

Trial Hearing
Witness: KEN-OTP-P-0128

(Open Session)

ICC-01/09-01/11

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 and Joshua Arap
5 Sang - ICC-01/09-01/11
6 Presiding Judge Chile Eboe-Osuji, Judge Olga Herrera Carbuccion, and Judge Robert
7 Fremr
8 Trial Hearing
9 Thursday, 30 January 2014
10 (The hearing starts in open session at 9.38 a.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. Court officer, please
15 announce the case.
16 THE COURT OFFICER: (Interpretation) Thank you, your Honour. The situation
17 in the Republic of Kenya, in the case between The Prosecutor versus William Samoei
18 Ruto and Joshua Arap Sang, ICC-01/09-01/11. We're in open session.
19 PRESIDING JUDGE EBOE-OSUJI: Appearances are the same, I see.
20 MS WEISS: The same, your Honour.
21 PRESIDING JUDGE EBOE-OSUJI: Thank you.
22 MR KOECH: The same.
23 PRESIDING JUDGE EBOE-OSUJI: Thank you, Mr Koech.
24 MR HOOPER: Good morning, your Honours. Yes, it was at my request that the
25 witness was taken out of the court for a moment. It's merely that I hadn't received a

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1 reply to our request yesterday of the Prosecution as to what investigations, if any,
2 with what result --

3 PRESIDING JUDGE EBOE-OSUJI: First of all, the appearances on your side remain
4 the same?

5 MR HOOPER: They do, yes.

6 PRESIDING JUDGE EBOE-OSUJI: Thank you.

7 We're in open session, of course.

8 MR HOOPER: Yes.

9 PRESIDING JUDGE EBOE-OSUJI: And is this a matter that's best discussed in open
10 or private session?

11 MR HOOPER: I'm happy with open, but Mr Steynberg --

12 MR STEYNBERG: I have no objection to that, your Honour.

13 PRESIDING JUDGE EBOE-OSUJI: All right.

14 Mr Hooper?

15 MR HOOPER: Yes. Well, the Chamber will recall the nature of the request and my
16 friend said that he'll respond to it.

17 PRESIDING JUDGE EBOE-OSUJI: Mr Steynberg?

18 MR STEYNBERG: Yes, thank you, your Honours.

19 Perhaps at the outset I should just say that I don't propose to make a habit of
20 responding to Defence inquiries about the nature and extent of Prosecution
21 investigations in the absence of Court orders, but to the extent that the absence of
22 evidence I can see may be argued legitimately perhaps to affect the credibility of the
23 witness, under those circumstances I do propose to respond.

24 I can confirm that the Prosecution did investigate the incident to an extent, to the
25 following extent, bearing in mind the absence of any identity of the deceased and an

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1 exact date of the incident as provided by the witness.

2 The Prosecution invest -- searched the database of materials received from CIPEV

3 and other sources and also checked in open source materials, such as press reports,

4 et cetera. I can advise that we were not able to find any reports that matched this

5 incident of the shooting of the OCS. Of course, there were reports corroborating the

6 instances of looting in Nandi Hills by other witnesses of the Prosecution and also by

7 open source material. Now, that's the extent to which I can report back.

8 Perhaps I should add that the Prosecution did not go so far as to direct a formal

9 request of the Kenyan government for official records of any such incident for two

10 reasons: Firstly, because this wasn't determined to be a critical piece of evidence.

11 That's not something the Prosecution is relying on to found a charge of murder,

12 given that we don't even know who fired the arrow; and, secondly, given the success

13 or lack thereof of previous requests, we did not consider this to be a particularly

14 fruitful line of investigation.

15 We do have a note that my learned friends opposite do not appear to have had the

16 same difficulties in accessing local records, including police records, and perhaps

17 their inquiries will bear more fruit than ours.

18 Thank you, your Honours.

19 MR HOOPER: Well, it is --

20 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper?

21 MR HOOPER: It remains a matter of concern that an incident of such a dramatic

22 quality that might be said to be a token of a particular witness's evidence, and

23 capable of corroboration or not with what effects that might have in terms of

24 viewing such a witness, that no investigation, purposeful investigation was done.

25 And I know what my friend says this morning, but it really is a catalogue of weak

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1 effort when in fact all one needed to have done is phone up Nandi Hills police
2 station and speak to someone, as indeed was initially done by those who assist me.
3 It's a concern, because as the Court knows we have repeatedly raised our concerns as
4 to the Prosecution's efforts under Article 54 to investigate these cases in an
5 even-handed manner. And in particular --

6 PRESIDING JUDGE EBOE-OSUJI: But the Prosecution has complained repeatedly
7 we know, and he's also said it now, that it looks like the Defence in this case have
8 enjoyed more latitude to investigate this case than they have done.

9 MR HOOPER: Are the Prosecution really saying that their investigators on the
10 ground couldn't have walked into Nandi Hills police station, or asked anyone in
11 Nandi Hills? It's rather -- we say it rather reflects what appears to be the position of
12 the Prosecution to in this case as far as its investigations are concerned to leave no
13 stone turned. That seems to be the position.

14 And it's not just this witness. It's -- it's all of them. They're not looking behind the
15 veil of deceit to adopt what Mr Khan said, or might have said, in respect of -- of
16 these investigations.

17 PRESIDING JUDGE EBOE-OSUJI: All right.

18 MR HOOPER: It is a concern.

19 PRESIDING JUDGE EBOE-OSUJI: All right. Concern is noted.

20 Now we will call in the witness and proceed with the business of the day.

21 MR STEYNBERG: Your Honours, if I can just make a point? I'm sure the
22 Government of Kenya will be most distressed if our investigators just started
23 walking into police stations and making demands for access to official records. My
24 learned friend should know better than most --

25 PRESIDING JUDGE EBOE-OSUJI: Mr Steynberg, I think we need to move on.

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1 MR STEYNBERG: As the Court pleases.

2 PRESIDING JUDGE EBOE-OSUJI: Let's bring down the blinds and invite the
3 witness into the courtroom.

4 (Closed session at 9.46 a.m.) Reclassified as open session

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

7 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. Please go invite the
8 witness back.

9 MR HOOPER: Your Honour, I understand there are bundles available for the Court
10 and, when the court officer has a moment, perhaps those could be distributed. I'm
11 not going to refer to everything in this bundle.

12 PRESIDING JUDGE EBOE-OSUJI: It is good to know. Mr Hooper, your estimate
13 remains the same, that we are looking at you completing by the end of today?

14 MR HOOPER: Yes, I hope today. It may go into tomorrow, but I'll be very
15 unpopular with quite a number of people if that happened. So there is a wind
16 behind me as well, if I can put it like that.

17 (The witness enters the courtroom)

18 PRESIDING JUDGE EBOE-OSUJI: Do we start in public, or private?

19 MR HOOPER: No, we can be in public. In fact, I hope in fact to be able to conduct
20 much of this in public. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE EBOE-OSUJI: Prosecution, did you hear that? Do we have
25 difficulty with that?

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- 1 MS WEISS: No, your Honour. (Redacted) Thank you.
- 2 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 3 MR HOOPER: (Redacted)
- 4 PRESIDING JUDGE EBOE-OSUJI: You will not --
- 5 MR HOOPER: I won't name it.
- 6 PRESIDING JUDGE EBOE-OSUJI: You will not say it?
- 7 MR HOOPER: No.
- 8 PRESIDING JUDGE EBOE-OSUJI: All right.
- 9 Witness, welcome back.
- 10 Can we go back in open session, please.
- 11 (Open session at 9.48 a.m.)
- 12 THE COURT OFFICER: (Interpretation) We're in open session, your Honour.
- 13 PRESIDING JUDGE EBOE-OSUJI: Thank you.
- 14 Witness, welcome back. The lawyer for Mr Ruto, his name is Mr Hooper, he will
- 15 begin asking you questions in cross-examination. Again, keep in mind the advice I
- 16 gave you earlier on always listening carefully to the question and understand the
- 17 question and answer it as truthfully as possible and also to the extent that you
- 18 remember. He will be doing his job in asking you questions.
- 19 Mr Hooper, in relation to the little matter we discussed last before the witness
- 20 stepped in or as he was assuming seat, would it also be difficult for you to refer to
- 21 location number 1 in the Prosecutor's PIS for that purpose, for the purpose you
- 22 indicated so we are --
- 23 MR HOOPER: Your Honour, yes.
- 24 PRESIDING JUDGE EBOE-OSUJI: Yes?
- 25 MR HOOPER: Yes, I hope to do that.

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1 PRESIDING JUDGE EBOE-OSUJI: Good.

2 MR HOOPER: I hope to be able to do that as much as I can. I'd hope to do it right
3 at the beginning. Let's see how we go.

4 WITNESS: KEN-OTP-P-128 (On former oath)
5 (The witness speaks Swahili)

6 QUESTIONED BY MR HOOPER:

7 Q. Well, good morning, Mr Witness. We're in open session now. I'm going to
8 ask you questions for and on behalf of the Defence of Mr William Ruto. As you
9 may have heard me say yesterday, I hope to be able to conclude my questions of you
10 today. There is a possibility that we will go a little into tomorrow.

11 Now, I think the first matter I would like you to look at is a map in order to assist me
12 in respect of some of the general geography of the area. And what I'd like you to
13 look at if you will is a map which is at our tab 6, and at this stage I'd ask that this in
14 fact remain confidential and not be shown outside the walls of this court and we'll
15 see how we go in respect of it.

16 THE COURT OFFICER: (Interpretation) Mr Hooper, could we have an ERN
17 number please?

18 MR HOOPER: KEN-D09-0029-0018.

19 Q. Now, we have a hard copy of that, but can you see it on the screen, Mr
20 Witness?

21 A. Yes, your Honour.

22 Q. Now, looking at this map it shows the general locality with which we're
23 interested, and if I can take you through my understanding of it perhaps you can just
24 tell me whether you agree with what I say or not. Firstly we see there in the top
25 right-hand corner Eldoret. Do you see that?

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1 A. Yes, your Honour.

2 Q. And we're familiar in this court with that place. We've heard quite a lot
3 about it. And if we drop down towards the middle of this map, just above the red
4 symbol we can see Kapsabet; is that right?

5 A. Yes, your Honour.

6 Q. And to the right, just a centimetre or so down on the map, we see Nandi Hills;
7 is that right?

8 A. Yes, your Honour.

9 Q. Now, just in order that we can get some sense of distance and scale of this
10 image, I understand that the distance between Nandi Hills and Eldoret going on the
11 direct road is 60 or 61 kilometres. Would that accord with your own recollection
12 and impression? Do you agree with that, about 60 kilometres between Eldoret and
13 Nandi Hills?

14 A. I can't confirm that, your Honour.

15 Q. Well, let me just ask you this generally and don't tell us what you do or what
16 your work is. You've lived in this area for you told us many years and by your
17 work you've moved about. That's right, isn't it?

18 A. Yes, your Honour.

19 Q. And my access to this material is easily checked by my friends, the
20 Prosecution. So let me put it this way: I'm saying that it is 60 kilometres between
21 Nandi Hills and Eldoret and would you or they seriously dispute that?

22 MS WEISS: Your Honour, it's not the Prosecution or the Defence giving evidence
23 here. It's the witness. So if he can't understand whether it's 60 kilometres or
24 not -- can't confirm whether it is 60 kilometres or not, it's not for us to tell him that.

