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Public Hearing Transcripts - Rift Valley - Nakuru - RTJRC23.09 (New County Council Hall, Nakuru)

Truth, Justice, and Reconciliation Commission

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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON FRIDAY, 23rd
SEPTEMBER, 2011 AT THE NEW COUNTY COUNCIL HALL,
NAKURU**

PRESENT

Tom Ojienda	-	The Presiding Chair, Kenya
Tecla Namachanja Wanjala	-	The Acting Chairlady, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia
Ronald Slye	-	Commissioner, USA
Gertrude Chawatama	-	Commissioner, Zambia
Ahmed Farah	-	Commissioner, Kenya
Margaret Wambui Shava	-	Commissioner, Kenya

SECRETARIAT

Belinda Akello	-	Leader of Evidence
Simon Njenga	-	Presiding Clerk

IN ATTENDANCE

Dr. Samuel Tororei	-	Commissioner, KNCHR
Prof. Chaloka Beyani	-	Special Rapporteur, UN

(The Commission commenced at 10.20 a.m.)

The Presiding Chair (Commissioner Ojienda): Thank you once again and welcome to our hearings in Nakuru. I want to thank all of you for turning up for today's public hearings. We will have other sessions tomorrow, as we did yesterday, when we spent time with Internally Displaced Persons (IDPs) at Pipeline. We also had meetings with the Provincial Commissioner (PC).

I just want to take you through our rules because most of you are here for the first time. Witnesses will be called to testify. They will be led by the Leader of Evidence. At the end of their testimony, the Commissioners may clarify a number of issues from the witnesses. I want to urge all of you to listen to the testimonies of the witnesses in silence and with respect. Even if we do not agree with what the witness is saying, let us not interrupt the witness.

This Commission proceeds on the basis that every person must give their story and if any person is named, the Commission will also invite that person to also speak at an appropriate time. That is because this is a truth commission and truth has to be told by every person. For the Press, please, take still photographs. We do not encourage flashing in the course of the hearings. If you want to take pictures of witnesses, please, do so

before the hearings commence or after the hearings end. We do not want an interruption of the process because of flashes from cameras.

I also just want to mention that witnesses will have all the time to give their side of the story. We do not want to ask anyone to leave the room for breaching the rules of this Commission. So, I want to urge everyone to remain silent and conduct themselves with respect and decorum.

Before we start, I want to recognize a number of personalities who are with us today. I want to start with Prof. Chaloka Beyani; you can stand up. He is a special United Nations (UN) Rapporteur and, of course, a member of the Committee of Experts; he wrote our Constitution. He is very dear to us and remains so; he comes from Zambia. Thank you very much, Beyani.

I also want to recognize Prof. Gabriela, who has been with us for some time and who is contributing to the process as well. I want to recognize staff from the Kenya National Commission on Human Rights (KNCHR); I think Stella Ngotho and someone else; please stand up. We work with the KNCHR because unlike the Truth, Justice and Reconciliation Commission (TJRC), the KNCHR is a permanent Commission and will be there to oversee the implementation of the recommendations that we shall make under Section 49 of the TJRC Act. The same goes for the National Cohesion and Integration Commission (NCIC), which is also represented here. It is also a Commission that has the objective of ensuring lasting peace for the people of this country through its programmes of national cohesion and integration. This is especially key for a place like Nakuru, which is a melting pot for the communities in this country. If you want to know the temperature of this country, the proper barometer is Nakuru. I think the NCIC should focus a lot of its work in this region because all communities live in this region. If we can live well in Nakuru as different communities, then every person in this country should be able to do so.

As you all know, the reason that the TJRC was created was as a consequence of what we saw in this country after the last elections and, of course, there were previous reports that recommended the creation of this Commission. But I think the final act that led to the creation of this Commission was in the last elections. So, amongst our functions set out in Section 6 of the TJRC Act is to ensure that in the end we achieve healing for the communities in this country. But you can only achieve healing when people come out and speak the truth about what happened to them and when there is justice for the victims of violence. Our hearings in Nakuru happen at a time when there are corresponding proceedings at The Hague, and when we have heard the name “Nakuru” and “Naivasha” on our TV screens. I think that we must all realize that it is important that we all speak the truth and that we be true to ourselves and that we preach justice for the victims for, finally, we all belong to this country and we must live in it. We can only do that by reconciling with our neighbours. We have this process and we have our country and our future in our hands.

I want to recognize most dearly and thank the German Ambassador, who was supposed to be here this morning; I do not know if she is here-- she has not yet arrived. I want to thank the United Nations Commission on Human Rights (UNHCR) representatives who are here; are they here? Yes, they are here; thank you very much, sir, for attending our hearings. You have been key in helping us with the problems of IDPs. You will hear the testimonies of some of the IDPs today.

I can see Commissioner Dr. Tororei from the KNCHR has just arrived. Thank you Commissioner.

Before we start, I want to introduce the panel that will hear today's witnesses.

(The National Anthem was sung)

(Opening Prayer)

(The Presiding Chair introduced himself and the other TJRC Commissioners)

Is there any counsel present?

Leader of Evidence, proceed with the first witness.

(Mr. Harun Chemjor Chepkeitany Chepkeitany took the oath)

Ms. Belinda Akello: Commissioners, through the Presiding Chair, this is Witness Number 4 on our list, on behalf of Koriny Tich Farmers' Group. Kindly state your names for the record.

Mr. Harun Chemjor Chepkeitany Chepkeitany: My full names are Harun Chemjor Chepkeitany Chepkeitany.

Ms. Belinda Akello: Welcome to the session, Mr. Chemjor.

The Presiding Chair (Commissioner Ojienda): Hansard people, there is a problem.

(There was a temporary adjournment to fix the public address system)

Leader of Evidence, proceed

Ms. Belinda Akello: I am much obliged.

Welcome to the session, Mr. Chemjor. We thank you for having taken time to participate in today's hearing. Where do you live, Mr. Chemjor?

Mr. Harun Chemjor Chepkeitany Chepkeitany: I live in Lomolo, in Nakuru North, Koibatek.

Ms. Belinda Akello: Thank you very much. What do you do in Lomolo or Koibatek?

Mr. Harun Chemjor Chepkeitany Chepkeitany: I am a peasant farmer; I have a herd of cattle and I am a civil servant in Eldoret, where I work as an instructor at the Medical Training College (MTC).

Ms. Belinda Akello: Besides being an instructor at the MTC and a farmer, what else do you do in the community?

Mr. Harun Chemjor Chepkeitany Chepkeitany: I am also a member of this group called Koriny Tich Farmers' Group, which was displaced by the colonial Government. We were also discriminated against and marginalized.

The Presiding Chair (Commissioner Ojienda): I am sorry, we did not get you.

Ms. Belinda Akello: I apologize, Mr. Chemjor; we will start again. Kindly tell us in what capacity you also serve the society in relation to Koriny Tich Farmers' Group.

Mr. Harun Chemjor Chepkeitany Chepkeitany: I am the representative of the group that wrote a memorandum to the TJRC and I am also a civil servant and a farmer at Lemolo Sisal Estate.

Ms. Belinda Akello: Thank you very much, Mr. Chemjor. With the many hats that you have, today we shall have you give your testimony but only with regard to seven issues, as you have already presented in your memorandum. Kindly, be precise on those issues - historical land injustices, irregular acquisition, displacement, economic crimes against the community, denial of fundamental rights to the group and gross human rights violations in relation to the same group. Would you like to inform the Commission anything with regard to these issues?

Mr. Harun Chemjor Chepkeitany Chepkeitany: Yes. First of all, I would like to introduce the background a little bit on the issues. In relation to Koriny Tich, this is a group of people who occupy Nakuru North and parts of Koibatek. Essentially, they were known as the Southern Tugen during the time of Chief Chebato and Chief Mugeni of Kipsigis. I got this message from the late Kipchomba arap Tobotuu, who gave these narratives through his great songs like "Eninyon", that is, our land; "Munyet", that is, the salt for cows, and the latest "Timbilwet" by other young singers. This group is a combination of people of several locations, including Keben, Lembus, Kagimor, Kogor, Torois and Ilchamus locations. This group lost their land to the white settlers and then the Kenyatta Government, the Moi Government and, presently, the Kibaki Government. The locations used to extend to the following areas: Keben Location, as shown in the map provided, used to extend to present Gilgil, where the name "Koilel" exists. A school by the name Koilel High School is an example. Soysambu, Delamere Farm, Olbunyatta,

Ngatapus, presently Nyandarua; South Kinangop (Oljororok) and that vast area of *Kambi ya Moto*. Lembus used to extend to cover Mau Escarpment, Londiani, Sisioi, Molo and that vast area of Rongai. Kagimor used to cover Alfega, presently Dins, Mogotio and Lemolo Plantations. Kogor Location used to extend to Marmanet, Thompson Falls, North Kinangop, Ol Kalou, Upper Solai, Bahati and Subukia. Torois used to extend to all that part of Ngelecha, Sibili, Mochongoi, Keon and that vast area of Lower Solai. Ilchamus Location covered all that part of Lonyek, Olmukie and parts of Samburu West comprising 300 acres.

All Kalenjin communities – Kipsigis, Nandi, Tugen and Elgeyo Marakwet – used to have an annual event to remind themselves, and their children, their history. Kipchomba still specified to Lagoi; the boundary between Kipsigis and Tugen was a common shrine for circumcising their children. It is from here they descended to Sachang’wan and divided the land among themselves as follows. Kipsigis to the South, Nandi to the North---

(There was a technical hitch)

When the whites left the country, the leaders of the time who came into power took over the farms that we have specified and they did not regard us. We were left on the rocky, waterless and the barren lands. All these include Alfega; the owners of these farms are the Moi family, who by 2006 had destroyed our property and houses with the assistance of the OCS, Mogotio, who was called Sirikwa, and who also killed a form four student at Tenai High School. This is consistent with the hanging of Kimenjo arap Kemei and Kirieile arap Kwee in 1940. The same family framed a charge of robbery with violence against two of our outspoken sons under Section 296 (2) of the Penal Code. The same atrocities happened in a farm called Kamuriaso, presently Momoi. Between 1967 and 1972, a group of members bought this farm, but in 1973, the former PC for Rift Valley, Isaiah Mathenge, and the former MP for Mogotio, with the help of the police, evicted them, taking the sick initiates to jail. Despite some of these members going to court and winning the case, several Government officials, including DCs John Abduba, Kerario and even the current DC in Subukia, Mwanja, plus Francis Kimemia, Esther Murugi and John Mututho are used to deny members access to their farms. We feel this is obstruction of justice.

Ms. Belinda Akello: Thank you very much, Mr. Chemjor, for that. You have highlighted the kind of violations; what would be your recommendations, or what are the expectations that you have for the Commission and the Government?

Mr. Harun Chemjor Chepkeitany Chepkeitany: These are our expectations. We want to strongly conclude that we are the earliest IDPs in the land, displaced to the rocks and, therefore, the Government should give us the highest priority in settlement.

We are praying that our land be given back to us as some of these families own more than 100 acres. An example of these families is the Delameres in our former land in Soysambu; Kibaki and Mathenge in our former land, Olbunyatta; Koinange, Kenyatta and Moi at Rongai.

It is also the feeling of the group that the larger community should seek compensation or redress from the Government. We are seeking also direct compensation in respect of the robbery with violence charge and our goats which we lost during the famous “Kimalel Auction”.

We were literally robbed of our goats by Mr. Philemon Mwaisaka, who was the former Baringo District Commissioner. The goats were being auctioned by Mr. Ezekiel Barngetuny.

We also request this Commission to investigate and recommend prosecution for those who have been adversely mentioned for crimes against humanity meted on us. This is because we have suffered in the hands of the Government either directly or indirectly for the last 70 years. We are praying for our children to be given free education up to the university level. The economically ailing groups should be exempted from paying tax, at least, for the next 70 years. Our children who have been educated through hardship should be employed by the Government. Because we are economically “sick”, we request the Government, through this Commission to construct water projects, health facilities, schools and the rest.

I have submitted a memorandum which is very detailed. It includes information about the shooting of cows, robbery and the justification by the Morris Carter Land Commission of 1932. That Commission came up with many recommendations which were never implemented. I have also included an abstract from the Provincial Commissioner in 1961, which indicated where people were supposed to be settled, but instead people from other provinces were transported and allocated land. This land includes Wanyororo, Engashura, Limuru Pyrethrum, Lari-Nyakinyua, Endarasha and Ikure. However, the natives were not settled.

I wish to end there.

Ms. Belinda Akello: Thank you, Mr. Chemjor. In your testimony, you have vividly indicated that personalities like Francis Kimemia, Hon. Esther Murugi, Hon. John Mututho, Abduba, Kerario and Mwanja have denied members access to their farms, obstructed justice and have intentions to grab. How did these personalities deny you access to the farms? Kindly elaborate what these people did.

Mr. Harun Chemjor Chepkeitany: What happened is that when these members attempted to subdivide the land, there were telephone calls to the DC, Mr. Mwanja, to remove the surveyors - Werukia Wahome Surveyors. They said that we were intending to force IDPs onto the farms. The DC has those documents and everything.

Ms. Belinda Akello: You have referred to three DCs. Which DC has these documents in hard copy?

Mr. Harun Chemjor Chepkeitany: Currently, everything has been handed over to Mwanja.

Ms. Belinda Akello: You also referred to a telephone conversation. Were you in the office? Were you privy to this telephone conversation? How would you know about the details of the telephone conversation from which directives were given by these people?

Mr. Harun Chemjor Chepkeitany: I personally visited the DC over this issue and he told me in the face that he has instructions not to subdivide the farms. He said that Mr. Kimemia had called him. Mr. Mututho also came to the farm two weeks ago and a fight almost erupted. This issue has been dragging on for the last 40 years.

Ms. Belinda Akello: Has Hon. Esther Murugi also been here? Why do you feel she has also denied you access to the farms?

Mr. Harun Chemjor Chepkeitany: She has also been here. She has come.

Ms. Belinda Akello: Mr. Chemjor, kindly confirm to this Commission that you have documents that show that you are the original owners of the land that Kimemia, Mututho and Murugi currently deny you access to.

Mr. Harun Chemjor Chepkeitany: I have copies of the title deed. I will bring the original copy to you personally.

Ms. Belinda Akello: Once we get the copies we will ask the Presiding Chair to admit them as part of the records.

You have informed this Commission that a lot of your tribulations have been because of three farms which you allege belong to Moi. You mentioned Mogotio, Deans and Alfega. You indicated that the three farms have been used to deny you land in more occasions than one. Is that true?

Mr. Harun Chemjor Chepkeitany: Yes. That is very true.

Ms. Belinda Akello: How did you know that these three farms belong to Moi?

Mr. Harun Chemjor Chepkeitany: We did a search.

Ms. Belinda Akello: Do you have copies of the search here?

Mr. Harun Chemjor Chepkeitany: I have provided a sale agreement indicating that the land belonged to Moi by 2006. I will also bring the original copies because I have them.

Ms. Belinda Akello: You have also provided a proposal to buy 2,000 acres of the El Molo Sisal Estate. This letter is dated 15th June, 2006 in which one Harry Honer as a director has signed indicating that he is willing to sell 2,000 acres to the Chairman of the Koriny Tich Farmers Group which was also received by you. If the same was agreeable

and a proposal to sell was made, why do you still come and indicate that the same person did not sell or there is still controversy and injustice with regard to the land?

Mr. Harun Chemjor Chepkeitany: It is true that we entered into an agreement but before we raised any money, we were informed by the *mzungu*, Mr. Harry Honer, that the farm had been bought by Gideon Moi, the son of the former President.

Ms. Belinda Akello: What is the time period that you had been given by Mr. Honer in which you were supposed to pay for the land?

Mr. Harun Chemjor Chepkeitany: He had given us 30 days to raise Ksh50 million. It was a very short time and we could not even discuss it.

Ms. Belinda Akello: After how long did he inform you that the land had already been bought? Was it before or after the 30 days?

Mr. Harun Chemjor Chepkeitany: They only informed us when they were destroying the houses.

Ms. Belinda Akello: Was that within the thirty days?

Mr. Harun Chemjor Chepkeitany: It was not even after a week.

Ms. Belinda Akello: In the letter, you were supposed to give a deposit. Had you remitted the deposit?

