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Public Hearing Transcripts - Western - Mt. Elgon - RTJRC25.05 (Kibuk Catholic Church)

Truth, Justice, and Reconciliation Commission

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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON WEDNESDAY, 25TH MAY,
2011 AT KIBUK CATHOLIC CHURCH, KAPSOKWONY**

PRESENT

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

(The Commission commenced at 9.20 a.m.)

(Opening prayers)

(The National Anthem was sung)

*(The Presiding Chairlady (Commissioner Shava) introduced
herself and the other TJRC Commissioners)*

The Presiding Chair (Commissioner Shava): This is the last day of the hearings that we have been holding in Mount Elgon. It is the third and the last day. We have heard different witnesses and today, we will be concluding with one or two witnesses before we move into our formal closing ceremony. I would like to refresh our minds on the ground rules that we have for our hearings. I would ask that all of us who have mobile phones to take a moment and switch them off. I ask you to kindly switch them off and not put them on silent mode because as you receive messages and walk out to take phone calls, you may be disturbing the proceedings. We ask also that you respect the witnesses who are speaking. The witness may speak and say things which reflect your own experience and a witness may also speak and say things which go against your own experience, things with which you do not agree. In all circumstances, we ask you to respect the testimony and maintain silence. All those who have cameras, you are invited to take photographs, but only before and after a witness speaks. Please, do not take photographs of the witness during their testimony or any other photograph during the testimony of a witness. Those who find themselves unable to comply with these stated rules of procedure would be asked to leave the proceedings.

We would ask the witness to swear an oath that will be administered by our hearing clerk. Thereafter, the leader of evidence will take the witness through testimony after which the panel may then ask the witness some questions. Before we commence, I would ask that any legal counsel present here should identify themselves at this stage. I see no counsel present, so I will then ask the leader of evidence whether there are any preliminary issues for consideration.

Mr. Patrick Njue: There is none, Madam Presiding Chair.

The Presiding Chair (Commissioner Shava): In that case, then I will ask the Hearing Clerk to proceed.

(Mr. Johnson Cheprot Takur took the oath)

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

Mr. Johnson Cheprot Takur: My name is Johnson Cheprot Takur.

Mr. Patrick Njue: Where do you live at the moment?

Mr. Johnson Cheprot Takur: I live at Chebyuk Settlement Scheme.

Mr. Patrick Njue: We have in the past had an opportunity to listen to, among other communities here in Mt. Elgon, the Sabaot, the Bukusu and others. Today, you have a unique opportunity to make a presentation on behalf of your people, the Ndorobo. Do you confirm that you come from this community?

Mr. Johnson Cheprot Takur: Yes.

Mr. Patrick Njue: Kindly, tell us a little history about the Ndorobo people, the issues that face this community and the deliberations that you have come up with as a community in terms of recommendations or expectations that you would want this Commission to propagate for you.

Mr. Johnson Cheprot Takur: I come from the Ndorobo community who live above the forest zone and below Mt. Elgon. These people are cattle herders and beekeepers. There is no crop production there. Since historical time, they have been feeding on milk, honey and meat and they also used to look for food from distant areas of the Soi community. Since time immemorial, these people did not have schools, before and even after uhuru. When Kenya attained independence, these people were forgotten. They were not offered school education and from 1963, there were no primary schools in Chepkitale. If it was there, it was only one which could terminate in Standard Three. That was a big problem.

There was no hospital, no security personnel and because of this, the animals were stolen by the Gishi and the Sebei of Uganda. These people had great suffering and the Kenyan Government did not bother. These people continued staying there until 1969 when the Government decided to move them down and get them land where they could farm. They were settled at Chebyuk Settlement Scheme in 1971. Every head of the family was to be given 20 acres and above according to the size of the family. The settlement continued until 1972 when it was completed. Every individual had been given 20 acres and above. These people continued staying there while their animals were still in Chepkitale. In 1979, the Government went and chased those who had remained in

Chepkitale. During this process, some of the animals were shot and killed. This was being commanded by the administration police and that was in 1979.

In the 1980s when they were in Chebyuk, the rulers who were imposed on us ruled us ruthlessly. They were predominantly from the Soi Community. We suffered greatly because we had no chief, no political leader and we were ruled ruthlessly. We continued suffering and we still continue suffering. By 1988, the Government went to Chepkitale and took our animals and sold them at Kimilili. Soon after, the Government came to Chebyuk and reshuffled the exercise that had been done in 1971. This time, every head of the family was to get five acres through the ballot system which meant that a person could leave his premises. This led to loss of property, destruction of houses and cash crops like coffee and bananas which were left unattended to. This was a great misfortune to the Ndorobos. This exercise of issuing five acres continued and now the settlement that had been meant for the Ndorobos became a general settlement. Those who were able would talk to the officers concerned and they got more than five acres thus making others to miss the land. The exercise continued in Phase I and II. When it reached Phase III, the acres were reduced to two and a half and the Ndorobos were still unsettled and they were supposed to get the two and half acres.

