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## Public Hearing Transcripts - Western - Bungoma - RTJRC12.07 (Christ the King Catholic Church, Bungoma)

Truth, Justice, and Reconciliation Commission

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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND  
RECONCILIATION COMMISSION HELD ON TUESDAY, 12<sup>TH</sup>  
JULY, 2011 AT CHRIST THE KING CATHOLIC HALL, BUNGOMA**

**PRESENT**

<b>Ahmed Farah</b>	-	<b>The Presiding Chair, Kenya</b>
Berhanu Dinka	-	Commissioner, Ethiopia
Ronald Slye	-	Commissioner, USA

*(The Commission commenced at 9.55 am)*

*(Opening Prayer)*

**The Presiding Chair** (Commissioner Farah): Good morning. We have just come from yesterday's continuation hearing, we still have Hon. Kapondi as our witness, who is present today. So mine is just to tell you to listen to him attentively and keep quiet even if you do not agree with any of the statements. You must remain silent. Do not make any comments. Please, minimize the shuffling and any movement. Even if something amuses you, there will be no laughing or commenting to each other. I would like to request you to ensure that you switch off all your mobile phones since they will interfere with our proceedings. You may take photographs but avoid flashy photographs as much as possible. Is the counsel who was present yesterday still present today?

**Hon. Fred Kapondi Chesebe:** He will be available in the afternoon but I am ready to proceed.

**The Presiding Chair** (Commissioner Farah): Thank you very much, Hon. Kapondi. Are there any preliminaries from the leader of evidence?

**The Commission Secretary** (Ms. Nyaundi): The witness can be reminded that he is still on oath before we proceed.

**The Presiding Chair** (Commissioner Farah): Honourable Kapondi, the oath you took to God yesterday still stands and I think it is fair to remind you that. Leader of Evidence, you are free to start the proceedings

**The Commission Secretary** (Ms. Nyaundi): Thank you, Presiding Chair. I had one final question. Honourable Kapondi, a number of witnesses that have appeared before the Commission have stated that they were displaced from Mt. Elgon. My question, therefore, to you is: Are you aware of persons who have been displaced from the mountain owing to the conflicts that have occurred over the years?

**Mr. Fred Kapondi Chesebe:** What I know is that out of the mayhem that took a lot of center stage in Mt. Elgon, many people were displaced. I remember as a Member of

Parliament, I was in Mosop Constituency for an education day and I met a number of people there who said they had been displaced from Mt. Elgon. There was a time I was attending a fundraiser in Moi's Bridge in Eldoret North and I met quite a number of people who said they had been displaced from Mt. Elgon. From that perspective, I can confirm that there are people who were displaced from Mt. Elgon and others have not returned.

**The Commission Secretary** (Ms. Nyaundi): Would you know if, apart from the violence that is connected to the SLDF and the conflict between 2006 and 2008--- Would you be aware of the circumstances under which other persons were displaced from Mount Elgon?

**Hon. Fred Kapondi Chesebe:** No.

**The Commission Secretary** (Ms. Nyaundi): Would you be able, as a Member of Parliament, to say this is the number of people that were displaced from Mount Elgon whatever the reason?

**Hon. Fred Kapondi Chesebe:** They may range up to one thousand.

**The Commission Secretary** (Ms. Nyaundi): Have you, as Member of Parliament of that region, been directly involved in any initiatives to address the plight of the displaced persons either in terms of resettling them or in terms of compensation?

**Hon. Fred Kapondi Chesebe:** In terms of bringing them back, when I was in Mosop, I was approached by the District Commissioner there, Ms. Kiilu, who is currently in Naivasha. I told her that if the displaced persons are willing to come back home and they are saying they do not have transport, I was prepared to mobilize the buses that we have in Mt. Elgon, fuel the buses and have them come back home. They were hesitant for their own reasons which I could not explain. Further to that, in terms of settlement, I can confirm to you that I have been very supportive of the on-going resettlement program in Phase III which is over as we speak without a lot of noise. Hardly anybody would imagine that there is resettlement going on. That is enough evidence that I am supportive.

**The Commission Secretary** (Ms. Nyaundi): A number of witnesses that have appeared especially those from the Bukusu Community have expressed very high apprehension in terms of them being able to come back and settle in their homes. Are you aware of this particular issue with regards to members of the Bukusu community? Have you addressed it as the Member of Parliament?

**Hon. Fred Kapondi Chesebe:** Whoever is expressing apprehension now has his or her own reasons. I can confirm to you without fear of contradiction that Mt. Elgon has the highest number of security personnel. I chair the Committee on Administration and National Security in Parliament. After the mayhem, we had additional police stations created in Mt. Elgon. We have a new police station in Chepkube, Cheptais, Chesikaki,

Kopsiro and Kaptama. All those were non-existence. If you could say in terms of square kilometers, from Cheptais to Chepkube, it is less than six kilometers and likewise from Cheptais to Chesikaki. On top of that, we have many administration police posts, GSU camp and a military camp. So for anybody to say that he is apprehensive to come back home, that person has his own reasons of refusing to come back and it is not security. If there is any place that is more secure than anywhere else, it is Mt. Elgon.

**The Commission Secretary** (Ms. Nyaundi): Maybe, you can just provide the Commission with information on the particular steps that have been taken towards reconciling the various communities within Mt. Elgon and specific steps that have been taken by the leadership to guarantee that there will not be a recurrence of the violence.

**Hon. Fred Kapondi Chesebe:** As a Member of Parliament, I have allowed people to ventilate and given them space. Any political activist is free to have a meeting in Mt. Elgon and NGO's like ICM which have done a very wonderful job in terms of empowering the widows. What has happened through ICM is that the widows were given goats, sheep and cows. They have also been given seeds and a few weeks ago, they were given 300 sheep and 70 cows. So, that is one NGO that is doing practical work on the ground. Others have been engaging on endless peace initiatives in Kitale but our argument has been that if you want to undertake peace conferences, then do them in Mt. Elgon. You do not have to do it away from Mt. Elgon but some NGO's have their own agenda.

Outside that, we have also encouraged traditional steps whereby cleansing ceremonies have been done in Mt. Elgon which have been conducted by elders. The climax of the cleansing ceremony that was done in Kopsiro was graced by me and the area DC Salat. Those are the practical steps that we have taken and by allowing people to ventilate freely without being gagged, it is enough evidence that we are giving every body that space as long as we focus on changing the attitude of the people. That is what I have done particularly in my public meetings across Mt. Elgon. I am telling people that land would never be enough and we need to re-focus and look at other ways of generating income and putting a lot of emphasis on education which I have given a lot of support.

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

**Commissioner Dinka:** Good morning, Mr. Kapondi. I would like to thank you for your testimony and for coming here and enlightening us on what has happened in the past in the region. It is not often that we get sitting Members of Parliament to come and talk to us like you have done.

I have a few questions for you. Unfortunately you were in detention when the elections for 2007 were being prepared and yet you succeeded in registering your candidacy, all the paraphernalia like t-shirts and other emblems were prepared and the campaigns were conducted. You were elected although you were released a few days before the elections took place. Can you take us through how, in your absence, this was successfully

accomplished by telling us what kind of organization was on the ground, who were the people who were responsible for running your campaign, how the Kshs100,000 necessary for the registration was paid and things like that

**Hon. Fred Kapondi Chesebe:** If you were very keen during my presentation, I made it very clear that in 1992, I had won the election. However, we repeated it twice because of some anomalies and likewise in 1997. For once, it is important to note that as a politician, I had grass root organization from 1992 and 1997, people who believed in me. A bit of correction, in my preparation for 2007 elections, we did not have any t-shirts because we did not have any money. There is no single time that I have used money to campaign in Mt. Elgon. That is the reason why if you ask anybody from Mt. Elgon if Kapondi exits from politics now, what would he be remembered for? One of the aspects you will be told is that he had discouraged handouts because I do not believe in dishing out money and in buying support.

