



**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION HELD ON FRIDAY 21<sup>ST</sup>, OCTOBER, 2011 AT MUSEUM HALL, KITALE (*In Camera*)**

**PRESENT**

**Tom Ojienda** - **The Presiding Chair, Kenya**  
**Berhanu Dinka** - **Commissioner, Ethiopia**  
**Margaret Wambui Shava** - **Commissioner, Kenya**

**IN ATTENDANCE**

**Mr. Patrick Njue** - **Leader of Evidence**  
**Mr. Simon Njenga** - **Hearing Clerk**

*(The Commission commenced at 4.05 p.m.)*

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

**The Presiding Chair** (Commissioner Ojienda): Welcome to this afternoon session. This is an in-camera session. One of our colleagues has been delayed but he is coming. I will start by letting you know that everybody that you are seeing here is working for the TJRC. The cameras you are seeing here are not from the Press or the media. They belong to the TJRC and we are using them to keep our own records. This will not be made public. So you can relax and speak your mind without any hesitation. This will not be seen by anyone unless you want it to be seen by people. With that, Leader of Evidence, start guiding the witness.

**Mr. Patrick Njue:** Thank you, Presiding Chair. For the record, this is Witness Kitale No.8.

*(Mr. David Mwaura took the oath)*

Good afternoon, Sir?

**Mr. David Mwaura:** Good afternoon.

**Mr. Patrick Njue:** Please, tell us where you live and what you do for a living.

**Mr. David Mwaura:** *Jina langu ni David Mwaura Kinyanjui. Ninafanya kazi ya kibarua katika area ya Cherangani, Kachibora.*

**Mr. Patrick Njue:** Is that where you live?

**Mr. David Mwaura:** *Hapo ndipo ninapoishi.*

**Mr. Patrick Njue:** You are here following a statement that you recorded with this Commission on the plight of IDPs following the 2007/2008 post-election violence. Could you confirm that, please?

**Mr. David Mwaura:** That is what brought me here.

**Mr. Patrick Njue:** Now that you are ready, you can start making your presentation.

**Mr. David Mwaura:** I am ready to make my presentation.

I was a resident of Turbo in 1998. That is when I bought a plot there. At that time, I was employed at a tea factory in Kericho and I had been working there. My wife remained behind at the plot. In 1992, after the elections, tribal clashes started. I had gone home on leave. When I was on leave, together with my wife and our two children, screaming started and we heard that there was fire outside. We went out of the house and I, personally, met people from the Kalenjin Community. They cut me on the forehead. I fell down and they hit me on my mouth where I lost a couple of teeth. When that happened, I lost consciousness. Later, when I regained consciousness, I realised that my wife, who was pregnant at that time, had been shot with an arrow on the left side of her stomach. At that time, she was bleeding profusely and we started looking for a way to help her. It was very difficult at that time because the Government did not bother about IDPs and those people who had been affected by tribal clashes.

I took my wife to Kericho where I was working. She kept on being affected by heavy bleeding and the money I was earning at that time went towards treating her. On 9<sup>th</sup> April, 1997, in the middle of the night, she died and I was left with three children. I lived in Kericho and continued to do my work. I was promoted to an assistant manager and my life was not so miserable. I managed to educate my children and helped them to get jobs.

In the year 2000, after the NARC Government took over, it got to a time when we were told that if one had an issue in Kericho, you could write and put it in the suggestion box. The natives of this area thought that Kericho belonged to them and they started writing letters insisting that they also needed promotions and wanted to get work. The Director, Mr. Koech, kept on calling me to his office all the time. I would teach people how to work and they would be promoted to be senior managers. I would remain as their junior.

At one time, I was talking to one driver who was a Kisii by the name of Evans. He told me that in Trans Nzoia, at a place called Geta, North Kisii, in 1992, there were no tribal clashes. I had some money because I used to engage in second hand clothes business and also had my salary. So I went to Geta and started a business there in 2005, around the time that we had the referendum. At that time, there was demand for bananas and oranges and my business started flourishing, making my life better.

In 2007, I had opened a business in Geta and another one in Kapcherop, which is within Marakwet Area. My son was running the business in Kapcherop. I would go there to buy cattle to come and sell. At that time, just before the elections, there was talk and people were saying that if Raila did not win...The Marakwets kept on saying that we would carry our clothes in paper bags.

On 13<sup>th</sup> October, 2007, the MP for Marakwet West, Boaz Keino, said that if the Prime Minister does not get into State House, he did not want to see anybody who is referred to as a creeper. We were referred to as the grass that creeps from below. It was at Kapcherop that he said that. The youth were moving around and I thought that the Government should look into that. Calendars would have illustrations of State House with Raila entering its gates. When someone sees himself rising to a certain situation and does not make it, this can lead to bad things. People like Boaz Keino were inciters and that is what affected us in 2007.

In 2007, December, after it was announced that Kibaki had won, Mr. Boaz Keino held a meeting on 30<sup>th</sup> at the market where we used to buy our cattle. He said that since the Prime Minister did not get the seat, everybody should leave the area. I was in the shop and had to send my son to go fetch the cattle. We left with nothing. There is no Kikuyu who left with anything from that area. No Kisii also left with anything from that area. In Kapcherop, there was no Kikuyu or Kisii who had a farm. They were all business people. We were told to leave and I did not go into the police station. I went straight to Geta to see my son and how the business was fairing on. When I got there, on the night of 31<sup>st</sup>, they attacked a place called Matopo. They were singing songs praising ODM and burning down houses.

On 1<sup>st</sup> January, there was a meeting. The Kisiis thought that they could meet and prevent further conflict. They were talking at about noon. It reached a point when they decided to go and eat and see what they can do. However, before they could eat, war broke out. The fighting broke out, and people were beaten and houses were burnt. They attacked a friend of mine called Lazarus, who will be making a presentation to this Commission. He was hit with an arrow. Everything of his was burnt and he had no clothes to change. I also had to look for friends to give me clothes. On 2<sup>nd</sup> January, I was still at Geta. Security officers came in very early in the morning. People continued to attack the area but we left with the security people. They were carrying away cattle and that is when I realised that a human being was just a human being. Some of the security personnel who came to help us were taking sides because people would run but they would not do anything about it. Someone went to the bush and shot one of the security officers with an arrow on the foot. This was a policeman by the name of Mwangi. The policeman who was with him left him in pain but I stayed around and tried to help him.

On the same day, when we were at the Geta Center, I was very bitter because my wife had died owing to the same issue and now my house had also been burnt down. I used all the money I had to buy maize. All my money was invested in different businesses. I was very bitter. I said that they should all perish and I knew that if the people of Geta heard about that, this would cause problems. Since all these people had not known what the

fighting was about, they all left. I was left with two policemen and I had to show them where the burning had started. We moved on but one of them started lagging behind. The other one insisted that their rule says that they must, at least, move in pairs. Since I was not a policeman, they insisted that he had to go back.

So I went round through a short cut and met a young boy who was with this Marakwet young man. They were wearing red clothes and in sports shoes. I asked him where he was taking the sheep and he said that they were his grandmother's sheep which had been stolen by the Marakwets. He was from Cheptabut. He told me that he had come from Cheptabut. I asked him whether he had come all the way from Cheptabut and why he had come all the way and yet things were being stolen and taken up there. He told me that his grandmother is the one who had asked him to take that action. As I spoke to him, I removed my *machete*. He did not remove his own and I stretched my hand to take the one that he had. I removed a rope that I had, tied him and took him to the center. When I took him there, some GSU security men who had come from Chesogon spoke with him. He told them that he had come from a place called Tot. He said that they had been brought in caravans three months before and they had only been taught how to greet people and how to ask for water. They had also been shown where the boundaries were. They were told to attack areas which were close to the boundary and in specific, a place which had been renamed Kisii. -When the youth confessed, I knew that I had now known the truth and these issues had been pre-arranged. The security personnel then took him away.

