

1 International Criminal Court

2 Trial Chamber V(a) - Courtroom 1

3 Situation: Republic of Kenya

4 In the case of The Prosecutor v. William Samoei Ruto

5 and Joshua Arap Sang - ICC-01/09-01/11

6 Presiding Judge Chile Eboe-Osuji, Judge Olga Herrera Carbuccia

7 and Judge Robert Fremr

8 Trial Hearing

9 Thursday, 7 November 2013

10 (The witness enters the courtroom)

11 (Upon commencing in open session at 10.29 a.m.)

12 THE COURT USHER: All rise. The International Criminal Court is

13 now in session. Please be seated.

14 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

15 Court officer, please announce the case.

16 THE COURT OFFICER: (Interpretation) Good morning, Mr President.

17 Situation in the Republic of Kenya, in the case The Prosecutor versus

18 William Samoei Ruto and Joshua Arap Sang, case number ICC-01/09-01/11.

19 We are in open session, Mr President.

20 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

21 Appearances.

22 MS RENTON: The same, your Honour, for the Prosecution.

23 MR FAAL: The same for Mr Ruto's Defence, Mr President.

24 MR KOECH: The same for Mr Sang's Defence, Mr President.

25 MR NARANTSETSEG: Orchlön Narantsetseg for victims, thank you.

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1           PRESIDING JUDGE EBOE-OSUJI: Thank you very much. We were forced  
2           to start an hour late today because of a very bad traffic situation in  
3           the city that affected the proceedings from starting. The witness  
4           couldn't be brought on time. Even I was stuck in traffic myself for a  
5           long time, but we are starting now.

6           But we have to make time. We are rescheduling today's sitting  
7           times as follows: We are starting now at 10.30. We will go until 12.00.  
8           And then we will break for one hour and return at 1.00 and go until 2.30.  
9           And then come back at 3.00, that's a 30 minute break. We will come back  
10          at 3.00 and continue until 4.30. Prosecutor, this is a time every -- one  
11          of those occasions, rather, when everyone must chip in, so hopefully  
12          because of this situation, you will also bend over backwards to complete  
13          this witness's testimony as you had indicated before, hopefully by  
14          lunchtime still.

15          MS RENTON: I'll do my best, your Honour.

16          PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

17          Witness, welcome back. Thank you for joining us again.

18          Ms Renton will continue her examination-in-chief of you. Thank you. We  
19          are now in open session. We remain in open session?

20          MS RENTON: Yes, for the moment, your Honour.

21          PRESIDING JUDGE EBOE-OSUJI: All right. Let's proceed.

22          WITNESS: KEN-OTP-P-0423 (On former oath)

23          QUESTIONED BY MS RENTON: (Continuing)

24          Q. Good morning, Witness. Yesterday you started telling us about  
25          the attack in Yamumbi, yesterday afternoon. I'll be continuing to ask

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1 you some questions about that this morning, and I'd like ask you to  
2 listen to my questions very carefully and answer the questions that you  
3 hear. It's very important, since we don't have a lot of time, in order  
4 to concentrate on the evidence that will assist the Judges in the best  
5 way to make their decision. It may be that we are not able to elicit  
6 everything, but I promise that I will ask questions that are appropriate,  
7 so if I can ask that you listen very carefully. It's also important if  
8 you can answer shortly to assist the interpreters because if you speak  
9 for a very long amount of time, it makes it a little bit more difficult  
10 for them to interpret. Do you understand? Is that okay?

11 A. Yes, I do understand you.

12 PRESIDING JUDGE EBOE-OSUJI: Ms Renton, in that regard, you also  
13 will be on duty, you will need to assist him. You will know when to move  
14 in and tell him to stop, you've heard enough, and then begin again for  
15 the next part of information he may be wanting to give.

16 MS RENTON: Yes, I'll do that, your Honour, thank you.

17 Q. Witness, yesterday you were speaking about the Nandis that  
18 arrived, and you said they arrived there, they arrived on the banks of  
19 the river. How did they arrive?

20 A. Yes.

21 Q. My question is how did they get to that place? Could you observe  
22 that?

23 A. They arrived on foot. The vehicles had dropped them off a little  
24 further away, and then they continued to the location on foot.

25 Q. What were the vehicles?

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1 A. They came in lorries.

2 Q. How many lorries were there?

3 A. There were approximately ten in number. The lorries were parked  
4 a little further afield in comparison to where I was. I could see that  
5 their headlights were on.

6 Q. What direction had the lorries come from? Did you see that?

7 A. They came from Kapteldon.

8 Q. Can you describe the lorries for us?

9 A. Yes, I can. These were large lorries.

10 Q. Were they, for example, closed or were they open at the back?

11 A. They were open lorries.

12 Q. Who did the lorries belong to, do you know?

13 A. I was not in a position to know who they belonged to.

14 Q. Did you find out later who they belonged to?

15 A. Yes. I heard that the lorries belonged to some rich individuals,  
16 and I heard that one of the rich individuals who was a proprietor of  
17 these lorries was Mr Maiyo.

18 Q. Who did you hear this from? And if necessary, please refer to  
19 the list in front of you and refer to that person's name -- number.

20 MR FAAL: Mr President, we have allowed this line of questioning  
21 to continue for a while, but by suggesting to the witness that you can  
22 refer to the list in front of you seems to suggest that the person's name  
23 is in that list, and that would be leading, in our view.

24 PRESIDING JUDGE EBOE-OSUJI: Would it have made a difference if  
25 she had said: Because we are in open session, if the name is in the

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1 list, you can refer to it? Would that have been the alternative question  
2 she could have asked?

3 MR FAAL: I mean, I understand the predicament of counsel  
4 opposite because we need to be very cautious to ensure that protected  
5 information does not go out. But I also do think that if the witness is  
6 informed very much in advance that he has to be careful not to mention  
7 names of individuals on the list, then that is a warning that the witness  
8 would bear in mind. But if at any time a question is asked which elicits  
9 information about the person on the list, you direct the witness's mind  
10 to the list, it's quite glaringly leading to the extent that it tells the  
11 witness that the information being sought is contained in that list. But  
12 I mean, I think there is a way it could be done to the extent that the  
13 witness would not be informed that the information is on the list.

14 PRESIDING JUDGE EBOE-OSUJI: What is that way?

15 MR FAAL: I had suggested it earlier. Each time we go to public  
16 session, the witness is reminded again.

17 PRESIDING JUDGE EBOE-OSUJI: All right. Objection is overruled.

18 Ms Renton, next time you can say, If the name is on the list,  
19 refer to it. This is a list that has 19 names on it. Proceed.

20 MS RENTON: I'm guided, your Honour, thank you.

21 Q. Mr Witness, my question was who you heard from that Maiyo owned  
22 some of the lorries, and if the name is on the list, you may refer to it.

23 A. It is number 1 on the list.

24 PRESIDING JUDGE EBOE-OSUJI: Just to make something else clear on  
25 the last point so that it is understood, Counsel, Mr Faal, we also need

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1 to bear in mind that permission to ask leading questions in  
2 examination-in-chief is largely a matter of discretion for the Chamber.

3 MR FAAL: Very much, your Honour.

4 PRESIDING JUDGE EBOE-OSUJI: Thank you.

5 MS RENTON:

6 Q. Witness, could you tell us about Mr Maiyo? Are you able to  
7 inform the Court anything about this person?

8 A. Yes, I can.

9 Q. Please go on.

10 A. I remember that when the attack was launched, I saw the stolen  
11 cows with my very own eyes being taken to Mr Maiyo's place, and it was  
12 the police officers who were actually escorting the cows. The cows had  
13 come from Yamumbi. I was an eyewitness to this event.

14 Q. Where does Mr Maiyo live?

15 A. Mr Maiyo lives up the hill, at the confines of Yamumbi, and his  
16 farm is adjacent to Yamumbi locality.

17 Q. Mr Witness, sorry, my mistake. Was that in 2007, or are you  
18 talking about today?

19 A. I'm talking about the events that occurred in 2007.

20 Q. Thank you. Does Mr Maiyo still live in that location?

21 A. I believe that Mr Maiyo moved, but his residence is located at  
22 the same place.

23 MR FAAL: Mr President, we --

24 THE INTERPRETER: The Swahili interpreter is correcting what he  
25 just said. Correction: I believe that Mr Maiyo is deceased.

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1 MS RENTON:

2 Q. When did Mr Maiyo pass away?

3 A. Mr Maiyo died after the end of the conflict.

4 Q. What, if any, was Mr Maiyo's relationship with Mr Ruto?

5 A. As I said previously, Mr Maiyo was a rich individual. He was one  
6 of the rich people in the area, and every time that a meeting was held,  
7 Mr Maiyo would be in attendance.

8 Q. Witness, could I ask you to listen very carefully to my question:  
9 What if any relationship did Mr Maiyo have with Mr Ruto? If you're not  
10 sure, please just say I don't know, and if you do, please tell us.

11 PRESIDING JUDGE EBOE-OSUJI: Also, Counsel, the -- also  
12 interpretation we need to be careful as well, because the witness is not  
13 hearing your question directly. Let's keep that in mind, okay?  
14 Questions are being interpreted. For both the witness and interpretation  
15 we have to be careful.

16 MS RENTON:

17 Q. Mr Witness, my question is: Was there any relationship between  
18 Mr Maiyo and Mr Ruto? You've told us that perhaps they attended the same  
19 meetings. Do you know if they had a relationship apart from that?

20 A. Yes.

21 Q. Please tell us.

22 A. At the time of the events that unfolded, the cows were sent to  
23 Maiyo's residence, and I heard that the policemen sent to his residence  
24 were sent by Mr Ruto, with the intention of protecting his farm and his  
25 residence.

