

10-20-2011

Public Hearing Transcripts - Rift Valley - Lodwar - RTJRC10.10 (Turkana County Council Hall, Lodwar)

Truth, Justice, and Reconciliation Commission

Follow this and additional works at: <https://digitalcommons.law.seattleu.edu/tjrc-core>

Recommended Citation

Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts - Rift Valley - Lodwar - RTJRC10.10 (Turkana County Council Hall, Lodwar)" (2011). *I. Core TJRC Related Documents*. 91.
<https://digitalcommons.law.seattleu.edu/tjrc-core/91>

This Report is brought to you for free and open access by the The Truth, Justice and Reconciliation Commission of Kenya at Seattle University School of Law Digital Commons. It has been accepted for inclusion in I. Core TJRC Related Documents by an authorized administrator of Seattle University School of Law Digital Commons. For more information, please contact coteconor@seattleu.edu.

**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION HELD ON MONDAY, 10TH
OCTOBER, 2011 AT TURKANA COUNTY HALL, LODWAR**
(Public Hearing)

Tom Ojienda	-	The Presiding Chair, Kenya
Gertrude Chawatama	-	Commissioner, Zambia
Berhanu Dinka	-	Commissioner, Ethiopia
Margaret Shava	-	Commissioner, Kenya
Ahmed Farah	-	Commissioner, Kenya
Mr. Patrick Njue	-	Leader of Evidence

The Presiding Chair (Commissioner Ojienda): I want to start by welcoming all of you to this session in Lodwar. We have come here after completing our hearings in Eldoret. After these hearings, we will proceed to Kapenguria and thereafter, to Kitale and Baringo to complete the hearings in Rift Valley.

For those who are here for the first time, I just want to welcome you and explain a bit the rules that govern our hearings. The witnesses we hear today are part of the witnesses that we have selected and are representative of the issues that arose from the statements recorded in this region. Those witnesses will be called to testify and in the course of their testimony, they will be led by the Leader of Evidence. After that, the Commissioners may ask questions to clarify the issues raised. We ask you not to interfere with the witnesses even if you do not agree with what they are saying. We intend to proceed with all the witnesses uninterrupted. If any person is mentioned, they will have the opportunity to speak to the Commission and the issues raised as well. This is in the spirit of truth and justice for all because we hope that this process will eventually reconcile this country as we eventually do our report.

I want to just advise those who are taking photographs to ensure that they do not switch on their flashes in the course of proceedings because that may interfere with witnesses. Avoid movement in the course of the proceedings because we need to ensure that we retain the integrity of this process.

Before we start, I want to recognize the presence of two Commissioners from our sister Commissions. There is Dr. Mzalendo Kibunja, the Chair of the National Cohesion and Integration Commission and Dr. Tororei from the Kenya National Commission on Human Rights. He is here with Stella Ngotho from the same Commission. I also want to recognize any other person who is here to observe these proceedings.

*(Commissioner Ojienda introduced himself and other
members of the Commission)*

Leader of Evidence, let us call the first witness.

Mr. Patrick Njue: Thank you, Presiding Chair and Commissioners. Our first witness is number 20 on our dividers. This is witness, Lodwar 001 and it is a memorandum presentation.

(Mr. Samson Ekidor took the oath)

Mr. Patrick Njue: Good morning, Sir.

Mr. Samson Ekidor: Good morning.

Mr. Patrick Njue: Please, once again do state your names, tell us where you come from and what you do for a living.

Mr. Samson Ekidor: I work at the Turkana Fishermen Co-operative Society as a Secretary/Manager.

Mr. Patrick Njue: Before you begin your presentation, I notice that you are flanked by a gentleman to your right. Could you, please, introduce him?

Mr. Samson Ekidor: My companion is the Treasurer for the Fishermen Co-operative Society. His name is Samuel Emanikor.

Mr. Patrick Njue: If you are ready now, you may begin your presentation.

Mr. Samson Ekidor: I will start with a brief history of the co-operative society. Turkana Fishermen Co-operative Society was started in 1968. It is during that year that the Norwegian Embassy came into the society. The society went on and was registered as a society on 14th June, 1971. The society had about 4,500 members. It would sell 10,000 kilogrammes of fish every year. The society also had 2,000 employees from the Kerio Branch up to Todonyang. The head office was at Kalokol. Most of the political leaders from Turkana started their work in that society. The co-operative society started collapsing in 1984. The cause of the fall was local politics. As soon as somebody joined politics, the management committee or employees of the co-operative society would be his supporters, so that they could advance his type of politics. That is what killed the co-operative society from 1984 until today.

The biggest problem facing the society is capital for investment. The fishermen do not have sufficient capital to help them sustain their income. The other problems are local politics and security. Most of our fishermen are killed north of Lake Turkana because of lack of sufficient security. Also, deep in the lake, there is no way of rescuing capsized boats. There is no patrol boat from the Navy or police. So, if a boat capsizes in the middle of the lake, people will just die. Most of the societies in Kenya were revived in 2005 but nobody bothered to try and revive that particular society.

On future plans, the society should be assisted to access working capital in order to revive the fishing industry. That is all I can say.

Mr. Patrick Njue: Thank you, Mr. Ekidor for your presentation. As much as we had difficulties here and there trying to get the public to hear what you were saying, you were highlighting the plight of the fishermen, a community of which you belong and more so, the co-operative society. You have also given us a brief history of how it started and what led to its collapse. Lastly, you ended with what you would call a recommendation or future plan. You said that you would want the movement or society to be assisted with working capital to revive it. My questions would be: Is that the only thing that you think can be done for the fishermen?

Mr. Samson Ekidor: Yes, that is the main problem that those fishermen are facing. The main problem is lack of money, so that they can continue with their work around Lake Turkana.

Mr. Patrick Njue: Where were you previously getting your financing from?

Mr. Samson Ekidor: Previously, we got money from the Norwegian Agency for Development Co-operation (NORAD) from 1968. NORAD stopped sending assistance in 1992 and that is when we started having problems and experiencing financial difficulties.

Mr. Patrick Njue: What led to NORAD leaving or why did they have to withdraw their support for the people?

Mr. Samson Ekidor: I believe it is the Norwegian Embassy that had a problem with the Kenya Government. So, they were instructed to leave the country.

Mr. Patrick Njue: In your presentation, you have highlighted the role that leadership played in the collapse of the co-operative society. When I talk of leadership, I mean politics. Has that changed? Do you still have political interference?

Mr. Samson Ekidor: I can see some changes. If we get some assistance, there would be no problem. That is because previously, the co-operative office had put in place measures to solve any problems.

Mr. Patrick Njue: Sorry. May I take you back? You may have said this in your presentation, but I kind of missed it. When you talked about fishermen who have been killed, whom did you say killed them? Approximately how many people have been killed over time, so far as you are able to ascertain?

Mr. Samson Ekidor: At first, ten people were killed and then recently, another 11 were killed by the Merile from Ethiopia, at a place called Todonyang on the shores of Lake Turkana.

Mr. Patrick Njue: Thank you very much. That is it from me. Our Commissioners may now ask you questions.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Leader of Evidence and Mr. Ekidor for speaking out for the fishing community in Turkana. I think from what you have told us; clearly fishing is the backbone of the economy in that area. As a Commission, we take your memorandum very seriously. I want to ask my fellow Commissioners if they have any questions to ask you.

Commissioner Dinka: Thank you, Mr. Samson for your testimony. You mentioned the lack of security on the lake and local politics as the two principal factors that led to the failure of the co-operative society. But you have not told us what the local politics that you have talked are all about. Is it the Turkana local politics or politics at the national level? Can you, please, expound on it, maybe for two minutes?

Mr. Samson Ekidor: I was talking about the politics within the Turkana region. It is the politicians who want the society to be full of their supporters. They put their supporters in the committees and hire employees so that they can advance their politics. That is what makes it very hard for the co-operative. It is supposed to be an enterprise, but if you practise politics of nepotism, then you will realize that you cannot make any progress.

Commissioner Dinka: Has that situation changed today? For example, if you get US\$1 million would that help to resuscitate your company unless the political situation has changed?

Mr. Samson Ekidor: If we get money - even if it is US\$1 million - that would really help. Much as it will not be all that we need, it will reduce greatly all the challenges that the co-operative is facing. If the Ministry of Co-operative Development and Marketing can advance the dignity of co-operative societies, it would be okay. But if the Ministry of Co-operative Development and Marketing is pushed out of the cooperative society, it adds to the challenges.

Commissioner Dinka: What about the local politics that initially destroyed your co-operative society. Are you still afraid of the intervention of the local politics into your enterprise?

Mr. Samson Ekidor: The politics will still be there. The politics that broke the co-operative society in 1984--- It is a case where somebody would want his people to be in the management and also members of the society. That is why the Commissioner of Co-operatives dissolved the society. There was also politics on 5th May, 2005. There was a political meeting when we were having elections. One of our fishermen – a registered member known as Alumor - was shot dead. I was also stoned and nearly killed. It is just God who helped me. At home, people still call me “the person who was dead.” I still continue with treatment at the Eldoret Hospital. So, the politics will still be there. The case just stayed in court because the society had no money.

Commissioner Dinka: You mentioned the difficulty in accessing money, resources or loans. Is it bank loans that you are talking about? You have to be really very clear with

us, otherwise we would not know what you expect. Are you asking the Government to advance you money or guarantee your loans? What is it that you are exactly asking?

Mr. Samson Ekidor: What I was asking for is assistance from the Government. That is because we have tried asking for loans and banks have always asked us whether there is any enterprise that we are engaged in. They would like to look at our bank statement.

Mr. Patrick Njue: Ambassador, you could pose your question again and then we can pick it from there.

(Loud consultations)

The Presiding Chair (Commissioner Ojienda): Can we have some silence in the room?

Commissioner Dinka: My question was about the resources. You mentioned about the difficulty that you have in accessing resources. I asked you: Was the difficulty due to the demands of the bank or are you actually saying that the Government should either give you money or guarantee the loans?

Mr. Samson Ekidor: The Government should give us grants or aid so that we can continue with our work. That is because loans are difficult to access. We have tried so many times to go to the banks, including the Co-operative Bank, and they asked us if there is any enterprise that we are involved in and we told them that there was none. They asked for our bank statements to follow the transactions. So, a grant, however small it is, will go a long way to help us to kick-start and then, after some time, we could probably go for a bank loan or a development loan.

Commissioner Dinka: Have you tried to apply for the Constituencies Development Fund (CDF) money?

Mr. Samson Ekidor: Not yet.

Commissioner Shava: Thank you very much, Mr. Samson Ekidor, for your testimony and also your memorandum. I just have one question for you. You referred to the Ministry of Co-operative Development and Marketing and said that it is your wish that, that Ministry is strengthened to be able to properly regulate the affairs of co-operatives. Could you expound on that a little, just for our understanding? What is it that you would like the Ministry to do?

Mr. Samson Ekidor: What I am asking is this. The co-operative office should be allowed to supervise co-operatives. At the moment, there is a challenge even among the officers who are brought here. When an officer is transferred to this place, it is reported to the Minister that he or she depleted the accounts of a given co-operative society and so, they are almost immediately transferred. Even now, we hear that the one who has been here for the last six months is going on transfer already. He was trying to revive co-operative societies and he is being rushed away.

Commissioner Shava: Is it that the officers are experiencing political interference and so, they cannot do their work or do you think that the officers themselves are persons who lack the capacity to do the work that is needed? Are they able but are blocked or are they persons who are not able to do the job?

Mr. Samson Ekidor: They are trained and competent. There might be one who is incompetent but I think there are so many that are trained in Kenya. It would not be that everybody is incompetent. There have been five of them now. I believe that they should be given the freedom to operate and supervise the co-operatives independently.

Commissioner Farah: Mr. Ekidor, do you have market for the fish?

Mr. Samson Ekidor: We have market for the fish. We sell fish even to the Democratic Republic of Congo. So, we have no problem with marketing the fish; it is just the money for initial investment.

Commissioner Farah: If your factory works and there is market, where is your problem?

Mr. Samson Ekidor: Previously, before 1984, the society used to service all the markets efficiently, but since it ran out of money it has not been serving the market as required because there is no money to invest.

Commissioner Farah: If you were given money to invest, would you pay back the loan?

Mr. Samson Ekidor: Yes, we can repay the loan. That is because, at the moment, there are leaders who understand us very well. It is not like the previous ones that we had just after independence. The ones that are there at the moment are young people who understand fishing. So, it is very easy for us to repay back any loan that will be given to us.

Commissioner Farah: So, it is not the Government that normally gives you loans but the Co-operative Bank. Why did you not go to the Co-operative Bank and make presentation for the money you require, so that they give you the loan and then you pay back?

Mr. Samson Ekidor: The problem is that they want us to have some enterprise that we are already engaged in. It is only then that we can ask for a loan. They do not want to just give money to people who are not engaged in anything. The Commissioner asked: "If you are given US\$1 million, what would you do?" If we are given a grant of US\$1 million, we would start off and be confident enough to now pursue loans. That is because the banks will find that we are actively engaged in some enterprise.

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

Commissioner Chawatama: Thank you very much for your testimony. My first question relates to what you have stated in your statement; that you leased the fresh fish wing to a private local company known as Samaki. Why did you not enter into partnership with Samaki instead of leasing the fresh fish wing?

Mr. Samson Ekidor: The Company that has leased the freezing plant is independent and did not want to join us. They wanted to operate on their own, but they would like to serve as fresh fish agents for the society. We fish and then sell to them. So, they would like to be like our agents.

Commissioner Chawatama: My thinking is that even if they wanted to be independent, you have a very valuable asset which you could have used, maybe, to negotiate a little bit better for a partnership rather than leasing.

My second question is on your current liabilities. What are your current liabilities in terms of the money you owe other people, including salaries?

Mr. Samson Ekidor: At the moment we do not have sufficient funds. The little money that we have in the account could be, at most, Kshs100,000.

Commissioner Chawatama: The question is: Do you owe anybody any money; whether it is a company or individuals, as a society?

Mr. Samson Ekidor: We have liabilities. We owe the fishermen about Kshs208,000 and the workers who were retrenched. The liabilities work out to about Kshs3 million.

Commissioner Chawatama: The question as asked by Commissioner Dinka and also Commissioner Farah may have also touched on this. If you were given money as a society, what would you do? You merely said that the money would start you off. But what will you do with it? What is your plan?

Mr. Samson Ekidor: If we got the grant, the first thing that we would do is to go back to the business of dried fish and push that into the market such as Busia, Kisumu and the Democratic Republic of Congo because those are the markets that we still retain.

Commissioner Chawatama: My last question is the impact that the non-operation of the society has had on family life in this area. You can talk about issues of schools, health, the fact that you have not been able to pay the fishermen but what kind of impact has that had on them and on family life in this area?

Mr. Samson Ekidor: If we got any grant, even before we do any business we would use it to pay the fishermen what we owe them, so that they do not lose confidence in the society. They should be paid what is owed to them. What was your other question?

Commissioner Chawatama: You had 4,500 members. You sell about 10,000 kilogrammes of fish in a year. So, you were earning money. What is the impact of this

failure to earn on family life, education and the health of the people who were benefiting from the successful running of the society?

Mr. Samson Ekidor: When the society was running, Kalokol Town was a very vibrant business centre. This is where we had our head office. There was a lot of business going on. People did not have problems at all. They now eat fish, but if we could get any help so that the fishermen can go back to vibrant fishing, we would have sufficient food which would help the fisher folk and other people as well.

Also it will help them pay fees for their children. At the moment, the society is not working because this aid is not there. As a result, people frequently suffer from hunger compared to before when it was vibrant and running.

Commissioner Shava: My last question is on the road network. You have mentioned the marketing of the fish. What is the road network like in this area?

Mr. Samson Ekidor: The road from Kalokol to Lodwar is not that bad, but the problem is the road from Lodwar to Kerio which is sand. If they put murrum on it as they think of tarmacking it later, it would be fine. But the road from Kalokol to Todonyang also needs murrum as the Government is looking for funds to tarmack it. That would make it easier to transport the fish. At the moment, we have a very big problem in transporting the fish.

Commissioner Shava: Thank you very much for your testimony. It is my desire that as a Commission we might do something in terms of recommendations that will assist the people in this area. I know that you have spoken for many people, not only the fishermen, but also the wives and children whose lives depended on the society. Thank you very much.

The Presiding Chair (Commissioner Ojienda): Thank you very much. I want to just ask you a few questions before we finish with you. You talked about political problems and politicians interfering in the running of the society. Who are these politicians?

Mr. Samson Ekidor: It is political party politics. Party leaders want their people to take leadership positions in the co-operative society so that they can advance their agenda. So, it is a problem with the parties.

The Presiding Chair (Commissioner Ojienda): My question is whether these politicians have shares in the society.

Mr. Samson Ekidor: They have no shares.

The Presiding Chair (Commissioner Ojienda): How many shares do you have in this society?

Mr. Samson Ekidor: We have 328. I do not have any shares in the co-operative society at all. I am an employee of the co-operative society.

The Presiding Chair (Commissioner Ojienda): You have spoken about insecurity in the lake. What recommendations would you want this Commission to make with respect to ending insecurity because I think there are border issues as well with respect to the lake and there is also a project that is coming up on the lake. Do you want to make some recommendations on these two issues?

Mr. Samson Ekidor: First, what I would like to express my opinion about is that we should have enough security, especially in the Todonyang area. Although I have heard that security personnel have been moved there to beef up security, people continue to be killed. I do not see how effective that is. We should also have security on the lake. We should have patrol boats from the navy or the police to patrol the entire lake because of the boats that sometimes capsize. So, we should have rescue at hand. Also the fishermen should be given some water-resistant mobile phones and lifesaver jackets.

The Presiding Chair (Commissioner Ojienda): Is it Samaki Limited that handles fresh fish? Who owns Samaki Limited? Is it the members of the same society?