On 3<sup>rd</sup>, very early in the morning, we thought that it had become safe. We were walking along the Elonge area and I told you that you are made a victim by the people that you stay with. On 3<sup>rd</sup>, we woke up about 5.00 a.m., and went to Elonge. The place faces an area called Enyukwa, which is inhabited by Kisiis. The area where we lived was also inhabited by Kisiis. From the way people approached one another, we thought that everything was peaceful. Just about that time, three young men came out and we saw houses being burnt at a place called Soko Mjinga. That area was also inhabited by Kisiis. This is also an area which lies on the boundary of the Kisiis and the Marakwets. We were not many and we were advised that if we went to the place where houses were being burnt, we would overcome them because we were about 50. I told them that they may be seeing three people and the rest could just be hiding. We waited and some of them approached us. They asked whether we had any security personnel amongst us and we said we did not have. They then said that we were not so many. They then went away but came back to pick a Luhya man and a Marakwet who were with us. At around that time, people had finished harvesting so about 300 people came from their farms.

When they stood up, they looked like they wanted to run away but we went up to the river. The trees that Kisiis plant, called *Ngoja*, are trees that you cannot cross in front. So we went across to the other side. They were standing across where we were. I told a young man who was standing next to me that one person looked like he had a firearm and we should lie down. He turned around and ran away. However, he was hit by a bullet at the back of his head. I went back with him and I said that I would not go to that area again because I already knew what I wanted to know. They were a very big group. It is

hard to have somebody, even if it is the Kikuyus, to mobilise almost 300 men instantly to start fighting.

On 4<sup>th</sup>, I left Geta. When I was on the way, I met somebody called Chewi, who was one of the retired security personnel. He told me: "Why can you not tell Kibaki that these people do not recognise him as the President up to now? The area we live in, Cherangany, does not recognise the leadership of President Kibaki. They do not recognise that there is any authority that can change their mindsets." As I was talking with him, he told me, "tell him not to give up the seat to Raila because I do not think the fight will end". We stayed for about five days. During that time we were staying in a place called Anoigam. The security personnel had told us that if anything came up, there was an OCS called Ndura, a Kikuyu. He had said that should there be an attack, we should not rise. They attacked the place we were staying at night. We used to cover ourselves with blankets when we were sleeping and we used to share. There was one old man we left where the other Commissioners are. When we asked him what he wanted, he said that he had come to look for his stolen cattle. They would ask for a *panga* to cut the ropes. There was a bullet which was shot in the air and one lady who was Akorino, pleaded with them not to take away all the cattle. She was shot dead and the child she was with was also hit by stray bullets. The kid died later on.

The violence was not just about the elections but there was a hidden agenda among the Kalenjins who would hit their chests and say that all the land belonged to them. They said that if you wanted to know that all the land belonged to them, they would not issue you with a title deed even after you bought it. That meant that you could be evicted any time. We know that they use force and they do not offer services to a person from any other tribe even if you deserve it. We have offices there. We have the office of the area Member of Parliament, hon. Joshua Kutuny, who hails from Kachibora.

There was a DO's office there and there are documents where we wrote down all the losses that we incurred. They reduced everything that I had written down because they had the authority to do so. He knew that I was a victim and I needed the documents. So I preserved and said that I would have it the way it was written. The document says that we were living in a tent and that we had no residence. We were given a two-roomed tent meaning that we had to wait and see what the Government would do for us. This is the house they burnt down in Geta together with the damages that had accrued. We know that even if we talk about reconciling, you will see that these people are quite different. I will briefly refer to this document before I continue. That is how I have been affected from 1992 up to 2007.

With regard to reconciling, when they realised that their aim of repossessing the land was not achieved, at the center, one of their spokesmen said, "why can you not tell Ruto to stop fighting because Mungiki will finish our people"? Ruto must be one of those who were leading the group.

Secondly, their meetings, I want to inform you today, are not done the same way we have our meetings as Kikuyus. When Kikuyus have a meeting, it is known instantly. However,

for them right now, even if hon. Ruto came to Kitale, Cherangany or anywhere else to hold a meeting, there are things that are done. The youth do not attend the meeting. Their youth tell their friends to listen through the public address system. They get to hear the same night whether it is Ruto who spoke or whoever spoke. Whoever has spoken goes back to the youth and speaks to them secretly. That is how some of these things are planned. They are planned by these people and they are very secretive. I have attended one of the night meetings. It was not possible for me to stay on because one elder who knows the people around is sent together with the village elder to inspect everybody. They speak in their language. They have three languages that they use. They also have names that they call one another and they can approach you to tell you to go away before their leaders arrive. When they plan these kinds of attacks, they are very secretive and they hold the meetings at night when people are asleep. Even if Ruto came with an aeroplane and landed here at night, you would not know and he would not go back in the same helicopter. I know these things because I have lived among the Kalenjins for a very long time. I have lived with them in Kericho, Turbo and now in this area.

One thing I would like to inform the Government is that, it is making the victims to become hardened and they will most certainly repeat what they did. A time came when people wanted to reconcile and the Government started distributing aid that they were receiving from the UN. It was in the spirit of good neighbourliness. In the area that I live, they are the majority and they are the ones who were distributing the aid. They would share amongst themselves much more than the IDPs. That means that if they get another opportunity, they will repeat those things because they know the benefits that they get.

When the *Operation Rudi Nyumbani* came, I wanted to go back to Geta to start my life again. There was an Administration Policeman who had been taken there to take care of security. One day, there were gun shots about 1.00 am in the night. I asked him what was happening. In the morning, he told me that the people we were living with would not leave the land because they had firearms and there was only one way that they spoke. We were thrown out of Marakwet; those of us who were running businesses there and in areas of Trans Nzoia East. You will hear the same people saying that they were also evicted and you wonder where they were camping because all the people that were evicted were in Noi Camp and the population of Noi Camp was about 18,000. After the "Operation go Back Home", those that remained there were left in tents. Before we include the integrated IDPs, we had 32 tents. When all of us were given money, we were 185. We were 133 initially, but the rest, who were integrated were added. They did not want to get into the vehicles to be taken back home. I believe they wanted to remain behind so that they can continue to inflict pain and suffering on people.

The other thing is that these people live by telling neighbours that there is peace but what they have in mind is simply conflict. Within them, there is no peace. I have spoken to the chief and he told us to go and report wherever we wanted. When this Commission came in, I am the one who talked about this. I took the TJRC poster but he told me that I was wasting my time and that I should go to Nairobi and they would continue to stay. Through this Commission, I request that we find ways of sorting out these issues with the Kalenjin Community because this is something they have inculcated among children.

There is tribalism among them and they blame it on elections but the problem is not elections. This is mainly a land problem. They sell their land willingly but they come back wanting to repossess it. My question is, they take money and grab the farm from you again. What country do we live in? If we are all living in Kenya, everybody should have their own rights. If you buy land from a willing seller, they should know that they have sold it and it should be known that they have sold it and that they cannot repossess it at some point in future because they have already spent the money.

The other thing I would like to say is with regard to the post-election violence. I was surprised when I read the Waki Report and the Kriegler Report. I realised that they were talking about Tigon and Nairobi, and saying that victims went to the police station and that those who were injured were a certain number and those who died were a certain number. About Geta, they only said that this area was affected. I am the one who had been instructed by the DO to register the IDPs and those who died or injured. This is a photograph that I want to present to the Commission. There are many people in that record who were recorded as dead and the injured. You can see that there was discrimination in this because they did not want what they had done to come out in public. In the Geta, Kipgoy and Kachibora areas, it is only Kachibora that was not so much affected, but the records that I have circulated showed that they had been affected and they are the ones who get the most in terms of aid or help when it comes to the IDP kitty.

Hon. Kutuny tried to request the DC, Matata, to give us time to rent houses. Mr. Matata was the DC at that time and he really affected us because he denied us water, food and clothes. Two IDPs died in the camp as a result of that. When we were uprooting the tents in line with the Government directive that tents should be brought down, hon. Kutuny tried to protest on our behalf by saying that we did not have homes and that we needed to be assisted to get alternative accommodation. We had nowhere to go and I was looking for a place to store some food. I received a phone call and spoke to the priest who is in charge of our local Catholic Church, Kachibora. He told us that we should go to the Catholic Church and spend the night there. In the morning, he called Bishop Crowley, and he had a round table discussion with us. He told us that we could cook and sleep outside the parish until he had worked out a way of helping us. This was very difficult because DC Matata, was opposed to it. However, we thought that with the Kshs10, 000 we had been given each, we should look for alternative livelihoods and we thought that being seen by DC Matata, would be a problem. So we rented houses in Kachibora and since then, we have not received any other form of help.