The little linkage between my supporters from 1992 and 1997 who were very handy to support me was my wife. The Kshs100,000 registration fee came from my wife. That can be authenticated because she took a loan from the Barclays Bank and the Commission can check her bank statement.

**Commissioner Dinka:** Thank you very much, hon. Kapondi. Are you familiar with an organization allied to Chepkurkur and Kotuny Community Based Organization?

**Hon. Fred Kapondi Chesebe:** That came in during my Some of the witnesses who were giving evidence against me, who later came to me and apologized after I was elected a Member of Parliament, were part of this. That is why my counsel yesterday was asking for time to get the proceedings. What you are telling me was part of the statement by the witnesses against me. They later apologized to me.

**Commissioner Dinka:** Hon. Kapondi, there was a Human Rights Watch Report in July, 2008, which was not very favorable to you. Are you familiar with it?

**Hon. Fred Kapondi Chesebe:** I am not, unless you tell me the contents.

**Commissioner Dinka:** It is entitled: "All the men have gone" and was published in July, 2008. It quotes a witness who claims that the SLDF fighters were trained on your farm.

**Hon. Fred Kapondi Chesebe:** That is laughable. We can take the Commission to authenticate it. If the Commission can have time today, we can drive to Mt. Elgon and to my farm---

*(Power failure)*

**Commissioner Dinka:** The power has come back. Leader of Evidence, we may continue.

**Hon. Fred Kapondi Chesebe:** I was responding. If you can have some time, we can go to my place in Cheptais. Prior to 2008, I did not have any land of my own. I bought land in 2009 in Cheptais next to my father's small piece of land which is 1.6 hectares just next to the road. To allege that training was being undertaken there, whoever said it, is a pathological liar, full of malice and does not respect the truth. As a Commission, you will be embarrassed if we go there and you see for yourselves. In Kopsirwa, for instance, which was the epicenter of the conflict, I have never owned even a small plot.

**Commissioner Dinka:** Are you saying that this is the first time the content of this report was brought to your attention?

**Hon. Fred Kapondi Chesebe:** It is the first time I am getting it from you.

**Commissioner Dinka:** Thank you.

**The Presiding Chair** (Commissioner Farah): Mr. Kapondi, I think you were here yesterday not throughout, but the later part of hon. Serut's evidence. During the KANU days, you and Serut were close political allies or so it is alleged. In fact, the same report which my fellow Commissioner talked about by the Human Rights Watch, which I think after this you might go and read, was titled: "All the men of Mount Elgon are gone". They describe in there that during the KANU days, you and Serut, in fact, the real words are that: "You were a protégé of Serut". My lawyer Commissioner here will perhaps give me the dictionary meaning of the word protégé, but you understand what it means. You have been to university.

**Hon. Fred Kapondi Chesebe:** I do. I understand what a protégé means.

**The Presiding Chair** (Commissioner Farah): Not the word protégé, but what was that political togetherness? What did it mean to you people? Yesterday, we heard from Serut saying that you have never in your life, campaigned for him.

**Hon. Fred Kapondi Chesebe:** A bit correct, Commissioners. It is not right to say that during the KANU days I had that very cozy relationship with my predecessor. It is not during the KANU days. Yesterday, I said that there was a brief period where I campaigned for Mr. Serut. While I was doing that, I was in FORD-People. I contested the 2002 elections on a FORD-People ticket, which hon. Serut won on a KANU ticket. Around 2003 or 2004 or thereabouts, was my first contact with hon. Serut. I want to tell you that because I swore yesterday and I cannot mix lies with the truth, the first contact between myself and hon. Serut was while I was in FORD-People. We had converged at the Fredrick Conrad Adeneur Foundation to review the performance of political parties in 2002. Prof. Wanjohi, who was then Vice-Chancellor, Jomo Kenyatta University, was running an NGO prior to 2002 elections and immediately after. At around midday, there was a persistent phone call which forced me to go out and ask who was this person who was always calling. When I called back, it was hon. Serut, who said: "Mheshimiwa, I want to meet you to discuss a few things". Then I said: "Fine, I am in a meeting, but I will be available from around 2.00 p.m.". At around 2.00 p.m., I met with him. After the

meeting, he told me: “Fred, I am considering working with the Government. I am tired of the KANU politics and I want to work with the Government through FORD-Kenya”. Then I said: “As a community with a single Member of Parliament, that is a welcome move. You should have done it like yesterday”.

There and then, we drove together with him to hon. Wetangula’s office who was an Assistant Minister for Foreign Affairs and a close confidant to hon. Kombo who was then the Chairman of FORD-Kenya. We sat very briefly and had a cup of tea and hon. Serut said: “This is Mr. Kapondi”, and hon. Wetangula said: “But I know Mr. Kapondi”. Then he said: “We are working together and I also want you to assist him”. They said that I should prepare my CV so that they could assist me secure employment in Southern Sudan. I prepared a brief CV and handed it over to hon. Wetangula the following day. Before a week, there was a meeting which was convened in St. Teresa’s Secondary School in Kopsirwa where hon. Serut was hosting hon. Kombo, Dr. Kituyi and many of the Bukusu politicians as a way of working together. Hon. Serut paid for my transport of Kshs3,000 from Nairobi because I used a bus to Kimilili and then from there, he came and picked me. We went together to Kopsirwa to wait for Kombo and the team.

That was the beginning of the working relationship. At that time, I remember the Chairman of the County Council, was strongly opposed to that alliance. The KNUT Secretary was strongly opposed to that alliance, but I told them: “What business do you have? If the Member of Parliament has chosen me for the sake of the community and you are opposed to it, you should also invite your friends to come from parties that you believe should work with the community so that they can also assist the community in their own way”. Shortly after that, the KANU elections came which pitted hon. Serut against hon. Kimkung. That is the time I supported hon. Serut. I campaigned for him. I said yesterday that we mobilized delegates after the grassroots elections and we took the delegates to his place. The following day, the elections were conducted in Kapsokwony. There was even a confrontation between the delegates allied to Kimkung and those allied to Serut and the police were forced to use tear gas to disperse the two groups. That was the brief working relationship between me and hon. Serut. Shortly after that was the referendum and each person went his way. So for hon. Serut to deny that I never supported him during that election, he is not being sincere.

**The Presiding Chair** (Commissioner Farah): Thank you very much, hon. Kapondi. I want to come back again to Chebyuk I, Chebyuk II and Chebyuk III; the genesis or rather the foundation of the conflict in Mt. Elgon. I understand that Chebyuk was mooted in 1965 during Kenyatta’s time. Chebyuk was meant for the Mosop who had essentially been relocated down the mountain away from the desolate Chepkitale moles into the land at Chebyuk I which was good for farming and they were settled. Whatever happened in the exchange of land between them and those who were helping them in cutting the forest, we now came to Chebyuk II. It is my understanding that President Moi visited the area after Phase II. In fact, Phases I and II are not so clear, but I am starting at the beginning of Phase III that after Francis Lekoolool, in accordance with the evidence given, having messed about with the settlement in 1989, President Moi visited the area in 1993

and ordered that Chepkurkur and Kongotuny be the area to settle the landless Soi. Am I correct so far?