Mr. Samson Ekidor: It is not members of the co-operative society. It is a different company. It is an independent company that has leased the plant. It is called Samaki 2000 Limited. Those are the ones who own the company.

The Presiding Chair (Commissioners Ojienda): Thank you very much.

Commissioner Shava: With regard to the people who attacked you with stones nearly taking your life, you said that court case died out. It just fizzled out. Could you tell us if you have the details of that court case? If so, could you be willing to give them to us? Also tell us why it died out.

Mr. Samson Ekidor: I think it is because of political interference. The case died because of politics. We had sufficient evidence. I appealed and I have court proceedings. However, I would not have continued with it because of the fact that my enemies; the ones who had sponsored the skirmishes, went to the co-operative officer and asked him to sack me. I was to be sacked because of pursuing that case. So, I thought of dropping the case because if I were to be sacked and I had children going to school, they would have suffered a lot. It could have been a big problem to me. However, as I said, I appealed and I have the court proceedings. I do not have them here, but I have them in Lodwar Town. I can access them from Lodwar Town.

The Presiding Chair (Commissioner Ojienda): Thank you very much Mr. Ekidor. We all understand how central fishing as an industry is to this region. It is bound to be one of the platforms upon which any serving or future politician would want to build a career. Therefore, I understand what you mean when you talk about politics being central in the running of the affairs of fish in this region. We also understand how central the revival of

this society is to the economy of this region. We will make recommendations appropriately to ensure that this region can rise again on the fishing industry. Thank you.

Leader of Evidence, call the next witness.

Mr. Patrick Njue: Our next witness is Lodwar No.21.

(Ms. Seline Locham took the Oath)

Mr. Patrick Njue: Kindly state your name again for record purposes. Tell us where you come from and what you do for a living.

Ms. Seline Locham: I am Seline Locham. I work with the Kenya Women Advocacy and Development Organization. I come from Lodwar. I reside at Kanamkemer and my office is here. But I work for the entire county.

Mr. Patrick Njue: You are here to make a presentation on behalf of TWADO on the plight of the women of Turkana County. Could you confirm that to be the case?

Ms. Seline Locham: Yes, this is not a TWADO presentation, but this is presented by TWADO. This is one of the consultative meetings we had with our women here in Turkana. We came up with some issues that affect women in Turkana. So, TWADO is presenting them today.

Mr. Patrick Njue: You have prepared a memorandum which you have shared with me and told me that you wanted to go through it in terms of reading through. Even as you do so, maybe you will begin by telling us What TWADO is and where to find TWADO and how it was formed then you can get to reading your presentation.

Ms. Seline Locham: TWADO is a women network formed in 2004. It was registered with the Ministry of Social Services. The main aim of formation of the organization was to co-ordinate issues of women or activities of women and also advocate for issues affecting the Turkana women and the girl-child.

Mr. Patrick Njue: Where is TWADO found? In what areas?

Ms. Seline Locham: The main office of TWADO is based here in Lodwar at ERP Compound and it serves the whole county.

Mr. Patrick Njue: Could you proceed now with your presentation?

Ms. Seline Locham: I am going to present some of the issues that women came up with. I will present some of those issues and women themselves will come to present others tomorrow. Some of them are here and they will also do some of the presentations, given time. I will read the presentations I have here. Although they are different, not one presentation, I beg the Commission to give me time.

One of the things that were identified by our women is that back in 1960s, the Government through the warrant chiefs discriminated against the girl-child by promoting education of the boy-child and suppressing that of the girl-child. So far, that caused the Turkana girl-child to remain behind in education up to now. Something else is that women in Turkana are sidelined from the main decision-making issues by the chiefs and the elders and even back in the villages by their men. For example, in Turkana you will find that decisions are made under a specific tree known as “The tree of men” in Turkana. So, you will find that the Turkana women do not have the power to make decisions for their children or themselves. This is practised up to now. You will find that in different decision making arenas, for example, the DSG we have few women.

The DSG is a representation of departmental heads. DSG is where issues affecting the county or development issues are discussed. Because women are not departmental heads they do not hold those positions. So, they do not attend those meetings. Thus their issues are not addressed or discussed.

The Government failure to address the insecurity problem in Turkana has impacted negatively on the lives of the Turkana women and children. Many of them are raped in the cause of wars. As a result of this, most women have been rendered widows and most children rendered orphans.

Turkana borders Uganda, Sudan, Ethiopia and Pokot on the southern part and no border is peaceful. Turkana is even protecting these borders for the country, but massacres have been happening all over. Much has been discussed in different meetings. The Government has also sometimes come down, but little has been done. Sometimes we speak to the Government to put offices to guard the border, but you find that little is done.

Recently we had some attacks at Todonyang’, Lokori and Kainuk in the months of June and July whereby even policemen were killed. These were husbands and fathers. So, we feel that the Government of Kenya is lacking somewhere.

Another problem that women came up with is that there is grabbing of land set aside for them by corrupt officials. If I can cite some examples: we have the Lodwar Market plot that was set aside for women way back in 2004. This plot has brought about many cases. In 2004, we handled a case as an office because the municipal council then decided again to take the land from women. We handled the case up to the national level whereby we sent a few women, that is Anna Keria, Agnes Arumong and Rhoda Loyer to go and meet the former Assistant Minister for Lands Alicen Chelaite. As a result, an order came and the women were given back the land. This land was given to women by the former DC Cherotich. At that time, we managed to secure the land for women. But last month we found that the municipal councilor again decided to take away the land from the women. So, this is a case that is still there. Because these are just women, we feel that this land will be taken away from them because the whole thing is running around the land.

There is also failure by the Government. Some policies protect dangerous cultural practices that have hindered the growth of the Turkana woman and the child. Some of them are marrying of the girl-child when still young. In most cases, our men say that taking a girl to school is a waste of time. So, she is better kept at home, so that they may get dowry. These are some of the cultural practices that have hindered the growth of the woman and the daughter.

As women in Turkana we also feel that our boy-child is endangered. For example, our boys are given severe punishment when they impregnate girls. Normally, the boy-child is trapped by his enemies or enemies of the family. As a result, strict punishment is imposed on a boy who impregnates a girl. Our boys have ended being up jailed for 20 years or more. Most of them are jailed immediately after secondary school. We have found that this is a trap by family members who actually have a grudge with the family of the boy or the grudge between the boy and the girl. So, we find that our boy-child is endangered. Sometimes we know both children willingly participated in the act. In most cases, this is not a defilement or rape. So, both of them need to be punished.

We have also seen that failure by the Government to constitutionalize traditional marriages has rendered women vulnerable to culture and manipulation by men. For example, our women are not allowed to inherit property. They are forced to be inherited. They are not given the share of property. They are treated as slaves. They are also not considered to bring any wealth in the family. At times if they bring wealth it is termed as a man's wealth. These practices have followed our women even in modern towns. You find that our women do not own property. Men register all the assets or property under their names.

So, we are appealing that some of these cultural practices should be constitutionalized to tame such kind of behaviour. Discrimination of women in employment by the Government has also contributed to low development, especially in this county. I am talking on behalf of the Turkana woman. Statistics show that few women either do not hold big positions in employment and majority of those that work hold junior positions. So, you find that, in most cases, they do not address their issues or do not contribute to their development.

Failure by the Government to promote women's institutions here in Turkana has also been seen as a problem. For example, the county needs a number of girls high schools, women training centers and also promotion of the existing women institutions or organizations, for example Maendeleo ya Wanawake and TWADO. This has contributed greatly to girls or women discontinuing their higher education or even attaining low marks and contributing little in development due to lack of exposure in different fields.

We also feel that our women have contributed a lot in this county, but most of them have not been recognized. So, most of our Turkana heroines that have played a big role in development of this county, especially those who happen to be with men in the development of this county dating back to 1960s and 1970s up to now, those who have always contributed in fighting for peace, gender disparities and children's right, none of them has been recognized. Sometimes it makes us get worried and also wonder: Is the

Government waiting until we die so that we are recognized? We need to be recognized, so that our children can also follow the example.

Some of these women, if I can mention a few are Anna Keria, Margaret Nabwin, Paulina Dida, Rhoda Loyor, Veronica Lokaran, Esther Ekidor, Esther Lamuria and Dorcas Ekusiye. They have fought for issues of peace, gender disparities and children's rights. These are just a few among others.

Women cases sometimes are not supported or taken seriously in different institutions like courts, police stations and children's office. This is because all these offices are manned by men who have no respect for women. We find that most of the children cases, for example, are thrown at the Children's Office before reaching the court.

You find that the TWADO office and the Justice and Peace Office based at Lodwar are the ones that try to handle some of these cases, bring both parties together, the man and the woman and make the man take charge of taking care of children. So, you find that women cry whenever they go to the children's office here in Lodwar. This is a matter that needs to be addressed otherwise, we feel that as a result of men being the bosses of these offices, they collude with other men; it is something that happens in most cases. Failure by the Government to protect key county resources like Lake Turkana against construction of Ribe III by the Ethiopian government this will actually impact negatively on the lives of the communities that derive their livelihood from Lake Turkana; the majorities in these communities are women and children. In most cases our men go far looking for green pastures. They do not stay the whole year at home. Our women play a big role in feeding the families. For example, they burn charcoal, they make mats, they brew, and they get involved in small businesses and small casual jobs. So they are the ones feeding the families most of the time. So, if such a resource that our people have been dependent upon is polluted, then the lives of many will be affected.

Another thing is that the Government has concentrated families in big towns, leaving the countryside without many people. As a result, we find that our women do not have somewhere where they can get even small casual jobs; you find that in some counties people work in factories and earn a living for their families, but here we do not have factories. The Government has to locate factories in different counties where people can work and gain.

Back in the 1980s, the Government decided to carry out an operation - a constant disarmament - that has continued up to now. This has subjected the Turkana man and woman to suffering. In those days, and even in recent disarmaments, many people were beaten, castrated and women raped. Even most of our chiefs were affected, especially back in 1980. As a result, many have lived with wounds up to now. We find that our Government does not take some of the basic services to where people are. Examples are hospitals and water. If I can give some example, back in our villages people dig wells so that they may get water. Even at this time when the Government has decided to provide people with basic needs, those necessities are not taken near to the people. So, our women waste a lot of time travelling long distances to fetch water from where the Government has constructed wells. In some areas, wells are not even there. People get

water from rivers; as a result, most children have also been affected by diarrhoea or cholera due to

taking impure water. An example is in Kalokol whereby we have a problem of water. Whenever there is an outbreak of cholera, we find that Kalokol is the most affected. Kerio area, along River Turkwel, also gets affected. Those are just a few.

We find that some facilities like maternity wards are not found back in our villages and even here in town. You just find that it is only the district hospital that has such facilities. Most of the hospitals or dispensaries are owned by a church diocese and other institutions like Care International and the AIC. The Government has not put up a number of dispensaries and hospitals for the people. In many cases our women want to go for delivery services, and when there are complications they take time to reach the district hospital; as a result many die on the way.

We have also identified a problem with our police officers. Whenever they are brought here on transfer, they marry and when they leave on transfer again, they leave their children and women behind. They do not bother. So, in many cases, children and women have been left to fend for themselves. This is a problem that your Commission needs to address.

Another problem is that, just as I said before, our women do not own property. You find that whenever they want to start a business or to be involved in any business, they are forced to borrow money from financial institutions and the financial institutions want an asset to hold as security for these loans. In most cases, these institutions have harsh policies. Whenever our women get loans and they are unable to pay back, these financial institutions come to collect their belongings. Men chase them away as a result of this and they are just left helpless. We see that this is brought about by lack of ownership of property and assets by our women; they do not have the capacity to own property due to suppression from their men, or lack of proper enforcement of laws that would enhance ownership of property by women.

If we can go to politics, many of our women have also tried to aspire for some seats, but they shy off due to intimidation, abuse and physical violence. If I can give you an example, in 2007 one of our councillors here in town aspired to be a councillor. She was intimidated and abused. I cannot even say some of the things. Cotton wool was soaked with blood and thrown in her compound, and she was told that she was not capable of standing for this seat. She was told that since she releases blood, she cannot go to a men's assembly. But through God's grace - God had appointed her - she won the seat. She is a councillor now.

Another one had also wanted to contest a seat as a councillor in the same year. They were supposed to register and queue for nomination; so, in the last part of the process her documents were hidden by her opponents. I can name her; she is here; she is Hannah Kiria. So, these are just a few examples.

If I can mention one of the children maintenance cases that was thrown out at the children's office; it was not handled anymore. It was a case of Peter Emuria versus Lokure Naboibut. Emuria is an army man and Lokure is just a house wife. They had six children. The case actually was taken to the children's office in 2009, where the two were told to go and agree again. Later Lokure was told to go outside so that the officer and the man could discuss some issues. Later on, when she was called in, she was told that they could agree on the issues touching on their families. At the moment, Lokure is staying at home with her children without any help. She has indulged herself in alcoholism but the children, due to the free primary education, are in school. Thank you.

Mr. Patrick Njue: Thank you, indeed, Mama Locham for your wonderful presentation on how women continue to suffer over time. I will ask you two questions for clarity and I will begin with the point on women in leadership. I will look at two areas, the political front and in administration. There is one councillor that you talked about. Do you have any other women councillors?

Ms. Seline Locham: Yes, they are there.

Mr. Patrick Njue: Administratively in terms of chiefs and assistant chiefs, do we have Turkana women occupying these positions?

Ms. Seline Locham: Yes, they are there, but most of them are assistant chiefs.

Mr. Patrick Njue: Again, you have talked of recognition for heroines and, perhaps, this will inform the kind of recommendations that you want to give on behalf of women. What do you have in mind as something that can be done to recognize our women?

Ms. Seline Locham: There are many things that can be done to recognize heroines like naming streets after them, for example, in towns or institutions. So, here in Turkana, it might not be exactly as it is done elsewhere in the country. So women need to be recognized in a way, like by being given positions in Government. Also, they should be given space to address women on most of the situations. This is because even their men are not active at the moment, although most of them are still alive.

Mr. Patrick Njue: I want you to look at the last page where there is a list of participants and their names and the institutions they represent. There are names of individuals and they have appended their signatures. Look at it and confirm to me that they are the ones that you have been reading?

Ms. Seline Locham: Yes, this is the memorandum that I went through, although in this one of mine, I have also added a few things; I can still give it to you.

Mr. Patrick Njue: I have asked you that because I wanted you to say whether it is your wish to have it formally admitted by this Commission. Presiding Chair, can this be admitted by the Commission?

The Presiding Chair (Commissioner Ojienda): It is admitted.

Mr. Patrick Njue: My last question is this: When you talk of policies or lack them by the Government against outdated cultural practices--- Allow me to say that I know there is the Children's Act and the Constitution, both of which come out strongly against cultural practices. So, I encourage you and other likeminded organizations in the spirit of advocacy that you do not relent in bringing up these issues. Let us have a record of cases that have gone to court, and on the basis of that, we can say whether injustice or justice was done; we need something that we can go back on in form of a record. You have also talked of the women's hearings. We want to encourage women to come out tomorrow and we hear more from you.

Otherwise, thank you for your presentation and the Commissioners will now ask you questions.

The Presiding Chair (Commissioner Ojienda): Thank you very much Madam Seline Locham for your presentation. You have spoken more than four women. You have spoken for the people of Turkana. You have touched on many issues that are important to the people of Turkana. You have struck a blow for politicians, the ordinary person, women and children. Before I hand over to my fellow commissioners, I want to ask you three or four questions. The first one is: You have said there have been many massacres in this region. Can you just tell us a few of these massacres that occurred?

Ms. Seline Locham: Yes. There is one that happened at Todonyang in July, and the Prime Minister came. There is one that happened back in 1990; it occurred at Lokomosing where men, children and women were killed. Although there are some others, these are the few that I can mention.

The Presiding Chair (Commissioner Ojienda): Thank you. My second question is about a curious observation that you made in your memorandum when you said that Turkana is bordered by Uganda, Sudan, Ethiopia and Pokot. Why Pokot? All the others are foreign countries, but Pokot is part of this country! What is significant about Pokot?

Ms. Seline Locham: The Pokots are our brothers and our fellow Kenyans but we have never been in good terms with them. There has been tension between the Turkana and Pokots. There is cattle rustling. It started as mere cattle rustling but these days, it is shoot on site and take the animals. I can also remember another massacre somewhere in the late 1980s, where the Pokots came and rang a bell at Lokore Primary School. After making sure that all the children had come at 5.00 a.m., they then killed all of them. You can still get this in the records of the administration at Lokore.

The Presiding Chair (Commissioner Ojienda): On the same point, you have referred to the borders, and you have said that they are not secured. You have also talked about disarmament by Government and the prevalence of small arms and light weapons in this region. What is the Government not doing to secure the Turkana county?

Ms. Seline Locham: The Government actually knows that it is the Turkana who are guarding the border on the northern part. Turkanas are fighting with Toposa, Merille, Karamojong, Dodos and Jie. There is smuggling of illegal arms across the border. This is a matter that the Government is supposed to come to the border and talk about and enforce some laws against it. Actually, the Government should put the police along the border to guard it instead of assuming that the Turkana are guarding the border. You find that in some areas along the border, three to four *askaris* are kept there, but without proper communication and vehicles; they are human beings. They can be overpowered by the enemy. Whenever disarmament occurs, given that the Turkanas are pastoralists by nature and they guard their animals and the border too--- This disarmament has always affected both the Turkanas and even the country. You find that some of the neighbours had started even encroaching onto the border. It was only recently, after the Todonyang massacre, that the government sent enough security there.

The Presiding Chair (Commissioner Ojienda): Finally, I want to ask you two questions. On the land for the women in the market, do you have an allotment letter for the women?

Ms. Seline Locham: Yes. We have the allotment letter but we do not have the title deed.

The Presiding Chair (Commissioner Ojienda): What is the name of the current Town Clerk?

Ms. Seline Locham: The current one is Erukudi. That is the latest one; I have just confirmed.

The Presiding Chair (Commissioner Ojienda): I would request you to hand over to the Commission the letter of allotment to enable us take measures to secure that land for the women.