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1 Q. Mr Witness, I'll now move on from that and ask you what you  
2 observed when the Nandis came and started burning houses. How were they  
3 burning the houses?

4 A. I saw them arriving, and they would take a little stalks of  
5 maize, these were dried stalks, and they would throw these dried stalks  
6 at the houses. They would set them alight. And once the house was  
7 burning, they would use another object, a small object, that was then  
8 thrown on to the fire itself. And even if it was a brick house, the fire  
9 was so strong that the walls of the house would fall down and the whole  
10 structure would collapse.

11 Q. What was the small object that they were throwing?

12 A. This was a small object made of aluminium.

13 Q. What happened when it was thrown into the fire?

14 A. The fire would take hold and burn strongly, to such an extent  
15 that it was difficult to put it out, and once they had thrown the object  
16 on the fire, the assailants would then leave and return on the next day.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)



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1 (Redacted)

2 Q. Witness, you've told us that you saw the Nandi burning your  
3 house. How far away were you when this happened?

4 A. I was very close to that location. I was hiding so close that if  
5 I extended my arm out of my hiding-place, I would have been able to reach  
6 out to this location, but I was remaining in hiding.

7 Q. What were the Nandi wearing?

8 A. They were wearing ordinary attire.

9 Q. What was their ages?

10 A. They were aged between 18 and 30 years.

11 Q. And what was their gender? Were they all male, women, or mixed?

12 A. There were only males present.

13 Q. Did you recognise anyone?

14 A. Yes.

15 PRESIDING JUDGE EBOE-OSUJI: Before you ask the next question  
16 about who was recognised, let's go into private session for a quick  
17 minute.

18 (Private session at 10.57 a.m.)

19 THE COURT OFFICER: (Interpretation) We are in private session,  
20 Mr President.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Ms Renton, we can go back out so you can ask your question about  
4 who?

5 MS RENTON: Yes, although I note my learned friend's concern  
6 previously, so perhaps we can do it in private session and I can simply  
7 ask the witness without including the comment that my learned friend is  
8 concerned about.

9 PRESIDING JUDGE EBOE-OSUJI: All right. Proceed.

10 MS RENTON:

11 Q. Witness, who did you recognise? What are their names?

12 A. Yes.

13 PRESIDING JUDGE EBOE-OSUJI: Look back, can you bring back the  
14 question? The root question? So that the record is clear, especially in  
15 light of my own intervention. I needed to intervene at that point.

16 MS RENTON:

17 Q. Witness, we were talking about the Nandi attackers burning your  
18 house. My question is: Did you recognise anyone? You said yes. Could  
19 you tell us the names of the people that you recognised?

20 A. Yes.

21 Q. Please tell us.

22 A. One of them is number 5 on the list.

23 THE INTERPRETER: Number 6, correction from the interpreter.

24 THE WITNESS: (Interpretation) Number 6 on the list.

25 PRESIDING JUDGE EBOE-OSUJI: All right. We now go back in public

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1 session.

2 MS RENTON: Yes, your Honour.

3 (Open session at 11.00 a.m.)

4 THE COURT OFFICER: (Interpretation) Mr President, we are in  
5 public session.

6 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. Counsel, he  
7 has referred to the list already and mentioned number 6. Can you  
8 continue.

9 MS RENTON: Yes, your Honour.

10 Q. Witness, what was person number 6 doing?

11 A. Number 6 is a neighbour. When my house was torched, he told me  
12 that I was a lucky man, that I was going to be eliminated, and he called  
13 me by my name.

14 Q. How did you recognise person number 6 during the time that your  
15 house was burning?

16 A. I recognised him by his voice, and by his name as well. He had  
17 been called upon by the others because he was very familiar with the  
18 area. They called him out in the Nandi language, by his name, and he was  
19 asked what location should we go to now? And that is how I was able to  
20 recognise him.

21 Q. Did you recognise anyone else, apart from person number 6?

22 A. Yes.

23 Q. Would you please tell us the name of that person? If the person  
24 is on the list, refer to the list.

25 A. The names of the other persons do not appear on that list.

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1 MS RENTON: Your Honour, just to err on the side of caution, may  
2 we move into private session.

3 PRESIDING JUDGE EBOE-OSUJI: Private session, then.  
4 (Private session at 11.03 a.m.)

5 THE COURT OFFICER: (Interpretation) We are in private session,  
6 Mr President.

7 MS RENTON:

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 PRESIDING JUDGE EBOE-OSUJI: Counsel, I understand your need for  
17 caution, but why is caution required for him to mention the names.

18 MS RENTON: I just wasn't sure what names the witness was going  
19 to mention, but we can move back into public session now.

20 PRESIDING JUDGE EBOE-OSUJI: All right. Let's go back to public  
21 session, then.

22 (Open session at 11.05)

23 THE COURT OFFICER: (Interpretation) We are in public session.

24 PRESIDING JUDGE EBOE-OSUJI: Proceed.

25 MS RENTON:

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1 Q. Witness apart from the small bottles, were they carrying anything  
2 else?

3 A. Yes. They were carrying machetes and arrows. They also had some  
4 small axes. They had some sticks or clubs with pointed heads on both  
5 ends. They used those clubs to attack. They would throw those clubs or  
6 sticks at people, which would then wound them, and in addition to those  
7 clubs, they also had arrows which they used.

8 Q. Witness, what time of the day did this happen?

9 A. The first time, it was at 8.00 p.m., 2000 hours.

10 Q. You've told us you were hiding and it was in the evening. How  
11 were you able to observe all of this?

12 A. This is what I said. We had learnt that some bad thing was going  
13 to happen, and we therefore decided to leave our wives and our children  
14 at home, and we went to the hill to find out if anything was or had  
15 happened. That is how we came to see houses being burnt down, and so we  
16 asked the people to leave because the situation was getting worse.

17 Q. When you returned to your house, and you've told us you were  
18 hiding, it was the evening time, from what I understand. How could you  
19 see the people and what they were doing?

20 A. This is what I said. When I opened the gate of my house, my wife  
21 and children went out, but before we could go too far, my house was  
22 already on fire. Now, from that time on, my wife and my children went to  
23 the forest while I remained near my house. I was able to see my house  
24 burn down. The whole house was alight. It was on fire. But they could  
25 not see me. There was fire, and the flames that came up were such that

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1 I was able to see them from my place of hiding. I remained there until  
2 the house was entirely burnt down, and then they left.

3 Q. Witness, you've told us that they were divided into groups. Who  
4 was dividing them into these groups?

5 A. What I said is that these people were neighbours who had farms.  
6 They are the ones who did it.

7 Q. How many houses were burned on that night?

8 A. On that night, they did not burn down many houses. The next day  
9 they did something different. But on that particular night, I would say  
10 they burnt down about ten houses.

11 Q. What was the ethnicity of the owners of these houses?

12 A. The houses that were burnt down were owned by Kikuyus.

13 Q. Witness, you've told us the next day they did something  
14 different. What did they do?

15 A. The next day, in the morning, they came to finish off the work,  
16 namely to burn down the houses one after the other. And as I said  
17 previously, in our village everybody had a piece of land of about four  
18 acres. Therefore, buildings were rather close to each other. You see,  
19 in our area, we have villages, and the close village -- or the close  
20 villages are known as Emok (\* phon).

21 THE INTERPRETER: The witness mentions a name which the  
22 interpreters did not get.

23 THE WITNESS: (Interpretation) And the other village is at the  
24 border, so that is why I said that they were divided into groups. And  
25 I was able to observe that during the day. The largest group, or larger

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1 group, went to Kapseret, another group went to Lemok, and the third group  
2 went to Gitwe. It was difficult for me to distinguish between the  
3 groups. At that time, the entire area was on fire. There was smoke  
4 everywhere, and I was also able to observe that some killings had taken  
5 place at that time as well.

6 Q. I'll ask you about the killings very shortly. How many houses  
7 were burnt on that day?

8 A. I would say that about 300 houses were burnt down, and it was on  
9 (Realtime error read in transcript "object") the next day -- I'm  
10 referring to the next day, rather.

11 Q. Witness, who was killed?

12 A. An old man was killed. I saw it with my own eyes. I was there.

13 Q. If the name is on the list, please refer to it.

14 A. Yes. Number 9 --

15 THE INTERPRETER: Rather, number 8, interpreter corrects.

16 MS RENTON: Your Honour, I just note there appears to be an  
17 interpretation or transcription error on line 6. I may just clarify that  
18 with the witness. I understood it was -- he said it was "on the next  
19 day." It says it was "object the next day." But perhaps I can clarify.

20 PRESIDING JUDGE EBOE-OSUJI: Please proceed.

21 MS RENTON:

22 Q. Witness, I'll just go back to an earlier answer that you gave us.

23 I asked you how many houses were burnt and your answer is: "I would say  
24 that about 300 houses were burnt down and it was," the transcript reads,  
25 "it was object the next day, I'm referring to the next day, rather." Can

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1 you just clarify exactly what you said?

2 A. Yes. This is what I said. When my house was burnt down, that  
3 night, about ten houses were burnt down. Then, the next day, in the  
4 morning, they came back and it continued to burn down many more houses.  
5 About 300 houses. They were broken up into groups. They went to  
6 Kapsaret, to Gitwe, and to Lemok. They were in groups during the day.