My question really concerns the taking up of arms and fighting for land. In fact, what is coming clear to me is that the previous conflict of the Sabaots with the Bukusus sort of disappeared and the conflict concentrated on the Phase III which gave birth to the SLDF. You took a group of people to Moi one time and they were promised that they would be settled. Do you attribute the rising up and taking up of arms to the broken promises to settle the Soy or what do you really attribute it to including even the Mosop later and then killing each other with you on one side and Serut on the other?

**Hon. Fred Kapondi Chesebe:** Commissioners, yesterday, you asked a very incisive question to my predecessor and he was not very direct in answering it. He decided to scatter around it. In a nutshell, you can attribute the conflict in Phase III to the Member of Parliament then for mishandling the process, roughing up everybody and entering all the groups. Very simply, if it was displacement in 1999 when Lekoolool re-organized the settlement, many people lost. People had bought pieces of land and others who had found their way in, lost. There were very many people but nobody took up arms. Moi said that people should go back. Those who had nothing were the ones who missed in 1999. Those are the people who went to Chepkurkur and Korongotuny. Those are the areas that were made sub-locations and combined with Emia Sub-location to become Emia Location. Even when those people were going back to Korongotuny and Chepkurkur, they never fought.

The re-organization that was coming in 2006/2007 was a political re-organization by the Member of Parliament who had his own agenda. I told you about the referendum and I believe many people told you about what he said and he was determined to implement it. It is also a misnomer to say that the conflict initially was between the Soy and the Ndorobo. It was not. Basically, it was Soy versus Soy. Even when we conducted the traditional cleansing ceremony which was graced by myself and the DC, Omar Salat, the Ndorobos skipped it because they said that they were not part of the conflict. So the conflict was between the Soy and the Soy. But at a later stage for political reasons, my predecessor wanted to sack in the Ndorobos to show that the conflict was between the Ndorobos and the Soy. There are two fundamental questions which I want the Commissioners to ask themselves: If the conflict was between the Soy and the Ndorobo and they were fighting using guns, the Soy were disarmed. The operation by the military focused on the Soy and the operation by the police before the military came in focused on the Soy and not on the Ndorobos, which means that the conflict was among the Soy and did not involve the Ndorobo. Secondly, the Ndorobo exonerated themselves. So who is pitying the Ndorobo and the Soy? Thirdly, if you look at the people who died, how many Ndorobos killed Soy and how many Soys killed the Soy? If you look at the casualty levels, then you can make your conclusion.

**The Presiding Chair** (Commissioner Farah): In that case, because both you and Serut are Soy and the conflict was between Soy and Soy, what was it that the Sabaot Land Defence Force was defending?



**Hon. Fred Kapondi Chesebe:** The same land now has been divided. Is there noise? No noise. So, I am telling you that somebody mishandled the process. After mishandling the process, he wants to pass the buck. That is why I ended up being a victim and going through hell. I went through hell but I cannot shed tears before you. But somebody can dramatize tears because he wants the public to sympathize.

**The Presiding Chair** (Commissioner Farah): In that case then, there is now apparent peace in the Chebyuk area because it has all been settled, but we should not forget that some people did not get land. In fact, the political establishment is trying to look for land to be purchased in Kitale, Trans Nzoia so as to settle them. Do you think that if land is found somewhere and the landless are settled, the SLDF course will die and there will be permanent peace?

**Hon. Fred Kapondi Chesebe:** I would say there will be permanent peace because what again we are doing is that we want our people to think outside the box, outside the 2.5 acres that they have. In a nutshell, as the political head, I am taking the lead to tell our people to move out of land. Let us look into other alternatives. There are people who are very successful and leading very decent lives but not holding a piece of land. We want people to embrace hard work.

**The Presiding Chair** (Commissioner Farah): One of our mandates is, of course, reconciliation. Reconciliation is very important. Once we get land somewhere and settle those people, we have solved one issue. What is the tradition according to the Soy for putting a closure to the killings, particularly for developing a system of mass burial for all those people who lost their lives and whose remains have not been traced? Can there be a ceremony to be held to put closure to the whole thing so that it does not recur?

**Hon. Fred Kapondi Chesebe:** Just a bit of the history of the community; many years ago, our community never used to bury dead people. If somebody was ailing, he would even be left there with a gourd of milk and then people would move away so that if you regain consciousness, there will be something for you to take. If you have energy, then you can follow the rest of the people. So there was a lot of phobia by the Sabaot community of the dead. You die today, you are abandoned there and then they move. But things have changed because of embracing modern life that they dispose of the dead through burial. It is something that keeps on simmering that there are many dead people, skeletons in the forest which require a decent burial. As a Member of Parliament, if there is any support that would come, arising out of the TJRC, so that we can have something like a memorial that will act as a reminder that this ugly past will not be repeated, that would be very useful.

**The Presiding Chair** (Commissioner Farah): Thank you very much. I now know the tradition. I am a little bit worried about the time leading to next year's general election. The Commission has heard some evidence; if there is something that you do not want to say in public, you do not have to say it because you have requested that you want to be heard in camera. So, if you think my question will touch on some areas you do not want

to talk about, please, you are free to say. I will mention that in camera. My worry is that some people have alluded to the fact that the structures of the SLDF are still intact. They are only waiting for electioneering to ignite the conflict. As the current MP and as a man aspiring to be the next MP, of course, you would want to be elected, is that true or you think, like you are saying, we want our people to go beyond land and beyond the conflict? Do you think your people are thinking in tandem with you?

**Hon. Fred Kapondi Chesebe:** Obviously, yes, but I would want to say something in camera. I want to make it very clear that whoever is saying that there will be violence, that is a day dreamer. The past could be haunting such a person.

**The Presiding Chair** (Commissioner Farah): So you think that it is out of fear that these people are thinking that this will happen? According to you as a leader and the way you analyze issues, the people have no a fear for violence?

**Hon. Fred Kapondi Chesebe:** Absolutely yes.

**The Presiding Chair** (Commissioner Farah): Thank you very much. Your coming forward has really enriched the TJRC and would be more richer when we exchange views with you in camera. I thank you so much for coming forward and we even thank you for having been brave, even John Serut and yourself, and coming to say a few things in public. We thank you for that and that is the end of our questions unless the leader of evidence has something to say.

**The Commission Secretary** (Ms. Nyaundi): With your kind permission, the witness had requested for in camera hearings. I am informed that the witness we were to hear next is finalizing on his statement. I am therefore, seeking your direction as to what time you will be hearing this witness. My proposal was that we probably could ask the members of the public to leave, so that we can have the in camera hearing as the other witness is preparing. But I will take your direction.

**The Presiding Chair** (Commissioner Farah): I think the venue is not conducive for an in camera hearing. As you can see the windows are open and a lot of people are out there. So it will beat the purpose of a real in camera hearing. We want it to be real confidential. We want it in four enclosed walls and even though people say that walls have ears, this time they will be plastered walls with no ears. So, we will be ready for an hour if another place can be organized. I thought it was a simple thing, but my fellow Commissioner says we consult. So, we will let you know.

**Hon. Fred Kapondi Chesebe:** Following on the same, because I have time today and my dairy is full in Nairobi, it was my sincere request that we do the camera hearings today.