Mr. Harun Chemjor Chepkeitany: We had raised the money, but it was not enough. We had raised Ksh500, 000 in the one week and then he told us that the land had been bought.

Ms. Belinda Akello: Did you seek any meeting with him to confirm the contents of the proposal and the letter that he had signed?

Mr. Harun Chemjor Chepkeitany: Yes, we did. We had a meeting in one of those farms. He was present himself.

Ms. Belinda Akello: Presiding Chair, the witness has provided documents that go before our 1963 timeline, but the same were felt to be necessary in order to show the systematic violation. He has also provided the Report of the Land Commission of 1932 that had given them the same land that he says was grabbed by 2006. He has also brought agreements from 1940. The same agreements continue to provide an antecedent into the kind of injustice that he wishes to bring up. We also pray that you allow the admission of this evidence that goes beyond the 1963 period.

The Presiding Chair (Commissioner Ojienda): The documents are admitted.

Ms. Belinda Akello: As part of your testimony before this Commission, you have said that in 2000 Deans Company, which you allege is owned by Gideon Moi, came to destroy your homes, that is, LR.No.10939 and LR.No.6581 that you claim to be yours and you have papers to show this. Did you report the same destruction to the police? Did you try to get help from the police to stop this destruction?

Mr. Harun Chemjor Chepkeitany: Yes, we did, but we had negative reception because the OCS at the station was in favour of the family.

Ms. Belinda Akello: You need to be a bit clear when you say, “favour”. When you went to record the statement were you sent away by the police? How were you not able to record the statement?

Mr. Harun Chemjor Chepkeitany: We managed to record in the OB but nothing else happened after that.

Ms. Belinda Akello: Did you make any inquiry on the advancement of the investigation?

Mr. Harun Chemjor Chepkeitany: We tried to follow up the matter but one of our sons was arrested for frequenting the place. He was charged with robbery with violence. After investigations by the Attorney-General’s office, they found out that it was just a land issue and the boy was acquitted.

Ms. Belinda Akello: Thank you, Mr. Chemjor. That will be all from me.

The Presiding Chair (Mr. Ojienda): Thank you, the Leader of Evidence and Mr. Chemjor.

Commissioner Farah: Mr. Chemjor, when did you become the Chairman of Koriny Tich Farmers’ Group?

Mr. Harun Chemjor Chepkeitany: There is no specific date I was elected, but we were in a group, we talked and agreed that I write my memorandum. By doing that, the group presumed that I was acting for them.

Commissioner Farah: That is when you heard that the TJRC was formed.

Mr. Harun Chemjor Chepkeitany: Certainly, yes.

Commissioner Farah: Prior to that, did you go to court at any one time?

Mr. Harun Chemjor Chepkeitany: We have. That was in 2006, when one of our sons was arrested. We went to court to ask for adverse possession because we had lived on that land forever although the case started and has never ended.

Commissioner Farah: So, the first time you went to court was in 2006. What was happening from 1963 to 2006?

Mr. Harun Chemjor Chepkeitany: We are a group that rears animals in that farm. We have no documents because we cannot obtain them. However, we have lived there as people who move from place to place within the farm. Our native land in the hills from where we were pushed by the colonialists is inaccessible. When we approached the DC, he told us that the farm belongs to somebody else. So, we had nothing to claim. We had to keep quiet.

Commissioner Farah: The title deed you produced earlier own is for which land?

Mr. Harun Chemjor Chepkeitany: It is for the same land.

Commissioner Farah: When did you acquire it?

Mr. Harun Chemjor Chepkeitany: The title we acquired is for a different farm which I gave as an example. That one is in the lower Solai, but we cannot access it although we have the title. We have to come and roam in the sisal estate.

Commissioner Farah: So, your claim on the land is that it is your ancestral land. Is that true?

Mr. Harun Chemjor Chepkeitany: Indeed, that is why I gave a lot of history using the maps dating from 1840 until 1932. I showed events and the people who inhabited the place. I gave the names of those places. All those names are ours. We also have pre-historic sites there such as the Hyrax. Whatever is preserved there is ours. They included the shield, spears which appear in the Coat of Arms and so on.

It is also our ancestral land given the name of the place, Menengai, which belongs to a family called “Kapchemenengai”. The family is still in existence. We have a marathon winner from that family called “Timothy Cherigat”. He won the 2004 Boston Marathon. The place still houses the family caves. The place can be visited in case one wants proof. So, we consider this land our ancestral land.

Commissioner Farah: Who is this you were told that legally owns the farm?

Mr. Harun Chemjor Chepkeitany: The forest is demarcated to cover Menengai. However, outside the crater, all big families in Kenya have land in that area. The area was described in 1932 by the then DC as Tugen Land. He gave a testimony. I have submitted a copy of the Morris Carter Land Commission Report of 1932. He proved that the land belonged to us. The land there is now occupied by big people in the country. I want to be given permission to ask those I have come with to tell whether what I am saying is true or not. They include the Kipsigis, the Keiyo and the Nandi.

The farms are occupied by people we cannot even talk to. In fact that is our Caanan.

The Presiding Chair (Commissioner Ojienda): Mr. Chemjor, are those members of your group?

Mr. Harun Chemjor Chepkeitany: Yes. Our Koriny Tich group is a combination of all those people.

The Presiding Chair (Mr. Ojienda): How many did you come with to this session?

Mr. Harun Chemjor Chepkeitany: I do not know how many they are, but I had come with four of them in the morning.

The Presiding Chair (Mr. Ojienda): Do you want them to stand up?

Mr. Harun Chemjor Chepkeitany: Yes.

(The members of Koriny Tich Group stood up in their places)

Commissioner Farah: Mr. Chemjor, you said that your ancestral land was taken during colonialism. After we got Independence in 1963, is there any record in your possession of your agitation for this land?

Mr. Harun Chemjor Chepkeitany: Yes, although we do not write. Some of these things are not written. We made an attempt to use our former MP, Hon. William Morogo. We gave him these documents. Some of the documents were with our former Chief, the late Daudi Cheptarus. These records were taken to the then President Moi by the MP, Mr. Morogo. We do not, however, know whether the records reached or not. Some of the documents were also taken by one of the Commissioners, Lawrence Bomet. So, we have made an effort although we are marginalized.

Commissioner Farah: Any attempts that you made during the Kenyatta rule when there was willing-buyer willing-seller?

Mr. Harun Chemjor Chepkeitany: At Independence, you could not talk in the presence of the Government of the day. This is because the farms were taken at night. What used to happen was that people were brought to the farm and the owner, a whiteman, would be given a few hours, say, 48 hours--- We talked to one of the MPs then, the late J.M. Kariuki. He supported us because he said that these people claimed a share but the Government did not listen to that. We cannot say that he was killed because of that, but he had to die. We were instilled with fear and we just looked at land being given to foreigners.

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

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Chemjor for sharing that with us. I want you, again, to systematically share, referring to specific time periods on how your ancestral land has changed hands. You can do that in summary form.

Mr. Harun Chemjor Chepkeitany: I will use the maps that I have brought to indicate who the occupants were. Between 1840 and 1900 the inhabitants were Tugen, a group of the Maasai called Losegilai, Purko, Illchamus, Ildamat and Kabutiei. Between 1900 and 1920 there is a map indicating those locations.

Ms. Belinda Akello: Commissioners, that is the third map on the new memorandum.

Mr. Harun Chemjor Chepkeitany: The names of the locations are Lembus, which extends to Mau Forest; Keben, which extends to Lake Nakuru; Pogor, which extends up to Laikipia; Endurois, which extends to Ng'elecha; and Illchamus; which moves north of Ng'elecha. The others are Olbunyata, Solai, Molo River, Lake Nakuru, Menengai Crater, Lake Bogoria and Lake Baringo. That comprises the Tugen and the Illchamus movement from 1900 to 1920. In 1930 the same land was divided. You can see the block numbers indicated there. This is what features in the Report by the Morris Carter Commission. I have included his recommendations on page 9.

The Acting Chair (Commissioner Namachanja): So, it is at this point that the land changed hands to Kenyans from the colonialists?

Mr. Harun Chemjor Chepkeitany: That is the time the colonialists took the land from us. The method used was to arrest people. They would descend on you in the morning and take the cattle to be theirs. I have added a list of names on page 3 of those who suffered most. It is a list of 20 people and the number of cows lost.

The Acting Chair (Commissioner Namachanja): We have seen that. After the colonialists left, at what point did your community members come back to this land?

Mr. Harun Chemjor Chepkeitany: At Independence we were allowed. Every family was given a number of cows to come with. We were allowed to have not more than 10 or five cows. We were given a rubberstamp. We were known as "Blue Community." So, that was the ticket that allowed us back after Independence.

The Acting Chair (Commissioner Namachanja): So, it is at this point that you were moved from your reserve to this land?

Mr. Harun Chemjor Chepkeitany: Certainly.

The Acting Chair (Commissioner Namachanja): At what point were you requested to purchase this land within the 30 days that you were given?

Mr. Harun Chemjor Chepkeitany: We made an effort before but there was no permission to sell land to us. However, after many efforts and confrontations with the

white settler, he agreed to sell us the land in 2000. We talked for about four years. In 2005 we entered into an agreement but because of money issues, the family which had the strongest power took the land and destroyed our houses.

The Acting Chair (Commissioner Namachanja): How many households were affected during this eviction?

Mr. Harun Chemjor Chepkeitany: When we went to court we had listed our names because there were about 110 households. They were asked whether they had destroyed our houses and agreed.

The Acting Chair (Commissioner Namachanja): So, where did the members move to after they were evicted?

Mr. Harun Chemjor Chepkeitany: They are still there although they do not have permanent houses. We just live like the Maasai on the same land.

The Acting Chair (Commissioner Namachanja): Thank you. I have no further questions.

Commissioner Shava: Thank you, Mr. Chemjor. Your story is very detailed. You have given us a lot of historical background before bringing us to the present and describing exactly what your complaint is. I would just like to be clear about exactly what the complaint is. This is because you are talking about the year 2000 when you were purchasing land, but you also speak of a 40-year-old battle to claim the land. Are you making one or two claims?

Mr. Harun Chemjor Chepkeitany: Essentially, that is one claim because there is a chronology of events.

Commissioner Shava: Let me just go through the events as I understand them and, please, correct me where my understanding is not in accordance with yours. I am using this letter which you have written to the Minister for Lands, Director of Kenya Anti-Corruption Commission (KACC), the Permanent Secretary, Ministry of Lands and the Chair of the Truth, Justice and Reconciliation Commission (TJRC). You have copied this letter dated 4th April, 2011, to the Permanent Secretary, Ministry of State for Special Programmes, Permanent Secretary, Ministry of State for Provincial Administration and Internal Security, Provincial Commissioner, Rift Valley, Regional Commissioner, Nakuru and the District Commissioner in Subukia. Did you write such a letter?

Mr. Harun Chemjor Chepkeitany: Exactly.

Commissioner Shava: Was this letter delivered to all those parties?

Mr. Harun Chemjor Chepkeitany: Yes. I posted it personally.

Commissioner Shava: Okay. You have written this letter on the letterhead of Ukingoni Farm. You are saying that your group in 1965 purchased from the late Yosef Lightman this land which you call Ukingoni Farm.

Mr. Harun Chemjor Chepkeitany: Yes.

Commissioner Shava: Then you took a loan from Agricultural Finance Corporation (AFC) in 1965 and the group finished paying the loan in 1973, but in an irregular fashion, you say that the title deeds were released to one Mr. Kiptanui, who was the former Member of Parliament for Baringo South. What is the first name of this Mr. Kiptanui?

Mr. Harun Chemjor Chepkeitany: Edward.

Commissioner Shava: Okay. Then in 1973 when you finished paying, Mr. Edward Kiptanui somehow gets the title deed.

Mr. Harun Chemjor Chepkeitany: Yes.

Commissioner Shava: You have been fighting the case since then, but in 1991 the group managed to obtain provisional certificates of title to that same land. I presume that those certificates of title were allowing you some limited rights for a limited period of time. What time period was that?

Mr. Harun Chemjor Chepkeitany: We used those titles and went to court. It took so many years, but in 2006---

Commissioner Shava: I was just coming to that. In 2006, Hon. Lady Justice Martha Koome ruled in your favour. You say that she granted all your prayers. What were your prayers?

Mr. Harun Chemjor Chepkeitany: I have them in a hard copy. May I promise to bring it; it is just near.

Commissioner Shava: You will supply to us a copy of it. But basically, do you mean that the court awarded the group the land?

Mr. Harun Chemjor Chepkeitany: Exactly, because we produced documents and they were verified in court. It was found that we bought the land genuinely. We took a loan and paid, but we could not access the land.

Commissioner Shava: You said to this Commission earlier that you are in possession of the title deeds.

Mr. Harun Chemjor Chepkeitany: Certainly.

Commissioner Shava: Were these title deeds issued after the court case?

Mr. Harun Chemjor Chepkeitany: No, they were issued earlier; in 1991. I used this as an example of some injustices because we have tried our best even to buy land, but we cannot subdivide it.

Commissioner Shava: Okay. What you are saying now to this Commission is that despite the fact that you were in possession of these provisional certificates of title which were issued in 1991, there are strangers who are purporting to sell this land to the Government of Kenya for the purpose of resettling Internally Displaced Persons (IDPs), whereas, you, as a society, have the intention of subdividing the land and allocating it to your members.

Mr. Harun Chemjor Chepkeitany: Yes, because we are somehow living on the rocks.

Commissioner Shava: Okay. So, that is the substance of your claim. Have I got it right?

Mr. Harun Chemjor Chepkeitany: You are right.

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

Commissioner Slye: Thank you, Mr. Chemjor for your testimony and the detailed memorandum that you have just submitted to us. Since I have just received it I have not had time to look through it--- What I was given was similar, although in less detail, a memorandum that you had submitted to us back in January. My query is based upon that. I do not know whether it is something that you have in the memorandum that you have submitted to us today. You mention issues related to access to water, health care and medical facilities. As I understand it, that access is being curtailed because of some of the local large main donors, including some of the big farms. I wonder if you could spend a little time and just describe to us what those issues are with respect to your community. What does it mean to your community in terms of access to water and medical care? What is it that blocks or limits your access to those rights?

Mr. Harun Chemjor Chepkeitany: My sentiments here are movement and accessing water. This land where we are disputing is possessed by the family of Moi. They have fenced along the river and for us to get water--- Molo River is the only source of water. Since Molo River passes through that farm, they have erected gates and you do not go through them without paying. So, you pay for natural water. We cannot also cross to the other side called Eminging or Noyuet. We are forced to go 15 or 20 kilometres until Mogotio and then back again, yet a public road used to exist. If you have to pass through the road, payment must be made. So, that reminds us of what happened in 1929. Our community had requested to buy water from the White settlers because there was no option. But the then Provincial Commissioner known as Crewey Reid disagreed with that proposal and said that he had seen no justice in that. That is a statement appearing in page 9. For our children to go to school, they have to pass through that path, but payment must be made. We consider that as an atrocity.

Commissioner Slye: Mr. Chemjor, when did you start paying to get access to the water or go through that road?

Mr. Harun Chemjor Chepkeitany: It was when this family arrived. Previously, before they came in 2000, a settler who owned the land was known as Mr. Combos. At that time, we never used to buy water and gates were not locked. There was also no electric fence. Now, all those things have been installed. That forced us to go all the way to Mogotio to get water; that is, 20 kilometres away.

Commissioner Slye: So, prior to 2000 you had free access to the water, but then after 2000, you did not?

Mr. Harun Chemjor Chepkeitany: Certainly. You are very correct.

Commissioner Slye: You have talked about how you have to travel long distances now to get water. Can you give us a better sense of how that impacts on the day-to-day life of the people in your community?

Mr. Harun Chemjor Chepkeitany: Our area has no good roads. The only way to get to that river is either using bicycles or on foot. Therefore, to come to Mogotio you have to use a bicycle or something else; and not all of us have bicycles and vehicles. Those who are able to purchase Ken-Tanks have purchased them. They then hire lorries which fill their water tanks. The poor community – those who lost their animals at that time – has to live near the river; but they cannot access the water freely. So, they are really affected.

Commissioner Slye: Is it your sense that because people have less water, they are less able to grow crops or have livestock? What is the effect of the limited access to water?