7 Q. Thank you, witness. Please tell us what happened to person  
8 number 8?

9 A. Yes. The person at number 8 used to live in Kaptagat. It is a  
10 village. When the houses were being burnt down, people from my area  
11 tried to put out the fires, so they came to try to put out the fires from  
12 the houses that had been torched. That old man was trying to do the same  
13 thing, and it is then that the attackers who were nearby tried to drive  
14 him away. Those of us who were on the other side saw him and tried to  
15 help him, but the attackers were many in number. They saw him and then  
16 they attacked him, and they chopped him up into small pieces using a  
17 machete or using machetes. We were there, and they continued to do their  
18 work. Now, any Kikuyu who attempted to take a gun away from them was  
19 killed, was going to be killed, would have been killed by the soldiers,  
20 because they had a plan, they had a plan. I was there and I saw with my  
21 own eyes. I was a witness when that old man was killed.

22 Q. What was the ethnicity of person number 8?

23 A. He was Kikuyu.

24 Q. You've told us that any Kikuyu who attempted to take a gun away  
25 from them was killed, was going to be killed. Were they carrying guns?



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1           A. This is what I have to say: When the war broke out, even the  
2           young Kikuyus took up weapons, such as machetes. Why? You see, it was  
3           not the Kikuyus who attacked the Nandis. They were attacked in their  
4           homes. That is why young Kikuyus decided to arm themselves with  
5           machetes, but they could not do anything against the vast numbers of  
6           attackers, and you may want to know that the soldiers were supporting or  
7           were on the side of the attackers, and I'm speaking about things which  
8           I witnessed myself.

9           Q. Witness, who were carrying the guns? Was it the Nandis or the  
10          soldiers, or someone else?

11          A. This is what I said. The Nandis had guns. Usually, policemen  
12          also carry guns, and they would not be bearing weapons such as machetes  
13          ordinarily.

14          Q. Witness, did you witness anyone else being killed apart from  
15          person number 8?

16          A. Yes. Person number 10.

17          Q. Please tell us what happened to person number 10.

18          A. During the attack, the person at number 10 was uphill, he was not  
19          at the border. He owned a big building, an expensive building, house.  
20          As I had said earlier, during the attack anyone who had money could buy  
21          his way from the police in order to enjoy his own safety and security.  
22          So the person at number 10, well, I cannot tell you what he had given to  
23          the police officers, but he was coming from town with some police people  
24          so that the police people could help him recover his property from his  
25          house.

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1 Q. (Microphone not activated) to him?

2 A. So he came with the policemen to his house. We actually saw the  
3 police vehicle and followed the event to find out what was happening.  
4 When that person got to his house, with the policemen, the attackers were  
5 already there, and this happened during the day. He was cut in the  
6 presence of the policemen, and taken away by a driver in a very poor  
7 state. He had been cut into pieces, and his intestines were spewing out.  
8 He was disemboweled and in an unrecognisable state. By the time the  
9 driver got him to the hospital, it was too late, he could not be saved,  
10 he died.

11 Q. Who specifically attacked him?

12 A. He was attacked by a group of Nandis.

13 Q. What was the ethnicity of person number 10?

14 A. He was a Kikuyu.

15 Q. What was the ethnicity of the police?

16 A. Well, I do not know of what ethnic origin the policemen were, but  
17 I did hear two of them speaking in the Nandi language because I do know  
18 the language -- the Nandi language, myself.

19 Q. Witness, how far away from you -- sorry, how far away were you  
20 when this happened?

21 A. As I told you previously, the assailants came to our farm, and we  
22 could not escape. We went to a specific location where the arrows could  
23 not reach us were they to be shot at us but that wasn't very far afield.  
24 It was at a distance where you could not be reached by an arrow but we  
25 could hear them speaking.

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1 Q. Witness, when did this happen? Can you give us a date or can you  
2 give us a day in relation to when the violence first started?

3 A. I did not quite grasp your question, Counsel.

4 Q. Witness, my question was: When did this happen, the death of  
5 person number 10? How many days after the announcement of the election  
6 results did it take place?

7 A. When person number 10 on the list was killed, well, it was during  
8 the war itself. I cannot recall the precise date, but he was at Yamumbi  
9 farm and Yamumbi farm was on fire, and this went on for four days.

10 Q. Witness, you've told us that this went on for four days, it  
11 started the evening of the announcement of the election results. Was it  
12 the next day, the day after that, or the day after that? If you don't  
13 remember, that's fine, but if you can tell us, that would be helpful.

14 A. I cannot recall, but I believe that it was approximately 30 or 31  
15 December. It was on the eve of the New Year.

16 Q. Witness, did you see the police at any other point in time during  
17 the violence, apart from when you saw them with person number 10?

18 A. Yes.

19 Q. Please tell us.

20 A. We would see policemen on a daily basis. We did not only see  
21 them during the conflict, we saw them every day.

22 Q. Concentrating on the days of the conflict, how were the police  
23 reacting to the situation?

24 A. As I said, when there is strife, when conflict breaks out and  
25 houses are burnt down, well, the young Kikuyus would try and defend

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1 themselves. As for the police reaction, the police officers went to the  
2 location where the Nandis and Kikuyus were fighting, and they shot into  
3 the air. The assailants understood what was going on, they understood  
4 why they were shooting in mid-air. This was to enable the Kikuyus to  
5 take flight and allow the assailants to set the houses alight. When the  
6 policemen noted that houses were being burnt down, they then moved away  
7 to another location.

8 Q. Did you speak with any of the police during the conflict?

9 A. Yes.

10 Q. Please tell us.

11 A. On occasion, I would call a policeman and ask what was going on.  
12 I was in the habit of talking to the policemen after all, and they told  
13 me that we had requested for work to continue.

14 Q. Who do you mean when you say, "We had requested for work to  
15 continue"?

16 A. I am referring to the electoral campaign during which the -- the  
17 election campaign during which Kibaki said that were he to be elected, he  
18 would move things forward.

19 Q. When the police said, "We had requested for work to continue,"  
20 which people were the police referring to?

21 A. We were referring to the Kikuyu.

22 Q. Witness, you've told us the violence lasted for four days. What  
23 can you tell the Court about the damage to property that occurred during  
24 this time?

25 THE INTERPRETER: Correction from the English booth: He was

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1 referring to the Kikuyu.

2 THE WITNESS: (Interpretation) Yes. A number of things were  
3 burnt. And there were also burglaries. Those who were not able to  
4 burgle or to loot came back later in order to remove the sheet roofing  
5 that had been burnt, in addition to some equipment that had remained  
6 behind intact. And what is more, some Nandis rebuilt their houses with  
7 galvanised iron roofing, galvanised iron sheets that had been burnt  
8 previously.

9 Q. Witness, how do you know this? Did you see this yourself?

10 A. Well, I was an eyewitness to all of this.

11 PRESIDING JUDGE EBOE-OSUJI: Counsel, can we get that point of  
12 that last bit of testimony clear? That some Nandis rebuilt their houses  
13 with galvanised iron roofing, or rather galvanised iron sheets that had  
14 been burnt previously? Was that what the witness meant to say?

15 MS RENTON: I believe so, your Honour, but I can ask the witness  
16 again if that's what he meant.

17 Q. Witness, can I just confirm, you've told us that the Nandis  
18 rebuilt their own houses with galvanised iron sheets that had been burnt  
19 during the conflict; is that what you said?

20 A. Yes. That is what I said.

21 Q. Who did the iron sheets belong to previously?

22 A. When the houses were burnt down, with all of their contents, some  
23 of the proprietors fled to Nyeri and some to Bambu (\* phon), so I am not  
24 in a position to know who these roofing sheets belonged to. However,  
25 after the conflict, I saw that some houses had been built using the

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1 roofing sheets that had been taken away from the burnt-down ruins, or  
2 recovered from the burnt-down ruins. What is more, some people tried to  
3 paint them but it was still visible.

4 Q. What was the ethnicity of the people whose houses were burnt down  
5 where the iron sheets were taken from?

6 A. As I said at the outset, the houses that were burned down  
7 belonged to the Kikuyus.

8 Q. Witness, what happened with the people in Yamumbi? Where were  
9 they during the conflict?

10 A. During the conflict, most of the residents of Yamumbi would spend  
11 the night in the forest, and on the next day they would go to churches,  
12 and some of them went to the police station.

13 Q. Did you ever go to the police station?

14 A. Yes.

15 Q. When was this? Can you tell us which day?

16 A. I cannot recall the date, but I did go there and I noted that  
17 there were other individuals present at the police station. They were  
18 standing outside of the police station offices.

19 Q. How many people were there?

20 A. There were many people at the police station. In fact, when  
21 people heard that Kiambaa church had been burnt down, those who lived in  
22 the area began to flee, and they made their way towards the police  
23 station. At the police station, I came across many individuals.

24 Q. What was the ethnicity of the people that were at the police  
25 station?

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1 A. At the police station, there were people of all ethnic origins.  
2 In fact, there is a location called Langas at the confines of Yamumbi,  
3 and that is where people of a variety of ethnic origins live. When those  
4 inhabitants heard that the situation was deteriorating, many of them  
5 sought refuge at the church.

6 Q. When you were at the police station, what was the ethnicity of  
7 the people there? Can you tell us some of the ethnic groups that you  
8 know that were there?

9 A. Yes.

10 Q. Please tell us.

11 A. Well, the Kikuyu were the majority at the police station. There  
12 were also some Luhya present. There were some Kisii, and a small group  
13 of Nandis who lived in Langas.

14 Q. Witness, you've told us about person number 8 and person number  
15 10 that were killed. Do you know of anyone that was injured during the  
16 conflict in Yamumbi?

17 A. Yes.

18 Q. Please tell us.

19 A. Number 9 on the list was also killed.

20 Q. How was person number 9 killed?

21 A. When the assailants arrived, he attempted to flee. People were  
22 jumping over the barbed wire and attempted to flee, in order to make  
23 their way towards Langas or that area.