**The Presiding Chair** (Commissioner Farah): Mr. Kapondi, the Commissioners have consulted and the same way your diary is full so is ours. With due respect to you and to ourselves, we would rather have your in camera hearing in Nairobi at a time when you

will have time. With your lawyer, you will just check your calendar and we will check ours and you will liaise with our Leader of Evidence who is our Chief Executive Officer and I would rather that we do it in Nairobi at a later date. That way, it gives you time and gives us time instead of rushing today because we have other witnesses to hear today and then also we have to move to Kisumu today. Is that okay?

**Hon. Fred Kapondi Chesebe:** I have no objection. That is fine.

**The Presiding Chair** (Commissioner Farah): Thank you very much. Leader of Evidence, you may stand the witness down and then we will see about the next one. Do you want us to have a break?

**The Commission Secretary** (Ms. Nyaundi): I am praying for about a half an hour break and we can organize for the next witness.

**The Presiding Chair** (Commissioner Farah): Thank you very much. We will have a half an hour break and organize for the next witness. Thank you.

*[The Commission adjourned temporarily at 10.55 a.m.]*

*[The Commission proceedings resumed]*

**The Presiding Chair** (Commissioner Farah): Good morning, once again. We have just returned from our recess where we have finished with the last witness. We are now going to hear the next witness, the first witness for the day. While he is giving his evidence, I request the public to listen to him very carefully. Please, do not make any utterances. If you do not agree with the evidence he will give, just remain silent because as a truth seeking commission, we have to hear everybody's version of his truth. Please, switch off your mobile phones. Do not put them on silent mode or vibration because they will destruct you but just briefly put them off. If there is any message or any call for you, you will see them later anyway.

Thank you very much. Are there any counsel? No. Thank you very much. Hearing clerk, you better swear in the next witness so that we can hear him.

*(Mr. Jason Psongoywo Tirop took the oath)*

**The Commission Secretary** (Ms. Nyaundi): Welcome! I would like you to state your names and where you live.

**Mr. Jason Psongoywo Tirop:** I am Jason Psongoywo Tirop. I am from Mt. Elgon where I was born in a place called Korngotuny. I was born in 1922 and I have lived in Mt. Elgon up to this time. So what I am going to say is what I know because I live in Mt. Elgon.

**The Commission Secretary** (Ms. Nyaundi): You have told us that you live in Mt. Elgon and we invited you in your capacity as an elder. We hope to get from you a better understanding of the community in Mt. Elgon and the conflicts that we have been dealing with. Are you familiar with the Chebyuk Settlement Scheme and the conflict that arose out of the proposed allocation?

**Mr. Jason Psongoywo Tirop:** I know Chebyuk. The *mzee* who was called by that name “Chebyuk” was a man who was from a clan called Kapsorom. We started living in Chebyuk before the white people came. After the white settlers came, they said that we were living with animals. So they wanted to separate us from the animals. They tried to put the boundaries between the forest and the land. They took the soil to test it and established where the boundary of the forest was. He was with my father who was leading during that time. Mr. Chebyuk was also on the other side which is currently known as Chebyuk. Those *wazees* identified the boundary together with the Europeans and they put beacons to show the boundaries of the Soy and the Mosop. The name “Soy” shows where the boundary was. They called the other side reserve. So they said: “This is Mosop and that is Soy”. It was that boundary that distinguished the Soy. So, the people were unable to distinguish between the Soy and the Mosop. That is why they called the people by the names “Soy” and “Ndorobo”.

We lived there until 1937 when the Europeans came again and removed the boundary. They left the initial boundary and put another boundary by force. The *wazee* went to Nairobi where they accused those people of removing the boundary. Before the case was heard, there was a conflict that arose between Hitler and those people. Because of that conflict, the case did not proceed. We lived like that for a long and because we had taken the case forward, we were not worried at all. We were only waiting for the Hitler conflict to end but it took so many years. When the Europeans defeated Hitler, they did not do the work as it supposed to be done. They used force. They did not want to hear what we were telling them.

After we had gotten independence, we went again to confirm whether that issue had been addressed. When we asked the late Mzee Kenyatta, he realized that it was the truth because the maps were available and returned it to us. This time, we had an MP by the name Moss who announced that the people who had been chased away from Chebyuk should come back to their land because many people had left their land and gone to other places. He said his people were in the forest and they were not farming. He told them to come back. The things that Moss did were good and even the Government was in agreement. After the Government agreed people came and elected a committee that was to resettle people. These people were not divided like it is today, that this side belongs to the Soy while the other one belongs to the Mosop. They loved each other and lived well from Chebyuk to Emia in a river called Kapkateny up to Chepkatet in Malakisi.

Let me comment on the issue of envy and other bad things that happened. This was a result of bad leadership of one of the PCs by the name Lekoolool and another DC called Chang’ole and another Minister by then who was called Mwangale. They all discussed in Kakamega and came up with their own plans. Those plans have up to this time disturbed

Mt. Elgon. The Minister advised PC Lekoolool to chase away those people who lived in the forest. When this happened, they burnt people's properties and brought people from Mosop and put them in Cheptoror. They closed every path and said it was going to be a forest where trees would be planted. After they planted trees, we went there and cried wondering what had happened yet we happened to have been given that land by the Government. When the Government realized that for sure the map showed this was not forest land, they cut trees and resettled people. That was in 1993.

A survey was done and people lived peacefully. Even Mr. Lekoolool who had chased away people from that land was also in agreement with what was done. He came and held a *baraza* and told the people that they had been cheated. He said: "I have realized that this land is yours. Now, stay in peace", and people started living there. After Mr. Lekoolool left, another PC came and took over from him. He stayed and he never interfered with things. When he was transferred, another PC came who brought problems to us again. They agreed with another DC by the name Munguti and an MP by the name Kimukung and returned evil again into Chebyuk. They brought the map and asked the people to ballot for their land using the map. The land they were asking people to ballot for was already occupied by other people. Once you had participated in the ballot, the surveyors were instructed to go and remove the person who was already on the farm. That was the evil that I saw. We went away. Our son by the name Kapondi was also near at that time. He led us to meet President Moi at Eldoret where we informed him about the problems we were facing. President Moi was so surprised. He said: "I had given you this land, who is this one that is again interfering with the map?"

We told him it was DC Munguti. He asked us where DC Munguti came from. We told him we did not know. He said: "I have heard," and we then came back. After a short while, Mr. Munguti was no longer the DC. We lived again peacefully until recently when another MP by the name John Serut with another DC by the name Mbiriki and an OCPD known as Makokha, all the evils concerning the ballots came back again. They used force--- We wondered what to do and decided to take the matter to court. We took it to a court in Kitale. We tried to call those people to come to court but they refused. We called three times but they were making their own plans in Kakamega. Hon. Serut went and requested for 600 policemen and told them to come and assist them because there was insecurity in Chebyuk. For us, we had our own policemen whom the Government had already given us. We had police officers from Malakisi where we used to pay our taxes. They added us more security at Chesikaki. They brought some more police officers at Chepkube during the Chepkube *magendo*. The police officers came to Kimilili. They added more policemen at Kapsokwony and Kopsiro.

We lived with those police officers because Ugandans wanted to disturb us. They used to come through the forest and kill our people during the night. We requested the Government to give us more police officers at Panantega where the Army is today. That is where the police used to stay. When policemen from Kakamega came Hon. Serut started the work which he wanted. He refused the issue of the court because he wanted to solve it in a peaceful way. So we were unable and we did not know what to.