When the Government took them there, the Soy community reacted. This resulted to the formation of the SLDF whose aim was to destroy all the Ndorobos. So from the year 2006, things became worse and the Ndorobos had to disappear into the forest where they suffered with their children not being able to go to school. There was no medical care. So things got very bad and even animals died as there were no veterinary officers. People too died. So we lost a great deal. There was no farming and then there was a lot of hunger. So this conflict continued until March, 2008 when the Okoa Maisha Army came and stemmed the conflict.

So people came and settled down but they were very poor as their livestock had been killed by diseases and others stolen by the SLDF. There was a great loss. The Ndorobos still have many problems in these two districts; Mt. Elgon and Cheptais. We do not access the various development boards like the Constituency Development Fund (CDF), the District Education Board (DEB), the District Roads Board, the Bursary Fund Committee and many others, so we do not get whatever the Government allocates through these organs, yet we pay taxes. Our children do not go to school because of poverty and we have very few teachers. So our children do not get good education. Some of the problems include lack of infrastructure where our children can go to school, no good roads, no CDF funds, while in employment, we have only one chief in the entire Ndorobo Community, one councilor and yet our area has several leadership responsibilities to be discharged. At this moment, we wish the Government, especially in the districts, to consider us to join all those boards and also to provide us with the necessary things that are needed for human necessity. Those are some of the things we need.

The other need from the Ndorobos is that Chebyuk Settlement scheme was meant for them and now it has become a general thing for all the communities in Mt. Elgon, except

the Bukusu and the Teso who were not given. We would like the Chepkitale Trust land to be left for the Ndorobos to compensate them for the acreage which they could have been given in Chebyuk. So we hope the Government will not continue disturbing the Chepkitale people who are still in Chepkitale because the animals and beekeeping are their major source of livelihood. So, they should be left in that moorland area.

We also need the Government to compensate those people whose animals were killed in 1979, those which were sold in Kimilili in 1988 and others which were sold at Cheptais. We also urge the Government to compensate the families of those who were killed by the SLDF because it was due to laxity of the Government that cost them their lives. At this time, we need the Government to look into the problems the Ndorobos are going through in Chebyuk. Finally, the Government should find a lasting solution to land settlement by issuing title deeds. But before they issue title deeds, they should confirm to us that Chepkitale is ours because they have made Chebyuk to be general. That is what I wanted to give this commission.

Mr. Patrick Njue: Thank you very much, Mzee Jackson Cheprot Takur, for articulating the issues of your community and more so, for the recommendations that you have given. I will now ask you just a question or two to clarify your presentations after which our commissioners may do the same. Now, I would want to understand the present situation with respect to education especially in terms of how many primary schools do you have at Chebyuk and perhaps even secondary schools.

Mr. Johnson Cheprot Takur: We have 16 primary schools in Chebyuk Location. We also have other primary schools in Phase III which are not operating now. They are about five.

Mr. Patrick Njue: What about the health facilities; the dispensaries?

Mr. Johnson Cheprot Takur: We have one dispensary at the border between the Soy and Ndorobo.

Mr. Patrick Njue: And how is the accessibility of that one dispensary for the Ndorobo community and those living in the various areas?

Mr. Johnson Cheprot Takur: Some Ndorobos are still in Chepkitale while others are living near the edge of the forest. So it is not easy to reach that dispensary because we do not have the means of transportation. We have no vehicles or no roads. So we use stretchers to carry the sick.

Mr. Patrick Njue: What about the schemes? I note we have Chebyuk I, II and III schemes. You do not talk something little on the schemes?

Mr. Johnson Cheprot Takur: In the beginning, there was no scheme I, II or III. The whole scheme was Chebyuk Settlement Scheme in the beginning which was entirely

meant for the Ndorobos, but it was later changed to be phase I, II and Phase III. I do not know how that came.

Mr. Patrick Njue: But it is still the Ndorobos who live in these schemes I, II and III?

Johnson Cheprot Takur: These are the ones who are living in Schemes I and II, but there are those who were to go to Scheme III where the conflict arose in 2006.

Mr. Patrick Njue: Once again, I thank you for your testimony and for articulating the issues of your community. The Commissioners may now want to ask you one or two questions to clarify your testimony here.

The Presiding Chair (Commissioner Shava): Thank you very much, Leader of Evidence. I will start on my right with Commissioner Chawatama.

Commissioner Chawatama: Thank you very much for your testimony. I have one or two questions to ask. When you talked about the heads of families being given 20 acres of land, were all the heads of the families men?

Mr. Johnson Cheprot Takur: Where there was a woman, she was to be given land.

Commissioner Chawatama: And you have examples of where women were given the 20 acres?

Mr. Johnson Cheprot Takur: Yes.

Commissioner Chawatama: The idea to move the Ndorobo, was that a compulsory move that everybody had to move or one had a choice to remain where they were?

Mr. Johnson Cheprot Takur: In the beginning, the Government came and asked them if they could move from Chepkitale, others did not like it. So, they had to vote and those who refused were many while those who shifted were few. The Government left them for a while but later on, they came and made it compulsory.