24 Q. What was the ethnicity of person number 9?

25 A. He was a Kikuyu.

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1 Q. You've told us that he attempted to flee from the assailants.

2 What happened to him? How was he killed?

3 A. He was in the company of other individuals. His clothing became  
4 entangled in the barbed wire, and the attackers then caught hold of him.  
5 That was during the day. He was then cut into pieces and died instantly.

6 Q. Which day of the violence did this happen?

7 A. Well, I'm thinking about it carefully. It's either the second or  
8 the third day.

9 Q. Was anyone else killed or injured, that you know of?

10 A. Yes. Number 11 on the list.

11 Q. How -- sorry, what happened to number 11?

12 A. Number 11 on the list also attempted to flee, but they caught up  
13 with him.

14 Q. Who are you referring to when you say "they caught up with him"?

15 A. I'm referring to the attackers.

16 Q. What happened when they caught up with him?

17 A. They cut him into pieces and threw his remains into a bag.

18 Q. What happened after that?

19 A. They then called us and told us to come and pick up our body.  
20 They said, "Come and pick up your corpse."

21 Q. What was the ethnicity of person number 11?

22 A. A Kikuyu.

23 Q. Did person number 11 in fact die?

24 A. No.

25 Q. Which day of the violence did this happen, person number 11?



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1 A. I believe it was on the third day, or the second.

2 Q. How do you know about person number 11? Were you present when  
3 this happened?

4 A. I was there.

5 Q. Talking about person number 9, how do you know about person  
6 number 9? Were you present when that happened?

7 A. As I said to you previously, I was an eyewitness to all of these  
8 events. And why was that? Well, because during the conflict, we  
9 attempted to salvage our belongings but we did not manage to, so I was an  
10 eyewitness to most of the events that occurred.

11 MS RENTON: Your Honour, I note the time. I may have perhaps  
12 half an hour if we return back from lunch with your leave, if that's  
13 okay.

14 PRESIDING JUDGE EBOE-OSUJI: At some point, of course, you will  
15 let us know what happened to person number 11. As you can see the  
16 transcript has the witness saying he was cut up into pieces and his  
17 remains put in a bag, and then they got a phone call saying come and pick  
18 up your corpse. And then you ask him a question, did person number 11  
19 die, and he says no.

20 So we would like to know where to go from there. We will adjourn  
21 now and come back at 1.00. We will take our -- one second.

22 (Trial Chamber and court officer confer)

23 PRESIDING JUDGE EBOE-OSUJI: So we will be taking a one hour  
24 lunch break now and come back at 1.00, but we will first bring down the  
25 blinds and let the witness out.

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1 (Closed session at 12.03 p.m.)

2 THE COURT OFFICER: (Interpretation) We are in closed session,  
3 Mr President.

4 PRESIDING JUDGE EBOE-OSUJI: Escort the witness.  
5 (The witness stands down)

6 PRESIDING JUDGE EBOE-OSUJI: Court will rise.

7 (Recess taken at 12.03 p.m.)

8 (The witness enters the courtroom)

9 (Upon resuming in open session at 1.08 p.m.)

10 THE COURT USHER: All rise. Please be seated.

11 THE COURT OFFICER: (Interpretation) We are in open session, your  
12 Honour.

13 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

14 Ms Renton, please proceed.

15 MS RENTON:

16 Q. Witness, just before lunch, we were discussing person number 11  
17 and you told us that assailants caught up with him and cut him into  
18 pieces, threw his remains into a bag and then they called "us." How did  
19 they call you? Was this by telephone or were you in the vicinity? How  
20 did they call you?

21 A. As I said, we weren't far from there, not far from them, but they  
22 were stronger than we were. When they thought that they had finished,  
23 they threw him in a bag and called upon us to come and get your bodies,  
24 without life. Dead bodies.

25 Q. How did they call you? Did they shout at you?

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1 A. Yes, yes. But it was really with anger.

2 Q. Did you go and collect the body?

3 A. Yes. When they left, we came back.

4 Q. And what was the condition of person number 11?

5 A. We saw that the body was still breathing. We saw he wasn't in  
6 fact dead yet. We got a vehicle quickly and we took him to hospital.

7 Q. What became of him? Did he recover?

8 A. Yes. He was cured but his human situation deteriorated.

9 Q. What do you mean by that? What do you mean that he deteriorated?

10 A. I want to say the following: He had been cut up and this meant  
11 that he mentally wasn't functioning as well as he had been doing  
12 previously.

13 Q. Witness, I'd like to show you a document. Do you recall being  
14 shown a list of victims in Yamumbi during your interview?

15 A. I'm sorry, I didn't understand you.

16 Q. During your interview, were you shown a document with a list of  
17 many people who were injured or killed in Yamumbi. Do you recall being  
18 shown that list?

19 A. Here, you're referring to the court or elsewhere?

20 Q. I'm referring to the interview when the statement was taken with  
21 myself and another investigator last year in -- sorry, last year.

22 A. Yes. I think that time has passed. If you show me this list,  
23 that would help me remember it.

24 MS RENTON: Your Honour, if I can ask the court officer to bring  
25 up a document on the screen, it's confidential so it shouldn't be

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1 broadcast to the public. I've discussed with my learned friends and  
2 they've agreed that I can lead the witness on this issue.

3 PRESIDING JUDGE EBOE-OSUJI: So what document do you want the  
4 court officers to pull up?

5 MS RENTON: The ERN of the document is KEN-OTP-0011-0640, and  
6 it's at tab 3 of the bundle. If the court officer could then go to the  
7 second page, the ERN is 0641. If that could be enlarged perhaps once or  
8 twice more.

9 Q. Witness, can I ask you to put your glasses on and have a look at  
10 the document on the screen. If you look at the first column and focus on  
11 number 82, can you see number 82?

12 A. Yes.

13 PRESIDING JUDGE EBOE-OSUJI: Sorry, number 82 is not on my column  
14 where the numbers -- can we show it? Counsel, do you have a hard copy?  
15 If you -- during your preparation showed him a hard copy, can you try  
16 that? And then without prejudice to the screen, the monitor is still  
17 displaying the screen, so that he has both.

18 MS RENTON: Perhaps I can ask the court officer to check whether  
19 or not he can see that on the screen, how the -- what image is being  
20 displayed.

21 PRESIDING JUDGE EBOE-OSUJI: So number 82 appears on the screen  
22 he has. All right. Maybe he's seeing something different.

23 MS RENTON: I think perhaps the size of the monitors is slightly  
24 different.

25 PRESIDING JUDGE EBOE-OSUJI: Yes, I can also see from the station

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1 of the registry that they have a wider angle than I do. All right.

2 MS RENTON:

3 Q. Witness, without mentioning the name of the person, seeing as we  
4 are in public session, is that one of the people who you witnessed being  
5 killed during the violence in Yamumbi?

6 A. Yes.

7 Q. And is that person number 10 on the smaller list on the desk in  
8 front of you?

9 A. Yes.

10 Q. Just for the purposes of the record, if I can read into the  
11 details without mentioning the person's name, 60 years old, male, killed  
12 in Yamumbi, multiple cut wounds.

13 MR FAAL: Mr President, we do not really object to the  
14 information about this particular person, that in fact he did die on that  
15 day, but I'm afraid the learned Prosecutor is perhaps using the wrong  
16 document because what this document shows is that the person was admitted  
17 to hospital at ward 6. Perhaps if my learned friend would use a document  
18 that was contributed by the Defence, it contains the name of this person  
19 as having died on that day, but this document only shows that the person  
20 was admitted in the hospital for having suffered particular injuries.

21 Thank you.

22 PRESIDING JUDGE EBOE-OSUJI: All right. Let's -- counsel, if --  
23 Ms Renton, if the Defence counsel do not object to the fact that the  
24 person you and the witness have in mind was, in fact, killed, do we need  
25 the document on the screen for that proposition?

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1 MS RENTON: If the Defence agree to that, then it's not  
2 necessary, although the fact that the document corroborates the witness's  
3 evidence, I think, is helpful for the court record.

4 PRESIDING JUDGE EBOE-OSUJI: But there is no need for  
5 corroboration because the Defence is not even contesting it.

6 MR FAAL: Mr President, the only issue for us here is the date at  
7 which the person died, and the testimony we have received so far from the  
8 witness is in line with the evidence in the possession of the Defence, so  
9 once that evidence does not change, there is nothing to contest. That  
10 person died on the 31 of December.

11 PRESIDING JUDGE EBOE-OSUJI: So the person died on 31 December.  
12 That's your position?

13 MR FAAL: That's our position and that's the testimony as  
14 I understand it. If that is not contested by the Prosecution, we can  
15 agree this. In any case, we even have the death certificate of the  
16 person.

17 PRESIDING JUDGE EBOE-OSUJI: Let's not go that far yet.  
18 Ms Renton, do you have any issue as to the date of death?

19 MS RENTON: No, that's fine. I thank my learned friends for that  
20 agreement.

21 PRESIDING JUDGE EBOE-OSUJI: So everyone is agreed that this  
22 individual died and the date of death was 31 December 2007.

23 MS RENTON: Yes, your Honour.

24 PRESIDING JUDGE EBOE-OSUJI: All right. Then we don't need to go  
25 through the problem of document showing it to the witness and asking one

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1 or two questions about that.

2 MS RENTON: I'll move on.

3 PRESIDING JUDGE EBOE-OSUJI: Unless you do think you need that.

4 MS RENTON: No, I can move on now, your Honour, thank you.

5 PRESIDING JUDGE EBOE-OSUJI: All right. So let's not bother then  
6 with this -- what's on the screen with the witness.