During that time when we went to Kitale, I did not go back home. At home, they started burning houses and people. I decided to leave Kitale; I went to Eldoret and stayed there because I was not able to run. I did not have the strength to run as people were running all over. I stayed in Eldoret and Hon. Serut continued with his conflict in Mt. Elgon. While I was in Eldoret, I heard all that was happening in Mt. Elgon. I saw helicopters flying over to Mt. Elgon. I was told they were going to kill people. I was surprised. When I was still there, they asked themselves: “Where did this *mzee* go?” They came and arrested me and took me to Nairobi. On arrival in Nairobi, I was asked; “why have you been arrested?” I told them I did not know.

The Government looked at me and said maybe the issue can be handled at Kakamega. Then I was taken to Kakamega where I was asked the same question like the one I was asked while in Nairobi: “Why have you been arrested?” I told them I did not know. Those ones said, “Maybe we are not able to handle this issue, maybe he can be taken to Kapkota.” I was taken to Kapkota where I found the Army people who asked me the same question; “why have you been arrested?” I told them I did not know. They told me to go back and spend the night in Bungoma. In the morning, I taken was back and they continued asking me the same question, “why were you arrested?” They then said, “let us go and ask the other group which had also been arrested maybe they knew the reasons.” They asked those people whether they knew me and what issues had brought me there. They said they did not know me. The ones who had been beaten were also asked including the youths; they said they did not know me. I was taken back to Bungoma Police Station where I stayed for 15 days. I was taken to the cells and stayed there. I was taken to court and I wanted to know why I was arrested. They told me I had killed another young man. They fabricated stories because they were unable to explain why they had arrested me. While in the cell, I was interrogated because they were trying to find witnesses. All the witnesses who came denied until the time I was released.

At that time, I was staying in Cheptais. At home, they burnt all my houses including my banana plantation of two acres. I had 13 houses together with those for my children, food that was in the farm, animals including goats and 100 chicken. I used to sell over 60 eggs per week. I do not know where all those things went. The people alleged that I had some information about those boys. However, I do not know anything about them. They know themselves. After Hon. Serut refused to come to court, he started his plans. So he knows the plans he had with the boys.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much, Mzee. I will ask you a few questions. In the statement that you have recorded with us today, you have said that you are Mawatyo. Can you please tell us what that is?

**Mr. Jason Psongoywo Tirop:** Mawatyo means an elder who is respected. The Masaai call him Laibon while us in Mount Elgon, we call him Mawatyo.

**The Commission Secretary** (Ms. Nyaundi): This is something you get by virtue of your age or it is on account of the family, so that, maybe, you got the title from your father?

Does every man of a certain age among the Sabaots become entitled to be called Mawatyo?

**Mr. Jason Psongoywo Tirop:** We were eight boys. When my father was old, he appointed me to take care of my other brothers. Have you heard properly?

**The Commission Secretary** (Ms. Nyaundi): Just so that I understand better, you were not only an elder for your family but for your community?

**Mr. Jason Psongoywo Tirop:** Yes.

**The Commission Secretary** (Ms. Nyaundi): If you can just educate me, we have heard that there are Mosops, Soi and Ndorobos. Of those three, which one is your community?

**Mr. Jason Psongoywo Tirop:** Those names just came recently. It is Lekolool who brought those names. When we were staying in our land by the name Elgon, all the people were referred by the name Elgon. Those names were brought by Serut and Mwangale and they were looking for a way of destroying Elgon.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much, Mzee. In terms of leadership of Mt. Elgon, in a way that we can understand, because you have said the community was referred to as Elgon but there are people who have come here and educated us that on the mountain, there are people called Mosop, Soi, Ndorobo, Bukusu and Teso. I just wanted to understand in terms of leadership, which community did you see yourself as being a Mawatyo?

**Mr. Jason Psongoywo Tirop:** I was a Laibon for Mt. Elgon. I belonged to all the people. All those people belong to Mt. Elgon. I am a laibon for Mt. Elgon and we are together with the others. I am not alone.

**The Commission Secretary** (Ms. Nyaundi): I think that explains to me. In terms of understanding the structures of the elders or the people in Elgon, was there only one leader at a time or did you have a council or were you organized around locations so that maybe there was an elder at Cheptais, another one at Kopsiro, just so that we can understand?

**Mr. Jason Psongoywo Tirop:** In the leadership that we had before, it was not like that. There was a Mzee by the name Cheptek from Kapsangutek and the Mzee Psongoywo was leading the other side. The boundaries that I told you, it was the *wazee* and the Europeans who did those boundaries. The things that people are seeing today, they are just starting new things and I call it politics because it is childish. The things that the old men used to do were not done like that.

As the old men there, we can sit together, discuss and see where the problem has come from. They have talked about those who came to Mt. Elgon. Those people came willingly but it is like we are not sharing Elgon. Mt. Elgon remains Elgon. A Teso can come to Mt.

Elgon but he cannot come and say that Mt. Elgon is Teso. A Bukusu can also not come to Mt. Elgon and call it Bukusu. That is a place called Mt. Elgon.

**The Commission Secretary** (Ms. Nyaundi): Mzee, you have spoken like a real elder. This Commission is required to understand what was happening at particular times. You have said that in 1985 when the surveyors came to divide the land you were the chairman of the process. I am imagining that it is because at that time, you were already recognized as a leader and then as a leader what you said in the statement is that land was divided *nyumba kwa nyumba*. At this time when you were carrying out this survey, were you the only elder in Elgon or were there other elders?

**Mr. Jason Psongoywo Tirop:** There was a committee in charge of dividing the land and I was their chairman. When Lekolol came and disturbed us, he left the others and dealt with me as the chairman. I was brought to court. I did the case in 1991 and 1992. They brought maps to the courts. The case was with Mr. Changole who was the DC under the forester Mr. Anditi. The map really assisted me. It was saying the other side was a reserve. It was not a forest. I defeated them in the case.

Therefore, they requested that they give us permits so that people can start building houses. The forester, Mr. Anditi, allowed people to go back to their farms. Those are the houses that were burnt and they were built because the Government had given permits

**The Commission Secretary** (Ms. Nyaundi): The land that you owned at Chebyuk, how did your family acquire it? Did you buy it?

**Mr. Jason Psongoywo Tirop:** The farm belonged to my father. That is where I was born. It was not possible for anybody to go into that land because it was my grandfather's farm. I went back to that farm together with my children and stayed there without any complaint. I had no problem with anybody. Nobody accused me and I did not have any boundary problems. It is jealousy that has brought animosity. I have no complaint with other people even up to now. I am asking why my houses were burnt. I have not seen anybody who accused me. I went to the courts with the forester alone and we finished the case. They burnt my house and chased me yet I had nobody's debt. I am asking this Commission to help me. This is a peaceful Commission. Let them use balloting. This is a devil that brought death to my people. I am requesting that balloting should be removed so that people can go back to their farms as President Moi had done it. We do not want the farms divided again.

**The Commission Secretary** (Ms. Nyaundi): So your father moved from somewhere else and settled on Chebyuk and that is where you were born?

**Mr. Jason Psongoywo Tirop:** If they follow my father, he was a Ndorobo. He was one of the persons who came from Mosop and came down. He was big and an Oloibon. He knew why he came down. He wanted to protect the land. He knew that if the land is left without protection, others would come and take it. He left his brother up and he came down. That is why today we have the land in Chebyuk.