25 MR HOOPER:

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1 Q. All right. Well, I --

2 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, I think you can move on. The
3 witness does not dispute it. He said he can't confirm it. So it is something I believe
4 that if you put it and --

5 MR HOOPER: Indeed.

6 PRESIDING JUDGE EBOE-OSUJI: -- the Prosecution does not dispute it, then we
7 can --

8 MR HOOPER: Yes, I'll take that lead too and I'm sure they'll want to assist the
9 Court, if not me.

10 Q. And between -- right. So Nandi Hills to Eldoret, I'm working on the basis it's
11 about 60 kilometres. Now, to the left of Nandi Hills there is a number of villages
12 and places, and if we come out of Nandi Hills we come to a little place called (Redacted)
13 (Redacted) and I understand that that is 25 kilometres from Nandi Hills. Again, do
14 you know, would you agree or disagree, 25 kilometres from Nandi Hills to a village
15 called (Redacted)

16 A. Your Honour --

17 PRESIDING JUDGE EBOE-OSUJI: Wait, wait, wait, wait. Let's go into private
18 session.

19 THE WITNESS: (Interpretation) Your Honour --

20 (Private session at 9.59 a.m.) Reclassified as open session

21 THE COURT OFFICER: (Interpretation) We're in private session, your Honour.

22 PRESIDING JUDGE EBOE-OSUJI: Witness, what were you going to say?

23 THE WITNESS: (Interpretation) Your Honour, what I wanted to say is that I've
24 never measured the distance between the two locations, so I can't confirm it.

25 PRESIDING JUDGE EBOE-OSUJI: In light of how the intervention came about,

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1 including my own intervention that we go into private session, we should delete
2 (Redacted) from what will be broadcast to the public.

3 MR HOOPER: Very well.

4 PRESIDING JUDGE EBOE-OSUJI: Can we --

5 MR HOOPER: Go back into public?

6 PRESIDING JUDGE EBOE-OSUJI: Yes.

7 MR HOOPER: And that's the total use of that word I'll be using.

8 PRESIDING JUDGE EBOE-OSUJI: Let's go back to public.

9 MR HOOPER:

10 Q. Now, if we move another similar distance --

11 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper?

12 MR HOOPER: I'm sorry.

13 (Open session at 10.00 a.m.)

14 THE COURT OFFICER: (Interpretation) We're in open session, your Honour.

15 MR HOOPER:

16 Q. And if we now move a similar distance from that little red mark pointer,
17 again heading west, that is to the left, about 20 kilometres or so, we come to another
18 place called Kobujoi. And I suggest the distance between Kobujoi and Nandi Hills
19 is 51 kilometres, 51 kilometres. Do you have any reason to suggest that figure is
20 wrong, about 50 kilometres, Nandi Hills to Kobujoi?

21 A. Your Honour, as I said, I've never measured this distance, so I cannot confirm
22 it.

23 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, you've -- the two names -- named
24 places you've mentioned are not shown on the map, are they?

25 MR HOOPER: They're not unfortunately.

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- 1 PRESIDING JUDGE EBOE-OSUJI: All right. Nothing to regret there. You've said
2 to the left --
- 3 MR HOOPER: Yes.
- 4 PRESIDING JUDGE EBOE-OSUJI: -- of Eldoret. You mean from what perspective?
5 From the --
- 6 MR HOOPER: Yes.
- 7 PRESIDING JUDGE EBOE-OSUJI: -- perspective of a person looking at the map?
- 8 MR HOOPER: Looking at the map. In other words, if you left Nandi Hills and
9 travelled more or less in a straight-ish line from right to left of the plan, you'd come
10 first of all to the red mark, which is about 25 kilometres we say from Nandi Hills.
- 11 PRESIDING JUDGE EBOE-OSUJI: What town indicated on the map should we
12 take our bearing from?
- 13 MR HOOPER: Nandi Hills.
- 14 PRESIDING JUDGE EBOE-OSUJI: All right. We have -- we see Kapsabet and we
15 see Kakamega.
- 16 MR HOOPER: Yes.
- 17 PRESIDING JUDGE EBOE-OSUJI: In that direction?
- 18 MR HOOPER: No, no, from Nandi Hills going directly left towards the red mark.
19 Imagine a road.
- 20 PRESIDING JUDGE EBOE-OSUJI: All right.
- 21 MR HOOPER: That line, that's 25 --
- 22 PRESIDING JUDGE EBOE-OSUJI: All right. I see that, yes.
- 23 MR HOOPER: -- kilometres, we suggest. If you go -- if you continue in that
24 direction in a straight line, you will come after another 25 kilometres to Kobujoi, we
25 suggest.

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- 1 PRESIDING JUDGE EBOE-OSUJI: Beyond the red mark?
- 2 MR HOOPER: Beyond the red mark.
- 3 PRESIDING JUDGE EBOE-OSUJI: Does the red mark have any significance apart
- 4 from marking Nandi Hills?
- 5 MR HOOPER: It doesn't mark Nandi Hills.
- 6 PRESIDING JUDGE EBOE-OSUJI: It only marks the city, or the town you
- 7 mentioned, or what?
- 8 MR HOOPER: It -- are we in open?
- 9 PRESIDING JUDGE EBOE-OSUJI: We are.
- 10 MR HOOPER: I'll come back to that.
- 11 PRESIDING JUDGE EBOE-OSUJI: All right.
- 12 MR HOOPER: So this is just an attempt at an orientation. It is difficult because the
- 13 maps are generally inadequate for all the places that concern us. But if you
- 14 continue again in the same westerly direction, that is moving to the left as you look
- 15 at the map towards Maseno, in fact, your Honour will see that there is a white dotted
- 16 line that one would cross before one gets to the area where it says "A-1" on the plan.
- 17 Q. And, Witness, that area there around A-1 is in fact -- you're in Western
- 18 Province as it then was at that point; is that right?
- 19 A. Your Honour, on this map there are two points. I think that it's the lawyer
- 20 who can understand this map. There are things that I do not understand on this
- 21 map, your Honour.
- 22 Q. All right. Well I may be able to assist you better in a moment, but basically if
- 23 one moves to the left, the area of Maseno, Kakamega, all that is Western -- what was
- 24 Western Province; is that right?
- 25 MS WEISS: Your Honour, the witness has said he doesn't understand. I don't

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1 know why my learned friend keeps asking this question.

2 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, we --

3 (Microphone not activated)

4 PRESIDING JUDGE EBOE-OSUJI: I deliberately switched off the microphone. So
5 you get the point?

6 MR HOOPER: Yes. And unfortunately this witness has difficulty, despite his
7 work and presumably work that involves looking at all manner of plans and things
8 like that. Very well.

9 Q. Mr Witness, would I be right in saying that Western Province lies above
10 Kisumu, Kisumu?

11 A. Yes, your Honour. Western Province goes to Nyanza.

12 Q. And it's about -- you start to enter Western Province about 60 kilometres from
13 Nandi Hills, is that right, or would you not be able to tell us?

14 A. Your Honour, I don't have a confirmation to give you.

15 MR HOOPER: I appreciate that. Well, maybe my friends in the Prosecution can
16 help us after the break in terms of distances because I'm sure the Court would feel
17 very assisted by that, but we've got a general idea of the geography.

18 MR HOOPER: And can I just indicate -- let me call up very quickly another map
19 then while we're here, this is KEN-D09-0029-0017, and that's at tab 5.

20 THE COURT OFFICER: (Interpretation) The document is public.

21 MR HOOPER: Public document. I'll deal with this quite quickly.

22 Q. Do you see that red pointer on the map, Mr Witness?

23 A. Yes, your Honour.

24 Q. And can you confirm that that marks Kobujoi, which we assert it does? And
25 this is taken from Google Maps.

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1 A. Your Honour, I can confirm it.

2 Q. Thank you very much indeed.

3 MR HOOPER: Can we just pop into closed session, private session for a moment.

4 PRESIDING JUDGE EBOE-OSUJI: Private session.

5 (Private session at 10.09 a.m.) Reclassified as open session

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

7 MR HOOPER: And can I please ask for the map at our tab 4 to be shown. And

8 that number is KEN-D09-0029-0016.

9 Q. And looking at that, Mr Witness, can you confirm that where that red pointer
10 is on that map indicates (Redacted) which of course is -- are we in -- (Redacted) I'm sorry.

11 (Redacted) I'm sorry. I can't read my writing -- (Redacted) in of course

12 (Redacted) is that right?

13 A. Your Honour, I'm not an expert in geography. I can see a marker. You tell
14 me that it indicates the place called (Redacted)

15 Q. Yes, I do. That's a Defence assertion in respect of this map. You're not sure.
16 Perhaps we can leave it to the Prosecution to assist the Court in due course.

17 And as we are in closed session, can I just indicate the tab 6 plan indicated (Redacted).

18 That's the first one. And we've had to do it in that particular way, your Honour,
19 because there was no one map that we found that detailed all these places.

20 So basically as one comes out of Nandi Hills, we say 25 kilometres or so (Redacted).

21 Carry on a straight line, Kobujoi, 25 kilometres. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 So if we can go back into public session.

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1 PRESIDING JUDGE EBOE-OSUJI: We'll go back to public session. The point I was
2 making earlier is (Redacted)
3 (Redacted) is something you need
4 to consider in your questions on the map.

5 MR HOOPER: Indeed, and sometimes very learned people have difficulty with
6 maps and people with perhaps less education are familiar with them. But -- and I
7 appreciate maps do pose a particular problem, but I think the Prosecution will be in
8 a position to clarify the geography - background geography - to this.
9 Are we in public? Can we go into public?

10 THE COURT OFFICER: We are still in private session, Mr Hooper.

11 MR HOOPER: Yes. Can we go into public, please?

12 PRESIDING JUDGE EBOE-OSUJI: Public, please.

13 (Open session at 10.14 a.m.)

14 THE COURT OFFICER: (Interpretation) We're in open session, your Honour.

15 MR HOOPER:

16 Q. Mr Witness, I wonder if you might help me about Western Province as it was
17 known before the name change brought about by your new constitution in Kenya. I
18 understand that the population in Western Province is mainly Luhya; is that correct?

19 A. Yes, that is the reality of the situation, your Honour.

20 Q. And from the 2009 census, so 15 years ago, and situations would have
21 changed, the population was just under four-and-a-half million, four-and-a-half
22 million people. Would you accept that as a general proposition?

23 MS WEISS: Your Honour, I don't think 2009 is 15 years ago. Maybe my learned
24 friend is mistaken.

25 MR HOOPER: Oh, you're right. I was thinking of the '99. There is 2009, which is

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1 even recent, more recent. You're quite right. Thank you for that.

2 Q. Five years ago, so about just under four-and-a-half million people living in
3 Western Province. Would you accept that as a general proposition?

4 A. Your Honour, I never knew that. The first time I hear that is from you.

5 Q. Well, again, it will be in a document that will be or has been formally
6 admitted in due course.

7 And the Luo population in Kenya generally, I understand again going back five or
8 six years in terms of figures, stood at about five-and-a-half million people. Would
9 that be news to you too or not?

10 A. Your Honour, I'm not informed of that.

11 Q. Or maybe you can help me as to this, that the Luhya were the second largest
12 ethnic group in Kenya. What about that? Do you agree with that?

13 A. Your Honour, that's what people say.

14 Q. Second largest ethnic group --

15 A. I can't confirm it.

16 Q. I see. Second largest ethnic group after the Kikuyu. Next after them the
17 Luo, then next after them the Kalenjin grouping of peoples. Is that something
18 you've heard, even if you can't confirm?

19 A. Indeed, your Honour.

20 Q. Indeed, Western Province was known as --

21 PRESIDING JUDGE EBOE-OSUJI: I'm not sure that the "Indeed, your Honour"
22 responds to anything. If you look at the question, whether it was confirming that
23 there was -- your proposition was the case or whether he was confirming that he
24 may not know.

25 MR HOOPER:

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1 Q. Is that something that you had heard?