Commissioner Chawatama: You talked about the ballot system that was introduced when the acreage of land was reduced from 20 to 5 acres. Did you understand the reasoning behind introducing the ballot system? Did you understand what the Government wanted to achieve?

Mr. Johnson Cheprot Takur: No, we did not understand. We were only told that we were going to get five acres and we were going to ballot. People made noise and heckled the PC.

Commissioner Chawatama: Apart from heckling the PC, were you given an opportunity to make any representation?

Mr. Johnson Cheprot Takur: By then, things were not as they are today, once something had been passed, it had to be that way. We were forced and others had even to flee to Uganda.

Commissioner Chawatama: I think those are all the questions I have for you, thank you.

Commissioner Dinka: Mr. Takur, thank you very much for your testimony. I have one question and this is from our hearings yesterday, the day before yesterday and today. It seems that the land issue is really the crux of the problem in this region. As you, yourself, said in Chebyuk Scheme people were given or promised 20 acres per household, then 15 acres, then 5 acres and then it came to two and a half acres. You are suggesting in your recommendation that the Government should resolve the land issue in a sustainable manner. That is throwing too much to the Government. I would like you, if you may, to give us some elaboration of how you would like the Government to resolve the land programme in Chebyuk for your community and others in a lasting manner. What would you suggest if you are asked for your opinion?

Mr. Johnson Cheprot Takur: My opinion is, and I think I have said that Chebyuk Settlement Scheme has become a general scheme for all the residents of Mt. Elgon and we, the Ndorobos, ask the Government not to disturb us in Chepkitale. They should let us stay there and we keep our animals and then Chebyuk settlement be settled for once and for all by those with 5 acres and the two and a half acres.

Commissioner Dinka: When the Colonial government moved your people, it was to make room for white settlers but then after independence, I thought it was to take your community from Chepkitale, which is kind of desolate, to some less marginal land. In fact, the areas that your people have left have become a national park. So how do you think the Government can revoke that and bring back your people to a more marginal land for cultivation? Can you explain that?

Mr. Johnson Cheprot Takur: Even during the colonial times, people were in Chepkitale. The colonialists found us in Chepkitale. So the settlement scheme was just to help us to get food to subsidize the milk and meat, which means we can still stay there and the Government can revert the national park to the original native land.

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

The Acting Chair (Commissioner Namachanja): Thank you, *Mwalimu* for highlighting the issues from the Ndorobo Community. I just want to follow up with the questioning that the Commissioner has put to you. Is Chepkitale a water catchment area?

Mr. Johnson Cheprot Takur: No!

The Acting Chair (Commissioner Namachanja): It is not! So the main reason why your community members were removed from Chepkitale in 1971 is so that the Government can be able to give you basic services, for example, education, water and medical

services? Mr. Takur, did you get my question? I just want to understand more the reasons why the Government removed the Ndorobos from the Chepkitale area.

Mr. Johnson Cheprot Takur: The reason for removing us from Chepkitale was only food. If it was for education or good health they could build schools, hospitals or even construct roads and life would continue. Moreover, crops like wheat could grow there and pyrethrum could also do well there. It is only the question of maize that made us to be brought to Chebyuk. So there was no much reason why they removed us from there. Once they did so, we had agreed that we were to be given 20 acres and above. You wonder how it later on came to be 5 acres. Can this accommodate the animals and people!

The Acting Chair (Commissioner Namachanja): And currently, how many people now still live in Chepkitale?

Mr. Johnson Cheprot Takur: They are very many. They are over 5,000.

The Acting Chair (Commissioner Namachanja): How do the children of the communities living in Chepkitale get education? Do we have schools there?

Mr. Johnson Cheprot Takur: At the moment, there is an NGO through a Christian organization which was trying to build some schools there but the Government is not willing to support that. Even yesterday, they wanted to take some iron sheets there but they were stopped. So the children there are just idle.

The Acting Chair (Commissioner Namachanja): And how do they get medical services?

Mr. Johnson Cheprot Takur: They travel to Kapsokwony or Kopsiro.

The Acting Chair (Commissioner Namachanja): How do they access Kapsokwony or Kopsiro? How many kilometers is it to move from Chepkitale to Kopsiro or Kapkateny or Kapsokwony?

Mr. Johnson Cheprot Takur: About 20 kilometres.

The Acting Chair (Commissioner Namachanja): And what do they use travelling to such places?

Mr. Johnson Cheprot Takur: By foot!

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Takur. Those are all the questions I needed to understand.

Commissioner Slye: Thank you, Mr. Takur. I just had a few questions to try and understand the situation because I am new to the situation. You have an idea of how many Ndorobos could be living today?

Mr. Johnson Cheprot Takur: Pardon!

Commissioner Slye: How many Ndorobos are there today?

Mr. Johnson Cheprot Takur: The entire number of Ndorobos at the moment is about 15,000.

Commissioner Slye: They are about 15,000 and about 5,000 are in Chepkitale and the others are in Chebyuk? And Chebyuk, is it just the Ndorobos who are there or there are members of the other communities that live there?