What surprises me about the Government is that they have been talking about victims but when they get to Kachibora, they do not talk about IDPs. Whenever they think about it, they come up to Kitale and stay in big hotels. Sometimes I have been invited to some of those meetings. Surprisingly, I would attend the meetings but the money I would be given would not be enough to take me to my house. You could be given Kshs500 and then spend Kshs220. At around that time, we had NGOs like Handicap International. I would have wished to speak before them because they did a very bad thing. They were given money which they brought and gave out vouchers. Surprisingly, the people who were

used to distribute the vouchers were civil servants. One of them was from the Meteorological Department. After the vouchers went round, although he never had a car, he managed to get a new car. He had his house built and yet he was not a victim. Some people would burn their poultry houses and then pretend that their houses had been burnt down, so that they could get their houses built.

Our plea through this Commission is that you look into our issues. Talk to the Government because there are victims out there and we have lists together with signatures. Not all of them agree, because there are those who have decided to turn others into projects. We were told to collect signatures and we managed to do so. I would like these people whose names I have given you and who do not have shelter, to be given shelter like the others.

They should stop considering Peter Kariuki, of Mawingo Farm, who has no agenda for IDPs. He just uses them as a project for making money, so that they can benefit together with the Gilgil DC, Mr. Kariuki, who would call for a meeting and people would stay the whole day waiting. During the last minute, he would walk in and ask: "Am I not the Chairman?" The DC would then arrive, greet people and then the meeting ends. Such a person would not want the issue of IDPs to come to an end. I told him to leave me alone because he does not have the plight of the IDPs at heart. He moves about looking for women and it gets to a level where they say that the Government can no longer access funds and people should be given monetary compensation. Mr. Kariuki insists that lunch should be given because he knows that way, he will benefit more.

I would like to urge the Commission to help us so that the IDPs in Kachibora can be assisted. Among them, there are people suffering from HIV/AIDS scourge and they move from one house to another begging. They cannot afford medicine and they have no food. Some of them are elderly people, nearly as good as disabled because their wives are dead. Some of them gave me receipts to bring to the Commission. I also had a record for the disabled whose affairs have never been looked into. I also have a document here about an elderly man who has never been found since the post-election violence. He disappeared in the bush in the Kaptaret area and he has never been seen. There are some whose IDs have never been replaced. I have a memorandum from the IDPs here. Some of them refused to sign the document. I said that I would work in accordance with the Commission's rules. I do not want to make other people my project and anybody to make us his project. This is my memorandum. I was affected and I even lost property. It is a memorandum dating back to 1992. It shows that I had registered those who were injured. I would like the Commission to speak to the Government, so that, in future, there is no corruption when money is being given out. In this list, there is a name of Douglas Mutoka of ID No.34341159. However, on this other list, there is a Douglas Makori whose ID No. is 34341159. These are two different people with the same identity card number. That is theft.

We are affected by those people who misuse the term IDP. Our children are suffering a great deal. For instance, this girl you see here passed her KCPE examinations and qualified to go to secondary school, but her life has been reduced to cooking in hotels.



This girl was admitted to secondary school, but she is now in Kitale doing nothing. We do not get bursaries. It is like they belong to specific people.

I have a record here of people living with HIV/AIDS. Two of them put their phone numbers there, so as to show that they attend clinics. Those in charge of HIV/AIDS project should visit Kachibora. I took my memorandum together with that of my assistant.

The disabled do not get anything. I have been to the offices of the Handicap International organisation, but we have never received any assistance from them. We even have the human rights under a Mr. Were. All what these people do is collect money, but we never get service from them. The DC's office does not receive complaints from the IDPs. When you go there, they will tell you that they are through with IDP issues.

Whenever there is a meeting, you will hear hon. Kutuny say that there are IDPs he will assist. As you know now, his agent has money in Kachibora. He recently told me that there is no other way of presenting our views. The Government should be concerned with IDPs who have nowhere to go and not those who have already gone back to their original homes. There should be a clear cut distinction between the two so that we get assistance.

I was supposed to be brief because I have a written memorandum.

**Mr. Patrick Njue:** Thank you, Mr. Mwaura, for your presentation. I must, first, begin by expressing my empathy for the loss of your family and the suffering you went through in 1992 and the post-election violence of 2007/2008.

Is it your intention that the memoranda and supporting documents you have given us form part of the record of this Commission?

**Mr. David Mwaura:** Yes.

**The Presiding Chair** (Commissioner Ojienda): The documents may be so admitted. Mr. Mwaura, you have given us a tale and a litany of experiences that have seen the loss of your family and property. We feel saddened by your story. I want to congratulate you for the honesty with which you have spoken for the IDPs.

Given that you have lived here for many years, I want to find out whether you think reconciliation is possible between yourself and the neighbour you live with. How can the Government come in to help with the reconciliation efforts? The situation as it is now, it is scary to imagine what will happen in 2012.

**Mr. David Mwaura:** It will not be very easy for our brothers to fight in the next elections. They might want to take some time for people to forget. One day when I was at the market, an old man said that he used to find me in the market, but not anymore. He told me that in Kiambu, there is no name such Kiplagat Wholesalers. I told him that he had not been stopped to rent any house there. He told me that one day, I will come to

Kachibora to look for Matunda Stores and miss it. He said that they have many methods they could use besides burning houses. He said they could use other ways to get cattle and heads of various individuals and throw them on the road. So if you look at how these people live, even if one is a bishop, it is just because of the name and not the sort of person who will lead people to heaven. Women speak in church saying that it is only the Catholic Church that will lead people to heaven and killing someone who is not from your community is not a sin.

We should not use the Peace Committee to bring reconciliation; rather we should use a completely different entity. Some of the people in those committees are traitors. There is a lady, Mrs. Karanja, who is a peace monitor. She has been very mean to us. We pleaded for food from the DC and we were told that there was no transport. We were told to ask our area councilor to transport the food for us. The food was given to that lady and it was sold openly. I have evidence because the Government uses gunny bags and their maize has no weevils. She used to sell the food, but avoided the area we live. There is no peace she is keeping. She is just there to benefit herself. Please, Commissioners, use other people in the reconciliation efforts, because those who have been used before have benefitted themselves. Some of them have bought cars. The Catholic Justice and Peace has been a little bit helpful, but some of its members have benefitted themselves. For example, there is a man called Kariuki, I told him that one day he could also be a victim and the Government may not intervene to help him. He opened an *M-Pesa* Shop with the money he was given to distribute to the IDPs. The Government should use genuine IDP leaders either through the Catholic Church or any other NGO. The Government should not use self-seekers to reach the IDPs.

**Commissioner Farah:** Mr. Mwaura, you said that these people planned this war and so it was not spontaneous. You said that you met a Marakwet boy with some sheep. Could you expound on that? How did you come to know that these people planned the war?

**Mr. David Mwaura:** I met the young man with the sheep at a place in Geta Farm. It is a large farm and the boundary of the Marakwet with that farm is very far. There was acrimony at that time and the owners of the farm had gone to seek refuge at the shopping center. We found the boy right in the middle of the farm. The young man admitted that he was not a resident of that place. He told me that they had been recruited from Tot and brought in covered vehicles. They had been taught to ask for water in Kisii Language because they would attack the Geta area which is inhabited mostly by Kisiis. They were also taught to greet the inhabitants in Kisii Language. I understand the language and so I greeted him and he responded. I realised that he was being tricky. He did not have a phone, but he had a sim card. I found that suspicious. If he had lost the sheep, I am sure the sheep would not have gone about two kilometers from the border. That is why I told you I had those records. It would not be a common thing for the young man to be found there looking for sheep when people had vacated the place. That is why from his statement, I was satisfied that it was trickery. Again, they would come in a group and all them were in sports shoes. None of them had old shoes on. It meant that they were athletes and they could run.

**Commissioner Farah:** My second question is: Had you bought a farm in Ngeta or were you just in business there? Where was your previous farm?

**Mr. David Mwaura:** It was a plot in Turbo. I was evicted in 1992 and I sold the plot in 1994 and went to stay in Kericho. In 2005, I left Kericho for Geta.