2 A. Your Honour, I said that this is something I had heard, but I cannot confirm it.

3 Q. Very well. And Western Province was also known as Luhya land; is that
4 right?

5 A. Yes, your Honour.

6 Q. All right. Thank you very much. Now, let's move back to a particular area.
7 The area where you were living was Nandi district, and it had been divided into
8 Nandi south and Nandi north at the time of the 2007 election; is that right?

9 A. Yes, your Honour.

10 Q. And in Nandi South, which we are concerned with with you, there were
11 various places. Nandi Hills was one; is that right?

12 A. Yes, your Honour.

13 Q. Tinderet, Aldai, and Kaptumo were others; is that right?

14 A. Yes, your Honour.

15 Q. And Nandi Hills -- I suggest we must make a distinction between Nandi Hills
16 and Nandi Hills Town. Nandi Hills Town is in Nandi Hills; is that right?

17 A. Yes, your Honour.

18 Q. And at the time of the 2007 election when you went or hoped to meet with the
19 district commissioner -- who was the district commissioner at that time?

20 A. Your Honour, from time to time they changed DC, but the last that I knew
21 was a woman, but I don't know her name. I no longer remember. I don't know if
22 she was still there at the time or if she had already left her post.

23 Q. Was she called Lydia Muriuki?

24 A. Your Honour, I knew that it was a woman, but I didn't know her name.

25 MR HOOPER: In fact, Muriuki, let me spell it, M-U-R-I-U-K-I, for the sake of the

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1 transcript. And for you, Mr Witness, perhaps I can just ask you this, because I
2 suggest she was the district commissioner in December, January 2007/8. She was a
3 Kikuyu; is that right?

4 A. Your Honour, I said that I knew that there was a woman who was the DC. I
5 don't know if it was her who was in the post at the time or if she had gone
6 somewhere else by that time.

7 Q. But when you marched into Nandi Hills, who were you thinking you were
8 going to see?

9 A. Your Honour, I thought that we were going to a meeting, a DC meeting.

10 MR HOOPER: Very well.

11 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, is the Kikuyu part of that question
12 still significant? The witness said he did not know who the woman was, but do we
13 have an interest in inquiring whether he knows the ethnicity of the DC at the time?

14 MR HOOPER: I misunderstood the witness. I thought he'd agreed.

15 Q. Can you confirm Lydia Muriuki was Kikuyu?

16 MS WEISS: Your Honour, the witness has --

17 PRESIDING JUDGE EBOE-OSUJI: No. I thought the witness said he did not know
18 if Lydia Muriuki was the DC, but that he knew that it was a woman at the time.
19 And the question is whether the woman he knew was Kikuyu.

20 MR HOOPER:

21 Q. The question for you, Witness, is was the woman you knew a Kikuyu?

22 A. Your Honour, it's not easy to know the ethnic group of the DCs. We knew
23 that it was a woman or a man, but it's not easy to know what ethnic group they're
24 from. If you're very close to the person you could know what ethnic group they're
25 from, but I wasn't close to that person.

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1 Q. All right. Muriuki is a Kikuyu name, is it not?

2 A. Your Honour, I don't know.

3 Q. All right. Thank you very much. Now, Nandi Hills is quite a small place.

4 In 2007 it had a population I suggest of about just perhaps 4,000 people. Would you
5 disagree with that?

6 A. Your Honour, I don't know.

7 Q. Now, one of the districts in Nandi South is Aldai district, A-L-D-A-I. You've
8 agreed with that. And the centre of that district is Kobujoi; is that right?

9 A. Your Honour, when I was there, the subdivision hadn't been made. There
10 was just Nandi North and Nandi South, but this subdivision hadn't been made at
11 that time.

12 Q. All right, I may come back to that. Put aside the subdivisions, whether it's
13 Nandi district or now Nandi South or North. It doesn't really matter for this
14 question at all. I'm asking you about Aldai itself. That was both a district and a
15 political constituency, wasn't it?

16 A. Your Honour, I knew that Aldai was an electorate.

17 Q. Very well. And the main place as it were within that electoral constituency
18 was Kobujoi. Kobujoi was the biggest place in the constituency. That's right, isn't
19 it?

20 A. Your Honour, the largest town was Nandi Hills.

21 Q. Well, you with your political position, of course, will be able to help me as to
22 this. Nandi Hills was part of which constituency?

23 A. Your Honour, in my opinion, Nandi Hills was in the Tinderet constituency.

24 Q. Correct; we agree. And who was the standing MP who subsequently also
25 became the elected MP in the 2007 election? Was that Henry Kosgey of the ODM

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1 party?

2 A. Your Honour, what time period are you referring to? I'd like a clarification
3 of this question. What year are you referring to when you're talking about this
4 person being an MP, being elected as an MP?

5 Q. Let me make it clear. I'm sorry if I didn't before. Who won the 2007 election
6 for Tinderet constituency?

7 A. Your Honour, I had already left that area and didn't follow the situation
8 closely to see who had been elected. At the time I was already a victim.

9 Q. Yes. Well, we'll come to that.

10 Who had been the sitting MP prior to the 2007 election for Tinderet constituency?

11 A. Your Honour, it was Mr Henry Kosgey.

12 Q. And who stood for the ODM party in the Tinderet constituency for the 2007
13 election? Was that Henry Kosgey too?

14 A. I don't know at all, your Honour.

15 Q. Very well. Now, let's forget Tinderet constituency, and let's look at Aldai
16 constituency. Who stood for the ODM parliamentary seat for Aldai constituency in
17 the 2007 election? Was that Sally Kosgey?

18 A. Yes, your Honour.

19 Q. And had the previous MP been Mr Choge?

20 A. Yes, your Honour.

21 Q. Did Sally Kosgey win Aldai constituency for the ODM party in 2007?

22 A. Yes, your Honour.

23 Q. Now, we heard something about your particular interest in this constituency,
24 which I'll come to more in private session shortly. But we're talking now -- I'd like
25 to talk now about Sally Kosgey. She prior to standing in the 2007 election was head

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1 of the civil service in Kenya; is that right?

2 A. Your Honour, before running for election, Madam Sally Kosgey was the
3 permanent secretary to the presidency of the republic.

4 Q. All right. I think before then she'd been head of the civil service. It perhaps
5 doesn't matter.

6 And I see in your statement you refer to her as "Doctor." She wasn't a medical
7 doctor, was she? She had a Doctorate of Philosophy from the University of
8 Stanford in the United States. That's right, isn't it?

9 A. Your Honour, I don't know her curriculum vitae.

10 Q. And you didn't interest yourself to find out during that election; is that right?

11 A. No, your Honour.

12 Q. Am I right to say that the village -- I don't mention its name -- the village was
13 also part of the Aldai constituency; is that right?

14 A. Your Honour, yes, the village which has not been mentioned was in the
15 electoral constituency of Aldai.

16 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, are we talking about location
17 number 1?

18 MR HOOPER: Yes.

19 PRESIDING JUDGE EBOE-OSUJI: On the OTP PIS?

20 MR HOOPER: Yes.

21 PRESIDING JUDGE EBOE-OSUJI: All right. So that we are very clear as to the
22 witness's testimony.

23 MR HOOPER: Yes.

24 PRESIDING JUDGE EBOE-OSUJI: Witness, can you confirm, do you remember the
25 document that had the numbers of people and places listed that the Prosecution

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1 used yesterday? The question was whether location number 1 was part of Aldai
2 constituency?

3 THE WITNESS: Yes, your Honour.

4 MR HOOPER:

5 Q. And who was the PNU parliamentary candidate in 2007 for the Aldai
6 constituency?

7 A. Your Honour, it was Mr Choge, Krasani (phon) Choge.

8 Q. Now, coming back to the Luhya people, in the 2007 election, who was their
9 flag-bearer? Who was the principal Luhya politician in that election?

10 PRESIDING JUDGE EBOE-OSUJI: At what level?

11 MR HOOPER: At the principal level.

12 Q. Who was the main Luhya politician at that time?

13 PRESIDING JUDGE EBOE-OSUJI: At the national level, regional level?

14 MR HOOPER: National level.

15 PRESIDING JUDGE EBOE-OSUJI: Okay.

16 MR HOOPER:

17 Q. Who was the Luhya's main man politically in 2007? Was it Musalia
18 Mudavadi?

19 A. Yes, your Honour.

20 Q. And was he a member of and standing for and representative of the ODM
21 party?

22 A. Yes, your Honour.

23 Q. And was he -- as the leading Luhya, was he also in a team of ODM leaders
24 that included Raila Odinga and Mr Ruto and Henry and Sally Kosgey?

25 A. Yes, your Honour.

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1 Q. And with the very substantial Luhya population, is it right to say that the
2 ODM both in local elections, in national assembly elections, and in presidential
3 elections was hoping to get the Luhya vote?

4 A. Could you please repeat the question? I didn't understand it correctly.

5 Q. Certainly I will. Was it the case in 2007 that the ODM party was hoping to
6 get the Luhya vote?

7 A. Your Honour, as a voter, I didn't know what the ODM leaders were thinking.
8 I couldn't work out if that was the idea they had.

9 Q. Let me ask the question perhaps a little differently. Musalia Mudavadi was,
10 of course, the main Luhya politician. He was ODM. ODM were hoping, were they
11 not, that most Luhyas would be voting for them, giving them their support, isn't that
12 right?

13 A. That may be the case as you've said so, but I personally have no idea.

14 Q. Well, the significance of it is this, that you say, or the essence of your evidence
15 is this, you attended two rallies where ODM speakers were saying to any Luhyas
16 who had ears to understand, "We're going to kick you out and take your farms."
17 That's what you're saying, isn't it?

18 A. Your Honour, in my statement I said that that was said in Kalenjin language,
19 and that it was said by one of the top ODM leaders. And they said that see if the
20 Kalenjins came out and voted in great numbers, then they would reap the benefits of
21 this, and that the tree stumps would be uprooted, and that the land would be
22 redistributed or that they would get their land back. They were the advantages that
23 these political leaders were talking about.

24 Q. Well, we'll come back to that a little later. Now --

25 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, apologies for interrupting you, but

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1 at some point you may want to give us the small detail of whether Mr Kosgey and
2 Dr Kosgey are related.

3 MR HOOPER:

4 Q. Is it right to say that Sally Kosgey and Henry Kosgey are not related, except
5 by perhaps ethnicity? With a common name, though they have the name in
6 common of "Kosgey," they're not in fact otherwise directly related; is that right?

7 A. Yes, your Honour. These two people come from the same ethnic group but
8 are not from the same family. They're not the same biological family.

9 Q. And just coming back to Mr Mudavadi, Musalia Mudavadi, within the ODM,
10 he was Raila Odinga's running mate with a view to being deputy president if they
11 had won the election; is that right? He was number two in the ODM.

12 A. I have no idea, your Honour.

13 Q. Now, and I believe I can deal with this in public, you had certain political,
14 certain political function at the election. Do you remember you told us? I'm not
15 going to mention the place. And it concerned, of course, the presidential candidate
16 in the Aldai area.

17 Now, would you agree that you are or were particularly ill-informed, it would seem
18 from your answers today about the politics in 2007? Would you agree? You don't
19 seem to know very much about other candidates or the opposition or even Mr
20 Mudavadi's position as the leading Luhya politician. You don't seem, sir, would
21 you agree with this -- let me rephrase the question.

22 Would you agree you were very ill-informed politically in 2007?

23 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, that question is clearly
24 argumentative.

25 MR HOOPER: All right.

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1 Q. Did you know much about politics in 2007?

2 A. Your Honour, with my work I didn't have much time, so some of the
3 information and news about politicians didn't get to me. I didn't have this type of
4 information.

