? It sounds very strange! What politics allowed this kind of situation to prevail?

Mr. Benjamin Kirimoyo: The politics of the day by then was not all that kind. It was not favourable. I think there was some kind of business going in between the stolen livestock and some prominent persons in that same society at that time. I can say the Government of the day would take responsibility of the same issues that happened because they had every means to use to contain the very bad situation that happened during that time.

Commissioner Shava: We spoke about Kapsowar where you were evacuated after you were shot at. We are very sorry for that. Is it a mission or a Government hospital?

Mr. Benjamin Kirimoyo: It is a mission hospital.

Commissioner Shava: How far is it from your village?

Mr. Benjamin Kirimoyo: Kapsowar Mission hospital is about eight kilometres from Tot Divisional Headquarters.

Commissioner Shava: How far was the nearest health facility to you?

Mr. Benjamin Kirimoyo: Six kilometres away.

Commissioner Shava: Six kilometres?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Shava: So, why did you not go there?

Mr. Benjamin Kirimoyo: I did not go there because I went to a mission hospital which was four kilometres away from where I was, and my people considered it better because they had facilities like ambulance that could have been used to take me to another big hospital in case of an emergency.

Commissioner Shava: So, the facilities at the mission hospital near you and the one at Kapsowar were better than the Government facility?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Shava: Okay. You said that after the year 2002, when these raids went down, it was also being helped by the Member of Parliament for the area, who took the seat in the Pokot, who has made efforts to ensure that children go to school. Which MP is this?

Mr. Benjamin Kirimoyo: He is still the current Member of Parliament for Baringo East, hon. Asman Kamama.

Commissioner Shava: On the issue of the Kenya Army and on reading your statement; I see something that looks like anti-personnel (?) and I believe that is what you also said; that in the Government operations there were anti-personnel people who were deployed. Is that what you said?

Mr. Benjamin Kirimoyo: Yes.

Commissioner Shava: What are those?

Mr. Benjamin Kirimoyo: Anti-personnel (?) are light bombs.

Commissioner Shava: Is it buried under the ground? Is it concealed or you can see it? Is it something which is thrown or is it something which---

Mr. Benjamin Kirimoyo: It is something which is supposed to be used but I do not know how they are using it but it is something big.

Commissioner Shava: And the injuries were caused to people when they stepped on it or when it hit them?

Mr. Benjamin Kirimoyo: The injuries were caused when it burst out.

Commissioner Shava: Has the Kenya Army made any efforts at all to mop up any of these unexploded ordinances?

Mr. Benjamin Kirimoyo: Not yet.

Commissioner Shava: None?

Mr. Benjamin Kirimoyo: None.

Commissioner Shava: Okay. I think those were all my questions. In response to your concerns with regard to what is going to happen with the recommendations of this Commission, we would like to let you know that, in the way our Act is structured, it is mandatory for the Government of the day to implement the recommendations this Commission will come up with. That is why it is very important that you took this opportunity to tell us what your recommendations are, as they inform us what we are going to write in our report. It is not about what we as commissioners think should happen. It is about what the people of Kenya think should happen.

So, we are very glad that you have taken the opportunity and time to come here and tell us what you think should be recommended. Our Act also gives us a very wide discretion in setting up what is called implementation mechanisms that will oversee the implementation of our recommendations after the live of this Commission. We are working with partners in terms of how the report will be structure and implemented.

Some of the partners are here today and we have introduced them to you. We have Rev. Commissioner Bomet from the National Cohesion and Integration Commission; Prof. Tororei; from the Kenya National Human Rights Commission and Ms. Pamela Toiyot Kamau from UN women. They are also working with us to ensure that issues with regard to women will be taken on board when we will be making recommendations.

So, basically, there will also be a lot of other institutions which have life after the life of this Commission; and who will be watching to see that these recommendations are implemented. They will also be part of what we are calling implementation mechanisms. Of course, citizens themselves, through organized forums will also be participating because once our report is published; it will be handed over to the appointing authority; the Head of State, His Excellency the President. After that, we will be publishing the report widely. So, everyone including you will have the opportunity to get a copy to read and make a follow up and see that implementation is properly done. So, I hope that allays your fears.