7 MS RENTON:

8 Q. Witness, person number 10, who we've just seen on the document on  
9 the screen, died on 31 December 2007. Did person number 11, that you've  
10 spoken about, was he injured before, on the same day, or after person  
11 number 10 died?

12 PRESIDING JUDGE EBOE-OSUJI: Sorry to interrupt you. Can you  
13 hold that question? You can ask it. But let's do something first. Can  
14 we go to private session, please?

15 (Private session at 1.22 p.m.)

16 THE COURT OFFICER: (Interpretation) That we are private session,  
17 your Honour.

18 PRESIDING JUDGE EBOE-OSUJI: All right. Counsel, why don't you  
19 then read in what appears on the ERN that ends with 0641? You can read  
20 in the particulars of number 82 for the record so it is clear.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE EBOE-OSUJI: Thank you. Now, we can go back out.

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1 (Open session at 1.24 p.m.)

2 THE COURT OFFICER: (Interpretation) We are in open session, your  
3 Honour.

4 PRESIDING JUDGE EBOE-OSUJI: Thank you. You are now asking  
5 questions about person number 11. Please proceed.

6 MS RENTON:

7 Q. Witness, the evidence is that person number 10 died on  
8 31 December. Was person number 11 injured on the day before, on the same  
9 day, or after person number 10 died?

10 A. I think that person number 11 was injured a bit before.

11 Q. Witness, aside from the conflict in Yamumbi that you observed, do  
12 you know of violence in any other areas at this time, and for the moment  
13 please just answer "yes" or "no"?

14 A. Yes.

15 Q. Could you please tell us the names of some of the areas that you  
16 know experienced violence at this time, just the names of those areas,  
17 please.

18 A. There was Maline, Munyaka, Kimumu, Kiambaa, Burnt Forest, Kondoo.  
19 There was Kamuyu.

20 PRESIDING JUDGE EBOE-OSUJI: Counsel, one second, please.  
21 Interpreters, do you have the transcript in front of you?

22 THE INTERPRETER: Yes.

23 PRESIDING JUDGE EBOE-OSUJI: If you go to line 4 on page 32, the  
24 word there, is it "a bit" or "a short while"?

25 THE INTERPRETER: "A bit before," your Honour, "un peu," shortly



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1 before.

2 PRESIDING JUDGE EBOE-OSUJI: It's about whether where the  
3 adjective describes the injury or the time is what we want to be clear on  
4 the record. So if you're correcting it might be "a short while," I think  
5 we need to clear that up.

6 THE INTERPRETER: A short time before is when the injury  
7 occurred, your Honour.

8 PRESIDING JUDGE EBOE-OSUJI: Thank you.

9 Please proceed.

10 MS RENTON:

11 Q. Witness, I'd just like to ask you about Maline. How do you know  
12 about the violence in that area? Please refer to the list, if necessary.

13 A. I found out from person number 15.

14 Q. When did you find out?

15 A. When Yamumbi was attacked, I found out the next day.

16 Q. How did you find out?

17 A. I had the information by telephone.

18 Q. From person number 15; is that correct?

19 A. Yes.

20 Q. What did person number 15 tell you on the telephone?

21 A. The person at number 15 told me that the Nandis had burnt houses  
22 in their area, and I told the person that they had done the same thing in  
23 our area too.

24 Q. What did you do as a result of hearing this?

25 A. I decided -- well, you see, the person at number 15 did not have

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1 any means by which to come, so I had to go to their place. I went there.

2 Q. When did you go?

3 A. Shortly after that person called me, I spent one day, and then  
4 I went to their location the next day.

5 Q. What was the ethnicity of the people who owned the houses that  
6 were burnt?

7 A. They were Kikuyus.

8 Q. How did person number 15 know it was Nandis that burnt the  
9 houses?

10 A. Person number 15 had bought some property from the Nandis, and  
11 people lived together, mixed up, in that area. So they knew and spoke  
12 the Nandi language as well.

13 Q. What did you see when you went there?

14 A. When I arrived at their location, I found that the house had  
15 already been torched and had been destroyed. I saw other houses that had  
16 also been burnt, so I called that person to ask them where they were, and  
17 they told me that they were at the church, at the cathedral. So I told  
18 them that I was at the location where their house which had been burnt  
19 down was found. I made a lot of efforts to leave that place as soon as  
20 possible. You see, I had a motorcycle, and I was able to return to  
21 Yamumbi.

22 Q. Which cathedral did they go to?

23 A. They went to the cathedral in downtown Eldoret, or in the centre  
24 of the town in Eldoret.

25 Q. Witness, I'd now like to ask you about Kimumu. How did you hear

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1 about the violence in Kimumu? If necessary, refer to the list.

2 A. At the beginning of the conflict, the conflict in Kimumu, there  
3 were some Kikuyus as there were in Yamumbi. Inhabitants in those areas  
4 had picked up their telephones to call and find out what was happening  
5 elsewhere. So there was burning in Kimumu and so they thought they would  
6 flee to Yamumbi. Unfortunately, when they called, or when the people in  
7 Yamumbi were called, the answer was that Yamumbi was on fire and when  
8 Kimumu was called, the answer also was that Kimumu was on fire. So we  
9 used the phone at that time to share this information, or to communicate  
10 with each other, and that's how I came to find out that Kimumu was also  
11 ablaze.

12 Q. Who called you and told you about Kimumu?

13 A. Kimumu is a neighbouring locality to Eldoret. People often used  
14 their telephones to communicate in that area. So when people called at  
15 that time to say that there was fire in a particular location, we then  
16 knew that all of this was within the context of sharing information and  
17 communication to enable everyone to know what was going on where.

18 Q. Did anyone in particular call you and speak to you about Kimumu?  
19 And if necessary, refer to the list.

20 A. Yes. Person number 17. In fact, two people gave me that  
21 information. I was called by several others but I remember clearly that  
22 I got information from those two persons. These people were very close  
23 to me.

24 Q. What did they tell you about the fire in Kimumu?

25 A. They told me one thing only, namely, that the Nandis had burnt

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1 down their houses. So I told them the Nandis had done the same thing in  
2 our area. That is what we talked about, the only thing we talked about.

3 Q. What is the ethnicity of person 17?

4 A. Kikuyu.

5 Q. Witness, I'd like to ask you some details about the losses you  
6 suffered as a result of the violence?

7 PRESIDING JUDGE EBOE-OSUJI: Before you do that, in the witness's  
8 testimony, he did talk about those two people, and I'm looking at number  
9 17, there are two people. All right. So your question about the  
10 ethnicity needs to be cleared up in that regard.

11 MS RENTON:

12 Q. Mr Witness, there are two people listed under number 17. Are  
13 they both Kikuyu or, if not, please tell us their ethnicity.

14 A. They are both Kikuyus.

15 MS RENTON: Your Honour, I'd ask that we move into private  
16 session to discuss the next issue.

17 PRESIDING JUDGE EBOE-OSUJI: All right. We will go into private  
18 session. How long do you anticipate we will be there?

19 MS RENTON: Five minutes perhaps.

20 PRESIDING JUDGE EBOE-OSUJI: Five minutes. Private session.

21 (Private session at 1.42 p.m.)

22 THE COURT OFFICER: (Interpretation) Mr President, we are in  
23 private session.

24 MS RENTON:

25 Q. Witness, you've told us that your house was burnt down. Did you

Witness: KEN-OTP-P-0423 (On former oath) (Private Session)  
Questioned by Ms Renton (Continuing)

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1 return to your house after the violence subsided?

2 A. I have never returned to live in that house since those events.

3 No, I never went back to live there.

4 Q. Did you go back to visit at any time?

5 A. Yes.

6 Q. When was that? And why was that?

7 A. When I realised that peace had somewhat returned to the area and  
8 that houses were being built for people, and that some people had come to  
9 assist in reconstruction of buildings, it was at that time that people  
10 began to go back. So I went back as well, but I did not remain there.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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Witness: KEN-OTP-P-0423 (On former oath) (Private Session)  
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11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted). No one could have stolen anything in Yamumbi except the  
17 Nandis.

18 Q. Witness, can you tell the court whether you've been affected  
19 physically or psychologically by the violence and the experiences you had  
20 during the conflict in Yamumbi?

21 A. In 1992, I was attacked and wounded by an arrow. In 2007, I was  
22 not wounded.

23 Q. I understand you were not physically wounded. Were you  
24 psychologically or emotionally affected by this violence in 2007, in any  
25 way?

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Questioned by Ms Renton (Continuing)

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1 A. Yes.

2 Q. Can you tell the court how this affected you?

3 A. Yes. I can tell the Judges, since that time, many things about  
4 me have deteriorated. I don't have peace. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Our lives have been affected. Life has become extremely difficult for  
9 us.

10 Q. Thank you, Witness.

11 MS RENTON: Your Honour --

12 PRESIDING JUDGE EBOE-OSUJI: Witness, you said life has become  
13 extremely difficult for you. Are you able to tell us fully in what way?

14 THE WITNESS: (Interpretation) Let me tell you the following. In  
15 fact, what I can say is that if we are to compare -- if I were to compare  
16 my previous life and my life today, I would say that life is very  
17 difficult. If I wanted to buy cows today, it would be very difficult for  
18 me to do so. If I wanted to build a beautiful house today, it would be  
19 extremely difficult for me to do so. Now, if I had to go and live in the  
20 same place where I used to live before, it would be extremely difficult  
21 because I will not be at peace. So in summary, I can say that it is even  
22 difficult for me to -- to rise out of this situation, so to speak.

23 PRESIDING JUDGE EBOE-OSUJI: You say if you wanted to buy cows  
24 today, it will be extremely difficult for you to do so. And if you  
25 wanted to build a beautiful house today, it will be extremely difficult

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1 for you to do so. Why would it be extremely difficult for you to buy a  
2 cow today or build a house today?