Ms. Seline Locham: Let me confirm with one of our women, who is also one of the leaders for the land, Mama Margaret Nabwin, on the status of the land and the allotment letter.

The Presiding Chair (Commissioner Ojienda): Can you do that with the Leader of Evidence afterwards. Lastly, on the police, you said they marry and leave children. I want you to assist the Commission. Do you have a list of those policemen who have been transferred and left families behind? You can share that list with the Commission and we can assist the women who have been left with children.

Ms. Seline Locham: We do not have a list of the names but we have severally handled such cases of women coming to us, complaining that on transfer men have left them with children and they have cut communication with them.

The Presiding Chair (Commissioner Ojienda): Thank you very much for your evidence; I ask my colleagues to ask you questions.

Commissioner Farah: Thank you very much, Madam Seline Locham for your eloquent evidence. I just want to assure you that when the new Constitution is fully implemented it will be a panacea for most of these problems you have mentioned. The Chair has requested you to give us the names of the policemen who sired children, left and severed any relationship with the families they left behind. Please, also give us any lady who vied for political positions, and was abused and beaten; we will be glad about this. I do not have any particular question. All that I can say is that your memorandum was very clear, and your problems are well stated; we will take them up. Thank you.

Commissioner Chawatama: Thank you very much for your testimony and your efforts in improving the lives of women and children. I also have one or two questions. The first one is not from the statement that you have read out, but on the other statement that you gave to the Commission. You stated that TWADO, which is an organization that you belong to, has successfully trained 22 paralegals. Can you share with us some of the work that these paralegals are doing?

Ms. Seline Locham: Most of these paralegals have been taken by their chiefs to the villages to help in handling cases on the ground; this is about decision-making matters in the villages. You find that most of the problems like rape and defilement cases that used to be ignored are listened to at the moment, and forwarded to our officers who forward them to the police and courts.

Commissioner Chawatama: That is on the girl-child, but how has the work of the paralegals impacted on the lives of the women in the places where they have gone back?

Ms. Seline Locham: Our women have gotten to know their rights. Most of them are helping other women on the ground. Whenever there are cases of inheritance and succession, they stand firm and even tell the men the truth and their rights. These women and children are also supposed to own property; even at times, whenever women are chased away from their families by their men, you find that these women paralegals advocate for them to come back to their families and even go to the chiefs.

Commissioner Chawatama: It is very clear that the organization that you belong to has done a lot of work. This is illustrated by the confidence that the women had; that was why they allowed you to make your presentation before us. One of the things that you have said is that as an organization, you are faced with many challenges relating to funding.

You said you do not have sufficient and consistent funding to run your programmes. I would like to know how you obtained funding in the past. In your recommendations, where will this funding come from?

Ms. Seline Locham: We have been obtaining our funds from NGOs. For example, we take our women to national level where they can discuss issues of governance and leadership. We have also been getting our funds from Arid Lands, VSF and Oxfam. We also once got from the CDF. Severally, we have sent them to attend the Kenya Pastoralist

Week where issues of pastoralists are discussed broadly by pastoralists themselves. The issues discussed are then presented to MPs. We got some other funding from the Global Fund for Women. The Global Fund for Women has supported us twice. We have managed to train our women on paralegal skills, policy advocacy, how they can advocate for their issues, leadership skills, and gender based violence, among many others.

We also got another funding from the European Commission through Oxfam, whereby we are doing good governance programme. We run good governance programmes. This is where we sensitize communities on good governance, how to hold their leaders accountable, how to stand up for stalled projects and question their leaders, or any corrupt person that happens to have stolen public money. We also enlighten them about public funds and where they can get these funds.

Commissioner Chawatama: As we were driving around, one of the things I noticed is that there are beautiful baskets that are made here. What have you done to tap into the local talents that are available to empower women economically?

Ms. Seline Locham: We have been writing several proposals to support our livelihood programme. We could have supported such a kind of thing, but it is just recently that one of our proposals was requested by USAID/ADF. We are still in the process of submitting it. We have been also supporting our women with seeds under the livelihood programme. We even once trained them on new skills on hand craft making through the support of SNV.

Commissioner Chawatama: What would you say is the position of the girl- child now in terms of education?

Ms. Seline Locham: Girls have gone to school. Our people have also realized the importance of education. Most of them actually whenever they see learned girls driving back to their homes or villages, they also feel touched and send their girls to school. But there is one big problem. Whenever, our girls reach Standard Three, they are taken back home. Those who happen to go up to Standard Seven or Eight, there is a high number of pregnancy cases among them. So, they involve themselves in illegal sex and they just drop out of school. It is now a crisis in Turkana. It is a very big problem.

Commissioner Chawatama: If you were to be asked, in order to assist women in as far as health facilities are concerned--- I have noticed that this is a very vast area, and it is very easy to get overwhelmed in providing services, do you have specific places where you think that there ought to be health facilities?

Ms. Seline Locham: Maybe, you want me to mention them. We have Nowayoi, Turkwel Division. Here people have to cross the river so that they may get medical services. Another example is Nasiger Hospital which is under construction. That is what we have confirmed with the villagers. But you know sometimes the construction of the hospital can get finished, but takes time to equip. Another one is Naduat. Outskirts of

Lokichoggio, as I was once there, there are some areas, for example, Letea, that do not have medical services. Those are just a few examples, among many others.

Commissioner Chawatama: With regard to access to justice where is the nearest high court?

Ms. Seline Locham: It is here in Lodwar. We have a mobile court which sometimes goes to Kakuma and Lokichar.

Commissioner Chawatama: Thank you very much, for your testimony. I greatly enjoyed listening to you because of your passion. Do not be discouraged. Continue with the hard work that you are doing. I hope that in a few years' time, you will write to me informing me that you that you have been elected Member of Parliament. I will be waiting.

Commissioner Shava: Madam Seline Locham, I would like to completely agree with the final sentiments expressed by my colleague, Commissioner Judge Chawatama. Earlier, Presiding Chair, Prof. Ojienda said that you have spoken for more than the women of this area. However, I will put it differently. The way in which you spoke demonstrates that you are a leader in this area. I think that Turkana County and all counties cannot develop while suppressing 52 per cent of their population in the name of women. The society cannot progress.

Your memorandum, I would like to salute and congratulate you on that because it demonstrates the power of consultation. You said you put it together in consultation with other women groups. This is evident in the issues that are raised, a very comprehensive report which demonstrates the power of organizations. Sometimes, we complain in our small corners. However, nothing much can help us to get out of our problems. We should present ourselves in an organized manner. We need to be very clear about what we want.

I think that the issues you have raised have demonstrated very clearly to this Commission what it is for women, boys, girls and men to live in a pastoralist society. You have raised many issues. When people saw you walking up, maybe they thought that you were going to confine yourself to issues dealing with rape, defilement and education for the girl-child. I think many of us are surprised at the rich memorandum you have provided to discuss the economy, security, national and development assets within the County. You have talked about women in leadership. You have talked about the development and the status of children who are the future of this County.

You have demonstrated the understanding of the challenges that the security forces raise. You have talked about women and inheritance. You have talked about women living with HIV/AIDS scourge. You have talked about government provision, or the lack of it, of social services, including health and water. So, clearly you have overreaching grasp, vision and view of the issues which area facing people who live in this area. You have given a very powerful demonstration of what leadership by women offers. You are a

testimony that women in leadership would think about everybody as opposed to a very narrow section of the society.

So, mine is just to congratulate you and ask you to really continue with the very good work you are doing. I only had one question which has been alluded to by the previous speaker. It concerns next year's general election. Which position will you be going for? You can communicate to us in a separate memorandum. Thank you very much.

The Presiding Chair (Commissioner Ojienda): Thank you Seline, you do not need to answer that.

Commissioner Dinka: Thank you very much for your testimony Seline. As my colleagues have said, and I totally agree with them, you have presented the case of the womenfolk in your region with tremendous ability, passion and eloquence. We have learnt a lot from what you have told us.

I have two short questions, probably, two and a half. The first question you mentioned that the Government has failed to assist the girl-child from being victimized by early marriage, the issue of FGM, the issue of land and the issue of succession or inheritance. Of course, as the leader of evidence has said, the laws are in the law books, it is a question of implementation. I hope what you are suggesting in this case is that the Government is not doing enough. It is not that it has totally failed. Is that the case? In addition to that, if you are asked by the Government to prioritize the critical areas, where the Government should act on priority basis, which are those critical priority areas for you?

Ms. Seline Locham: Maybe one of the things that I would wish the Government to look critically into is: Do women also need to be given opportunity to serve in those big offices? That is the key problem. You find that our women hold lower positions, either deputies or just mere or casual worker, or subordinates. When we talk about decision making, they are not involved. There is no one that asks for them.

Commissioner Dinka: That is at the national level or in the region.

Ms. Seline Locham: If I can give you an example, it might be a bad one, but please, listen to it. In Turkana District, most of the heads of institutions are none Turkanas. Now, even our men are denied those positions. What about women? Those are just like children. So, that is why you find that there is already a gap. Our women are now learned. They have degrees like any other people. Some of them are pursuing masters, same to our men. We have PhDs here. We have masters here; we have degrees, diplomas and certificates. However, we are denied opportunity to serve in those big positions. So, that is already a problem.

The other person who is not a native cannot know the problems of the native. As a result, if our men are already undermined, then women are not even heard. That is one thing. For us to involve women and rectify the problem that is affecting our women, we need to

involve them in decision making. They can talk about the issue of water, taking that tap water from far away where she can walk for miles when other work is waiting for her, so that she addresses those issues. She is waiting for the cabbages, *nyanya* and small fruits to sell, but they get rotten on the way. Where can she address this? When you go to that arena, where people talk about those issues, you find that it is men. Although, it is men, just a few are also Turkana.

Commissioner Dinka: Thank you very much, my last question---

Ms. Seline Locham: As I said, nobody pays attention to women cases. They are sometimes thrown or they are just dumped. So, this needs to be addressed. These people need to be understood. Our women have always been taken that they like making noise. They are accused of starting problems. You know when you presume somebody like that, by the end of the day; you are not going to help him.

Commissioner Dinka: I thank you very much on this one. I usually ask women's organization this question. In one of the statements that you have given to us, you said you have representatives in every division of this region. That means you could really do a lot of work in terms of civic education. But are you only limiting your activities to persuade people to change their mind set? People are sometimes captives of their own culture.

In most cases men are the worst offenders. These are your own brothers, fathers and uncles. What are you doing in terms of trying to change them? Do you normally talk to the menfolk also and try to tell them: "Look what you are doing to the girl-child or woman in terms of plan, succession and so on, is wrong because of this or that? Why do you not help? You are our brothers, fathers and uncles, please, help us to liberate women of this area, help us to train, educate the children, particularly girl-child of Turkana". Are you doing that? What are the reactions on the other side?

Ms. Seline Locham: We are doing this through some sensitizations that were done by TEFA in conjunction with TWADO. TEFA is Turkana Education for all; it is a community based organization. In most cases, we work together, especially on matters that they feel that TWADO can do better. So, we once did several community sensitizations on child education. These were the fora that brought together men, women, girls and youth. We told them the truth about education and children. We told them the truth about what the Constitution is all about on the issue of inheritance and succession. We used to go round. We went to Kalokol, Lokori, Nabuliekorot, Napelin, and several areas; almost nine areas. We had the first round and the second round. We asked the Children's Officer to talk about the issues of children; whenever these children are affected or someone deprives their rights, what the father or the mother of the child is supposed to do, or what the community is supposed to do in promotion of nomadic education. Those are the things we did. So, we have been doing several sensitizations on promotion of education, and also telling our people the truth, that the world is changing. This is the Constitution we made ourselves. In most of our trainings, when we have our domestic violence trainings, one of the trainings we had back in 2007, we had invited the

male chiefs and village elders who help them in decision making together with our women. We have also invited an advocate to talk to them to train them on issues of inheritance, succession, and child rights. So, this is where they were also informed about the issue of succession and inheritance. You find that our men, especially the village elders that we had brought together were happy. They said this is a training that even helps them in deciding women cases. In most cases, they are not trained. They do not know even how to read. Even the one we brought to train them was a Turkana. So, they were happy. Most of the chiefs are still calling us to do training for those who were not trained.

Commissioner Dinka: In many areas, where we have travelled, we have talked to council of elders. Is there Turkana Council of Elders? Are you talking to them on this line?

Ms. Seline Locham: That we train on this line, or we are talking?

Commissioner Dinka: First of all, is there Turkana Council of Elders in this region?

Ms. Seline Locham: We have council of elders in the villages. They work with the chiefs.

Commissioner Dinka: You do not have a regional council of elders?

Ms. Seline Locham: We do not have regional. They are constituted by the chiefs. They help the chiefs in deciding cases.

Commissioner Dinka: And you are talking to them, and the reaction has been positive?

Ms. Seline Locham: They were happy. They liked the training and wanted another one.

Commissioner Dinka: Thank you very much. I have no further questions. Like my colleagues, I would like to urge you to continue on this great road. Conduct civic education among men and women, particularly men. If you can persuade and be able to turn your worst offenders, then you will be a happy man.

The Presiding Chair (Commissioner Ojienda): Thank you, Seline. Leader of evidence, call the next witness.

Ms. Seline Locham: I want to add something. The status of the Lodwar market plot will be under confirmation. I will furnish the Commission with the true information, specifically the status of the plot. Otherwise, the plot for women given by the former DC, Rotich was grabbed. Women did demonstrations. We managed to handle the case up to the national level. The case stopped. There was no problem until recently where again the land was grabbed. So, about the allotment, and other details, I will furnish to the Commission.

The Presiding Chair (Commissioner Ojienda): Thank you. Give us the documents; we need to deal with that. That is why we need the documents, so that we take immediate action. What is for women must remain with them.

I thank you very much. Leader of evidence, please, call the next witness.

Mr. Patrick Njue: Mr. Presiding Chair, the next witnesses are No.22 and 24. They will be testifying on cattle rustling.

(Mr. Eragea Hosea took the oath)

Mr. Patrick Njue: The witness, who just took oath, will be giving sort of a general background on cattle rustling. The other one will confine himself to a particular instance that happened to him.

The Presiding Chair (Commissioner Ojienda): So, they will be demystifying both the theory and the practice of cattle rustling.

(Mr. Robert Muya Egibon took the oath)

Mr. Patrick Njue: Good afternoon, Mzee.

Mr. Eragea Hosea: I am okay.

Mr. Patrick Njue: Mzee, you are seated with us this afternoon on the understanding that you want to make a presentation touching on cattle rustling. We want to benefit from your wisdom. Perhaps, if you are able by going back a little into history and tell us the genesis of cattle rustling, the communities that are involved and then proceed to make your presentation.

Mr. Eragea Hosea: I would like to make a presentation about raids and killings and other occurrences within Turkana South District. It is the same issues concerning Turkana East District, which was part of Turkana South until it was hived off.

In the previous years, especially, 1970s and 1980s, there were cattle rustling between Turkanas and Pokots. This was not taken very seriously, because they thought it was just raids; Pokots stealing from the Turkana, and the Turkanas stealing from Pokot. They killed each other. But in 1990s, the cattle rustling changed into something completely different. It became attacks. It was transformed into burning of villages, killing people in villages, attacking Government camps, and there was lot of more killing than when the traditional cattle raids used to be there. This went on from 1992 and led to the people from areas of Katilu, Kainuk, Kaptiur and Lokori to move towards the north. They all moved towards the north. These raids made them to be poor. But because of the mercy of the Almighty God, he got us manna from Heaven, and put gold in some of the northern areas. The people of south and east moved into the north. They started surviving on gold. The rest of us who were left in those centres would not sleep. We did not have morning,

or evening. It was fighting all through. This went on for many years until, eventually, we had a bit of peace. This peace was short lived. They, eventually, came back. We held meetings with the DCs and OCPDs. However, the cattle raids started again. It started with more vigour than before. It was as if it was cattle raids. They started killing people around River Turkwell, which is a very fertile place, where the Turkana when they have peace survive on irrigated agriculture. So, it became an issue of people being killed during the day, even when they were ploughing their farms. Even women who were found tilling their farms during the day were killed. If a man is found tilling his land is also killed. They even killed boys and girls. So, we thought it has taken a completely different angle from cattle rustling. The people who live on the river bank; the Ndorobos, do not have any animals. They do not keep any livestock. So, it became apparent that it was not livestock raids. It became simply people being killed even when they were on their farms. Even those people ran away into enclosed villages were killed. Our people started clearing trees and forests because they had nothing else to do apart from burning charcoal for sale while destroying the environment. But even in this scene of forest, they were pursued and killed.

Lately, there has been kidnapping and hijacking where people are taken to the forest and killed there, after being asked so many questions about the places where they come from. Should they answer, these places become targets, where they can go and kill people after getting all the pertinent information about these villages. So, there were most serious raids in the villages. It went from Lokori into the other areas, and even hijacking vehicles, and burning them on the road, or killing people on the road. Even those who were repairing the roads, for instance, places like Kapedo and Kainuk near the river, were hijacked and killed. Even those who were sent by the Government to fix the road were hijacked and killed. We do not know what kind of training these people have gone through and what kind of human beings they are. This is going on even as we speak now. Those who go into the forest to look for fruits are killed. They are kidnapped, hijacked, interrogated and then killed in the forest while their families keep on waiting for them to come back.

There is no agricultural activity which is going on along the shores of River Turkwel because people have now moved to camps. They cannot go and burn charcoal to sell, because they have to live in safe camps. They have to wait for the Government to feed them on relief food. Recently, World Vision tried to bring some irrigated agricultural funds, but the people who go there have to be guarded with guns to make sure that they are secure. Lokori School had to be closed down because of insecurity. Centres like Nadome, Kamunge, Lomelo divisional headquarters, even Napeptom centre, have had to be abandoned. They closed down because of insecurity. Recently, Lochakula School in Turkana South was closed down. The Department of Agriculture had kept some animals in these areas. So, these had to be abandoned as well. Most of the people have had to go to Kainuk, which is a security camp. In the recent years, we discovered that the reason for which these people were to be killed in the farms. This has transformed from cattle rustling into boundary conflicts.