**Commissioner Dinka:** When your IDP camp was shut down by the Government, were you given money or something to start life again?

**Mr. David Mwaura:** We were given Kshs10, 000 each.

**Commissioner Dinka:** You were not given land to go back to?

**Mr. David Mwaura:** We were given the Kshs10, 000 each. That is the money we used to rent houses. That is how we live now.

**Commissioner Dinka:** Was the money given to you so that you start your previous business? You had said that most of you in the camp were businessmen and not farmers.

**Mr. David Mwaura:** We did not understand because the money was given to everybody, including those who went back to the farms and those who had no farms to go back to. We did not know what criteria the Government was using to determine because even those who went back to their homes were given farm implements and seeds. They were still given Kshs10, 000.

**Commissioner Dinka:** In your statement, you said that you represent about 204 people. You said that the group is composed of members of the business community operating in business centres and included timber dealers, shoemakers, shopkeepers, tailors, hawkers, hoteliers, and butchers. So the idea was for you people to go back and restart your business and not farming. That is, probably, what the money was for.

You mentioned some names, for example, Mr. Boaz, who was going round saying that “*madoadoa*” will have to be removed. Is this person alive?

**Mr. David Mwaura:** He is the Member of Parliament for Marakwet West.

**Commissioner Dinka:** Did he make this statement in public?

**Mr. David Mwaura:** This was before the election. It was in a public rally. Most of the time they would say that in their mother tongue. Amongst us there are those who understand their language. I, personally, do not understand the language very well. However, when they talk of weeds or spots, I would know what they were saying.

**Commissioner Dinka:** You were there at the meeting?

**Mr. David Mwaura:** Yes.

**Commissioner Dinka:** You mentioned that the young raiders came in singing ODM songs. They could have been ODM supporters, but not necessarily people hired to create chaos. Do you have concrete evidence that the people who were singing ODM songs were actually the ones going round burning houses and killing people? Just singing ODM songs does not make one a criminal!

**Mr. David Mwaura:** It is only that the burning of the houses was concurrent with the singing. The killings also went on at the same time as the singing. There was a group of more than 300 youth. That is why I believe that it was not spontaneous. It would not have been easy to mobilise 300 people who would know the boundaries instantly. That shows that there must have been a pre-arrangement. I am not a resident of Kitale and I would not know properly where, say, Alakara Hotel is. If I skip all other houses to go and burn Alakara Hotel, it means that I have either been directed or trained. The young man said that they had come from Tot which is very far from Kapcherop. It means they had to come via Eldoret. They did not touch any of the Marakwet houses.

**Commissioner Dinka:** You said that the Marakwet raiders went to the police station where the IDPs were seeking refuge and actually threw some bombs in the compound. I do not know what para-light bomb is, but it is some kind of a bomb. They then took all the cattle, chicken and every other thing that belonged to the IDPs. How did the police react at that time?

**Mr. David Mwaura:** I would like to correct that a bit. They did not throw a bomb. It is just a bullet that gives out some light. It is also the bullet that they used to kill a woman there. They did not take away any chicken or sheep. They only took cattle. The policemen had come out to try--- Many IDPs would have died. There were no houses. We were just in an open field and it was at night. The police and GSU had to wait for calm to return. After that they tried to track the cattle. A few of the cattle were recovered and they came back with one person they had killed - who had a firearm - in the vehicle they had used. Had they reacted immediately, IDPs would have been caught in the cross fire. It is good that they did not do that at that time.

**Commissioner Dinka:** You have seen what happened in 2007/2008 and since then, you have been in IDP camps. You are now back to normal life. What do you think is the prospect of peaceful elections in 2012?

**Mr. David Mwaura:** The things that our leaders are doing hurt. There is an instance where in Eldoret, the Deputy Prime Minister and Minister for Finance and hon. Ruto were seen taking milk and reconciling. I do not see what he or Ruto lost, so that they talk of reconciling. How do they expect me, as Mwaura, to take the matter as having been finished? Our leaders, especially Members of Parliament, are very arrogant. They believe that everything they say is what should be heard and followed by everybody. I have been tracking issues since the Government of Kenyatta to date. Moi taught his people to fight. He left it to Ruto, who decided to be the Kalenjin spokesman. That is why when people were supposed to leave Mau, they started making noise saying that they were Kenyans. I

asked myself whether Kalenjins were the only Kenyans that we had. Are Kikuyus and Kisiis not Kenyans? Should they not complain when they have been victimised? We should look for a lasting solution. People think it is a joke, but there was war between two communities, forcing one to cross into Uganda.

I would request the Commission not to follow the leaders because they are satisfied. They have enough. They are only looking for ways of retaining the seats for their own benefits. When they take milk and say they have reconciled, they are not thinking about us. Some of us have lost children because of hunger. There is nothing he has lost, but I am the one who has lost. I ask the Commission to ensure that we, the victims, and the perpetrators sit together and discuss, so that we reach reconciliation. We should not have some people arrogating themselves the responsibility of speaking on behalf of victims.

**Commissioner Dinka:** Thank you very much. I would like to tell you how sad I am for the tragedy that you have raised; the death of your wife, loss of your child and also the difficult situations that you have gone through ever since. I hope that everything will be better for you and your family in the future. Thank you, for your testimony. We will do whatever we can to reflect the ideas that come from the grassroots into our report.

**The Presiding Chair** (Commissioner Ojienda): Thank you, Mr. Mwaura, for your testimony. You have helped towards the process of writing the report. Any recommendations you make are very serious. You have helped us understand some of the intricate issues around post election violence and also to be cautious about the route to reconciliation and who should be involved in that route. All the politicians whom you have said are mere pretenders to the hearts and souls of the populace--- I thank you for those kind words that you have said about the way forward.  
Leader of Evidence, step down the witness and call the next one.

*(The Witness was stood down)*

**The Presiding Chair** (Commissioner Ojienda): Good afternoon, Mr. Lazarus Arita. I want to welcome you to the session here. The people you see here are staff of the Commission. This is a hearing that we are conducting in-camera or private. I do not know whether you are from Ngeta as well. We have heard Mr. Mwaura from Ngeta on the question of IDPs and the experience of post election violence. I think that the main communities that live there are the Kisii and the Kikuyus.  
Let us hear your story.

*(Mr. Lazarus Mwazi Arita took the oath)*

**Mr. Patrick Njue:** Commissioners, for the record, the witness statement is, again, in divider No.8.  
Good evening, Sir.

**Mr. Lazarus Arita:** Good evening.

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

**Mr. Lazarus Arita:** I live in Cherangany Constituency, Cherangany Division, Kipturo Location, Ngeta Sub-Location, Ngeta Farm. I am a Kenyan by nationality and was born 50 years ago. I moved to Trans Nzoia when I was 20 years old. Therefore, I have lived for about 30 years at the Ngeta Farm. The farm was bought from a colonialist called Thomas William Telly. It was not a farm belonging to the indigenous people.

**Mr. Patrick Njue:** What do you do for a living?

**Mr. Lazarus Arita:** Since I finished my secondary school education, I decided to become a farmer in Ngeta Farm which my parents were fortunate to buy a part of. I have lived well and I am married here. I have children and now even grandchildren. But my life has been full of apprehension since 1991/1992. There has been incitement by the leaders talking about the “spots” that live among us.

**Mr. Patrick Njue:** How many grandchildren do you have?

**Mr. Lazarus Arita:** I have two grandchildren.

**Mr. Patrick Njue:** Thank you.

**Mr. Lazarus Arita:** My life in Trans Nzoia started changing because we live in apprehension. Previously, it had not been sub-divided into Trans Nzoia East. The apprehension was there during the time of the retired President. We had clashes in 1992 because they said that there were “spots” among the Kalenjin community. That referred to those of us who had bought land here. Trans Nzoia District is a cosmopolitan district and we believe that there is no indigenous community here. In 1992, we were not very badly affected like in 2008, although we were compelled to move and stay outside our houses. After elections, when Moi won versus Kenneth Matiba, we lived well. The 1997 elections brought about a lot of suspicion amongst us; again, Moi won. Since 2002, we have not put up any permanent project because every election year comes with its apprehension and pronouncements that we will be moved out. The worst that affected us and made some of us lame---

*(The witness broke down)*

**Mr. Patrick Njue:** It is okay, Mr. Arita. You can just take a minute or two to compose yourself before you continue.

**The Presiding Chair** (Commissioner Ojienda): Mr. Mwazi, we have heard the witness and I know the pain that accompanies this process. I can assure you that we have been part of and shared that pain since we started our hearings in April. We seriously understand the pain. So when you get to a point where you cannot speak, we will allow you to take time and break down, because it is part of the healing process. You actually

should break down to take out that pain. Do not resist the cry; it is part of the healing process. We are here to cry with you, understand and make recommendations. We are here to ensure that you move on from the pain that you went through and we will share it with you. Mr. Counsellor, can you comfort the witness?