Mr. Harun Chemjor Chepkeitany: Where we were placed by the colonial government is a place where water is not available; it is rocky. Our lives centre on animals. Without grass and water no animal will survive. So, this river must be made accessible to us. We cannot plant maize or other crops and so we have to be in Lomolo in order to survive.

Commissioner Slye: Thank you, Mr. Chemjor. I just have one last question. In your testimony you mentioned a number of individuals. You mentioned Mr. Kimemia, the Moi family and others. I am just wondering whether you have heard any response from them with respect to these allegations.

Mr. Harun Chemjor Chepkeitany: Personally, I have never heard any response, but I think they know what they have done. There was a time we confronted two of those who own the land. One was called G.G Kariuki and the other was Koigi wa Wamwere. In the conversation, although it was not recorded or written, they said that if they were living on our land, why have we not taken them to court? However, we just kept quiet, but they know.

Commissioner Slye: Leader of Evidence, have we heard anything from them?

Ms. Belinda Akello: They have not recorded statements to that effect.

Commissioner Slye: Thank you. I have no further questions.

Commissioner Dinka: Mr. Chemjor, thank you very much for your testimony. I wanted to, first of all, get some things very precise. The Member of Parliament from Baringo South had a title deed and then you went to court, and the court ruled in your favour.

Mr. Harun Chemjor Chepkeitany: Yes.

Commissioner Dinka: You have also said that you had a title deed in 1991.

Mr. Harun Chemjor Chepkeitany: Yes.

Commissioner Dinka: So, which comes first; the 1991 title deed or the court case?

Mr. Harun Chemjor Chepkeitany: It is the title deed.

Commissioner Dinka: So, the Member of Parliament got a title deed after you received your title deed?

Mr. Harun Chemjor Chepkeitany: No. This group bought this farm in 1965. They took a loan of Ksh140, 000 and cleared it in 1973. Then they went to AFC to collect the title deed but they were not given. They were told to wait and it will be sent to them. We stayed until 1991 when we went to the Ministry of Lands to present our legal documents to show that we bought the land. When we checked the records, we found that the title was released to a Mr. Kiptanui in 1982. The Ministry of Lands advised us that since the person mentioned was highly politically placed, we should use the law of the land to advertise for some days that that title was either lost or was in somebody's possession and it should be returned. The advertisement was put on the Kenya Gazette and we took a copy to him, but he ignored. In 1991 the Ministry of Lands issued us with a provisional certificate of title, and then, we went to court in 1994. After hearing those cases from the chief, District Officer, District Commissioner--- The former District Commissioner for Uasin Gishu, who was the then DO in Bogoine, Mr. E.O. Kaunya heard the case and ruled in our favour. The former District Commissioner for Nakuru, Mr. Jonah Anguka, also did the same. The then Provincial Commissioner, Mr. John Nandasaba, did the same.

Commissioner Dinka: That is fine; I have it now. You got your provisional title in 1991 and then you went to court and it ruled in your favour.

Mr. Harun Chemjor Chepkeitany: Yes.

Commissioner Dinka: Has that been changed into a permanent title deed now?

Mr. Harun Chemjor Chepkeitany: The regular title deed was canceled and a provisional one was given in our favour.

Commissioner Dinka: Have you changed it into a regular title deed?

Mr. Harun Chemjor Chepkeitany: No. We were intending to subdivide the land to the shareholders, but we could not access it because the administration became a stumbling block.

Commissioner Dinka: All right, I understand that now. You mentioned some big names that have taken your land. You are talking in that case not about the land that you bought, but what you call ancestral land.

Mr. Harun Chemjor Chepkeitany: I combined the two.

Commissioner Dinka: Can you answer my question? Did they take any part of the land that you bought or part of the ancestral land?

Mr. Harun Chemjor Chepkeitany: They have put other people on the one we bought. So, we are locked out. Those are not people who bought that farm. They are political supporters.

Commissioner Dinka: Mr. Chemjor, what is the amount of land that you bought from the white settlers?

Mr. Harun Chemjor Chepkeitany: It was 5,186 comprising of two titles.

Commissioner Dinka: Have you now lost any part of that 5,186 and if so, how much?

Mr. Harun Chemjor Chepkeitany: We have not lost the farm because it has not been subdivided. We cannot access it because of political interference and the Government, but it has not been subdivided.

Commissioner Dinka: My problem is understanding. I do not know what you mean by accessing. You said that it is your land and you still have title deeds to it.

Mr. Harun Chemjor Chepkeitany: What I mean is that other people have been settled in the land. The title is ours because we bought the land as a group, but we cannot subdivide it. Even if we go there, the people with power---

Commissioner Dinka: Is that where you mentioned these very “big” people; Moi’s family---

Mr. Harun Chemjor Chepkeitany: No. No. For that parcel, it is the other gentlemen, but the big ancestral land is occupied---

Commissioner Dinka: Let us leave the ancestral land for the time being and talk about the one that you bought with your money; the 5,186. Who are the people who have taken that and how did they take it?

Mr. Harun Chemjor Chepkeitany: I do not know whether they have done it, but I believe they have never done it--- They have stopped us for a very long time from entering that farm. We do not know whether they want to subdivide it. Recently, we heard that they intend to sell it to the Government to resettle the IDPs. That issue came the other day when they heard about resettlement.

Commissioner Dinka: So, IDPs are right now settled there?

Mr. Harun Chemjor Chepkeitany: No, they have not been settled there, but there is intention.

Commissioner Dinka: Let us not go to the intention and talk about what is there in reality. How did they come to possess this land; is it by buying or Government allocation?

Mr. Harun Chemjor Chepkeitany: They used the District Commissioner to stop us--- We went there with the surveyor after winning in court and then they came to remove us. They even chased the surveyor using Administration Police (APs).

Commissioner Dinka: At the beginning you were talking about ancestral land and the one you bought and that is why I got confused. Now I understand that you went to court and got a verdict and then they came and chased you away.

Mr. Harun Chemjor Chepkeitany: Yes, despite putting our efforts and buying what used to be our ancestral land. But then we cannot access it again and we found this to be another injustice.

Commissioner Dinka: Now I get it. Can you figure out in terms of acreage or square kilometres how much you think it is?

Mr. Harun Chemjor Chepkeitany: Our ancestral land is described in the map specified. It borders Mau Summit, Mau Escarpment, extends to Nyandarua up to Gilgil.

Commissioner Dinka: So, it is almost a county?

Mr. Harun Chemjor Chepkeitany: Yes. From that map we were bordering the Maasai at Gilgil. Even the map is specific.

Commissioner Dinka: How large is your community?

Mr. Harun Chemjor Chepkeitany: Our community now has disintegrated, but I believe we are about 500, 000, according to the census.

Commissioner Dinka: I hope you do understand that the mandate of the Commission begins from 1963 up to 2008. In other words, it can go into antecedents of what created or contributed to the creation of the problem we are facing today.

Thank you. I have now some clear idea of what we have been discussing. At the beginning I was totally confused.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Mr. Chemjor. I have got just a few pointed questions. With respect to Ukingoni Farm Limited, you say that the land is in the process of being sold to the Government by some people for purposes of resettling IDPs.

Mr. Harun Chemjor Chepkeitany: Yes.

The Presiding Chair (Commissioner Ojienda): Why have you not secured your title after the judgement by Lady Justice Koome?

Mr. Harun Chemjor Chepkeitany: Our intention was not to get the title but to subdivide so that we can surrender the big title. We have even written to the Ministry of Lands for conversion. So, we do not intend to get a title; the intention was to subdivide.

The Presiding Chair (Commissioner Ojienda): So, you have the big title?

Mr. Harun Chemjor Chepkeitany: Yes, I have the provision title.

The Presiding Chair (Commissioner Ojienda): So, you have been stopped from subdividing?

Mr. Harun Chemjor Chepkeitany: Exactly; for a long time.

The Presiding Chair (Commissioner Ojienda): How long has that been?

Mr. Harun Chemjor Chepkeitany: Since we won the court case in 2006 we have had battles all along. When we win on one side they bring new forces. The recent forces are the Kimemia, Murugi, Mututho but previously they were using Abdubas, Kerario and other political heavy weights.

The Presiding Chair (Commissioner Ojienda): Mr. Chemjor, your efforts at subdivision have been frustrated by the Provincial Administration.

Mr. Harun Chemjor Chepkeitany: Certainly.

The Presiding Chair (Commissioner Ojienda): But that is a function of the Ministry of Lands.

Mr. Harun Chemjor Chepkeitany: The Ministry of Lands has no problem.

The Presiding Chair (Commissioner Ojienda): Is there a caution on that piece of land?

Mr. Harun Chemjor Chepkeitany: We attempted to get a caution but we could not succeed. They did not see any justification.

The Presiding Chair (Commissioner Ojienda): So, you are asking the Commission to make a finding that Ukingoni Farm Limited be allowed to subdivide its land to its members.

Mr. Harun Chemjor Chepkeitany: Exactly.

The Presiding Chair (Commissioner Ojienda): How many members do you have at Ukingoni Farm Limited?

Mr. Harun Chemjor Chepkeitany: At that time when they bought the land, there were 36 families. Those families now are close to 300 or 400, but they have been dispersed. Some are in Laikipia and others in Uasin Gishu.

The Presiding Chair (Commissioner Ojienda): That is clear. The other question I would like to ask you relates to the three farms. You say that all of them are owned by His Excellency the former President, Moi and Gideon. You have said that they have fenced the Molo River and you have no access to the river. You have to use a longer route to access the river. What specific recommendation are you seeking with respect to your access to water?

Mr. Harun Chemjor Chepkeitany: I have a feeling that the Commissioner can recommend any specific or appropriate action so that every person is treated as a Kenyan.

The Presiding Chair (Commissioner Ojienda): Mr. Chemjor, I am actually surprised--and I am sure all the other Commissioners are--, that you seem to have stated that the famous Kimalel goat auctions were not beneficial to your communities.

Mr. Harun Chemjor Chepkeitany: Exactly.

The Presiding Chair (Commissioner Ojienda): What do you mean by saying that Philemon Mwaisaka, the then District Commissioner (DC), committed economic crimes and that your goats were taken away, when as a matter of fact, your community benefited from the sale of goats?

Mr. Harun Chemjor Chepkeitany: I want to state clearly that we never volunteered to sell goats in Kimalel. You would wake up in the morning and find a lorry outside with Administration Police inside. They would descend on your *boma* and take your goats in the name of orders from the DC. They took them to auction in Kimalel. There was no meaningful development given to us. So, we lost goats for nearly ten years. I wish the Commission could investigate and see what we were given or if anything was built on

our behalf. There is nothing in place. If that was not an economic crime, then it should have been something else like being robbed.

The Presiding Chair (Commissioner Ojienda): So, the public bought goats that had been taken away from you?

Mr. Harun Chemjor Chepkeitany: Exactly.

The Presiding Chair (Commissioner Ojienda): Where were the proceeds of the sale taken?

Mr. Harun Chemjor Chepkeitany: We have also asked the same question. We heard at some point that some little money was paid to the chiefs to go and pay those who had given out their goats, but that was later. But at the beginning of the business it was a terrible loss. That was similar to what the White settlers did. That is what made me quote that they were the whites taking our cows and shooting some, as they were really consistent.

The Presiding Chair (Commissioner Ojienda): Lastly, where do you live at the moment?

Mr. Harun Chemjor Chepkeitany: We are living in the Lomolo and partly in Koibatek.

The Presiding Chair (Commissioner Ojienda): On whose land?

Mr. Harun Chemjor Chepkeitany: Koibatek is the native land that we were given on family basis.

The Presiding Chair (Commissioner Ojienda): And Lomolo?

Mr. Harun Chemjor Chepkeitany: Lomolo is where we rear animals.

The Presiding Chair (Commissioner Ojienda): But are you living on land owned by Harry?

Mr. Harun Chemjor Chepkeitany: Yes.

The Presiding Chair (Commissioner Ojienda): But that land does not belong to you?

Mr. Harun Chemjor Chepkeitany: It does not.

The Presiding Chair (Commissioner Ojienda): So, why do you keep living there?

Mr. Harun Chemjor Chepkeitany: We have no option of staying in the hills because we will not survive. If you live in the hills and you have to come to Lomolo for water--- We have no alternative.

The Presiding Chair (Commissioner Ojienda): So, that is why you wanted to buy a portion of the 2,000 acres from Harry.

Mr. Harun Chemjor Chepkeitany: Certainly.

The Presiding Chair (Commissioner Ojienda): Thank you Mr. Chemjor for highlighting the several issues on behalf of the Korentich of Mogotio. As you know, this Commission investigates issues on gross violations of human rights and other economic crimes. So, we will consider the issues you have raised and make appropriate recommendations.

Mr. Harun Chemjor: Thank you.

Ms. Belinda Akelo: Just before we step down the witness, he has just provided some few extra documents. I would wish the same to be admitted. The documents comprise of a letter from the Assistant Deputy Public Prosecutor who prefers that charges of robbery with violence by individuals in a more advantageous position prejudice the accused and so the same charges should be done away with. The letter is dated 18th March, 2005; we have the letter from the PCID dated 23rd March, 2005; a letter dated 6th October, 1961 by the Chief Commissioner; three pictures and a letter dated 15th June ,2006. We ask that the same be admitted as part of the record.

The Presiding Chair (Commissioner Ojienda): They may be admitted.

Ms. Belinda Akelo: That is all, Presiding Chair.

The Presiding Chair (Commissioner Ojienda): Next witness.

(Mr. Joseph Kimaiyo Towett took the oath)

Mr. Tom Chavangi: Commissioners, this is witness No.5. We decided to go that way because initially we could not identify the first three witnesses. Nevertheless, they are here. We shall proceed with them in the afternoon. I have had a discussion with this witness. He is coming to present the Ogiek of the Mau. I have told him that we have heard a history of the Ogiek.

(Technical hitch)

The Presiding Chair (Commissioner Ojienda): Leader of Evidence you can proceed.

Mr. Tom Chavangi: As earlier stated, I was saying that the witness has agreed to start with the issues of the Mau Forest because that is what affects them. In terms of the history of the Ogiek, we also agreed that that has substantially been discussed by his fellow Ogiek in Kericho. So, we will start with the Mau Forest Complex. It should be in the middle of your documentation.

Mr. Towett, kindly tell the Commission your name.

Mr. Joseph Kimaiyo Towett: My name is Joseph Kimaiyo Towett.

Mr. Tom Chavangi: What do you do?

Mr. Joseph Kimaiyo Towett: I am a businessman and also a farmer. I also direct and chair the Ogiek People Welfare Fund, which is a non-governmental organization.

Mr. Tom Chavangi: What are you within the Ogiek Council?

Mr. Joseph Kimaiyo Towett: I am the chairman of the Ogiek Council of Elders.

Mr. Tom Chavangi: You presented a memo of the Ogiek people who live in the Mau Forest Complex. Kindly, present before the Commission issues of the Mau Forest Complex in relation to the Ogiek people.

Mr. Joseph Kimaiyo Towett: As we know, Mau Forest is a very important asset in this country. The environment has been given a place in our preamble which calls for its respect and sustainable exploitation.

The Mau Forest Complex presently covers 420,000 hectares and it traverses a number of counties. It is as big as Mt. Kenya and Aberdares combined. It is one of the five major towers. It supports the livelihood of a population of 30 million people who live in Mau Kenya and beyond. Traditionally, it has been the home of the Ogiek people.

It nurtures trees used by communities and the nation. It feeds 12 major rivers which provide water for millions of Kenyans both in rural and urban areas. Twelve rivers sustain six major lakes, which are Lake Nakuru, Lake Naivasha, Lake Baringo, Lake Natron, Lake Turkana and Lake Victoria.

Forest destruction in the Mau means that the ground does not absorb and filter water well, impairing these rivers, lakes and the Maasai Mara National Reserve and even the Serengeti National Park. Because of the cooling action of millions of trees as well as the carbon dioxide they store, the Mau Forest also moderates the effects of climate change. It helps maintain the climate necessary for tea and other major crops in the region as well.

The worth of Mau is that it supports key economic sectors in the Rift Valley, Western and Nyanza provinces, particularly agriculture and tourism. The market value of tea and tourism in which the Mau plays a vital role is more than Ksh20 billion a year. The Mau sustains some of the country's valuable tourism sites, including Maasai Mara and Lake Nakuru.

