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Public Hearing Transcripts - Western - Mt. Elgon - RTJRC24.05 (Kibuk Catholic Church)

Truth, Justice, and Reconciliation Commission

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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON TUESDAY, 24TH MAY, 2011
AT KIBUK CATHOLIC CHURCH, KAPSOKWONY, MT. ELGON
DISTRICT**

PRESENT

Ahmed Sheikh Farah	-	The Presiding Chair
Berhanu Dinka	-	Commissioner, Ethiopia
Margaret Wambui Shava	-	Commissioner, Kenya

(The Commission commenced at 9.40 a.m.)

(Opening Prayers)

*(The Presiding Chair (Commissioner Farah) introduced himself
and other TJRC Commissioners)*

The Presiding Chair (Commissioner Farah): I welcome you all to today's hearing. Yesterday, we had elders from the Sabaot community who presented a memorandum to the Commission. They were followed by elders from the Bukusu community who also presented a memorandum to the Commission. Finally, we had elders from the Teso community who similarly presented a memorandum. Today is the second day of hearings here in Mount Elgon. Let me now state the Commission's process and procedures and mention a few ground rules. Our process is that witnesses will be asked to take an oath and then the Leader of Evidence will lead the witness. The panel of Commissioners will ultimately ask questions. I ask you all to switch off your mobile phones because they will interfere with our proceedings. Please, also respect the evidence that will be given by the witnesses even though you may not agree with them.

As for the media, and anyone else who may have a camera, please take photographs of the witnesses or anybody else in the process just before or after the witnesses have completed their testimonies. Those who disobey these rules will be requested to leave the hall. Having set the ground rules, I now ask if there any counsel present. Since there is no counsel, I ask the Leader of Evidence whether there are any preliminary matters for the panel to consider.

Mr. Patrick Njue: No, issues have been brought up Chair.

The Presiding Chair (Commissioner Farah): Very good. Please call the first witness of the day.

Mr. Patrick Njue: Commissioners, here is a witness coded 2.

(Mr. George Walikhu Marakalu took the oath)

Mr. Patrick Njue: Good morning, Sir. Once again, kindly state your full names for the record.

Mr. George Walikhu Marakalu: My full names are George Walukhu Marakalu.

Mr. Patrick Njue: George, where do you live?

Mr. George Walikhu Marakalu: I live in a village called Chemuses within Cheptais Division of the former Mount Elgon District, but currently Cheptais District.

Mr. Patrick Njue: Very well. George, you are here because you recorded a statement with this Commission on what you yourself went through, or suffered in what you have described as torture by state agents. Is that the position?

Mr. George Walikhu Marakalu: Yes.

Mr. Patrick Njue: Now, this incident dates back to 12th January, 1994, according to your statement.

Mr. George Walikhu Marakalu: That is true.

Mr. Patrick Njue: Kindly take us through the events of this day and what happened to you?

Mr. George Walikhu Marakalu: Before I begin to lead you into that, I would kindly give some account of how I landed into the torture that I underwent. First and foremost, as I grew up after school, I decided to join a political party at one stage. That was during the KANU era when President Moi was in power. So, having been dissatisfied with the kind of rule that was there, I engaged in opposition politics, and as a result I, of course, had to face little problems and challenges in that political environment. For some of you who were here yesterday, some issues were highlighted which led to my situation. Some went even as far as affecting us for ethnic reasons. Due to that, the Government was also not comfortable with us and they had a lot of pressure on us. I was targeted. That was way back in 1991/1992. Since I realized that my life was in danger, I decided to quit this country and left for exile. I found myself in Uganda. I applied for asylum which I was given after being assessed and found to qualify for the same. I stayed in Uganda for about eight good months. As you may realize, life in exile is not very easy. So, after realizing that the dust was settling down in my home country, I, with other colleagues who were also in exile, decided to come back to our home country.

Upon reaching the border, we knew we would be assessed. Initially when I was in Uganda there was a lot of tension and blackmail. This brought out the sour relations between the two countries. It brought about exchange of bitter words between the presidents of both countries, because some of us had been termed dissidents and rebels.

We had been given all types of names. I thank God because I came back through the United Nations High Commissioner for Refugees (UNHCR), and not through dubious ways. Now, after coming back to my country, I settled down; I united with my family. I lived a trouble-free life for some time, but somewhere around 1995 I went back to some political activities. That did not augur well for me since KANU was still in power.

I was arrested on 12th January 1995; I was arrested in a very funny manner. It was very early in the morning, before 8.00 a.m., when two police officers in plainclothes, who were attached to Lwakhakha Police Post, came to my place of residence. They demanded to know who I was. I gave them all my particulars. Then they told me to follow them since the boss of the police station wanted to talk to me. I almost forgot to give you the names of the police officers. One was Otieno but I did not know the name of the other, except that I talked to one of the special branch officers called Peter Komora, who also demanded to know a few things about me and my background. I talked to them and then they put me into the cells. I remember before I walked out of the house I told my wife that since she knew me as a political activist, she should not handle the issue lightly but instead she should track me to the police post. That was exactly what she did. I spent there a day and my wife brought meals. Later on, I was transferred from the police post to the divisional headquarters in Cheptais. When I reached there, there were other people who had been arrested alongside me. They happened to be David Waliaula and Lawrence Bwonya. I did not know exactly why I had been arrested and by the time we were being moved, it was not just a mere movement. We were put in a vehicle under very tight security by the General Service Unit (GSU), regular police and Administration Police.

So, back in Cheptais, the District Officer (DO) talked to me. He wanted to know about me and I told him everything. Now, he even asked me when I had left Uganda for Kenya. He made some teasing statements. He asked me how Museveni was. I told him that I did not know him, as I was just a refugee, and I had managed to come back to Kenya which was my home country. During my stay there, one of the special branch officers came and took me to a separate room where he interrogated me. He asked me a lot of questions. I am sorry I will not divulge all the questions because of time, but they were all related to political issues.

They wanted to know why I decided to join the opposition politics. I talked at length about it and I was sent back to the cell and I stayed there for a day or two before I was transferred to Cheskaki Police Station. The cells were full in Cheskaki Police Station and there were so many young men who had been arrested. By that time, I was about 28 years because I was born in 1968. The place was very congested and filthy and we stayed there for about two days and we were wondering why we had been arrested. But all the same, we decided to wait until we get to know the accusations.

After a day or two there, the same policemen moved us again. I presume that we were more than 50 people and we were put into two separate Land Rovers and moved to various police stations. I think one of the Land Rovers drove to Kimilili and the other one went to Webuye. I was in the one that drove to Webuye. From that time, we lost touch with our family members. I remember I was in Webuye for more than one week

and at one stage, we asked the OCS why we were not produced before the law court so that we could respond to any charges preferred against us. The OCS responded by saying that he had only kept us in custody but he was not responsible for us and that somebody else was responsible for us but he did not mention who that person was.

One night or three days later, at about midnight, several men in plain clothes came and demanded that we come out of the cell. Before we reached the reception, our names were read out. The experience I went through was very bitter. I was made to remove my shirt and the belt was used to handcuff me from behind. The shirt was used to blindfold me before I was moved to the waiting vehicle that was outside. I presumed that it was a lorry. I was not taken there in a dignified manner; I was just bundled into the lorry like luggage. Inside the lorry, I instantly realized that people were sobbing and sighing inside there and I knew that things were not well. Before long, all of us had been bundled into the lorry and the journey began. The lorry was being driven at a very high speed, even over bumps. We were shoved up and down and it was very painful. Remember I told you that I had been handcuffed from behind so I sustained some internal injuries in my spine and the neck. We arrived at dawn, the birds were singing and that is how I got to know that it was dawn because I had been blindfolded. After we alighted from the lorry, we were made to move slowly. Instructions were whispered to us; “step down, move, take your legs up”, and I eventually found myself in a cell that was not big. It measured about 7 feet by 5 feet.

As I was pushed into the cell, whoever was responsible for me removed the shirt that was used to blindfold me as he left and instantly locked the door. So, I could not even have time to look back to know who he or she was. After a few minutes, the same door was opened though I could not see who was opening it. All I saw was that somebody was pushing a plate of *uji* into the cell and when I looked at the *uji* and given that I was feeling hungry, I started bargaining whether to take it or not. I did not know whether the *uji* was going to be safe for my life but all the same I said that, come what may, I am as good as dead and I decided to take it. When I took the *uji*, I left the plate there and before long, the same person came and removed the plate. I had not told you what was in that particular room. What I found in that room was a pail of water with a lid and on top of the pail was a cup. In the room was also one blanket, I did not know what all those things were meant for but later on I realized that they were going to serve me. When I wanted to go for a long call, I asked for permission to be taken to the toilet and I was shown a bowl and that became my toilet from that day onwards up to the time I left that cell. I used to defecate there and they would come and remove the bowl.

My meals used to be served in the same manner. When it came to lunch or supper, the plate used to be pushed inside and removed after I had finished. Lunch used to be *ugali* and some greens and supper used to be *ugali* and some beans. On the second day, I was supposed to take a bath and I realized that we were being handled by the warders because the men were dressed in prison uniform. I was blindfolded and moved out of the cell. The blindfold was removed immediately I reached the bathroom and that was when I took my first bath. In the same manner, I was blindfolded and taken back to the room. I realized that so many doors were being opened and closed and I must have sensed that so

many other suspects were with me in the same unit and yet, we could not meet or know who was where.

About the third or fourth day, I was produced before the panel of those people whom I presumed must have been special branch and intelligence men, for interrogation. On the first day I met them they had sat round a table and remember that I was blindfolded and made to pass through various gates, about 100 meters or so from the cell. I would only calculate that through the steps I was making, otherwise I would not see where I was being taken. When I met the panel, they welcomed me after a long journey and demanded that I introduce myself and give my historical background, which I did. After that, they said that they were going to talk to me more and they wanted me to explain more about other issues. One of the funny questions they raised was if I knew exactly why I was there. I answered no. This was funny because I was expecting them to tell me so instead of them expecting me to tell them. They said that we would talk more and I was taken back to the cell. The next day I was taken back and that is when I faced a lot of questions. I had to repeat all about myself in the same manner as the previous manner and they asked me to talk about myself and the political issues. They also wanted to know whether I had at one time or the other joined any clandestine organization that was out to undermine or oust the Government of the day. I said that I did not know anything of the kind and that annoyed them. They said that people always said the truth there. I said that I had said what I knew and I had nothing else to add. They decided to warn me and told me that they had given me time to think and the next time I went there, I should tell them all I knew about the things they had asked me.

On the third day of meeting them, I was produced before them and they were more serious than ever before. Previously, when I appeared before them, I used to be given a stool to sit on. When I entered the room, they said that I was going to tell them all that they wanted to know and all about what I had done. I told them that I was ready to say. They asked me if I knew anything called FERA and whether at any time I had been a member of FERA or participated in its activities. I denied and that provoked them to anger and they told me that they now meant business. They told me to undress and I did it and I remained nude. They then said that they wanted me to do some simple exercises for them. I was told to go to the hall and then they asked me to create an imaginary chair so that I could sit on it. That meant that I had to squat with my hands akimbo and I was ordered to remain in that position until they told me what to do next. Before long, as you would expect, I got tired and I fell on the ground. They told me that I was joking because I was a trained man. I was told to redo it and when I tried, I fell again and they started beating me. I do not know where they began to beat me but all I saw was that they had wooden bars and they beat me on the hands, legs and soles. When I cried they told me *bado mambo*, we still have a lot with you. I was told to climb over the door and hang on to it. I had to use my arms to hang on to the cross bar of the door. That meant that my legs were suspended and then they told me to cycle. I did it until I could not do it anymore. As I was doing it, they were hitting at the soles and the legs and I was crying but they would not sympathize.

The whole thing went on day after day and I remember that before they wound up, I was told to bend on the floor and put one finger in one small hole that they had made and

rotate around it and that is exactly what I did and then I found myself on the floor. They came to me with sticks and hit and kicked me and then they asked me if I was ready to talk and I said I will talk. They asked me what I knew about those things and I told them that I did not anything. They asked me if I knew people like Buke and I said that I knew him. They then asked if I had any kind of relationship with him, and I said no. I only knew him because he came from the same region with me. They asked me if I knew people like Wang'amati and I said that I knew him. They asked how I knew him and I told them that he was a politician whom I had interacted with at one time or the other. They asked me whether I knew anybody called John Otongo and I told them that I had never heard of him and they said that I was a pretender.

Later on, I was made to hang on the bars of the door and I was told to bark like a dog and to ape a monkey and I had to follow the instructions. They then told me that I was ready to tell them more stories. You can realize the kind of suffering I was made to go through. It went on day after day but they did not get what they had expected of me. When it reached that level, on one occasion after beating me and taking me through the same cycle, they decided to use another technique. While naked, I was made to put my legs apart and they tied my private parts. They tied the testicles, I am not ashamed to say this because it happened and they started pulling. They said they would bring an end to my life if I was not going to say anything. As they kept pulling, I cried out and the more I cried, the more they pulled. Later, they released a bit and they asked me if I was ready to talk. They asked me what I knew about FERA and I said that I did not know anything and they said that I was joking with them. In the process, it reached a point when they said that I was not talking. On the last day, I was beaten unconscious and that is when I was served with papers and a pen and told to go and write all my political role and involvement with FERA or *Mwakenya*.

I was taken back to the cell and this time round, my meals were suspended. They did not come for me until five days had elapsed. All I was surviving on was just mere water. The lights were kept on day and night and I did not even know where I was. I could not tell day or night and my body was swollen all over. It reached a point where I could not lie on any side so I had to lie on my back. I stayed in that position and yet I had to strain to write. At one time during that particular process of torture, I had been forewarned by one of the warders to confess because if I was not going to, then anything could have followed. I wrote that I was a FERA member and I wrote so many things, some of which I cannot even remember. On the fifth day when they came for me--- I remember that one of those people would peep through the key hole.

When I was produced after about five days of being in isolation, they asked me whether I had written anything sensible and I said I had. I gave it to them and they read. By then I used to smoke and I was given a cigarette to smoke. I was also given a cup of tea and I remember that when I took the first gulp, it went painfully down the throat. It is as if it was cracking my gullet but I took it slowly until I finished it. When I was taken back to the cell, this time round I was not beaten and all I was told was that I had done well to comply. I was given further instructions that they were preparing to release me but before they could do that, I had to abide by certain conditions. One was to accept each

and everything and confess to being a FERA member and I said it was fine. I think that is the time they relaxed and I was not beaten anymore.

When I went back to the cell, *ugali* was brought and I sensed that I was in danger. My digestive system had practically collapsed and that is when I knew that eating anything solid was going to endanger my life. I took a bit of it, soaked it in soup and bit a little bit and left the rest. Barely 15 minutes later, I heard footsteps of somebody running towards my cell and when he entered the cell, he was in a panic. He removed the *ugali* very fast and enquired if I had taken enough water and I told him that I had been taking water all the time for my survival. After about ten or so minutes, he brought a whole plate of *uji* and he instructed me to take it slowly. That marked my lunch and supper because when supper was served, I could not even eat.