5 Q. All right. Now, in Aldai constituency, who was the PNU agent?

6 A. The PNU candidate was Sonny Choge.

7 Q. But who was the agent? Who was the PNU agent in the constituency?

8 MS WEISS: Your Honour, PNU agent, if my learned friend could please explain
9 what that actually means? Is that a --

10 MR HOOPER: Well, I'm sure I don't need to tell an educated lady from Australia
11 what a political agent is in a constituency.

12 PRESIDING JUDGE EBOE-OSUJI: It's not about the educated lady from Australia.
13 It is about what the witness can answer. It is the witness that's answering the
14 question.

15 MR HOOPER: Well, indeed, and that's why and no answer is still an answer for us.

16 PRESIDING JUDGE EBOE-OSUJI: The objection from Ms Weiss is that the question
17 is vague. Can we make it more precise?

18 MR HOOPER: Fine.

19 Q. Do you know what a political agent is in a constituency?

20 THE INTERPRETER: Interpreter's correction: The name was Sammy Choge
21 previously.

22 THE WITNESS: (Interpretation) Your Honour, the term "agent" means lots of
23 things. There were lots of agents, and I personally couldn't know what their role
24 was, unless you're an agent and knew what their roles were.

25 MR HOOPER:

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1 Q. Let me ask it in a different way. Do you know who the PNU coordinator
2 was in Aldai constituency in 2007?

3 A. Your Honour, I didn't know. I've repeated this. I said I had little time, and I
4 didn't look about to see who was in the senior positions with the PNU. I had very
5 minor responsibility.

6 Q. Well, you say "minor." You were --

7 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, we're in public session. Mr
8 Hooper, if you want to pursue that, we can go into private session.

9 MR HOOPER: Very well, very well. Let's go into private.

10 PRESIDING JUDGE EBOE-OSUJI: We'll go into private session.

11 (Private session at 10.55 a.m.) Reclassified as open session

12 THE COURT OFFICER: (Interpretation) We're in private session, your Honour.

13 PRESIDING JUDGE EBOE-OSUJI: Thank you. Mr Hooper, the reference to
14 "educated lady from Australia" was not well-received, I must let you know that.

15 MR HOOPER: All right.

16 PRESIDING JUDGE EBOE-OSUJI: We can proceed.

17 MR HOOPER: Very well. I apologise to my friend if it caused any offence. There
18 was none meant.

19 Q. You say you were (Redacted)

20 (Redacted) What

21 was the position?

22 A. Your Honour, being (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. Yes, thank you. (Redacted) My question was: Were you a

2 (Redacted)

3 A. Your Honour, at the time of the elections, (Redacted). The

4 politicians (Redacted)

5 (Redacted)

6 Q. All right. After you voted on election day, 27 December 2007, what did you

7 do?

8 A. I went home, your Honour.

9 Q. What time did you vote?

10 A. I voted in daytime, just after 2 p.m.

11 Q. So when you say (Redacted)

12 (Redacted) what did you do if you go

13 home after voting? (Redacted)

14 A. Your Honour, (Redacted)

15 (Redacted)

16 (Redacted). So I didn't need to stay there,

17 (Redacted)

18 (Redacted)

19 Q. Who gave you (Redacted)?

20 A. Your Honour, the person (Redacted)

21 (Redacted)

22 Q. And who was that?

23 A. I've forgotten his name, your Honour. It was someone from the Kalenjin

24 ethnic group.

25 Q. Did people know that you (Redacted)

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1 A. Your Honour, a very, very few number of people who were on good terms
2 with me knew it, but a lot of people did not know (Redacted)
3 (Redacted)

4 Q. And just one last question on this subject. Are you saying or suggesting that
5 because you were (Redacted)
6 (Redacted) made you more vulnerable when the violence broke out later?

7 A. Yes, your Honour. Given the events that occurred, I was in a situation which
8 was dangerous.

9 MR HOOPER: I see, thank you.

10 Your Honour, given the time.

11 PRESIDING JUDGE EBOE-OSUJI: Thank you for helping keep an eye on the clock.
12 We will rise for the morning break and come back at 11.30. So the blinds will come
13 down and the witness escorted from the courtroom.

14 (Closed session at 11.04 a.m.) Reclassified as open session

15 THE COURT OFFICER: (Interpretation) We are in closed session, your Honour.
16 (The witness stands down)

17 PRESIDING JUDGE EBOE-OSUJI: Court will rise.

18 (Recess taken at 11.04 a.m.)

19 (Upon resuming in open session at 11.34 a.m.)

20 THE COURT USHER: All rise.

21 Please be seated.

22 PRESIDING JUDGE EBOE-OSUJI: Thank you. We're in open session.

23 Mr Hooper, please. Do we remain in open session, or go back in --

24 MR HOOPER: Yes, we can for a moment at least.

25 PRESIDING JUDGE EBOE-OSUJI: In open session?

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1 MR HOOPER: In open session.

2 PRESIDING JUDGE EBOE-OSUJI: All right.

3 Q. Welcome back, Mr Witness. May I just ask you this: Do you know who
4 Charles Kering was? Let me spell the name. Charles we know. Kering,
5 K-E-R-I-N-G. Do you know who that was?

6 A. Your Honour, could you please repeat that name?

7 Q. Charles Kering, K-E-R-I-N-G. It will be on your screen there. Oh, no, it
8 won't be on your screen. K-E-R-I-N-G. Does it ring a bell with you?

9 A. Your Honour, yes, that's a Kalenjin name. I do remember amongst the
10 leaders of the PNU I believe I've heard a name like that one.

11 Q. He was the PNU agent or co-ordinator, was he not?

12 A. Your Honour, I know that he was one of the people who was working for the
13 PNU.

14 Q. Now, did --

15 MR HOOPER: Perhaps we should go into closed session on the particular function.

16 PRESIDING JUDGE EBOE-OSUJI: Closed session -- private session.

17 (Private session at 11.37 a.m.) Reclassified as open session

18 THE COURT OFFICER: (Interpretation) We are in private session.

19 MR HOOPER:

20 Q. Did you (Redacted)

21 (Redacted)

22 A. Yes, your Honour.

23 Q. What did you get and from whom did you get it?

24 A. Your Honour, it was (Redacted)

25 (Redacted)

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1 Q. And who provided that to you?

2 A. Your Honour, it was someone (Redacted)

3 Q. Now, you told us earlier this morning that you couldn't tell who won the local
4 parliamentary election, Sally Kosgey, for example, because you had left (Redacted)
5 before the results came out. Do you remember saying that?

6 MR HOOPER: Inasmuch as I mentioned, it deals with the moving. And the
7 reference for that is page 24, line 7 to 11 of today's transcript.

8 Q. Let me just read out or repeat what you are recorded as saying.

9 "Let me make it clear. I'm sorry if I didn't before ..." -- sorry, this is you speaking.

10 "Let me make it clear. I'm sorry if I didn't ..." -- oh, this is me I think. Sorry, this is
11 me, my question.

12 "Let me make it clear. I'm sorry if I didn't before. Who won the 2007 election for
13 Tinderet constituency?

14 Answer: I already left that area and didn't follow the situation closely to see who
15 had been elected. At the time I was already a victim."

16 Is that right? Had you left the area before those election results were announced for
17 the local parliamentary candidates?

18 A. Your Honour, when the results were announced for the members of
19 parliament, I was there, but I wasn't interested monitoring the issues relating to
20 Tinderet. It wasn't my business. It wasn't very important to me at that particular
21 time.

22 Q. All right. Now, we're in closed or private session and we should remain in
23 that for a little while. You've told us that you were living in (Redacted) for over 15
24 years; is that correct?

25 A. Your Honour, I stayed in (Redacted) for about 15 years and (Redacted)

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1 (Redacted) and there are other places. I also stayed in (Redacted) for about ten years.

2 Q. All right. So (Redacted) for ten years. Did you -- was that a continuous period of
3 residence there?

4 A. Your Honour, my work would take me (Redacted) and then back again. If I
5 found work to do (Redacted) I would go there and then come back.

6 So that was my home. I would go and work elsewhere and then come back. I
7 went to (Redacted)

8 (Redacted)

9 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, I hope this doesn't take you off your
10 track, but could you try and clarify whether the (Redacted)

11 (Redacted)

12 MR HOOPER: Yes, very well.

13 Q. Let me put it like this: Would we be correct in understanding your answer to
14 be that (Redacted) -- or by 2007/2008 you had

15 spent 15 years in (Redacted) ten years (Redacted) in (Redacted)

16 A. Your Honour, yes. I stayed in (Redacted) for 15 years, (Redacted)
17 ten years I spent in (Redacted)

18 (Redacted) your Honour.

19 Q. And the ten years leading up to your departure in early 2008, the previous ten
20 years, had they been -- had you been living essentially in (Redacted) working from
21 time to time elsewhere?

22 A. Yes, your Honour.

23 Q. And when you say you went and worked elsewhere, (Redacted) or wherever
24 it was, are we to understand that while you travelled to work and from time to time
25 may have stayed near your work -- working area, that throughout that time you

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- 1 (Redacted) Is that correct?
- 2 A. Yes, your Honour.
- 3 Q. And did you (Redacted) What was the position?
- 4 A. Your Honour, I wanted to (Redacted)
- 5 (Redacted)
- 6 Q. Did you -- did you have (Redacted)
- 7 A. Yes, your Honour.
- 8 Q. Was that part of (Redacted)
- 9 A. Your Honour, the (Redacted)
- 10 (Redacted)
- 11 Q. I see. So not in (Redacted). And how far was (Redacted)
- 12 (Redacted)
- 13 A. Your Honour, when leaving (Redacted)
- 14 (Redacted)
- 15 Q. And in which direction, towards Nandi Hills or another direction?
- 16 A. That's heading towards Nandi Hills.
- 17 Q. And was that somewhere (Redacted)
- 18 A. Your Honour, it was (Redacted)
- 19 Q. Did you have (Redacted)
- 20 A. Your Honour, often I would (Redacted)
- 21 (Redacted)
- 22 Q. And you (Redacted). Was that the (Redacted)
- 23 (Redacted)
- 24 A. Your Honour, yes.
- 25 Q. And when you were questioned by the Prosecution, (Redacted), you

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1 provided a sketch with -- indicating the (Redacted)

2 And if I can call that up, please, so that we have it in front of us. And I've got a

3 hard copy if you want it. It's our tab 27 and if that can be brought up on to the

4 screen. It's reference is KEN-OTP-0083-0343.

5 So you can see that in front of you. And we can see looking at that -- and obviously

6 it's a confidential document -- we can see it shows the main highway between

7 Kobujoi and Nandi Hills. Nandi Hills, looking at the plan, is to the right, we see

8 Kaptumo, obviously after that would be Nandi Hills, to the left Kobujoi. And then

9 you have --

10 A. (No interpretation)

11 Q. -- on the left (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 A. Yes, your Honour.

20 Q. Thank you. You (Redacted)

21 (Redacted) Is that correct?

22 A. Yes, your Honour.

23 Q. But you only (Redacted) isn't that right?

24 A. No, your Honour.

25 Q. (Redacted) was it not?

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1 A. I wasn't in a position to know that, your Honour.

2 Q. Well, you lived in that place for ten years. (Redacted)

3 A. Your Honour, often when we talk about (Redacted)

4 (Redacted)

5 Q. Is it right that the (Redacted)

6 (Redacted) Do you know

7 anything about that?

8 A. Yes, your Honour. That house (Redacted) I heard

9 something about that, yes.

10 Q. While you were living there; is that right?

11 A. Yes, your Honour.

12 Q. Now, I have some photographs of Koyo which I'd like you to help us with to
13 identify the places. And we'll take them one by one and they can then be shown on
14 the screen and you can look at the screen and you should get I hope a very clear
15 image.