Mr. Benjamin Kirimoyo: Thank you.

The Acting Chair (Commissioner Namachanja): To add on what Commissioner Shava has said concerning the implementation, this Commission is also mandated to look into Commission reports that have already been produced by this Government and analyze them to see if the recommendations were implemented or not. Then the Commission will take on board those recommendations to ensure that they are implemented. So, we may be looking into over 34 reports of former commissions.

Thank you, Benjamin and your colleagues, for sharing the concerns of your community and your personal experiences. Sorry for what you went through. We thank God for having spared your life. Maybe He did that so that you could get this opportunity to share with us what you went through and what your community is going through. Thank you so much.

Mr. Benjamin Kirimoyo: Thank you too.

Mr. Tom Chavangi: Commissioners, our next witness is Eldoret No.17, who is going to represent the Endo Sub-clan of the Marakwet Clan.

(Mr. Felix Cheptarus took the Oath)

Mr. Felix Cheptarus: Thank you. I am Felix Cheptarus. Let me, please, give my presentation in Kiswahili. I am a resident of Marakwet East, Tot Division, and Endo Location. I am a farmer.

Mr. Tom Chavangi: Explain to the commissioners concerning the document you presented to the Commission.

Mr. Felix Cheptarus: I want to read to you what the Endo sub-clan has through since 1965 up to 2002.

A lot has already been said by those who presented before me, and according to the leader of evidence, I have been told to only mention what they have not talked about.

In 1999, our neighbours; the Pokot, invaded us and took away 5,000 herd of cattle; 1,021 goats and injured three people. After three months, we were invaded again and they took away 509 herd of cattle, 600 sheep and goats and two people were injured. The names of those injured were Messrs Michael Ndoluna and Limangel. When they went to recover the livestock, two people; Messrs Paul and Lechal, were killed.

In October the same year, they again took property of the Endo Location, injured two and three killed people. In August, 2000, they did what my colleagues have not mentioned here. There was a businessman from Chesegon Trading Centre, on the border between the Pokot and Marakwet. He was robbed money, lost sheep and goats he had bought plus a lot of foodstuff and then he was killed.

In May 2001, our brothers, the Pokot, came again to steal from us. They came in at about mid-day while children were grazing cattle, sheep and goats. Unfortunately, they killed two people. When we investigated, we found that there was plot partly planned by the Government. So, the following day, the then Rift Valley Provincial Commissioner, Mr. Peter Raburu, held a meeting at Cheseгон Market, and urged the Pokot and the Marakwet to live in harmony. When the meeting was going on, two kilometres from the venue, the Pokot raided us again and went away with a lot of cattle. We observed and thought that the Government should have been an accomplice because how would it be that a very senior Government official is holding a meeting and, yet just a few paces away, raids are going on and people are being killed?

Lastly, after 2002 elections, we had relative peace and the Pokot people came to raid us and killed one young man. When people were trying to track them down, they caught up with the cattle raiders some five kilometers away. They found something that is usually eaten by the Government security officers. Those foodstuffs are not sold by the Government. So, that is why they thought that Government officials were involved.

Finally, the Government did not really come to the rescue of the victims or assist them in any way by providing them with food, money or any other form of assistance. It was just coming in and holding meetings and going away without helping the victims.

My opinion and I have written the same in the statement is that the Government should compensate the victims and generally pay back the property we lost to the Pokot. There were people who were forced to move from Endo Location, Tot Division, to other parts, for example, Trans-Nzoia, Nandi and Uasin Gishu. They should be brought back to their homes and the Government should assist them to build their homes.

The Government and human rights organizations should join hands and find out the root cause of the conflict between the Marakwet and the Pokot people so as to try and explain to them the negative impacts of raids.

That is the end of my presentation.

Mr. Tom Chavangi: Thank you very much, Felix. Commissioner, if you look at his presentation, it is relatively similar to the previous speaker. So, I hand over the witness to you.