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

Commissioners, I just needed your direction. Earlier he had pointed out to the Commission that there is a difference between Laibon and Maotio. However, the translation that is coming through is that; they are saying his father was a Laibon. I just wanted a confirmation from the team that is interpreting whether the witness is referring to his father as a Laibon or Maotio or whether the two terms are interchangeable. He says that is not the term used in Mt. Elgon.

**The Presiding Chair** (Commissioner Farah): You can put that question to him again because so far, what we have heard is that the word Laibon and Maotio are interchangeable. The Maasais call the elders Laibon but the Elgon Maasai in Mt. Elgon call their elders Maotio. So as far as I am concerned, what we have got so far is that he is a Laibon if he was going to be in Maasai land but because he is in the hills he is going to be a Maotio. The two terms are the same. Can you confirm that from him?

**The Commission Secretary** (Ms. Nyaundi): Mzee, we are just trying to clarify our record. The person who is translating for you is saying that your father was a Laibon. I want to confirm whether in your understanding if we record that your father was a Laibon and we keep changing between Laibon and Maotio as you told us, that will be referring to the same thing.

**Mr. Jason Psongoywo Tirop:** This is the same word. The Nandi call it Orkoiyot. Orkoiyot, Maotio and Laibon refer to one thing.

**The Commission Secretary** (Ms. Nyaundi): How big was your family land?

**Mr. Jason Psongoywo Tirop:** The land was about 200 acres. I was living there together with my children and I have never had any complaint from anybody. Even the PC Mwasera wrote this in the papers. I forgot to carry that paper I would have brought it.

**The Commission Secretary** (Ms. Nyaundi): In 2006 when there was a proposal to reallocate the land by ballot, your family had 200 acres.

**Mr. Jason Psongoywo Tirop:** By that time when balloting came, they wanted to take land from other people. They used to put the map down and requested people to come and select pieces of land using money. That was corruption. Those people bought the ballots. They used to buy the ballot for Kshs40, 000. They bought the ballots and wanted to take others' land by force. These are the people who brought conflict.

**The Commission Secretary** (Ms. Nyaundi): I just want to understand; when in 2006 they did the ballot, did your family have 200 acres? You have said that you did a case, the case ended and you came back to the farm. Then in 2006, a committee was set up and said that land was going to be by ballot; the one you have said had the MP then---

**Mr. Jason Psongoywo Tirop:** That is when they came to chase people from the land in Mt. Elgon.

**The Commission Secretary** (Ms. Nyaundi): I want you to answer this question; did you have 200 acres of land then?

**Mr. Jason Psongoywo Tirop:** I had the land. It was not land that I was given. It belonged to my father. In our culture you inherit land from your father. Nobody accused me of owning his land.

**The Commission Secretary** (Ms. Nyaundi): We just want our records to be accurate and I apologize for having to ask this question many times. I just need the record to read correctly. You have said that your father's land was 200 acres. I want to make sure that maybe you had not sold some or for whatever reason it had reduced. So I want to ask; at the time Mr. Serut and others are saying they will divide the land by ballot, can we record in our proceeding here that your land was 200 acres?

**Mr. Jason Psongoywo Tirop:** If I look at the land it looks like 130 acres. This Commission can come with surveyors so that we can do justice on that land. If we do not do that justice, politicians will continue disturbing us. We want to end the issue of balloting so that people may go back to their land as they were before. Each and every person should go back to his land and live with his children. We should end politics about Chebyuk because no one is accusing anybody. This is politics.

**The Commission Secretary** (Ms. Nyaundi): We have been told that according to the ballot, initially every family or everybody who wanted land and were successful would get two acres and then it later changed to one acre and that the land was to be divided between the Mosop and the Soy. Do you remember hearing that?

**Mr. Jason Psongoywo Tirop:** I said this and I repeat, let everyone go back to his land where he was so that we can realize who did not have land. If everybody went back to their land, you will discover those who were brought by force to take up land that belonged to other people. The Government can then take them to Trans Nzoia to be given land. I do not want the name Soy and Mosop because according to the boundary all the land belonged to the Soy. We were divided by the forest.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much. I just want to assure you that I have understood what you are saying. Your position is that the land should have been divided house to house and that your land should not have been interfered with. I understand that and we have recorded it.

What I am now trying to understand from you is when you say that somebody came and confused issues. I want to understand what the confusion was. The other witnesses who have testified before the Commission have said that according to the ballot, land would no longer be divided house by house but everybody who got a ballot would get two acres. I am not saying that the Commission will reduce your land to two acres. What we are

trying to understand is that you as an elder when you heard about the ballot, did you hear the proposal was that people would get two acres per allottee?

**Mr. Jason Psongoywo Tirop:** That is the evil that happened and we went to court. We did not want that. They refused to come to court and used force to kill people.

**The Commission Secretary** (Ms. Nyaundi): Now I understand. The other question I wanted to ask; did this ballot also affect your land? Did it affect everybody's land?

**Mr. Jason Psongoywo Tirop:** I have the map that was there before. I do not agree with what they are trying to do now. They brought things but I totally refused. These are the things that brought conflict to Mt. Elgon and it has killed our people.

**The Commission Secretary** (Ms. Nyaundi): Mzee, please, answer the question that I have put to you. If you answer my question we can move to the next question and finish. When they were doing the ballot in 2006 and people were getting two acres, was your own land affected?

**Mr. Jason Psongoywo Tirop:** I was not affected. Just recently I heard that people went to the farm and distributed the land to other people.

**The Commission Secretary** (Ms. Nyaundi): Now, in 2006 because you say that people were taking ballots and looking at a map - They took a number and then they were given land where other people were living - in 2006, did you hear that people will come and take a bit of your land?

**Mr. Jason Psongoywo Tirop:** I did not hear that.

**The Commission Secretary** (Ms. Nyaundi): In 2006 when they were subdividing the land, you would have remained with your 130 acres?

**Mr. Jason Psongoywo Tirop:** That is true.

**The Commission Secretary** (Ms. Nyaundi): When you said that you did not agree with what Mr. Serut and others were doing, why did you disagree and people like you with 130 acres were not going to lose their land?

**Mr. Jason Psongoywo Tirop:** I was crying for my people. These people are the ones who were given land by the Government. They did not take it by force.

**The Commission Secretary** (Ms. Nyaundi): You were not stopping the subdivision of your land but the subdivision of other people's land.

**Mr. Jason Psongoywo Tirop:** We refused the issue of the ballot. We did not want the people to come and occupy the land. If they were genuine they would have come to the courts. Why did they fear to come to court?

**The Commission Secretary** (Ms. Nyaundi): Is there another family whose land was not affected?

**Mr. Jason Psongoywo Tirop:** I have not seen this because if people's land was left, there would be no conflict.

**The Commission Secretary** (Ms. Nyaundi): Now, in 2006 because you say that people were taking ballots and looking at a map - they took a number and then they were given land where other people were living; in 2006, did you hear that people would come and take a bit of your land?

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**The Commission Secretary** (Ms. Nyaundi): When you said that you did not agree with what Mr. Serut and others were doing, why did you disagree and people like you with 130 acres were not going to lose their land?

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**The Commission Secretary** (Ms. Nyaundi): Is there another family whose land was not affected?