In addition, the estimated potential hydro power generation in the Mau Forest Complex catchment is over 500 megawatts, which is more than 40 per cent of the total electric generating capacity of Kenya today.

The total value of the Mau would also include timber, firewood, fodder and medicinal plants used by the nearby communities. In addition, its benefits are climate stabilization, water supply and filtration and the wilderness, including plants whose value may not even be known yet.

For the last couple of years there have been efforts by individuals, groups and concerned authorities who all want to restore and rehabilitate the Mau Forest Complex. The Office of the Prime Minister in 2008 established a task force which inquired into the circumstances that led to the destruction of Mau Forest. It came up with recommendations which were adopted by the Cabinet and also by Parliament. Presently, it is being implemented by an interim coordinating secretariat whose lifespan expires in 2013.

Amongst the recommendations that were made by the report of the task force, the Ogiek issue featured prominently in the task force report and it was recommended that a permanent solution be sought. They recommended the formation of an Ogiek Council of Elders which was formed and I am privileged to chair it. Of course, it has been going on with its activities. The formation of an Ogiek register is going on. That has been done and we expect that the register will be out in two months' time. We hope to use the register to achieve three things: Secure the identity of the Ogiek and their culture; develop proposals to address past marginalization and ensure that the Ogiek are settled in line with the Government-stated purpose.

To achieve this, we have a number of recommendations. These recommendations are intended to help in full operationalization of the new Constitution so that we benefit from its good intentions. They are also intended to achieve Vision 2030 and the UN Millennium Development Goals. We have the following recommendations:

(Technical hitch)

The Presiding Chair (Commissioner Ojienda): Those who have their phones on, could you put them on silent mode or switch them off?
Proceed, Mr. Towett.

Mr. Joseph Kimaiyo Towett: Thank you very much. We have the following recommendations which are both short term and long term. We request that the Commission recommends that the pending cases filed by the Ogiek and the environmental groups be heard exhaustively within the shortest possible time because they hold a solution to the restoration of Mau Complex. This was one of the key recommendations in the Mau Task Force Report.

The other recommendation that we have is for the Government to stop planting exotic trees in catchment areas and also on the river banks. The Government should also review all the sawmilling licences. In fact, we request that it forms its own sawmilling wing to deal with logging and charcoal. This will help to save our forests.

We also recommend a five year moratorium where no logging should be done, but we only plant trees. On the question of title deeds on the former and present forest lands, we request our Government to review all those title deeds with a view of doing justice to the environment and the aggrieved communities.

With regard to the plight of the Ogiek, we recommend that Articles 68(2) and 46; 63(b)(d); 69 and 174 of the new Constitution be fully operationalized.

Our other recommendation is on the Kenya Forestry Service. We were made to believe that with the creation of the Ministry of Forests, our forests would be secured. However, this has proved to be completely opposite. Our recommendation is that forest management should be delinked from protectors. We also recommend the merger of the Environment and Forestry/Wildlife ministries.

We need an overhaul of the Kenya Forestry Service staff and serious training of those who will be retained and employed. Since Ogiek Community and other communities have taken care of our forests for a long time, the Government initiates livelihood support programmes to assist them. They should also give scholarships to the youth.

Finally, we request the Commission to investigate the details of a vehicle whose registration number plates we have provided and do justice to the Ogiek.

Those are our recommendations. Thank you very much.

Mr. Tom Chavangi: Thank you Mr. Towett for your precise presentation. I have two questions then I will pass you over to the Commissioners for clarity. You say you are the chairperson of the Ogiek Council of Elders. Is that the position?

Mr. Joseph Kimaiyo Towett: Yes.

Mr. Tom Chavangi: Is this Ogiek Council of Elders an umbrella body of all the Ogieks in the country?

Mr. Joseph Kimaiyo Towett: Yes, it is.

Mr. Tom Chavangi: So, is it correct to say the Ogiek of Soina from Keringet, the Koita Chelimo Ogiek from Kericho and the Ogiek from Nandi are represented within your council?

Mr. Joseph Kimaiyo Towett: They are fully represented.

Mr. Tom Chavangi: So, whatever you are presenting before this Commission is a presentation of all the Ogiek in the country?

Mr. Joseph Kimaiyo Towett: Yes.

Mr. Tom Chavangi: My last question is about the task force that was formed by the Government in 2008/2009. How has it impacted on your life?

Mr. Joseph Kimaiyo Towett: I am actually grateful. The task force did actually establish the facts that have always been denied that the Mau Forest is the undisputed home of the Ogiek. The Ogiek have rights and their rights need to be respected. That is how the Ogiek Council of Elders was actually formed which seconded seven of us to be part of the Mau Secretariat that is implementing the Mau Task Force recommendations. So, it has given us a platform to dialogue with the Government and seek a lasting solution to our land grievances.

Mr. Tom Chavangi: Thank you, Mr. Towett. I have no further questions.

The Presiding Chair (Commissioner Ojienda): Thank you, Mr. Towett for your testimony. The Commissioners will ask you a few questions.

The Acting Chair (Commissioner Namachanja): I just want to thank Mr. Towett for championing the rights of the minority- the Ogiek. A lot has been researched, a lot of lobbying has been done and this is just one of the advocacies. I pray that you will get your rights. Thank you.

Commissioner Shava: Mr. Towett, I just have two questions for you. In your memorandum you refer to the Kifcon Report of 1991 which you say is itself a production of injustice, but which has become a political gospel. Could you tell us a bit about this report and what in your view was wrong with it?

Mr. Joseph Kimaiyo Towett: The Kifcon Report was largely done in western Mau. Majority of the profiled members were actually not members of the Ogiek Community. Out of the original list of about 1,800, the Ogiek were less than 100. When the number was increased to 3,500 the Ogiek were about 200. This was the report was used to justify the subdivision and allocation of land in Mau.

It is the same population in the Kifcon Report which instead of being settled in western Mau, they were settled in eastern Mau. Most of them were also taken back to western Mau. That is why we have multiple land allocations. The same report despite being disputed by the Ogiek Community has actually become the gospel from the Government side, including the land beneficiaries. By making the Ogiek register-- which has been done and spearheaded by the Ogiek themselves-- it will prove the identities of the persons profiled in the Kifcon Report. So, that is the problem we have with that report. Of course, we believe that our register and that report will be available to the Commission before it concludes it work. Thank you.

Commissioner Shava: My final question is just a point of clarification. You are the chairperson of the Ogiek Council of Elders and ICS committee on Ogiek matters whose office is based in the Office of the Prime Minister. What is ICS committee on Ogiek matters?

Mr. Joseph Kimaiyo Towett: ICS is the short form of Interim Co-ordinating Secretariat for Mau Task Force Report.

Commissioner Shava: Thank you. I have no further questions.

The Presiding Chair (Commissioner Ojienda): Thank you, Mr. Towett. I want to ask you a few questions. I want you to tell us why you think the Ogiek families should benefit from scholarships because you did not lay a basis for these claims. The Ogiek fall in four counties. I just want you to explain why you think that your interests are not taken care of by the devolved government. You seem to have indicated in your presentation that Article 174 of the Constitution, that every county should take special care of the interests of all communities living within those counties, should be observed.

Mr. Joseph Kimaiyo Towett: In the audience, we have members of the Ogiek Community. I will be grateful if they can stand before I answer that question.

The Presiding Chair (Commissioner Ojienda): Stand up. Let us see the members of the Ogiek Council of Elders and other Ogiek.

(Members of the Ogiek Community stood up)

The Presiding Chair (Commissioner Ojienda): When we were in the Mau we saw some with twigs and other traditional paraphernalia. However, today we have seen one in a tie. That is why we said we want to see the other people who have come with you. There is only one more.

Mr. Joseph Kimaiyo Towett: When I said that the Ogiek should benefit from scholarships that does not mean that they are not educated.

Up to 1992, when schools were reopened for the Ogiek, we had children of the Ogiek who dropped out of school. They are still persons of productive age. There are those who did not get meaningful education and that is the generation we are actually talking about. On the question of devolved government, this has not been put into practice and we do not know whether if it is put into practice it will bring benefit us, given the historical period of marginalization. If the scholarships are actually available, it will increase the number of Ogiek who will actually champion the rights of Ogiek at higher levels and fight marginalization. You talked about the Ogiek being dressed in traditional attires and also about how they have been visible throughout the world. I want to say that is actually not their wish, given that they too are embracing modernity; but we must ask how much modernity a community is allowed to adopt and also how much tradition they are allowed to keep. Our dressing was aimed at making us distinct from other groups, but I can also confess here that that mode of dress is also being abused; that is why we want the Ogiek question to be addressed once and for all. That is why we are before this commission.

The Presiding Chair (Commissioner Ojienda): Thank you, Mr. Kimaiyo. I think the immediate concern of all the submissions is the question of resettlement and the identification of who the Ogiek are for the purposes of resettlement. There is of course the delicate interplay in the forest life that you live. When we were in Kericho, Bill Ruto made a presentation on the Ogiek; he specifically talked about the audit that the office of the Prime Minister, through a task force, is undertaking. There are about 19,000 families that were evicted from the Mau. What is the total population of the Ogiek?

Mr. Joseph Kimaiyo Towett: Thank you very much. So far, the Ogiek that we have profiled are 11,000; we have not left anybody outside.

The Presiding Chair (Commissioner Ojienda): Are those households or individual persons?

Mr. Joseph Kimaiyo Towett: Those are individuals aged above 18 years and the only Ogiek we left are the ones from Mount Elgon. So, we have 11,000 in our register, which means we have not left out anybody.

The Presiding Chair (Commissioner Ojienda): There was a point as well because you are using families. We have heard other marginalised groups, like the Talai, that are recognized by numbers that are given to specific families. Now, your name is Maiyo. You look like any Kipsigis anywhere else. How is an Ogiek identified?

Mr. Joseph Kimaiyo Towett: Let me say that all of us are actually descendants of our grandparents who lived before we actually came to Kenya and became Kenyans. The Ogiek look is not different from the Kalenjin or the Maasai. Personally, for many years I have been called a Maasai but, of course, I am not Maasai. The Ogiek identify themselves by clans, families and, of course, sub-tribes. They have been grouped among the ten Kalenjin sub-tribes. At present we have the Kalenjin Council of Elders where we have four Ogiek representatives. I am lucky to be one of them. So, there is no dispute if we say this is not an Ogiek body; we are few and we know ourselves. By giving a little history, then the facts will be established.

The Presiding Chair (Commissioner Ojienda): You have a complaint in your recommendations. You are asking the Commission to investigate the circumstances surrounding the sale of motor vehicle KAR 231N by Tango Auctioneers in defiance of a court order and in spite of the council having paid all its dues. What was this claim about, how much did you pay and why was the vehicle sold?

Mr. Joseph Kimaiyo Towett: This is an issue that actually took place in 2007. It had started in 2005 when our vehicle was involved in a road accident. We took it to a garage for repair and then by the end of 2006, the person who was running the garage, called Samuel Kamau--- I think he had a problem in his garage and so he disappeared. We later learnt that our vehicle was with Tango Auctioneers; we went and sat down with them and talked comprehensively. Of course, we reached an agreement and we paid three quarters of the money they were demanding. Although that money was actually unjustified, we

felt we needed to pay them and free the vehicle and ignore all other issues. In early 2007, we still owed Ksh31, 000 to Tango Auctioneers. We had agreed with them that we would settle this amount in about two weeks' time. Instead of waiting for us to pay the Ksh31, 000, we actually discovered that the vehicle had been advertised in *The Standard* daily on a Friday and was to be sold the following day. We rushed to court and got orders and served Tango Auctioneers with the orders. After a week's time we were told that the vehicle was sold in Nyahururu; we pushed the director of Tango Auctioneers, John Ngunjiri Muthee. When invited to court he refused to file any affidavits and that made us go to the police station. We gave all our reports and the police impounded the vehicle. What is astonishing is that the same vehicle is still in the hands of Ngunjiri family. So, we are actually seeking justice. We welcome further questions.

The Presiding Chair (Commissioner Ojienda): Have you seen a lawyer?

Mr. Joseph Kimaiyo Towett: We had a lawyer who actually seems to have gotten tired on the way. We do not know whether he benefitted directly. We are requesting that since the particulars are available and the Commission has its own investigation and recommendation wing, it can assist us. We never wanted as a community to be seen to have been wronged by another community. We wanted the Ngunjiri family to be seen as Ngunjiri family and not the Kikuyu against the Ogiek. That is our prayer.

The Presiding Chair (Commissioner Ojienda): Thank you Mr. Kimaiyo for your testimony. You have detailed to us the history and the issues that are of concern to the Ogiek. The Commission will look at your recommendations and if there are issues to be investigated further, we will investigate them. When we will finally write our report, I am sure that the question of the Ogiek will be one of those questions on which we will make specific recommendations in line with the mandate of this Commission. We have come to the end of the morning session. We will adjourn for one hour and come back at 2.15 p.m.

Mr. Tom Chavangi: Before we adjourn, Towett has presented to the commission a book entitled: *Ogiek Land Cases and Historical Injustices Since 1902 to 2004*. I request that it be admitted as record before the commission.

The Presiding Chair (Commissioner Ojienda): It may be admitted. I just want to probably just add that for the Ogiek, the wider questions are historical injustices about land, which will, definitely, be dealt with by the National Land Commission. We will deal with the other issues and make recommendations as guided by a precedent. We will read the book. Thank you very much for presenting it. The book is admitted. How many cases do we have for 2.00 p.m.?

Mr. Tom Chavangi: We have four cases. Nakuru No. 6 on your list which will be heard in camera and Nakuru No. 1 will be tomorrow.

The Presiding Chair (Commissioner Ojienda): I think that for the benefit of the public that is there, I will add something. They need to know that the cases we are hearing in Nakuru are those cases that you have selected and that are representative of thousands of

statements that were recorded by victims of gross violations within this region. So, they have been carefully selected in line with specific criteria. They are, therefore, window cases and for the public that sits here, you will note that some of the wider issues touching on land, gross human rights violations and post-election violence will be heard in public. There are thousands of other people who recorded statements, but who will not speak here, because the recommendations that the Commission will make in the end will touch on these issues. I recognize the presence of Counsel Charles Khamala. We will adjourn for one hour.

[The Commission adjourned at 1.20 p.m.]

[The Commission resumed at 2.55 p.m.]

The Presiding Chair (Commissioner Ojienda): We can take our seats. Good afternoon. Welcome back to the session. Leader of Evidence, kindly swear the first witness.

(Mr. Daniel Njenga Mwangi took the oath)

Ms. Belinda Akello: Good afternoon. Kindly state your three names?

Mr. Daniel Njenga Mwangi: My names are Daniel Njenga Mwangi.

Ms. Belinda Akello: Where do you live?

Mr. Daniel Njenga Mwangi: I live in Pipeline IDP Camp in Nakuru.

Ms. Belinda Akello: For how long have you stayed at this residence?

Mr. Daniel Njenga Mwangi: I have been in the camp since November, 2008.

Ms. Belinda Akello: Mr. Njenga, what do you do for a living?

Mr. Daniel Njenga Mwangi: I just do casual labour.

Ms. Belinda Akello: What do you mean by casual labour? What exactly do you do?

Mr. Daniel Njenga Mwangi: I have several skills and sometimes I work with the Kenya National Human Rights Commission (KNHRC) and other civil societies on issues relating to IDPs, specifically monitoring IDP issues.

Ms. Belinda Akello: In monitoring IDP issues, in what capacity do you do so? Do you have any specific responsibility?

Mr. Daniel Njenga Mwangi: Well, we have a national IDP network which brings together all the leadership of IDPs from all kinds of displacement. This means even

displacement from cattle rustling, Government developments and tribal clashes in 1992, 1997, 2007/2008. I am the regional co-ordinator in this region.

Ms. Belinda Akello: Thank you very much, Mr. Njenga. Today, how many IDP camps are you representing as a regional co-coordinator?

Mr. Daniel Njenga Mwangi: Today, I am representing 11 groups of IDPs.

Ms. Belinda Akello: Namely?

Mr. Daniel Njenga Mwangi: Among these groups I am representing are IDPs in Dadho Camp at Subukia. We also have 86 from Ngecha Camp, Pipeline IDP Camp, Gilgil Integrated, Subukia Integrated, Nakuru North Integrated IDPs, Nakuru Town Integrated IDPs, Banita/Solai Integrated IDPs, Mauche and Ndeffo Integrated IDPs.