The Acting Chair (Commissioner Namachanja): Thank you so much, Felix for sharing with the Commission. We would like now to ask you a few questions starting from Commissioner Chawatama.

Commissioner Chawatama: I do not have questions to ask you except to say thank you. I feel honoured to be part of the Commission that has come to Eldoret to provide a platform for you to speak about some of the challenges that Endo Sub-clan is going through. I can only wish you well as a community. We shall study the memo you have given to the Commission and make appropriate recommendations. Thank you.

The Acting Chair (Commissioner Namachanja): Commissioner Shava, it is your turn now.

Commissioner Shava: Mr. Felix Cheptarus, I would like to associate myself entirely with the comments made by my fellow commissioner, Judge Chawatama, and to thank you very much for taking the trouble to put together a very detailed memorandum which we shall study and make appropriate recommendations.

Thank you for coming to testify before this Commission.

Mr. Felix Cheptarus: Thank you, Madam Acting Chair.

The Acting Chair (Commissioner Namachanja): Thank you once again. Leader of evidence, you can proceed.

Mr. Tom Chavangi: Presiding Chair and your fellow commissioners, the category of these Marakwet witnesses; we have the last one, John Kipkore, who is going to speak specifically about Murkutwo Massacre.

(Mr. John Kipkore took the Oath)

Mr. Tom Chavangi: Please, for the record, state your names again.

Mr. John Kipkore: My names are John Kipkore.

Mr. Tom Chavangi: What do you do for a living?

Mr. John Kipkore: I am a teacher by profession.

Mr. Tom Chavangi: Where do you teach?

Mr. John Kipkore: I teach at Queen of Peace Secondary School in Chesoi Zone, Tot Division, and Marakwet East District.

Mr. Tom Chavangi: You have a memo specifically on the Mulukutwa Massacre?

Mr. John Kipkore: Yes.

Mr. Tom Chavangi: Kindly, go ahead and present it.

Mr. John Kipkore: Thank you. First, we, the residents of Murkutwo Location thank God very much for such kind of hearings. It has been long since we started suffering in silence. I am sure a majority of the affected people of Marakwet; especially from the Kerio Valley, are not aware that we are making these presentations today. Very few people, maybe, aware and I believe they are here today. We wish if the Commission had

sent investigators to get first hand information concerning the nature of our problems. Nevertheless, we hope that we will not only be heard, but above all, we will be assisted to live in peace and go about our daily activities peacefully, freely and without any interference.

Concerning Murkutwo, I will go straight to the day of the massacre.

It was on Monday, 12th March, 2001, at about 5.00 a.m., when suspected Pokot cattle rustlers, numbering close to three thousand people, struck Mulukutwa Location. There were gunshots everywhere and all the eight villages of Murkutwo Location were affected. Everybody was running for his life and in most cases, they were running through the gates to bush for hideouts. Nobody was awake by then. Te few who were awake were mostly old men. So, most of us were caught unawares. We heard gunshots and we ran towards any direction that we thought of. A majority of us ran towards the direction of the raiders, and therefore, met their deaths. Those who never heard the commotion and woke up were burnt in their houses. Those who escaped and were not noticed are the ones surviving today.

It is mainly because of the nature of the topography of our land that a majority of us are still alive. Most of us were picked from the bush and brutally murdered. These included old men and women of up to 85 years old and also children of even two months old. So, those who did these acts were those warriors who had organized and positioned themselves in strategic positions. They were shooting almost everywhere to scare people.

There were no Government security agencies. The Anti-Stock Theft Unit camp at Chesongoch, within the location, was surrounded by the raiders. So, they could not offer any assistance. They were locked in for about seven hours. The raiders also made sure that all routes leading into and out of Murkutwo Location to the neighbouring locations were guarded. So, we were not assisted. The only assistance that we could get was from the Administration Police (AP) officers, whom we had gotten used to and who, on 8th of March, were recalled to Kapsowar District Headquarters for reasons we do not understand up to today. Those were the people we really believed could have assisted us. So, there was no assistance. The only assistance that we obtained was after the raids. Our neighbours came and collected the victims. They assisted a lot in recovering dead bodies from bush, graves and from other places where there could be bodies. A majority of them were burnt beyond recognition.