You can proceed if you are strong enough.

**Mr. Lazarus Arita:** In 2007, we went to the elections properly, although there had been evidence that not everything was okay. From Kitale, tyres were being burnt on the roads and stones were used to block the roads. We went through the campaigns like all Kenyans, but we did not know that there had been a plan to get rid of the Kisii community. We border Marakwet District on the upper side and the farm that we bought is very close to there. There are only two schemes that had been bought by the Marakwet community. Our farm is the second one from the Marakwet boundary. On 31<sup>st</sup>, we received information that things were not good for us after Kibaki was declared the winner of the elections. We thought that it was not serious and stayed on with suspicions. We have always lived with similar situation since 1997. We thought that if anything happened, we would usually not stay out late because of the threats. We thought that our cattle would not be taken away and therefore, we stayed out until about 9.00 p.m. on 31<sup>st</sup>. We saw fire and thought that somebody was burning maize stalks. It happened that our maize stalks are usually put in stacks and we thought that there was a stack that was burning. We saw the second and the third one. It turned out that it was not the maize stacks. We heard screams that it was houses that were burning. It took about one hour and there was a lot of fire all over Ngeta Farm. It seemed to be along the boundaries. Only the houses belonging to the Kisii community were being burnt down and so, we had to stay out all night. The following morning, we thought that we would get some help. We thought that, maybe, the District Commissioner (DC) would come in to make sure that the problem was sorted out. But, instead, there was no help. There was not even a single security officer to disperse the group of youths that was attacking us from the Marakwet area.

At about 11.00 a.m. on the second day, I was very sleepy and went to bed. I left the children playing outside. One child ran in and told me: "Daddy, we have been attacked." Because I was very drowsy, I could not quite clearly get what he was saying. By the time I came out of the house, the attackers were right inside my compound. I looked at them and was shot with an arrow which went into my thigh, near my private parts. I knew that they were the enemies because we had been warned for a while. I rushed back into the house but God reminded me that if I stayed inside the house, I would die. I remembered that there was a window at the back of the house. I went through the window but I could not run very far away from the house because I would be seen and killed. So I just lay in the fence. Fortunately, the clothes that I was wearing were grey. My house was surrounded and burnt down. Luckily, they did not see where I was. I was shaken but I managed to persevere. Later, so many were killed near my gate. Some were drunk having celebrated the beginning of the year. I never left my compound with anything except my underwear that I was wearing when I was in bed. I just cried and said that, at least, I was fortunate to be alive. I was shivering because of bleeding and, when I came out of the

gate, I found dead bodies of people that I knew. I found those who had come to see the dead. They said that the only help they could give was to take me to hospital. They tried but there was no means to transport me to the hospital. I was in pain and the following day, I was carried sitting on dead bodies by a man whose leg had also been cut and has since died. We were taken to the Cherangany Health Centre for first aid and later taken to the district hospital. The elderly man was at Cherangany---

**The Presiding Chair** (Commissioner Ojienda): Where are you living at the moment?

**Mr. Lazarus Arita:** I went back to Noi Camp Primary School as an IDP. I stayed there and by bad luck, we would have been killed there as well. Later, I became ill because some of the venom had stayed in the body.

**The Presiding Chair** (Commissioner Ojienda): What kind of treatment do you need? How do you feel, because we can recommend treatment and also counselling? What kind of health problems do you have?

**Mr. Lazarus Arita:** I was used to good life. I never used to get water from paddles. Now, the whole family became ill. My children were in school and I have not been able to send them back.

The most painful thing is that I went to school; it is not my wish that my children do not go to school. I have been mistreated like a non-Kenyan. I had enough property to educate my children and now all of them, apart from those who are in primary school which is free, are out of school. Peace cannot be there between a man and woman when the children are not going to school. I have no peace in my house because my wife does not understand that I have no way of educating or helping the family in any way.

I would like to ask this Commission if there is a way to help victims like me who will just die on the road because I have no job. I am sick and cannot even afford to buy fertilizer for my farm. I cannot also feed my children. They do not even have a place to sleep. If somebody builds a house like this and one day, it goes up in flames together with the furniture and everything else, it could make you run mad. I had a nice compound and thought that, by the time my children would be getting to high school, I would have no problem of trying to build. But I saw the house being burnt down. Now, I depend on well-wishers to even give me clothes. For how long will I remain a beggar?

**The Presiding Chair** (Commissioner Ojienda): I feel pain because of your testimony. I would want you to ensure that your statement is detailed. Please, set out all those needs because it is to people like you that we, as humanity, hear from and are prompted to make certain very fundamental recommendations.

We will look into your case and pay special attention, especially on the needs of the family that you have talked about. I think that you are a deserving case. I would want you to also give us details of those urgent needs that you have, especially on fees. We can see



what we can do for you. The recommendations on medical treatment and counselling that you talked about are also important.

**Mr. Lazarus Arita:** I was in there when other people were talking. I was not happy about the way one of the speakers, who is a neighbour, talked about us as the Kisii community. They tell us that even if I see anything in their homes and recognise it as mine, if I want peace, I should just be quiet and live peacefully. During the time of the IDP camps, whether you had 10 or 12 children, you would still get two tins of maize. We are all Kenyans of the same colour. The colour of our blood is the same. If I went to hospital now, my blood would be given to any of you if we are of the same blood group. Why is it that some of us are discriminated against so much? When it came to fighting for Independence, the population density was low. When people start claiming that this area belongs to them, I was born before Independence and knew that people were getting land free of charge. We did not even have surveyors in this country. By the time the surveyors started coming, I was still in Kisii District. It was in 1969 and 1970 that I noticed demarcation being done.

I have been in Trans Nzoia since 1980 and very few people have title deeds for the farms they live in. If it was someone's farm, how did I buy it? If that is allowed to continue, how will we live with people buying land and then after sometime, they are told that they are not the owners? As far as I understand, willing buyer, willing seller is legal. It is not theft. Ever since we came and bought land, for example, if somebody dies somewhere taking alcohol, it is said that it is the Kisii who killed him. They can use it as an excuse to evict us from that farm. That has happened severally. Recently, there was somebody who was a watchman at some rich man's compound. They fought and some had their hands chopped. They came and said that the Kisii community should give back that hand that had been cut. How could the whole community be accused of evil? Those are just the excuses that politicians use to get rid of certain communities, so that their areas can be left with only those who follow them.

Even when it comes to employment or schools, there are schools that, as a community, we have built together. Previously, we lived a little more cohesively like one Kenyan family, but now my child cannot go to a school that has Marakwet children. We all contributed to build those schools and now, all our children can only go to one school which is in the middle of our farm. When you go to ask for a vacancy in the schools, you are told that the parents' association has said that a Kisii child should not be admitted to their school. It has become a problem and children have to walk very long distances to schools that happen to be on the "right farms". I would like the Commission to look into such issues, so that we do not end up passing this enmity onto the young children. We are supposed to teach the new generation to respect every human being and to know that after education, they can work anywhere, whether it is Nigeria or America.

I do not feel safe and even when my dog barks, I always just feel like my life is threatened. For instance, now that we are approaching elections again, there is nothing that can come into one's mind like to construct a toilet because you think that it is a waste. Even if your house has a crack, you do not bother repairing it. You do not even

want to buy a bed or mattress to sleep on because all that is a burden. You cannot buy a cow because you believe that it will just be taken away.

I would like to plead for my children.