I want to come to what happened shortly before I was moved from the torture and what happened after the torture chamber. After about three or four days, they came for me and I think it was towards dawn. I was removed from the cell in the same manner having been blindfolded and given all my clothes. I was put in a vehicle and I could sense that there were other people in the vehicle because you could feel them breathing but you could not see who was there. Before we got out, our fingerprints were taken. We were driven out of the torture chambers and we drove for many hours until we reached a place called Lessos and that is when my blindfolds were removed. I do not remember anything else. We were driven further and sometime in the afternoon, we landed at Kakamega Police Provincial Headquarters. We stayed there for a day and on the second day I was made to appear before the PCIO who sought to know more about me and the reasons why I had been arrested. I had to explain to him and he took a statement as pertains that. I thought that we were going to be released to go home from there because when the blindfolds were removed, I realized that I was in the company of four other people. These people were Justus Waelo, Sammy Mafura, Patrick Baraza and Moses Mandu and I was the fifth person. We did not know what was going to follow next only to realize later that we were going to answer to some charges. Sometime on a late afternoon, the charges were prepared and we realized we were going to be taken to court. When we were taken to court, it was a few minutes past five and the courts were empty. There was no audience there but I remember I saw camera men, possibly Press men.

We appeared before a magistrate called Wilbroda Juma and she read the charges against us. I was put on murder of 11 counts and as you know that by law, when murder cases are preferred against you, you do not plead. That meant that we were to appear before the law courts every fortnight for mention. In between our period of stay in the prison, we used to appear before the court after every 14 days. Sometime later, the magistrate was changed and we were made to appear before another Senior Principal Magistrate called Ms. Gladys Ndeda. Wilbroda was a Senior Resident Magistrate. I met other suspects who had been associated with FERA in Kakamega Prison where we stayed for a number of days. That was in March. At one time during our custody, we were moved to Kodiaga Maximum Prison but we would come and appear in Kakamega Court.

Things went on like that until it reached a point where we seized the courage to ask the court to commit us. We wanted to know why we were not committed and the case had run to several months. We wanted the prosecution to come up with a committal. The

prosecutor kept telling the magistrate that the committal bundles were not ready and we were arguing that this was going to amount to an injustice because justice delayed is justice denied. At one time during those sessions, we were represented by lawyers and one of them was the late George Kapten who kept challenging the court to produce the committal bundles but they were never produced. I still remember various things that happened at that particular time which I would want to mention and one of them is that even after having appeared before the court, the police had to seize the opportunity to conduct a parade in the prison. On that parade, I appeared with my two co-accused fellows who were Moses Mandu and Patrick Baraza because we were in the same charge sheet. When the parade was mounted, we asked the policemen to create a space for our lawyer to be present so that justice would be done but the police did not listen and they said that they were going to be fair so we complied. We did not have any one of us identified in the parade.

As we kept on demanding for the committal bundles which were never there, I remember that my people had started visiting me and other suspects in prison and they were wondering what way they would have to use to ensure that justice was done. At one stage, they ended up in the hands of a State Counsel and I was made to understand that the State Counsel asked for a bribe so as to secure our release. I was made to believe that 25,000 shillings was released to the State Counsel so as to buy my freedom. Barely three weeks after he had received the money, we were made to appear before the Magistrate Ms. Gladys Ndeda and we were released under Section 87B. My brother and the relatives of the other co-accused people had also come. I may not be so accurate with the section because I am not a lawyer but all I remember was that section meant that investigations were pending and that they could be collected and be produced and charged with the same offence any time. From there, we were not entirely free people.

I went back home and joined my people and I remember that my wife was still there. I had left her when she was pregnant and we had stayed for a number of years without a child and something coincidentally happened. When she gave birth to my first born, I was in prison and I was informed about it. She underwent a caesarean operation. When I went home, there were so many people who came to say *pole* but later on I realized that there was something behind it. People were not only coming to say pole, but they were also curious because they believed the child was not mine. She was only two weeks pregnant when I was arrested so their curiosity was satisfied when they saw that I resembled the baby girl. I was still staying in Lukhakha. I stayed there for quite some time but I was still under surveillance. The Government was not satisfied that I was a good citizen. My physical health was very poor and my special regards go to Independent Medical Legal Unit (IMLU) because when I got in touch with them, there were various friends who really helped me among them Ms. Ling Kituyi who facilitated my treatment. We also had other sympathizers from Amnesty International and also a British lady who helped us financially and my life was partially restored.

Before long, we thought that as people who had undergone torture and we survived because others died--- Shortly after prison, people like Jonathan Baraza, Livingstone Wanyonyi and others whom we left behind came out totally blind. Mr. Charles Wanyonyi is still blind up to now. We tried all ways to make sure that we were rehabilitated but it

was not enough. So, we decided that we should fight for ourselves. We formed a small organization under the name of Mwatikho so as to articulate and combat human rights abuses. Our key objective was to eradicate torture and that formed the basis of Mwatikho and that is what we have been doing. The organization is still alive and even in the recent SLDF activities we have managed to address some of the issues along medical lines as pertained to the victims, be it from the military or from the SLDF.

I want to give special credit to the TJRC Commission because they realized that I was going to be a useful tool to them.

They identified me as a statement taker, and if I am cheating they will talk about it later. That is as far as FERA or my atrocities at FERA are concerned. I may have overlooked some areas because you realize there is no time to talk about each and everything. When it came to the violation that later on followed under the SLDF, I was not spared. During my stay at home, I was victimized by the SLDF and neither was I a darling of the Government. The reasons are very simple and self explanatory. As a human rights activist and defender, we condemned the acts of the SLDF and that did not go down well with the SDLF activists. They were hunting for me and I had to move away. I practically found myself in Sirisia, so that means I was displaced. We did not have a good message to the Government because we said that it had created a condition for the SLDF to thrive. There was a lot of laxity along security lines and, therefore, we were outspoken about it. I remember one day when Maina Kiai came to the ground, we shared a lot on the same and I am on record. When KBC came to the ground, I also shared with them and I am on record. I blamed the Government for letting things go out of control and I wondered why it did not take any measures before things went out of hand. This did not go down well with the Government, but we had to articulate human rights issues.

One night when I was in Sirisia, I decided to go and buy paraffin at the shops and something funny happened. There were gunshots in the air and I did not understand what the gunshots were meant for because at the time, there was no commotion or anything that would have caused alarm. I was living behind the DO's headquarters for security reasons and as the gunshots rent the air, I decided to go back into the house, but the more I tried to venture back, the more the gunshots were heard and they were coming from the District Officer's quarters. I thought that the SDLF might have attacked the station because it sometimes used to happen. They would first arrest security men before going to harm any person they were looking for. All along, I had lived in that place knowing that I was not very secure. I changed my direction and instead of going to my house, I went somewhere near the health center. There was a small bush there and I hid myself there because it was getting dark. I remained in that position for so many hours and the more I thought of getting out, the more my inner mind resisted because I did not know who I was going to meet on the way. I thought I was more secure at that place than in my house. I stayed there and I started dozing.

The Presiding Chair (Commissioner Farah): I will have to interrupt you because you are a statement taker of TJRC and you know the process. We have your statement here which is very detailed and you have gone over it. Your statement concerns torture by State agents and we have other witnesses who will talk about the SLDF tortures and other

issues concerning SLDF. We want to save time and I think you better end your statement and then the leader of evidence will ask you questions.

Mr. George Walikhu Marakalu: All I wanted to say is that I was pursued by the SLDF and fortunately, I was able to beat them. Otherwise, that was the day I would have been killed. I appeal to the Commission to ensure that my colleagues and I who suffered under FERA have our dignity restored. The Government that was and the one that is, owe us an apology. Despite the treatment, I personally still face physical challenges and sometimes I am not even a man. We need more treatment. Alongside that, we need compensation because our valuable time was lost. We need justice to be done because trumped up charges were preferred against us and they were never proved. Lastly, for the sake of the nation and the existing communities, we would expect that the rule of law and respect prevails. We also expect institutional reforms especially with the police because as I am talking, the torture did not end there.

Mr. Patrick Njue: Thank you for your testimony. It was quite moving I must say and I empathize with your suffering at the hands of the security and State agents. I have a question or two to ask you and then our Commissioners will proceed to ask the same from you just to clarify your testimony. You have talked about yourself having been in the opposition politics, what was the outfit that you were identifying yourself with?

Mr. George Walikhu Marakalu: I was in the Forum for Restoration of Democracy (FORD) at the time and even before it split to FORD (K) and FORD (A), I was there.

Mr. Patrick Njue: What activities were you locally engaged in?

Mr. George Walikhu Marakalu: Actually, by then I was a farmer and along political lines, I was the Chair on interim basis when the structures were just being laid. Before long, I was targeted as a guerilla and that meant I had to flee before I would continue.

Mr. Patrick Njue: You have referred to some two police officers who picked you up. You have only identified one of them as Otieno and you also talk about a special branch officer by the name of Peter Komora. Do you know the whereabouts of these two officers today?

Mr. George Walikhu Marakalu: I do not know, but I presume that they must be serving the Government or they have retired.

Mr. Patrick Njue: When you were arrested, you said that you were in the company of one David Waliaula and Lawrence. Did you know these people before?

Mr. George Walikhu Marakalu: I knew Lawrence because he came from Chepkube which is not very far and David was from Luakhakha where I used to stay. We used to interact and meet day to day. Lawrence was also fetched from Luakhakha because we had run away from the clashes on the mountain.

Mr. Patrick Njue: Were they members of the FORD outfit that you talked about?

Mr. George Walikhu Marakalu: Lawrence was in the political line up, but I did not know so much about David because we met in Luakhakha.

Mr. Patrick Njue: When they asked you about FERA, to some of us, this term is strange, do you know anything about FERA yourself?

Mr. George Walikhu Marakalu: I was made to understand later on that it was supposed to mean February 18 Revolutionary Army.

Mr. Patrick Njue: Were you a member of FERA?

Mr. George Walikhu Marakalu: No.

Mr. Patrick Njue: You said you knew a gentleman by the name Buke, who is this Buke?

Mr. George Walikhu Marakalu: Robert Buke is a colleague who comes from my home area and all I remember about him was that at one time or the other, he had his own tribulations. We learnt a lot about his encounters with the Government especially during his time in the University as a student.

Mr. Patrick Njue: You have also talked about people like Justus Waela who you had been arraigned in court with. Are these people you knew before from the same FORD outfit?

Mr. George Walikhu Marakalu: Yes, I knew Justus well.

Mr. Patrick Njue: In your time at incarceration when you were being tortured, did your family have word about it and did they know where you were?

Mr. George Walikhu Marakalu: No, they did not know until I was produced before the law court. When I was in the torture chambers, nobody knew exactly where I was and I stayed there for about two months.

Mr. Patrick Njue: Subsequent to your torture and release from the court, have you tried to pursue any avenue to seek redress from the Government?

Mr. George Walikhu Marakalu: We have tried and as an organization, we once engaged a lawyer who wrote to the Attorney General about an intention of us to bring a case against the Government. Up to now the AG has not responded. We were also challenged financially and when it comes to legal matters, it also depends on the type and competence of lawyers you use, so we have a lot of weakness along that. We have not pursued the matter to its fullest.

Mr. Patrick Njue: I am curious to know, are you still in politics?

Mr. George Walikhu Marakalu: For now, I am more of a human rights defender and as any other person who has gone through the political life cycle, you would not be surprised to hear me comment about a few things on political lines.

Mr. Patrick Njue: About your local organization Mwatikho, is it an acronym or does it stand for anything?

Mr. George Walikhu Marakalu: In our vernacular, *Mwatikho* means something that was broken apart, so we reunited and that was the meaning of Mwatikho. Those were people who had gone through various tribulations because we have been victims of the clashes and the State machinery, so we wanted to articulate our issue by coming together.

Mr. Patrick Njue: Thank you very much for that. Once again, I commend you for your testimony. You have really come out strongly to tell your tribulations bravely borne and I will urge that through this organization that you may continue to spread messages of peace. As much as you bring in people who have been tortured, find it within yourself to spread messages of peace, so that you can live in harmony together as a society. Our Commissioners will now ask you questions.

The Presiding Chair (Commissioner Farah): Thank you very much George. We empathize with you on the tribulations that you faced during the torture. It was painful to hear your stories. I will now ask my fellow Commissioners if they have any questions for you.

Commissioner Shava: Thank you very much, for your testimony Mr. Walukhu. I join my Commissioners in really regretting what you have gone through. The inhuman, cruel and degrading treatment and congratulate you who have come out of it and are in a position to try and help people who have gone through similar things. I have a few questions to you. This Buke, whom you refer to, is he the same Buke who is also associated with this organization, namely, Wafula Buke?

Mr. George Walikhu Marakalu: Precisely.

Commissioner Shava: At this time when you were undergoing all this torture, they put you in a vehicle and you recognized some of the people when they removed the blindfolds and you said that you passed Lessos. In your statement, you do not disclose where that torture was taking place because when you were taken there, you were blindfolded, but on your way out, you remember passing Lessos. Do you have any idea where that place where you were being tortured was?

Mr. George Walikhu Marakalu: I think all we heard was that some of us were housed in Naivasha and some were taken all the way to Nairobi.

Commissioner Shava: Where in Nairobi?

Mr. George Walikhu Marakalu: Up to now, I cannot locate the place, but we were told that some of us appeared in the torture chambers in Nairobi and some in Naivasha.

Commissioner Shava: The fact that you still do not even know where they took you must be very disturbing.

Mr. George Walikhu Marakalu: I do not know.

Commissioner Shava: I did not clearly understand your family chronology. Maybe you could just clarify because I may have missed it when you were speaking about it. How many children do you have and when were they born?

Mr. George Walikhu Marakalu: I got my first girl through a caesarean operation when I was still in prison. We had stayed for five of six months without a child, so people thought that we were sterile. After I joined my wife, I doubted my abilities, but when we united we did not take precautions and in the process, my wife conceived barely six or seven months after getting the first child. That means that she did not have enough grace period and when the time to give birth came, I took her to Bungoma District Hospital, she had to undergo another caesarean operation and she gave birth to a baby boy. Up to now, I have two children.

Commissioner Shava: After you came through this torture, you were able to have a child. In this period of time when it was being claimed that the committal bundles were not ready and when your lawyer was not receiving information in order to appear at the identification parade, do you know how long this period was when the case was being mentioned every two weeks?

Mr. George Walikhu Marakalu: I am sorry I did not mention, but it took us a good month because when I came out, it was 7th of September. It is about six or five months because we first appeared in court in early March.