Mr. Johnson Cheprot Takur: In Chebyuk, we have the Soy communities which are generally the Bok, Somek, and Kony.

Commissioner Slye: And how many other people are there besides the Ndorobo?

Mr. Johnson Cheprot Takur: You mean the other communities?

Commissioner Syle: Yes.

Mr. Johnson Cheprot Takur: They are almost the same.

Commissioner Slye: So there are 30,000 people?

Mr. Johnson Cheprot Takur: Yes!

Commissioner Slye: Thank you. I do not have another question.

The Presiding Chair (Commissioner Shava): Thank you very much, Mzee Takur. I just have one question for you. You have spoken a lot to us about the educational predicament of the Ndorobo people. Your presentation has been very clear, very lucid and very well ordered, but the statement we have from you does not disclose your background. I just wondered about your educational and professional background.

Mr. Johnson Cheprot Takur: I started school in 1959 in a small school in Chepkitale, and then I went to Kapoiyo Primary school in Kaptama Division. We stayed with my aunt and later, we bought one acre of land at the Kapsokwony area and then I joined Kapsokwony High School where I completed Form Four and joined a teachers training college where I trained as a PI teacher. That is my educational background.

The Presiding Chair (Commissioner Shava): Thank you very much, *Mwalimu*. We thank you for coming here today to help complete the picture of what has happened in this region. By giving us the perspective from your people, I think you have stated it in a very able manner and we thank you for your presentation. As we have no further

questions for you, I will now allow you to sit down and listen to the rest of the proceedings.

Mr. Patrick Njue: Well, Commissioners we have one more witness.

(Mr. Willy Songy Masai took the oath)

Mr. Patrick Njue: Good morning, Sir.

Mr. Willy Songy Masai: Good morning, brother.

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

Mr. Willy Songy Masai: My name is Willy Songy Masai. I am the former branch Executive Secretary. I have been in the leadership of teachers for fifteen years and in March this year, the teachers of Mt. Elgon told me to go and stay peacefully but I am still the Provincial Council Chairman of Western Province.

Mr. Patrick Njue: Very well. So you are a leader in matters of education. Where do you live, Mr. Masai?

Mr. Willy Songy Masai: Pardon!

Mr. Patrick Njue: Where do you live at the moment?

Mr. Willy Songy Masai: I am at home awaiting other positions, like I want to go to national politics and maybe the county leadership.

Mr. Patrick Njue: Indeed, all the best. You are seated with us, Mr. Songy, having been a leader like you have said in this area, Mt. Elgon, and we want to benefit from your experience or what it is that you have seen in relation to matters that have taken place here and especially, with the so-called Saboat Land Defence Force (SLDP).

Mr. Willy Songy Masai: It is a bad situation to talk about the SLDF. I am aware because I was in this land when it started and when it ended. The SLDF was formed because of land and it was perpetuated by politics of the land when it came to 2007. Those who owned land in Phase III wanted the survey to be where they stayed. They called it *nyumba kwa nyumba*. The former MP, Mr. John Bomet Serut, had told the people in Phase III that the survey would take place where they were staying. Come 2005 during the referendum, there were two contenders; Orange and Banana. Our MP Serut belonged to Banana but the people of Mt. Elgon and Chebyuk Phase III supported the Orange which angered the MP and then he disowned the agreement he had made with the people on Phase III. He then said that the people would get two and half acres of land which did not go down well with the people.

I was watching the situation because I was in the area and people were not happy. They demonstrated, singing *nyumba kwa nyumba*; that the survey should take place house to house where they were staying. It was the beginning of the problem. Now, those who were saying *nyumba kwa nyumba*, in 2006 came out with the current MP who supported *nyumba kwa nyumba* and told the people that survey would take place where they were living.

There were now two forces as the former MP was saying two and half acres while the current MP was saying *nyumba kwa nyumba*. There was therefore a tussle. They started on how they could stay in this land without two and half acres. Many people resorted to buying guns because they were ready for a fight between the two groups over the two and half acres. The former MP was assisted by the Government which was saying that only the two and half acres could suffice. People in Phase III had more than two and half acres with some having five acres, others ten acres and others had a quarter of an acre, but they were contented. When they were talking of two and half acres for everybody, people resolved it was a matter of life and death.

They then formed the SLDF. They started recruiting the young boys, some of them were removed from schools. Some schools like Chepkukur, Banantega, Kapchebu and Korng'otuny were sources of the young school recruits. They wanted to fight the Government and the former MP, Mr. Serut. Silently, the former MP had also formed his force called Revenge Force. The people of the moorland too had their force, the Moorland Force. I saw all this with my eyes because I was there as a leader of the teachers. I was moving to all those places and I was praying to God to help Mt. Elgon. Those were deadly forces.