**The Presiding Chair** (Commissioner Ojienda): Thank you very much, Mr. Arita. I have heard you.

**Mr. Lazarus Arita:** What I am saying is that the Government should remember us because they have been promising that all the victims will be assisted and compensated for the property that they lost, or assisted to revive their farming. But all those are just stories. Maybe if it comes, it ends up in the hands of corrupt provincial administrators, including assistant chiefs, chiefs, district officers or district commissioners; the Provincial Administration is full of trickery. It is not making genuine efforts to meet the needs of the real victims.

Also, if this Commission can reach places like Kapcherop Police Station--- I feel that the work of the policemen is to give service to all, but that police station did not work as a police station. I do not know whether the OCS there was a human being or a beast. That is because he would witness people's property being looted and people being battered, but he would not even ask for reinforcement or stop people from using that road. It is only one kilometre from our farm to that police station and there is only one road. If the policemen cannot help, then it looks like there was collaboration between them and the criminals. When will we ever trust the policemen? When will I ever trust that when I am next to a policeman, I am secure?

We believe that at times even senior police officers collaborate with certain tribes when they need to ensure their security. We pay taxes to be provided with security, not to be discriminated against. I am not a snake. All of us human beings are the same. A snake is different because it can bite somebody. However, if I am hit like a snake or you find yourself being battered like a wild animal, I can move out of there. I could even live in Nairobi, but land there may not be enough for all of us. It is a small piece of land. It is just about 1,000 acres. It cannot be enough for a community of 1 million people.

**The Presiding Chair** (Commissioner Ojienda): We are concerned about making recommendations and we have heard Mr. Mwaura on recommendations. We have also heard your recommendations. I think you have made your point unless you have any other recommendation you want to make because you have made all the recommendations and we are going round and round. We have heard you. You can hand in the document and then we close.

**Mr. Lazarus Arita:** I have a couple of records of some of the things that were destroyed on my farm. I also have treatment records.

**The Presiding Chair** (Commissioner Ojienda): Is that the set of documents you want to be admitted?

**Mr. Lazarus Arita:** These are part of what I lost when I was on my farm at that time.

**The Presiding Chair** (Commissioner Ojienda): I want to thank you very much, for your testimony. The Commissioners have no questions to ask you. You have been very clear and we have noted the issues that you have raised. You are lucky that Mr. Mwaura spoke about the two communities. We have certain recommendations that we have read. We know the pain that the Ngeta community of people living in Trans Nzoia have gone through. Thank you very much. Leader of Evidence, step down the witness. Call the next witness.

**Mr. Patrick Njue:** Commissioners, we are going to the last in-camera witness who is witness No.7.

Presiding Chair, we will ask that you guide us.

**The Presiding Chair** (Commissioner Ojienda): Thank you, Bishop Crowley. I welcome you to the in-camera hearing of the TJRC. We are three Commissioners here to hear your testimony. The people present here are the staff of the Commission; Mr. Njue is our Hearing Clerk and the Leader of Evidence. The others are in charge of translation and the HANSARD. This is an in-camera hearing for all intents and purposes. There should be no fear that anything that you tell us will fall in the public domain. It is in private. This is a private camera Commission. So you are free to tell us the issues you want to discuss. We, as a Commission, are focusing on the outcome of this process and the outcome will be reflected in our report. So we would very much be happy if you are able to help us with certain issues that may make part of our recommendations because that is what will finally define this work. We have heard many stories, but our question is that what is it that we can recommend to end the kind of continuous or sporadic violence and other incidents that you have seen in this region? I welcome you.

*(Bishop Maurice Crowley took the oath)*

**Mr. Patrick Njue:** Kindly for the record, do state your names.

**Bishop Maurice Crowley:** I am Maurice Crowley. I am the Catholic Bishop of Kitale, that means covering the area of Trans Nzoia and West Pokot.

**Mr. Patrick Njue:** For how long have you been in Kitale?

**Bishop Maurice Crowley:** For 13 years.

**Mr. Patrick Njue:** The Presiding Chair has basically told you what it is that we are out here for. I will ask that you may now begin making your presentation.

**Bishop Maurice Crowley:** I experienced this because I was involved in the clashes from 1992, 1997, 2002 and now 2007. I was involved when I was in Eldoret, in that I helped a

lot of people. I was in charge of maybe 3,000 people. When I came here I was involved from the very beginning of the 2007/2008 clashes. I was involved both personally and as an institution. Our aim at the time was to keep many people safe. So from the very first day, I went round myself to see all the places.

If I was to divide Trans Nzoia into different areas, we began with Gituamba which is where the first clashes occurred, and that was on Sunday night after the announcement of the election results. It did not surprise me that there were going to be clashes. I knew there were going to be clashes because immediately the results were announced, people started disputing them.

So on the morning of Monday, I went to visit Gituamba. Gituamba is on the border between my diocese and Bungoma, but it is also on the border between the Luhya Community and the Sabaot. When I went up there, having got past a couple of barricades and one barricade in particular to Kitalale, I found a whole village had been wiped out. The only building that I could see standing was the Catholic Church which was made up of iron sheets and iron pillar. We walked round. At the time, Mr. Mutee, was DC there. We walked through the whole village with my people and we got to a place where the chief of the area told us we could not go any further because we would be shot by the people from the other side of the valley. We looked at some of the places and then we found at least one body. I had the impression that nobody knew how many were killed. Every shop in the place was wiped out. On the way down after the chief had told us we could not go any further, one of the people with Mr. Mutee said, "well, you have been told by somebody who should have known better".

By that time the GSU were there, but they did not seem to have been able to do anything. On the way down from that place, I saw children running all over. This is an image that I had. People inside the fence were not taking any notice. I rang the MP who was hon. Wamalwa and asked him to send lorries to move these people to Kiminini which we thought would be the safest. So they were moved to Kiminini and we began the very big job of feeding them. That is exactly what happened first.

But before that there are a few incidents that I would like to bring to your notice. One is the assassinations in Kinyoro. There were ten people assassinated. This was highlighted on the television and newspapers in Yugoslavia. These people were taken out. They were nine non-Sabaots and one Sabaot. They were made to kneel down on the road. Each of them was allowed to say a prayer. After that, they were shot in the back of the head. This was a military type of execution that was going to create fear.

The second to create fear was the wiping out on Christmas Day of a whole family in Burunda. I went down there again to see what had happened. The third one was the killing of the GSU officer which I would regard as extra-judicial killing. He was killed in an operation mounted by the GSU and the police. He was killed in front of his son. So the evidence that I am giving now was given by his son. I do not know why he was shot. The fourth one was in Matiti which is a village here. Many people were killed, but I have never been able to get to the bottom of that; why a taxi load of people would fire

randomly at the people. During the funerals of these people the former MP, Hon. Nakitare, tried to explain that it was the Sabaots who were killing the Bukusu on this side. But I do not think that was true. I think these were rogues. However, the aim was to create fear.

The second thing is that there was anti-Kikuyu feeling. I understand the Kalenjin language and I heard what they were saying. They were saying that the Kikuyus had rigged the elections, they had stolen their land and it was time to get them out. The Kikuyus had this feeling that they were being targeted and thus they went to collect money for arms. Even when we appealed for food and other things, the Kikuyu Community in general wanted their own people to be fed and not everybody else. So that is what happened here.

On the same Monday after I had left Gituamba, I went to Pokotland. There were ten barricades on the road which we negotiated until we came to Makutano. They started firing at us so I had to get off the road. This tells me that these clashes were pre-meditated or pre-arranged. After I came to Pokotland, they told me that they would allow me to go back on the road, but that I would have to pay a tax. Since I knew the area, I decided not to pay the tax. I came through a *panya* route to Namanjalala then to Kaka. When I came back I decided that the other place that I would go was Changeni. When I went to Changeni, again, there were barricades. There were young fellows there, including altar boys, who were stopping everybody. They let me go through. I met some Kisii and I asked them why they were running. They said they were told to either go or be killed. This had come from Marakwet and had been instigated by the chiefs of Marakwet. These people came to Kachibora. There we brought food and blankets to them on that first day. The number of displaced people was 53,000; a huge number. They were put in camps in Kachibora, the show ground here and Kiminini. We, as a diocese, got a lot of them and we helped to feed all these people in the camps. We worked quite well with the two DCs of Trans Nzoia East and Trans Nzoia West at the time. The DC for Kwanza was a little bit more difficult to work with.