From the meetings that we held, we have been told that we have to move away from this river bank, because this river belongs to them. You go to a place called Lokichar, which is about 90 kilometres, so that the rest of the rest from Loringipi to the entire area should be left to them. To me, this is strange because I was born there in 1947.

From what I know, the Pokots living in the hills have always come down to bring their animals to drink water from the river and go back to their homes in the evening. Our cattle feed on one side while theirs feed on the other side. We do not understand why they are claiming that the area belongs to them and that the Turkana should move out. We have lost many policemen and arms that belong to the Government. Over 60 policemen have been killed between 1962 and now. Pupils have been killed in their dormitories in schools at night. They cannot go anywhere to look for wood because they are killed. They cannot even go to the river to fetch water. A good example is that of Kainuk School. It has been attacked twice. Some students were killed in the dormitories and some at the dip. Others were rushed to Lodwar District Hospital. In the lower part, school children were ambushed. Three died instantly and five had to be hospitalized. Kainuk Mixed has lost about six children who had gone fishing; there. There were seven of them. One survived and the other six were shot dead.

The problem has become more complex and as we know, human life is like a temptation from the devil to Jesus. The devil was asking Jesus to transform something into bread. It is sort of like that and it goes on up to now. As we speak, it is going on and it is affecting so many people. It has reached a level where Kainuk, Kaptir and Lomelo divisions are being claimed by the Pokots. It is a land issue. I do not know how it will happen but displacement is still going on.

The boundary problem is affecting the whole area. From July, August and September, the areas of Kainuk, Lorogon, Juluk and Kapten have experienced unprecedented insecurity. We have had security officers from the Anti-Stock Theft Unit, the GSU, police and the Administration Police who have lost their lives. The Regional Commissioner came in and organized a number of meetings recently but those meetings have not borne any fruits. As soon the Commissioner left, the GSU camp was attacked and some security officers were killed. The same evening, Lorogon Village was attacked and they have moved into Turkana land. Turkanas have done nothing. They have not retaliated. They have been waiting for that thing known as the Government to react. We do not know when the Government will decide to react. We do not know what steps they are likely to take. We also do not know what steps the Turkanas will take, if the Government does not do anything about it. If the Government is unable to take the Pokots back to their land, I am very sure that the Turkanas will take a step which the Government will regret later. We are waiting for different kind of deaths.

The other thing that I would like to talk about is the employment of chiefs. The chiefs are from Turkana East area. You will find that one area has a chief from Turkana side and another chief is employed from the Pokot side. The same applies to councillors. We have tried to tell the Government that the locations and administrative units are different and a

clear demarcation should be made but, it looks like the Government is not taking any measures. The idea of duplication of administrative units is still going on. Duplication of wards and divisions is still going on. We know that, that it is not the issue of cattle rustling but people are looking for fertile areas where they can settle and do some agricultural activity. There is a possibility that somebody might look at all those areas from Turkana East to this other side and notice that they are potential areas for discovery of oil and gold. We know that the whole stretch up to Elgeyo Marakwet, the places that are being claimed by the Pokots, have high potential for gold, oil, water, pasture and agriculture. It now looks like there is displacement of other communities.

We have also come to discover that even the genuine people have guns. But the Government has collected guns from the Turkana from 1979, 1997 and recently. So, the Turkana have surrendered guns but we do not know whether the other areas have been disarmed as well. This is all done by politicians. We also have professionals nowadays who have joined together with politicians and they seem to be telling the ordinary people that certain areas belong to them. Some of them are such young people that they did not even know where the original boundaries for the communities were. I know that my grandfather used to show me the boundary. But does a young child in school or college know where the boundaries are? So, we have professionals insisting that people should be evicted. So, community land has been taken away in places such as Nadomek, Kamugelo, Omelo up to Napoitom, Lochakula and Otongat. We are being asked to move out from all those areas, and this is a land issue. It is no longer anything to do with cattle rustling. So, they attack and steal livestock. But I think the main aim is to deprive the Turkanas of all their livestock so that they can move into urban areas and in the process, they will take our land.

The other thing about those people is that they are very good teachers. They have taught us a lot of things. When relief food is taken from the DC's office and from the WFP, on its way, it is usually hijacked. The vehicles are commandeered to other stores in their places and offloaded there. Then the next day, you hear that another vehicle has been attacked again. Our DCs have held cross-ethnic border meetings to discuss this issue but they have not been able to find a proper solution to it.

We also have road engineers who have been killed. I do not know whether the tractors that are there are used to fix the roads but, recently, they were attacked and people were killed. All the parts of the tractors – I do not even know where they get this technical know-how from. I do not know what kind of engineers they are - but they dismantled all the parts of those tractors.

The other thing that seems to be going on at the moment is that the animals that are being raided have been commercialized. They are found in Dagoretti Corner, Uganda and Bungoma and nobody can arrest them. At the moment, it is big business. I do not know who will apprehend them at some point. The things that are happening are strange, but I do not want to talk more. Previously, it was cattle rustling. Then, it has become displacement of people. Now it is a question of agitation for boundaries to be pushed, so that villages are uprooted and relocated elsewhere, so that they can expand their territory.

I do not know what the Government is going to do. It might take 20 or 40 years. I know they do not have an answer yet. They have not met the people on the ground who may be having a degree in these things and who have decided what they are going to do to the Turkana.

I would like to urge this Commission that if there is any way, very many people have lost their lives - You will see our statement in Nairobi. There are so many other documents that I am yet to send to you. I know that the Government usually does not want to listen to this. When they get money from the World Bank, then they can compensate the farmers and owners of livestock by using the Kenyan money. So, I would like those people to be compensated and the Government to pay us. If it is a question of us moving into safe villages, then we should have security camps along the river so that we can continue with our agriculture. We also need vehicles permanently to distribute relief food to us in the morning, mid-morning, during the day, in the evening and at night. That is because if we are displaced from these farms, that is the only way we can get our food. I believe I have said everything that I needed to say.

Mr. Patrick Njue: We will come back to you for questions but for now, I want to give the chance to your colleague. You will start by introducing yourself, once again, for the record, where you live and what you do for a living.

Mr. Robert Muya: My name is Robert Muya, I come from Katilu. Generally, I am a farmer. I am going to talk about cattle rustling.

Mr. Patrick Njue: This is witness No.24!

The Presiding Chair (Commissioner Ojienda): Leader of Evidence let the witness go to the issue as recorded in his statement, if he has spoken about cattle rustling.

Mr. Patrick Njue: We stand guided! This is witness No.24. Mr. Muya, you have been sitting with us and you heard what Mzee Eregai Hosea has told us. He has given us the background of cattle rustling. Have you heard that?

Mr. Robert Muya: Yes!

Mr. Patrick Njue: Without repeating yourself, I will ask that you give us your personal account of the effects of cattle rustling.

Mr. Robert Muya: Without wasting a lot of time, on 31st January, 2008, we were attacked at home at about 2.00 a.m. and about 28 cattle belonging to our family members were directed towards the larger West Pokot. That was the second incident that we have suffered since 1983. That is just a single incidence of what has been happening along those places. I have a clip of *The Nation* newspaper that one resident of Katilu suffered the same in 2003 and I am ready to surrender it to the Commission. As a result of that attack, our family suffered a lot. First, we lost our livelihood and, secondly, our education was interrupted. I was in Second Year when that happened to our family. I was in the last

year of my education at the Government Training Institute (GITS), Embu. As a dependant of a pastoral life, I lost everything that was supporting me in school. Lucky enough, the director of the institution, after explaining to him, allowed me to continue with my studies. But I was unlucky because I completed my education with arrears of about Kshs124,600 and three years down the line, I do not know my results as I have not seen them. I did not get them because I have not paid the arrears. I have the original letter which was written to me from that institution that shows the much I owe them. Since it is the original, I wish that the commissioners will have a look at it and return it to me. More than that, and generally in this community, a boy child, instead of going to school, is put in charge of security of this community. Therefore, most people are killed during such ventures and for some of them, their education is interrupted. I have highlighted that. It is very pitiful for a Kenyan citizen who is supposed to go to school to take the job of a police officer of taking care of the property and family.

Without talking much, I wish to make my recommendations.

- (i) With regard to the children of the families that have been affected and whose education has been interrupted, the Government should do something so that they can go back to school.
 - (ii) Compensation should be made to the affected families.
 - (iii) The Government should apologize to those families.
 - (iv) The Government should provide an alternative means of livelihood to the families.
 - (v) Disarmament should be carried out in the rivaling communities
- In all my life in that place, the worse case of cattle rustling happened in early 1990s.

This was the era when the Late Lotodo was an MP in one of the constituencies in West Pokot. As a highlight, in my lifetime, I experienced people being beaten up during an operation in 1979. I was just two years old. but I was given these dates by the people who were affected. On 17th July, 1979, most of our fathers were beaten up by the police and the army in the name of operation. Our livestock was raided and directed towards West Pokot. Instead of the Government returning our livestock, they came back to get the guns. As a result, a lot of force was used. People were beaten up, some lost their lives, some of them were injured and there are three living examples I know of. One of them is Ahmed Ishmael, Ibrahim Lomuria and Etengewa Komoye who are all at Katilu Trading Centre. Thank you!

Mr. Patrick Njue: I also want to thank you, Mr. Muya, for your testimony. It was brief and to the point and the issues have been noted. I will start at the point in this document where you have expressed that you would want them returned to you because they are original copies. We will run copies of these and get you back the original copy.

Mr. Presiding Chair, I pray that you admit the document before making copies, as part of the record of the Commission.

The Presiding Chair (Commissioner Ojienda): It is so admitted!

Mr. Patrick Njue: For your plight, have you sought any help from any quarters?

Mr. Robert Muya: Once, I tried with the CDF, Turkana South. Lucky enough, I was given Kshs10,000 for the first time. The second time I tried, I was unlucky. They had put a lot of conditions that I must get a letter from the institution I was learning in during that time. But, unfortunately, I was out of school. Secondly, I went to LATF and I was lucky to get Kshs3,400. I have been trying up and down but that is the much I have received.

Mr. Patrick Njue: So, the amount of Kshs124,600 is what is presently owed to the institution?

Mr. Robert Muya: I owe the institution about Kshs109,400. When I was walking out of the institution, we had paid Kshs2,000 for caution money. I was not allowed to collect it because of the arrears. So presently, I owe the institution Kshs109,400.

Mr. Patrick Njue: I note that you were undertaking a diploma in social work?

Mr. Robert Muya: Yes!

Mr. Patrick Njue: I must say that this is one course that you can be of assistance to your community should you be able to graduate. I wish to encourage you that something may come up but do not give up. You are still a youth and I wish you the best now and in your future endeavours.

I will now pose questions to Mr. Eregai Hosea before commissioners can come back to you. Following your presentation, maybe you know this or not, what is the population of your community *vis-a-vis* the Pokot?

Mr. Eregai Hosea: I would not know the exact population.

Mr. Patrick Njue: Would you say that the Pokot are of about your number?

Mr. Eregai Hosea: I saw during the Census of 1969. There were more Turkanas than Pokots. According to the recent Census of 2009, I think we were more than the Pokot. But there is a dispute over the results. I was made to understand that there were more of us than the Pokots. But every week, our numbers must reduce because of people getting killed all the time.

Mr. Patrick Njue: What would you describe as the present relation between you and the Pokot?

Mr. Eregai Hosea: Our relationship is 70/70; not 90/80 and according to me, it is not good at all. Those who live in centers do not know anything about the hatred and fighting because they are not bothered about livestock. I know they lose their livestock but if you find the ones in the villages, they are the ones who find it more difficult than those of us who live in the centers. That is because they lose a lot of livestock. They have also lost

relatives. That is why they are very bitter. So, this has gone on for a very long time until we are now used to it. It has become a tradition to us although when somebody marries, you cannot say that you are used to that problem. Even if you get the next child, it cannot be like the first one or whoever was taken by God. So our relationship is not very good. It is not okay at the moment.

Mr. Patrick Njue: Do you have community elders?

Mr. Eregai Hosea: Yes! We have, although they are like us. Even if they have authority, we have been classified as one group. We have been put in one group and they do not discriminate a chief, councilor or a DO. If those who are supposed to be protecting the community are being killed, that means that all of you are the same. There is no difference between you and the village. There are old men we meet all the time and we follow all the meetings that we hold. Sometimes, we have people from Practical Action and we meet them in Pokot. We agree that we are not going to kill each other. The next day, they repeat the same thing. The following day, we sit down and swear - maybe with the World Vision who try to bring us together - and before you leave, you hear that there is a raid. So, the next day, you hear the International Rescue Committee holding meetings. So, we keep holding meetings all the time. We have peace meetings all the time. I even have a small post in the district peace committee and we have been chasing this but it is like chasing a wild goose because it is not possible. That is because illegal guns are in the hands of ordinary citizens who do not know how to use them.

Secondly, there is politics. If you remember, the politics of 1992 and 1997 killed many people and others lost their livestock. The elders are there but what can they do with the guns around? I am one of the elders but it is hard.

Mr. Patrick Njue: If I got you right, you have said that elders from the other community are also there; the Pokot?

Mr. Eregai Hosea: We have elders from the Pokot and Turkana. We meet together and women are part of it. So, we all meet and try to solve our issues with the Pokot.

Mr. Patrick Njue: Do you have anything that you do together with the Pokot? Have you participated in any good thing, for example, intermarriage?

Mr. Eregai Hosea: To be honest, maybe, those who come from this area--- The Pokot marry out Turkana women and they have children. But we have not married any Pokot. If you try to marry one, they run away. They take you back to the Pokot and you could be slaughtered. The children stay there with their mothers. So, there has been intermarriage and the women married by the Pokot are all Turkanas. We try also to play football and we have also tried to sing together in choirs. We have tried so many things but they do not work. The one we play football with are okay and the ones we sing together are okay but there are those whose job is to attack.

Mr. Patrick Njue: Keep trying to make the relationship grow bigger and better. Did I hear you say that, at the present, you feel that enough is not being done?

Mr. Eregai Hosea: I have said that because I am a father and when I see a child becoming more hostile, at times, that child may need to be sat down and advised, counseled and told that it is not good to hit other children. It is not that the Turkana are cowardly, but they respect the authority of the Government. The Ugandans are not cowards, but they respect the law as if it was brought by God and given to them. So, when a child does something wrong, you have to educate him against hitting the children of the other woman. You could spank him a bit - not hit to kill – but a spank to show him that you disapprove of his behavior. But the Pokot are completely different. When we were attacked in 1979, I remember so many people were killed. We were attacked in October and by 25th December, there was a raid in Lochakula and that is what shocked me. I asked the councilor whether we did not have disarmament the other day. Where do these guns come from? He said that he could not answer that question. They have defeated the Government because of their arrogance and the nature of their inhumanity. It is not that the Government has no power to do it, but it is just that the politics have overwhelmed it. Whenever the Government wants to take a step, before anything moves out, you hear that something has been reported in London and the Voice of America about what has been done to the children and school children. It looks like the Government is the coward here because whenever there is anything, people are dispersed but the Government has done nothing.

Mr. Patrick Njue: You have talked about people who have been killed over years. Could you make a list or do you have any documentation that you may think may offer input on the plight of your people? If so, please share it with us and I want to thank you and Mr. Muya.

The Presiding Chair (Commissioner Ojienda): Thank you, Leader of evidence.

Commissioner Dinka: Mr. Eregai, you mentioned that the cattle rustling which used to be a cultural exercise from time to time with very little damage changed its character in 1992. As you mentioned, also in 1992, many things have changed in Kenya, the most important being the introduction of multiparty politics. Do you think it is this transformation of cattle rustling into almost a war between the two communities that has necessitated the resource deprivation on the other side or is it incited by some political activity on the part of political parties or individual politicians? What do you think? Why did it change in 1992 suddenly?

Mr. Eregai Hosea: In my opinion, I believe there is an issue that was hidden that has started coming out in the open. According to the Pokot Community, they believe that they should take away the Turkana land. I do not understand whether it is to make them rich or superior to other communities in the region.

I believe that this incitement comes from politicians. Previously, there were traditional cattle rustlers but they were not attacking or killing people. They were not ambushing

villages but since 1992, suddenly things like burning other people's homes and killing people as they tended to charcoal burning began. We are hunters and gatherers but we get killed when we do that. I believe people were incited over the exact boundary and told that we need to get certain sections of the Turkana land and the best option was to attack them so that they can run away and we occupy those areas. Currently, they occupy some of those areas. So, I believe it is politics. It is not the ordinary citizens who decided that they were going to evict our community. It is someone who is well educated; one of the elites who incited them.

Commissioner Dinka: Thank you for that. You appear to be saying that disarmament has not worked. In addition to the disarmament exercise, what do you think the Government should do to bring about peace? Is there anything that your elders and the Pokot elders are also doing to bring peace between the two communities? There are two issues here. What should the Government do in addition to disarmament and what are your elders and the Pokot elders doing?

Mr. Eragea Hosea: To be honest, the Government has disarmed people. The collection of illegal arms in the 1970s was enforced by the Government and whenever they did it, as a forceful disarmament, they would find the guns and they would take them. But at the moment, it could maybe be because of multipartism and because politics has overwhelmed the authority of the Government. Also it could be because at that time, there was a single party, but over the recent past, disarmament has been like pleading with the people. The DCs and the DOs have been holding meetings to try and enlighten the people on the negative effects of having the guns and asking the people to surrender them to the Government. But for some of them, that is a business enterprise because they use it to get livestock.