**Mr. Jason Psongoywo Tirop:** I have not seen this because if people's land was left, there would be no conflict.

**The Commission Secretary** (Ms. Nyaundi): We have been told that at around that time after the list was posted on the DC's office showing how land would be subdivided, people had gone to court but the courts had not helped them. Then a group came together calling itself the Sabot Land Defence Force (SLDF) and they decided they would fight for the land. Do you have a recollection of that happening?

**Mr. Jason Psongoywo Tirop:** From the courts, I went straight to Eldoret. When those people went to beat others in Mt. Elgon, I was not there. I realized that because the case

was thrown out and my houses were burnt, I did not see the reason to go there. I was not able to run and so, I decided to go to Eldoret and stayed there. I do not know what happened in Mt. Elgon up to now.

**The Commission Secretary** (Ms. Nyaundi): We called you because you are an elder and our thinking is that as an elder, you probably would want to make sure that these issues do not happen again and that the truth about what happened in Mt. Elgon is known. We are talking to you as an elder. Almost everyone who has talked to us from the mountain has spoken to us about SLDF. I would just like to ask you; as an elder, would you want the record of the Commission to read that you as an elder know absolutely nothing about the SLDF?

**Mr. Jason Psongoywo Tirop:** It should be written. I do not know! If we had the case, I would have known how things went. Because they refused the case, I went to Eldoret and people fought back at home. I cannot admit. Where do I begin, yet they refused the case? I do not know what the boys did back home.

**The Commission Secretary** (Ms. Nyaundi): When you talk of the “boys”, did the boys have a certain grouping or they were just young men in the village?

**Mr. Jason Psongoywo Tirop:** Those were the people who were staying in their farms. They were not staying in the forests. When they came with the idea of balloting for farms and bringing outsiders and chasing them away, I did not know how many people were chased. I also hear people saying that some people were brought and those who were staying there knew about them. I was in Eldoret and so, I do not know. I said that maybe, it is true. Why did they come to court and we wanted to solve the issue in a peaceful way?

**The Commission Secretary** (Ms. Nyaundi): The information we have is that you were charged with administering illegal oaths and promoting warlike activities in Mt. Elgon. Was that the offence you were charged with?

**Mr. Jason Psongoywo Tirop:** As an elder who belongs to the people, I am not evil in any way. I went with the Army. They brought so many people and they were asking them whether they knew me. The boys were denying and saying they had never seen me. What did I give them? If there was anything, I would not have gone to the court. I wanted peace. I did not want conflict. I wanted the court to rule but they refused. They took me to Kapkota, asked everybody whether they knew me and they denied. They said they had not seen anything wrong with the old man. The old man was in Eldoret. Everything ended there and so, I have nothing to add. I did not refuse to go to court and I have nothing else to add.

**The Commission Secretary** (Ms. Nyaundi): Again, I will just ask you; because we would want to make sure that when we go to the court, we go for the correct case. What our records tell us is that you were charged with administering an illegal oath and

promoting war like activities. So, I just want you to confirm, so that when we are investigating, that is the file we will go to read in court.

**Mr. Jason Psongoywo Tirop:** They said that in the courts. I asked them to bring everything on the table. When I began the case, they were asking: “Why did they not bring it to the court?” If anybody had any evidence, why did they not come to court? I deny and I cannot admit. If I knew, I would have wanted to resolve the problem in a peaceful way. I am not an old man who would want evil. I know the truth and that is why I tell people that the truth will be found in the court. I knew the court would give us the right information. If those people were truthful, they should have come to the court.

**The Commission Secretary (Ms. Nyaundi):** In that case, were you charged with others or you were charged alone?

**Mr. Jason Psongoywo Tirop:** There were other elders. Up to now, the elders are also not in their farms just like me. They are just loitering around.

**The Commission Secretary (Ms. Nyaundi):** Let me ask the question more clearly; the case where you were charged with administering the oath and promoting warlike activities, were you charged alone or you were with other people?

**Mr. Jason Psongoywo Tirop:** If the others were there, I would have seen them. It is like I was alone. People were asking: “Do you know that this old man administered drugs to the boys?” Everybody denied and said they had not seen the old man doing anything evil. Who was this who was saying that I was administering drugs to the boys? Why did they not bring the drugs to the court?

**The Commission Secretary (Ms. Nyaundi):** Thank you very much. The Commissioners will ask questions.

**The Presiding Chair (Commissioner Farah):** Thank you very much, Leader of Evidence. I will ask my fellow Commissioner, Mr. Dinka to ask his questions.

**Commissioner Dinka:** Mzee Jason, thank you very much for your testimony. As you can understand, probably from my name, I come from outside Kenya. I would like to be clear in my mind of what I am talking about. So, you have in your response to the Leader of Evidence questions, repeatedly said: “The boys”; who are the boys?

**Mr. Jason Psongoywo Tirop:** The boys were the people who were living in that land. In our culture, we call them boys.

**Commissioner Dinka:** Everyone that lives in your area you refer to them as boys?

**Mr. Jason Psongoywo Tirop:** We have elders and boys.

**Commissioner Dinka:** No adults? No adolescents?

**Mr. Jason Psongoywo Tirop:** They cannot all be elders and they cannot all be boys. They are divided. We have boys and elders.

**Commissioner Dinka:** My next series of questions are on the institution of the Laibon or Maotio. I understand that Maotio as the traditional leader in Africa, has both the spiritual and public role. Is that correct?

**Mr. Jason Psongoywo Tirop:** It is true. God had given them the authority to take care of their people. When they see evil things, they say it is bad and tell them to follow good things. It was God who gave them the idea and the ability. Anybody cannot just say he is a Laibon. It is God who gives them the special gift to do the work.

**Commissioner Dinka:** I understand you. I assure you I am a believer in the African traditional institutions. They are capable of doing a number of positive things in the society. My questions that come are not related to the spiritual role of the Laibon but to the leadership role in the society. How many Laibons are there in Mt. Elgon? Is it only you?

**Mr. Jason Psongoywo Tirop:** There are others.

**Commissioner Dinka:** Can you number them?

**Mr. Jason Psongoywo Tirop:** We have the Kapsang'utek Clan who did the boundaries with the Europeans. They are called Kapsang'ut. There are others who were in Endeless called---

**Commissioner Dinka:** Are they ten, 20 or 15? How many could they be?

**Mr. Jason Psongoywo Tirop:** They can be around five.

**Commissioner Dinka:** Again, I am asking about the public leadership role; what exactly does the Laibon do in his public leadership role in that particular society?

**Mr. Jason Psongoywo Tirop:** The role of a Laibon is to see what is evil and direct his people to refuse evil. If there is anything good, he would instruct people to pursue it. Their role was to take care of the people.

**Commissioner Dinka:** Do they listen and comply with his instructions?

**Mr. Jason Psongoywo Tirop:** Those who adhered to what the Laibon said would live peacefully but those who refused would suffer. That was why we told some people that was not the right thing and they went on. That was why they suffered. We said balloting was not a good thing but people did not hear.

**Commissioner Dinka:** Let us not go to balloting. I think the Leader of Evidence has done a good job on that. I just want to find out when you say: “If they do not accept what the Laibon says, they suffer”. Is that the wrath of God or the wrath of man?

**Mr. Jason Psongoywo Tirop:** We believe it is God.

**Commissioner Dinka:** You said there are five Laibons in Mt. Elgon and each for a clan. Is there a paramount Laibon or are they all equal?