The next day, I went to Kwanza. I found that the people there, some of them were Sabaots, but they were afraid of the Sabaot Land Defence Force (SLDF) which was really a liberation army. There were some Kalenjin police there. However, they did not regard them very highly because they were afraid that they were from the same ethnic group.

There was the fear of the Sabaots who looked more organised. The Bukusu Community was not organised and that saved the situation. If they had been organised, it would have been slaughter. Secondly, the Pokots had driven away everybody.

Finally, in Kachibora, people started going back. It was a matter of negotiation so they went back very quickly.

The position is that there is still some hatred between the Kikuyus and the Kalenjins. The Luhya Community is in between. The hatred is fueled by the issue of land and secondly, Kikuyus are viewed as being very progressive. If you give a Kikuyu Kshs5, he will make

Kshs10 by the end of the day. There is jealousy because they are able to do that. This jealousy has been there. The town would have gone if it were not for the work of the DCs.

I was very angry with the American Ambassador. In fact, one of the things that I disliked most was the fact that one day, they decided to move all these people from the show ground and dumped them in Mt. Elgon; so we had two camps in Mt. Elgon. The policy of the Government seems to be that if the cold does not kill them, then the cold will drive them out. There is no policy of taking back these people.

Recently we had an incident where people were brought from Nakuru to be settled here. In fact, there were no Kikuyus. The locals wondered why people were brought from Nakuru to be settled here while there are IDPs in that area. Why were they brought when we had our own IDPs and they had not been settled? Now I hear that they are not too happy.

The whole thing can be blamed on politics. Politically, it was organised. Politicians and councillors had a lot to do with the whole thing. They stirred up hatred in what they said. Whether they were supporting Kibaki or Raila, they made life very difficult for people. They incited them against each other. That is one thing that could happen again.

With regard to the Pokot, it is true they played the tribal card. My good friend, hon. Moroto, and his predecessor hon. Lotodo, used to play this card when things were down. They would tell their people to bring their cows to Kapkoi and graze on farms belonging to Kikuyus. The cows would eat all the maize on the farms; they would stir up hatred in that way.

I am in charge of education for the whole country. One of the great things that happened here was that the schools remained open. The teachers took a stand that all schools would remain open. While all these things were going on in Nairobi, the schools here were in session. They stayed in session and it showed that in places where the young people were isolated from the politicians, there was no problem.

How did we get back the Kisiis to their places? It was the Kalenjin women who said, "this is quite stupid". They went around in churches and had meetings where they said: "Look, we have to live together. We have always lived together." So the Kalenjin women were the people who assisted Kisiis to go back to their farms. In this case, I never found any antagonism. We worked together with all the groups in Kiminini; everybody behaved in a proper way.

In the future, there is a danger that we will have the politicians again. I have today honestly said that they were responsible. However, if you ask me what brought it, I would say it was organised beforehand. Two, everybody watched on television as results were announced. The announcement of the results was done in such a bad way. In fact, I came out of my house to see if they were already on the streets just immediately after the announcement. I received two phone calls just before that asking me if I had any way of

getting near State House to tell them not to have the Swearing-In Ceremony. One was from Nyeri and the other one was from Mombasa. The people involved would not like me to say who they are now, but they were people who saw what was going on.

I would like to say that Sabaot Community is divided both politically and in the church system. Half of them are in Bungoma and half in Trans Nzoia. They feel that they are being oppressed because they are divided. They believe they will not be able to get any rights from anybody else. That is another problem. At the moment, they have made peace among themselves.

The last thing I would like to say is with regard to the operation in Mt. Elgon. I think we have to be honest and say we do not know how many were killed. What was the reason for it? If you did not pay your tax, the first time they chopped off your lips. Another thing they did was torturing people. A red hot iron bar would be placed across the buttocks of people and would go in four inches. If you got that, you would agree to anything. Many people were hauled in, first of all, by the Sabaots themselves and, secondly, by the army. They were tied to trees. There is no use in saying that it was not. The army justified and had certain sympathy; maybe 25 per cent sympathy by saying that there was no way that you could stop the Sabaots from fighting among themselves without hammering them. That is exactly what was done; many people were killed.

When you talk about 1,335 people, I do not think that is the number of people that were killed in Mt. Elgon. I have a great deal of sympathy for the Sabaot people in the sense that they are a very small group and they feel they are oppressed by the Bukusu in Bungoma who are very numerous and by everybody else here. So they are asking for unification. To be honest with you, I would support them in some way because they are divided in half. They have no say. Do not even give them a constituency in Kwanza; they will not win in Kwanza. You gave them Cheptais, but that is over there. They feel very much like what the Pokots felt for a long time which has changed.

**The Presiding Chair** (Commissioner Ojienda): I have just got a point there. Could you just explain? There is an important recommendation. In terms of the structure that we have now, how do you think we should, for instance, deal with the Sabaot question in a better way.

**Bishop Maurice Crowley:** I would say expand the county. Remove them from Bungoma, remove them from Trans Nzoia and give them a county of their own exactly the same as the Pokot. I think that would help them enormously.

**The Presiding Chair** (Commissioner Ojienda): But what would it do to the Bukusus who are living amongst them because there is a complex problem where we have the Bukusus claiming---

**Bishop Maurice Crowley:** We had the same problem in Pokot in the years that I have been here and even before that. The Pokot said, "we have to look after our own". Now this is what the Sabaots are saying at the moment: They have to look after their own. In Pokot, they will accept their neighbour. Here the PS has done a tremendous job, but he

has to stand alone because the other politicians are saying the same old thing. The Bukusu who are living in Mt. Elgon are still living in fear. I think that a lot of good can be done by having to face the problem. I think it would be better to say that they are living in fear. Even though they say that this is their land, they know that if there is any problem, again, they will be targeted and they will run here. I know it is a complex problem, but I do think that if the Sabaots can have the feeling that they can form some type of political alliance, I think they might be prepared. If there is an agreement between the elders to accommodate the Bukus and others, it can work. It can be done through a decision by the Ministry of Education say, for instance, they will have non-Bukusu and non-Sabaot teachers. The same can be done in the Ministry of Agriculture and Health. You get people to do it and tell them that this will be done. They have changed immensely. I have met them recently where somebody came in and said: "This man killed my mother. This one killed my sister. Now we have forgiven one another." However, having been here for a long time and having talked to my colleagues in Kuria and Bungoma, it would be better if they were given a county of their own and rightly placed.

I think that they could be given it on condition that they do not upset the others and that they respect it. I think we are changing. But at the moment, what they say is that if you want a teacher in Sabaot, he has to be a Sabaot. I remember talking to Lotodo at one time and he was saying they have to support their Pokots. I said yes, "the sweeper in KenGen, his first degree is that he needs to be a Pokot. If you have a nuclear programme in Kenya, the first degree of those involved has to be a Pokot". So they have to change and they will change because there are now new people. But while you have that, there is absolute resistance. I come from a country where we fought for a number of years. I could not visit my next door neighbour because he was of a different persuasion. There was the blue ones and the green ones. Finally, we had to sit down and make peace. It is an example now for us. To solve all these problems, I do think we have to make a magnificent gesture. In the question of the Sabaots, they need to be together. As they say in Kikuyuland, you cannot have a Kalenjin--- which is not quite true. Maybe it is a bit more complicated than in Pokotland because the Pokot will accept you provided you do not buy any land. But I am only giving my opinion.

That is all I would like to say. I would like to pay tribute to the police at the time. However, we did help them with fuel; we did pay for the police to go out and take the people. But on the whole, they behaved with one exception - that is the time Rannenberger was coming here - they dumped them there. I thought they behaved very badly. It created a little bit of sour relations between me and the DCs at the time but maybe they were under pressure. On the whole they were very good. I think that they did not stand for nonsense.

I also think that fear was created before the clashes. In Burnt Forest, when I was around there, there was naked hatred between the two communities. I saw it here also; it is still under the surface. Even though there is an alliance between William Ruto and Uhuru Kenyatta, I wonder whether it will help change anything. That is my opinion. I have been living here with the ordinary people.



With regard to the Kisii, I think the Marakwet have realised that it was foolish to be kicking them out.