16 MR HOOPER: And I'd like to start with our tab 1, which is KEN-D09 -- and all
17 those photographs have that prefix, KEN-D09, and that's 0029-0001.

18 Q. If you can look at that, please?

19 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, while that is being uploaded on the
20 screen, for the record the spelling of Kaptumo indicated at tab 27 is different from
21 the one you supplied; is that correct?

22 MR HOOPER: Yes, the spelling is correct on the -- on the written document. So
23 it's K-A-P-T-U-M-O.

24 PRESIDING JUDGE EBOE-OSUJI: All right.

25 MR HOOPER: Yes. Thank you. Now, we're in private session, but I have no

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1 objection at this stage if we go into open session (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Very well. Looking at that image, Mr Witness, can you help me as to this:

5 Do you agree, as the sign reads, that that's Koyo on the main road that passes

6 through Koyo between Kobujoi and Nandi Hills? And we're looking there I think

7 towards Nandi Hills, are we?

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 MR HOOPER: We'll be going in and out, but that's not a difficulty other than for
10 the court officer, of course.

11 PRESIDING JUDGE EBOE-OSUJI: So we will -- you say we can --

12 MR HOOPER: Go into public.

13 PRESIDING JUDGE EBOE-OSUJI: Public. All right. And the photo could also be
14 displayed to the public?

15 MR HOOPER: Yes, it can.

16 PRESIDING JUDGE EBOE-OSUJI: All right. We go to public then.

17 (Open session at 12.01 p.m.)

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

19 PRESIDING JUDGE EBOE-OSUJI: All right. Witness, we will be -- in your
20 testimony you had testified that there was a political rally that took place in Koyo,
21 and we will be talking about Koyo.

22 MR HOOPER:

23 Q. Witness, looking at that photograph, 001, with the sign Koyo, can you confirm
24 that that is the main road between Nandi Hills and Kobujoi? If one was to
25 continue --

Trial Hearing
Witness: KEN-OTP-P-0128

(Open Session)

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1 A. Yes, your Honour.

2 Q. If one was to continue past that sign and carry on, where does one get to?

3 Does one get to Nandi Hills eventually or what?

4 A. Your Honour, if the person goes past this road sign, they can go to Kobujoi or
5 Kaptumo on the way to Nandi Hills.

6 Q. I'm not clear. In which direction is Kobujoi?

7 A. Your Honour, if you look at the people on the road there, there's one person
8 wearing something red and there are other people on the other side of the road.

9 The two people looking towards Kaptumo towards Nandi Hills and the person in
10 red is facing the other way.

11 Q. He's facing towards Kobujoi; is that right?

12 A. That's correct, your Honour.

13 Q. So going along the road, we see past the man in red we get eventually to
14 Nandi Hills, and in the opposite direction we get to Kobujoi; do you agree?

15 A. Yes, your Honour.

16 Q. And (Redacted) Koyo lies to the right as we look at that
17 photograph; is that right?

18 A. Your Honour, there are shops and there are other buildings.

19 Q. All right.

20 A. And there are also hangars there.

21 Q. Now, you mentioned the two people walking in the direction of Nandi forest,
22 and if you look at that photograph for me on the right there's a tree and some signs,
23 and there's a parked vehicle on the grass, and behind that vehicle, the other side of
24 that vehicle there's a field of grass. Am I right in saying that that's where the
25 meeting at Koyo took place on that field of grass?

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1 A. Your Honour, it's there, but before you get to the tree there's a person you can
2 see, that's the land there, yes.

3 Q. Let me take you to the next photograph, which again is a public document.
4 0029-0002 is the next photograph probably on the reverse of the first one that your
5 Honours had looked at.

6 We see there -- as it comes up onto the screen. It's popped up.

7 Now, looking at that we see the field from the other side, as it were. We can see the
8 tree, we can see perhaps the hangars you were talking about, but it's the field that
9 we're looking at. Again, you can confirm that's the field where the Koyo meeting
10 with Mr Cheramboss, et cetera, took place; is that right?

11 A. Yes, your Honour. I can see that there's a person coming from Koyo primary
12 school and the rally was just on the other side of the trees, but that's the land there,
13 yes, on the side which you can't see on the screen.

14 Q. Thank you. Now, it's right you have not been back to the area since -- well,
15 since about that time, and as we've heard, so we don't need to have a response from
16 you about that, but let me ask you this: Can I ask you to look at another
17 photograph which is again 0029-0007? Very small print. That will come up on the
18 screen.

19 PRESIDING JUDGE EBOE-OSUJI: Is that a public document, Mr Hooper?

20 MR HOOPER: That's a private document, I think.

21 PRESIDING JUDGE EBOE-OSUJI: Yes. So we will -- we will not display that in
22 public. Is it better to go into private session?

23 MR HOOPER: Yes, I think it might be.

24 PRESIDING JUDGE EBOE-OSUJI: I think so. We go into private session.

25 (Private session at 12.10 p.m.) Reclassified as open session

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(Private Session)

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

2 MR HOOPER:

3 Q. Now, looking at that photograph -- and there may have been some changes
4 since you were last there. I'll come to those in a moment. But as a general view, do
5 you agree you're now, as it were, looking from the position of where you marked
6 (Redacted)

7 (Redacted) would be the field where the meeting was
8 held? Do you agree with that?

9 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, you need to ask that question again.

10 MR HOOPER:

11 Q. Now, looking at this photograph, do you agree that we're looking there a
12 view taken from the area of land (Redacted)
13 (Redacted)

14 (Redacted) and the field where the
15 meeting took place is the other side of that tree that we can see? Is all that correct?

16 PRESIDING JUDGE EBOE-OSUJI: There's a number of propositions in that
17 question. Can we take it one at a time?

18 MR HOOPER: Right.

19 Q. First of all, on the other side of that tree do you agree is the site where the
20 Koyo meeting took place?

21 A. Your Honour, I'm looking at the slope going down, and I'm having some
22 difficulty here, but if I look at the bottom, I'd say that this picture is a bit of a
23 problem for me, your Honour.

24 Q. What do you see? Looking at that, do you agree that the main road lies out
25 of sight beyond the tree?

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(Private Session)

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1 A. Yes, your Honour.

2 Q. All right.

3 A. I know that the road is behind the tree, that's the paved road behind the tree,
4 but you can't see the road. But if I'm following what's in the picture here, your
5 Honour, I'd say that the road is on the other side of the tree.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Indeed they have and we'll see the extent in a moment.

13 MR HOOPER: Let me call up, please --

14 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, before you call up, what will be the
15 distance to the main road? Do we have an idea?

16 MR HOOPER: Yes, I think you can judge that by reference to the first photograph
17 in the bundle.

18 PRESIDING JUDGE EBOE-OSUJI: Can the witness give us an estimate, or you --

19 MR HOOPER: Oh, yes, certainly. Certainly.

20 Q. Mr Witness, sorry, (Redacted) How
21 far -- how many metres would (Redacted) from the main road going
22 straight down that hill in a direct line?

23 A. Your Honour, I'd say that from the main road to (Redacted)
24 (Redacted) but I can't give you any accurate
25 estimate. I'd say it's around (Redacted) perhaps a bit more.

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1 Q. And may I say that we fully accept that as an approximate figure and an
2 accurate approximation. Very well. Can I take you, please, to photograph
3 0029-0005, please.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 A. Your Honour, I cannot confirm that.

15 Q. And may I say we can see in that photograph there's a (Redacted)

16 (Redacted) Do you see that? And I'm going to ask you, in any event, to look at

17 another photograph, which is 0029-0008 in the bundle. That will come up, and I'll

18 direct my question about (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. Your Honour, that was not (Redacted)

23 (Redacted)

24 Q. Yes. I'm not suggesting (Redacted)

25 (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0128

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 A. Your Honour, I can't understand this. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 A. Your Honour, no, that's not the case.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE EBOE-OSUJI: And we can move on?

23 MR HOOPER: Yes.

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0128

(Private Session)

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Trial Hearing
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(Private Session)

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Trial Hearing
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- 11 MR HOOPER:
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Trial Hearing
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12 (Redacted)

13 (Redacted)

14 A. That's right, your Honour.

15 (Redacted)

16 (Redacted)

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 (Redacted)

3 A. No, your Honour.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, the witness has raised a question,
13 and I must say that question had been on my mind for some time, relevance of the
14 line of question about (Redacted)

15 MR HOOPER: Well, I can spell it out, but the witness of course has -- will hear, and
16 I can't speak any English either --

17 PRESIDING JUDGE EBOE-OSUJI: You can put the proposition that frames the
18 relevance and then that will make us understand the bearing or the relevance of the
19 question. If you need then to return to fill in details with questions to the witness,
20 we can see the -- with greater clarity.

21 MR HOOPER: All right.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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Witness: KEN-OTP-P-0128

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1 MS WEISS: Your Honour, I must object here. I don't think my learned friend has
2 explained the relevance of this line of questioning with the question he just posed. I
3 think we're at a point now where we're getting into quite sensitive issues. I
4 think where -- I see where my learned friend is going with this, and possibly a better
5 explanation of the relevance would be required of here. Thank you.

6 MR HOOPER: I don't know if that was right, "I see where my learned friend is
7 going," because if you see where I'm going then you'll understand the relevance of
8 the -- of the issue here.

9 I'd just invite the Chamber to bear with me for a few minutes or else excuse the
10 witness and I'll explain in his absence, but at the moment -- and I'm not prying and
11 I'm not concerned with (Redacted) There's no judgment here at all.

12 (Redacted)

13 PRESIDING JUDGE EBOE-OSUJI: Keep going, but I'm keeping a close eye --

14 MR HOOPER: Yeah, I --

15 PRESIDING JUDGE EBOE-OSUJI: -- on that line of question.

16 MR HOOPER: I -- I've observed the judicial frown and I'll certainly respect it. And
17 my friend's frown as well, of course.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 MS WEISS: Your Honour, I must object to this document even being shown to

6 the -- the witness before a proper explanation of relevance is given and perhaps --

7 PRESIDING JUDGE EBOE-OSUJI: But, Ms Weiss, no document has been shown

8 yet.

9 MS WEISS: Your Honour, we have the document in a bundle. It's a very sensitive

10 issue that I --

11 MR HOOPER: Yes. Yes. She's jumped the gun. I'm sorry. My friend's jumped

12 the gun. She might be right in the way I'm going, but she shouldn't alert the

13 witness at this stage to certain things. And I've asked a direct question. (Redacted)

14 (Redacted) And I framed it in that

15 way.

16 MS WEISS: Your Honour, the document -- and I will --

17 PRESIDING JUDGE EBOE-OSUJI: Ms Weiss, at this stage objection is overruled.

18 There's a proposition put to the witness, and let's see what happens after that.

19 MR HOOPER:

20 Q. So you know the question. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE EBOE-OSUJI: Witness, what the lawyer is doing is you gave

25 evidence and you testified about (Redacted)

Trial Hearing
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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Mr Hooper, so that the witness gets the idea of where this is going.

5 MR HOOPER: Yes.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. All right. I'm going to ask you to look at a document. I won't read it out,

12 but I want --

13 MS WEISS: Your Honour --

14 MR HOOPER:

15 Q. -- to ask you to read it and then perhaps we consider your answer.

16 MS WEISS: I object to this document being shown to the witness, your Honour.

17 He's already asked -- answered the question that was asked in relation to (Redacted)

18 (Redacted) Whether or not this document

19 should be shown to him, it's not -- we -- the Prosecution objects to this.