**Mr. Jason Psongoywo Tirop:** God could have given one of them more wisdom than the others. The person who took care of people and they lived peacefully was my father. There was my grandfather, my father and now it came to me. My father gave me the ability. He gave me the stick in 1937.

**Commissioner Dinka:** Is there a council that provided a meeting ground for the five of you with you chairing?

**Mr. Jason Psongoywo Tirop:** If there is evil, it is possible that they sit together. If there is peace, each one stays on his own.

**Commissioner Dinka:** During the Mt. Elgon crisis when there was the SLDF, that was a time of evil by any definition. Did you have a meeting of the five Laibons?

**Mr. Jason Psongoywo Tirop:** I realized that evil had come. I said that what could solve the issue was to go to court.

**Commissioner Dinka:** Why did you not sit together? Why did you not take the initiative as the primary Laibon?

**Mr. Jason Psongoywo Tirop:** I told them. However, most of them are young nowadays. They never accepted what I said. They accepted what the other people were saying.

**Commissioner Dinka:** The Laibons were young?

**Mr. Jason Psongoywo Tirop:** Most of them are young because the old men are dead.

**Commissioner Dinka:** If that is the case, you the eldest and the most senior, what have you done on your own to bring peace and reconciliation among the people of Mt. Elgon?

**Mr. Jason Psongoywo Tirop:** I tried other ways, but those people had decided that I would not get any forum to say anything. In this forum, I am telling this Commission that God accepted and the balloting issue is done away with, so that people may go back to their farms. I have nothing else. I just want this Commission to assist me. If you take action, I am sure I will be assisted.



**Commissioner Dinka:** If the others were too young and did not heed your advice, what have you done on your own to bring peace and reconciliation and stop the slaughtering of each other in your community?

**Mr. Jason Psongoywo Tirop:** I have tried. If people refuse to hear what I say, I now leave it to the law to take its course. I knew what I was doing. Whatever they were doing was done in an evil way and I want it to be solved legally because that is the right action. With regard to the other Laibons, it is like the other people have overtaken them. The politicians have influenced them. They are promised employment and it is like they have left their profession. If you are a Laibon and you join politics, you have left the right track. I am here and I have stood firm. I do not do anything else and I am focused like the older men used to live. I am saying the truth and I do not want to add anything. I want peace to be restored. I want people to live in a peaceful way. Anything bad should be removed so that we remain with good things and we live in peace. There is no one who is good and bad. If somebody is removed from his land, how will that person feel? If you are removed from your land where you have developed and even buried people in that land, how would you feel? The politicians are really making us fight. We are requesting that you help us that we may live in a peaceful way.

**Commissioner Dinka:** You said that the politicians are the ones causing chaos. Their numbers are limited. They are not as many as the boys who are fighting. Did you take an initiative to bring the politicians together to reconcile them or at least make them not to pit people against each other?

**Mr. Jason Psongoywo Tirop:** If I try to call the politicians, people will say that he wants to get people from me. If you show that you want to bring them together, they do not accept. Everybody wants to stay on their own. Everyone is careful. You only realized the evil after they have done it.

These young men did something bad. Had those people done the right thing, we could not be here. We are here because those people misled us. The people we are talking about are the politicians. They do their things in a place you do not know. You only realize it when they come here with their issues.

When people go back to their farms, every person should be careful when it comes to electing leaders because they are the people who bring evil.

**Commissioner Dinka:** I thank you for your answers. However, I want to make an appeal to you. I know that African traditional institutions are under siege. They are hit from all sides by newcomers and our own historical background.

Strengthen the institution you are heading. It is extremely important for your people. You need to gain more legitimacy from the younger generation. I think what you need to do is to peg more initiative for peace, reconciliation of people, and establishing law and order. Once you achieve that, even the younger generation will accept the legitimacy of your works.

**The Presiding Chair** (Commissioner Farah): Thank you very much for coming forward to give us evidence about Mt. Elgon violence and land problems. Ultimately, it is for this Commission to attain reconciliation, peace, and understanding, solving of problems in a civilized manner and developing the community of Mt. Elgon. I will ask you a few questions.

From the evidence we have gathered, we now know that the problem started from the Chebyuk Phase III. It has been said that in 2002, an organization known as Chepkurkur and Kongotuny CBO was initiated to deal with Chebyuk Phase III. Their aim was peaceful. The court case which you took up is a testimony to that. However, it is said that meetings were held in your house. Some people say that meetings were held in Mzee Manyiror's home. Could you, please, tell us something about that?

**Mr. Jason Psongoywo Tirop:** I cannot tell you about those meetings because the things they were talking about concerned the court case. I do not know anything else.

There is something I had forgotten. If we want to finish the problem, we need to address the issue of the boundary of the district. These are the things that bring disunity. Our district is like a farm that belongs to somebody. Even brothers are given land with marked boundaries. There is no clear boundary between and people have conflicts between people of Mt. Elgon and Bungoma districts. We should prevent the conflicts by doing the right thing.

**The Presiding Chair** (Commissioner Farah): That CBO pursued this to solve the Chebyuk Phase III problem but when the court case did make headway, it is said that organization changed into SLDF. What do you say about that?

**Mr. Jason Psongoywo Tirop:** I do not know.

**The Presiding Chair** (Commissioner Farah): Thank you. This Commission, after finding out the truth about the problems in Mt. Elgon, is also mandated to look for ways to solve the problem, so that it does not happen again. Give us your recommendations that will bring a lasting peace.

**Mr. Jason Psongoywo Tirop:** I am happy because of this Commission. It will give us hope to lead a peaceful environment in future. I said that we need to have meetings, so that we can realize what is wrong and what is good. We should be able to resolve our own issues. It is through talking that we can achieve peace.

**The Presiding Chair** (Commissioner Farah): In your testimony, you said that to bring peace to Mt. Elgon, they should not use police if they want to avert further violence. At the same time, you said that you have no problem with the military presence in the area as they are men of peace. Could you, please, clarify that?

**Mr. Jason Psongoywo Tirop:** In Mt. Elgon, the thing that brought conflict was lack of meetings. People do not sit to talk about development. Those who want to enlighten people come to sit together and the police invade those meetings. So, people wonder why the police come to these meetings. This has brought fear amongst the people. There are no meetings held here. That is what brought problems to our people. We need to forge ahead and begin to have meetings and forget what happened. We need to pursue peace in order to live peacefully.

**The Presiding Chair** (Commissioner Farah): On behalf of the Commission, I would like to congratulate you for having come forward to give us evidence on the origin of the problems here and the historical context. My word of advice is that you are a Moiwtwo who is highly respected. You said that you are the eldest of the five Moiytws. I urge you to train the other Moiytws in the cultural traditions of conflict resolution. Take a lead together with the politicians to bring peace in Mt. Elgon and to go away from land and see how you can bring your community together and how you can receive development and enrichment of your people.

There are 714 widows who do not know where the remains of their husbands are today. That is a tragedy. In your culture, there is a way of resolving issues. We will think about it also in order to put a closure in the past and you live peacefully amongst yourselves and with your neighbours, the Bukusus. As you leave us here now, you should concentrate on contacting the other Moiytws and initiate peace.  
Thank you very much.

**The Commission Secretary** (Ms. Nyaundi): Thank you, Chairman. That was the last witness we had for today. It also marks the end of the witnesses here in Bungoma.

**The Presiding Chair** (Commissioner Farah): We now hand over everything to you for the end of ceremony.

*(The Commission adjourned at 1.20 p.m.)*