

Trial Hearing
Witness: KEN-OTP-P-0658

(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
5 and Joshua Arap Sang - ICC-01/09-01/11
6 Presiding Judge Chile Eboe-Osuji, Judge Olga Herrera-Carbuccia and Judge Robert Fremr
7 Trial Hearing
8 Monday, 1 December 2014
9 (The hearing starts in open session at 9. 38 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
14 Court officer, the case, please.
15 THE COURT OFFICER: Thank you, Mr President.
16 The situation in the Republic of Kenya in the case of the Prosecutor versus William Samoei
17 Ruto and Joshua Arap Sang, ICC-01/09-01/11.
18 We are in open session.
19 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
20 Appearances?
21 MR GARCIA: Good morning, Mr President, your Honours. For the Prosecution
22 Lucia Garcia with Lorenzo Pugliatti; senior trial attorney, Anton Steynberg;
23 Pierre Belbenoit Avich and Jasmina Suljanovic.
24 PRESIDING JUDGE EBOE-OSUJI: Thank you.
25 MR NDERITU: Good morning, Mr President, your Honours. Wilfred Nderitu, counsel for

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- 1 victims, assisted by Mr Orchlon Narantsetseg from OPCV and we have our pro bono member,
2 Amanda Wilmot. Mr James Mawira, our case manager, will be joining us later. Thank you.
3 PRESIDING JUDGE EBOE-OSUJI: Thank you.
4 MR BOURGEOIS: (Interpretation) Yes, good morning. Maître Bourgeois, duty counsel
5 for the witnesses.
6 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
7 MS BUISMAN: Good morning, Mr President, your Honours. The team for Mr Sang
8 remains the same and Mr Sang remains present today.
9 PRESIDING JUDGE EBOE-OSUJI: Thank you.
10 MR KHAN: Mr President, your Honours, good morning. Mr Ruto is excused today. He'll
11 be back later in the week as required. He's represented by Mr Andrew Mura and
12 Ms Grace Sullivan, our trial support team, Dato' Shyamala Alagendra and myself,
13 Karim Khan.
14 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
15 Witness, welcome back to the Court. Mr Garcia will continue his
16 examination-in-chief. Thank you. Remember the advice given to you. We still
17 have to work on that, that is pause to five seconds after the completion of the question
18 from Mr Garcia, wait, it's important for you to wait for him to finish the question even
19 when you know what he's going to ask you about, still wait for him to finish, count
20 five seconds in your mind and then start your answer. Do you understand?
21 WITNESS: KEN-OTP-P-0658 (On former oath)
22 THE WITNESS: I understand.
23 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
24 Mr Garcia.
25 MR GARCIA: Yes, your Honour, if we could just go into private session for a minute or two,

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- 1 and then afterwards we can come back out into public.
- 2 PRESIDING JUDGE EBOE-OSUJI: Private session.
- 3 (Private session at 9.41. a.m.) * Reclassified as Open session
- 4 THE COURT OFFICER: We are in private session, Mr President.
- 5 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
- 6 Mr Garcia, one second, please.
- 7 Mr Bourgeois, I'll take the opportunity to let you know that the Registry informed the
- 8 Chamber that you will want to make some submissions. The direction from the
- 9 Chamber is for you to put that in writing by the deadline of tomorrow at 12 noon, file
- 10 it in writing.
- 11 And the parties would also need to react orally, not in writing, but first we want to see
- 12 Mr Bourgeois' submissions in writing.
- 13 You will still speak to it orally, but first we want to preview it in writing. Thank you.
- 14 MR BOURGEOIS: (Interpretation) Thank you, Mr President.
- 15 PRESIDING JUDGE EBOE-OSUJI: Thank you.
- 16 Mr Garcia, please proceed.
- 17 MR GARCIA: Just for information, your Honour, I will be broaching that whole question
- 18 regarding Rule 74. It's most likely the next topic in the witness's testimony. So I've already
- 19 advised the counsel for the witness as well. And I'll be indicating it to the Court for the
- 20 Court record.
- 21 QUESTIONED BY MR GARCIA: (Continuing)
- 22 Q. Now, Mr Witness, when we left off -- good morning, Mr Witness, first of all.
- 23 A. Good morning.
- 24 Q. Now, Mr Witness, when we left off on Friday, you had been speaking to us about this
- 25 meeting that had occurred on 29 December 2007 in (Redacted) Now, for the moment I don't

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1 have any additional questions on that. I might come back on it. I'd like for us to speak this
2 morning about what happened afterwards in the days of 30 December, 31 December, 1
3 January.