Ms. Belinda Akello: Thank you very much. Before we proceed, when you say integrated IDPs, what exactly does that term mean?

Mr. Daniel Njenga Mwangi: Well, there are IDPs who since 1992 have been displaced and they never went into camps. In fact, it was not known in Kenya if they were IDPs. After displacement, some went to live with relatives while others just rented houses. The same case happened after 1997 when some IDPs went into towns. Thus, I am referring to the IDPs who are not in camps. Even after the last post-election violence of 2007/2008, there are those IDPs who were displaced but they never went into camps; they went into town centres and rented houses. Others were just accommodated by their relatives. So, these are the ones I am referring to as “integrated” IDPs.

Ms. Belinda Akello: Thank you very much, Mr. Njenga. You have also informed us that you are the regional co-ordinator. Which region is it that you co-ordinate?

Mr. Daniel Njenga Mwangi: I co-ordinate the work of IDPs network in the Nakuru region.

Ms. Belinda Akello: How many regions do you have nationally?

Mr. Daniel Njenga Mwangi: We have seven regions.

Ms. Belinda Akello: Thank you very much. Do you have a chairperson for the entire IDP network?

Mr. Daniel Njenga Mwangi: Yes, we have the chairman and he is here with me; he is called Patrick Githinji.

Ms. Belinda Akello: Thank you very much, Mr. Njenga. Before you start presenting any issues before the Commission, are there any people who have come with you?

Mr. Daniel Njenga Mwangi: Yes. In all these camps and integrated IDPs which I am representing we have some representatives; they have come from Subukia, Molo, Njoro, Mauche, Likia, Mau East and Pipeline. They are all here.

Ms. Belinda Akello: Through the Presiding Chair, could we just have the people who are present stand up?

The Presiding Chair (Commissioner Ojienda): Could the representatives of the IDPs, please stand up?

(The IDPs' representatives stood up)

The Presiding Chair (Commissioner Ojienda): This is a very big number. *Asanteni sana*. We recognize you.

Ms. Belinda Akello: Thank you very much, Mr. Njenga and your people who have come. Kindly take the Commission through the issues that you want to raise?

Mr. Daniel Njenga Mwangi: Thank you for this chance you have given me. There are so many things relating to displacement, but I will present them in a summary form. With me here are two memos. One memo is about the Mau East evictees, whom I found a bit different from the other kind of displacement; that is why we have put them in a separate book. Also with me, I have a memo of all the other IDP camps and integrated families.

Ms. Belinda Akello: Mr. Njenga, would you like to produce all these memos that you have mentioned?

Mr. Daniel Njenga Mwangi: Yes; in fact, I have them and I will produce them.

Ms. Belinda Akello: How many memoranda do you have today?

Mr. Daniel Njenga Mwangi: I have two memoranda.

Ms. Belinda Akello: Presiding Chair, could you admit the two memoranda as part of the record?

The Presiding Chair (Commissioner Ojienda): Yes, they are admitted. Are they both with him?

Ms. Belinda Akello: Yes, Presiding Chair.

The Presiding Chair (Commissioner Ojienda): Could he take us through both memoranda?

Ms. Belinda Akello: Presiding Chair, we had just asked him to do a summary of the issues in the memoranda, and not necessarily take us through every item since the Commission will be furnished with copies of the memoranda.

The Presiding Chair (Commissioner Ojienda): The memoranda are admitted.

Ms. Belinda Akello: Thank you. Continue.

Mr. Daniel Njenga Mwangi: Thank you very much. I just want to go through, very briefly, the issue related to displacement. I would like to start with the issues of Mau East evictees. Their history goes back to the colonial government in 1918. The colonial government in 1918 found it necessary to develop an artificial forest as opposed to the natural forest. For this task, the government of Kenya under the Queen of England employed people from Central Province in the forest to clear the natural forest and plant the exotic trees; this is how the *shamba system* was initiated. Since the colonial government saw that these people were doing a good job, they were settled in villages like Elburgon, Marioshioni, Kiptunga, Blockman, Ndoswa, Nessuit, Ndundori, Likia and Teret.

From 1918 until early 1980s, these people were living there in their homes. They did not know any other place to call home. Come Wednesday, 15th May, 1988, during the Moi Government, these people were evicted. It was on a Wednesday on 25th when they were given up to Friday to come out of the forest area. Even before the end of that time, the DC then, Mr. John Anguka, sent APs who evicted the people, thus violating their rights. Their houses were burnt, some of their properties were looted and these people ended up in town centres. That is just a short history of the Moi evictees.

I will come to the next memorandum, which is about the displacement since 1992. At the end of the colonial government, the president who took over leadership, the late Jomo Kenyatta, started repossessing land belonging to white settlers, even though we understood that it was to be given to people freely after Independence. The Government said that people should give something for it in line with the President's argument that *hakuna cha bure*. People formed co-operative societies. An example of one such group is the Ndeffo Company. "Ndeffo" is an acronym for Nakuru District Ex-Freedom Fighters Organization. This was a group of people who came together. Ndeffo was formed in 1966. People came together and started contributing money, and through that they were able to buy several farms, Rusilu Farm being one of the farms that they bought in 1976. By August of the same year, there were 35 members who had been settled in the farm.

The company continued settling members. To date, there are more than 1,700 members with an approximate population of 40,000. That is the short history of the people who live in this area of Ndeffo.

I now turn to displacement. There were co-operatives in Uasin Gishu which were buying land. It is through such co-operative societies that they bought many farms such as Lorigi Farm, Rwang' Ondu and others. Prior to 1992, these people lived in harmony. However, in

1992, clashes started in Ndeffo when domestic animals such as cattle and goats were stolen. When the area Government representatives were told about it, they did nothing. Thus our people decided to go after their animals. After that, they were overpowered and the battle spread to other areas, including Kuresoi and other areas surrounding the Mau Forest. Many people were displaced by that time. Others could not go back to their homes. They are still living in Nakuru Town. Most of them are at Subukia. Others decided to go back to their homes. However, in 1997, there was violence in those areas and people were displaced. They came to Nakuru Town. Life in Nakuru was unbearable and they went back where they had come from. In 2007/2008, during the post-election violence, most of the people were displaced. Most of these you are seeing here, who are just representatives, could not return to where they lived. I am one of them. In 1992, I was staying in Molo. However, I was displaced and came to Nakuru. We were accommodated by relatives, but we could not cope with it. We went back to the same place. We were also displaced in 1997. I found that I could not go back to Molo. So, I decided to go Kericho. That is when I was displaced among many other people. I am now living here in Nakuru.

During the displacement many people died, more than what is documented by the Government. We lost our children, fathers and other relatives. Even it goes beyond what the Government said; 1,333 people died. We know of people who died and were buried even before it was reported. Our property and everything that we had was destroyed. Others were looted. Some of us sustained injuries. We are suffering because we do not have money to buy drugs or seek medical care. It is very expensive for us because we do not have money. Therefore, many people have died after displacement because of psychological trauma. Some relatives got lost and have not been found to date. There are parents who do not know where their children are to date. There are children who cannot trace their parents. People lost their jobs. All our rights were violated. Our human basic rights were abused. Some women and girls were raped. Some of those cases were never reported. The Government has continued to violate our rights. The Government ferried us using army vehicles to various show grounds. Most of us were brought here to Nakuru show ground. Others were taken to Afraha stadium and yet others to Naivasha stadium, among many other places. Conditions in those places are very harsh. There was no peace in those show grounds. Some decided to go back to where they had been displaced. However, they were not received well. Nobody welcomed them there. They were not even given a chance to enter into their farms. Some of them stay here with us. They went back into their farms but they are still living in these transit camps. These are just camps that are in shopping centres. Others are near the District Commissioner's office, where they feel there is safety. It is at this point where they can do their farming during the day and return to the tents in the evening. A good example is a transit camp in Keringet DC's office. There are so many examples of the same. There are violations in the camps. Among many violations, there is lack of shelter. IDPs are just living in those tents that were given out in 2008. These are old and worn out tents. About the returnees, we know that the Government is constructing houses for those who have returned to their farms. But you find there are more injustices happening. An example is IDPs in Jogoo Farm. There is a chief who has constructed ten houses for himself. It is a pity that in the

neighbourhood, there is a person whose house was burnt, but he does not have a single house. So, there are so many injustices that are happening there.

We are happy that the Government has resettlement plans. But even those who are resettled, even after being taken to resettlement places, they are not given a chance to identify where they want to be resettled. They are not included in the resettlement plan. The Government through the Ministry of State for Special Programmes just goes somewhere and identifies a piece of land and settles people without their consent. Unlike the recent case in Pipeline, last week there was a group that was resettled in Solai. They asked the Permanent Secretary, Ministry of State for Special Programmes to give them a chance to see where they would be resettled. Instead of listening to them, he told them that if they did not want that land, they could as well forget it. He told them there were so many people they were settling and that they could give other groups that land. After people are resettled, they are given tents. They are given one tent for a whole household with adult children. They live in the same tent with their grown up children. We know that there are iron sheets that were donated by the Government of China. Where are these iron sheets? The Government says people should stay there for a whole one year without proper shelter. Why can they not give us those iron sheets? Many of us are exposed to cold. In such conditions, we are bound to fall sick. Malaria and pneumonia are common diseases in those areas and even in these transit camps. After people were settled, many of them died.

With regard to water and sanitation, we feel the Government is not doing enough. After the Government had taken us there, it did not care to see where these people would get their water. I thank the Nakuru District Commissioner then. He gave people piped water. But unfortunately, we learnt recently that there is a bill of Ksh3.4 million, which they never knew that they were supposed to pay, and the water was disconnected.

So many toilets in the camps are full. During the rainy season, waste overflows into the tents. This is very dangerous and poses health risks. On medical care, the Government knows that IDPs have no money to pay for medical bills. There is a case in Nawam Camp, where a woman went to Kenyatta National Hospital and was there for six months. She was kept there after discharge because she did not have money to pay the hospital bill. Another case is in Pipeline Group, where a youth died. He had undergone several operations. After death, he was kept in the mortuary for one month and half. They could not release the body because we did not have money to settle the bills.

On resettlement, the Government is only resettling 19 camps. It is said that camps which were formed before November, 2008 were not genuine. There are so many integrated people who did not go to camps. There are those IDPs of 1992/1997. All these groups were not given the Ksh10, 000 by the Government. They were not given the Ksh25, 000, and are not under the resettlement plan. So, we feel that these are violations. There are so many issues, but we have some recommendations to this Commission. This is because we believe in you.

With regard to resettlement, we would like the Government to take fresh and proper profiling of all IDPs, including those who were integrated and those of 1992/97. We also want fairness in resettlement. For example, you find that the Government has resettled some people each in two and a quarter acres. There is a group that was resettled here at Rongai in two and a quarter acres. The value of that land is more than Ksh600, 000. Another group was resettled recently at Solai in two and a quarter acres. The value of that land is not more than Ksh200, 000. All these people are IDPs. IDPs are requesting for fairness in this kind of resettlement.

Another recommendation is about compensation. The Government should establish the value of the properties lost. The Government is not saying anything about lives.

With regard to education, there were so many pupils who could not continue with education. We are requesting the Government that after one year of full resettlement, to provide IDPs with free secondary, college and university education. There were those IDPs who were orphaned. They lost their parents or guardians during the violence. They do not have anyone to pay school fees for them. We are requesting the Government to offer free secondary, university or college education to these orphaned children because they do not have anyone to care for them.

(Power failure)

Ms. Belinda Akello: Presiding Chair, can we proceed?

The Presiding Chair (Commissioner Ojienda): Yes, we can proceed.

Ms. Belinda Akello: Mr. Njenga, you were talking about your recommendation on health, kindly proceed.

Mr. Daniel Njenga Mwangi: Thank you very much. We recommend that the Government provides IDPs with free medical care for at least one year.

We also request the Government to give us the iron sheets that were donated by the Chinese Government instead of IDPs suffering in torn and leaking tents.

I think I am through, thank you very much.

Ms. Belinda Akello: Thank you very much, Mr. Njenga for your articulate presentation. I only have one clarification and then I will hand you over to the Commissioners. As a regional co-ordinator, and maybe in accordance with the national IDP network, how many IDPs do we have in Kenya?

Mr. Daniel Njenga Mwangi: Including all the IDPs in the camps, and even the returnees, we have more than a million IDPs.

Ms. Belinda Akello: Mr. Njenga, does your organization have a full database of all these returnees, integrated and other IDPs?

Mr. Daniel Njenga Mwangi: Yes, we have it.

Ms. Belinda Akello: Can this be availed to the Commission?

Mr. Daniel Njenga Mwangi: I did not come with it today but I can present it even tomorrow.

Ms. Belinda Akello: Thank you very much. Maybe one last question, when you speak about a recommendation such as compensation, because you have made the first recommendation as resettlement, what further compensation would you have wished to see, assuming you have been resettled, accorded education, health and shelter? What else would you regard as compensation?

Mr. Daniel Njenga Mwangi: To me, resettlement is not compensation. Since only a few have been resettled---

Ms. Belinda Akello: Mr. Njenga, sorry, what I am trying to drive at is we want to have a rough estimate. From your view, the Government has a responsibility to take care of IDPs. But from your view as a network, what would you consider as compensation? Have you ever as an organization thought about it or maybe come up with the numbers?

Mr. Daniel Njenga Mwangi: There are those properties that an individual lost.

Ms. Belinda Akello: Thank you very much, Mr. Njenga. That is all from the Leader of Evidence.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Leader of Evidence. Thank you, Mr. Njenga for your testimony. I want to ask Commissioners to seek clarifications on anything that is not clear.

Ms. Belinda Akello: Sorry, Presiding Chair to interject. There are witnesses also who provided a reference of officials representing the IDP network. There is a memorandum from Ndeffo Company, dated January, 2011, and the memorandum from the Njoro District IDP Co-ordinator.

Kindly, would you let us admit these documents to be part of the record?

The Presiding Chair (Commissioner Ojienda): All documents are admitted.

Commissioner Dinka: Mr. Njenga, thank you for your testimony and for clarifying a number of things to us. I have just one or two questions. How do you determine the number of IDPs from 1992, 1997 and even 2007/2008, which have been integrated into their own communities in different areas of the country?

Do you have the list of these people who have been integrated already? How do you know whether they want to go back to their own place or not?

Mr. Daniel Njenga Mwangi: We have a list of all those IDPs. Even for those who were displaced in 1992 and 1997, who are living either in rented houses or are accommodated by relatives, we have their list. We know those who have already gone back. Those who are remaining feel that they cannot go back and have been in town for all that long. They feel it was not safe for them to return to those places they came from.

Commissioner Dinka: Thank you very much. My last question is how do you assess the statement that we sometimes get from the Government representative that most of those IDPs who had land to go back to have already gone back, and those who actually remain in camps go somewhere, and sometimes when they see visitors, they come back to the camp to be counted? Were these people hawkers or engaged in some other business before but now want to take advantage of whatever IDPs are getting? How do you assess that statement?

Mr. Daniel Njenga Mwangi: As I said earlier, we have a network, even from the returnees. We have those people who represent the network there. In the integrated family, we have those who represent the network, and even in the camps.

Let me say a big number has already gone back even though not all are living in their farms because they feel there is no enough security. Those in the camps we already have their register and we know them. We do not agree with the Government when they say some people are not genuine. On this, we blame the Government. When people were displaced, the Government ferried them to the show grounds and stadia. At that time, the Government could have taken the statistics and records. After that, when the *Operation Rudi Nyumbani* started they could have known who had gone back. Although the Government may not have the records, we have them.

Commissioner Dinka: Arising from what you just said, you appear to agree that a number of people have gone back to their land, but still some are coming back sometimes. Some are still in the camps. The Commissioners have not seen your memorandum yet. Do the two memoranda that you have just presented--, do they have that aggregated report, those who returned, and those who remained in the camps? What were the occupations of those IDPs? Were they ex-farmers, ex-business people who are now in camps and who have returned? This is because their needs are different; unless they are disaggregated, it is difficult to quantify what each category of people need and make a recommendation. The Commission has to make some recommendations at the end of the work to the Government regarding these people. So, if your memoranda are made in that kind of clear fashion with clear statistics that would be very helpful. Are they done in that fashion?