Thereafter, the Government sent some officers; and one notable officer was the then Minister for Internal Security, Maj. Marsden Madoka. Maj. Madoka came after about one day and brought with him some kind of assistance in the form of iron sheets and foodstuffs. Other assistance that we received was from non-governmental organizations, a majority of them, including the National Council of the Churches of Kenya, the Catholic Justice and Peace Commission, Red Cross Kenya, World Vision and many others. The effects---

The lead counsel is advising me not to read the effects.

Mr. Tom Chavangi: Acting Chair, the effects are a repetition of what other sub-clans, who have just presented. I am requesting the witness to go directly to the recommendations.

Commissioner Shava: Through the Acting Chair, I think also we would like to reassure the witness that we have the memorandum and we have read and understood the effects. So, please, be assured of that.

Mr. John Kipkore: Thank you, Acting Chair. My recommendations are as follows:

1. We want the Government to acknowledge that they failed in their responsibility to protect their citizens, our property, and our right to life and that our right to live in safety was violated.
2. We want the Government to apprehend the perpetrators of the massacre, especially the members of the Pokot Community from Baringo East, who were the main suspects, and charge them with murder, arson, theft and malicious damage to property.
3. The Pokot community can identify the suspects and hand them over to the Government.
4. The Government should compensate all families who lost their loved ones and the details of the bereaved and the deceased are shown in our appendixes.
5. The Government should compensate those who lost their animals, houses and other property through arson. This one is also provided in the appendix.
6. The Government should immediately carry out counseling services, especially to 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. It should be done by professional counselors as the victims are still traumatized.
7. The Government, through the Ministry of Education, should allocate specific funds to Pinopis Secondary School, which was constructed mainly to bring peace between the two warring communities and which, up to now, has more than 50 students from the Pokot Community learning there.
8. The Government should also provide funds to reconstruct all the four primary schools of Chesongoch, Murkutwo, Lelan, Lenyirel and Chesongoch Polytechnic. These are the affected learning institutions, apart from the pre-schools, which have not been mentioned here.
9. A monument should be constructed at Pinopis in memory of the slain people.

10. It is also important to remember that the Government should carry out some specific activities, especially on the Pokot side, pertaining especially to education, water and health care.

I must say, for sure, that the Pokots are most affected. These are the people who need a lot of assistance. They need to come out of their ignorance, so that they can also stop bothering other neighbouring communities.

There are also others that I have not mentioned and they include:

1. The Government to investigate some people who may be interested in Marakwet land, because this issue of cattle rustling has taken a different dimension. It is like there are some people within the Government, either from Baringo or Pokot, who are interested in our land either for grazing or farming or mining. So, we need to be guaranteed of our land.
2. It will also be good if the current Government institutes land demarcation and consolidation within the two communities, so that land ownership - The number of livestock should be reduced, because livestock seem to be the major cause of the problems.

Up to there, I have concluded because it is just a matter of reconciliation, and I have heeded to the advice from the lead counsel. In conclusion, we would like to say that as much as the community has attempted to cope with the situation, we want the truth to be told and justice served upon us, so that we can reconcile with each other; we will forgive and forget.

We appreciate the TJRC for having accorded us this opportunity to air our views and feelings. We have high hopes that this Commission will help us.
Thank you, Acting Chair.

Mr. Tom Chavangi: Thank you, *Mwalimu*. Before I ask any questions, commissioners, I have four memoranda from Murkutwo, Chesogon Community, Endo Community and Lokapen Community of the larger Marakwet Clan. I pray that these documents be admitted as exhibits.

Commissioners, I have no questions for this witness.

The Acting Chair (Commissioner Namachanja): The documents are admitted. Yes, Commissioner Ojienda!

Commissioner Ojienda: Thank you, Acting Chair. I have no questions for this witness.

The Acting Chair (Commissioner Namachanja): Yes, Commissioner Chawatama!