20 MR HOOPER: If it's to be raised it's a collateral --

21 PRESIDING JUDGE EBOE-OSUJI: It's not a collateral issue.

22 MR HOOPER: It's not a collateral issue.

23 PRESIDING JUDGE EBOE-OSUJI: Ms Weiss, you were allowed to refresh the

24 witness's memory. Counsel can refresh -- can do the same. We'll see where we go.

25 MR HOOPER:

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1 (Redacted)

2 (Redacted) And I'll ask you to look, if

3 you may, at KEN-D09-0029-0024. And let me hand up, in fact, an unmarked hard

4 copy to you, which might be easier than you squinting on the screen. We have one

5 here. Can I pass this up to you quickly?

6 PRESIDING JUDGE EBOE-OSUJI: What tab?

7 MR HOOPER: And that's 10A. At 10 you'll find a photograph and at 10A you'll

8 find -- the next page is 10A.

9 THE WITNESS: (Interpretation) Your Honour --

10 MR HOOPER:

11 Q. Just read it, please. Just read the entire document and take your time.

12 PRESIDING JUDGE EBOE-OSUJI: Now, Mr Hooper --

13 MR HOOPER:

14 (Redacted)

15 (Redacted)

16 PRESIDING JUDGE EBOE-OSUJI: No, no. We'll do it --

17 MR HOOPER: Well, I won't say any more.

18 PRESIDING JUDGE EBOE-OSUJI: -- this way. No, no, no, we'll do it this way.

19 First whether he recognises this document and whether that refreshes his memory,

20 something like that.

21 MR HOOPER:

22 Q. Looking at that document, does that help refresh your memory, Mr Witness?

23 What do you say?

24 (Redacted)

25 (Redacted)

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- 18 (Redacted)
- 19 your Honour.
- 20 MR HOOPER:
- 21 (Redacted)
- 22 (Redacted)
- 23 A. No, your Honour.
- 24 (Redacted)
- 25 (Redacted) What do you say to that?

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- 1 A. Your Honour, (Redacted)
- 2 (Redacted)
- 3 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, one second.
- 4 MR HOOPER: Sorry.
- 5 PRESIDING JUDGE EBOE-OSUJI: The question, Witness, was whether (Redacted)
- 6 (Redacted)
- 7 Is that the question?
- 8 MR HOOPER: Yes.
- 9 PRESIDING JUDGE EBOE-OSUJI: The question was that you (Redacted)
- 10 (Redacted)
- 11 (Redacted) That's the question the lawyer is asking. Is that true?
- 12 THE WITNESS: (Interpretation) Your Honour, that is not true. (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 PRESIDING JUDGE EBOE-OSUJI: So your evidence is (Redacted)
- 16 THE WITNESS: (Interpretation) Yes, that's quite right, your Honour.
- 17 MR HOOPER: All right. So if I can hopefully just finish this area.
- 18 PRESIDING JUDGE EBOE-OSUJI: It is break time.
- 19 MR HOOPER: Very well.
- 20 PRESIDING JUDGE EBOE-OSUJI: How much longer?
- 21 MR HOOPER: Tomorrow. There's no way I'm finishing. We're going about a
- 22 third of the pace I thought we would go.
- 23 PRESIDING JUDGE EBOE-OSUJI: The blinds will come down and the witness will
- 24 be excused from the Court for now.
- 25 Witness, we will be taking lunch break and we will be coming back at 2.30. So you

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(Private Session)

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- 1 will join us back then. Thank you.
- 2 MR HOOPER: Unless the Court wants to sit at 2?
- 3 PRESIDING JUDGE EBOE-OSUJI: At 2.30.
- 4 MR HOOPER: 2.30. Very well, thank you.
- 5 (Closed session at 12.59 p.m.) Reclassified as open session
- 6 THE COURT OFFICER: (Interpretation) We are in closed session.
- 7 (The witness stands down)
- 8 PRESIDING JUDGE EBOE-OSUJI: Court will rise.
- 9 THE COURT OFFICER: All rise.
- 10 (Recess taken at 1.00 p.m.)
- 11 (Upon resuming in open session at 2.35 p.m.)
- 12 THE COURT USHER: All rise.
- 13 Please be seated.
- 14 PRESIDING JUDGE EBOE-OSUJI: Witness, welcome back.
- 15 Mr Hooper, we're in open session.
- 16 MR HOOPER: Yes. Can we go into closed session for the next few minutes?
- 17 PRESIDING JUDGE EBOE-OSUJI: Closed session for a few minutes?
- 18 MR HOOPER: Private session.
- 19 PRESIDING JUDGE EBOE-OSUJI: Private session.
- 20 (Private session at 2.37 p.m.) Reclassified as open session
- 21 THE COURT OFFICER: (Interpretation) We are in private session.
- 22 MR HOOPER: Okay. Thank you.
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0128

(Private Session)

ICC-01/09-01/11

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, I thought the objective, unless I got

7 it wrong, was to deal with his testimony about (Redacted)

8 (Redacted)

9 (Redacted) Isn't that the case?

10 MR HOOPER: It is. And so obviously I'm acting on material I have, and I need to

11 deal with (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 MS WEISS: Your Honour --

17 MR HOOPER: So that's the position and your Honour can see the relevance of that.

18 MS WEISS: I must object. The Prosecution does not see the relevance of this. The

19 relevance of this case is what happened at the end of December, January, December

20 2007, January 2008. Whether or not a (Redacted)

21 is of no relevance at all to this case, and the Prosecution must object.

22 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, you can see the concern all around.

23 And, yes, it's one thing to say this is not about an inquiry into (Redacted)

24 passing judgments. It's another thing what is done and how that comes across.

25 You have framed the issue. Then surely there must be a way of getting to it without

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1 bearing to go through (Redacted)

2 MR HOOPER: No. This is my final question, in fact, in respect of this. And if it
3 ever were to be the case that the Defence were to call witnesses in respect of these
4 matters, I'd be happier calling them if, in fact, the Court and indeed this witness, and
5 particularly this witness who has been able to deal with certain matters, and so this
6 is my last question in terms of this, I'm not prying, I'm merely asking this witness is
7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE EBOE-OSUJI: When?

10 MR HOOPER: Exactly --

11 PRESIDING JUDGE EBOE-OSUJI: By December 2007 --

12 MR HOOPER: Yes.

13 PRESIDING JUDGE EBOE-OSUJI: -- could mean the end of December 2007.

14 MR HOOPER: I mean, before December 2007. In fact, earlier that year.

15 Q. Does the witness accept that that was the position? Mr Witness, just to deal
16 with this so we can dispense with it, is it right that (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 Q. I'm going to move on. Thank you for your --
22 PRESIDING JUDGE EBOE-OSUJI: Witness, when did (Redacted)
23 (Redacted)?
24 THE WITNESS: (Interpretation) Your Honour, when we (Redacted) When
25 we (Redacted)

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Witness: KEN-OTP-P-0128

(Private Session)

ICC-01/09-01/11

1 PRESIDING JUDGE EBOE-OSUJI: Do you remember what part of year? Was it in
2 the beginning of 2007, the middle, or the end of 2007? If you remember the month,
3 that's even better.

4 MS WEISS: Your Honour, the witness didn't say it was 2007 at all.

5 PRESIDING JUDGE EBOE-OSUJI: Sorry, do you remember the year (Redacted)
6 and what month of what year?

7 THE WITNESS: (Interpretation) Your Honour, I remember when we (Redacted)
8 (Redacted)
9 (Redacted)

10 PRESIDING JUDGE EBOE-OSUJI: Mr Hooper, please proceed.

11 MR HOOPER: I think I've made our position as we understand it clear. So let me
12 move on. And may I invite, we can stay -- we can go into open session now. I'm
13 going to deal with documents relating to the witness. The documents can remain
14 confidential, and my view at the moment is we can stay in open session as long as
15 the documents themselves remain as confidential.

16 PRESIDING JUDGE EBOE-OSUJI: We will go into the public session, but the
17 documents will either need to be displayed, only be displayed inside the courtroom.

18 MR HOOPER: Indeed. Thank you.
19 (Open session at 2.51 p.m.)

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

21 MR HOOPER: (Microphone not activated)

22 THE INTERPRETER: Microphone, please.

23 MR HOOPER: KEN-OTP-0109-0264, tab 32. And we have a hard copy here for the
24 witness, who may find that more convenient as he can see the entire document at
25 one time. Thank you very much.

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(Open Session)

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1 Q. Mr Witness, I'm passing you up a document. You'll see the nature of it. It's
2 the same as the judges and the other parties will see on their screens or in their
3 bundles. The nature of the document is plain on the face of it.

4 THE COURT OFFICER: (Interpretation) I beg your pardon, Mr Hooper. Could
5 you give us the ERN number of the first page of the document if you could?

6 MR HOOPER: Well, in fact, the document I'm going to be looking at is attached to
7 this. So perhaps I can -- all right. It's R01, so it's all those numbers, 0109-0264-R01.

8 Q. All right. So looking at the first page of that, we can see it's an Application
9 Form for Individuals. It's an International Criminal Court document submitted.

10 It's a request for participation in proceedings and reparations.

11 And, Mr Witness, I think if you look at it, can you confirm that that is the document
12 that was submitted by you as part of your application as a victim to the ICC; is that
13 correct?

14 A. Your Honour, this is a document that was filled out on my behalf by an
15 organisation that works to defend human rights in Kenya. The name of that
16 organisation is ICPC. And so this was done in order to present this application to
17 the ICC.

18 Q. Thank you very much. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. All right. Now the --

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(Private Session)

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- 1 MS WEISS: Your Honour, we're in public session at the moment.
- 2 MR HOOPER: Yes, there is no problem. There is no identification that's emerged
3 in my submission.
- 4 PRESIDING JUDGE EBOE-OSUJI: One second. Let's go into private session.
5 (Private session at 2.57 p.m.) Reclassified as open session
- 6 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.
- 7 PRESIDING JUDGE EBOE-OSUJI: Ms Weiss?
- 8 MS WEISS: Your Honour, I just wanted to alert the Chamber that we had actually
9 discussed (Redacted) in private
10 session. The fact that he's now talking about it in public session, plus the other
11 identifying features which have been revealed in public session could now identify
12 the witness.
- 13 MR HOOPER: My submission, there is no possible tangible link between a general
14 discussion of (Redacted) and identification.
- 15 PRESIDING JUDGE EBOE-OSUJI: Well, the concern, of course, is when he talks
16 about what he did in terms of (Redacted).
- 17 MR HOOPER: Well, he's not alone in that, and it would be a very, very long reach
18 to associate him with that. And I hope my -- I'm quite happy to continue in private.
- 19 PRESIDING JUDGE EBOE-OSUJI: Yes, it might be safer to do so.
- 20 MR HOOPER: All right. In which case I'll be rather more specific in my questions.
- 21 PRESIDING JUDGE EBOE-OSUJI: Yes.
- 22 MR HOOPER: Very well.
- 23 PRESIDING JUDGE EBOE-OSUJI: That's why it's always safer in some instances
24 for your -- to do these things in private so that things can be discussed fully and
25 freely and candidly.

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1 MR HOOPER: Very well.

2 Q. Mr Witness, looking at the first page there, if we run our eyes down it, you
3 claim there (Redacted) is that right? Do you have (Redacted) Mr
4 Witness? Simple question.

5 A. Your Honour, I don't see anything there that shows that I said something
6 along those lines.

7 MR HOOPER: Can I ask, please, the assistance of the Registry?

8 Q. Perhaps this gentleman or lady will come and assist you. As we go through
9 this document and others, they can help you by pointing to the specific place so we
10 can get a move on.