Mr. Daniel Njenga Mwangi: In the memorandum we have a list of those who have returned to their farms. But specifically on this case, we are dealing with Nakuru region.

Therefore, for those who have returned to their farms within Nakuru, the list is showing it clearly and also indicating those who are integrated and those in camps.

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

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Njenga for representing the IDPs. I just have one question. If you may estimate, what is the ethnic composition of IDPs among your members?

Mr. Daniel Njenga: Well, within Nakuru region, the camps here were specifically on ethnic basis. Those who were displaced from Naivasha and Nakuru here, those who were ODM supporters were taken to Nakuru stadium. Those who were displaced from Nakuru North and other areas were taken to Nakuru ASK show ground. Most families are integrated. Those who were taken to Afraha most of them went back to Kisumu and those areas. So, in our list, 60 per cent are Kikuyu, 15 per cent Kisii, 15 per cent Luo, and the remaining other tribes.

The Acting Chairlady (Commissioner Namachanja): Thank you.

Commissioner Shava: Thank you very much, Mr. Njenga. I just have three questions for you.

First, I would like to understand, when you say integrated IDPs, do you mean that these people are living well and that they have property and are engaged in business? Are they living in towns? Do they require any further assistance? Are you saying that these people have suffered as the ones in the camps but do not live in the camps and are still looking for some sort of reparation or justice?

Mr. Daniel Njenga Mwangi: Thank you very much. Let me say that during the displacement most of these people were brought into the camps by the Government. However, because of hard conditions they joined their relatives. After four years, most of them are in worse conditions than those in the camps. The relatives now feel they cannot accommodate them, considering the economic status. Those who have rented houses with the capital that they had can no longer pay for those houses. Most of them have been chased out. Some return to the camps and others tried to join some other groups but the Government cannot help them.

Commissioner Shava: Sorry, Mr. Njenga, the translation of *wamejaribu kurudi kwa camp tena* is that they have tried to return to the camps. They were not there in the beginning. Is that correct? They are not going back to the camps; they are going to the camps.

Mr. Daniel Njenga Mwangi: They are undergoing harsh conditions. They are really suffering. In fact, most of them have come to us; they want to form a group of their own so that they can be assisted by the Government. However, the Government cannot allow them to do so. So, these people are really suffering.

Commissioner Shava: Related to that question, there are some observers who say that in the camp, you have people who are successful business people and town dwellers who are not really IDPs. They are just there hoping that when the Government compensates people, they would be in the list of those to be compensated. What would you say to that?

Mr. Daniel Njenga Mwangi: Those people have been in the camp for the last four years. Someone cannot pretend for four years living in a tent whereas they could have lived somewhere better. Therefore, I cannot accept that there are some people in the camps with good business outside. Those who say that do not know the conditions in the camps. That is because even if you are given a million shillings and you are told to stay for four years in the camp, I do not think there is anyone who can agree to live under such conditions.

Commissioner Shava: Now my final question; I visited your camp yesterday with some of my fellow Commissioners and the children in the camp sang very beautifully and spontaneously for us. I just wonder, what do the children think of their situation? Do they remember the places from which they were displaced? Do they remember their friends or their schools? What kind of things do they say? They looked very happy yesterday but it is a very hard life and I wonder sometimes, what is the kind of things that you hear the children say?

Mr. Daniel Njenga Mwangi: When the children play together, they may not recall whatever happened. They will start remembering as soon as they get into the house, and maybe a child was mature enough to know a brother or a sister who was killed or even those who are living with their mothers and their fathers were killed or separated because of the conditions. This is the time they start asking questions like: What happened to my brother? What happened to my sister? Where is my father? We have been working with Save the Children and we were trying to see if their minds had captured what happened. We were telling them to draw what they saw in 2008. The children were drawing some houses on fire and some men with bows and arrows and some people running away. Their minds are still fresh and they know what happened. They still recall what happened.

Commissioner Shava: I know I said that was my last question but now I have one more. When we were in Nyanza, there was a young man who stood up to speak to us as an integrated IDP. He said that for the young people in that area, they feel anger when they remember what happened to them. The children I was talking about in the camp yesterday were young children. What about your secondary school children who I know are also having difficulty in going to school because of the issue of school fees? What does that generation of youth say?

Mr. Daniel Njenga Mwangi: Most of those children could not continue with their education and, therefore, are idle. They just go for casual labour even though among them, we might have a Kenyan president. But since they could not continue with their education, they have so much idle time. Let me say it: even though it is not good to put it

across, some are saying that if one day they get a chance to be employed as policemen, they will avenge what happened. This calls for civic education and guidance and counseling so that such thoughts can be brushed off.

Commissioner Shava: Thank you very much Mr. Njenga for speaking very frankly. I do not have any more questions.

The Presiding Chair (Commissioner Ojienda): Mr. Njenga, thank you for your testimony. From your last statement, it appears to me as though we have a long way to go before we get healing as a country. It is those children who will be the leaders of this country and if we are creating a population that is hurting and paining and that is bitter, then clearly we are calling upon the Government and Government organs to do what it is that can be done now to ensure that this country brings together those children and the issues are dealt with. A traumatized population is not good for the future and for healing.

I want to ask you a few questions. You referred to Likia, Mauche, Mau Narok and other places as having been settled. I refer to those places because I know that they are hotspots. As an IDP and a person who has been evicted a number of times, what is the recipe for lasting peace amongst communities in those regions?

Mr. Daniel Njenga Mwangi: Thank you very much, Presiding Chair. For my view, first, a lot of peace building work has to be done. Even though it has been happening, the IDPs and the host communities have not been involved fully. There are other people who are doing peace-building and reconciliation work on behalf of those people. In my view, I feel that these are the people who could be in the frontline. The IDPs themselves and the host communities are the people who can bring peace by talking amongst themselves. I understand that peace is not having so many police posts around but having peace is having a neighbour who I can ask for something I do not have and any time my neighbour is in need, I feel that I can go and help. Cohesion and integration is when you are socializing with the people and that is the beginning of peace.

There are so many land injustices and unless the Government deals with the land injustices from the colonial period, I feel that we will still have a long way to go.

The Presiding Chair (Commissioner Ojienda): My second question is on the *Rudi Nyumbani* initiative by the Government. You remember that that programme has been there for a while and a number of people have gone back to their homes. What role have you played in this programme? Have you encouraged your members to go back and are there particular areas where you think it has been difficult for people to go back and why?

Mr. Daniel Njenga Mwangi: Let me say that Operation *Rudi Nyumbani* was the first operation that the Government started on IDPs. As leaders and the IDP network, we could go and assess how the situation was on the ground. Up to now, we are doing it and we just go to the ground and tell people to go back to their farms. I feel that the way the Government is taking thousands of IDPs and resettling them anywhere, their children will one day ask what happened. We are creating another society that one day will come and

decide to avenge for themselves. Therefore, as leaders, we felt it was good if it was possible for people to go back to where they came from. Even in resettlement, people should be resettled in the midst of others. In resettlement, the Government could have taken different IDPs from different tribes, brought them together and resettled them. I feel that in doing that, we could have solved this problem. We have been encouraging them even though there are some places we term as hotspots and they feel that they cannot go back. There are so many police posts that have been put up in many places but, unfortunately, whatever happened in 2007/08, the same policemen did not do anything because they claim they were not given orders. They watched as things happened. So, the IDPs feel that even with so many police posts; this does not solve their problems. The people feel that they are not safe if they go back to the hotspots. Some of the hotspots like Uasin Gishu in the farms like Rurigi, Rwang' Ondu and others and some parts in Nandi, people find it difficult to go back. They feel that they are in the midst of other tribes and nothing much has been done on peace building. The Government has to promise us that this will never happen again. Adding up police posts is not a solution and unless the Government promises that whatever happened will never happen again, people will find it difficult to go back to their farms.

The Presiding Chair (Commissioner Ojienda): Two other short questions. You referred to persons who have not been found to date after the violence. Have your members given you the names of those people or do you have a data bank with a list of persons who were not traced after the violence?

Mr. Daniel Njenga Mwangi: I do not have it here but we have a list of relatives. We do not know if they were killed or if they are living somewhere. We have cases of children who do not know if their parents were killed and some people do not know if their children were killed because they went in another direction. They are still looking for them even though they do not know if they are dead or alive.

The Presiding Chair (Commissioner Ojienda): The other short question is on the medical needs. You said that IDPs have specific medical needs. Do you have records where your members recorded specific medical needs?

Mr. Daniel Njenga Mwangi: We have some records in specific camps of people who are suffering from HIV and Aids, diabetes and others with cancer. We have the records but I am sorry I do not have them here but I can bring them in another sitting.

The Presiding Chair (Commissioner Ojienda): I want to thank you for speaking for IDPs. It is as though I have heard everyone else who has spoken about IDPs. You have struck a blow for the homeless. You are a perfect ambassador. You have made recommendations that are very fundamental. Your recommendation that IDPs should not be settled in isolated ethnic groups; that IDPs should be settled to reflect the face of this country is a very weighty recommendation. You seem to look into the future and you seem to say that we are creating a problem by isolating groups of IDPs.

The Presiding Chair (Commissioner Ojienda): By settling them in areas that are specific to their community. We will take into account all your recommendations, including the short-term measures of the IDPs in Pipeline, the need for toilets and water. We will raise this with authorities and every Kenyan has a right to certain basic things that are in the Constitution and we will uphold those rights as a Commission. I want to thank you sincerely. Leader of Evidence, step down the witness and let us have the next witness.

Ms. Belinda Akello: Presiding Chair, this is witness No.7 on the list and you had said that we should move her up since she is also adding on the IDP story. She is our first female witness for the day.

The Presiding Chair (Commissioner Ojienda): Leader of Evidence, ensure that we do not have a repeat of the issues that have been so well covered by Mr. Njenga.

(Ms. Jane Wairimu Waithaka took the oath)

Ms. Belinda Akello: Presiding Chair, the next witness is going to be talking about the Keringet IDP Camp and, at the risk of being superfluous, we still need her view of bringing out the female perspective of the IDPs. She is also one among the few chair ladies of the IDP camps that we have in Kenya. We might have a little redundancy with the issues that will be raised but we shall also try and contain them.

For the purposes of the record, please state your three names.

Ms. Jane Wairimu Waithaka: My name is Jane Wairimu Waithaka.

Ms. Belinda Akello: Thank you very much for appearing before the Commission. Where do you live?

Ms. Jane Wairimu Waithaka: I live at Keringet IDP DC's Office Camp, Kuresoi District.

Ms. Belinda Akello: What is your occupation?

Ms. Jane Wairimu Waithaka: I do odd jobs.

Ms. Belinda Akello: When you say odd jobs, what do you mean?

Ms. Jane Wairimu Waithaka: I wash and till land for others.

Ms. Belinda Akello: What is your hierarchy in the Kuresoi IDP Camp?

Ms. Jane Wairimu Waithaka: I am the Chairlady and I am the one in charge of the camp.

Ms. Belinda Akello: So you were elected as the Chairlady of the IDP Camp?

Ms. Jane Wairimu Waithaka: Yes.

Ms. Belinda Akello: You are going to talk about the Keringet IDP Camp and the issues concerning women. You are here and you have already heard what the previous speaker said about the IDPs and you know the importance of coming before this Commission; that is, to explain the issues pertaining to the IDPs of Keringet. Explain to us especially the violation that the women are undergoing as IDPs in Keringet and in all the camps in Kenya.

Ms. Jane Wairimu Waithaka: Thank you very much. We were among the first victims because we were displaced from 28th November, 2007. We went to the nearby post office and on 2nd December, we arrived in Molo and camped at the Apostolic Faith Church before we were moved to the Saw Mill Camp which is the main camp. After we were displaced, all our things were stolen and women and children under 18 were raped. When we were told to go back home, we were not told that it is only those who had parcels of land who could go back. We were put in a lorry for the chief to identify us.

Ms. Belinda Akello: Can you remember what date it was?

Ms. Jane Wairimu Waithaka: It was on 13th May 2008. When we got there, the chief registered us and we found the DO there. At the time, Kuresoi was not a district yet and so, we were registered. From then, we were not given any support and now that we are there, we have many problems because our tents are torn and leaking. Our children who finished primary school could not join high school. Whenever we go the DC's office, we do not get any assistance from him. In 2009, we had a chairman who disappeared. His name was John Otondo. We looked for him and later we found him murdered and put in a shallow grave and nothing has ever been done about it.

Ms. Belinda Akello: Thank you very much. As you have explained, you ran on 28th November, 2007. What triggered your running away from that place?

Ms. Jane Wairimu Waithaka: We did not understand because it was before the elections and there was a rumour that a vehicle had been stoned and so we were evicted. We did not really know the reason why.

Ms. Belinda Akello: Are there people who died in that incidence?

Ms. Jane Wairimu Waithaka: One person was injured and he is here with me today.

Ms. Belinda Akello: You said in your statement that people were killed in some villages and the bodies were discovered.

Ms. Jane Wairimu Waithaka: There are those who were killed around Olenguruone and Ole Nyabatu area near the parish at a place called Kamwaura. When the bodies were found, they were buried in a mass grave by Molo Municipal Council.

Ms. Belinda Akello: Do you have any recommendation that you would like to submit before the Commission so that it can be taken to the Government.

Ms. Jane Wairimu Waithaka: I would like to recommend that we should be compensated like the others. We are also pleading for positions in Government jobs and there should be equity in hiring because that is what brings problems. We also want children to be admitted in schools all over the country. When it comes to resettlement, all tribes should be resettled because there are squatters even among the Kalenjin. Those differences in resettlement are causing problems and it should be uniform.

Ms. Belinda Akello: Do you have any recommendation concerning the pupils and the civil servants?

Ms. Jane Wairimu Waithaka: I actually said that employment should be uniform and not just have one tribe being employed because those of us who are at the bottom of the social rank are the ones who get hurt. We are the ones who suffer most. When a senior person is fired from office, it is the ordinary citizens who suffer. So, the Government should make sure that it gets rid of corruption. When we ask for tents, we are told that there are no tents and no food. Recently, a child died and we tried to ask for assistance for the burial but we got nothing. So, we believe that the Government is responsible for all this.

Ms. Belinda Akello: My attention has been drawn to the last two paragraphs on page 19 of the statement that we have. We wish to highlight the same for the records. I have two questions. You know that there were many women who were evicted from their homes. We want to know what the perspective of the women and children was after that fight. How did the fight impact on the lives of the children at the moment? Have they got any assistance so that they can live their life as any other person in Kenya?

Ms. Jane Wairimu Waithaka: Very few of our children are going to school. When we went back in 2008, there was a long drought and when people asked why there were no rains, they kept saying that it is those children from the camps who were bringing the problem. Whenever you see the tents, it reminds you of the atrocities we went through and some children saw people being murdered and others saw dead bodies and they keep saying that they want to move out before the 2012 elections. I would like to ask that all tribes be mixed when we are resettled so that we do not have specific tribes being targeted.

Ms. Belinda Akello: At the Keringet Farm, how many families are there?

Ms. Jane Wairimu Waithaka: There are 38 families.

Ms. Belinda Akello: According to the statistics you have given us, do you know any of the orphans and how many are they?

Ms. Jane Wairimu Waithaka: I have three orphans.

Ms. Belinda Akello: Did the orphans lose their parents before or after the conflicts?

Ms. Jane Wairimu Waithaka: Their mother died from stress while we were living in the church after we were evicted.

Ms. Belinda Akello: Do these children go to school or not?

Ms. Jane Wairimu Waithaka: They do not go to school. One of them is four years old and he is just about to join nursery school.

Ms. Belinda Akello: Have the others gone to school?

Ms. Jane Wairimu Waithaka: None of them goes to school.

Ms. Belinda Akello: Are there some children in the camp who are forced to work so that they can survive?

Ms. Jane Wairimu Waithaka: Yes, especially the girls have been forced to do some illegal work. Some girls think that they are too young to plough and they go to towns and get into some difficult life. The elderly women can at least work for Ksh100 per day and use it to buy food. I have only one tent and I have grown up children. So, I have to look for a tent for my daughter to sleep. So, that gives them freedom to move around.

Ms. Belinda Akello: Thank you very much for explaining to us all those issues. When you were evicted from Keringet IDP camp, did you have cases of rape or not?

Ms. Jane Wairimu Waithaka: There were not many. We were evicted much earlier before the elections.