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

Commissioner Dinka: Thank you George for your testimony. You said that you joined the opposition political party and this was before you went to prison and then you found life difficult and then you fled to Uganda. Your imprisonment and torture came after you came back from Uganda. Why exactly did you flee to Uganda?

Mr. George Walikhu Marakalu: I was being looked for and searched by the Kenya Government intelligence because of my political involvement. Two, like the old men who were here were saying, there were political differences alongside the ethnic divide. If you go back to your records mostly when it comes to election period, we have the Bukusu falling on one side and the Sabaot on the other side. At the time, the MP was from the Sabaot community and at one time, he issued a Press release saying that those people in the opposition risked their lives in Mount Elgon. Mount Elgon had been sworn

to KANU and we resisted that. That meant that we were not comfortable and free with the communities. We had our clashes at that level.

Commissioner Dinka: When you were taken from your home by the two policemen and you got to the police station and talked to Peter Komora, the special branch man, did you ask him the name of the second police man who took you?

Mr. George Walikhu Marakalu: I did not ask him, but I knew that physically, he was a tall and slender man.

Commissioner Dinka: Did you see him after you went to prison?

Mr. George Walikhu Marakalu: No, never. All I can remember is that after I was released from prison, I went to live in the same place from where I had been taken and I never found any of these people except Peter.

Commissioner Dinka: Do you remember any of the names of the four plainclothes men who took you from Webuye to some other place that you did not know?

Mr. George Walikhu Marakalu: They were totally strange.

Commissioner Dinka: Did you ever meet them again?

Mr. George Walikhu Marakalu: I never met them again.

Commissioner Dinka: Did you have any idea of the identity of those who were torturing you?

Mr. George Walikhu Marakalu: I can only physically identify them if I see them because some were tall, some were short and from their accents, you would tell that they were from different ethnic groups.

Commissioner Dinka: So, you do not remember their names?

Mr. George Walikhu Marakalu: I do not know their names.

Commissioner Dinka: Thank you very much, I have no further questions. I am so sorry for your suffering; we all empathize with you and you are very courageous to go back to those difficult days and relive them for our benefit.

The Presiding Chair (Commissioner Farah): I also join my fellow Commissioners in empathizing with you, but tell me of the two torture places you mentioned in Nairobi; one of them was Nyati House. Could the other one have been the Nyayo torture chambers in Nyayo House?

Mr. George Walikhu Marakalu: We have been hearing of Nyayo and Nyati, but as I have told you, we were blindfolded; so, we could not really guess where one was. I think the people who paraded us know.

The Presiding Chair (Commissioner Farah): Thank you very much. We empathize with you and definitely, the Commission will do something about that. Leader of evidence, can you lead the witness and call the next witness?

Mr. Patrick Njue: Commissioners, our next witness is number three.

(Ms. Gladys Nanjala Obabi took the oath)

Mr. Patrick Njue: How are you mama? Once again, kindly state your full names for the record.

Ms. Gladys Nanjala Obabi: My name is Gladys Nanjala Obabi.

Mr. Patrick Njue: You are here because you recorded a statement with this Commission on what you went through of suffered and this took place on the 6th day of September 2007. Is that the position and do you remember the events of that day?

Ms. Gladys Nanjala Obabi: Yes.

Mr. Patrick Njue: Harrowing as they may be, I would ask that you kindly take us through the events of that very day.

Ms. Gladys Nanjala Obabi: On that day, I was coming from church in the evening, going to prepare a meal for my children. After eating, some young men came into our home and one of them knocked and demanded for the door to be opened. My husband refused to open because it was eight at night. The second one came and we said that we were not going to open the door. More came and one of them told us that they were going to open the door forcefully under whatever means. We started getting worried and we screamed because we wanted people to come and help us, but nobody came. They pushed the door until it fell down and then they entered. When they came into the house, they took my husband away and slaughtered him outside. As they were slaughtering him, he was crying and yelling, then one person said that my husband should pray since his last day had come. When he finished praying, they killed him and dumped him there.

All along, I was hiding inside the house and I was in a state of confusion. One person entered and spotted where I was hiding. He hurled a metal bar on my head and four teeth fell down and then I started bleeding from my nose and my head started swelling. I lay there in a pool of blood because I did not have any help and I was afraid and worried. I stayed in the house and my husband was lying dead outside until the following day when the police officers came. They took me out of the house and they told me to go and record my statement. I told them that I called out for help and they never came. Those

police officers were from Bosiro and I told them to write a statement of what they had seen because I did not know what had happened or what those men came to do.

They took my husband's body and told me to find a way of going to the hospital. I did not have any money in the house because the young men had taken everything in the house, including money and our cows. So, I was left there alone. The neighbours ran away and the police officers took my husband's body, put him in a landrover and drove to Bungoma. My brother came and took me to the hospital in Kimilili. At the hospital, the doctors were not working and the only thing I was given were some painkillers and the pain subsided. I went back home the day my husband was being buried and he was buried at his brother's place. I now live in the market-place with my children because one of my neighbours warned me against going back to my home. He told me that they would slaughter me the way they slaughtered my husband. I began crying, wondering how I would take care of my children. My children are no longer attending school, except for one who got a sponsor. My life is in tatters and I am not alone because I live with other people in the market who are also IDPs. I do not know what the Government is going to do to help us and all I am asking for is just a small parcel of land to farm, so that I can feed my children. I have really undergone a lot and all I do is think; my father educated me and now, my children cannot go to school because I do not have a place to live in.

I want to request the TJRC to help us if they have any powers to do so. Help us get a piece of land, so that we are no longer called IDPs. We want the pleasure of being called Kenyans. Even if we do not have a lot of money to farm, we have children who can help us farm, so that we can also develop and that is our plea to the TJRC.

Mr. Patrick Njue: I really empathize with you and what you and your family went through. As you shed tears, I also shed tears with you inside my heart. I will ask you a question or two, just to clarify your testimony and then I will hand you over to our Commissioners. Where were you living on the day of the attack?

Ms. Gladys Nanjala Obabi: I was living in a place called Kapchewangoi market.

Mr. Patrick Njue: Were you able to identify the men who attacked you, either by their names or by their affiliation?

Ms. Gladys Nanjala Obabi: No, because I did not see their faces because it was at night, but they were called *Janjaweds*.

Mr. Patrick Njue: How did you know them?

Ms. Gladys Nanjala Obabi: This is a group of youth who were trying to defend the land issue.

Mr. Patrick Njue: At the time of the attack, you said that you were screaming; were there any neighbours who came to your rescue or were there no neighbours where you lived?

Ms. Gladys Nanjala Obabi: No neighbour came because they were all running for their dear lives. Those people came wielding guns and all the neighbours disappeared and I remained alone with my husband.

Mr. Patrick Njue: What exactly did you lose among the property that was looted?

Ms. Gladys Nanjala Obabi: I had seventy sacks of maize because I was a business woman trading at Chwele which disappeared, my cattle for ploughing and my dairy cows and quite a number of sheep. They took my two sewing machines and so many things that I cannot remember. I was left with only the piece of cloth I had on my body, though I was given a sweater at the hospital.

Mr. Patrick Njue: That place that you used to live where the ugly incidence took place, how is it today?

Ms. Gladys Nanjala Obabi: They chased everybody and subdivided the piece of land to other people. I do not have any piece of land there.

Mr. Patrick Njue: We have heard your expectations and I am sure the Commission will consider them as we move forward to make our recommendations. Once again, I empathize with the loss of your husband and it is my hope that you have come out of it. As much as it was hard, you have somehow found some healing, even in appearing before this Commission today. The Commissioners will now ask you a question or two.

The Presiding Chair (Commissioner Farah): Gladys, the Commissioners empathize with you for the ordeal and the difficulties that you went through. I will now ask my fellow Commissioners if they have any question to ask you.

Commissioner Shava: Gladys, thank you very much for coming here today. What you have talked about today is something that is very difficult. I see that you still have some strength to talk on behalf of other women who are not here and those who did not get an opportunity to talk. In that incidence of November 2007, what was happening politically in that area at that time?

Ms. Gladys Nanjala Obabi: Those young men decided that they wanted some pieces of land and my husband was one of the people who used to sit with the chief and the DO. He had gone to the office where he was given some posters to pin around and those posters said that everybody should demolish their houses. After my husband put up the posters, the young men told him that he was enjoying while they were told to demolish their houses. They told him that they had given him three days to vacate and if he did not do so, then they would come for his life.

Commissioner Shava: Why were people told to demolish their own houses?

Ms. Gladys Nanjala Obabi: They were told to move from the Government land.

Commissioner Shava: So, those people were living in Government land and, therefore, they were required to move out and they were not willing to move away from that land? Was that group of people you called the *Janjaweds* composed of young men who did not think that the Government was right? How were they fighting? You said that they had guns - what kind of guns did they have; were they new guns or old guns?

Ms. Gladys Nanjala Obabi: Those young men were from Mount Elgon and they used to fight for the land. I did not see any guns but I heard the gunshots.

Commissioner Shava: What language were they speaking; was it Kiswahili or Sabaot?

(Technical hitch)

Commissioner Shava: I had asked you what was happening in the area politically, so that there could be an organization like that *Janjaweed* and you were telling me about people and their houses.

Ms. Gladys Nanjala Obabi: Those youth wanted the pieces of land where we were staying and they said that we should vacate so that they could come and reallocate the pieces of land. They said that they would come and measure up to your door step and if you had not gotten any plot, then you should vacate. We wondered where we could move and that was when they became rowdy and they did whatever they did to us.

Commissioner Shava: Who were the *Janjaweds* and what language were they speaking? Did they have guns? They were fighting for land rights; what were they doing to fight? Were they talking to the Government or what methods were they using?

Ms. Gladys Nanjala Obabi: They talked to the Government, but nobody listened to them. They were promised land but they were not allocated any piece of land. So, out of frustrations, they formed their own group to defend their land.

Commissioner Shava: In your knowledge, is there any difference between *Janjaweed* and SLDF?

Ms. Gladys Nanjala Obabi: No, they were the same people.

The Presiding Chair (Commissioner Farah): Thank you very much. It seems there are no further questions. The only thing which I want you to clarify to us is what you lost. You said you lost 70 bags of maize, four bulls, three cows, chicken, two donkeys, and sheep. You also lost two sewing machines, furniture and clothes? Anything else you lost?

Ms. Gladys Nanjala Obabi: No!

The Presiding Chair (Commissioner Farah): Leader of Evidence, I think you can stand down the witness and call in the next witness.

(Mzee Jocktan Wepukhulu Mayu took the oath)

Mr. Patrick Njue: Mzee, kindly for the record, please, tell us your full names.

Mzee Jocktan Wepukhulu Mayu: My name is Jocktan Wepukhulu Mayu.

Mr. Patrick Njue: You are seated here with us today, following the statement which you recorded with this commission relating to torture that you personally went through. That was on the 12th January, 1995. Is that the case?

Mzee Jocktan Wepukhulu Mayu: Yes, it is true.

Mr. Patrick Njue: If that is the case, then you will take us through the events of that very day and tell us really what happened to you.

Mzee Jocktan Wepukhulu Mayu: It was in the morning around 6.00 a.m. on 12th January, 1995. I heard somebody knocking my door. When I opened the door, I saw four men. One of them was the area Assistant Chief. He was accompanied by a village elder and two police officers. According to my statement, I stated that the Assistant Chief knew those police officers. They entered into my house and poured down my maize which was in the sack. I asked them what they were looking for, but they ordered me to stop enquiring. I went out with them and shortly after we passed the shops, I found the Assistant Chief had arrested some two other men; Wycliffe Wahonya and Titus Wafupi. It was the three of us who were arrested at Kimaswa Centre. We were taken to the DO's office at Cheptais where we were locked up after being booked in the Occurrence Book. They then came with so many other youths whom I could not identify. They never came down, but they took us inside. Some of those names were in the DO's office.

We passed all the police stations on the way up to here, Kapsokwony. It was in the evening and we never even alighted from the car. They recorded our names and took us to Kimilili Police Station. We stayed at the station for four days and then there came another big lorry, *mariam*, with some ropes. We were soon put into the lorry with our hands tied up. One rope was used to tie three people after which our eyes were blindfolded, using those very dirty rugs.

When we arrived at Webuye, some other people who were at Webuye were added onto the lorry. We never knew who they were because we were all blindfolded. We were like blind people. The only question I was asking was; "where are you taking us; what wrong have we done?" There was no answer. What enabled me to recognize that we were at Webuye were the fumes and noise that emanated from the Pan Paper Mills. We travelled for a long time in the lorry which was moving at high speed. I folded the rug on my face and I saw a sign post written Londian. I asked them where they were taking us. I wondered whether we were being taken to the infamous Nyati House. I did not know where we were being taken. After passing Nakuru, there was a sharp corner and the lorry swerved and I was hit on the back. When we arrived where they were taking us, it was

almost in the morning, the following day. Everybody was taken to his room. When I entered my room, I saw some utensils, a water bucket and a cup. There were also some two blankets. We were locked up in that room. We stayed there and then one young man came and asked me; “who are you and why are you here and how did you come here?”

I told him that I did not know why I was there and I did not know the reasons why I was there. He then left. It was upstairs, but later we were taken downstairs to the lower basement. It was just in one station. After staying there, one *askari* came and took me to take a shower in the bathroom. We were blindfolded because we were not supposed to see where we were going. They led us by the hand because we could not move alone. So, we were just walking like drunkards. We got inside the bathroom. They unfolded us, but I could not know where I was.

When I was being taken back to the house, it was a bit hard for me. One had to take the shower and wash clothes very fast. After washing, if you missed any clothes, they would bring you back naked while blindfolded to the house. They would take those clothes and dry them to bring them back to you later. Whenever asked a question, I would answer appropriately. I was then nick-named the commander, but they never told me the reason why they referred to me by that name. One intelligence officer came again after I had been taken downstairs and said; “You are a very old man among these youths; I think you will just be released.”

What followed, I cannot add or subtract anything. In that chamber, I was taken for only one day and beaten thoroughly. They messed up my private parts. As I speak here, I am not a real man; I am like a child. I was asking them why they were torturing me like that. I even pleaded with them to kill me instead of torturing me.

They said they were looking for the investigation file, but they never found any evidence. A day later, they came and took me from that room, blindfolded me again and took me to another room where they were doing their investigations. When I arrived in that room, they un-blindfolded me and threw me down where I was ordered to sit. The first person to speak was George Waruwo who was sitting with them. If you saw him at that time, you could not believe that he was the one who was speaking before you today. He was beaten such that he looked like a cartoon. They even sympathized with him and offered him a cigarette to smoke as they took tea.

They asked him whether he knew me. He told them that he knew me because I was his neighbour and when he visits Cheptais Market, he passes through my homestead.

I was asked the second question. There were some three men who were writing the statement. I do not know which language they were using. They asked me certain questions, but I could not see them because I was blindfolded. They unmasked me and asked the second person to identify me. He told them that he had never seen me. The three men recorded what he had told them. When they asked me who I was, I told them my names, where I had come from, where I resided and my division.