Now it has even gone into banditry. Between Lodwar and Kapenguria, people are killed on the way because of money. There is a vehicle that was attacked last week and a school going child was killed as they tried to get some money. Now the guns have been turned into highway banditry. I believe that the Government should probably look for machines to destroy the illegal weapons; a special kind of machine, which will detect and destroy all illegal guns wherever they are whether they are hidden in the caves or anywhere else. I believe that would offer a lasting solution to enable ordinary citizens to live in peace. The Government should come up with a machine that would destroy all illegally owned arms. But when it comes to forceful disarmament or pleading with people to disarm voluntarily, it will not help.

The raids have been commercialized. These people take the animals and sell them in Uganda, Nairobi and other places. There have to be some senior people and some elites to who have turned this to an economic venture because I suspect that they give bullets to these people. As soon as the raids are done, the livestock is loaded onto lorries and taken to other places and yet no arrests are ever made. This means that there has to be some collusion and there must be some *Kitu Kidogo* or bribery as they call it. The Government is complacent in this. The Government should look for ways, whether it will go to

America or to the United Kingdom, to look for a machine that would destroy the illegally held guns.

Commissioner Dinka: Thank you very much. You have presented this case very ably. We have benefited from your knowledge. Going back to Robert Muya, your's is a very sad case. I do empathize with your problem. Have you tried to talk to the university to which you owe Kshs124,000 and they are still holding your diploma? Have you talked to them as to whether you can pay them over time in installments and they release your diploma to you and perhaps with somebody guaranteeing payment in the future? Have you discussed that with the Dean or the Vice-Chancellor or with somebody else?

Mr. Robert Muya: I had tried before but unfortunately, I was not able to acquire a simple contract to enable me get money and pay in bits. That is the bitter part of it. We depend on livestock for almost everything that we need but without those certificates, nothing is possible.

Commissioner Dinka: Would the university accept payment in installments or they want you to pay at one go?

Mr. Robert Muya: I had tried before and I had even asked them for photocopies, but they told me that I must pay fees.

Commissioner Dinka: At once?

Mr. Robert Muya: I must pay all of it even to get a photocopy.

Commissioner Dinka: Thank you very much. Perhaps the Commission needs to talk to the university and try to make some arrangements. But we will discuss that among ourselves. I wish you well in whatever you are doing at home now. I hope there will be peace in your village as well.

Thank you.

Commissioner Shava: Mr. Robert Muya, I conjure with the sentiments expressed by Commissioner Dinka. I am also asking myself how this Commission can help with this issue of the outstanding fees which are holding you back to the extent that you cannot even find contractual jobs so that you can try and pay in installments the debt you owe to the institution. The institution where you studied, was it a Government training institution?

Mr. Robert Muya: It is a Government training institute.

Commissioner Shava: Does that institute have access to the Higher Education Loan Board? As a student in that institution, did you have access to the Higher Educational Loan Board facilities?

Mr. Robert Muya: By then, it had not been introduced.

Commissioner Shava: Have you approached them in any way?

Mr. Robert Muya: Not really.

Commissioner Shava: Perhaps, then that would be a mechanism that we could attempt together to employ, to see whether at least, if HELB could assist you to pay off that debt, and then you could pay them back. So, leader of evidence, perhaps we can take up that issue with this witness for whom I have no further questions.

Thank you very much. I now turn to Mzee Eragea. I must say that I also enjoyed your presentation thoroughly. It was filled with humor. So, I am sure you must also have been a very good teacher. I am sure your students never used to sleep in class. I would like to try and get a bit of clarification from you so that I can also understand the situation a little bit better. I have been here before and I have worked here. But perhaps I have not travelled very extensively within this county. I would like to understand the area around the Turkwel River. What is the terrain like? Is it different from the rest of the county? Is it very different from the terrain in the land where traditionally the Pokot have been living?

Mr. Eragea Hosea: It is a very nice river. There is fish and the area is very fertile. It is appropriate for agriculture from before and even now. If you had a chance, I would go and show you Pamoru Juluka Perobok to see what the farmers are doing. You will probably see something that will make you know that it is a beautiful river and that is why we try to use that as our means of livelihood and try not to move away from the area even for our livestock. That is the only way we can survive. Now, we are more interested in education and we are chasing education and not animals. All the centres are along the river. The children go to those schools. Some of them even study agriculture as part of their curriculum. The important thing about the river is that there is water and it is cool because of the forest cover. The changes that we are experiencing are due to careless human pronouncements which bring conflict. Human beings are trying to spoil the areas where the people live.

Commissioner Shava: Then in the statement that you presented to us, you talked about boundary issues. Was there a change in the boundary involving the river? That is, the boundary between what is traditionally Pokot and traditionally Turkana grazing areas?

Mr. Eragea Hosea: For the pasture even at present, if you look at Baringo East, water comes up to here; north west. Wherever the Pokots graze their animals, we are also there. This is the tenth year but if they continue living there, the problem will just increase. People are getting killed and property lost. Even near the police camp there, it is as if it is a habit by some people. We previously lived peacefully there with them. We lived on the plains and they lived up the hills, but during the day, the cattle would come down and drink from the river and then go back but the Turkana animals would remain there. We used to just watch out for the farms because we were not allowed to graze on people's

farms. It is only when they had harvested and there were dry stocks that they would open up their farms for people to graze in.

At the moment, everything that is possible changed to negative and I can see that maybe it is because of the guns. It has been said that the water from the Turkwel River is the boundary by people who claim to have seen the maps. I have not. They say that the maps were drawn for the demarcation in 1992. How could you draw a wedding without consulting the groom, the bride and the witnesses? Nobody was called. Now the county council told us that for us to sell a plot, we must inform the rest of our family, namely, the children and other members. It is surprising to be told that a map was drawn to show the delineation and now it shows the areas that were hived off from Turkana and given to the Pokots. I have not seen it but I hear that the boundary follows the river. We are probably waiting to see it once it is done so that we are given a green light and informed about who took part in the drawing of the latest map. I can see that you have come here for public hearings so that the people can speak transparently. The Government should also behave like that.

Commissioner Shava: That is true. I just want to repeat what you have said, so that I am sure I have understood you correctly. Before, the Pokot and the Turkana were living well together. That was before 1992. The Turkanas were farming on the lower ground and the Pokot would bring their animals down from the mountains to water them in the river and then they would go back to the hills. They would not invade the Turkana farmlands except when the Turkanas had harvested and then the Pokots could be allowed to let their animals graze on the left over dried stocks. But in 1992, there were rumours that the boundary had been redrawn along the lines of the river implying that the Pokots were now free to come up to there without any sort of consultation with the Turkana. Is that the case?

Mr. Eragea Hosea: That is exactly how it is. Now the Pokot have been told that their area starts from the river and they want to enforce that. We are not chasing them away. What we are really complaining about is the fact that so many people are being killed. Our main concern is that so many people are being killed. Even if they claim that area, why can they not come and live there peacefully? We would let them live peacefully, but why should they come, feed from that area, plough the area, kill the owners and stay on? We only have goats because they have taken away all the cattle. We have bought a few goats. I have lived with them and I know that if they stop the killings, we would co-exist harmoniously. I do not see why innocent school children and women should be killed for any reason whatsoever. That is if no benefit to us. I do not know whether others are benefiting.

Commissioner Shava: Because this started in 1992, although my colleague has alluded to this, do you think it has anything to do with multiparty politics? You had said that prior to that, the two communities lived harmoniously and that things changed in 1992. Is there a way that the Pokot were voting differently from the way that Turkanas were expected to vote?

Mr. Eragea Hosea: There was no difference but our MPs do not encourage us to go and attack them. I have not attended any meeting, but I know that whenever they are contesting, they always promise their electorate that if they are elected, they are going to evict certain people. They say: “If you vote for me, I will evict these people and make sure that they go elsewhere.” So, that is the platform on which they campaign. Whenever our MPs on this other side meet their electorate, they never incite us to go and attack the Pokots. I have never heard them do that. So, in my own opinion, they must have used the excuse of multiparty because during the single party system, the Government was a little more strict with them.

But because of the laxity that came with the introduction of multi-partism, they decided to use that as an excuse. I believe it gave them an easier way to evict us. I believe it is from the time of multi-partism that they started attacking us. They started to re-demarcate the boundaries so that we could be moved for them to get more land.

Commissioner Shava: In 1992 elections, did FORD or DP get any votes in Turkana?

Mr. Eragea Hosea: I think they did. There is no one from FORD-(K) in Pokot.

Commissioner Shava: You have also said in your statement that sometimes it is very difficult to follow up on these things because many of them do not have a lot of documentation. But the people who have been living there know what has been happening. You have said that either the Government has been defeated or they are accomplices of these attacks by the Pokots. Either the Government is in some way supporting those attacks or it has been defeated to quell those kind of attacks. In your view and as an old man with the long knowledge of the history of this area, why would that be?

Mr. Eragea Hosea: I do not really know, but the Government does not contribute because it is everybody’s father. I do not think the Government would support that but I would not know exactly what somebody thinks when they are in the office. We are used to one another in the office and when I want this paper or a certain book, you can give it to me, but when it comes to conflict, I do not think the Government sponsors it. But there are certain people in the Government who do it. The Government has been overwhelmed by politics and whenever it wants to do anything, there are demonstrations by the youth and women. They politicize everything and condemn the Government. So, you realize that the Government stops doing anything that it probably had planned to do. It says: It is okay, we will leave you as you are. Even if they pass a house like this, they tell you that if you want to live the way you do, you can still do that. I know the Government has its authority but citizens misuse politics to their benefit and not even the inciters are arrested. We know there was the secret police which if you mentioned during the days of KANU, you got arrested. Now people are relaxed and they take things for granted. I ask myself: Why are these things happening and the Government is here? It is everywhere!

I remember our former MP, hon. Francis Ewaton, was arrested for incitement but during the meeting which was attended by the OCPD; we do not remember him inciting

anybody. There was only one word which he mentioned which was that: “I do not want to see any Turkana attacking the Pokots, but if they attack you, then you have to defend yourselves to the end.” I do not know whether that is incitement. But he was arrested together with some councilors who had attended the meeting for inciting members of the public. The laws should be implemented for everybody. You do not make laws and put them in the cupboard to rot there while anarchy reigns.

Commissioner Shava: I thank you for your testimony.

Commissioner Farah: Mzee Eragea, my question is short and it also needs a very short answer. In order to gain peace, you said that you were disarmed, but the Government did not disarm the Pokots. Maybe they tried, but they were not successful. Do you want to be armed in order to oppose the Pokots?

Mr. Eragea Hosea: The arms will just bring more deaths.

Commissioner Farah: Your Friend, Robert Muya, said very well that instead of going to school, the Turkana boy child is asked to go and defend the family. So, if we arm you, you will not go to school. The Pokots are your neighbours and you know them. What is your recommendation to bring peace?

Mr. Eragea Hosea: The Government should just use forceful disarmament and we will continue living together.

Commissioner Farah: That is forceful disarmament to both parties. How about the demarcation of the border? Have they tried that one?

Mr. Eragea Hosea: It has never been done. The Government is just watching people fighting and dying and keeps urging us to live together. There are meetings all the time and the Government has repeatedly said that. It is something among Africans that if you show them something, they could hurt each other. The Government thinks that if it demarcated the boundaries, people would fight even more. So, the Government, as a father, would just like to placate them for the time being so that they can continue co-existing harmoniously.

At the moment, people keep urging the Government to come and clearly show them the boundaries. That is where we go wrong because the Government is quite right. I come from the southern side and we do not really have clear demarcation of boundaries. If we were following boundaries, I probably would have been told not to cross this bridge. The incitement comes from a few individuals.

Commissioner Farah: Thank you and your friend for the eloquent way you have explained issues to us. I think the other commissioners have said enough on your case. Thank you and I have no further questions.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Mzee Eragea. Your testimony was not just philosophical but fairly deep, humorous and largely a reflection of what age can do to a man who has taught and seen it all in this land of conflict. I want to ask you about the four villages; Kaluni, Lokani, Kapei and Omopolion, which were taken over by the Pokots. Are there any Turkanas living in those villages?

Mr. Eragea Hosea: I think there are.

The Presiding Chair (Commissioner Ojienda): Are these Turkana or Pokot names?

Mr. Eragea Hosea: I can hear the commissioner not pronouncing these names the way we pronounce them as Turkanas but I do not blame him because he is not a local. These are strange villages that were formed the other day. They are not even four months old and people have just moved into them to come near the river because there is availability of water, but the conflict has started because the Pokots are living there. This place called Kalon means to save. This is the fourth month. These villages are very new and no one has lived there before, but because of the recent drought, we held meetings and agreed that these people should just stay there and graze and water their cattle there. Now they have refused to move out. That is why the problems are there.

The Presiding Chair (Commissioner Ojienda): The Turkana people?

Mr. Eragea Hosea: The Turkanas have gone to the lower villages, for instance, Lorogon, but the Pokots are living there. Some of them live near the KenGen Camp. There is one in Lokakaper, another one in Kangukatar and Kalalel. They are about four of them. They are now renaming them with non-Turkana names although the pronunciations are Turkana. In our language, if you hear of Kalon, you might want to kill yourself or the other person. The word Kalon is taboo for us. It means that we have taken by force. Kalon in Turkana means we have taken by force. So, the people have to hold back. People have gone to live in places like Nakwamoru. The village that is attacked all the time and the one that has a GSU camp is called Lorogon. They have established their manyattas there. They also keep their cattle at that place. So, the Lorogon area and Nakwamoru Sub-Location are in Kaptir area.

The Presiding Chair (Commissioner Ojienda): Arising from the same answer, you said in your testimony that unless measures are taken to settle the boundary dispute between the Turkanas and the Pokots, there is a possibility of continuing violence. You even said that you do not know what may happen but something may happen, which you do not know. Just clarify a bit. What will happen and when?

Mr. Eragea Hosea: We would like the Government to show the Pokots exactly where to live on their own land. Why would you want to grab the land of the people who are allowing you to graze and water your animals on their land? The PC was there the other day and told them to move out and they refused to move out. They have not budged. I am not in everybody's mind and I do not know what they might plan which might be more disastrous than what they have done in the past. This is what I am thinking. According to

the names that have been mentioned there like Kalon, which would make somebody either kill themselves or kill another person, they are not very good names. That is why I said that I would not know.

The Turkanas are very patient people but when they eventually react, you would not want it. I just fear what they might do when they reach the end. The Government will blame them for being the aggressors, but you are going to see the negative results of those villages.

The Presiding Chair (Commissioner Ojienda): A very short question on disarmament: You have talked about disarmament as a solution to the problem of conflict in this region. Is that disarmament in the region or in the country? I am saying this because you have the Toposa and the other communities at the border who have arms. They share a border with you.

Mr. Eragea Hosea: We have internal boundaries and external boundaries with Ethiopia, Sudan and Uganda. There is very little that I can say because that is a different area and you will have presentations from those areas. Mine is within Kenya where we have Luos, Turkanas and Pokots. I would like the Government to use any force possible or forceful disarmament. On international boundaries, I know it is the Turkanas who are guarding themselves. If there is any security, it has been put in place recently. This is something that we have talked about in this room for many years. We have asked the Government to deploy security forces in that area because the Sudanese and the Ethiopians have been moving the boundary. The Government just did that recently. We should start it from within. With regard to the international boundaries, there has to be a meeting of the people to decide.

The Presiding Chair (Commissioner Ojienda): I also want to thank Mr. Muya for his testimony. We have come to the end of the morning session hearings today. We will adjourn for one hour and we will resume at 4.00 p.m., and continue with the other witnesses. I want to thank you all.
Yes, Leader of Evidence!

Mr. Patrick Njue: Thank you, Presiding Chair. We will return at 4.00 p.m.

[The Commission adjourned at 2.30 p.m.]

[The Commission resumed at 4.10 p.m.]

The Presiding Chair (Commissioner Ojienda): May we take our seats.
Welcome back to the afternoon session. We have about three witnesses for today.

Leader of Evidence, please, call the next witness.

Mr. Patrick Njue: Presiding Chair and commissioners, the next witness will be making a presentation on a bombing incident that took place in Lokichoggio in 1989.

(Mr. James Losuru Kiong'a took the oath)

Mr. Patrick Njue: Sorry, commissioners. I actually note that we have a brief on No.27 in our files.

Good afternoon, Sir.

Mr. James Losuru Kiong'a: Good afternoon.

Mr. Patrick Njue: Kindly, for the record, once again, do state your names and where you live.

Mr. James Losuru Kiong'a: My names are James Losuru Kiong'a. I come from Lokichoggio Division which is in Turkana West District. I work at the Londat Slaughter House. I am here to make a presentation on a case of bombing that took place in 1989. It took place on 7th of March which was a Tuesday.

Mr. Patrick Njue: Before you begin your presentation, I notice that you are flanked by a gentleman on your right. Maybe you could introduce this gentleman to us.

Mr. James Losuru Kiong'a: The person with me is Mr. Peter Lokerkie. We wrote this memorandum on the bombing together. He is part of the group that wrote the memorandum.

Mr. Patrick Njue: You said that you have come to make the presentation on behalf of others who were victims of this very incident. I will ask that if you are ready, you may begin taking us through the events of that day; the 7th day of March, 1989.

Mr. James Losuru Kiong'a: I remember that it was a Tuesday of the year 1989. I was a student by then. I was 14 years old and in Class Seven. It started as an ordinary day. We went into class in the morning. At between 9.29 a.m. and 9.30 a.m., it was our turn to proceed for break. But just before we left the classroom, we heard a shocking explosion. We were surprised and wondered what it was. After one or two minutes, we got the news that an aeroplane had crashed. We had never heard that kind of explosion and, therefore, wanted to dash there to go and see.