3 THE WITNESS: (Interpretation) I say so because I am no longer  
4 able to do the work that I used to do before. You also want to know that  
5 I lost some money at that time, money which I had gathered by my labour  
6 and sweat over an extended period of time. (Redacted)

7 (Redacted)

8 (Redacted). Where am I going to find that money today?

9 It's very difficult. My children are in school. Even if I were to  
10 consider buying sheep, I would rather have my children continue their  
11 education than buy sheep. That is why I -- I have said that life is  
12 extremely difficult for us today.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)



Witness: KEN-OTP-P-0423 (On former oath) (Private Session)  
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Page 41 redacted.

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17 (Redacted)

18 Ms Renton, please proceed.

19 MS RENTON: Thank you, your Honour. We may move back into public  
20 session.

21 PRESIDING JUDGE EBOE-OSUJI: Back to public session, then.

22 (Open session at 2.06 p.m.)

23 THE COURT OFFICER: (Interpretation) We are in public session,  
24 your Honour.

25 MS RENTON:

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Questioned by Ms Renton (Continuing)

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1 Q. Witness, I just have one or two questions now before I finish.

2 Do you know a person by the name of Mark Too?

3 MR FAAL: Mr President, I think that this question is highly  
4 prejudicial. The witness has testified, he's been asked several times  
5 about meetings and who were present and the witness has answered. To be  
6 just suddenly asked do you know this person, just out of the blue like  
7 that, is highly prejudicial.

8 PRESIDING JUDGE EBOE-OSUJI: Objection is overruled.

9 MS RENTON:

10 Q. Mr Witness, I'll repeat my question: Do you know a person by the  
11 name of Mark Too?

12 A. I -- I was wondering if you were speaking about Mark Too.

13 Q. Yes, sorry, that's my pronunciation. It's Mark Too.

14 A. Yes. I know him.

15 Q. Who is he? What can you tell us about him?

16 A. Mark Too was a very-well-known person, very-well-known, in  
17 politics. He's a major figure.

18 PRESIDING JUDGE EBOE-OSUJI: Ms Renton, you have to be careful  
19 now.

20 MS RENTON: Yes, your Honour, thank you. I'm guided. One  
21 second, please, with your leave.

22 PRESIDING JUDGE EBOE-OSUJI: You know what I mean, no leading  
23 questions this time.

24 (Prosecution counsel confer)

25 MS RENTON:

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Questioned by Ms Renton (Continuing)

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1 Q. Witness, you've told us he's very-well-known in politics. Can  
2 you comment on his relationship with any of the other politicians in the  
3 Rift Valley?

4 A. Yes. As I told you yesterday, when you speak about somebody from  
5 the region, the Rift Valley, and you tell him that he's a politician,  
6 it's either an MP or a councillor, in general when this person meet, they  
7 have discussions on the same subject or different subjects and their  
8 meetings are all similar.

9 PRESIDING JUDGE EBOE-OSUJI: Witness, you said you know  
10 Mark Too -- sorry. Let me back up. You didn't say that yet. You said  
11 Mark Too is a well-known figure, a major figure. Do you know him  
12 yourself personally?

13 THE WITNESS: (Interpretation) I don't know him. I know him by  
14 name only. It's a very-well-known name.

15 PRESIDING JUDGE EBOE-OSUJI: Did you ever meet him?

16 THE WITNESS: (Interpretation) No. I didn't participate in  
17 political meetings but I know that he's a major figure.

18 PRESIDING JUDGE EBOE-OSUJI: No, I wasn't asking you about  
19 participating in a meeting with him. What I mean is do you know him only  
20 by name or is he somebody that you have met face-to-face and you know  
21 much or anything about him beyond merely knowing his name and his  
22 reputation as a major figure in the area?

23 THE WITNESS: (Interpretation) Personally, I never met him. But I  
24 knew him by name and I know his home.

25 PRESIDING JUDGE EBOE-OSUJI: Ms Renton, proceed, knowing the

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1 limited nature of familiarity of the witness for the person of interest  
2 to you.

3 MS RENTON: Thank you, your Honour. I'll move on from that.

4 Just before I finish, may I inquire from my learned friends for  
5 the Defence of Mr Ruto whether the Mr Ruto that the witness has been  
6 referring to is in fact the accused?

7 MR FAAL: Perhaps the question should be put to the accused -- to  
8 the witness.

9 MS RENTON: The difficulty is that the accused is not present in  
10 court today.

11 MR FAAL: I think further identifying information could be  
12 elicited from the witness, I mean, who is he, what work does he do,  
13 what's his full name.

14 MS RENTON: I'll proceed on that basis. Thank you.

15 Q. Witness, you've referred a number of times during your testimony  
16 to Mr Ruto. Do you know of Mr Ruto's any other names?

17 A. No.

18 Q. In 2007, what was his position, what was his occupation?

19 A. In 2007, he was in politics.

20 Q. And today, do you know what his position is today?

21 A. Yes.

22 Q. Please tell us.

23 A. He's Vice-President of the republic.

24 Q. The Republic of Kenya, am I correct?

25 A. Yes.

1 MS RENTON: Thank you, your Honour. That's the end of my  
2 examination. Just one or two housekeeping matters, the tendering of the  
3 photograph.

4 PRESIDING JUDGE EBOE-OSUJI: And the PIS, I take it, or has it  
5 already gone in?

6 MS RENTON: That's one of the other matters. In fact we were  
7 wondering which version was the most appropriate one to tender into  
8 evidence. The full version or the shorter version that the witness has  
9 been referring to.

10 PRESIDING JUDGE EBOE-OSUJI: There's no harm in doing both.

11 MS RENTON: Thank you, your Honour, yes.

12 PRESIDING JUDGE EBOE-OSUJI: Hold on, hold on, sorry, sorry, was  
13 the first version ever used?

14 MS RENTON: I don't believe it was ever referred to. The  
15 difficulty is that the shorter version only contains Swahili so there is  
16 no explanation of the Swahili for someone that's looking at it later.

17 PRESIDING JUDGE EBOE-OSUJI: Well, we can have both in, then,  
18 with that understanding.

19 MS RENTON: Perhaps the shorter version can be an exhibit and the  
20 longer version an MFI simply for reference purposes.

21 PRESIDING JUDGE EBOE-OSUJI: Both of them could be PIS, we know  
22 what's happened.

23 MS RENTON: Yes, thank you, your Honour.

24 PRESIDING JUDGE EBOE-OSUJI: Probably one could be the bis PIS of  
25 the other.

1 MS RENTON: The other matter would be an EVD number for the  
2 photograph that was presented to the witness.

3 PRESIDING JUDGE EBOE-OSUJI: Any objection?

4 MR FAAL: No objection, Mr President.

5 MR KOECH: No objection, Mr President.

6 PRESIDING JUDGE EBOE-OSUJI: Thank you. The photo ending with --  
7 the OTP ERN ends with 0155, I think, goes in as the next Prosecution  
8 exhibit.

9 THE COURT OFFICER: (Interpretation) The second PIS will have the  
10 numbers KEN-PIS-0001-0021. The document KEN-OTP-0080-0155 will have the  
11 number EVD-T-OTP-00029 and it will be registered as confidential. This  
12 document will also be called Exhibit 29.

13 PRESIDING JUDGE EBOE-OSUJI: All right. Court officer, can we  
14 also in the PISes, we know you've logged in the second PIS, but the  
15 initial one we will also bring in, and if it is possible to number it  
16 0021 bis, that's PIS 0001, something like that. If not, just -- we just  
17 want to associate it with PIS number 21 in some way.

18 THE COURT OFFICER: (Interpretation) Your Honour, the first  
19 version of the PIS distributed by the Prosecutor already is given the  
20 number KEN-PIS-0001-00017. Now, we can reformulate the second PIS  
21 KEN--PIS-0001-00017 bis.

22 PRESIDING JUDGE EBOE-OSUJI: Did you already put it in, sorry?  
23 Is it --

24 MS RENTON: I didn't tender it but perhaps it was tendered when  
25 it was first provided to the court officer. As pursuant to their

1 instructions, we sent a version and perhaps it's already been tendered,  
2 but I hadn't tendered it myself any earlier.

3 PRESIDING JUDGE EBOE-OSUJI: Yes, I don't recall that happening  
4 on the record as well. So there must be a confusion somewhere. Anyway,  
5 so that we are all on the same page, yes, let's make the PIS 21 and  
6 21 bis so that we are all in the same -- pardon me? Oh, 17 and 17 bis,  
7 all right. Okay. We will do it that way, then, 17 and 17 bis seems to  
8 be the correction. All right.

9 MS RENTON: That's fine, your Honour. I just have one further  
10 matter for the record. At page 29, lines 11 to 13, my learned friend  
11 referred to another document which was also relevant for person 10, if  
12 I would just enter the ERN and exhibit number of that document so that  
13 it's clear when reading the record what document he's referring to  
14 I would be grateful.

15 PRESIDING JUDGE EBOE-OSUJI: Any objection?

16 MR FAAL: No objection.

17 PRESIDING JUDGE EBOE-OSUJI: All right. Proceed, then.

18 MS RENTON: The EVD number is EVD-T-D09-0064 and at page with the  
19 ERN ending 1040, the entry number 53 on the list refers to person number  
20 10 on the PIS.