The third person was asked about me and he answered in affirmative. They asked him how he knew me. He told them that I was from Chepkube near Cheptais market. They asked him whether they had dealt with me in terms of doing business of selling bananas in Uganda or in Kenya. He told them that we had never done any business with him.

They took us to another room upstairs. We found many people in that room. We were packed like sacks of maize. We did not know each other. We were asking ourselves whether we could survive or die inside there. I complained of headache and I was given some piriton which I took. We were ordered to remain silent throughout the night. We were not supposed to talk. But they kept on asking us how we found ourselves there.

In the morning, they blindfolded us again and took us downstairs. They were packed in different vehicles. We did not know where we were being taken. When we reached Eldoret, it was when we were unmasked and allowed to go for a short call. That was the third day since we were arrested. When we reached Webuye, I thought maybe, they would throw us there and everybody would be allowed to go to his home. They told us that they were taking us to Bungoma Police Station. In Bungoma cells, they used some chemicals on us to control insects like fleas. They also tortured us in the same way they used to do in Nairobi.

We stayed in Bungoma for three days. Again, in Bungoma, they arrested more people who were brought to our cells. They arrested somebody by the name of Tiger Machanje. Unfortunately, when he was brought in our cell, he wanted to know why we were there. He told us if we were to be released, we make sure we took care of his family. He informed us that it had been announced over the radio that we would be released.

I advised him that once he was taken to court, he should tell the truth. He told us that he was not arrested with anything that would incriminate him to criminal activities. I think because he was talking to us, the prison administration took him away from our room. We later learnt that he and other men were from the maximum prison. I did not know what they meant by maximum prison. After three days, we were loaded in a vehicle to destinations that we were not aware of. When we reached Kaplong, they offloaded a young man. As we continued with our journey, they were offloading people at specific trading centres. Most of us who were arrested were Bukusus. We did not know why they were interested in arresting only Bukusus.

When we reached Cheptais Trading Centre, I requested them to allow me to alight there because my clothes were dirty and I looked like someone who was rolling in the mud. I told them if they took me home, my children and other people would be shocked to see me in that state. They agreed with my request and dropped me there. I called my brother who assisted me to go home.

There was a young man who saw me and informed my children and my mother about my plight. I remember my wife had been told that she would not see me again. She was so depressed. When I saw her, I could not believe my eyes. She looked very sick and

emaciated. After a short while, she died. My children were left without a mother. When I remember what happened, I feel a lot of pain.

(The witness broke down in tears)

I now have nothing at home. I cannot even work in my farm. I am very weak as you can see, to work in the farm. I am left with only one hand. The other one cannot do anything.

My expectation from this Commission is to push the Government to construct good roads for us so that we sell our farm produce. Our roads are not motorable. I also urge the Government to upgrade Cheptais Health Centre to a full district hospital, so that it can assist many people from this region. At the moment, our main hospital is in Bungoma.

With regard to my family, I have six children; three daughters and three sons. Since the 1992 clashes, my children have never gone to school. I will stop there, unless there are issues you want me to clarify.

Mr. Patrick Njue: Let me say that I empathize with the problems that you went through during that period. More so, the problems that emanated from the torture to yourself and even for the loss of your wife whom you fondly remember, evidenced by the tears that you shed for her. I will ask you a question, just to clarify your testimony after which Commissioners will also do the same.

Around 1995, what was your age then?

Mzee Jocktan Wepukhulu Mayu: I am now 63 years old. You can calculate from 1995 and then you can establish what age I was then.

Mr. Patrick Njue: You were around 32 (?) then. Which area was it that you lived when you were picked with other people? What was the name of the chief?

Mzee Jocktan Wepukhulu Mayu: I was living in Kimaswa Trading Centre.

Mr. Patrick Njue: What was the name of the assistant chief who came with an elder to arrest you?

Mzee Jocktan Wepukhulu Mayu: He was Mr. John Chebusi Ngeiywa.

Mr. Patrick Njue: What was the name of that elder?

Mzee Jocktan Wepukhulu Mayu: He was George Barasa Masai.

Mr. Patrick Njue: The two young men that were arrested together with you, what is their plight today?

Mzee Jocktan Wepukhulu Mayu: It is only one who is still alive. The other man died because he was tortured using live electric wire. When we came out of prison, he lived for a very short time and succumbed to death because of the injuries he sustained when he was being tortured. He was Titus Wakori Wagwavuvi. Mr. Wycliff Wahonya is still alive, but he has some memory lapses. In fact, he behaves like a mad man. As I speak now, I think he is in Uganda. He is not comfortable living here with us. If need be, his relatives could come and testify before this honourable Commission.

Mr. Patrick Njue: When police officers were torturing you, did they give you any reasons? Did they tell you why they were torturing you?

Mzee Jocktan Wepukhulu Mayu: One day, they asked me what I had done to the Government. That was the only question they asked me as they were torturing us.

Mr. Patrick Njue: Did you have political affiliations back then?

Mzee Jocktan Wepukhulu Mayu: Personally, I was a primary school chairman for so long. With regard to politics, first, I was in KANU. However, when multi-party was introduced, I joined FORD. They even elected me, as a Committee member. In 1995, I was an official of FORD. I was tortured. Yes, I was still a member.

Mr. Patrick Njue: You have talked of the condition that resulted in you not being able to sire children like you said. Would you consider this an urgent need for medical attention or for any other injuries that you suffered? Do you have present need for medical attention?

Mzee Jocktan Wepukhulu Mayu: Yes. I have ulcers. This is as a result of the torture. I am not able to move my hands freely. When it strikes my legs, I am not able to walk. When I bend, I am not able to stand up immediately. As I am sitting here, to stand up will be a bit hard for me. If I stand straight, bending again is a bit hard for me. It takes me very long time to bend or to stand straight.

Mr. Patrick Njue: Have you subsequently tried to seek redress from the Government for the torture or the injuries that you sustained?

Mzee Jocktan Wepukhulu Mayu: Since I am presenting many other people, is there a way the Commission can help us push the Government to compensate us? They can ask international organizations to give us some compensation. I am 80 (?) years old, but my children can benefit from that compensation. I want all other people who underwent all this torture with me to benefit.

Mr. Patrick Njue: Mzee Jocktan, thank you for your testimony. Once again, I empathize with your pain, suffering and even loss. The Commissioners may now ask a question or two, just to clarify your testimony.

The Presiding Chair (Commissioner Farah): Thank you Mzee Jocktan. We really empathize with the torture that you underwent. I will now turn to my fellow commissioners and see if they have got any questions to ask you, to clarify anything.

Commissioner Shava: Mzee Jocktan, when I look at you, I see a very dignified mzee. So, for you to come here and talk about these things in front of everybody and all the people who are watching all over the country, really takes a lot of courage. I just want to recognize that courage and the fact that you have said you are speaking also for all the other people who have gone through what you have gone through and do not have the opportunity to speak. We have heard your story and we have heard also on behalf of all the others for whom you speak.

You said that as you were now being driven home after undergoing all these torture, the vehicle was dropping people. At one stage, you said: “We were all Bukusus”. Even when you were being tortured and they removed the blindfold, you opened your eyes and looked at the people around the room, they were your neighbours, so they were also all Bukusus; some were not Bukusu---

Mzee Jocktan Wepukhulu Mayu: This is how it was; we never saw each other face to face. When we came back home, it was when I saw only one Teso. There was no Sabaot in that group. I cannot lie; there was no Sabaot in that vehicle. When we were talking in Bukusu, they said that we were FORD members. The others were members of KANU.

Commissioner Shava: That is the question I was coming to. In 1995, Kenya had just gone through the first multiparty elections in 1992. You and previous witnesses who have spoken have said that you were members of the first opposition political party which was FORD. As you said, there was no FORD (K) or FORD (A). Looking at it now, do you see a connection between membership of FORD, the ethnic community to which you belong and the kind of things that you went through?

Mzee Jocktan Wepukhulu Mayu: Yes, there was. There were so many people. Even that old man who talked here yesterday who was Mulombi said so. I, personally, was at home. I do not know the posters that were being hoisted at Cheptais office. Those people came and burnt all the T-shirts that we were wearing. That was all what I came to learn about. Personally, I was not there.

Commissioner Shava: What were those people asking you when they were torturing you? Were they accusing you of belonging to a particular organization? Which organization was that?

Mzee Jocktan Wepukhulu Mayu: They never told me openly the group they were suspecting me to belong to. When I came back was when I knew that they were accusing me of belonging to FERA. I never asked any question about FERA.

Commissioner Shava: Were you a member of FERA?

Mzee Jocktan Wepukhulu Mayu: No.

Commissioner Shava: They never even asked you about FERA directly? They never asked you: “Mzee Jocktan, are you a member of FERA?”

Mzee Jocktan Wepukhulu Mayu: No. I cannot lie; they never asked me anything about that.

Commissioner Shava: They never told you why they arrested you and tortured you in that manner?

Mzee Jocktan Wepukhulu Mayu: I have not even met them again. At that time, the Late Michael Wamalwa was there. We went to him and told him to sue the Government. He told us that there was no need because the person who did that was still not retired. He told us that person could send soldiers to come and kill people. He told us to let him retire first, then we would sue him. Unfortunately, Mr. Wamalwa died. We have written statements. We invited a lawyer who I have forgotten his name. Maybe, George can remember his name. The lawyer came, wrote our names and took them to court, but he has not succeeded to date.

Commissioner Shava: Thank you, Mzee Jocktan. I do not have more questions.

Commissioner Dinka: Mzee Jocktan, I also join my colleagues to salute your courage for coming here and going through that terrible memory again. I have a few questions for you.

That assistant chief, Mr. Ben Chebusi, has he ever told you at that time or after you came back from prison, why he came to your house with the police to arrest you?

Mzee Jocktan Wepukhulu Mayu: He has never talked anything apart from when I came from detention; when I arrived in Cheptais, I found him on a bicycle and he asked me whether I had come back. I asked him whether he wanted me to die there. Apart from that, I have never heard anything from him.

Commissioner Dinka: You said he is still the chief of the area; is that correct?

Mzee Jocktan Wepukhulu Mayu: He was suspended, but was reinstated. He is a senior chief today. I do not know about the police officers.

Commissioner Dinka: Is it normal for a village elder from a different village to join in this kind of group to arrest somebody in a different village? Mr. George Baraza was not from your village; where did he come from?

Mzee Jocktan Wepukhulu Mayu: I do not know where he came from. I do not know where they met. It was very early in the morning. I suspect that they came from

Kapsakwony. However, I do not know where they met because it was very early in the morning. It seems they had a meeting somewhere, discussed about me, then they came.

Commissioner Dinka: My last question is about the unfortunate and untimely death of your wife. You mentioned that she died of some kind of post-traumatic experience which she experienced when she was told that her husband would not come home and that he would die in prison. Was that your own conclusion, or was it a medical professionals' report when she went to the hospital to be treated?

Mzee Jocktan Wepukhulu Mayu: No, but I knew that was the cause of her death. My wife had high blood pressure. Maybe, because of this, it was disturbing her. She even left behind a very little baby. I could not even take care of that baby. The grandmother took the baby. Until today as I am speaking now, I have never seen that small child because she is still in the hands of the grandmother. I do not want to see her because she makes me remember my wife.

Commissioner Dinka: I share your sentiments. Do you know who told her that story? Have you been informed? Was it the chief or somebody else?

Mzee Jocktan Wepukhulu Mayu: It was the chief and some other people who knew the story. They were talking the same language. I cannot say whether the chief was alone; maybe, he had other people also.

Commissioner Dinka: Thank you very much for your testimony. As I said earlier, we really salute your courage for coming here.

The Presiding Chair (Commissioner Farah): Mzee Jocktan, I join my fellow Commissioners in empathising with the torture that you faced, especially unlike George Marakalu Oluku who had told us earlier that he was interrogated on why he was a member of FERA. Your case is slightly different because they never revealed to you what they were interrogating you for. It is even bad when you do not know why you have been arrested and no questions or interrogations are asked. You are just tortured; that is very bad and we have taken note of that.

Thank you very much. Before I stand you down and we call the next witness, I would like to take cognisance of the fact that we have the presence of the District Commissioner, Mr. Kasim who is also the chairman of the District Security and Intelligence Committee (DSIC). We are really graced by his presence and we appreciate.

Leader of evidence, stand the witness down and please, call the next witness.

Mr. Patrick Njue: Through your indulgence, Mr. Presiding Chair, Sir, the witness is requesting for a minute; I do not know what communication he wants to make.

The Presiding Chair (Commissioner Farah): Yes, go ahead!

Mzee Jocktan Wepukhulu Mayu: Because I could not stand from the back, in 1992 during the genesis of the clashes, my dad was shot on his leg. His knee was dislocated. I took him to Bungoma Hospital. I donated blood for him because at that time, I was strong and not like I am today. He was given a very funny medicine. He was injected with some medicine and he died. After his death, when we were mourning, there were gun shots. They were hitting our home. If they could have directed them down, they would have killed many people. We asked what wrong we had done. When they shot in the air, they used to say: “Bloody fucking”. We could not understand this.

The next day, hon. Kisiero came in his car to our home with the DC from Bungoma. He asked very funny questions and then told us: “If you people do not want to vote for the honourable, then you will all die”. So, it was a must that we vote for him.

The Presiding Chair (Commissioner Farah): A Commissioner has to ask him a few questions to clarify.

Commissioner Shava: Mzee Jocktan, when you were now mourning your father in your house, you say that bullets began to fly out of your house and then somebody shouted insults at you. Who were those people who were shooting and insulting you?

Mzee Jocktan Wepukhulu Mayu: They were looking for my brother. There was war in 1992 and so, he tried to challenge them. I do not know who they were. They directed the shots to the house where there was the corpse. I believe if they persisted shooting, they could have shot the corpse. They shot this guy with five bullets, but until today, he is still alive. There is a bullet that is still in his body. I do not know if it has been removed because I do not live with him.

The Presiding Chair (Commissioner Farah): Thank you very much. Again, before we stand the witness down, in addition to the DC, we would take recognition of the presence of Rev. Lawrence K. Bomet, the Commissioner of National Cohesion and Integration Commission (NCIC). As you know, the NCIC are our partners in reconciliation and healing of this nation.

Leader of evidence, you may now stand the witness down and bring in the next witness, please.

Mr. Patrick Njue: Commissioner, our next witness is number five on the list. My co-leader of evidence will be taking over.

(Ms. Helen Nakam took the oath)

Ms. Kimani: How are you mum?

Ms. Helen Nakam: I am fine.

Ms. Kimani: For record purposes, state your full name once again.

Ms. Helen Nakam: My names are Helen Nakam.

Ms. Kimani: You are here today because you wrote a statement to us in respect to torture and rape by the SLDF, sometimes in November 2007. Do you confirm the position as true?

Ms. Helen Nakam: Yes.