11 The first reference is the first page, Application Form for Individuals. Item 7.

12 Point that out. (Redacted) is that right?

13 A. Yes, your Honour. I can see it, yes. I've got it.

14 Q. Well, is it true, did you have (Redacted) when you
15 filled in this form?

16 A. Your Honour, it's true. (Redacted)

17 (Redacted)

18 (Redacted) your Honour.

19 Q. All right. And then as we look through the document, I needn't dwell on
20 much. You give an account on page 26 relating to the walk to Nandi town centre
21 and the killing of the inspector of police, item 26, which continues, in fact, several
22 pages on at KEN-OTP-0109-0272 at the bottom, the continuation. It just says -- let
23 me read it, "When the inspector of police came to find out what was happening, he
24 was shot with an arrow and died. When the Kalenjins saw this, they ran away."
25 Continuing on there on your account, "When we got back to our homes, we got

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1 (Redacted) They were looting, breaking homes, and

2 burning them."

3 Just pausing there -- well, let me carry on, "(Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted) I had lived in Nandi Hills for over ten

7 years. (Redacted)

8 Now, Mr Witness, let me just start with the last matter where you say you lived in

9 Nandi Hills for ten years and (Redacted)

10 (Redacted) and particularly in Nandi Hills?

11 A. Your Honour, Nandi Hills is a region. I said that I lived in that region in

12 (Redacted) And before I said that I had (Redacted)

13 (Redacted) -- and I also had goods. I had a farm (Redacted) I also had

14 household items as well.

15 And these seven pages, these were written by the ICP (Redacted) So I think that that

16 person must have forgotten to write. (Redacted)

17 (Redacted)

18 Q. You'd (Redacted) -- what (Redacted)?

19 A. Your Honour, the goods that I had, well, they were (Redacted)

20 (Redacted) I had my farm ware. I had

21 cultivated produce.

22 Q. Can we just be clear then, when you say (Redacted)

23 (Redacted); is that correct?

24 A. Your Honour, here I'm speaking about everything that I had bought,

25 everything that belonged to me, what I had bought with my money. That's what I

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1 call my goods.

2 Q. So you deal -- you're talking about your goods, personal possessions and the
3 like, trade goods, that sort of thing. (Redacted) is that right?

4 A. Your Honour, I was speaking about the goods that were inside the house
5 even, because I can see that all the goods that I had, everything that I was growing in
6 the fields, they were all my goods as well. Everything that was in the house were
7 my goods. Everything that was (Redacted) they were all my goods as well.
8 Things that were outside, (Redacted) everything
9 belonged to me. These were all my goods.

10 Q. Thank you very much. Now, let's come to the other part. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. Your Honour, I already corrected that at the start. When I spoke I said that
17 (Redacted) who had written this from ICPC, it wasn't correct when he said that we
18 (Redacted) The children hid in a (Redacted) when I took
19 (Redacted) the other children to my home, to my place of origin. That's what I
20 wanted to say. I think that (Redacted) didn't -- wasn't able to write what I was
21 saying at that time.

22 Q. Do you know why it's specified that, (Redacted)

23 (Redacted)

24 (Redacted) isn't it? Why -- why is the (Redacted)

25 this account?

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1 A. Your Honour, I repeat to tell you that (Redacted) who wrote it couldn't
2 make a difference between (Redacted), so between (Redacted), and
3 that's the reason why I say that to you so that you know when I took the children to
4 my home, it was the children who stayed. They were the ones who went to hide in
5 the bush. Here we're not talking about (Redacted), your Honour.

6 Q. Well, didn't you read this through before signing it?

7 A. Your Honour, the people who filled in these forms were the (Redacted)
8 from the ICPC. There were a lot of people, and what they were doing, they were
9 just reading it and you signed it. They didn't give you the time to read all the
10 different details, your Honour.

11 Q. All right. Now, look at the previous page, and you'll see at part H it's got
12 signatures, "Signature of the Victim," and it reads, "I hereby declare that to the best
13 of my knowledge and belief the information I have given in the present application
14 form is correct. If I've named someone to act in my behalf in question 14 of this
15 form, I hereby give my consent to that person to act on my behalf." There is then a
16 signature. Do you see that signature? Can you confirm that that is your signature?
17 Is that right?

18 A. Yes, your Honour. That's my signature.

19 MS WEISS: Your Honour, if I could just interrupt for one moment. There is a
20 clarification perhaps on line 4 of page 78. "What they were doing, they were just
21 reading it and you signed it." It's not "writing"? Could we get that clarified,
22 because it seems wrong on the transcript?

23 I understand from the interpreter it was interpreted wrong.

24 PRESIDING JUDGE EBOE-OSUJI: Ms Weiss's concern is rather a matter of
25 interpretation error as opposed to what we actually heard. So what we heard was

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- 1 "reading," but the concern is that in Kiswahili the witness had actually said "writing."
2 Maybe we should --
3 MR HOOPER: Well, I accept that must be "writing." It makes sense. "They were
4 just writing it and then I signed it." I accept that.
5 PRESIDING JUDGE EBOE-OSUJI: All right.
6 MR HOOPER: Well, I accept that's what he said. I don't accept that that's
7 necessarily the process.
8 PRESIDING JUDGE EBOE-OSUJI: That's what I understood you to be saying.
9 MR HOOPER: All right.
10 Q. Anyway, Mr Witness, that is your signature, isn't it? Do you have difficulty
11 in recognising it as your signature?
12 A. Your Honour, it's my signature.
13 Q. And it's dated (Redacted), isn't it?
14 A. Yes, your Honour.
15 Q. And you were (Redacted) You
16 fully understood, didn't you, the necessity for these forms to be as accurate as
17 possible, didn't you?
18 A. In (Redacted)
19 (Redacted) filled in the forms from the ICPC (Redacted). They were the ones who
20 helped us as victims to write all these things, your Honour.
21 Q. All right. Now, that's your victim application form. It's dated (Redacted).
22 We'll come back to that. So hang on to that, please.
23 I just want you to look please at what we have at our tab 26, which is a (Redacted) –
24 (Redacted) which we heard about earlier, and
25 that is KEN-OTP-0083-0340 and that will come up on to the screen in a moment. It's

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1 one page.

2 THE COURT OFFICER: (Interpretation) Mr Hooper, we have two documents on
3 this number. There is a redacted version and an original version. Which would
4 you like to publish?

5 MR HOOPER: None of these are being viewed by the public, of course. This
6 document, which is at tab 26, is in fact a (Redacted). It's not a
7 document on the screen. Perhaps I can pass a hard copy up to the witness. We've
8 got it in our -- there it is. Thank you.

9 Q. You can see that document in front of you. I'm not going to trouble you very
10 much with it. Merely can you confirm that that is the (Redacted)
11 (Redacted) is that
12 correct?

13 A. Yes, your Honour.

14 Q. We can see it's dated (Redacted)

15 A. Yes, your Honour.

16 Q. And so that would be just a few days after your application to this Court as a
17 victim. Now, that's all in (Redacted). And I want to go now to another document
18 that, in fact, is attached to the application form for victims but is not, in fact, the
19 same document. And it appears, if I can possibly -- it may be complicated, because
20 it seems to me to be formed part of one document, the application form, but it's, in
21 fact, a (Redacted) which we find as part of the victim
22 document, which we've just referred to at KEN-OTP-0109-0275.

23 And again if the witness could be assisted, please? It would be easier than his
24 looking on the screen. If he can turn to the penultimate page of the Application
25 Form for Individuals bundle, he'll find that document, which in fact is now on the

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1 screen. Thank you very much.

2 Do you recognise that document as being one that's been filled and submitted by
3 you, sir?

4 A. Yes, your Honour.

5 Q. And it's headed (Redacted) Can

6 you just briefly tell us where you got this document from before you filled it in?

7 Who made this document, printed this document? Was it local government?

8 What was the situation?

9 A. Your Honour, it was the people from (Redacted)

10 Q. All right. Now, can you just look at the bottom of that document, bottom

11 left-hand corner where it's got your name, your ID number, and your telephone

12 number. I think we've now -- that's been unredacted, that telephone number, and it

13 was -- we'll come back to it anyway. We know the number now and that's dated (Redacted)

14 (Redacted); is that right? Is that when you signed that?

15 A. Your Honour, yes. People from (Redacted) -- when we started to go

16 where we had to go, the people from (Redacted) came with forms, which we had

17 to fill in, and that was taken to (Redacted)

18 (Redacted) such that we could have assistance, your

19 Honour.

20 Q. Okay. So you've what -- this is filled in, and then (Redacted), did he?

21 A. Yes, your Honour.

22 Q. All right. If we look at the "For Official Use Only" column on the bottom

23 right, it's blank, much of it. Then it's got a signature and it's got (Redacted)

24 somewhere, "... (Redacted) Do you see that?

25 A. Yes, your Honour.

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1 Q. Do you see the date on it? It reads --

2 THE INTERPRETER: Overlapping interpretation with speakers.

3 MR HOOPER: Sorry, the witness replied "Yes."

4 Q. And my next question is the date on it, (Redacted) Now, whether we look
5 on that as (Redacted) let's leave that to one side, why does

6 that date either way precede your date of (Redacted)

7 A. Your Honour, I think these are mistakes committed by the people from the
8 (Redacted) I don't know why. When I put this date on, perhaps they made a
9 mistake. You can make a mistake with regards to time. That's very human.

10 Q. All right. Now, the total amount that you claim there for, it's under (Redacted)
11 (Redacted)

12 (Redacted)

13 A. Your Honour, the (Redacted)

14 (Redacted)

15 (Redacted) Everything that's put on

16 that, everything that I've lost is put on there.

17 Q. All right. Well, the amount that you give there is (Redacted) shillings; is that
18 right?

19 A. In my opinion it's that, your Honour.

20 Q. You were paying (Redacted) about, so we've got some idea of values here.

21 Are you sure this is an accurate claim, or is it perhaps a little exaggerated? What's
22 the position?

23 A. No, your Honour. The application that I made was legitimate. If you count
24 (Redacted) even more than that, well, this is what I've asked for.

25 That was what I asked for, even if it was more than that.

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1 Q. Well, this is a (Redacted), and in the last of the
2 columns, (Redacted) it's got, can you see, (Redacted)
3 (Redacted) is that right?

4 A. Yes, your Honour. When I (Redacted)
5 (Redacted)

6 Q. Where was (Redacted)?

7 A. Your Honour, at the start I said that it was (Redacted)

8 Q. So (Redacted) is that
9 right?

10 A. Your Honour, (Redacted) there
11 were other products. Those that were in (Redacted) were ones that were put in, but
12 the – no, inside, but (Redacted) So, for example, you have (Redacted)
13 (Redacted)
14 (Redacted)

15 Q. And it's blanked out, but you can accept from me that your telephone number
16 is also given there and that's (Redacted) -- I'll just read it in, because it's not there. It's
17 (Redacted) Is that your telephone number, Mr Witness?

18 A. Your Honour, it was my telephone number.

19 Q. And by the time when you filled this form in in (Redacted) how long
20 had you had that telephone number for?

21 A. Your Honour, I had this number and I had had it for between two and three
22 years. I no -- I no longer remember it well.

23 Q. Now, if I can take you please to -- is it right you were first in contact with the
24 OTP here when you (Redacted) So before the victim
25 application form was sent, you had been in contact, is this right, (Redacted)

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1 (Redacted)

2 And that's at tab 37, a late entry, but I needn't show you the -- let me just ask the
3 witness, mindful of the time. Mr Witness, do you remember (Redacted)

4 (Redacted)

5 MR HOOPER: All right. Can we have it up, please? It's KEN-OTP-0078-0395.

6 A. Yes, your Honour, I had sent (Redacted)

7 Q. It's coming up on your screen I hope, again, a private document.

8 PRESIDING JUDGE EBOE-OSUJI: What tab?

9 MR HOOPER: 37 and following.

10 Q. And it was (Redacted) which don't concern

11 us. (Redacted) If we look at that first page of your

12 (Redacted) Do you agree

13 to that?