In 2006, the war started with the murder of an assistant chief. That was an affront on the Government which was surveying two and half acres. Two other people were murdered on the same day. It was sad. The war was fought with guns. I went round across the district and told my people to bury the guns or we perish. Every funeral and every meeting I attended, I told people that the guns would finish us. I quoted Martin Luther King: "If you cannot end the war, the war will finish mankind." People were determined. The war progressed and people had to flee. The Government reported only 1,000 but I want to tell you that many people died. Many were buried in latrines while others were thrown to the rivers, caves and bushes. I estimate the number to be over 10,000. Up to now, people are not seen, mothers are still waiting, and wives are still waiting to see their children and husbands, respectively.

We are still mourning. When it came to teachers, I buried eight teachers and 30 pupils. Many of my teachers paid taxes heavily. Many of my teachers were punished. Many of them were given 200 canes. Those are the ones who were excused. Many were given six inch nails on the buttocks. Even their lips were locked with padlocks. It was painful. I had not cried even one day but I was forced to at that time. It made teachers to flee this land. Up to now they have not come back. The shortage you are seeing is a result of that. They have sworn they cannot come back. They saw it themselves. They have told us to stay. That is about the teaching fraternity.

With regard to schools, they were destroyed; desks were burnt and books were burnt. They have all started afresh. Six schools were closed down and up to this time, they are still closed. I have been pestering the legitimate Government; where are the children who used to study in the six schools? Are they not going to do more harm than good? That is my biggest question.

About politics, there were two forces. I called them the horses at that time. If there was anything that happened, it was caused by the two forces. First, they incited the people over land. But they had their hidden agenda. They wanted to go to Parliament. That is all what they wanted. Up to this time, the problem is still there. Nobody can cheat you that the problems of Mt. Elgon have ended. Never! The two forces are still there; the current MP and the former MP. They are the deadly forces. They are armed. They have their followers. I have to say that. I know that if you do not see me the following day--- I have said that. The forces do not want their ills to be exposed. I stand to go on record because it was me, during those days, the son of Masai, who only talked and told my people to end the war. The media knows, the radios talked and newspapers were written. I was even on the Voice of America (VOA) defending the people of Mt. Elgon. I was crying and asking why we were killing one another. If it is land, let us learn from the Indians who only have 50 by 100 feet, but they are the richest people. If it is politics, you will go there for only five years and come back. Let us do the right thing. I was emphasizing on peace. Up to this time, I am still talking about peace so that we can develop as a community.

The war is still there. They were 7,000 people in the Phase III but they are talking of 1,732 who will benefit. Right now, they have given out 500. I want to blame the Government of Kenya because it moved slowly. They would have solved a problem. People are getting ID cards every day and every week and they also want to get the same land. The population is increasing and the land remains the same. They will not manage to solve this. Next time, they will be talking of the remaining 20,000 people. The number is increasing. The Government erred. It should have given those people land immediately; once and for all. I have heard my brother who was here. The problem with Chebyuk is that people are not saying the truth. I have told people to say that truth and only truth will save the land and save us as a community. In 1971, when Chebyuk was dished out, there was an agreement. The Ndorobos had their committee and they were represented well. The 20 acres were divided well and they lived harmoniously. Then the Ndorobos at one time became lazy. They could not slash the thick forest they were given. Therefore, they sought the Soi. The Soi were hard working and were the farmers. When the Soi were told to come, of course, those people inter-married each other, are in-laws and brothers. The Soi came and some bought the land, some were given, some were told to slash and use it for a while. Then another problem arose. I want to tell the truth. Let even God hear. The Ndorobos became drunkards. They drank *chang'aa*. In the course of their dining, they had no money to buy alcohol. They were selling their land to the Soi. When they saw the land they had sold had been cleared, they now started complaining. They had finished their land. They had to start to complain to the Government that some people had snatched from them the land they had been given. It went on as a battle and

then came the Ndorobos. They started buying guns. That is the truth. Up to 1979, many people lost their lives. That was the genesis of the deaths. It went on like that. They were coming at night with unfamiliar language, killing people and going back to the trust land where they were grazing their cattle. That went on up to 1989 when the Government, after realizing that, had to send the PC, Mr. Francis Lekoolol. Mr. Lekoolol talked with the Ndorobos. He became a bit cunning. He accepted that they would give the Ndorobos 50 acres each. He was talking about five acres. When he came to announce, he announced it as five acres. People received that very badly. That also created unrest. They were not given the land where they were staying. They were given elsewhere and even the development they had made was not going to be there.

That brought problems which went on, but the Government had given a ruling. Up to 2005, the MP also claimed he would give them land where they were staying and it would be surveyed. That is how the SLDF started. I want to blame the Government because of SLDF. The Government was wrong. Although the Army was very deadly, it was real and had silenced everybody. It silenced the APs, the police, the GSU and the Rapid Deployment Unit (RDU). There was no way the Government was going to defeat SLDF. It was a deadly force. We are the people. I want to be on record that I talked to the DC, Piriki and asked him why people were dying and yet, the Government is there to protect people and property.