Ms. Kimani: That being the case, kindly tell us what happened to you in that particular scenario.

Ms. Helen Nakam: It was in 2007 and I was from Kimaswa, going to Chemses. I was going to collect firewood. After collecting firewood on my way to Kimaswa, I met two people. They told me to take my firewood from the head and put it down. They then asked me where I was coming from. I told them I was from collecting firewood and was going home. They asked me: “Do you know the mistake you have made?” I told them I did not know. Then they asked again: “You do not understand?” I told them I did not know. They told me to sit down. I refused to sit down. I asked them: “Why are you telling me to sit down and I am supposed to go home? I am going home and I am late. I am going to cook for my children”.

They then said: “We are telling you to put down your firewood.” They kicked my legs and I fell down. I fell down with the firewood. They then asked me: “Do you know the mistake you are making?” I told them: “I do not know the mistake I was making” They then asked me: “Why are you calling us *Janjaweed*?” I asked: “When did I call you *janjaweed*?” They said: “If you say you live in Kimaswa, when you see us passing, you call us *janjaweed*” I told them I had not called them *Janjaweed*. They then told me not to call them *janjawees*, but *askaris*. I told them I had not called them *janja weed* at all. They then said: “Let us go; we will talk as we go.”

I stood up and tried to take my firewood. When I was bending to take the firewood, one person came from behind and kicked me. I was surprised and asked: “Why are you beating me and I have made no mistake?” He told me: “Today, you are going to speak. Let us go.” We just followed the same route. I was a little bit afraid. He asked me: “We *askaris* are protecting you and you people living in Kimaswa are calling us *janja weed*.” I said I had not called them *Janjaweed*.

We continued walking. They were beating me from behind, kicking me and stepping on me. When we reached a place called upper Kipsis in a forest somewhere, they started beating me. It was in the forest and they beat me thoroughly. They said that I called them *Janjaweed*. They were slapping me, kicking me and using sticks. When I fell, they did not care. I tried to cry but there was no help. They could not even hear my cry. They said we were giving them funny names and yet they were giving us protection.

When I looked up the hill, I saw other four people. They were just standing pointing at me. They then said: “You lady come here; why are you looking at us?” They were dressed well. They covered their faces and legs and you could not identify them. You could see their eyes only. They were asking me so many questions. They were asking me if I was denying I had not called them *Janjaweed*. I told them I had not called them so.

They said: “Today, you will be beaten until you talk”. It went on like that. They really beat me to say why we were calling them *Janjaweed*, yet they were *askaris*. I never talked. Those who were there with guns came with rags and tied me. It was a very heavy rug. In that rug, there was some blood. When I was trying to spit out that blood, they told me I had to swallow it. I swallowed it and then they told me to go. As we were going, I could not see because they had blindfolded me. I was sucking blood whose source I did not know. They told me just to swallow it and if I vomited, they would beat me. They held my hands and they continued beating me. When we reached some places, I could not pass because they held my hands. When we reached a place I could walk, they let me walk. They kept beating me and I kept falling and standing up.

We reached a place and another one came from nowhere. He slid my legs and I fell down. They had their own objective. They then started raping me. I can remember very well that they were four men. I tried to cry and asked them why they were doing that. I asked them: “Why are you doing this to me. I am just a woman?” Then they said: “It is you we are going to face now”.

After finishing, they woke me up. I could not even see where I was or where I was going. We went on with the journey. They continued kicking me and beating me. They took me to the upper part of the forest. When we reached a place, they beat me thoroughly and then dumped me there. I asked them why they wanted to kill me for something I did not know. They told me what was killing me was calling them *janja weed*, yet they were the security officers protecting us. I asked them: “Is that the only reason you want to kill me?”

They went on beating me, slapping me, stepping on me, beating me with sticks and I fell down. There were some stones they had arranged. They told me: “Walk on these stones on your knees”. I crawled on them to and from. They then said: “Stand up”. They told me: “Run up to there, to and fro”. At that time they had beat me and I could not walk. I tried to run to and fro, adjusting my speed. They told me not to run slowly. They were speaking the Sabot language.

After one hour, they told me to stand up. They said: “Come here!” I went to where the commander was. The other one came, kicked me on my back and said, “When you go to the leader, you run. When you are going to the commander you cannot walk. You have to run!” I ran.

He asked me, “Do you know your mistake?” I told him: “I do not know what I have done”. They then told me: “Tell us how the security officers arrested you and how they brought you here and what brought you here”. I told them the people got me on my way

when I was carrying firewood home and told me to sit down. I obeyed and later they asked me why I was calling them *Janjaweed*. That person asked: “Is it only that?” Then the other person said that is why we arrested her. He then said: “Go discipline her and let her go”.

From there I was injured proper. They tied me and told me to go with them. We went on. As we were going, the other one came and kicked me, I fell down. They then went on with their business. They put me down and started raping me again. They really raped me there. I was really injured and traumatized. They told me they wanted to finish me. I told them even if they killed me I knew I have no mistake before God. I told them I do not know anything they were accusing me of doing. I had done nothing. They said: “This lady is supposed to be killed”. I told them even if they killed me, I had no mistake. At that time I was tired and I was not seeing anything. After raping me for almost an hour, I tried to cry, but no one could hear my cry. They were almost five men raping one woman.

It was now almost 11.00 p.m. they left me there and went away without untying my eyes. I was tied, my body was full of pain and I could not even walk. I just sat there and after an hour they came back again. When they came back, they asked me: “Can you walk up to home?” I told them I could not walk. Then one said I should be blindfolded. When I tried to look, I could not see far. I was looking like a blind person. I knew that was my day to die. They left me there and went. I was just there sitting and after sometime I tried rolling down and hid myself in the forest where I could hold onto a tree. After sometime, I heard them coming from far. They were coming back again. When they came back, one of them asked: “If we take you to Kipsis Church, can you walk home or will you die now?” When I heard about death I told them to take me to the Kipsis Church and I would reach home.

There is something I am forgetting; when I fell down, another one came from nowhere and urinated on me and asked me to drink it since there was no water. He forced me to swallow the urine. I swallowed it. Another one said; “Then give her ugali to eat”. That meant the long call. The other one said, “Do not give her ugali, that water is enough for her”.

(Ms. Nakam broke down)

Ms. Kimani: Take a minute or two to refresh.

The Presiding Chair (Commissioner Farah): Take care of her. Let her regain her strength before she continues.

Ms. Kimani: Commissioners, the witness is ready.

Ms. Helen Nakam: Now after they gave me urine to drink; as I was drinking it, another person came and ordered that I be given some “ugali” to eat. Fortunately, one of them said urine was enough me. So, urine was referred to as water while human feces were

referred to as ugali. They forced me to walk long distances but I told them I could not walk any further even if they killed me. I told them that I was ready to die. They decided to carry me to Kipsis, so that I could find my way home. However, I told them even from there, I could not know the direction of my home. They were very annoyed with me and, in fact, they wanted to kill me.

Finally, I agreed to walk to Kipsis. They assisted me to walk because I was very weak to support myself. When we reached at Kipsis church, they asked me whether I could walk home alone. One of them looked at me and said I could not walk alone. They then decided to take me home. They just carried me like that. My body was full of pain. They carried me to my house. When they reached my house, they dumped me at the door step. They ordered my husband to come out to receive a visitor. My husband opened the door and asked them what was ailing me. They told him we have brought your wife. He was really shocked and afraid and asked: Is this really my wife? They told him: "Take her and nurse her. We do not want to hear you beat her or take her to hospital. Just nurse her at home."

In the morning, people started saying that I had been infected with the HIV virus. My husband disowned me and forced me to go back to my father's land. When I left, my daughter died.

That is all I can say before this Commission.

Ms. Kimani: Mama Helen, thank you very much for being bold to stand in public and speak about the violations that took place against you. We, as a Commission, celebrate with you and we know that you are the voice of many other women who have suffered a similar kind of violence. I wish to ask you a few questions as a clarification of what you have just told us.

Now, in your testimony, you have told us when you were coming from collecting firewood, you came across two men, did you know these men before that day?

Ms. Helen Nakam: Yes, I knew them.

Ms. Kimani: Do you know their names?

Ms. Helen Nakam: Yes, I knew them by names.

One of them was known as Okemo and the other one was Tarus.

Ms. Kimani: So, this event that you have just described before this Commission, took place in Kipsis Forest in one night.

Ms. Helen Nakam: Yes, all what I have told this Commission took place in one night.

Ms. Kimani: You have also told us that when these people took you in their custody, they were telling you the main reason for doing all those inhuman acts was the fact that

you were calling them *Janjaweed* people. Did you know who they were; that they were *Janjaweed*? If so, who were the *Janjaweed* people?

Ms. Helen Nakam: *Janjaweed* were the people who were killing others in our home areas.

Ms. Kimani: Why were they killing people in your area?

Ms. Helen Nakam: I do not know.

Ms. Kimani: In your testimony, you also told us that these men carried you to your home, where you used to stay with your husband. What means did they use to get you there?

Ms. Helen Nakam: They came for me because my house is near a road.

Ms. Kimani: When you went back to your husband, who you told us did not accept you back, but instead chased you away claiming that you had been infected with the HIV virus, as much as they had threatened that you should not go to hospital, did you get any medical attention, or how did you take care of the wounds that you got from the beatings?

Ms. Helen Nakam: I just stayed at home like that. I was nursed at the house. I never went to hospital, because I did not really get any medication. When I went for the delivery is when they took me to Uganda and discovered that I had been badly damaged. After delivery, I was discharging some puss. They asked me whether somebody caused damage to my private parts and I answered in affirmative. That is the time they treated me. However, at home, I was never given any medical attention.

Ms. Kimani: Now, after all these things that happened to you, you have told us about your family being disintegrated, and all the injuries that you incurred; how did you life change other than the disintegration of your family up to date? Do you still have to go for medical attention?

Ms. Helen Nakam: I have not gone for any medical attention for a long time.

Ms. Kimani: For the things that happened to you, what are your expectations from the Government?

Ms. Helen Nakam: I need the Government, at least, to assist me get medical attention. I want to be treated.

Secondly, the way I am living today is a problem. I have no where I can cultivate. I pray for services from this Government.

Ms. Kimani: Thank you, Helen; I know it has not been easy for you to relate what happened to you. But due to your boldness you have been able to rise above that, and

start your life afresh. So, I commend you for that, and being able to tell us, as a Commission, what happened to you, and also the whole of Kenya at large. You are a heroine in your own right. Do not lose hope in finding justice. Keep on working. I do not have any further questions, but Commissioners may ask you several questions; a clarification of what you have just told us.

Commissioner Shava: Mama Hellen, thank you very much for coming and speaking out today.

Why did you move from where you were staying in Kenya to go to Uganda?

Ms. Helen Nakam: When it was alleged that I was infected with HIV virus and my husband disowned me, and after my daughter died, I just went back to my parents who live in Uganda. I got married in Uganda. That is how I ended up in Uganda.

Commissioner Shava: When this men that you have identified as Okemo and Tarus took you to the forest and then to their leader, that is where they were torturing you and telling you, when the leader comes, you must move quickly, what was the name of that leader.

Ms. Helen Nakam: I did not know him.

Commissioner Shava: In what language, were they speaking to you?

Ms. Helen Nakam: I was injured by the Sabot people.

Commissioner Shava: Is that a language that you would consider your mother tongue?

Ms. Helen Nakam: I am a Bukusu.

Commissioner Shava: These horrible things that happened to you, have they also happened to other women? Do you know if these things happened to other women apart from you? Do these things happen from one community to another? Do these horrible things only happen to women?

Ms. Helen Nakam: Mostly they happen to us.

Commissioner Shava: Women were specifically targeted.

Ms. Helen Nakam: Yes, they were targeting the Bukusu women.

Commissioner Shava: You have told us that they were talking about discipline. They said that they wanted to discipline you, and they took you to your husband, and said that they had disciplined you. What was their meaning when they were talking about discipline?

Ms. Helen Nakam: Mostly, they said that I was calling them *Janjaweed*, though I had no other mistake.

Commissioner Shava: Okay, I do not have any more questions Mama Hellen. I just want to say that this is something which is happening in our country. It is happening in rural areas. It is happening in urban areas. Increasingly, women and young girls have been targeted. These things are being done by men. The things that were done to you were done by men who claimed to be protecting you. I do not know what kind of protection that is. But you are right. You had no fault, and you should remain as the woman of dignity, which you are. You have had the opportunity to speak here today in front of men and women, and even in front of young women, who are going to lead this country tomorrow. So, things that you have said are important, and we salute your courage in being able to speak in this forum, because unless we recognize the kind of things that happened in our country, we will never be able to fix them. It is through brief testimony such as yours, that we are able to understand the nature and depth of the problem. Women's bodies are used as a battle field for men. This is something we have to understand if we are ever going to be able to do anything about it.

Thank you very much, for coming today.

Commissioner Dinka: Thank you very much, Mama Hellen for your testimony. It is a very brave statement that you made. We all admire you, and we empathize with your sufferings.

Since you left your home, have you been able to visit the children that were taken away by your husband?

Ms. Helen Nakam: Yes.

Commissioner Dinka: You said you have seen these two men that attacked you before they attacked you, you knew their names and who they were, have you seen them since?

Ms. Helen Nakam: Yes, I usually see them. Sometimes, I meet them.

Commissioner Dinka: You are in the same village. Do you know where they live?

Ms. Helen Nakam: One of them is in Kipsis and another one is in the lower part of Chepses.

Commissioner Dinka: Could you tell us exactly what you feel, and how you feel when you see them?

Ms. Helen Nakam: I feel so bad when I see them. I am afraid of them.

Commissioner Dinka: You still live in Uganda, right?

Ms. Helen Nakam: Yes, I live in Uganda because I am married there. If I see anybody by the name Sabot, I really get afraid.

Commissioner Dinka: Thank you very much for your testimony. We empathize with you and I express my own best wishes for you and your new family.

Thank you very much.

The Presiding Chair (Commissioner Farah): Mama Hellen, my question is only one. On the night you were taken to the forest by these men, at that time, you were pregnant, is it not.

Ms. Helen Nakam: I was three months pregnant.

The Presiding Chair (Commissioner Farah): Was your husband aware that you were three months pregnant.

Ms. Helen Nakam: Yes, he knew.

The Presiding Chair (Commissioner Farah): That is my only question. Thank you very much. We empathize with your problems. This is normally the problem with men. When their wives are raped, instead of sympathising or empathising with them, they start rejecting them. We realize the trauma and the problems that you faced in your life, particularly after the children were taken away from you and you became alone only with one child in the stomach.

So, thank you very much for your presentation. You have been brave. Very few women come forward in front of men and present their problems. We thank you and we would do something.

Thank you.

Leader of Evidence, you stand this witness down.

We have come to the end of the morning session. We do not have the time for any other witness before we go for lunch. We will go for lunch and come back at 2.30 p.m. to listen to the remaining witnesses.