Commissioner Chawatama: Thank you very much for your testimony and for the statement in which a lot of information has been given, including the number of persons who died. You have listed the men, women and the children. It is a large number of people who lost their lives. You have also told us about the cause of the raid. You have

said that the months of January, February and March were usually a dry season in the Kerio Valley and that, historically, the Pokots would send their old men to come and ask if they could bring their animals for grazing. How long had the practice gone on before the incident took place?

Mr. John Kipkore: This practice had been going on since we came into being the way we are now. We are told by our old men that this is what has been happening; that the Pokots would send some old men to the Marakwet, when they wanted to graze their livestock there. The old men would meet and agree and grant the Pokot a place where to graze their livestock. The Pokots would give either some goats or cows that would be slaughtered and eaten on the place where the grazing is supposed to be done. After that was done, it was only those old men from the Pokot side who would go to the young ones and direct them where to lead their cows to graze. That would continue until the rains came. After the rains came and there was enough grass on the Pokot side, the Pokots would go back peacefully. This had been the practice from time immemorial.

Commissioner Chawatama: So, what happened to trigger the massacre that took place on that day?

Mr. John Kipkore: The Pokot ignored that tradition. They ignored the procedure altogether. Going back to some time, the Pokots were heard saying that the erection of the Turkwel Power Line--- Babu, who was the then President of this Republic; His Excellency Daniel arap Moi, had created for them a new boundary and that there was no need for any permission. So, the Pokots acted the way they wanted. In fact, they never made any request and they used their children in most cases. So, those children who drove their livestock would just come wielding guns and they could not listen to anybody. When they returned, they returned with animals from the Marakwet.

The worst part of it was that the majority of the livestock that the Pokots were bringing to graze were the ones they had taken from the Marakwet in their previous raids. So, we, the Marakwet, approached our leaders to tell the Pokots to drive the livestock away. We told our chiefs, DOs and DCs to communicate our feelings to the Pokots. Our feelings were communicated and the Pokots never heeded our plea. So, all of a sudden, we just saw some animals in the evening and then we heard some boys saying that “We have gone to bring things”. That was how it happened.

Commissioner Chawatama: So, the animals that you saw were the animals that were previously stolen from the Marakwets. You wrote down an incident in your statement about the Marakwet boys who said that they would no longer be stopped, and they decided to raid the Pokots.

Mr. John Kipkore: Yes.

Commissioner Chawatama: So, the livestock you saw were as a result of that raid?

Mr. John Kipkore: Yeah, and also from the advice that we had given to the Pokots and that they never heeded.

Commissioner Chawatama: Do you know whether the Pokots also suffered deaths as a result of the raid by the Marakwet boys?

Mr. John Kipkore: There was not even a single one on that side. There was not even one single injury.

Commissioner Chawatama: And how are you living now as a people?

Mr. John Kipkore: After 2002, we have lived for about 10 years without any problem and up to now, as I speak, we share with the Pokots.

Commissioner Chawatama: Was this through the efforts of both communities?

Mr. John Kipkore: I believe that it was through the efforts of the two communities, but I think much of the efforts were made by the Catholic Justice and Peace Commission (CJPC).

Commissioner Chawatama: Thank you very much.

The Acting Chair (Commissioner Namachanja): Thank you, Judge. Yes, Margaret Shava?

Commissioner Shava: Mwalimu John, you have said in your statement that you urge the Government of Kenya (GoK) and human rights organizations to come together and articulate the problem between the Marakwet and the Pokot and lead the way in finding a solution. I think your problem analysis in your statement is very enlightening and also very encouraging, despite the terrible things that have happened and the way in which you and your community have suffered. We still recognize that communities must live together in Kenya; even as we look for justice and finally, reconciliation. Some of your recommendations are for the benefit of the Pokot people. You have talked about education, not just for the Marakwet, but also for the Pokots. So, I would just like to recognize that, and say that many of us in Kenya should be thinking like that, because we have to recognize that we have to live together. Whatever difficulties we may have, at the end of the day, we have to live together. So, we have taken note of your recommendations.

Thank you very much.