Two weeks later, the very force attacked the DC's residence. It had become serious. I went to the PC, Mr. Mwasera. I told him things were serious. He promised to act. I left him. The Government had to send a force; it was the Army. Although the SLDF was deadly, the Government used excessive force. Up to this time, as I am talking, we talk as we shed tears of sorrow. We do not have youths in this land. Women and wives are desperate. We have no men. The Army castrated the youths. The future generation is not there. They used excess force. That is our cry. Although the Army assisted us greatly, they did more harm than good. Anyway, we still pray that they do not use that again. Let them use amicable ways so that they are safe. The Army used bombs, *Kifarus* and every means they would have used against another country. It was unfortunate. Mt. Elgon was trembling; the bombs were shaking the land. It was sad.

It extended to even areas that were not involved. Many people were arrested and they were tortured by the Army. I saw it. Although I was not arrested, I saw the nasty things that happened. Mt. Elgon was not safe. Even at this time, we are still trembling. We are still worried. If you talk of the Army, I think you have to tremble.

When the Army came in, they solved a problem. But when it came to the time they were giving food and money, there was a lot of corruption. It was as if the money was sent to the rich. The poor people have not benefited. They first of all sent Kshs10,000. The office of the Provincial Administration should be investigated because, instead of giving Kshs10,000, they gave Kshs6,000. That made the people angry. There is no justice in Mt. Elgon. They gave Kshs25,000 to people to build houses but it does not go to the people who deserve. They gave food - and I want to thank the Government and other organizations that have been helping - but that food is not reaching the intended people.

I now want to tell you about those who were displaced. I blame the Government again. They have not thought of assisting the IDPs in Mt. Elgon. We have so many IDPs. Many of them have nothing to eat and nowhere to sleep. This has led to their children not learning. They learn today and tomorrow as they move. The Government should think of the IDPs in Mt. Elgon and settle them very fast. We have many IDPs ranging to 10,000. They are in Telde, Mt. Elgon and nobody is thinking about them. The Government is not ready to give the people of Mt. Elgon their land.

In 1966, Timboroa was opened. Every tribe was there but later on, people were sent away. Those people were not given alternative land. They are still squatters today. Raramwet was opened later but people were just chucked out. To date, they have not been given alternative land. Then there is a place called Kaptega which was dished out by the very Government but today, people have been chucked out. Then came the Chebyuk Scheme. They have been playing about with that land; 80,000 acres was in exchange, but they have only given 13,000 acres. Where are the rest of the acres in exchange? That is the Government. But the leadership of the land is also in question. They have been using the land for political gain. Every time someone wants to go to Parliament, they say: "I am the one". Those who are desperate will always agree to that. That is the scenario. The Government has to address the land problem in Mt. Elgon. If it cannot, then nothing is going to be done. Those people are still fighting. They do not fight other people. They fight and kill themselves.

At first, the people who were fighting were the Bukusus and the Sabaots. That was like neighbours quarrelling and it was not serious. The war which started in 2006 was serious. It was not about the Bukusu, Teso and other tribes. It was the Sabaot community fighting each other. One man who came here to try to salvage the situation, Mr. Karega Mutai, said this about the Mt. Elgon: "The people of Mt. Elgon are hyenas". A hyena cannot eat its offspring. But if a hyena eats its offspring, it has reached the end.

That is what I wanted to tell you. I now want to tell you what can be done. Do this and the people will be safe. Settle the IDPs once and for all. Let the Government be as transparent as possible. If we cannot settle them, we would be failing. I want to repeat that the conflict is not ended yet until you settle the people. Many people are still without land. What do you think they are saying? The remaining 5,000 people are not yet settled. The people are impoverished. Their children are not learning. Teachers have fled the land and there is a big shortage. The closed schools should be opened. Peaceful elections should be conducted. We should not have elections that threaten people from door to door. The Police Force should be fair in their duties. The elders should be given a role to reconcile the people. The old people should be listened to and respected; release the innocent youth from the cells; those who did not commit a crime. We could be reconciling them now. Those who are guilty, let them be sentenced. What is the reason for detaining them without sentencing or releasing them? The candidates using the youth in campaigns must be stopped and checked. I have been told to end there and I will respect that. Thank you.

Mr. Patrick Njue: Well, Mr. Willy, we did not ask you to end there but, by making your recommendations, I would expect that you have come to the end of your presentation. Nonetheless, I salute you for that history. Indeed, personally, I think I have benefited quite a lot to understand the Mt. Elgon issue following your presentation.

I also want to commend you for your call for peace persistently, even when all these issues were taking place. I would encourage that you continue doing the same in spite of your fear that, perhaps, by having mentioned one or two people or having come out clearly in the open and in public, you may not live to see another day. I will encourage you by telling you that like the great men and women who have stood for such worth and good courses, those who never live to see another day, in so doing, do not go or die in vain. Indeed, they say you may kill the prophet but if the word is out, then that word lives to liberate the people.