Thank you very much.

(The Commission adjourned temporarily at 1.05 p.m.)

(The Commission resumed at 2.35 p.m.)

The Presiding Chair (Commissioner Farah): Please, be seated. Welcome back from lunch break. Leader of Evidence, you may call in the first witness this afternoon.

Ms. Kimani: Commissioners, our first witness this afternoon is Witness Code No.13 on the course list for the day.

(Mrs. Phyllis Tamnai Kipteyo took the oath)

Ms. Kimani: How are you, Ms. Kipteyo?

Mrs. Phyllis Tamnai Kipteyo: I am fine, thank you.

Ms. Kimani: You have appeared before the Commission because you recorded a statement with us in respect to the disappearance of your husband. Is that the case?

Mrs. Phyllis Tamnai Kipteyo: Yes.

Ms. Kimani: Kindly take us through what happened?

Mrs. Phyllis Tamnai Kipteyo: It was in 2008 when there was an operation that was called “*Okoa Maisha.*” At that time, I was married, I had a husband and we were living together. At that time, my husband was an assistant chief for Chebwek Sub-location. There was a military force that came at night at almost 11.00 p.m. on 25th April, 2008. When they came, they knocked the door saying that they were police officers who wanted to work with my husband. My husband opened the door for them because by that time we had the front door and the rear door. When they came into the house, we managed to ask them questions like “Who are you?” They said that they are the police officers who wanted to work with my husband. So, when they came, they took my husband and went with him to the base that was at the factory of Chepkube; a place where there was the camp for military officers. When they took him that night, I thought that, really, they had gone to work together. It was almost midnight that day and the officers came back again and said that they wanted a list that my husband had prepared for those youths who were being suspected of being amongst the members of the SLDF. So, we tried to look for that list that night but we never managed to get it. Later, I requested those military officers to give me some time because I was really confused at that time so that, may be, I can get time to look for that list. I told them that I will take the list to them if I get it. I really looked for that list everywhere in my house but I never got it. It reached a time when I kneeled down, crying to God and asking Him to help me. If it is him who made the list which is being searched for, please, God help me so that I can get it and take it as I had promised. So, I kept looking for the list the whole night up to 2.00 p.m.

When I was still looking, something came to my mind that I should just go under the bed. When I pulled the box that was under the bed and opened the file that was just on top, I saw a list of the suspects in that file. That list was forwarded to the DOs office. It was still at night and I thought I can still sleep until morning so that, may be, I can take that list to the military. I woke up at 6.00 a.m. and went to the factory. But I was never given an opportunity to enter the camp. I was told that I should hand over the list through the

fence because there was a road passing through the factory and the factory was on the lower ground. So, they asked me: “Why are you here?” Then I said that I had gone there because I had brought the list that I had promised them. They received the list. Others asked what was the meaning of the stars against the names of some suspects. I told them I did not know the meaning of the stars because it is the old man who knew. So, I asked them to go where the old man, my husband, is and ask him about the meaning of the stars against the names in the list and what kind of people those were. I was very anxious to look through the fence to see, may be, if I can see my husband.

As I was still peeping through, I saw him lying down besides the wall and by his clothes, I knew he was bleeding may be because he was beaten. I could not say at that time if he was dead because I saw him sleeping or lying on his back and his legs were tied up. There were some *askaris* who had surrounding him and I never knew if they were talking to him or what was happening there. So, in that situation as I was looking on, I was just wondering whether he was breathing or not. When they saw me, they chased me away and I went home crying.

When I arrived at home as I was crying, my neighbours came to where I was and asked me what was wrong. I told them everything. I told them that there were very many people there but I could not identify them because I was also confused. After the neighbours had welcomed me, I took my phone because the old man left his phone at home. After searching for the phone, I got it and after scrolling the address book, I got some numbers for the DO for Cheptais who was known as Kirop. I do not know the other name. I called him and told him that I had seen my husband had been tortured at the factory and it seems as if he had been injured. I told him that I witnessed that. I asked him to come and help me. He said “Mom, I will come.” I really waited for him to call me or, may be, to tell me whether he was coming or not, but unfortunately he never turned up. I tried again calling him for the second time and I asked him “Where are you at this moment” but he never turned up. That was on Saturday when I was supposed to go to Church. I stayed at home confused. On Sunday I left to the DOs place. I talked to him and he told me to go to Chesikaki Police Station so that I could write the statement. He asked me to talk to the OCS. So, I went to Chesikaki Police Station and asked whether my husband had been taken there. They told me that he had not been taken there although they had arrested him and taken his clothes. They said that they felt that he had no sin and that they returned him to his job and that until today, they had not arrested him. So, they told me to try to find him at the Kapkoto Base. When I went to the Kapkoto Base, I talked to the officer in charge of the gate. He told me that “Mama, sorry, we have not seen a person of that description here.” I did not know what to do next, so I went home. I reached home in a confused state.

On Monday 29th April, I was really confused and I found myself in Cheptais---

(Mrs. Kipteyo broke down in tears)

Ms. Kimani: Commissioners, please, give her time to compose herself.

The Presiding Chair (Commissioner Farah): When she composes herself, she can proceed.

You can proceed!

Mrs. Phyllis Tamnai Kipteyo: At that time, I found myself in Cheptais naked because I was confused. They took me to hospital and after counseling, I went back home. I asked myself “what do I do next?” In that situation, my conscience told me that the only thing I could do, because I had been going to all these stations, was to find where he was. So, we kept searching in the mortuaries. I personally went to Bungoma Mortuary while others went to Webuye Mortuary. Other people were looking for him in the prisons. The family members were looking for him everywhere but all that was in vain.

After that, I tried to relax at home. It took me time but my conscience told me not to just sit. Something funny is that I never saw anybody who could help me at that time or somebody who could, may be, encourage me to do this or that. The only thing is that I was only praying to God to give me direction, and God was really leading me in whatever I was doing. So, I tried to present the issue to the Bungoma Law Courts. At that time, the case proceeded up to the ruling and there is a letter here which I can present before the Commission so that they can read it. The letter which is here and which the Government wrote so that the ruling should be done and the people who were mentioned-

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Ms. Kimani: Mr. Presiding Chair, Sir, I would like to request that we admit this as documentary evidence in respect to her testimony.

The Presiding Chair (Commissioner Farah): Document admitted.

Ms. Kimani: Thank you, Mr. Presiding Chair, Sir.

Mrs. Phyllis Tamnai Kipteyo: There was a ruling that some people be summoned, and you will read from the list and those people have never gone to court until today. So, the case is still pending in court up to now. The organization which came out to help me to take the case to court is the Kenya Human Rights group. But up to now, they have never responded to anything. So, after crying for all this time, trying to look for my husband, I was given a desertion letter indicating that this man had rejected work and, so, he had been terminated from office. Those letters are still here and I want to present them before the Commission so that they can be treated as evidence.

The Presiding Chair (Commissioner Farah): How many are they?

Ms. Kimani: Mr. Presiding Chair, Sir, they are two letters; dismissal from service and desertion of duty.

The Presiding Chair (Commissioner Farah): The two documents are admitted.

Ms. Kimani: Thank you, Mr. Presiding Chair, Sir.

Mrs. Phyllis Tamnai Kipteyo: So, after being given these letters, I was asking myself that the people who are given jobs and then terminated are the people who are not there. Secondly, according to the time when my old man was terminated from his job, it was on 25th April, 2008. If you look at that letter, which is saying that he had not been off duty, you will find that they wrote the letter after some days of being taken from home; that was in April. So, I asked myself what happened in between? I want the Commission today to find out what really transpired and where the old man is. May be these people know where my husband is. I have suffered a lot. After the disappearance of my husband, I had six children plus two grand children who had to continue with their education but, unfortunately, they could not manage to continue with their studies. Some have tried to finish Form Four and to join colleges, but they have never attained that dream because of lack of finance. The only thing I am seeing is that since my husband was a senior assistant chief, I have the civil servant identity card which I can present before this Commission to investigate further and find out if what I am saying is true or not.

Ms. Kimani: Mr. Presiding Chair, Sir, the witness has just handed over the husband's identity card, which she wishes to also adduce as evidence before this Commission.

The Presiding Chair (Commissioner Farah): The identity card is admitted.

Ms. Kimani: Thank you, Mr. Presiding Chair, Sir.

Mrs. Phyllis Tamnai Kipteyo: My children cannot continue with their education. One of them has been blessed and he has now completed training at the Teachers Training College (TTC), but according to the Government, if you have not proceeded with your education, it becomes very hard for you to be employed. So, I had a thought that, may be, my children will go to school according to the promise of their dad.

He had promised them that he will educate them until they said it was enough. But, now, all this has been in vain. My husband was not a man who associated with wrong doers; he was a very straight forward man because he was a devoted Christian. I am also a devoted Christian and up to now I still ask myself what really happened. So, you know that I cannot blame you because I have forgiven everybody. I have forgiven everybody because whatever they did, they never knew what they were doing. So, I request the Commission to find out what happened. We have other people who have undergone the same problem. In fact, they never buried their husbands. To me, my husband, who was a civil servant had money in his bank accounts but I do not know how I can get it so that I can help educate my children. Sometimes when I go there, they tell me to go and bring the burial permit and death certificate because, to me, I have never buried him and I do not know where he is. The last time I saw him was when he was besides that wall in the camp. But up to now, I have never seen him and I do not know whether he died or whether he is still alive. I believe that the Commission here will help me. There are also other people who have lost their husbands in the same way but they are not here. There are some orphans who are not even going to school. I request this Commission to help us so that our children can continue pursuing their education because we believe that by them pursuing

their education, it is one way of them healing from the wounds that we suffered and all the trauma that the women have undergone. The only thing I can say is that, may be, they can build a school for these orphans to go so that these children can go to school in peace. It will be something to be appreciated.

Could the Commission find out where the old man is? If he cannot be found, then let us be compensated for the loss of our husband so that we can live the same way other women are living.

The other thing, as I am winding up is that, at the moment after saying all this, I know that I do not have enough security and I want to tell the Commission now that my life is in danger because after all this occurred, no one from the Government has ever tried to find out how to solve the problem and I do not know why. I want the Commission to help me.

I think I will wind up there.

The Presiding Chair (Commissioner Farah): Thank you very much, Mrs. Kipteyo, for your testimony to this Commission. You have been brave enough to also appreciate the need to educate your children and also in forgiving those who took away your husband, despite all your unanswered questions. So, I want to salute you for that. I also thank you for all the expectations that you have given so that you can feel that justice has been served on you and your family.

At this point, I would wish to ask you just a few questions. My first question would be---

Mrs. Phyllis Tamnai Kipteyo: There is one issue which I was almost forgetting. By that time when my husband was being tortured at the factory, there was one security officer by the name of Juma Mukhandia who was also beaten almost to death.

The Presiding Chair (Commissioner Farah): Now, I would like to ask you just a few questions so that we can all be able to understand the events that you talked about. In your testimony, you told us that it was the army and at some point, you talked about the police who came to your house on the 25th of April, 2008. I would kindly request you to clarify whether it was the army or the police and whether they identified themselves as so, or how you got to find out if they are the police or the army.

Mrs. Phyllis Tamnai Kipteyo: After asking them, these people were identified because one of them said that if you want to witness--- If you are ready to prove who we are, he gave me some names here and one of the names was Capt. Mureithi and another one was Lt. Mahano Masafu. They said that these people were military officers who were doing the operation.

The Presiding Chair (Commissioner Farah): Thank you, Mom, for that. Were these military people in their official attire when they came to your house on that day?

Mrs. Phyllis Tamnai Kipteyo: They were many and they were in uniform with the green berets. Some of them entered the house while a majority of the rest remained outside.

The Presiding Chair (Commissioner Farah): You have informed us that they said that they wished to work with your husband. What work was that? Did they elaborate what kind of work they wanted your husband to assist them with?

Mrs. Phyllis Tamnai Kipteyo: They never explained to me.

The Presiding Chair (Commissioner Farah): Do you know what this operation entailed?

Mrs. Phyllis Tamnai Kipteyo: By that time, they were calling it *Okoa Maisha* and they were looking for bandits who were suspected to be perpetrating what was happening in Mt. Elgon at that time; that is the SLDF.

The Presiding Chair (Commissioner Farah): When your husband was arrested by the army men, sometime later they came back. Were they the same group of people who came back to your house?

Mrs. Phyllis Tamnai Kipteyo: They were the same people because when they came, I asked them: “Who are you?” They gave me the names.

The Presiding Chair (Commissioner Farah): You said that they were coming back looking for a list, which you also testified further to say that you did give them later. What was this list all about and at the point when you found it, how did you know that it was the list that they were looking for?

Mrs. Phyllis Tamnai Kipteyo: Because my old man was a bit secretive and he was not open to me, he wrote some names which, may be, were of some bandits or some ordinary people. I presented those names to the DO’s office and I never followed up to know which names were those. My own aim was that, because I got the list and I was not aware of what was happening, I just took it to them but I never knew what it was about.

The Presiding Chair (Commissioner Farah): You also told us that at some point, you were taken to hospital and you were returned home. Who exactly took you to hospital and returned you home?

Mrs. Phyllis Tamnai Kipteyo: It is just the good samaritans who were there; I could not identify who they were because at that time, I was not in good condition. But what I can remember is that I found myself in hospital when I gained my consciousness.

The Presiding Chair (Commissioner Farah): Thank you, mom, for being able to answer the questions that I have and I, once again, commend you for your courage to speak about these things despite the security concerns that you have raised in this sitting.

At this point, I wish to hand you over to the Commissioners, who may ask you a few questions for clarification.

Commissioner Dinka: Thank you very much, Mrs. Kipteyo. You are a brave woman for having come forward to testify about the trials and tribulations that you went through. I just want to ask you one question. If you think – and I agree with you – that your husband has disappeared and, therefore, could be presumed dead, but in case, as the authorities claimed, that they released him, if in case he ran away may be to Uganda or to somewhere else, would he not have communicated with you?

Mrs. Phyllis Tamnai Kipteyo: They have never communicated to me about him. They have not told me anything.

Commissioner Dinka: I hand you over to my fellow Commissioners if they have any questions to ask.

Thank you very much, Mrs. Kipteyo, for your testimony. I also join my colleagues in expressing my admiration for your courage. Do you remember the DO's name; the one whom you told your husband had been arrested?

Mrs. Phyllis Tamnai Kipteyo: He was called "Tirop", but I cannot remember the other name.

Commissioner Dinka: What about the OCS?

Mrs. Phyllis Tamnai Kipteyo: I cannot remember the name of the OCS.

Commissioner Dinka: Why do you think your husband made the list of SLDF members?

Mrs. Phyllis Tamnai Kipteyo: Because I remember at that time, it was his job and because he was a leader, and I know that as a leader, he should know his people and whether they were lawful people or not.