Before we got to the place, we heard a bang from a plane. At that time, we discovered that it was a bomb that had targeted the road that was being tarmacked from Kitale towards Sudan. That was the first bomb. It left the tractors in pieces. It then targeted another one and we heard the next explosion. We were rushing to go and see the aeroplane that had crashed. We discovered it had actually dropped an explosive. We heard some strange noise coming from the aeroplane and we noticed it was dropping the second bomb. We saw smoke and fire. This was a strange thing we had never seen. We then started running away to look for a place to hide. We ran for about six to seven kilometres. Later, we realized that the plane had actually dropped a second bomb. These

were intended to hit a school and post office building. There was also a police camp behind there. During that time, Lokichoggio town was still very small. According to what they did, there is a possibility they targeted the town. By good luck, we were saved by the wind because it pushed the bomb away from the school. It went and fell somewhere near a pump where the Turkanas used to water their animals. Lokichoggio residents used it as the only source of water at that time. Later, we came back to investigate what was happening. What we saw was just death; goats, donkeys, sheep and a number of people had died. Birds had also died. Besides that, the water pipe was half-way demolished. Since I was born I had just heard of a bomb but had never experienced one. That was the very first time for me to hear a bomb explosion.

We helped the people we could. I was a small child but we gave the little help we could. We were also very worried because that was a strange thing that nobody was used to. It had never happened among the Lokichoggio residents. What we were used to were gunshots as we used to fight the Turkanas and the Toposas. The bomb was very strange and we actually thought the sky had fallen down and finished everybody.

We therefore decided to move out of the place. However, before we moved out, we had to bury those who had died. My younger sister was one of them. Some of the bodies could not be identified. One man called Lazaro lost his two wives in that bombing. There was a lady called Derapel and Lanton Kiong'a, who was my kid sister and a man who was a member of the school committee. Among these people, we were only able to recognize two; my sister and the elderly man. The rest could not be recognized.

One of Lazaro's wives was six months pregnant and we just found something that looked like the head of a foetus hanging on a tree. It was a very bad sight with intestines in some other places, limbs and flesh all over. We just wanted to run away and go to a place we thought we would be safe. We were scared. Anytime we saw a plane, we thought it was going to throw another bomb. We did not know what caused that because even since independence we had not seen anything like that especially in a small town like Lokichoggio. We were so surprised. We had some security forces but they were not used to fighting. We, therefore, thought they would not defend us. We felt that there was no security and we could not depend on the Government for our safety. We had to run away to a safer place. We came to Kakuma Primary School. Later, we managed to go to school.

The places targeted by the bomb were probably the police post, the A.I.C Lokichoggio Primary School that I used to go to and the community water point. The tractors and earthmovers that were used to construct the road had been demolished as well. We kept wondering why such a thing should have happened in Lokichoggio.

We were school children and there was nothing much we could do. We had leaders during those days who would have taken up the case to try and get to the bottom of what had happened. We needed to know who was involved in that act and why they did that. However, nobody seemed to have followed up the matter. Therefore, when we heard that the TJRC was coming here to receive submissions from the public, we remembered that incident.

We thought that bombing was politically instigated or it was just a scramble for leadership. Possibly, there could have been an attempted coup. It could also have been due to land issues or just a way of eradicating the Turkana because we were not considered to be Kenyans. Many times, we are the last to be considered for anything. We thought probably they wanted to finish the whole community. A bomb is normally used in international warfare.

Those who were injured never got treatment. They just got first aid in the Red Cross clinics. There was no hospital in the area. One of the people who were injured was John Alar who was 14 years old then. He is still alive. There is Angelina Awoi who is here. She also sustained injuries.

The Presiding Chair (Commissioner Ojienda): She can stand up.

(Ms. Angelina Awoi stood up)

Mr. James Losuru Kiong'a: That is Angelina who sustained injuries. There is also Lamulen who did not leave for six months. There is also Edwin Lekonon who lived for one-and-a-half years after the incident, then died. There is Akwalorimor who is still alive and others. I had mentioned a number of those who had died.

Several people also lost their livestock. They include John Lopetoe Elim. I have his photograph here which appeared in the *Standard* newspaper. It is contained in the memorandum. It is a photograph of him and his wife. He lost 50 goats and five donkeys. There was Kaptei who was 54 years old. He lost 100 goats and 20 donkeys. There was Nasara Loremor who besides losing his two wives, also lost 200 goats and ten donkeys. Loito Lokatei lost 100 goats and 30 donkeys. Lodopoe Kiong'a lost 200 goats and 50 donkeys. Kiang'a Pataboe lost 200 goats and 15 donkeys. Hellen Kiong'a lost 100 goats and ten donkeys. I also had 50 goats and five donkeys.

The roof of our school was completely shattered. There was the AIC church that was next to our school and the TMC which was constructing the road had all its equipment destroyed. The post office and a community borehole were also destroyed. That is all I would like to say with regard to the bombing incident.

The recommendations I would like to give are as follows:-

1. Since this event occurred, to be honest, we have only seen stories in the newspaper but besides that nothing has been done to make us know the cause of the bombing. Therefore, we recommend that we get some help to build a monument at the place we buried our people to remember them. We cannot joke with the event because we know the history of Lokichoggio was affected at that time.
2. There were several families which were affected by this incident. For example, Mzee Olumor has his children scattered everywhere including Juba. We do not know whether they will come back to Kenya. Therefore, we recommend that the victims should be compensated. ***

3. The perpetrators should be found and brought to book as per the law. We need to know the aim of the attack. In the newspapers, it was said that a Ugandan plane had bombed Kenya. We saw it in the *Standard* and *Kenya Times* newspapers, but we are not sure and we did not want to lie. That is why we did not include this in the memorandum. The *Daily Nation* newspaper also had the headlines: “Uganda Bombs Kenyan Town – Lokichoggio”. One said two people died, another said five people died and the other three people died.

I would also want to say that God is great because the formation of the TJRC has given us the opportunity to lessen some of the burden that we have had in our minds.

I would also like to recommend that the forest that was destroyed be replanted. The structures that were destroyed should also be rebuilt.

My colleague will touch on the challenges. There is a lot more that I would like to say apart from that. It could be political but it is not politics. Whenever anybody says the truth, they say it is politics. When you lie, people think it is true. At some point, we heard rumours that at that time the retired President was in England. The person in charge was the late Vice-President Josephat Karanja. There was a problem and there were rumours of wanting to overthrow the Government. As soon as the President came back, Josephat Karanja was sacked and he died a few months later.

Thank you.

Mr. Patrick Njue: Thank you, Mr. Losuru. You are saying that your friend has something to add onto what you have said?

Mr. James Losuru Kiong’a: Correct.

Mr. Patrick Njue: With the instructions of the Presiding Chair, we could oath him before he can proceed.

The Presiding Chair (Commissioner Ojienda): He has said that he wants to touch on the challenges. Is it on the same incident?

Mr. James Losuru Kiong’a: Yes.

(Mr. Peter Lokero took the oath)

Mr. Patrick Njue: Before you proceed, once again for the record, introduce yourself. Tell us who you are, what you do and where you come from.

Mr. Peter Lokero: I am Peter Lokero. I am from Lokichoggio. I work with CSF Germany as a field monitor.

Mr. Patrick Njue: Mr. Lokero, we have heard what James has shared with us this afternoon and that there is a bit that he has left out on the challenges from the incident of 7th March 1989.

Mr. Peter Lokero: Yes, I just want to assist my colleague on the challenges that affected the victims of the raids. They are the following:-

1. Separation of families due to loss of property and livestock, death of family members. This attributed to the separation.
2. Education of pupils was interrupted. The pupils of Lokichoggio Primary School sought refuge at Kakuma and their teachers sought transfer to secure areas.
3. The entire society or community was not informed of the perpetrators. Again, the perpetrators were not brought to justice.
4. Poverty levels among the affected families have persisted for several years. For example, we have one witness here who migrated to Kalokol to restart his life afresh. Those are the challenges that affected the victims.

I would also like to add that the most affected in this raid were the females, for example, the ones who lost their lives. There were four women, one being pregnant and one male. People lost so many animals yet the community depends on pastoralism.

Thank you.

Mr. Patrick Njue: Thank you, Peter, for your presentation or for that addition.

I will proceed to ask a few questions to clarify your testimony. They will be directed to Losuru who was the lead presenter and if need be, you can give an input into the answer if he does not sufficiently answer it. I will begin from the memorandum that you have been reading from and the newspaper cuttings that you have alluded to. We would take it that you would want this to formally form part of the record of this Commission.

From your presentation and especially from the newspaper cutting that you have given us, is it the understanding of the people of Lokichoggio that it is the Uganda Government to blame?

Mr. James Losuru: Since that incident occurred, the people of Lokichoggio do not know who to blame for it. We just saw it in the newspaper and realized that it was the Ugandans.

Mr. Patrick Njue: How was the situation in Lokichoggio in 1999? Was there enough security or were there threats to warrant those attacks?

Mr. James Losuru: In Lokichoggio, we border three countries; Uganda on the West, Sudan in the North and Ethiopia. There are attacks and cattle raids throughout. What used to affect us are attacks using guns. We had never experienced a bombing.

Mr. Patrick Njue: How is the situation today in Lokichoggio?

Mr. James Losuru: Recently, there was an attack from our neighbours who were fighting at that time. In 1989, they were in a civil war but before that, we used to experience only cattle raids.

After they signed the comprehensive peace agreement, there was also the problem at the border. The Government brought security forces near the border. Before the security forces came, there were frequent raids.

Mr. Patrick Njue: I have no further questions.

The Presiding Chair (Commissioner Ojienda): Thank you, Leader of Evidence. I want to thank Mr. Losuru for his testimony and the clarity of his memory. The events occurred when he was 14 years old although he has not said how old he is but he only said he is an adult. How old are you?

Mr. James Losuru: I am now 36 years old.

The Presiding Chair (Commissioner Ojienda): You must have a very clear memory because you have recalled in detail the atrocities that were committed on the people of Lokichoggio at that time. I want to thank you for highlighting those issues. I have seen in the memorandum a list of all those who lost their lives and those who suffered injuries. That will be very helpful to the Commission.

Commissioner Chawatama: Thank you very much for your testimony. You mentioned that you suspected the bombings may have come from Uganda. At the same time, you have said that you would want to know who the perpetrators are. You also hinted that the President was out of the country and the Vice-President was acting. So, you did not know whether it was an attempt to overthrow the Government or the President. Of the three, which one do you think is the strongest of your suspicions as to why your home was bombed?

Mr. James Losuru: After the bombing, we were confused. When such a thing happens, so many rumours were started. I just mentioned a couple of them, including the issue of the Vice-President acting. There were many rumours that the Vice-President was plotting to overthrow the then President. In my presentation, I clarified that I will not include that in my document because there was nothing to support such rumours, although they were flying all over the place. As soon as the President came back, he was suspended and sacked. He was not reinstated in the Cabinet until he died a few months later. I said that I do not understand the reason for the bombing of Lokichoggio. The Government did not follow up to investigate the matter. So, I do not want to think what would have happened. It has taken 22 years for us to talk about it. Those who were a little older may have forgotten the incidence, but some of us were shocked. A child does not forget what happens when he is young. It was only recently that we read in the newspapers that it was a Uganda plane which bombed the place.

Commissioner Chawatama: All I can say is that you have given us a good basis for us to do more investigations, so that we verify what happened.

Commissioner Dinka: Thank you very much for your testimony. I would like to express my sorrow about your loss during the incident. Has the Government of Kenya ever accepted that the bombing was from Uganda or was it only in the newspapers?

Mr. James Losuru: We just saw the news in the newspaper. It looks like our Government may have investigated and found out that it was from Uganda.

Commissioner Dinka: I have read the newspaper cutting that you gave us but it does not tell us whether the Government of Kenya told the press that the Uganda Government was involved. So, is it just a guess?

Mr. James Losuru: I did not hear it in the Kenya Broadcasting Corporation (KBC) but it was just in a newspaper. I have never heard anything else on the matter anywhere else.

Commissioner Dinka: How many bombs were thrown?

Mr. James Losuru: It was one plane and it bombed twice.

Commissioner Dinka: Mr. Peter Lokerio, you said that the Government should plant more trees for re-forestation purposes. Was the deforestation due to the bomb and how did it happen?

Mr. Peter Lokerio: The bombs which were dropped destroyed trees.

Commissioner Dinka: How large was the area?

Mr. Peter Lokerio: It was about two square kilometres.

The Presiding Chair: Thank you very much. In your view, what is the one thing that the Government should do to improve security on the border between Kenya and Uganda?

Mr. James Losuru: I think the two Governments should sit down and look for a way of solving the common problems. Other issues that should be solved include Migingo Island and so on. I do not know how the Kenyan Government could sit at a conference with the Uganda Government so that they can solve those problems once and for all. I suggest that the Government of Kenya should put in place measures to ensure that we are in a good relationship with our neighbours from Uganda.

The Presiding Chair: Thank you. Leader of Evidence, you could step the witness down and call in the next witness.

Mr. Patrick Njue: Commissioners, our next witness is witness No.26 in our file.

(Mr. Andrew Ebei took the oath)

For the record, could you tell us your name, where you live and what you do for a living?

Mr. Andrew Ebei: My name is Andrew Ebei, from Lokichoggio and I work for the county council as a clerk.

Mr. Patrick Njue: You are here to talk about the Letelet massacre? Do you confirm that to be the case?

Mr. Andrew Ebei: That is true. In April, 1988 at about 4.00 a.m., there was a big ambush on Letelet which is about 40 kilometres from Lokichoggio Town near the Uganda and Sudan border. On that day, there was a raid where people from Uganda and Sudan colluded to come and attack the Letelet Manyatta which is a watering point and a grazing ground. It was during the dry season and so, livestock was out there both day and night.

At around 4.00 a.m. that day, there was an attack which took four days because the Turkanas were fighting off the Toposas of Sudan, the Nyang'atom of Ethiopia, the Merile of Ethiopia and Nyang'atom from Uganda. The Kenyan Government responded to the cries of Turkanas on the fourth day. The District Commissioner (DC) of Lodwar was Wilson Chepkwony. He called the Provincial Commissioner (PC). The fighting did not spare children or women. Those who were near the grazing land were attacked. More than 280 people were recorded by the Government as having died. Those who died in the bush were never counted and it was very hard to tell how many were lost, including children. Livestock was taken away by the raiders. Very many people lost their lives. The Government responded by sending in a helicopter which chased away the raiders for more than 200 kilometres into their country. They were lucky to bring back a few livestock which had been stolen. The raiders were driving the livestock to their respective countries. At that time, Lokichoggio did not have a good hospital and so, the injured were taken to the AIC health centre. Several people succumbed to their injuries.

The livestock that was brought back was given to the chiefs to give back to their owners. The livestock was not enough and so, the chiefs took advantage to give the livestock back to their in-laws, relatives and the councillors. Most of those who had lost livestock were left with nothing. That kind of attack had never happened before. Normally, whenever there is a raid, it takes 30 minutes or, at least, one day. Not many people are killed. That was a massacre and it led to many lives being lost. The Turkanas who depend on livestock were left with no other source of livelihood. So, they became more impoverished. That attack led to the coming up of informal settlements in the outskirts of Lokichoggio. The people could not afford to educate their children any more. The girls became prostitutes and the boys became street boys. Most of them wanted to come here but they could not afford transport costs. They wanted to come and present their views to the Truth, Justice and Reconciliation Commission (TJRC). For you to facilitate them to

come here, it is important that you provide them with transport so that they can come here. I am the only one who came to represent them.

There are about 2,000 people who wanted to come here. So, the Commission needs to consider meeting those who were actually affected. There are those who lost their legs and so, they are now disabled. Even now the attacks are still there because the women who go to the bush to make charcoal to sell are ambushed by the Toposa and killed. We now have so many orphans who should be educated and taken care of.

I am complaining to this Commission because the people who would have accompanied me here were not able to. So, what I would like to ask is what the Government can do for those families that were left behind.

In 1988, I was in class six and my parents were killed. I struggled to go to school and could not afford college. When you ask for bursary, you are likely to get Kshs2,000 or Kshs3,000. I urge the Commission to assist those who were left behind without their livestock. When the United Nations (UN) was here, it was very helpful. But when they left, people are very poor. The women who used to burn charcoal to enable them get money cannot do it any longer because there are no trees. I would like to invite you to visit Lokichoggio. Oxfam gives assistance to them, but it only comes twice per year. That is what I would like to present before this Commission.

Mr. Patrick Njue: Thank you, Mr. Ebei for your presentation. Earlier on, we received a memorandum concerning this massacre. I want you to look at the document and confirm that, indeed, it is what you had prepared for presentation.

(The witness looked at the memorandum)

The Presiding Chair (Commissioner Ojienda): Leader of Evidence, please lead the witness. Do you want the memorandum to be admitted?

Mr. Patrick Njue: He is confirming that, indeed, it is the one he presented.

The Presiding Chair (Commissioner Ojienda): We have it on record as admitted.

Mr. Patrick Njue: As the Presiding Chairman has said, the document is now admitted as the record of the Commission. I note that there is a complete list of the victims. You have also told us the causes of the clashes and given us your recommendations.

Now Commissioners may ask you some questions.

Commissioner Farah: How many people were killed in that massacre?

Mr. Andrew Ebei: Those that were counted were about 290. Those were close to the water point and near the road. The ones who went to the bush were not counted and yet, they might have been killed by wild animals.

Commissioner Farah: How many government officials were killed?

Mr. Andrew Ebei: There was no police officer who was killed.

Commissioner Farah: Thank you very much for your good evidence. I have taken note of all the details.

Commissioner Shava: Thank you very much for your testimony. We have heard about massacres in other parts of Kenya and it has always been devastating to here the experiences of people regarding the loss of life and property. I would like to know what life was like with the neighbouring countries before that particular incident. Was that the first raid or one of the many raids?

Mr. Andrew Ebei: There were ordinary raids before this one. They involved a few communities but this one where two communities from two countries combined to come and attack one clan had never happened before. Previously, it was the Turkanas versus Merile. That raid involved very heavy weapons which is something they had never experienced before.

Commissioner Shava: When the raid took place, were there any rumours that a raid of such nature would take place? Did the people there have any idea that the raid would take place? Can you remember?

Mr. Andrew Ebei: Nobody knew that such an attack from two countries could take place. Nobody expected such an attack. Mostly people were used to ordinary raids which take about six hours, but this one brought devastating damage.