I will ask you a question before our Commissioners do the same. This is in form of clarifying so that our international Commissioners especially, would understand. You talked about the 2005 Referendum and there was the *Ndizi* which I understand to mean the banana and *Chungwa* for the orange. Again, you can confirm that the *Ndizi* and *Chungwa* represented the Yes Camp and No Camp, respectively. You said that the Yes Camp was led by the former MP, Mr. John Serut and the No Camp was represented by the current MP whom you did not name. For the record, would you state the name?

Mr. Willy Songy Masai: The 2005 Referendum is the genesis of SLDF. It is true that the former MP Mr. John Serut was supporting the Government on the banana side. Silently, the current MP had not come out strongly. He was still hiding behind the scenes but he was there. Mr. Serut was a man who did not associate himself with failure. When *ndizi* failed and he had promised the Government of President Kibaki that he was going to deliver but failed, he was annoyed with the people who voted against *ndizi*. All the plans that he had made to survey door to door had to be dismantled. That led to the formation of SLDF.

Mr. Patrick Njue: I asked you if, for the record, you could name the current MP.

Mr. Willy Songy Masai: The current MP is well known. He is still there. He is Mr. Fred Chesebe Kapondi. He is our MP.

Mr. Patrick Njue: Once again, I want to thank you for coming out in bold and brave narration. As I said, I wish you the very best in leadership. Our Commissioners may now ask you a question or two.

The Presiding Chair (Commissioner Shava); I will commence on my left with Commissioner Dinka.

Commissioner Dinka: Thank you Mr. Masai for your very enlightening testimony. As a non-Kenyan in the Commission, I have truly gained more insights into the problems besetting this region today. My question is just to clearly understand: You mentioned that

after the 2005 Referendum, three forces came into being; one was the SLDF and then the Revenge Force and some called Mooreland Force. Can you briefly tell us who those three really represented?

Mr. Willy Songy Masai: The SLDF represented the Soi. Revenge Force was that of the former MP which he had formed with a few of his followers to tackle the SLDF. Then, we had the Mooreland Force which was to tackle the SLDF. The SLDF were to tackle the Mooreland Force. The Revenge Force was to revenge on behalf of their own people. Later on, the Mooreland Force and the Revenge Force joined hands against the SLDF. SLDF was, however, stronger. At no time did the SLDF enter the Mooreland Force. In their land, they were also deadly. The Revenge Force was just within.

Commissioner Dinka: If I understand you correctly, the SLDF was for the Soi people. The Revenge Force was for the former MP. But the Mooreland Force belonged to whom?

Mr. Willy Songy Masai: The Mooreland Force was for the Ndorobos.

Commissioner Dinka: What you have been saying to us is really a huge amount of information to digest very quickly. With the permission of the Chair, I would ask if you could make your statement, which we do not have, available to our people there. They would then in turn make copies available to us. I think this is an in depth analysis of the problems of the region from a teacher who has spent his life teaching everybody and not limited to one community. I think that will help us very much. I really thank you and salute your courage for coming out so bravely and mentioning very powerful names. I assure you that your guarantee of survival is your mentioning those names. So, even if you have a serious migraine today, we know where to start investigations.

The Acting Chair (Commissioner Namachanja): Thank you so much. Maybe, on behalf of fellow Commissioners outside this community if you can also elaborate what you mean by *nyumba kwa nyumba*.

Mr. Willy Songy Masai: The first Commissioner has asked me to record a statement. Indeed, I have done that. I even gave my testimony to Prof. Philip Alston. I gave him my booklet about Mt. Elgon. I have given the Minister of State for Provincial Administration and Internal Security a copy. That is why he was working on it.

On *nyumba kwa nyumba*, this is to survey where someone is staying for someone else. They did not want the survey to transfer them elsewhere. They would say: "Survey for me where I have been, but do not transfer me from there." It was a *nyumba kwa nyumba* survey.

Commissioner Farah: Mr. Masai, thank you very much for your long testimony. It is going to be of a lot of value to the Commission. Let me ask you one question. The Ndorobos were given land in Chebyuk Settlement. What I do not understand is why they later sold their land and then, as you claimed, they started drinking *chang'aa*.

Now, they want more land. Do you not think that if the Government gives them land they will sell it again?

Mr. Willy Songy Masai: It is true. It is a game of *paka na panya*. This is not the first time. Even tomorrow, if they are given more land, they will sell it. I would urge the Government to give these people land with restrictions. If they want to sell it, they have to follow some procedures. The Government must be very strict; it should not allow them to sell land.

Commissioner Farah: Thank you. Now, I understand that problem.

Now, having sold their land, why did they form the Moorland force? What are they fighting for?

Mr. Willy Songy Masai: The Moorland Force was formed to check the SLDF. The SLDF formed a strong force and it was causing a lot of suffering to people. So, they had to form their own militia group to protect themselves. I still insist there are guns in Mt. Elgon. Let the Government do all it can to make sure those people surrender illegal guns in their possession. It is a lie to say they do not have those guns. Our land is not safe. There is no peace in this district. People are not friendly. They sold their land and they want now to occupy our land. There is no conflict between the Bukusus and the Tesos. However, the Soi and Ndorobos communities are not friendly. It is as if they are in war with each other. One day, this situation will lead to war between the two communities. So, the best thing is the Government to mop up all these guns. Thank you.