Commissioner Dinka: You said that when you went to prison in search of your husband, there was another Government official, in fact, a prison warder – Moses Juma – who was also being tortured in prison. Why do you think the police and the Government, by extension, were arresting and torturing Government officials like the assistant chief, your husband, and the warder? What was going on?

Mrs. Phyllis Tamnai Kipteyo: I think that because it was just an operation and that operation was not selective; it was not about the issue of leaders or just civilians. People were just being arrested anyhowly and they never discriminated on who you were or which rank you held. He was almost beaten half dead and they identified later that he was a Government officer. They took him to hospital after he identified himself.

Commissioner Dinka: Does he belong to the same community; your husband and Moses Juma?

Mrs. Phyllis Tamnai Kipteyo: No.

Commissioner Dinka: When is the next court hearing regarding the inquest which the police have opened?

Mrs. Phyllis Tamnai Kipteyo: They have not informed me or addressed me on the day when the case will be heard in court next. Since I received that letter and also the newspaper, from there I have never received any letter or any formal communication.

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

Commissioner Shava: Thank you very much, Mrs. Kipteyo. I do not have many questions for you, but just one or two. Your husband was first arrested in 2006. Is that correct?

Mrs. Phyllis Tamnai Kipteyo: Yes.

Commissioner Shava: When he was arrested, you said that you had to change your residence; you had to move because you were afraid for his security. Is that correct?

Mrs. Phyllis Tamnai Kipteyo: Yes, it is true.

Commissioner Shava: Was he given a transfer because he was a Government official; he was working for the Provincial Administration? Did he change his job when you moved house?

Mrs. Phyllis Tamnai Kipteyo: He was not given a transfer, but after being arrested and taken to prison at Kapsokwony for nine days, he was not charged because they had no case against him. When he came back, he just went back to his job and he continued working and putting on that uniform as usual. Because if there was something wrong, I believe that he could not have returned back to his job.

Commissioner Shava: Any letter from his employer?

Mrs. Phyllis Tamnai Kipteyo: I have never seen any letter from his employer. If I had it, I would have presented it here.

Commissioner Shava: From 2006 up to now, what assistance have you received from your husband's employer?

Mrs. Phyllis Tamnai Kipteyo: Nothing.

Commissioner Shava: It is very sad. Your husband was working for the Government. The police arrested him and they did not charge him. Military officers came and also took away your husband. You do not know whether your husband is dead or alive. When you go to the courts to seek assistance, you are told to go through an inquest. All this time you were denied your husband's employment benefits. Finally, you received a letter telling you that your husband had deserted duty and as a consequence dismissed and so you were not entitled to benefits.

These are very weighty matters and they raise many questions. I would like to assure you that we will look into these questions. You have also expressed fears about your safety. Speaking out may endanger you, but it may also protect you. These matters are now on record. Kenyans will read them. Rest your mind to know that has happened. The Provincial Administration and the police are here too. We are going to look for answers to these questions.

The Presiding Chair (Commissioner Farah): I would like to empathize with you. We will, however, leave no stone unturned. Thank you, very much.

Leader of Evidence, stand down the witness and call the next witness please.

Ms. Kimani: Mr. Presiding Chair, I seek your indulgence that before the witness steps down, I once again list the documents that she has adduced as evidence: A copy of her husband's civil servants ID No.97049590; marriage certificate No.282324; dismissal letter from the OP dated 6th September, 2010; the desertion of duty letter from the OP dated 8th July, 2009; bond to attend court in respect to the inquest No.05 of 2010; a newspaper article about the State being ordered to produce the Chief as evidence before this Commission.

I request the commission to accept the same.

The Presiding Chair (Commissioner Farah): Accepted, but we need to make a copy of the ID since the original has to be retained by her. I urge you to make photocopy of all the originals and let her remain with the originals.

(Mrs. Irene Nabalayo Simiyu took the oath)

Ms. Kimani: Kindly tell us your names.

Mrs. Irene Nabalayo Simiyu: I am Arin Nabalayo Simiyu.

Ms. Kimani: Please, take us through what happened.

Mrs. Irene Nabalayo Simiyu: I used to go to Chwele to buy *Omena* in the company of other women because we had an association. Each one of us used to get money to buy *Omena* for business.

(Translation hitch)

The Presiding Chair (Commissioner Farah): Could you, please, confirm if the translation is okay?

Ms. Kimani: Mrs. Simiyu, you want to tell us about a rape ordeal. Confirm if that is the same position.

Mrs. Irene Nabalayo Simiyu: Yes. I would give my business partner something and she would bring it back in confidence. We had agreed that I get my money on Sunday or Monday. As I was going to look for my money, near the market where there is a cyprus tree, I found a 11 year old boy. He asked me where I was going and I told him that I was going for my money which I had lent the mother. He told me that in the market, there were many unique people who were posing as policemen. He said some of them were in combat gear. He told me to be very careful because they were beating up people who could be *chang'aa* drinkers. I told him that I am just a mother who sells vegetable and so they will not do anything to me. I am just a Kenyan and I have nothing against anybody.

I reached the market. The first thing I saw were policemen who called me. I went confidently to them because I had an ID and they asked me if I knew them. I told them that I did not know them. They identified themselves as new askaris in the area. They said that they had started some work recently and I was not aware of it. They forced me to start jumping like a frog. As I did so, one of them hit me and I fell down. I wondered why they were doing that. Later on, they told me that they do not want any tribe because they had started a duty which I would learn about. They said that they did not want anybody of any ethnic group to be amongst them. They told me to send someone to Chepkube, first, to say that mine is over today. They put me down and tied me with ropes. I did not know what kind of work they had started earlier. A big man started his work and I appeared like a small child who has never seen anything.

Later on, another pastor came around and he said, "Do not kill that lady. She is a friend who brings us vegetable even on credit. She is a respected mother. If you want to clear this woman, then God has a purpose for that." They told the pastor that if God has a purpose, then he stands aside first. The second man took over me. The third one followed. He was stopped by the pastor. He said, "You should have cleared her instead of the five of you doing that to her." As I left, the pastor held my hand. I was walking like a kid learning to walk. You would think I had just given birth. I went with pastor although I had lost my conscience. They told the pastor that he watches over me not to go to the police to report. We met my mum on the way. She said she had heard painful things. My mum tied a lesa round my waist when she realized that my body was full of blood. She said that nobody should know what had happened to me. She said that we specifically report to the assistant chief.

The pastor told my mum that nobody should know about what had happened. He even told her not to talk about him. They held my hand and we walked home. Mum prepared

warm water which she mixed with salt and sugar. She did first aid on me. She went to the chemist the following morning to buy medicine which helped me a lot.

After three days, those people returned. Our dogs started barking at them and I was quite. I had not told my husband. I saw torches and the dogs continued to bark. I told my husband that I had encountered a big problem and it is like my attackers are still pursuing me. My husband opened the door leading to the banana plantation. Those people knocked the door and when I opened it, I saw the people I had seen the first day. They told me to kneel down. They asked me whether I had known them and I said no. They told me that they had been sent by their superior who did not approve of what they had done to me. So, they told me to choose between life and paying something. I told them that since they had left me alive, they should take whatever they pleased. They picked our belongings in the house and four animals outside. I had bought the animals from my own sweat. I left everything to the Lord. For everything, I thank the Lord for fighting for me.

I cannot tell where my husband went to because he left his family behind. My mum took me and I am under her care. Since then, all my children are taken care of by my mum. She sells sugarcane so that we can get something to eat. We only have one meal a day. I have an elder son and it was a miracle that he passed the examinations. He received letters to join Bugembe Secondary and Kamusinga High School. I was not of sound mind and my child told me that he did not apply to be born. He urged me not to look at the past, but the present. I told him that God had a purpose.

One day, we went to see the DO. I was with my son and the Assistant Chief. The DO promised to assist me and he told my son to go and purchase some forms.

The boy was told to focus on the problem that bedeviled his mum and look back where they came from. The boy listened carefully and he was told that even where he came from, they were not able financially. He told him just to accept the school he will choose for him; and that he should go to a school where his mum would afford even a pair of slippers. The boy sobbed and the DEO consoled him telling him not have a weak heart like that of a rat or chicken. He told him to remain in prayer and they will accept to help him. He should persevere and take the Kshs200.00 so that his mother could buy him shoe from the shop. He took the money and after buying shoes, the boy returned. The DEO told the assistant chief that, if the boy performs well in class during the first term, he would like to see his report card. During first term, the boy got a grade B. I took the report card back to the DEO who gave me a letter to take to the school. When I went to the school, the principal received it and accepted the boy to remain in school.

The boy remained in class and at the end of Form One, he got grade B plus. I was called in front and the principal said that; “such a mother, despite what she has gone through, God has a purpose to have given her a wonderful son.” The boy proceeded to Form Two and he still gets grade B plus in his results. Then they said, “we have assisted you this far” ---

In Mt Elgon, those who were in boarding school were given bursary money and the boy became unsettled in class. The boy only goes to school twice a week and then comes home. After the exam, he still works steadfastly. He said that his grandmother is selling sugar cane in order to pay his school fees. He wondered how he will even be able to register for Form Four exams. Then he answered: “My grandmother’s effort, I had better die than to disappoint her.”

Additionally, when the boy told me that, I told him not to commit suicide because God can make things possible in every way. Then I told him; “my child, if you say that way, you are reminding me of what I have gone through in the past.”

The position of my child is that he gets grade B and B plus in school.

Ms. Kimani: Thank you for that, Ms. Simiyu. Counting your blessings is wonderful and despite all what you have been through, you still appreciate that God has been faithful to have given you a very bright son. I do not know if you have anything to add in respect to the violation which you recorded with us?

Mrs. Irene Nabalayo Simiyu: What I can add is that the Government can try to help, let it help me get my lost properties and assist the child so that he is not sent out of school. You can see that I have suffered so much may be in future, he can help his siblings.

Ms. Kimani: Thank you, mum, for your very moving stories. I want to commend and salute you for being able to stand before this Commission and tell us about the inhuman acts that these people did to you. I salute you for that. Maybe, before I hand you over to the commissioners, I would like to ask you a few questions in respect to the testimony you have just given.

You told us that on your way to Burukeni Market, you met this eleven-year old boy. Did you know this boy prior to this day?

Mrs. Irene Nabalayo Simiyu: I did not know the child. As a business woman, I would not know everybody. Unless you live there, you will not know the people who live there.

Ms. Kimani: Thank you for that answer. When you went to Burukeni Market and you met these men who introduced themselves as the new officers who are in control of the area. Were they in some sort of uniform and, did they tell you which affiliation they were from?

Mrs. Irene Nabalayo Simiyu: They told me that they were the new police officers in the area.

Ms. Kimani: Any particular uniform that they were dressed in?

Mrs. Irene Nabalayo Simiyu: I can remember the colour resembled that of the armed forces.

Ms. Kimani: What language were these men using and, in the same light, they told you that they were trying---

Mrs. Irene Nabalayo Simiyu: When they were speaking in Kiswahili, it was a bit corrupted; you could not understand it properly.

Ms. Kimani: They told you that they were trying to eliminate a particular community. Did they tell you which particular community it was?

Mrs. Irene Nabalayo Simiyu: They told me that: “Mum, we have come here as new police officers and we have a job to do in this area, but we shall not tell you exactly what job we have come to perform.”

Ms. Kimani: What about the pastor who witnessed the whole scenario of the inhuman acts that you were taken through? Were there any other witnesses other than this pastor who witnessed what happened to you?

Mrs. Irene Nabalayo Simiyu: The person I saw besides the pastor who was coming from the church; was a child of eleven years.

Ms. Kimani: Did you know this pastor prior to this incident? If you did, maybe you could assist us with his name. And, if you did not know him, how did you come to know that he was a pastor?

Mrs. Irene Nabalayo Simiyu: It was on a Sunday when I saw him but he did not tell me about his church because I had lost consciousness.

Ms. Kimani: You also told us that after all, whatever happened to you, your mother was able to seek help from the assistant chief. Kindly, tell us which area was the assistant chief administering and what exactly did he do to assist you?

Mrs. Irene Nabalayo Simiyu: The assistant chief was for Chebukube Sub-location. He told my mother that he had had her report, but he had also heard about some property which was stolen. Cows had been stolen the previous day and the people were looking for him and he had written a letter to that effect. He said that his family had escaped to Uganda. He told me to wait as they were listening to what the Government could say and, forty days were about to lapse.

Ms. Kimani: You also told us that a few days after these men did to you those things, they came back. Were they the same people who attacked you during that very day?

Mrs. Irene Nabalayo Simiyu: They were the same people who had been sent by their superior and they wanted to do some sort of punishment or compensation because the work they had done was not enough.

Ms. Kimani: Thank you very much for telling us all those things that happened to you. It is not only for me and the commissioners' benefit, but for Kenya as a whole. I commend you for your courage. Kindly, I now hand you over to the commissioners who may ask you several questions.

The Presiding Chair (Commissioner Farah): I join the leader of evidence in empathizing with you for the troubles you went through. I will now hand you over to the other commissioners to ask questions, if they have.

Commissioner Shava: Mama Irene, how are you? Are you feeling okay?

Mrs. Irene Nabalayo Simiyu: Yes.

Commissioner Shava: I am asking you this question so that I can understand very well what happened. I was not there and I do not understand the language which you are speaking. That is why I have this thing on my head to help me understand. There is a man in the box who is translating what you are saying. So, I just want you to clarify some things so that I can understand them correctly. I will just go back to the question you were asked by the leader of evidence who is seated next to you.

So, when those men came back to your house, they said that their superior was not happy. Why was he not happy and what was he unhappy about?

Mrs. Irene Nabalayo Simiyu: Their superior had told them that, "as you start your mission last week, you should never leave anybody alive."

Commissioner Shava: Then they came and told you that they had been told never to leave people alive because their superior was not happy with them. Therefore, they told you to choose between what and what?

Mrs. Irene Nabalayo Simiyu: They told me that: "Mum, the superior has asked us to tell you to choose between two things; you either prefer your life to be spared or you lose property?" I told them I prefer life and I can leave property to go.

Commissioner Shava: Thank you very much. I have now understood that part very well. Now, I want to go back to the beginning of your story. I am trying to understand whether you were on your business in the market or you were walking to the market during a normal market day. When you got to the market, were there other people around like the security and Government officials; the normal people that you would find in a market?

Mrs. Irene Nabalayo Simiyu: That day, I did not understand whether those people were in the market or at church. I could not know because the shops were closed.

Commissioner Shava: Carry on.

Mrs. Irene Nabalayo Simiyu: Even the mother whom I wanted to collect my debt from had locked her door at the market.

Commissioner Shava: Okay. And you have said in your statement that when you were proceeding, after meeting that little boy who warned you that things were not normal, you had a bad feeling but when you went there you found that the situation did not look very normal, shops were closed, which you thought would be open?