Ms. Belinda Akello: What recommendation can you give so that the girl child can be helped so that they can stop roaming around? What can be done for their survival?

Ms. Jane Wairimu Waithaka: I would recommend that those with girl children should be given priority in allocation of tents and if possible, they should be given decent accommodation. When there is no space in the tents, they move around and they are exposed and vulnerable. We cannot keep track of them.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Leader of Evidence.

The Acting Chair (Commissioner Namachanja): Thank you so much, Ms. Waithaka. I just wanted to find out the relationship between the IDPs in your camp and the surrounding community members. How is the relationship?

Ms. Jane Wairimu Waithaka: We relate well and it is a cordial relationship. They are the ones who employ us and some even take us as far as Olenguruone and bring us back. We think it is the politicians who are inciting but the neighbours are not a problem at all.

The Acting Chair (Commissioner Namachanja): From the time you were displaced, have there been any peace-building efforts between the IDPs and the community members where you came from?

Ms. Jane Wairimu: During Operation *Rudi Nyumbani*, they were made to welcome us. They made us feel at home. There are some who go round the whole of Kuresoi preaching peace to both communities.

The Acting Chair (Commissioner Namachanja): Some IDPs found it difficult to return to their homes. Is it because they have no houses or they still fear for their security?

Ms. Jane Wairimu: When we were brought back, there were those who were landless and there were those who had land. When we were brought back, we were told that the chief should identify us so that once we are paid compensation, then we can look for another place to settle. The Government said it was going to give plots of land and build houses. That is what we have all been waiting for. It is the Government that is keeping us there and not the neighbours.

The Acting Chair (Commissioner Namachanja): So it is about the resettlement programme. At the time you were welcomed, if there were iron sheets for those people who had their farms there, would they have gone back home?

Ms Jane Wairimu: When we were sent back in 2009, the Danish Refugee Council came there and said that they had some roofing sheets to be given but we do not know where they went. They told us that we were not on their list of programmes so they only gave us roofing sheets and people bought for themselves whatever else they needed. Those that were given the iron sheets are scattered. The people around Mau had some houses reconstructed for them but it was not everybody. The majority are still in tents. They fear that if they go there, they will be evicted because it could be part of the Mau Forest. Some of us were given nothing. I have been a victim since 1992. I was born there and my parents are there. I do not know where I will go if I am told to go away because I have lived in that area all my life. The Government should look into ways of resettling us.

The Acting Chair (Commissioner Namachanja): Thank you. I have no further questions.

Commissioner Shava: Mama Jane Wairimu Waithaka, I do not have any questions for you. I would just like to salute you for the work that you are doing. You are the head of a camp where 38 families are looking to you for leadership in very difficult circumstances. Your predecessor died in circumstances which are not clear but still you have the courage to stand up for the people in that camp. I would just like us to recognize that fact and salute your courage and leadership. Thank you for coming here today and speaking out very clearly.

The Presiding Chair (Commissioner Ojienda): Thank you, *Mama Jane*, for your testimony. I look at your face and I see a face of a woman who has been to hell and back, but you still stand strong. You have spoken for your people and you are a beacon of hope for the mothers, the children and the orphans that you represent. I salute you and thank you for speaking for those members of society who have no voice; the IDPs. You are living amongst a community that has not fully integrated you. It is not easy but we urge you to move on. We will make appropriate recommendations. This Commission aspires for Kenyans from different ethnic groups that recognize and respect others; of Kenyans who believe in the country, Kenya, and not of Kenyans who attack members of other groups because they do not speak their language. We have a common descent, we are all Africans, we are all Kenyans and we all belong to God. I thank you.

Leader of Evidence, call the next witness.

(Mr. Peter Mwangi took the oath)

Mr. Tom Chavangi: Presiding Chair and fellow commissioners, this witness had presented documents that are in your file. However, I have had a discussion with him and I have told him that those documents are not necessary at the moment because they touch on the organizational profile and also on some of the professional lawyers where complaints from members of the public have been directed towards the lawyers. I discussed with him and I told him that we shall have a thematic hearing so that presentation is not necessary at the moment. However, he has presented some documents which we will go through with regard to violations that have been committed to some victims who have actually presented cases before them.

Commissioners, I beg to use Kiswahili because the witness will be speaking in Swahili. For the sake of the record, please state your full names.

Mr. Peter Mwangi Kinyanjui: My name is Peter Mwangi Kinyanjui.

Mr. Tom Chavangi: What is your current occupation?

Mr. Peter Mwangi Kinyanjui: I am the national chairman of the Kenya National Organization of the Victims of the IDP crisis.

Mr. Tom Chavangi: What is the mandate of your organization?

Mr. Peter Mwangi Kinyanjui: We do monitoring on issues that have to do with Kenyan victims.

Mr. Tom Chavangi: Do you monitor all Kenyans?

Mr. Peter Mwangi Kinyanjui: Yes.

Mr. Tom Chavangi: You have presented a memo. So, please, can you take us through your memorandum before this Commission? What is it all about?

Mr. Peter Mwangi Kinyanjui: I have come here to speak on behalf of all Kenyans. I am talking about the victims from 1981 to 2011. I remember in 1981, there were strange happenings in Kenya and we were not happy. Most people moved from what they knew as their homes and we had to receive them and some had to rent houses. We gave shelter to some people but others have not been assisted until now. At some point in 2004, we came together as a group that wanted to know the truth on the people who were oppressed by others. We know that not everybody loves each other. We did some investigations and realized that Kenyans were the most affected, and it is all Kenyans.

In 2007, we had a repeat of the same and very many people were evicted. We hosted some people and we would get together as a group and give money and the people would return to their homes. Some went to Kisumu and others to Central Province. We did not discriminate because we are all Kenyans. I was at the showground. We came together to make sure that people do not live in tents because it is wrong. We sat down and as one of the committee members, we agreed that it was better if they left and have some form of livelihood. When they got out, we supported them because we knew that they had some problems. Some people had nothing and did not have anywhere to go. So they ended up in another camp. This is because they were born in Nakuru, others were born in Kisumu and yet others in Nairobi. It was a long standing problem.

We sat down and decided that it was better if these people are resettled on plots because they had farms wherever they came from. Some may have been working for others but they were now strangers. The Government decided to buy the land for the people so that they could get somewhere to live and that is what is happening now. We have tried looking for land to resettle people and we do not want to discriminate others. The new Constitution states that every Kenyan has the right to live anywhere in this country. They should not resettle people according to the tribes. If any farm is found, any Kenyan should be resettled there. We know very well that even when you go to the market, it does not matter whether you are rich or poor and they do not discriminate. We want to ensure that we are all united and even the *matatu* belong to everybody and not to one person. So, we have to live in peace in the whole country.

Second, I would like to tell you that we have investigated and we know that when we gained Independence in Kenya, we were told to forget what had happened before and build our nation. We were not told that as we were building the nation, we were to discriminate against some people. It was not said that those people whose parcels of land had been taken would be resettled on those particular parcels of land.

As we talk now, the farms have not been restored to them and they are landless.

We also saw that there is a lot of land in Kenya and those who are in high places in the Government got for themselves up to thousands of acres. I have gone all over Kenya and there are people without land and yet their grandfathers had a lot of land. Their grandfathers died in the war of liberation but they do not have any land. Some people

were servants of the colonialists and their fathers died in those farms where they had been employed. These farms were taken by other people. We are trying to ensure that all Kenyans are settled in mixed farms because nothing can unite Kenyans apart from land.

We have the Agricultural Development Corporation land. There are squatters living in some of those parcels of land belonging to ADC because they have nowhere to go. I have a title deed of a farm that had been granted to people in Likia. Those who were evicted from Likia were not given alternative land. They were promised some land in Njoro but they were not given. It was instead allocated to rich people who are buying it here in Nakuru at Kshs200, 000 per acre. Those who deserved it did not get anything. Very many people have come to our offices with their title deeds and I have the copies here. We also have the Mitetei Farm in Eldoret where all Kenyan tribes were settled. Some Kenyans decided to go back and now they have no land. We are fighting for every Kenyan in this country without caring who it is. That farm is not occupied as we speak. There is another farm where people were evicted from Olenguruone. They went back during the rule of former President Moi, who allocated them alternative pieces of land in Elburgon. So many people were allocated land in Elburgon but some were harassed and thrown out and the farm has not been subdivided.

Mr. Peter Mwangi Kinyanjui: They started selling it to some rich people. If I had known, I would have brought some of that evidence with me. I wrote to some of the Commissions and took to them the reports and they were happy that I had done the investigation. Most of the people who were supposed to benefit from that allocation of land did not get anything. That land is still being sold to people who have money and the poor people who deserve do not have.

Mr. Tom Chavangi: Please, slow down so that the interpreters can get an opportunity to interpret what you are saying to the international commissioners. Secondly, do you have the documents of the farms you are talking about?

Mr. Peter Mwangi Kinyanjui: I have those documents but I had not been informed that they would be necessary here. I have all the evidence.

Mr. Tom Chavangi: You will need to submit the documents before the Commission.

Mr. Peter Mwangi Kinyanjui: The farms that are here are the ones which are occupied by squatters, who are living there. Some of them are actually sleeping in the open in Trans Nzoia because I cover the entire Kenya. These farms were grabbed by other people and the ones who had been resettled there were thrown out. I have shared this with all ministries. I was shown all the pieces of land. I will give this as evidence.

Mr. Tom Chavangi: As you submit the documents, you can also give the Commission your recommendations.

Mr. Peter Mwangi Kinyanjui: I did not want to take a lot of time but the ADC farms or the big farms are willing to refund the money to those who bought the pieces of land,

though those people did not buy. I would not want to say more than this. My recommendations are already written and I do not want to take a lot of time because I can talk until the day after tomorrow but I want justice for all Kenyans.

Second, I would like to emphasize that one thing that brings together all the victims in Kenya is the fact that they do not want to be separated on a tribal basis. We want one piece of land and we want a mixed resettlement.

In schools, our children are thrown out of schools because their parents cannot afford to pay fees. They are being thrown out because of money for food. This is happening in a secondary school which is a day school. I am asking the Government to consider some of the problems that some of these people have. These problems are found in Kisumu, Busia, Nakuru and elsewhere. My organization is helping thirteen orphans some of whom are actually here. They were affected by the earlier ethnic clashes but at the time, some of them were scalded and now have nothing to do. The most important thing for them is shelter. So, the Government should find a way of assisting them. Free Primary Education funds have been misappropriated. There was money that used to be given to the victims but they have not been given. It has ended up in individual people's pockets. You are our eyes and we are the ones who will give you the reports. I cannot speak further than that but we want justice.

Finally, I would like to congratulate you for the good work that you are doing because you are fighting for the rights of every Kenyan citizen. I would like to say that there is somebody who gave evidence about historical injustices of land. Let us not look at the places where our ancestors were buried because even if I plant maize, I will not be getting my mother back or anything. We should try and look for a way forward. The victims should not be used as a way of getting political mileage.

I have been asked to tell you that politicians should not step in just to gain political mileage. We know that they are simply thinking about the money they are going to earn once they are elected. They do not think about the welfare of the citizens and the taxpayers. When politicians come in, they just want to talk but they are not helping. I remember I gave you a list of 54,000 people and now I have 70,000 and we still have people moving in. In Kenya, we have people who use our names and they get money from donors abroad. When the money gets to Kenya, the leaders end up with the money. They do not allow it to go down to those it is meant for. I have sufficient evidence that they go and buy cars and build big mansions yet this is money that has been collected on behalf of the poor. Our people are perishing. I would like you to look into this. I have a lot to say but I know where the offices are and I am still going on with investigations. So I will bring the rest of the evidence and information to the office. We are fighting for the rights of the citizens. Yesterday, I heard from the media that the victims should be given money instead of land. I said no to that because some people will end up buying motorbikes or drinking alcohol with the money. It is more important to be given alternative settlement. That is all I have to say.

Mr. Tom Chavangi: Thank you, Mr. Mwangi, for speaking so eloquently concerning the victims of this country. Would you like to submit this memorandum and this statement as part of the record for this Commission?

Mr. Peter Mwangi Kinyanjui: Yes, I give this as evidence.

Mr. Tom Chavangi: We seek your guidance in terms of presenting it as an exhibit.

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

Mr. Tom Chavangi: Would you like to submit the file that has the documents of the title deeds and other issues as part of the evidence before this Commission?

Mr. Peter Mwangi Kinyanjui: Yes

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

Mr. Tom Chavangi: Most obliged, commissioners. I would like to ask you one question concerning your organization; that is, NOVIC. You have said that you are the people who are in charge of the victims in this country. Up to now, how many IDPs do you have?

Mr. Peter Mwangi Kinyanjui: The victims are very many and I have not finished a head count of all of them because I have to go all over Kenya.

Mr. Tom Chavangi: I would like to summarize by saying that if you are still going on with investigations and you get more documents that you would like to present to the Commission, you still have a chance to do so in our Nairobi or Eldoret offices. The head of our offices in the Rift Valley will guide you when you give her the documents.

The Presiding Chair (Commissioner Ojienda): I want to just underline the fact that we have had a long walk with you from the question of IDPs and other issues of victims of ethnic clashes. I want those sitting here to know that you have done a lot of work in this area. I just want to encourage you that, usually, in a large crowd, it is often one person who will stand for those who are victims or those who have been violated. You have stood up for these victims, you have stood up for their interests and you have constantly communicated to this Commission. Keep up the good work because you are one amongst many.

I just want to ask you one question: You have referred to land as the better option for compensation and not monetary payment. The only reason you seem to have given is that certain people who were displaced would not make use of the money. Is there any other reason why you think land should be the only form of reparation?

Mr. Peter Mwangi Kinyanjui: Most people go to rent houses and most of their parents died in the forest. Those who were in the forest, their parents are buried in the forest. So, they have nowhere to go but they also have their own children. The population is growing

and the most important thing is for them to have a place where they can live and not food for one day. We know that if some people get the money, they will go and drink alcohol or some people will go into luxury like buying televisions and cars while they have no farms. I think land is more important than anything else on earth. In fact, most of those who got the Ksh10, 000 went and drunk alcohol. We are still investigating them. When people were at the DC's place, they were tear-gassed. I went to Mr. Mwea and we sat together and I told them that I do not want to see children sleeping on the ground. We got together, raised some funds and bought a piece of land and these children got home and I am sure they are very happy now because they do not have to rent. They did not contribute any money and the ones who were given money did not want to join the others. They drank alcohol with all the money. If you found them now, they have nothing. The Ksh10, 000 was simply supposed to help people to get together. The leaders sympathized with people and gave them the money so that if your house was burnt down, it could help you start a small business to help you buy some food for the family. Most of the men simply went to drink alcohol.

The Presiding Chair (Commissioner Ojienda): Thank you for that response. I honour you and I urge you to continue with the good work.

Mr. Tom Chavangi: Commissioners we have our last witness today. Witness No.3 - Mr. Davis Kinyanjui cannot be traced. However, we have substituted him with a witness from the Kalenjin Council of Elders of Nakuru County who is going to speak about the Likia Massacre, which has never been given prominence. He is also going to speak about the Likia settlement by just producing documents which can be used as documents for further research and investigations within the Commission.

The Presiding Chair (Commissioner Ojienda): Leader of Evidence, do we have that memorandum in our files?

Mr. Tom Chavangi: No, this is a new entrant.

The Presiding Chair (Commissioner Ojienda): What is he going to address?

Mr. Tom Chavangi: He has two short memos; one on the Likia Massacre and another one on Likia Settlement Scheme. On the settlement scheme, I have told him we have heard so much about settlement schemes. What he needs to do is to produce these documents, which will be studied by the Commission and give recommendations. However, he is going to delve much on the Likia Massacre itself.

The Presiding Chair (Commissioner Ojienda): Are there specific names?

Mr. Tom Chavangi: Yes, he has specific names and there is a victim within the hall who he is going to mention.

The Presiding Chair (Commissioner Ojienda): Then proceed!

(Rev. Peter Chemaswet took the oath)

Mr. Tom Chavangi: Mr. Chemaswet, for the records state your name.

Rev. Peter Chemaswet: I am Rev. Peter Chemaswet.

Mr. Tom Chavangi: What do you do?

Rev. Peter Chemaswet: I am a pastor of a Baptist church in Solai.

Mr. Tom Chavangi: Where is Solai?