Commissioner Farah: You mentioned the former MP, Mr. John Serut. Who is the current MP?

Mr. Willy Songy Masai: Mr. Kapondi is the current MP. I had mentioned his name.

Commissioner Farah: Maybe, I missed that one. It is fine.

Commissioner Chawatama: Thank you so much for your testimony. The last two days, we have heard testimonies from a number of people who have testified before us. You have managed to fill in a lot of gaps. At the same time, you have managed to confirm quite a number of things that we have heard. You have reminded me of the importance of social contracts that leaders have with their people and the importance of honouring them.

I would like to thank you. It is my prayer that by testifying before us, your life has not been endangered. I believe you still have a lot of contribution to make. I pray that the Lord himself preserves you. Thank you.

The Presiding Chair (Commissioner Shava): For me, I just have two quick questions for the sake of clarity of the record. At a certain stage, you told us how teachers suffered. You said you knew how they suffered because you as a person you intimately interacted

with them in the course of your work. You said that many of the teachers paid heavy taxes. Those who got lighter punishment were given 200 canes. Others, after being convicted in some manner, had 6 inch nails driven into their buttocks. Who was doing these to them?

Mr. Willy Songy Masai: They were tortured by members of the SLDF. They were demanding money from them. If a teacher was not talking well, and promising to give out this money, he was tortured. Sometimes, they received 200 canes and a six inches nail was driven in his buttocks. Sometimes, a six inches nail would be used to sew up his lips so that he remains silent. That “padlock” was unlocked at Bungoma District Hospital. It was sad. It was said that some teachers were very talkative and they had to be silenced forever.

I want to tell you that the punishment of SLDF was deadly. That is why you see the name Janjaweed. Janjaweed is the tactics they were using. They were using heavy punishment, so that if they threatened others not to follow their ways. Janjaweed is a word that they learnt from Southern Sudan. They learnt from Southern Sudan that if you punish the people, they would yield to what you want. That is why you hear the word Janjaweed.

The Presiding Chair (Commissioner Shava): Thank you very much. From what you have said, I have to follow up with a question. You know this area very well. You interact with people. You have said also that the guns are still there. So, it is my understanding that the SLDF is still there. Is it your take that they will use different tactics in executing their war? Have you seen what they were doing to the youth? Now that most teachers fled that area, what will happen to their children? Do you have a sense that should the next war come, it would be prosecuted in a different manner?

Mr. Willy Songy Masai: When it starts they will not use the guns. They will probably start by stealing cattle. Even the 2006 war, when it started, people started by stealing cows. After they had stolen enough, they started killing people.

I know that they can use other tactics, killing. But when the war escalates, they will use the guns.

The Presiding Chair (Commissioner Shava): That is a very sad prediction. But I can see the foundation for it.

The second question I have is about the military. You said that they used bombs and Kifarus. I am not familiar with that term kifarus, maybe, you could explain.

Mr. Willy Songy Masai: When the army came on 9th March, 2008, we told the army to come in a light way. But they were heavily armed. They made their base at Kapkota in Cheptais. In Kapkota, that is where they were throwing their bombs into the caves. In those caves, we had our people. In fact, we lost so many people in those caves. They used aeroplanes to monitor and co-ordinate what was happening on the ground. Helicopters were used to chase after those who were running away.

As I said, the Government used excessive force. They used bombs on innocent Kenyans. It was very not easy to say who was a real SLDF and who was not. It was really sad. They would have, first, established who was a real SLDF before using excessive force on us.

The Presiding Chair (Commissioner Shava): Mwalimu, I am not sure if you understood my question. I heard you say the army was using kifarua. What is kifarua? To me, it means rhino. I am not very sure you used that term or I misheard you.

Mr. Willy Songy Masai: I was not referring to an animal. These are very powerful machines that are normally used during a full scale war. For example, if Kenya is at war with Uganda, Kenya army may resolve to use these machines.

The Presiding Chair (Commissioner Shava): I have understood you now. Thank you very much for all those clarification.

Mwalimu William, son of Masai as you have referred to yourself, the Commission thanks you for coming here today, and speaking so eloquently about the problems. Your testimony has been very balanced and very truthful. You have not in any way, tried to evade difficult issues. As has been said by fellow Commissioners, you have helped this Commission tremendously by what you have said. If we are not in possession of your documentation, we shall ensure that we do so.

I would like to ask the Leader of Evidence if there were any documents from this morning's testimony that should formally be admitted into the record of the Commission.

Mr. Patrick Njue: Commissioner, we only have statements in briefs that have been taken from the witnesses, if the same could form part of the records of this Commission.

The Presiding Chair (Commissioner Shava): The documents are so admitted.

We can proceed, Leader of Evidence and master of ceremony.

Mr. Patrick Njue: Commissioners, that brings us to the end of the witnesses we had from our desk. We thank you for the time.

(The Commission adjourned at 11.20 a.m.)