Mrs. Irene Nabalayo Simiyu: The thoughts I had were that, since I am Kenyan, I have an identity card, and I am not doing any illegal business, for example, selling *Chang'aa*

Commissioner Shava: Then when you saw these people and you immediately thought that they were policemen, why did you think that they were policemen?

Mrs. Irene Nabalayo Simiyu: The reason why I thought they were policemen, I had never thought that they were enemies around there.

Commissioner Shava: Is it something that they were wearing that made you think that they were policemen, or was it something about how they were behaving?

Mrs. Irene Nabalayo Simiyu: This was because when the child warned me the presence of enemies there and after I moved, I saw people in uniform. I saw people in red uniform carrying knives.

Commissioner Shava: So, all these people, some were wearing red uniforms and were carrying knives; were the rest wearing a different uniform or they were not wearing uniforms at all?

.....

Mrs. Irene Nabalayo Simiyu: The rest were in uniform and you could easily mistake them for Government officers who had come to provide security.

Commissioner Shava: How many were these people; the ones in red uniform and the other uniform? Were they about five or fifty people? About how many people did you see?

Mrs. Irene Nabalayo Simiyu: In fact, you could not get a chance to count them.

Commissioner Shava: Were they very many?

Mrs. Irene Nabalayo Simiyu: They were many people! In fact, it is God who could count them. They were very many people.

Commissioner Shava: I think now I have understood that part. Then when they were talking to you in this strange Kiswahili, were they saying that; “from today, we do not want any other tribe!” So, when they said that, what do you think they meant? They told

me that they had come to work and that they did not want people from other ethnic communities. When they said that, they meant other ethnic communities apart from which ones?

Mrs. Irene Nabalayo Simiyu: They told me that, “we have come and our superiors had decided that our last spot is Malakisi.” I did not understand that if they were to finish at Malakisi, they were going to kill one community or many communities.

Commissioner Shava: Which is your community?

Mrs. Irene Nabalayo Simiyu: I am a Bukusu.

Commissioner Shava: Did you understand them to be telling you that Bukusus were wanted or Bukusus were not wanted?

Mrs. Irene Nabalayo Simiyu: I heard them say that: “You, people, will leave farms for us.”

Commissioner Shava: So, they said “Bukusus will leave farms for us.” And when they said “us”, who did they mean?

Mrs. Irene Nabalayo Simiyu: I do not understand there.

Commissioner Shava: When they were saying that Bukusus must leave farms; did you know why they wanted Bukusus to leave farms? They were saying Bukusus should leave farms for whom?

Mrs. Irene Nabalayo Simiyu: This is because it was something that I had not arranged to see, so I could not understand why they wanted to chase away the Bukusu people.

Commissioner Shava: The information and clarification is very helpful. Now, I want to move to the difficult part of your story where these people put you in an open space in the market and five of them whipped you. But then the pastor came and stopped them. So, did the five of them standing there expect to whip you?

Mrs. Irene Nabalayo Simiyu: They were about ten who were to do the job but, at least, the pastor stopped the third one from doing it. The two had already done it.

Commissioner Shava: That is really a terrible thing to live with and remember. The pastor told them that you are a respected mother and you sell vegetables and that you even give people vegetables on credit. He was pleading with them to spare you any more torture. Is he someone you knew?

Mrs. Irene Nabalayo Simiyu: This pastor was a person I had only seen in the market and I had met him accidentally. I can recognize his face.

Commissioner Shava: So, before that day, you had never met that pastor?

Mrs. Irene Nabalayo Simiyu: Before that day, my job had been to sell to my customers.

Commissioner Shava: You were doing a good job of selling vegetables to your customers. This is because it seems as if there were many people who knew who you were and the good job that you were doing. I just have one last question about this pastor. Was he also Bukusu?

Mrs. Irene Nabalayo Simiyu: The pastor who helped me spoke to my mother in Bukusu. But when he spoke in Kiswahili to these people, I could not tell what his community was.

Commissioner Shava: When the pastor was trying to persuade those people, was he speaking in the same way that they were speaking?

Mrs. Irene Nabalayo Simiyu: No! He talked like a priest who wanted to bring people together and console them.

Commissioner Shava: Thank you very much, mama Irene, for coming to speak to us about very difficult issues and the things that happened to you. We have heard what you have said and we have heard what you asked for and we will do our best to help you.

The Presiding Chairperson (Maj-Gen. Farah): Mama Irene Nabalayo Simiyu, thank you very much for having come forward to give your testimony in public. You are a very brave woman and you have recounted your ordeal which was full of torment and, we empathize with you. Thank you very much once again.

Leader of Evidence, you can now turn down the witness and bring in the last witness for the day.

Ms. Kimani: Hon. Commissioners, the next witness, as per the code list for the day, is Witness Code 15.

(Mrs. Simiyu was stood down)

The Presiding Chair (Commissioner Farah): Please take care of the witness. Do not rush her. Settle her down before you continue.

(The witness wept)

Ms. Kimani: Commissioners, I would like to introduce another witness.

(Ms. Maureen Nasimiyu took the oath)

I want to welcome you once again. You are appearing before us this afternoon because you recorded a statement with us in respect to torture by the Sabaot Land Defence Force (SLDF). Could you kindly confirm to us if that is the position?

Ms. Maureen Nasimuyu: My name is Maureen Nasimiyu from Kimama. It was on a Monday at 3.00 p.m. and I was sitting with my auntie called Julianne Nelima. As we were sitting, about 15 men came. They started beating us and took us to Chebyuk Forest. They tied our hands behind us and beat us all the way to the forest. When we were about to reach the forest, they told me to sit down and made my auntie lie down. They then slashed her. I started crying. They asked me why I was crying but I had nothing to tell them. Their leader told us that they had killed 12 people and I was going to be the 13th person. They said that since I am a girl and not a woman, I should be left alone. They had finished my auntie and I was to be next. Their leader talked to them using the Bayobo language which I could not understand. They told me to go back home and not to say anything to anybody. There was an argument about whether to let me go or not. They told me to go back to my auntie's place and not my father's home. When I went there, I found nobody and there was nothing left in the house. They had carried everything.

They had beaten me and my body was swollen. I had scars on my legs and even now, I am not okay. I also went to my uncle's place and found nobody. Wherever I went, I did not find anybody. So, I came back and hide until morning. In the morning, I met my cousin and he asked about his mother. I told him the news of his mother's death. I now went to my uncle's place. Since then life has not been the same to me. I decided to get married because life at that place was so hard. My father died in 1992 and my mother died in 2000. They left me when I was young. He was killed by the Boyobo group. He was pierced through the ear and he died.

Ms. Kimani: What can you add to the evidence that you have given us.

Ms. Maureen Nasimiyu: Since my parents died when I was eight months old. I was raised by another father. So, the life I am living is not good. I beg the Government to assist me in any way.

Ms. Kimani: Thank you, Mrs. Nasimiyu, for sharing with us your sad story. I salute you for being able to tell us all those things. I want to ask you a few questions so that we may understand this very sad story that you have just told us. I know it is not easy to tell us all those details but for the purposes of clarification and for the truth to come out, I have to take you through what happened to you. My first question is; this group of men who came to attack you and your late auntie, did you know them before that particular day?

Ms. Maureen Nasimiyu: It was on a Monday at around 3.00 p.m. when they came for us. After they had killed my auntie and let me come back, I did not find anything. I only remained with the clothes that I was wearing. My body was bruised and I had cuts all over. At times I feel pain and I feel unwell. The chest is not well because I cannot carry anything. So far nobody has bothered to take me to the doctor. When they killed my auntie and others they dumped their body in the latrine. For those who had died and had

good clothes, they were taken away. They used to cut the private parts of men. It is so painful to remember.

Ms. Kimani: I know and I am very sorry because I know it is not easy for you to tell us these things. Did you know these people before that day?

Ms. Maureen Nasimiyu: I cannot remember who they were.

Ms. Kimani: When they took you away, did they tell you why they were beating you?

Ms. Maureen Nasimiyu: They said that we had voted for President Kibaki.

Ms. Kimani: Which language were they using?

Ms. Maureen Nasimiyu: They were talking in Kiswahili.

Ms. Kimani: You have told us that it was not only your auntie who was murdered. Did you witness these other people being killed?

Ms. Maureen Nasimiyu: They were all together and I saw them.

Ms. Kimani: Were they your neighbours or did you know them before that day?

Ms. Maureen Nasimiyu: Yes, they were just neighbours.

Ms. Kimani: When you went back to report about that traumatizing experience, did you seek any medical attention?

Ms. Maureen Nasimiyu: I did not seek any medical attention.

Ms. Kimani: Did you just live with that pain or did you get any other assistance?

Ms. Maureen Nasimiyu: I was not helped in any way.

Ms. Kimani: When you came back from the forest, where did you hide for your safety?

Ms. Maureen Nasimiyu: It was at night and I went at my uncle's place but I did not find anybody. They had also gone to hide themselves. I hid myself in a nearby bush because all the doors were closed. They had run for their lives.

Ms. Kimani: You said that you saw bodies being thrown into a pit latrine. Where is this pit latrine?

Ms. Maureen Nasimiyu: It is in Chebyuk Forest in Mt. Elgon.

Ms. Kimani: Since these things happened, have you ever tried to seek justice by maybe reporting to the police?

Ms. Maureen Nasimiyu: I went to the police station and to the human rights group to give them my statement. I also went to the court.

Ms. Kimani: Which police station did you report to?

Ms. Maureen Nasimiyu: I went to Chesikaki Police Station.

Ms. Kimani: You said that you also went to court, was the matter completed and in which court was it?

Ms. Maureen Nasimiyu: The case is still going on in Bungoma High Court.

Ms. Kimani: What expectations do you have in respect to all the things that happened to you? What would you recommend to the Government to see to it that justice has been done to you?

Ms. Maureen Nasimiyu: The Government is supposed to help us. We have gone through so much and I am still afraid. I never went back home because my auntie's son told me to go back but I am still afraid. So, I decided to get married. I got married at Kimabole. The Government has to help me because my mother died and left five children behind. They are not living a good life because the father cannot take care of them well. They are in school and the Government has to assist.

Ms. Kimani: Ms. Nasimiyu, I once again want to salute you for your courage by being able to tell the whole country at large this very traumatizing scenario. You are still young and do not lose hope in life. Keep working and justice will one day dawn on you. I wish to hand you over to the commissioners so that they can ask you several questions for clarity purposes.

The Presiding Chair (Commissioner Farah): The commissioners empathize with you. We notice that your father was killed during the 1992 clashes in Mt. Elgon and your mother died in 2000 and the tragic death of your auntie which happened on 28th December, 2007. I have no question for you but I will ask other commissioners to go ahead and ask questions, if any.

Commissioner Shava: I have a few questions for you so that I can understand your story well. You have spoken very well today. I just want to understand whether you are the only child or do you have sisters and brothers?

Ms. Maureen Nasimiyu: I was the first born. I do not have brothers and sisters.

Commissioner Shava: Do you remember which month your father died? You have told us that your father was killed during the clashes of 1992 in Mt. Elgon. Do you remember the month?

Ms. Maureen Nasimiyu: I cannot actually remember because at that time I was still young.

Commissioner Shava: You have told us in your statement that your father was killed by the Sabaots. How did you know that?

Ms. Maureen Nasimiyu: My mother told me about it when she was still there. She also told me that my father was not buried at home but in Chwele.

Commissioner Shava: You said that your mother died in the year 2000. How did she die?

Ms. Maureen Nasimiyu: She became sick, they took her to hospital but she did not make it. She had other children with another man and those children are with their father.

Commissioner Shava: Do you ever meet them?

Ms. Maureen Nasimiyu: Yes, I do go there and meet them.

Commissioner Shava: I can see that you miss them a lot because you look very sad. I do not have any more questions for you. I just want to tell you that you are 18 years old and that is very young and most people who are more than twice your age have never seen some of the things that you have had to go through. So, I am asking you to be strong. For you to have survived this long and to still be there, it means that there is a purpose for your life. So, be hopeful and continue to be courageous. I thank you for coming to share your story today.

The Presiding Chair (Commissioner Farah): We thank you very much for having taken the courage to come forward. We congratulate you for being strong even though the ordeal that you went through was very emotional. We empathize with you and we assure you that that this Commission was set up to hear testimonies like the one you related to us. We have noted it and it is recorded in tapes and on video. So, we will ensure that we make the right recommendations and ensure that action is taken.

Leader of evidence, could you, please, take your time and stand down the emotional witness.

We have had a total of seven witnesses. Our first witness was George Marakalu Walukhe who narrated his unlawful detention and torture for having been suspected to be a member of the FERA. The second witness was Gladys Nanjala Obabi who narrated to us about killings done by the Sabaot Land Defence Force (SLDF). The third witness was Jokdan Wepukhulu Mayu and he narrated to us the unlawful detention and torture for

having also been suspected to be a member of FERA. The fourth person who gave evidence was Helen Nakamu who bravely narrated to us her rape ordeal and torture by SLDF. The fifth witness was Phyllis Kamunayo Kipkeyo who narrated to us the disappearance of her husband in the hands of the Kenyan military force during the crackdown on SLDF. The sixth witness was Irene Nabalayo Simiyu, a lady who was brave enough to come forward in front of everybody here and narrate her rape ordeal by the SLDF. Last but not least, a while ago, we heard the evidence of Maureen Nasimiyu who narrated to us how she lost her father in 1992 clashes, her mother in 2000 and how SDLF tortured her and killed her aunt in 2007.

I congratulate members of the public who have been very patient. They have heeded our call this morning by sitting silently and listening to the narration of the testimony even though you did not agree or disagree with the evidence. I am also happy that nobody switched on his mobile phone and, therefore, the testimony was not interrupted. I congratulate whoever brought these young children from school to come and listen to what happened in our country and especially in Mt. Elgon so that tomorrow when they become leaders, something like that should not be repeated. Therefore, they should follow our motto which reads; “TUSIRUDIE TENA”. I also congratulate the press for not having taken pictures of the witnesses as they were giving evidence. I also congratulate the staff of the Truth, Justice and Reconciliation Commission (TJRC) for having organized these hearings which have gone on so smoothly. I would like to appeal to members of the public that tomorrow morning, we still have hearings and we shall start a bit early. Therefore, we appeal to you to come early and not like today. We will start at 8.30 a.m. and since it is the last day, if you want to witness because this is your process, please come at 7.30 a.m. and be seated so that when we start the hearing, we should be ready.

I thank you all. Master of Ceremony, please take over.

Master of Ceremony: Thank you very much, Presiding Chairman, Sir. I also want to join you in thanking the audience for being patient since yesterday. These hearings have been very successful. We are going to close with prayers. As you have been told, tomorrow our hearing will start early. At 8.00 a.m., everybody should be seated and at 8.30 a.m., the commissioners will come in. I want to request Fr. Romanos to pray for us.

(Closing Prayers)

(The Commission adjourned at 5.10 p.m.)