Commissioner Shava: Can you recall if you were informed why the Government did not respond until the fourth day?

Mr. Andrew Ebei: We do not know why the Government arrived very late. Maybe communication was not as easy as it is now. At that time somebody had to run to Lokichoggio or Lokitang, then they could contact Nakuru, then Lodwar, to inform the provincial office. Most of the police men were not in a hurry because most of them did not understand the magnitude of the raid. That is my opinion.

Commissioner Shava: You also mentioned that at there was no hospital except for a small centre where people were treated. What is the position now?

Mr. Andrew Ebei: At the moment it is a lot better. There is a sub-district hospital which was built and has also been improved. There are no wards to enable the hospital admit more than 30 people. So, most of the patients lie on the ground on mats and also outside the hospital. Although it is a lot better, but it could be improved. The raids are still common and we live in permanent fear. I think we should move away from the border

because we no longer have livestock so we do not know what we are doing there. We should all come and live near the DC or PC and leave the border.

Commissioner Shava: In your statement, you also mentioned that displacement occurred as a result of the raid. How far did some people have to go in order for them to reach a secure place?

Mr. Andrew Ebei: At that time, that is 1988, there was operation lifeline Sudan that came to Lokichoggio where we were able to get some odd jobs like cleaning. Most of the agencies employed many people enabling them to sustain their livelihoods. Previously, people did not know the meaning of school and depended completely on livestock. But they lost them all.

Commissioner Shava: Maybe, my question was poorly interpreted. I was asking about displacement. You have mentioned, in your written statement, that displacement of people occurred. I was asking how far, maybe, in terms of kilometres, the people had to move from the area where the raid took place to find a place of safety.

Mr. Andrew Ebei: I said earlier on that Lotenet is one of the locations. When our means of transport, which was the donkey, was gone after the massacre, we walked slowly up to Lokichoggio Centre and created camps there. That is about 30 kilometres. Somewhere within Lokichoggio Town, there are many camps of displaced persons who depend on relief food. This Commission could go there, village by village, to experience what I am talking about, because it is very difficult to transport everybody from there to this place. I emphasise on this request. You may not depend on one witness. I am the only one who has managed to come here. So, you could experience the situation on the ground for yourself.

Commissioner Shava: In your testimony, you have taken us through the events of what happened, and I am sure that your people had so much confidence when they allowed you to come and testify before us. They knew that you would represent them well and, indeed, you have represented them very well. We have heard you very clearly, on what happened. I could not be clearer than that, but, as you have said, it would have been nice if we had had an opportunity to visit the area and speak to more people; but believe me, you have done your very best.

My last question was, immediately after the Government sent help, apart from the police officers, was there other help that came from the Government immediately after the raid, to help the people go back to their normal lives?

Mr. Andrew Ebei: Commissioner, kindly, repeat the question. I am a bit mixed up. You mentioned the Government and asked whether the people received help from the Government. Where would any other kind of aid come from?

Commissioner Shava: You mentioned the fact that the Government sent the police. Is that right?

Mr. Andrew Ebei: Yes.

Commissioner Shava: Did you receive any other help from the Government, just to help you go back to normal living, because of the experience that you went through?

Mr. Andrew Ebei: The only help we got from the Government was that it started sending some GSU and AP trucks. We also had people from the Reece Company. They brought their vehicles to transport the injured to hospital and fetch water. It was during the drought. Those who had bled in the forest had lost a lot of blood. You may know that some bullets are sort of poisonous and, because of that, one needs to take a lot of water. So, we got means to transport the victims to hospital.

Commissioner Shava: Thank you very much for your testimony. I am really sorry for the experience that you went through. I am also very sorry for the loss that you people suffered. I am so happy that, today, you have been able to come to the Truth, Justice and Reconciliation Commission (TJRC) to share your experience with us. We pray that the recommendations that come out of the testimony that you have given will help to improve the lives of your people.

Commissioner Chawatama: Mr. Andrew Ebei, I thank you for coming today to share with us the very painful story of what your community is going through. As my colleague has said, we are, indeed, very sorry that we cannot go there. We would have wanted to visit all the people you represent here and see the situation with our own eyes. We are constrained only by time. It is not that we would not want to go but we have to go round the whole country, and given the time that we have been given by the Government to do our work, this is the best way we have been able to do it. As my colleague has said, you have represented your people in your story very well. So, we want to assure you that we have understood. You speak with a lot of pain, and we can understand why.

I would like to ask you one question. I have not heard of this massacre before, and I find it very shocking to try and think about how people were at home, asleep, and then people come from three different countries to attack them. So, it sounds as if it was a very well organised raid. One community came from two countries and then from other countries, one community each. So, we had the same community coming from Uganda and Ethiopia; another community came from Ethiopia and the Toposa came from Sudan. So, it is as if they had had discussions and decided to raid the Turkana at Lokichoggio. Why would that have happened? Was it that at that time your community had a lot of wealth? Was there anything else that was going on in the regions, which warranted that level of consultations and organisation, and in order for them to be so well armed that they could sustain that raid for so long? In short, what was it that made them attack your community in such a manner at that time?

Mr. Andrew Ebei: As I told you before, this was during the dry season. As you know, most of the pastoralists are usually injured by accident. What causes it is pasture and water. Pasture and water bring people together. They noticed that Lotenet area had a lot

of pasture and a lot of water which could cater for both livestock and human beings. There were about 20,000 herds of livestock comprising of cattle, goats, donkeys and camels, all of which were concentrated in one area. So, they took advantage of the drought and attacked this area. This happens quite often during the dry seasons. What happened recently in Todonyang also happened during the dry season.

The Presiding Chair (Commissioner Ojienda): Andrew, thank you very much, once again. I want you to clarify two issues. You seem to say that the conflict between the Turkana, the Nyangatom and the Toposa of Uganda and Ethiopia is a conflict over resources, and specifically water and pasture. Is that the only cause of the conflict?

Mr. Andrew Ebei: Apart from water and pasture, another thing which might bring about conflict is livestock. Sometimes they raid us to take our livestock and sometimes we raid them to take their cattle. So, they wait for the dry season to come and take advantage.

The Presiding Chair (Commissioner Ojienda): You also talked of attacks by the Toposa and the Nyangatom when they cross over to Kenya. Do you also attack them when you cross over to the other side of the border?

Mr. Andrew Ebei: You know the Turkana are very faithful people. Even the NGOs that are concerned with peace issues know it. There is a witness I heard speak here earlier, who said that the Turkana are very faithful people. How many kilometres is Lokichoggio from the border? We were right inside Kenya. That was 40 kilometres from Lokichoggio. Those of us who are pastoralists do not combine with other communities to go and attack one community. The Turkana, the Doldosa and the Nyangatom actually speak one language. The cause of this is just the livestock raids that happen every now and then. I believe they came together and planned the raid. They thought that there was so many livestock. So, they thought that the only way they could succeed in taking the animals was to combine forces. One clan like, say, the Toposa alone, would not have succeeded in raiding us for livestock.

The Presiding Chair (Commissioner Ojienda): That was in 1998. The most recent conflict that we know about was the conflict between the Merile and the Turkana, which happened at Todonyang. I want you to just tell us whether in this time, it is possible for the Turkana to graze their cattle beyond the border into Ethiopia or Sudan or Uganda.

Mr. Andrew Ebei: Our Government always tells us: “You should not go and attack. We are taking care of your property and you, citizens, have the responsibility to the Government.” So, when it is in Kenya, it is in Kenya. There is a police post. We have the right to graze and use the water available. We depend on the Government to take care of the borders and keep them secure as well as protect the citizens’ property. That is where our negligence comes in. If we were ready for a fight, we would not have been ambushed. The Government says that it will take care of our security, and we believe it. We are given a few Police Reservists. We are told that there is the army and police officers. The kinds of police stations that we have are manned by five officers. Can five

police officers fight with more than 1,000 people who are heavily armed? That is the weakness of our Government, which we believe should be looked into.

The Presiding Chair (Commissioner Ojienda): Is there enough security at our borders?

Mr. Andrew Ebei: No, there is not enough security. In Todonyang, you find five police officers. The Merille will come with the Toposa, and they will overwhelm such a small number of officers.

I recommend that our Government should place artillery along the border to make sure that its citizens and their livestock are safe. The Government should not establish a centre and leave two Administration Policemen at that centre. These people only come in the morning to count the bodies and take them to Nairobi.

The Presiding Chair (Commissioner Ojienda): You have spoken to a very important question – the security of the borders of this country. You have also spoken to the lives that were lost during the conflict. We have also seen in your memorandum a list of those who lost their property and those who were killed. As a Commission, our task is simple – to make recommendations along the lines of your memorandum. We thank you because we will be much better because of you.

We are sorry that you were not able to transport all the witnesses from Lokichoggio to support your testimony but you have been honest and comprehensive in your presentation, and I thank you.

Leader of Evidence, call the next witness.

Mr. Patrick Njue: Commissioners, this is our last witness for the day. He is Witness No. 25.

The Presiding Chair (Commissioner Ojienda): Proceed.

(Mr. John Lokaale Aule took the oath)

Mr. Patrick Njue: Good evening, Sir. For the record, please, state your names, where you live and what you do for a living.

Mr. John Lokaale Aule: My full names are John Lokaale Aule. I am a nominated councillor from Turkana South Constituency, on an ODM ticket. I am a resident of Kainuk Location, Kainuk Division, Turkana South District, and Turkana South Constituency.

Mr. Patrick Njue: Thank you, Aule. I notice that to your right, there is a gentleman flanking you. Maybe, you want to introduce this gentleman to us.

Mr. John Lokaale Aule: Yes, I am accompanied by one witness, who is seated over there. The one who is seated next to me is meant to give me information that I may require. The one that is in our records is Ekuwam Ewei. He is also from Kainuk.

The Presiding Chair (Commissioner Ojienda): Maybe, you can ask him to rise, so that we can recognise him.

(Mr. Ekuwam Ewei stood up)

Thank you very much, Mr. Ekuwam. Please proceed, Leader of Evidence.

Mr. Patrick Njue: Mr. John Lokaale Aule, you are here this evening to present a memorandum on Turkwel Gorge Hydro Project. Confirm that, that is the case.

Mr. John Lokaale Aule: I have two presentations. One is about the administrative border concerning Kacheliba as an administrative unit in Turkana District. The second one is on Turkwel George Hydro Power Project as it relates to Turkana County.

Mr. Patrick Njue: Can you begin with whatever it is that you have to tell the Commission?

Mr. John Lokaale Aule: I will start with the summary. I have a document here, which is meant for the Commissioners. I have also prepared some notes that support this presentation; they are in support of our argument. I also commend this process. On behalf of our community and our committee, by the end of the day, the truth shall be realised and justice prevail.

This is a presentation from Turkana South Constituency to the TJRC at Lodwar County Council Hall.

Turkana County covers 77,000 square kilometres with an estimated population of one million, according to the 2009 National Population Census. However, this figure is still disputed. Records indicate that we are 850,000. Our population density is one to 30.

The Turkana came to Turkana during the turn of the Century, 1896-1926. The Turkana belong to the Nilo-Hermite group, comprising of the Nijie, Toposa, Karamojong and Nyidotho. They are people living in the place described as the “welder tribes” living in Turkana District, North of Mount Elgon”. During this time, the population of Turkana was 90,000, occupying 24,000 square miles. This reference is found in the records of PH Gulliver, The Teso and Karamoja, Uganda Journal, Volume 20 No.2.

They were initially administered from Uganda before being transferred to the Imperial British East African Protectorate in 1902 and 1926. This record is found in this document, which was prepared by Sir H. Johnston. The transfer record is indicated herein.

Previously, Turkana was under Naivasha Province, before being transferred to the Imperial British East African Protectorate or Company. The districts under the Northern Frontier comprised of Turkwel District and Kacheliba was the headquarters of Turkwel District, and Southern Nabotok District, whose headquarters was at Kalosia before being transferred to Marich. The headquarters of the Northern Frontier District was in Lodwar. The Southern Nabotok District was the initial provincial headquarters before being transferred to Naivasha.

In summary, I quote the information concerning the transfer. This reference is also found in the PH Gulliver's, as I mentioned earlier. It states:-

“I concur in your Excellency's opinion that in the circumstances, the administration of the tribe Turkana should be vested in the East African Protectorate.”

In 1946, there was a confirmatory administrative letter, which, again, referred to the Turkana. Finally, the borders were defined, and they were restricted after the transfer of Turkana to the Imperial British East African Protectorate.

During Independence, in 1963, Parliament adopted and confirmed the colonial boundaries through a Subsidiary Legislation of 1963. This one is found in a document I handed to the Commission earlier on. Here is a document, a copy of which I handed over to the Commission when I was recording my statement.

Some of the justification given during the Imperial British East Africa colony is contained in the Native Authority Ordinance, Chapter 129, as amended by the Revised Edition of the Laws (Operation) Ordinance. The Schedule appointed headmen in Southern Turkana Local Native Council. These were Headman Abong Achuka Looya, who was nominated. Headman Kiyonga Katodi who was nominated to take charge of Suguta.

Abong was to take charge of Loiya; Headman Samal Napurin was to take charge of Turkwel Valley; Headman Lotiti Onedek was to take charge of Lake Rudolf; Headman Magede Lotawa was to take charge of Central Kerio; Headman Etan Angatamut was to take charge of Upper Kerio; Headman Nyuru Loroo Kalapata was to take charge of Kalapata; Headman Awilangmoi Anema was to take charge of Naboto. Sub-Headman Loichoguli Achuka was to take charge of Karuzoboli.

According to the official Gazette Notice of 20th May, 1930, the following people were elected. The Gazette Notice reads as follows:-

“The Kenya and Uganda Transport Orders in Council, 1925 and 1927. This is the council-

Elected

Lomecher Nanyele was elected for Loiya; Elaini Lomoria Lomogeriamoi, Suguta; Oiya Miria, Mabotok; Etoo Loin Logilitimoi, Kerio; Epee Otoo Okure, Lake Rudolf; Akitiarang Moile, Kalapata; and Lowonto Aruba, Turkwel Valley.”

I also have information showing Turkana as a province in Kenya during the transfer to the British East African Imperial Colony. We have the Gazette Notice of 10th July, 1934. This Gazette Notice partly reads:

“African subordinate officers not serving in the Northern Frontier Province or the Turkana Province, may be granted local leave or full pay not exceeding 14 days in any other year.”

This information is meant to justify Turkana as a province. I cannot repeat other information.

There were also people who were appointed to administer Turkana Province This is Government Notice No.211 of 12th June, 1917, which was signed by the Secretariat in Nairobi and also by W.J. Monson, who was the Acting Chief Secretary. The information states:

“Thomas Davidson Maxwell, with effect from 7th June, 1917, has been appointed to be the District Commissioner in Kacheliba, Turkana Province.”

I also have evidence indicating that licences and permits in Kacheliba were delivered under Turkana. I have a licence issued at Turkana during the quarter ending 31st March, 1917. There are some issued for Kacheliba and Lokiriana. I also have other information indicating that council wards from Pokot area known as the “Pokot Area Council”, 1968. I want to confirm that by 1968, there were 12 wards. These wards had been arranged but Kacheliba is not there. These were the wards covered under Kapenguria by 4th March, 1941. I have the evidence in Government Notice No.201, which reads:-

“It is notified---

The Presiding Chair (Commissioner Ojienda): Witness, just to help you, I know that you are driving at very important recommendations. That is why you have started with antecedents that will lead to your recommendations. I just want to note two things. One is that a lot of the issues that touch on the boundary question are a function of the Independent Electoral and Boundaries Review Commission (IEBRC). I think you have referred this memorandum to that Commission.

However, I see a lot of historical injustices as set out in the Special Districts and Administrative Act, which have, however, been repealed by the Constitution of Kenya, 2010. So, as a Commission, we will make our recommendations in line with the developments that have so far occurred since our creation is through an Act of Parliament.

So, maybe, you want to go to a presentation on things that would further the cause of your people because a lot of the notices you are talking about have all been overtaken by other developments. I just want to help you this way, because you are going into history

but all that has been overtaken by developments in the nature of a new constitutional dispensation, which guides the work of this Commission.

Mr. John Lokaale Aule: Presiding Chair, the reason as to why I am reading out all this information is that Kacheliba was illegally transferred in 1992 by the previous regime of President Moi. The documents of the Government of Kenya even up to Independence, and more so during the Kenyatta regime, never altered the district administrative borders. So, it was very serious that we lost a province. Right now, it seems that it is being legalised so that we lose Kacheliba Constituency.

Presiding Chair, although you are telling me to abandon the historical reports, you appreciate that history repeats itself. Even though this matter may not be addressed today, I know that at some point in time, justice will take effect.

I will now proceed to 1963. I have the parliamentary party's representation. I have some information. I can get a copy of the administrative map of 1973. This is an official Kenya Government map for 1973, prepared by the Survey of Kenya, Scale 1:250, Series Y503, Edition 3 of the Survey of Kenya.

I got this from edition three of the Survey of Kenya. I can give it to the Commission. It indicates that Kacheliba is in Turkana District and, I think that is undisputed. We just want to register in your records that we have a claim, whether addressed or not, we have a case! Kacheliba will not go to anybody and, under legal presentations, it is our property.

According to Parliamentary representation, it is indicated that Kacheliba was curved out from Turkana South Constituency. The number for Turkana South Constituency is 108 and that of Kacheliba is 109 and, the problem of Turkana rests in Kacheliba. I fail to understand how an administrative unit curved from another administrative unit; can become a problem of another administrative area and, we wonder whether it was crafted purposely to create problems for Turkana. That is the reason why we are claiming it back. Another issue is with regard to the administrative map. I have the map here and, it indicates the borders of West Pokot from other borders. You can see there is a document like this one; the same document is official and it indicates that the whole of Kacheliba is in Turkana constituency and; I have so many supportive documents on the same.