14 A. Yes, your Honour, I agree with you. (Redacted)

15 At that time, the government was not following through.

16 Q. Because it may be explained by the next page, 0780396. And (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) et cetera; is that right? You see that, do you?

25 Mr Witness, do you see that?

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1 A. (No interpretation)

2 Q. So this is (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 MR HOOPER: All right.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE EBOE-OSUJI: Counsel, do we have -- on that matter, do we

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- 1 have any documents that this witness (Redacted)
- 2 MR HOOPER: (Redacted)
- 3 PRESIDING JUDGE EBOE-OSUJI: Yes, the witness would have himself have
- 4 signed.
- 5 MR HOOPER: His OTP statement.
- 6 PRESIDING JUDGE EBOE-OSUJI: Okay. So as to eliminate any mistake that it's
- 7 somebody who might have prepared a document.
- 8 MR HOOPER: No, no. If we look at our tab 25, and I don't need to bring it up
- 9 (Redacted)
- 10 (Redacted)
- 11 PRESIDING JUDGE EBOE-OSUJI: Right. The reason I tell you that, if I may put
- 12 myself into it --
- 13 MR HOOPER: Yes.
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 MR HOOPER: Well --
- 18 PRESIDING JUDGE EBOE-OSUJI: Now, the reason I say that, but if I were writing
- 19 it myself --
- 20 MR HOOPER: Yeah.
- 21 PRESIDING JUDGE EBOE-OSUJI: -- and spelled it a certain way, that's a different
- 22 matter, isn't it?
- 23 MR HOOPER: Yes.
- 24 PRESIDING JUDGE EBOE-OSUJI: Yes.
- 25 MR HOOPER:

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1 Q. And, Mr Witness, you were shown the PIS form. You were asked if you

2 agreed it. You looked at it. (Redacted)

3 (Redacted)

4 A. (No audible response)

5 MR HOOPER: Anyway, we've heard the witness's explanation and I'm not going to
6 dwell on it. It's not exactly my most significant point.

7 MS WEISS: Your Honour, the witness was asked -- asked a question and he wanted
8 to answer. This is not the first time my learned friend has cut the witness off.

9 PRESIDING JUDGE EBOE-OSUJI: I think we can move away from the matter of
10 (Redacted)

11 MR HOOPER: Yes, I have, I hope so.

12 THE INTERPRETER: Message from the interpreters: Sometimes due to the relay
13 there has been overlapping speakers, so there may be parts the witness isn't
14 understanding.

15 MR HOOPER: I'm sorry. I'm at fault.

16 Q. Can I take you, Mr Witness, to our tab 24. Again, we have a hard copy I've
17 presented to you. It's KEN-OTP-0078-0351. And I don't know which is going to be
18 clearer, the screen or the hard copy?

19 THE COURT OFFICER: (Interpretation) Mr Hooper, we have the same document.
20 We have an original version and a redacted version and a second redacted version.
21 Could you tell us which version you wish to have, please?

22 MR HOOPER: Ours is somewhat redacted, but I don't know which -- which -- ours
23 is first redacted, R01. Thank you. And I have a hard copy of the R01, if the witness
24 would be perhaps easier -- more assisted by it than the screen.

25 Q. (Redacted)

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1 (Redacted) Parts of this are redacted, but of
2 course the original -- and if we'd go, put our eyes down to the bottom, that is the end
3 of the page. Do you recognise this document, Mr Witness?

4 A. Yes, your Honour.

5 Q. And is this the document that (Redacted)

6 (Redacted) is that right?

7 A. Yes, your Honour.

8 Q. And (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. All right. Let's just look at this document (Redacted) You

24 continue, "After the 2007 election threats and tension developed, that non-Kalenjins,

25 especially Kikuyus and Luhya, Kisii, et cetera, were not wanted in Rift Valley, notice

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1 was given through chiefs and assistant chiefs through a public address system."

2 What notice is that?

3 A. Your Honour, these were (Redacted)

4 (Redacted) about violence. (Redacted)

5 (Redacted)

6 Q. What was -- what notice was given of that through chiefs and assistant chiefs
7 through a public address system?

8 A. Your Honour, I'd just like to restate something. I hadn't understood
9 properly. I thought you were talking about (Redacted) Now I've understood your
10 question. You're talking about the PA system, and those messages were given by
11 the chiefs and the village elders calling on people to go to the Nandi Hills rally.

12 Q. All right. Let's carry on, "All men were mobilised all over to go to district
13 headquarters the following morning for demonstration. During the night, meetings
14 were made headed by the following: Samson Cheramboss, retired GSU
15 commander; (2) William Ruto, now Minister of Agriculture; (3) Sally Kosgey, now
16 Minister for High Education; and their key agents who are not named here. That
17 morning masked men were ..." -- what night meeting is that you're talking about?
18 "During the night, meetings were made ...", what is that?

19 A. Your Honour, if you're well-acquainted with (Redacted) you
20 could see the politicians' vehicles that went by using this system and I could
21 recognise the vehicles knowing which leaders they were.

22 Your Honour, could you help me? Could you please repeat your question so that I
23 can give a complete answer?

24 Q. I was asking you what night meetings were being -- you're referring to here.
25 "During the night, meetings ...", and you name Cheramboss and William Ruto, Sally

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1 Kosgey and their key agents not named here. What meetings?

2 A. Your Honour, we heard that there were night meetings, that there was Mr
3 Ruto and Ms Sally Kosgey who were having rallies at night, and during these
4 meetings they discussed subjects and they side-lined other leaders such as
5 Mudavadi. And these were -- these were the stories that we heard, we who were
6 living in the Kalenjin area, your Honour.

7 Q. I see, "That morning masked men were seen along the road, one kilometre
8 long man to man. Food was brought all along to feed these people, chapatti, kitheri,
9 uji, et cetera, reaching Nandi Hills Town. Police inspector was shot dead with
10 poison arrows."

11 I'll just pause there. We've heard your account. We'll come to that tomorrow.

12 "Now, looting started and Kalenjin warriors started killing, beating, looting
13 non-Kalenjin shops. From there roads were blocked. Fire was lighted on
14 roadblocks. If you were non-Kalenjin, you were being killed on spot. (Redacted)
15 (Redacted)

16 Houses were being burned. (Redacted)

17 (Redacted) We managed to run away. A vehicle of Samson Cheramboss
18 was patrolling to see warriors were operating up-to-date. I am an IDP. (Redacted)
19 (Redacted)

20 That's -- that's -- that's the document (Redacted) isn't it?

21 A. (No interpretation)

22 Q. Now, do you know if anybody was killed in Nandi Hills? You've mentioned
23 the inspector of police and we'll come to that tomorrow. Do you know if anyone
24 was killed in Nandi Hills?

25 A. Your Honour, I know more than one person who was killed in Nandi South,

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1 not in Nandi Hills where the internally displaced persons were. I know that more
2 than one person died and I know that houses were torched, and if you look at the
3 (Redacted) you'll see the relevant information, your Honour.

4 Q. May I ask you - we're still in private session - since 2007 (Redacted)
5 (Redacted)

6 A. Your Honour, as an internally displaced person I was not able to do such
7 work.

8 Q. Have you received any support, financial support, support in education or
9 anything like that from the ICC or any NGO?

10 A. Your Honour, we were given (Redacted) shillings by the government as assistance
11 and we were also given (Redacted) and I personally had assistance from the VWU.

12 Q. Now, you say you've never been back to (Redacted) Is it right that no Luhyas in
13 (Redacted) were injured or hurt or harmed in any way? That's right, isn't it?

14 A. Your Honour, I couldn't say. I know that there were people who came along
15 when we were at (Redacted) and most of them came
16 from Nandi South. (Redacted)
17 which I mentioned, your Honour.

18 Q. Listen to the question. Is it right to say that there were no Luhyas harmed,
19 injured in any way, at (Redacted)?

20 A. Your Honour, when someone is trying to find safety, a person has to look
21 after their children. And I was in the same situation, so I didn't know what
22 happened after.

23 Q. Is it right that no Luhyas were chased away from (Redacted) and they all still live
24 there, the ones who were living there in 2007? That's right, isn't it?

25 A. I don't know anything about that, your Honour.

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1 Q. Well, it's been six/seven years now. What about your friend, (Redacted)

2 (Redacted) Have you never had any contact with them, or

3 phoned them up, or seen how they were?

4 A. Your Honour, not yet.

5 Q. Why not? Your (Redacted) why not?

6 A. Your Honour, I have a lot of friends. (Redacted) was my friend when we were

7 (Redacted) When I moved somewhere else, I have other friends, your Honour.

8 MR HOOPER: Those are my questions today. Your Honour, I'm extending, I'm

9 afraid, my estimate until some time before tomorrow lunch, but I hope by some part

10 of the second session tomorrow morning to complete it. I've got three essential

11 topics to deal with.

12 PRESIDING JUDGE EBOE-OSUJI: Ms Weiss, do you anticipate re-examination?

13 MS WEISS: I have a handful of questions in mind, but I can't envisage more than

14 ten minutes for re-examination at this stage. We'll see what tomorrow's session

15 brings.

16 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu?

17 MR NDERITU: I don't expect that I will be examining the witness, unless

18 something changes between now and mid-tomorrow.

19 PRESIDING JUDGE EBOE-OSUJI: Mr Koech, that remains the case that you will be

20 asking no questions?

21 MR KOECH: So far I don't anticipate any further examination, your Honour.

22 PRESIDING JUDGE EBOE-OSUJI: Thank you.

23 Prosecutor, perhaps Mr Steynberg, at the end of tomorrow we will -- tomorrow's

24 proceedings we will talk about what lies in store for our return from the break.

25 MR STEYNBERG: Your Honours, I have already provided my learned friends with

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1 a proposed list of witnesses. I think I was remiss in not forwarding the same to the
2 Chamber. Perhaps I could do that in advance of tomorrow and then I'll field any
3 questions your Honours might have.

4 PRESIDING JUDGE EBOE-OSUJI: We're still looking at the expert witness, is it?

5 MR STEYNBERG: Indeed.

6 PRESIDING JUDGE EBOE-OSUJI: Starting with the expert witness?

7 MR STEYNBERG: To start with, yes, your Honour.

8 PRESIDING JUDGE EBOE-OSUJI: Okay. We will be --

9 MR HOOPER: Your Honour, just one technical matter, or formal but important
10 matter, and that is the various matters to be exhibited.

11 PRESIDING JUDGE EBOE-OSUJI: We'll do that tomorrow.

12 MR HOOPER: There is ten items. Just for the transcript, we can do that tomorrow
13 first thing.

14 PRESIDING JUDGE EBOE-OSUJI: You will do that tomorrow.

15 Witness, we've come to the end of our sitting for today. We will want you back in
16 court tomorrow to continue at 9.30. Okay, thank you.

17 Blinds down, please, for the witness to be escorted from the courtroom.

18 (Closed session at 4.02 p.m.) Reclassified as open session

19 THE COURT OFFICER: (Interpretation) We are in closed session, your Honour.

20 (The witness stands down)

21 PRESIDING JUDGE EBOE-OSUJI: Court will rise.

22 THE COURT OFFICER: All rise.

23 (The hearing ends in closed session at 4.03 p.m.) Reclassified as open session

24 RECLASSIFICATION REPORT

25 Pursuant Trial Chamber V(a) 's Decision, ICC-01/09-01/11-981, dated 24 September

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- 1 2013, and the email's instructions dated 10th April 2014, the version of the
- 2 transcript with its redactions becomes Public.