21 PRESIDING JUDGE EBOE-OSUJI: Thank you. So that will be it for  
22 you?

23 MS RENTON: Yes, your Honour, thank you.

24 PRESIDING JUDGE EBOE-OSUJI: All right. Thank you, Ms Renton.

25 Witness, Ms Renton has finished asking you her



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1 examination-in-chief on behalf of the Prosecutor. Now it is the turn of  
2 Mr Faal, who is lawyer to Mr Ruto. He would also have some questions for  
3 you. You are still on the stand as a witness, or rather, on the seat of  
4 witnesses. So the same advice I gave you before still stands. Listen to  
5 his questions very carefully. You also keep in mind that he's doing his  
6 work and the way that lawyers do their work in the courtroom is to ask  
7 witnesses questions. So he would also be doing his work in asking you  
8 questions. Listen to them very carefully and answer them to the best of  
9 your ability. Keep your answers short and to the point. It requires you  
10 listening very carefully to the question, understanding it before you  
11 answer. Also, remember you've been doing very well in terms of your  
12 pace. You have not been too fast and you have also been observing the  
13 gaps so keep it that way and thank you.

14 Mr Faal, please continue, or proceed, rather, proceed.

15 MR FAAL: Thank you, Mr President.

16 QUESTIONED BY MR FAAL:

17 Q. Mr Witness, my name is Essa Faal. I'll be asking you questions  
18 on behalf of the Defence team for Mr William Ruto, do you understand?

19 PRESIDING JUDGE EBOE-OSUJI: Mr Faal, you can proceed. I think  
20 he understands. The thing is how much time do you think you will take in  
21 cross-examination of this witness?

22 MR FAAL: Mr President, I think I should take about four  
23 sessions. That is my guesstimate. There is a possibility that I may  
24 shorten it, but really at the moment it's difficult to tell but my target  
25 is maximum time four sessions.

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1           PRESIDING JUDGE EBOE-OSUJI: Be precise. When does it mean you  
2           end?

3           MR FAAL: Mr President --

4           PRESIDING JUDGE EBOE-OSUJI: Instead of four sessions, are we  
5           talking about ending by tomorrow at lunch? Or at the end of the day  
6           tomorrow?

7           MR FAAL: Maybe at around lunchtime. That -- for that to happen,  
8           I'd have to really push it. In the event that I fail, then I will take a  
9           little more time after lunch. My objective, though, is to finish by  
10          lunchtime.

11          PRESIDING JUDGE EBOE-OSUJI: So you keep in mind the lunchtime  
12          tomorrow and not four sessions. All right.

13          Mr Kigen-Katwa, so far your client has not been mentioned, so  
14          I take it --

15          MR KOECH: Yes, you're right, Mr President. For the moment we  
16          don't intend to ask any questions of this witness.

17          PRESIDING JUDGE EBOE-OSUJI: So far.

18          MR KOECH: Yes.

19          PRESIDING JUDGE EBOE-OSUJI: Please proceed, Mr Faal.

20          MR FAAL:

21          Q. Mr Witness, I want you to understand that we sympathise with you  
22          for the loss -- all losses you have suffered during the post-election  
23          violence in Kenya, but you should also understand that it is our  
24          responsibility to ask you questions, and I would go ahead to do just  
25          that. A little while ago, you testified about losing your house to fire

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1 caused by the Nandis. Do you recall that?

2 A. Yes.

3 Q. Could you kindly tell us how many houses were in your compound or  
4 your premises? How many houses?

5 A. Yes.

6 Q. Please, tell us how many?

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Did you inherit any of these houses?

13 A. Please, could you repeat the question?

14 Q. Did you inherit any of these houses?

15 A. No.

16 Q. Mr Witness, don't tell us the name. Your father, is he still  
17 alive?

18 PRESIDING JUDGE EBOE-OSUJI: Let's go into private session now.

19 One second.

20 (Private session at 2.30 p.m.)

21 THE COURT OFFICER: (Interpretation) Mr President, we are in  
22 private session.

23 PRESIDING JUDGE EBOE-OSUJI: All right. Proceed.

24 MR FAAL: Thank you, Mr President.

25 (Redacted)

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1 (Redacted)

2 PRESIDING JUDGE EBOE-OSUJI: All right. Mr Faal, it's time  
3 for -- we are now ten minutes into the break period. We will rise now  
4 and come back, and you continue. We'll come back at 3.05.

5 MR FAAL: As the court pleases.

6 PRESIDING JUDGE EBOE-OSUJI: Witness, we'll take a break now so  
7 you can be let out for you to also have a break and we'll be coming back  
8 in a short while. The blinds will come down and the witness will be  
9 taken out of the courtroom for now.

10 (Closed session at 2.39 p.m.)

11 THE COURT OFFICER: (Interpretation) Mr President, we are in  
12 closed session.

13 PRESIDING JUDGE EBOE-OSUJI: The witness may be escorted.  
14 (The witness stands down)

15 PRESIDING JUDGE EBOE-OSUJI: Court will rise.

16 (Recess taken at 2.40 p.m.)

17 (The witness enters the courtroom)

18 (Upon resuming in open session at 3.16 p.m.)

19 THE COURT USHER: Please be seated.

20 THE COURT OFFICER: (Interpretation) We are in public session,  
21 your Honour.

22 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

23 Mr Faal, we are in open session now but we were in private before  
24 we rose for the break. Do you wish to return to private?

25 MR FAAL: Yes, Mr President, so that I finish off on this issue.

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1           PRESIDING JUDGE EBOE-OSUJI: How much longer do you think?

2           MR FAAL: Five minutes, Mr President.

3           PRESIDING JUDGE EBOE-OSUJI: Five minutes in private session. So  
4           let's return to private session for five minutes.

5           (Private session at 3.17 p.m.)

6           THE COURT OFFICER: (Interpretation) We are in private session,  
7           your Honour.

8           PRESIDING JUDGE EBOE-OSUJI: Thank you. Proceed, Mr Faal.

9           MR FAAL: Thank you, Mr President.

10          (Redacted)

11          (Redacted)

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12 (Redacted)

13 A. I can't answer that question.

14 Q. Mr Witness --

15 PRESIDING JUDGE EBOE-OSUJI: Counsel, one second. Counsel,  
16 I could ask the witness to answer the question. My problem is of what  
17 probative value is this line of inquiry vis-à-vis the charges that we  
18 have to deal with or that your client is facing, the matter of (Redacted)  
19 (Redacted) How does that assist us?

20 MR FAAL: Mr President, it does not directly relate to the  
21 charges, but here we have a witness who is telling us particular stories  
22 that he heard. We have information that he has the propensity to make  
23 certain wild allegations.

24 PRESIDING JUDGE EBOE-OSUJI: All right. Let's not go there yet.  
25 The more than a hint I'm giving. It's up to you, your strategy to

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1 pursue, but whether you want to begin with lines of inquiry that are --  
2 that do not go directly to the charges and knowing you may run out of  
3 time, or whether you want to go to lines of inquiry that deal directly  
4 with the charges and concerns your client in a more direct way, it's up  
5 to you.

6 MR FAAL: Thank you, Mr President, for that guidance. We would  
7 seek to manage our time, the little that we have of it, and we'll see how  
8 far we go at the end of today.

9 Q. Mr Witness --

10 PRESIDING JUDGE EBOE-OSUJI: So you want him to answer the  
11 question as to --

12 MR FAAL: Yes.

13 PRESIDING JUDGE EBOE-OSUJI: All right.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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18 MR FAAL: Thank you, Mr President. I would leave this point for  
19 the moment. Hopefully I would return to it tomorrow.

20 Mr President, I did promise that we would be in private session  
21 for five minutes, but the next topic I seek to explore would be a topic  
22 that requires that we still remain in private session.

23 PRESIDING JUDGE EBOE-OSUJI: All right. Please.

24 MR FAAL:  
25 (Redacted).

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22 PRESIDING JUDGE EBOE-OSUJI: How many villages do you know are in  
23 Yamumbi?

24 THE WITNESS: (Interpretation) There are many villages in Yamumbi,  
25 approximately ten.

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13 PRESIDING JUDGE EBOE-OSUJI: Part of the difficulty is that we  
14 are all speaking in different languages and you are understanding us  
15 through interpretation and we are understanding you through  
16 interpretation, that way we cannot say you're hearing us directly and  
17 we're not hearing you directly. Let's try again. What we are trying to  
18 find out, what the lawyer is trying to find out is (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

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22 MR FAAL: Mr President, I wish I was in a position to do that,  
23 but it appears that the witness himself is backing out of testimony he  
24 had previously given.

25 PRESIDING JUDGE EBOE-OSUJI: Let us not characterise it in that

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1 way. That's why, again, we have to make all allowances possible before  
2 we draw conclusions, that we are all speaking the same language on the  
3 facts that are the subject of inquiry.

4 MR FAAL: Perhaps I should try again and see how far I can go  
5 with that. But what is clear to me is that the witness did previously  
6 say that (Redacted)  
7 (Redacted)

8 That's the testimony we had previously. It appears that that is not the  
9 case any more. So I would try to clarify things further and see how far  
10 we have gone, but I thought your Honour did a good job at -- at getting  
11 clarity from the witness as to what he's saying.

12 PRESIDING JUDGE EBOE-OSUJI: Well, we can always leave room for  
13 improvement in what we need to understand of the evidence. The question  
14 is let us try to establish (Redacted).

15 MR FAAL: Very well.

16 PRESIDING JUDGE EBOE-OSUJI: Before we do that, you also need to  
17 make a decision of your own on whether this is something you really  
18 really need.

19 MR FAAL: Mr President, I was contented to leave this issue as it  
20 is in the record and we would all seek to make -- draw our own  
21 conclusions from the responses we have received from the witness.

22 PRESIDING JUDGE EBOE-OSUJI: And that's what I'm saying. If you  
23 feel you don't need to pursue it any further, you just move on to  
24 something else, that's all.