You know, that is still my opinion; I have been living there and I understand these people. The facts have changed and ethnicity has still changed. I do not think Mr. Serut or Mr. Kapondi are acceptable anymore. The only way to get new leaders is for the young people to talk. The young people have lost their respect, if you like. Our community is so strict politically with regard to cooks and watchmen. They should be represented and it is representation that will bring them together, but they do not have leaders. If you come to Kenya, there is a Luhya champion, Luo champion, Kalenjin champion or Kikuyu champion. When you come to the Luhyas you have about 50 million champions and this is a problem also. Lastly, on the question of the settlement, we have too many people. The population is huge in Kenya and maybe we will get recommendations from you. Thank you very much.

**The Presiding Chair** (Commissioner Ojienda): Thank you very much, Bishop.

**Commissioner Farah:** Thank you Bishop. It is interesting that you have said that you want a county to be created for the Sabaot, but for Mt. Elgon Sabaots the land is very small and they are very many. Some of them suggested that the Government should buy them some land in Trans Nzoia and settle them there. What is your view on that?

**Bishop Maurice Crowley:** The problem is that the land is owned by the ADC; it can only be viable when it is large and I am afraid that we would be creating a slum. However, it is a solution and something has to be done. You see, Chebyuk III was caused by the fact that there was a poll. Take 267 families and multiply that by six. That is the main problem but I think something could be done. They should be settled now even if it is on another farm.

**Commissioner Dinka:** Bishop Crowley, you have told us so much in such a brief period and I am kind of not confused but too much enlightened. You have given us the antecedent before the 10<sup>th</sup> and what happened during the post election violence after Mr. Kibaki was announced as the winner of the presidency. You were very clear as to your assessment that it was planned and pre-arranged. Now, it is very difficult to predict the future but we all hear all kinds of things, both positive and negative, about what is coming in 2012. All kinds of tension is building in some areas while in others it is lessening. I will tell you something, I used to be a special representative of the United Nations for the Great Lakes, and one of the things that I did was that every three months I visited each country in the Great Lakes region. When I went to places where getting information was quite difficult, like Rwanda and Congo, I went to the Nuncio and I got everything from him. He was the most informed diplomat in the two capitals. I found even in the other areas after that the Nuncio was the most informed. It was because of bishops, as you said, who sent him information. Therefore, I think you are the most informed people around. What do you think is the likely scenario of 2012 and what can

commissions like ours advise the Government and politicians, particularly the two Principals, to prevent the recurrence of 2007?

**Bishop Maurice Crowley:** Thank you very much. I agree with you. I think the Nuncio is the most informed. This means that within two minutes, something is done. We all get the message and I can send it to Turkana. That is true. We do have contacts even in Mogadishu, and we can get communication from there today. However, what is the future here? Let us look at it. We have reduced the powers of the presidency since the promulgation of the new law, but very few of the politicians who are in Parliament want to be either the governor or the senator. The governor in the counties will be in control of all the money and the senator will not have to do anything since even if he is asleep he will still earn a salary, and no one wants to be an MP. Parliament is putting its hand on the presidency and has vested some powers in the Chief Justice. So people are not that interested; I have been asked that question before and my big fear is not the presidency. It is the governor and the governor in every county is where the problem will be; what are they going to do? Maybe the qualifications of the governor and the restrictions on what he can do, and also the restrictions on what he can say--- Already I have been out and I have heard all the things, but the governor is the problem and not the President, Parliament or senator. Now, it is not only here where everybody wants to be made a governor. There are so many people who want to be governors here. We have very many. They have decided on one and he must be accepted by everybody. They have had a pre-election already on who is going to be an MP, senator and governor, and I can give you the names. They want Mark Too as the governor. The senator will probably be Lonyangapuo. The MP will probably be Poghisio; Litole will possibly remain but Murgor will be removed by Moroto because Moroto will play the tribal tag, and we have hon. Wekesa, but you know he has dismissed the whole thinking. You have had your day; what will you do now? Get out and leave it to somebody else. There are so many people who want to come. There are so many Permanent Secretaries who want to come. There are so many MPs who want to be governor.

So the governor to me is going to be the problem in Trans Nzoia. The problem in Uasin Gishu is known all over the world. The problem in Marakwet is with the Pokots. In Pokot there will be no clashes except in Turkana. We have a problem there which is land, and it is being pushed by a politician. So the governorship is the problem. Look at how the nominations will be and look at what they will say and do and limit them. However, with regard to the President, I think the people here will not mind PNU. Maybe they will have a problem with the NARC. They are saying there is no problem with who will be President. The problem will be his attitude. The problem is with the governorship. They talk of 15 per cent or Kshs15 billion. Who is going to have the money? If you want to have a clue to justice, take care of the governor and, I think the others will take care of themselves. They are not anti-tribal in their pursuits but they are anti-governors.

**Commissioner Dinka:** Thank you, Bishop Crowley. I have no further questions for you. I could have a lot of questions but apparently, somebody is telling us that the man wants to kick us out. Thank you for your openness and you really gave us a lot of clear statements.

**The Presiding Chair** (Commissioner Ojienda): Thank you, Bishop. I remember the week when the Constitution was promulgated. I think someone asked a question on the governor and I maintained that one of the things that we would do would be to be careful with the person who will be elected for governorship in the 47 counties because he will make or break this country. If you get four or five rural governors who will take on the President and make him bring a Motion for suspension of a county, this will cause a crisis in the country. You will not suspend a county for more than 90 days therefore, there will be complexity there. If you get four or five warlords who are governors deciding for the people, we will have a crisis in this country. If we will not have a strong President in the next election, then I see what you see and that is the six million dollar question. I hope that all these positions of the governor and the senator will blend well. If we will have conflicts between the two, I can assure you of chaos, given that they will be powerful people. We should have responsible people elected to these positions, and not the usual busy bodies that we see.

I want to thank you for your advice and I think there is a particular--- There was a witness who testified before on Geta Farm and said that they are still scared. I think these are the Kisiis. What is the church doing about reconciliation? They mentioned something interesting; that they do not trust Handicap International. Handicap spoke to us and we thought they were good people. What do you think you can do to help in reconciliation?

**Bishop Maurice Crowley:** You know the trouble there are the Kisiis. You know the Kisiis talk in Kisii, but they live alongside the Marakwet. Now, you are dealing here with the Kikuyu and the Bukusus. There are two schools along the border. I had proposed that the two schools along the border, one be a boys school and the other a girls school, so that we integrate the students. Now, that could not happen because hon. Kutuny decided to be tribalistic. He knew the girls were doing better than the boysso he moved them up. The Provincial Director of Education did not want them there and she pushed them in, and I said that was fine. However, the schools were a meeting point.

Secondly, when they talk about Handicap International, that is okay but we have spoon-fed them for a while. Mr. Rono is employed by us but he is out there. He has gone out and he has met the people. So in that sense, there is a bonding. Maybe Handicap International have not been able to do that, So I do not think there is a problem there. If you look at how hon. Kutuny was elected, he is a Marakwet. He brought Elgeyo Marakwets from Kipsongo. They voted *enmasse* for Kutuny. He told me that was what he did and trounced hon. Kirwa. There is peace in that area. There have not been any instances of houses being burnt in that area. Enmity seems to have died down. I will be very surprised if there is a problem there. It will depend on who will be the governor. They decided that the governor will be a Bukusu and his deputy will be a Kalenjin, and this is where the problem is. We have Kipsigis, who are quite a big number. We have Marakwets, Nandis and Sabaots. There are four groups of Kalenjins looking for this job. So that could create a problem. It will not be between the Kisiis. We will continue to try and bring peace. If we integrate the schools, then that will eradicate the problem; but it

will be difficult if we get somebody who decides who will be the headmaster or headmistress. Thank you.

**The Presiding Chair** (Commissioner Ojienda): Thank you again, for your testimony; we have come to the end of this session. I think if you have anything that you want to share with us before we write our report, then you are welcome. This is because this is a crucial exercise for the country. Earlier on in the open session we had some witnesses who came in from all over.

**Bishop Maurice Crowley:** The Bukusus came from as far as Kamukuywa. The Pokots came from as far as Kapenguria and the Sabaots from as far as Mt. Elgon. So I am not surprised.

**The Presiding Chair** (Commissioner Ojienda): Thank you.

*(The Commission adjourned at 7.10 p.m.)*