The Acting Chair (Commissioner Namachanja): Thank you, John, for sharing. *Mwalimu*, you are rightly demanding trauma healing for the victims, because research has shown that once one has suffered from trauma, it does not go away on its own until when it is confronted. It does not matter how long or how many years have passed. So, even as we wait for the Government to intervene, I would like to appeal to the Community Based

Organizations (CBOs) and Non-Governmental Organizations (NGOs) working there to take up the issue of trauma and psycho-social support seriously. My appeal is to the Justice and Peace Commission, the NCKK, Action Aid, World Vision and other organizations working in this region to really give psycho-social support to the victims. Thank you so much and all the best.

Mr. John Kipkore: Thank you.

Mr. Tom Chavangi: Acting Chair, this is the last witness from the Marakwet Community.

Acting Chair and your fellow commissioners, there has been a knee-jerk reaction to our presence here in Eldoret, so that we have received a lot of memos from citizens who are outside there, and the rule of the Commission is that we should receive these memos seven or 21 days prior to the hearings. Also, the witnesses need to be prepared before then. I pray that the Commission takes judicial notice of these memos and, probably, the individuals can just be asked to stand up so that they are recognized.

There is a memo from the Nandi returnees from Tanzania. They can be asked to stand up. There is a memo from the Muslim Community of Trans Nzoia, Uasin Gishu, Nandi and Keiyo counties. There is a memo from the Athuri Agikuyu Community who live in Uasin Gishu County. I pray that these memos be taken notice of by the Commission and be admitted as exhibits.

The Acting Chair (Commissioner Namachanja): The memos are so admitted. I would like to assure the people concerned that their memos will form part of the records of the Commission. Unfortunately, we cannot listen to all the memos because of the time constraint, but we acknowledge them. Thank you.

Mr. Tom Chavangi: Acting Chair and your fellow commissioners, finally, we had invited two individuals, Mzee Jackson Kibor – whom I cannot see now. He was seated around here, and then, advocate Katwa Kigen, who has sent a representative with these memos. As earlier stated, the Commission needs time to go through these memos. Before we allow advocate Katwa Kigen to present or ventilate issues that are herein - the advocate has sent his representative--- Probably, the representative can just make a remark, identify his witnesses or clients and then allow us to go through these documents and invite him at a later stage to come and engage with the Commission.

Thank you very much.

The Acting Chair (Commissioner Namachanja): That is allowed.

Mr. Hillary Sigei: Thank you very much, Acting Chair and your fellow commissioners. For purposes of introduction, my names are Hillary Sigei, I am an advocate of the High Court of Kenya and I work with the law firm of Katwa and Kemboi Advocates.

There are two memoranda which we had earlier on presented and we did ten copies of each and delivered them at your offices in Nairobi. Unfortunately, the Secretariat informed me when I came here that they were never brought to Eldoret. As they may appear, they are a bit bulky. First, I will just introduce the nature of the first complaint. It is by the residents of a farm called Kuzi Farm in Kiplombe Location in Uasin Gishu County. Their complaint is against the Provincial Administration and the Kenya Police. It is specifically with regard to an agreement that they entered initially with the proprietors of Kuzi Farm and a public access road was blocked. They were denied access.

Lastly, some of the members were subjected to criminal prosecution but they were all, eventually, acquitted. They are, however, unable to comfortably and freely use the public access road and are unable, also, to get that particular piece of land which they were initially supposed to get through the initial agreement they entered into with them. The memorandum itself contains all the relevant documentation, which I hope the commissioners will be able to be led through. They will, in detail, be able to understand the main issues and thereafter, they will be able to make their recommendations on the basis of the memorandum and the documents therein.