Rev. Peter Chemaswet: It is within Nakuru County.

Mr. Tom Chavangi: You are a member of the Nakuru Council of Kalenjin Elders?

Rev. Peter Chemaswet: Yes.

Mr. Tom Chavangi: What position do you hold in that council?

Rev. Peter Chemaswet: I am on the side of religion and culture.

Mr. Tom Chavangi: There is a memo you have presented before the Commission about the Likia Settlement. Kindly, present it as an exhibit. In brief, what is the memo all about?

Rev. Peter Chemaswet: Likia Settlement Scheme was allocated to people in 1997 and they were given title deeds. That work was done by the Government. By the year 2007, they were told that since they live in the forest, they were supposed to vacate and the Government would buy land for them elsewhere. They bought land from Hon. Njenga Karume and the people were told it was going to be their land. However, at last, they were not given the land. Other people were brought and allocated the land. This memo contains the allotment letters and names of people who were not given the land, their title deeds and the Government degazettement of the Likia side. So, I believe that the Commission will go through it.

These people have petitioned the Government many times. They have written letters to the President and the Prime Minister but there has been no answer. They are still languishing in poverty and are just IDPs. Even their chairman normally walks here in town. I request to hand this over to the Commission.

Mr. Tom Chavangi: Presiding Chair, can this memo be presented as an exhibit?

The Presiding Chair (Commissioner Ojienda): So admitted.

Mr. Tom Chavangi: There is another document here, what does it talk about?

Rev. Peter Chemaswet: There is another document here on a farm called Moronyo near Lanet. They were affected during the Post-Election Violence (PEV). They moved out but they have requested the Government to take them back, give them protection and security but nothing has happened. Instead they are seeing people being brought from elsewhere with full police escort and being settled in those farms. These people have land there but nobody has ever thought of them. These are real Kenyans and they are not requesting to be given another land elsewhere. What they need is just to go back to their land near Lanet. Some of their names are here. I request that the Commission receives this and you do your own research later.

Mr. Tom Chavangi: Presiding Chair, I pray that it be admitted as an exhibit.

The Presiding Chair (Commissioner Ojienda): It is so ordered.

Mr. Tom Chavangi: There is this final document here.

Rev. Peter Chemaswet: This final document is a brief of the historical injustices done to the people of Rift Valley right from the time the British came into this country. It touches on the Maasai land rights from Nyandarua which was Ole Polosat and Laikipia. It also touches on the land that belongs to the Kalenjin to Trans Nzoia. It also shows us the scramble for the Rift Valley immediately after Independence and how portions of Rift Valley were hived off to neighbouring provinces without the consent of the owners.

It also touches on IDPs. The Government is settling people from Mawingo and other places and we have IDPs in Mau but nobody is talking about them. Others are in Kiptulele and nobody is talking about them. Some are in Embobut in Marakwet and nobody is talking about them. A few displaced people from Mt. Elgon have been resettled in Chebyuk, but thousands have not.

It also has a resolution on what the Government should do for its own citizens. I pray that the Commission may receive this.

Mr. Tom Chavangi: Presiding Chair, I pray that it be admitted.

Rev. Chemaswet, this is the crux of the matter; the Likia Massacre. Kindly, present to the Commission a brief scenario of the Likia Massacre, the victims as a result of the massacre and the survivors who are in this hall for the purpose of the Commission to understand what the Likia Massacre is all about.

Rev. Peter Chemaswet: I thank God for this day. As Christ put it, you shall know the truth and the truth shall set you free. I believe that in this country, if we are going to speak and tell each other the truth, the truth will set us free.

It was on 1st February 1998 when people of Lare within Naishi Division were preparing to go to bed with their children, not knowing what was awaiting them that night. As they were preparing to go to bed, other people were preparing to commit genocide. It was a

terrible night. Many people died. There are those who were abducted, others disappeared; others were detained and released without any charges being preferred against them. That was, of course, done by the Government.

The torture the people of Lare went through is horrible. It is actually mind boggling. It unnerves somebody. If I talk about a man called Rono who was cut into pieces and his own son and brother shot in the stomach and mouth; right now, he is living in Bararget in Kuresoi District with a twisted mouth. He has problems eating. Mr. Cherono had his body hacked with *pangas* and his son was also burnt to ashes.

Mr. Joan Katumbu was tortured. Parts of his body were cut and he died a slow death. It was so painful. On that day, another 55 victims were killed. We buried these people at Lare. I was there personally with Rev. Bishop Kosgey, Bishop Chemon and others. It was a pathetic day. We could not look at the bodies because they were just pieces of flesh. We could not open the coffin. There was a mass burial at Lare. One may ask: Who committed these atrocious acts? It was committed by members of the *Mungiki* sect who were transported to that place from elsewhere.

Mr. Kipruto Marindanyi was tortured; his ears were cut. There are people who watched all these survive. His fingers were chopped off and he was finally castrated before he died. This act was committed by Kenyans against their own fellow Kenyans. There is a woman who is within this hall today; she is called Selina Chepkosgey Kipruto. She was six months pregnant. She was put down and men started jumping on her stomach. Just imagine a six months pregnant woman! They jumped on the stomach until the fetus came out before its time. She bled. She saw her husband being killed. It is only by God's grace that this lady is alive today.

Before they stepped on her stomach, several young men raped her unsympathetically. We cannot call that act beastly because we do not have beasts that do such things. The right word is satanic and demonic.

I would request the Commission to allow this lady to stand up because tomorrow I know she will be present before the women meeting.

The Presiding Chair (Commissioner Ojienda): Your request is granted.

(Ms. Selina Chepkosgey Kipruto stood up)

I think she will be heard in the women's meeting. Thank you. *Mama*, we acknowledge you. We have heard what the Reverend has said and will give you an opportunity to speak to us tomorrow during the women's hearings. I do not even know the words to use to express how I feel or how I can describe the acts that were committed on you.

Rev. Peter Chemaswet: Commissioners, this woman knows her attackers. They are here up to now. I do not want to pre-empt. The names are here and she will tell you tomorrow. She reported this to the police but there was no action from the police force. Her three

girls went to report what had happened. They saw their father being sodomized. They saw their mother being raped and when she was writhing in pain while they were stepping on her stomach. When Hadji Chepkirui, Nancy Chebet and Alice Sigei, the daughters of Selina went to report what happened, they were beaten. We could not understand what was going on.

About the Lare Massacre, the list is very long and because of time, I will leave this memorandum in your hands. It also touches on historical injustices on land; the Government dishing out land on tribal basis without minding about other people. It touches on how the Ogiek houses were burnt in 1967. Their cattle were confiscated and sold at Ksh20 per cow. A goat was sold at Ksh2. Those elders who saw those atrocities are here. I beg them to stand up so that you see them.

At that time, they were young men when their houses were burnt at Tinet. I do not blame the Kikuyu who came to the Rift Valley. I blame the act of the Government. Kenyatta came and dished out 17 farms around Molo to one community. These people were given nothing. If the Government wanted Kenyans to integrate and live cohesively, why did the Government give only five farms out of 17 to the Kalenjin yet that was their ancestral land? The animosity you see now is because of the act of the Government not the Kikuyus.

Recently, we have seen the settlement of IDPs and it is almost being done for one community. Who is doing it? It is not the Kikuyu, it is the Government. The Government needs to change its tact of settling its citizens in Kenya. I do not want to say much because a lot is contained in this written document.

Thank you.

The Presiding Chair (Commissioner Ojienda): Leader of Evidence, you do not seem to have any question.

Mr. Tom Chavangi: I have two questions and maybe some comments.
Rev. Chemaswet Peter, what was the cause of this massacre?

Rev. Peter Chemaswet: Previously in 1997, there were elections. In the elections, there were some tribal flare-ups not only around Molo but even across other parts of Rift Valley. I tend to think that what happened was a planned revenge. If you read here, there is a cutting which says: "MP boasts over massacre of 800 Kalenjins". I do not want to disclose his name. You will read it. It is not good to mention names. You will read and know who this MP was who boasted and said, "I have 800 heads of Kalenjin young men". It was, therefore, probably a revenge mission.

Mr. Tom Chavangi: How many people died in your estimation?

Rev. Peter Chemaswet: We buried about 55 people at Lare. Others were buried by their own people. Others were in the park and the bodies were discovered later. The bodies had

been eaten by wild animals. There was one found hanged by the legs and the body was full of pins. His eyes had been gorged out. So according to the cutting of this *Kenya Times* newspaper, they put the number at 800 people. However, the people I saw being buried were a little more than 55.

Mr. Tom Chavangi: My last question is, initially, when you started speaking, you said it must have been the Government. However, as you kept on presenting, you said you are very sure that it was the *Mungiki*. So where do you want us to---

Rev. Peter Chemaswet: The police at that time were not cooperating to assist the people who were being attacked. This made the people think that the police had a hand in this. However, because they were few, they could not assist. We saw this even during the PEV when the police could not do anything against almost 2,000 people. That made people think that the police were with the attackers. However, the attackers were *Mungiki*.

Mr. Tom Chavangi: Thank you very much, Rev. Peter Chemaswet. Commissioners, this is the memo for the Likia Massacre. I pray that it be admitted.

I have no further questions for this witness.

The Presiding Chair (Commissioner Ojienda): It is so directed.

Thank you very much, Leader of Evidence. That was very brief.

The Acting Chair (Commissioner Namachanja): Reverend, was there any investigation done after this incident? Were there any people arrested?

Rev. Peter Chemaswet: There was no investigation. Those who were supposed to investigate did not go to the victims. Therefore, nobody asked them what happened.

The Acting Chair (Commissioner Namachanja): But was the incident reported officially?

Rev. Peter Chemaswet: Yes, it was reported officially and I remember even the DC and other political leaders like the late Hon. Kipkalya Kones went to Likia and talked to the people and told them to be peaceful and not to revenge. There were so many people but when we pleaded with them to leave the issues in the Government's hands, they obeyed and there was peace.

The Acting Chair (Commissioner Namachanja): So the issue was left in the Government's hands but nothing was done by the Government?

Rev. Peter Chemaswet: Exactly, because the people who were evicted have never been resettled to date.

The Acting Chair (Commissioner Namachanja): You say it may have been revenge, I know the Leader of Evidence asked you this question. What warranted this revenge? We want to understand the context under which the massacre took place.

Rev. Peter Chemaswet: Normally, after five years in this country, there are always tribal clashes. If you look at these clashes without going to the underlying problem, you may think it is just because of politics. However, everything goes back to the question of land. The settlers removed the Kalenjin and Maasai from Nakuru. They pushed the Maasai to Narok. Some Kalenjin were moved to Koru within what is Nyanza Province today. Others moved as labourers for white men in Laikipia. Others crossed to Geita in Shinyanga and Musoma in Tanganyika. This was done by the colonial Government. At Independence, the founding father of this country, on 4th October 1962, promised Kenyans that nobody will take anybody's land. He said everybody would go back to the land they were evicted from by the settlers. However, he went against that immediately. So when people came back, they did not have anywhere to go because other Kenyans had been settled.

When the Government was settling people, they were bringing people from Central Province who were given Mwariki, Nyakinyua and Nyandarua farms. These were only Kikuyu. If they had mixed people at that time; the Kalenjin, Maasai and so on, I do not think this problem would be there.

The Acting Chair (Commissioner Namachanja): Thank you. I do not have any other question.

Commissioner Shava: Rev. Peter Chemaswet, thank you for coming today and speaking about some very difficult things. I would also like to thank you and acknowledge and thank the people who came with you. Clearly, you feel these issues very deeply. You said that the animosities you see now are because of the acts of the Government of Kenya and you talked about that from Independence. You said it is not about the Kikuyu. That is a very important statement because, first of all, you acknowledge that there is animosity. In this country, sometimes we deny the obvious. It is important because this is a truth commission. It is very important for people to speak the truth. So we would like to thank you for acknowledging that. What is your recommendation as to how the Government of Kenya could do things differently from what you have seen throughout the Rift Valley and the things we have seen in places we have gone and at the coast where we are going to go?

Rev. Peter Chemaswet: One, we have already built a history for this country from 1963 to date. I cannot recommend that people should go back to their home provinces. We cannot change the past, we cannot change the present but we can change the future. We can only change the future by the Government stopping what it is doing now; bringing one community and planting them amongst other communities as a block without consulting the leaders and the people of that place. If we have 500 IDPs to be settled, bring 100 Kikuyu, 100 Kalenjin and 100 Maasai and mix them. The Government should stop creating slums in the village. You cannot give me two acres and expect that to be

economically viable. This is killing Kenyans. The Government should give people real land instead of creating slums in villages. Let slums be in towns but not in the villages.

Commissioner Shava: Thank you very much.

The Presiding Chair (Commissioner Ojienda): Pastor, thank you very much.

Commissioner Dinka: Thank you very much for your testimony. I did not have any question earlier but arising from what you said about what causes this thing, do you not think that prior to 1992, when multiparty politics was introduced in Kenya, even at elections time, there was no tragedy taking place? The fact that after multiparty politics was introduced - you said that after every five years you have ethnic clashes - probably politics is also equally important to this situation. How do you think the people can understand and accept that political opposition in there? What kind of civic education would you recommend to us and the Government and the people in future so that these types of murderous clashes do not recur?

Rev. Peter Chemaswet: I will answer that question giving three examples. I am a Sabaot. My grandfathers were moved out of Trans Nzoia in 1920 and the last group moved in 1948. The biggest group was moved to Sebei in Uganda. Another smaller group went to Kilgoris. Another group went to Busoga through Tororo to a place called Bugedea. However, by 1965, those who were in Sebei had moved to Soroti among the Teso people in Uganda. They were the majority in Pingre, Usuk and Ng'ora. However, I know very well at the time of elections, the Sabaot said we must elect an Iteso. We are here, these are our hosts and we will allow them to rule us. Even a chief will come from amongst them. Let us take care of our cattle and plough our farms. Many Nandi were moved from Tinderet and they joined Sabaots and went to Maara in Tanzania among the Wasanaki. In some places, they were the majority. They could win a seat but they said they were taken there to take care of their animals. Let us allow the indigenous people to rule us.

If there are other Kenyans living among the Maasai, even if they are the majority, they should allow the Maasai to rule. There will be no problem. That is exactly what the Kalenjin have done in Kilgoris. In Trans Mara, 60 per cent of the people are Kalenjin but they have always elected a Maasai. In 2007, young men were divided and elected a Kalenjin. But the old men came together and said no. There would have been a terrible fight between the Maasai and the Kalenjin. The old men told the young man who had contested to step down for Hon. Gideon Konchellah. He did so and peace prevailed. Let us learn that if you live among another community, do not look at them as fools. Let them rule you as you do your business or engage in other works.

Commissioner Dinka: Thank you. I do not have any other question.

The Presiding Chair (Commissioner Ojienda): Thank you, Rev. Chemaswet. One of the principles ingrained in the Constitution of Kenya, 2010 is respect and not just for the integrity of the person, but respect for the ability of a group of people either in a county

or in a constituency to elect their own leader. The principles that guide us in that process are democratic principles. That is why President Obama is the President of the United States of America (USA). You may find his roots in Africa and it may not have been easy for him to be elected, but I think the people of America realized that having accepted the principles of democracy, they accept the President elected by the people who will govern the country. So, the things we do must confirm to the basic norms of the Constitution. That is how we choose to become democratic. I just want to say that because in matters of leadership - and if we believe in true democracy - it may be difficult to have a system of selection if people are voting. Article 100 of the Constitution also talks about inclusivity of all people, including the minorities living in any place. We hope that Devolution as set out in the Constitution, Article 174, recognizes the fact that leadership at all levels must include every person living in that place. For example, leadership should include every community living in Nakuru. I agree with you that the face of this country must be reflected in programmes like settlement. That is why you said that we got it wrong when the initial Government started settling groups separately. That encouraged ethnicity and tribalism but we can change it for the future and for the better. I want to thank you.

Leader of Evidence, do you have anything else to say?

Mr. Tom Chavangi: We do not have any more witnesses.

The Presiding Chair (Commissioner Ojienda): We have come to the end of today's session. Before we close, I want to thank the following people: Harun Chemjor Chepkeitany, Joseph Towett, Daniel Njenga, Jane Waithaka, Peter Mwangi Kinyanjui and Peter Chemaswet.

We are now adjourned.

(The Commission adjourned at 6.00 p.m.)