25 MR FAAL: Yes, I'll move on to something else, Mr President.

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15 A. I have no answer.

16 PRESIDING JUDGE EBOE-OSUJI: All right. Witness, you see, you  
17 came all the way from Kenya to come and help us. You witnessed things  
18 that happened and all of us know the extent that things happened in 2007,  
19 without regard to who was responsible. We know that something that  
20 should not have happened in 2007 did happen, the violence, the burning of  
21 homes. The Defence does not dispute that there was violence. They do  
22 not dispute that homes were burnt. What we are trying to establish now  
23 is who was responsible for that violence and that is the reason why you  
24 came all the way to come and sit there and answer questions to help us.

25 For that to happen, you will have to answer questions put to you

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1 because it would have been a waste of your time if you came all the way  
2 over here to sit there and at the end of the day the Judges say, well, we  
3 will not take into account what this man said because he answered only  
4 questions he liked or only questions he wanted to answer. He did not  
5 answer questions he didn't like and did not want to answer. That will  
6 have been a waste of your time. So it is in your interest and for us as  
7 well for you to listen carefully to questions and answer them. Do you  
8 understand?

9 THE WITNESS: (Interpretation) I've understood that well.

10 PRESIDING JUDGE EBOE-OSUJI: Okay.

11 MR FAAL:

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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9 Q. Mr President, I would leave this point. Perhaps we could now go  
10 to public session, please?

11 PRESIDING JUDGE EBOE-OSUJI: We go to public session, then.

12 (Open session at 4.12 p.m.)

13 THE COURT OFFICER: (Interpretation) We are in public session,  
14 your Honour.

15 PRESIDING JUDGE EBOE-OSUJI: Please proceed.

16 MR FAAL:

17 Q. Mr Witness, we are now in public session, the questions I would  
18 ask you may not require you to mention any name, but in the event that  
19 you have to, please let us know so that we can move into private session.  
20 Is that understood?

21 A. Yes.

22 Q. Mr Witness, yesterday you talked about meetings that took place  
23 before the election. Do you remember that?

24 A. Yes

25 .



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1 Q. And when you talked about those meetings yesterday, you also  
2 talked about things that you heard regarding those meetings, and the  
3 interpretation you gave to the things that you heard, drawing from your  
4 experiences in 1992. I would wish to ask more questions about that.

5 In your testimony yesterday, you said you did not attend any  
6 political meetings or rallies in 2007; is that right?

7 A. Yes.

8 Q. And all the information that you provided about those meetings  
9 are not things that you saw yourself, correct?

10 A. No.

11 Q. Mr Witness, I want to try to understand your answer. What do you  
12 mean when you said "no"?

13 A. I want to say something. You're asking me if I participate in  
14 the political meetings and I told you no, I wasn't there, and then you  
15 say that I saw myself. Well, no, how could I have seen that my own eyes  
16 if I didn't go to these meetings?

17 Q. Thank you very much for that clarification. So the things that  
18 you talked about yesterday --

19 PRESIDING JUDGE EBOE-OSUJI: Counsel, before you go on that line  
20 of inquiry, was there any doubt at all that the information he gave as to  
21 those meetings were hearsay?

22 MR FAAL: Well, I have no doubt about that.

23 PRESIDING JUDGE EBOE-OSUJI: Why are you asking the questions  
24 again?

25 MR FAAL: Mr President, I cannot assume that there is no doubt

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1 about it from any quarter, and what I was trying to do is to firm up that  
2 fact and then move on to other issues relating to it, but I cannot just  
3 assume that it is a fact that is accepted by everybody.

4 PRESIDING JUDGE EBOE-OSUJI: Have your opponents, are they saying  
5 that the information about the meetings, as related to us by this  
6 witness, was anything other than hearsay at his instance?

7 MR FAAL: Mr President, I don't want to be engaged in any  
8 polemic, but I -- from my understanding of the record, there are  
9 particular parts of the testimony of the witness which may appear as if  
10 he was speaking from his own knowledge about things and that is why  
11 I embarked on this line of questioning. If it was so glaringly clear  
12 that it was all hear say, there wouldn't be many questions.

13 PRESIDING JUDGE EBOE-OSUJI: I will leave it to you. It's your  
14 cross-examination and your case, Mr Faal.

15 MR FAAL: Thank you very much, Mr President. I would repeat the  
16 question.

17 Q. So, Mr Witness, I will go with my instinct. I will repeat my  
18 question. All the things that you testified about these meetings are  
19 things that you do not have a firsthand knowledge of; is that right?

20 A. I said that. I was told that.

21 Q. And you were told that by person number 1; is that right?

22 A. Yes, that's correct.

23 Q. Don't give me names when you answer this question, but could you  
24 confirm that person number 1 is the only person who gave you information  
25 about the meetings you talked about yesterday?

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1 A. Yes. That's why -- I stated that yesterday and I stay with that  
2 position.

3 MR FAAL: Mr President, perhaps we could go to private session  
4 for a few minutes.

5 PRESIDING JUDGE EBOE-OSUJI: Private session.  
6 (Private session at 4.20 p.m.)

7 THE COURT OFFICER: (Interpretation) We are in private session,  
8 your Honour.

9 MR FAAL:

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. And you did not ask for more details from person 1 when he told  
21 you this, did you?

22 A. That's correct.

23 Q. And person number 1 provided you with no further information,  
24  
25 correct?

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1 A. Yes.

2 Q. And you interpreted what person 1 told you based on your own  
3 previous experiences, correct?

4 A. Yes.

5 Q. And, Mr Witness, the words that I quoted from what you said were  
6 the only things person 1 told you. He said nothing further.

7 A. What I said is that.

8 Q. So, Mr Witness --

9 PRESIDING JUDGE EBOE-OSUJI: Before you proceed, line 7, the  
10 answer there, I heard the witness say "ndiyo," it does not translate to  
11 "yeah." "Ndiyo" means "yes," as I understand it, so the record should  
12 simply say "yes," line 7.

13 MR FAAL: Thank you very much, Mr President.

14 Q. So, Mr Witness, when you testified and talked about sangara,  
15 madoadoa, mzungu, chumbeg, these are things you heard from other places,  
16 other individuals, (Redacted), correct?

17 A. Everybody in Kenya knew that. (Redacted)  
18 (Redacted).

19 Q. Mr Witness, you have told us what person 1 told you. These are  
20 just rumours that you heard, weren't they?

21 A. No. That's not how it is.

22 Q. Mr Witness, when you spoke to the Prosecution, did you tell them  
23 that you were told about sangara, madoadoa, mzungus, and chumbeg? Did  
24 you tell them that?

25 A. Yes.

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1 Q. So you were saying these things for the first time, aren't you?

2 A. That is correct.

3 Q. And, Mr Witness, when you talked about -- when you talked about  
4 this meeting, your interpretation of what you were told was likely  
5 influenced by the events of 1992, correct?

6 A. Yes.

7 Q. So, in your mind, it is difficult to differentiate the events  
8 that occurred in 1992, what was said in 1992, rather, and what was said  
9 in 2007?

10 A. Could you please repeat your question so that I can understand it  
11 correctly?

12 Q. My question is: In your mind, it is difficult to differentiate  
13 the things that you heard about Kikuyus in 2007 and the things that you  
14 heard in 1992, correct?

15 A. Well, I will say the following: When I talk of 1992 and 1997 --  
16 or 2007, do not lead me astray. I said as follows, when I was explaining  
17 it to you: What happened in 1992, and what I saw happening in 2007, was  
18 one and the same. There was no difference. But to say to me that I am  
19 not able to differentiate between those two periods will be problematic.

20 PRESIDING JUDGE EBOE-OSUJI: We will end there and pick it up  
21 again tomorrow at 9.30.

22 MR FAAL: This thank you very much, Mr President. But is it --  
23 may I please crave the indulgence of your Honours to perhaps start at  
24 9.00 tomorrow in view of the fact that I have lost a lot of time, there  
25 has been difficulty eliciting answers from the witness.

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1           PRESIDING JUDGE EBOE-OSUJI: We are starting at 9.30, Mr Faal.

2           You try and line your questions as you should.

3           MR FAAL: Mr President, I would always, always cooperate with the  
4           Bench, but I think that was a reasonable request that could be  
5           accommodated. I mean, Mr President, we are entitled to equal time with  
6           the Prosecution, and unfortunately, Mr President, if my time is so  
7           abridged, we may not have that benefit. I am not sure whether I would  
8           use all that time. I am doing my utmost to remove some of the material  
9           but I think this is a reasonable request that could be accommodated.

10          PRESIDING JUDGE EBOE-OSUJI: Mr Faal, let's leave it at that.

11          9.30 tomorrow. Thank you.

12          MR FAAL: As the Court pleases.

13          PRESIDING JUDGE EBOE-OSUJI: Witness, we will adjourn here for  
14          today and then we will see you again at 9.30 tomorrow, and please do not  
15          discuss your testimony overnight with anybody. The blinds will come down  
16          now and the witness will be escorted.

17          (Closed session at 4.31 p.m.)

18          THE COURT OFFICER: (Interpretation) We are in closed session,  
19          Mr President.

20          PRESIDING JUDGE EBOE-OSUJI: Thank you. Can you please escort  
21          him out.

22          (The witness stands down)

23          PRESIDING JUDGE EBOE-OSUJI: The Court will rise.

24          (The hearing ends in closed session at 4.32 p.m.)

25                           RECLASSIFICATION REPORT

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- 1 Pursuant to Trial Chamber V (a)'s Decision, ICC-01/09-01/11-981, dated
- 2 24 September 2013, and the instructions in the email dated 16 January 2014,
- 3 the version of the transcript with its redactions becomes Public.