Acting Chair, the second memorandum is presented by Kiplombe Location, comprising of ten farms. I will just mention the names for the purposes of the public. They are Kiplombe Farm Ltd., Kanetic Farm Ltd, Kapng'etuny Farm Ltd., Buhemba Farm Ltd., Kapkeben Farm Ltd., Emdin Farm Ltd., Cheplasgei Farm Ltd., Chigitio Farm Ltd., Kapsamoo Farm Ltd., Songoliet Farm Ltd, and finally, Lewa Downs Farm Ltd. This memorandum is essentially with regard to also a parcel of land which was allegedly initially acquired compulsorily from these particular companies and farms by the Department of Defence (D.o.D), and is currently under the Eldoret Municipality Training Camp. However, the memorandum and its documents will indicate that the DoD did, at some stage, confirm that they were not the owners and they were not interested in taking over the land. The ten farms are, therefore, in the memorandum, requesting this Commission to make recommendations that since this particular property was initially acquired for purposes of the DoD, it should be reverted to the initial owners. Basically, I would not want to take up much time because of the concerns which have been stated. I very much appreciate the Commission. I appreciate also your acceptance to take the memoranda despite their presentation at this late hour against the rules of the Commission.

I had with me the representatives of these ten farms and I would also kindly request that for the purposes of their being here, they do not necessarily indicate anything, but their presence be recognized also.

I thank you very much, Acting Chair.

The Acting Chair (Commissioner Namachanja): We thank the counsel for appearing before us today and for giving us highlights of the contents of the memorandum. The Secretariat confirms having received your memoranda and we will look into both of them. When time or opportunity presents itself, we will call counsel for clarification. Thank you.

Counsel, are the people you represent here so that we can acknowledge them?

(The counsel's clients stood up in their places)

Thank you for coming. Please, sit down.

Mr. Hillary Sigei: Thank you very much, Acting Chair. I had also an indication that you had invited Mr. Katwa to record a statement, but he was, unfortunately, unable to be available today. He was summoned earlier this morning to appear before the High Court. He did indicate to me that he will be very much willing to present himself. He told me he would be willing to come tomorrow to your offices, but the Secretariat has informed me that you will not be available, and that you will communicate to him when you will require him to present himself to you. We apologize for his inability to come today.

The Acting Chair (Commissioner Namachanja): It is fine. Thank you.

Mr. Tom Chavangi: Presiding Chair and Commissioners, I have just notice the presence of Mzee Jackson Kibor. I seek your guidance on that matter.

The Presiding Chair (Commissioner Namachanja): Please, let us consult a bit on that matter.

(Consultations)

Mr. Tom Chavangi: Presiding Chair and commissioners, Mzee Jackson Kibor was invited to come and record a statement and specifically attend to the hearings. However, he has not recorded a statement and that makes the situation more difficult because for the people we invite to come and record a statement, they must give us the statement so that the Commission can respond to it. Failure to do so, I request that the Commission advises him to record a statement and then he could be invited later on to come and testify.

The Presiding Chair (Commissioner Namachanja): Good afternoon, Mr. Kibor. Thank you for coming. The letter we have received from the Leader of Evidence indicates that you were invited to come and record the statement. It is based on that statement that we shall invite you to come and share in detail. Because of time constraint today, we are sorry to inform you that we shall not hear your detailed testimony today. Thank you.

Mr. Jackson Kibor: I thought you would be in a position to listen to my complaints today. Kindly tell me when you can listen to me. I have come here because I received a letter from you inviting me. I thought I would finish my issues today with regard to the problems I had in 2008 up to 2009.

The Presiding Chair (Commissioner Namachanja): We will give you one of our statement takers who will help you record the statement according to the procedure of

this Commission. We will get the statement and look at the programme and then invite you even if it means you giving your testimony in Kitale, which will be within this month. Thank you, elder, for understanding.

The CEO, please, ensure that elder Kibor is assisted in recording the statement.

Ms. Ann Cheprotich: Thank you, Presiding Chair and the commissioners. I want to thank all those who were able to join us in these sittings. You sacrificed your time and came here. I will not forget to thank the leaders from various civil society organizations and churches. I also thank community leaders and the people from Nandi, Uasin Gishu and Elgeyo Marakwet.

We have come to the end of our sessions in this area. We will move on to other areas in the Rift Valley. I would like to welcome the leaders who will make speeches in the next session. I would like to welcome Major Seii who is the leader of the Kalenjin Council of Elders.

(The Commission adjourned at 2.10 p.m.)