This is how Turkana County was looking like before Kacheliba was curved out of it; and this information was taken from the Central Bureau of Statistics, Ministry of Planning and National Development. So, this is a document which supports what I am saying and the original map looks like this; Kacheliba as shared by Turkana Central and Turkana South. Other evidences include the administrative maps. During the leadership of President Moi; we understand that when Hon. Asman Kamama was in the Ministry of Planning and National Development, this was crafted for West Pokot where part of that land was annexed for the Pokot. This is how it looks like and is declared as a Millennium Development Goal. But, I believe, it is a Millennium Corruption Goal.

The other fake map is for the Turkana side. Because I am not biased, the areas curved from Turkana were curved from this map. It is also an administrative map that was illustrated and curved for the purpose of depriving the Turkana people of their rights.

Finally, on administrative maps, we the Turkana may declare that any Commission that will come out in our favour will first address the issue of Kacheliba. If anything, we have these fears; we have got continuous conflicts arising from our land that was illegally alienated. We have fears of socio-cultural conflict between the Turkana sections living in Kacheliba and those on the ancestral land. If not properly addressed, they will cause some psychological trauma to our people and the generations to come. Our fear also is that with the unresolved boundary disputes in our southern borders, the county government for Turkana County will face an uphill task that is bound to waste time, resources and pose conflicts at the expense of development activities.

The other issue is that the boundary alterations were never done during the Kenyatta regime. But the atrocities were first realized in 1979 during the “Operation Toa Bunduki”; that badly affected Turkana South. The 1992 alteration on district and provincial boundaries created new locations as indicated in our previous documents presented to your office. These locations were created within Turkana South; and they are parts of Lomelo, Nadome, Nabeiton, Lochakula, Lologon, Amolemu and Naligomulo. These areas were curved and formalized in the Millennium Development Goals. Topical maps for Turkana which were curved out of some areas in Turkana included in Baringo, West Pokot and Pokot North. So, our demand to this Commission is that, if it does not deal with boundaries, it has to deal with the administrative units. We have the units that we lost. I do not know whether the Commission has these documents; I had given them in advance to your office. These documents have places with Turkana names, for example, Kabedo Location is in Turkana East District. The new Pokot name as crafted by the craft administration of the previous regime is in Mondri Division, Pokot East District.

Presiding Chair, Sir, how can somebody come into your bedroom, take out your treasures and you are told to be patient and persistent? And, today you are telling me that it has been overtaken by events. Are our locations overtaken by events?

Today, you are here and we are depending and relying upon you; it is your office to operate and harmonize these bitter acts of malice. I cannot read these documents here because you have them in your office. We want this anomaly to be rectified and we are pleading for that. There are so many other issues, but one is our locations and the duplication of these locations; please assist us to address this matter.

The second issue is on the falsified administrative maps. Please, assist us to rectify them. We have the names of the newly created locations and sub-locations. We have the altered co-ordinates from Kainukuso to Lolenkipi.

Presiding Chair, Sir, if you allow me, I would cite where the problem is and probably read some of these co-ordinates, because if I do not read them now, then I will never.

The Presiding Chair (Commissioner Ojienda): You can read them.

Mr. John Lokaale Aule: Thank you, Presiding Chair. This is the information; the alteration commences from Nainukoford. This is from the district and Provinces Act, Second Schedule No.5 of 1992. And it reads as follows:

“Fence generally, not to western downstream by that river to the Fordnainuko, where River Turkwel emerges from the Turkwel Gorge. Then run downstream by that river to its intersection with the western boundary of Kapitul Location.”

That is where the error starts.

In the Second schedule, it indicates that it moves downstream, but in the legal statute, if you allow me also to make some quotation - you understand that one said that it goes downstream. But the correct Kenya Subsidiary Legislation of 1963, for the Turkana District, number 19 page 240, reads as follows:

“The river Weng Weng turns generally towards the western downstream to the junction of River Weng Weng or Marimarite and it turns generally northwest downstream by that river to Fordnainuko. It also turns northwestern by a straight line to Mikoyan where River Turkwel emerges from Turkwel Gorge and turns upstream.”

Hon. Presiding Chair, this is what I wanted you to hear. The other one says:

“The other one turns downstream. The problem is where this one indicates, turns upstream by the river and the Swam river to the intersection of the latter with the Kenya International Boundary. So, the Turkana are the official neighbours of Uganda. Kacheliba is in Turkana.”

I will stop there so that I can give my recommendation for Kacheliba and then I come to Turkwel Gorge. I am not going to read all these, since you have them; I will only read the recommendations. These are our recommendations:

The Government should amend the alterations caused by President Moi’s regime and, what belongs to the Turkana should be repossessed. The true and correct boundary lines should be the basis for the Turkana map.

The Government should comply and adhere to the 1963 administrative boundary lines between Turkana and West Suku Districts, as defined in the 1963 Constitution.

The Government should de-gazette all administrative locations curved out from Turkana; Baringo East, West Pokot and Pokot North and those responsible held accountable. Kacheliba Constituency is the property of the Turkana people and should, therefore, be transferred and administered from Turkana County.

In case of any alterations towards the resettlement, the land should be valued by the Government and its full value, in view of the current prevailing rates, be fully paid to Turkana County. We stand by our recommendations on boundaries as presented to the IIBRC.

I have additional references which I cannot read as time is running out. I think I am through with the issue of Kacheliba and the administrative boundaries.

I now move to the second issue; the Turkwel Multi-Purpose Power Project. We have administrative units we want brought back. This project is believed to be in Turkana. We have a Gazette Notice and the documents which we gave you. I have to indicate that the Gazette Notice is legal. This gorge was created in Lologon Sub-location by Gazette Notice No.4129, as approved under the Local Government Act, Cap.265, under the County Council of Turkana. This Gazette Notice, if you allow me to read, states as follows:

“It is notified for general information that Lologon Sub-location, referred to as Grid zone 36NYT/6111/ Height 53.10 ft/16.18 metres in Turkana District, becomes a trading centre under the jurisdiction of the County Council of Turkana with effect from 18th July, 1987.”

This location was created and, previously administered as an area in Kaptur Location. So, when the Gorge was created, it fell under Kaptur Location.

Another issue that supports the same; when this location was created, some of the anomalies were realized. I may give you a copy of this which has information of valuation role. This land was valued and certified. This is the certificate I am reading that indicates that Turkwel Gorge is the property of Turkana, supported by the valuation role of the development plan.

I certify that this plan has been prepared and published as by the requirement of physical planning Act No.6 of 1996 and the planner is Fredrick Owino. The signature is approved by the Director of Physical Planning 19th December, 2008, and also approved by the Minister for Lands on 5th January, 2009. It is an approved development plan that has been approved for the Turkana County Council. This is for our Commissioners reference.

When this Gorge was started, it is believed to have cost £450 million. If I may quote; according to the Institute of International Economics on corruption: Corruption as an international policy problem, page 192:

Presiding Chair, Sir, the goings-on at Turkwel Gorge as described, may take me time, because it is very important to note that those who were in power defrauded us of our resources. Despite having received huge amounts as grants, money that was paid by the taxpayer; it is a case that we would want you to investigate.

That the total area covered by Turkwel Gorge is 21,000 hectares, and this Institute of International Economics on Corruption, identified some fraud and this is the report that they wrote:

“The potential impact on aid’s fraud was demonstrated in the energy sector which was suffering from inadequate capacity in the Kenya Energy Sector, regular power failures in 1995; “donor allergy” had developed from what one source described as a slap in the face of donor community, during the construction of Turkwel Gorge Dam, several years earlier. The contract was awarded without competitive bidding.”

In the judgment of a report by the European Community, the project ended up costing many times its original cost; at an already inflated price, as a result of kickbacks to Government officials. This information was recorded and found at the Financial Times of 25th October, 1995. This is an act of fraud and that is how I believe the plan failed.

When this plant was inaugurated, this is what we expected; a report prepared by Sourer Engineering Company indicated that the Turkana were to benefit downstream from the irrigation scheme on a cultivated area of total of 5,000 hectares.

Hon. Presiding Chair, Sir, this one has never been realized. Can those who misappropriated these funds mentioned in this report be brought to book? This is what is contributing to the poverty level of the people of Turkana people. If this 5,000 hectare-irrigation scheme would have been implemented, there would have not been any hunger in Turkana. So, what was the plan of the then regime?

When Mr. Nicholas Biwott, referred as earlier as the “Total Man”, was the Minister for Energy, he diverted all the power to Central Kenya, while Lologon, 200 metres away from the power plant is still in darkness up to date! It is painful and we ask ourselves; are we really in Kenya? Is this a sovereign state where we stay as a legal tribe? The same people who are denied this irrigation project are staying without power, clean and piped water and improved health facilities. As a result of this dam, surveillance was carried out. I hope you have this copy on surveillance towards viral hemorrhagic and fevers at the Turkwel Gorge Hydro-electric power plant.

Hon. Presiding Chair, Sir, the diseases that we are encountering right now are many; River Turkwel flows into Lake Turkana and we have the complexities of diseases as indicated in this report, prepared in August, 1999 by the supervisor Dr. Lee Danster Co-ordinator of World Health Organization, in collaboration with the Centre for Viral and Viral hemorrhagic fever; Reference and Research, CVR/KEMRI, Nairobi Kenya; a legal report.

Turkana people who are living along the River line of Turkwel River lost their land. Will you give the answer? We want you to give the answer today and that is why we have a case over Turkwel Gorge, not only because of loss of land, but the loss of this irrigation scheme.

If somebody somewhere read this report, it was designed for millions, but somebody somewhere went out with this money. It was a grant that was to be repaid, as it is indicated in the report, this grant was given by the French Government and the company that was awarded this contract was Hyper Tinos (?) which was also a French Construction Company but the report and the final findings were prepared by Sourer Engineering.

Hon. Presiding Chair, another issue which I want to mention about the Gorge is that, the Turkana people were to benefit from a downstream irrigation scheme.

Also, as a community, these were our expectations, but we realized drastic changes immediately after the turbines were propelled. We were promised jobs, health facilities, good roads, water and sanitation and so many other things; but not even one has been implemented.

Hon. Presiding Chair, Sir, I have a recommendation. I think I have shown you from the maps and we have so many evidences. We apologize for coming in late but it was because we wanted to serve you with concrete evidences and we are prepared to go to any other international court of justice; if our justice will never be realized here in Kenya.

Now on our recommendations; we are requesting the Commission to harmonize the Turkwel dispute by instructing Ken-Gen to release our revenue in full. They have defied a Ministerial Statement despite having corresponded with them. They were advised by the Minister on 27th October 2009. Hon. Musalia Mudavadi, Deputy Prime Minister and Minister for Local Government approved the Rating Act; according to Cap. 267, in exercise of the powers conferred by Section 4 (1) (b) of the Rating Act, the Minister for Local Government approved adoption by county council of Turkana over site value for purposes of levying rates. This Ministerial approval and adoption was defied after perusing the administrative marks; the central Government found that it was legal that the Turkwel Gorge was in Turkana. When the development plan was approved, it was estimated to Kshs80 million and these rates were to be paid annually. So, I believe right now it is in lumpsum and we are requesting you to intervene.

We are also requesting that Ken-Gen releases our revenue in full. We would also like the Government to recognize and gazette Turkwel Gorge; although it has been gazetted as a power plant within Turkana.

We want the Government to correct the anomalies caused by the alteration of the administrative boundary lines. Also the Commission may ensure that the areas from all the Turkana County benefits from rural electrification.

We would also recommend that the Government compensates people living in Lologon Location for loss of land, lives and property as a result of the Turkwel Gorge conflict.

Another issue is the immediate revival of Nakwamuru, Kabelidog, Juluku, Katilu, Amolem and Layette Irrigation schemes as stipulated in the Turkwel Gorge Multi-purpose project irrigation development plan.

Lastly, it is the issue of de-silting boreholes and the installation of water storage systems in Lologon, Nakwamuru, Kankong, Kalomwae and Kankainuk.

Finally, those who were in power during the former regimes should account for funds embezzled during the construction of the giant dam.

We will require, for the support, the formation of the sub-regional security and administrative establishment in Kainuk Division, Turkana South to curb insecurity and to handle administration.

Before I conclude, I also have some other information about corruption, as an international policy problem to the Institute for International Economics. This information was obtained from www.ije.com. I want to read in part: "Corruption can also reduce the resources available to poor countries by facilitating capital flight or by driving away international donors. It is estimated that Kshs60 billion---"

I will skip that one. That one is for Russia. I want to read---

The Presiding Chair (Commissioner Ojienda): Excuse me. Why can you not just make your recommendations and leave the theory to us?

Mr. John Lokale: Okay. This is support evidence and you have it. I will continue with my recommendations. Initiate immediate revival of Nakwamuru, Kapelbok, Juluk, Katilu, Amolen and lower parts irrigation schemes.

The final one, which I had already read, is that with trust in God, we believe that the Commission will come to our rescue because what other Kenyans deserve is what we deserve as a community. Wishing success to our Commissioners and may God bless Kenya.

This report was compiled by John Lokaale Aule and Ekwam Ewei.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Mr. Aule. Thank you very much, Leader of Evidence. We will deal directly with the witness. Thank you for asking those questions.

Mr. Aule, you have referred to section 4(1) (b) of the Rating Act and the approval by the Minister. I just want to guide you, because you are a councilor. Once a valuation has been done and a valuation roll has been approved by the Minister under Section 17 of that Act, those rates are due and, therefore, the County Council of Turkana or where you sit in Kainuk or in Turkana can claim outstanding rates from KenGen. I think if payment is not made, there is an option; you can go to court and claim payment. So, I think you can advise the council that there is a way in which they can enforce payment of those outstanding rates.

You have raised very esoteric issues on the boundary dispute. You have raised the question of Turkwel Gorge, the fundamental question of corruption during the construction of the gorge, the question of accounts and the involvement of politicians in the process. These are very weighty issues. We will have to study the memorandum that you have submitted to us. We cannot give you answers here and now but, definitely, the issues you have raised concern the Turkana people. I am happy that the new constitutional dispensation has brought in devolved governments and the creation of Turkana County that will benefit from the Turkwel Gorge project. I pray that in the new devolved structure, some of these issues will fall into place, and that your concerns will be addressed comprehensively.

Now, one or two Commissioners may have questions to clarify something, although in my view, your memorandum is comprehensive and needs to be studied by our Research Department, especially the historicity of your presentation, so that we can make appropriate recommendations. I will start with Commissioner Shava.

Commissioner Shava: Thank you, Mr. Presiding Chair, Sir.

Mr. John Lokalae Aule and Mr. Ekwam Ewei, I would just like to congratulate you for the manner in which you have presented the issues. As the Presiding Chair has said, we have to take time to study all the documentation because it is really very complicated and raises a lot of issues, ranging from agreements with regard to revenue to the health of the community, and all the way up to boundaries and economic implications for various communities and how this affects security and livelihoods. So, I have no question at this moment. I would just like to thank you for taking the time and the trouble to put together such a good bundle of documents for us to study and to help our recommendations to be drawn in a manner that will benefit the people for whom you speak.

Thank you.

Commissioner Chawatama: Mr. Presiding Chair, Sir, I join Commissioner Shava and Commissioner Ojienda in thanking the witness for his testimony today. I am just thinking, assuming all that he has said is true – I am not doubting that it is – it just makes a very sad hearing. There needs to be a very high level of accountability and transparency; the wealth of the people needs to reach the intended people in order for their lives to be greatly improved. I have come here and I have seen with my own eyes the needs of the people in this place. It requires us to be really serious in our investigations and in our research in considering the documents that he has submitted, so that we can make meaningful recommendations and, somehow, make up for any losses.

I thank you very much for taking your time and for explaining things the way you have explained them – it was all very plain; you have spoken on behalf of so many people and we shall bear that in mind. Thank you.

Commissioner Farah: Thank you, Mr. Presiding Chair, Sir.

Mr. Lokale, thank you very much for your elaborate presentation. I knew about the Turkwel Gorge Project, the white elephant associated with a lot of corruption, but I did not know the health part of it and the failed irrigation schemes. Your presentation was very thorough. Also, I did not know that Kacheliba was part of Turkana; I always thought, or believed, that it was part of the Pokot area. So, I have noted your claim. As the other Commissioners have said, you have given us a lot of homework. We are going to read it, even as Commissioners, even though we have a lot of--- Our Investigation and Research departments are going to make a thorough study of your presentation. Thank you very much.

The Presiding Chair (Commissioner Ojienda): Once more, I want to thank you for your testimony and I think it just shows how much you, as a councilor, have gone out of your way to look into historical documents to come and speak on behalf of your people. You took the trouble to go into details of the boundary dispute that has been there. It is unfortunate that all the changes that you have alluded to, or which you have addressed yourself to, occurred after Independence. How a constituency could be created in 1992 under the watch of our Independence Government in such a way that territory was taken away from one people to another are fundamental questions that we will, definitely, look into and make appropriate recommendations on.

I want to thank you and have a nice, safe trip back to Kainuk.

Mr. John Lokaale Aule: Thank you.

The Presiding Chair (Commissioner Ojienda): Leader of Evidence, step down the witness.

(The witness, Mr. John Lokaale, was stepped down)

Leader of Evidence, call the next witness.

Mr. Patrick Njue: Mr. Presiding Chair, Sir and Commissioners, that brings us to the end of our hearings today. That is the end of the list of presentations. Thank you for your time.

The Presiding Chair (Commissioner Ojienda): Thank you very much. I would like to thank the following witnesses who have testified in the course of our hearings today: Mr. Samson Ekidor, Madam Selina Locham, Mr. Hosea Eregae, Mr. Robert Muya, Mr. James Leburu, Mr. Peter Lokeyo, Mr. Andrew Lebei and Mr. John Lokaale Aule.

We will continue with our hearings tomorrow. We will advise the public on where the sessions will be tomorrow. The hearing stands adjourned today.
Thank you

(The Commission adjourned at 7.05 p.m.)