4 So, your Honours -- just one last thing.

5 Mr Witness, on 30 December where were you exactly on that day?

6 A. In the morning I was in the house, later on to the town centre.

7 Q. All right. Thank you, Mr Witness. So now I'm going to ask to go back into public
8 session. Don't mention obviously where you were on that day, because that's not a question
9 that I'm going to be asking of you, but don't -- don't say it neither in your testimony.

10 MR GARCIA: So, your Honours, I'd ask to go into public session now.

11 PRESIDING JUDGE EBOE-OSUJI: Open session.

12 (Open session at 9.44 a.m.)

13 THE COURT OFFICER: We're in open session, Mr President.

14 PRESIDING JUDGE EBOE-OSUJI: Thank you.

15 MR GARCIA:

16 Q. So, Mr Witness, I'd like you to tell us about 30 December 2007, can you tell us what
17 occurred on that day?

18 A. During that day there was major demonstration in town and major activities that took
19 place at around 3 in the evening or 4, its announcement of the presidential results in Nairobi.

20 Q. Now, just to be clear, I understand you're talking about 3, is that in the -- in the
21 afternoon?

22 A. Yes.

23 Q. Now, Mr Witness, where were you at 3 in the afternoon on that day on 30 December?

24 A. I -- I was in location 1.

25 Q. Now, were you able to listen to the results?

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1 A. Yes.

2 Q. And what were the results that you listened to on that day?

3 A. I can't remember the exact figure, but both presidential candidates, the Honourable
4 Mwai Kibaki and Honourable Raila Odinga, were above over four million votes, but I can't
5 remember exact figure.

6 Q. Now, was a winner announced on that day, on 30 December?

7 A. Yes. The winner was declared President Mwai Kibaki.

8 Q. Now, can you tell us, you being in Eldoret, what was the reaction of the people in
9 Eldoret when this was publicised?

10 A. As soon as the results are announced, there was a lot of noise in the town and a lot of
11 things happen immediately and like fire is happen in Nairobi, everything was in -- people
12 were not expecting, but though they were expecting that the rigging will be there, already
13 everything started that people were now demonstrating and starting burning tires and many
14 other things in the town.

15 Q. Now, you say that the people --

16 MR KHAN: I'm sorry, Mr President, I think there's a -- at line 20, I think the word is rigging,
17 not reckoning.

18 MR GARCIA: That's correct, your Honour. I'm grateful.

19 Q. Now, you say, Mr Witness, that the people were now demonstrating and
20 started -- started burning tyres. Can you tell us, these people that were doing these things, of
21 what ethnicity were they?

22 A. As far as I can remember, it was majority Kalenjins and Luhyas.

23 Q. And do you know why they were demonstrating?

24 A. Already they were -- they were already think that Kibaki didn't win, but Raila was
25 supposed to be declared the president according to them.

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1 Q. So just for the transcript, I think you said at line 7 of page 6, they were already thinking
2 that Kibaki didn't win; is that correct?

3 A. Yes.

4 Q. Just remember, Mr Witness, what we indicated last week is just speak clearly into the
5 microphone. Don't move away because then it's difficult to hear when you trail off. Thank
6 you.

7 Now, you said that the people were now demonstrating and started burning tyres
8 and many other things in town. What were the other things that they were doing in
9 town?

10 A. Blocking roads and singing in the streets and making people to be ready for anything
11 that could happen in the next few hours.

12 Q. And I'd like you to explain that for us. When you say that they were singing in the
13 streets and making people to be ready for anything that could happen in the next few hours,
14 can you explain that to the Court? What do you mean by that?

15 A. People were ready to -- to do damages and even killing by that particular moment
16 because they were now -- know that exactly that election had been rigged, and now Kibaki is
17 there illegally. And if anything could not be done, then they will not move out of State
18 House.

19 Q. And you said, Mr Witness, that people were ready to do damages and even killing.
20 Killing whom?

21 A. Especially the community perceived to be supporting the government, that is Kikuyu in
22 majority and also members of the PNU community from even the Kalenjin community if
23 could be possible.

24 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, the pronoun there at line 3, is it "they" or "he"
25 will not move out of State House?

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1 MR GARCIA: I think that the witness might have said "they", but I -- I can correct that or I
2 can have the witness clarify.

3 PRESIDING JUDGE EBOE-OSUJI: I thought I heard "he", but let him -- let the witness
4 correct.

5 MR GARCIA: Indeed, your Honour.

6 Q. Mr Witness, just to be clear on this, on this matter, you said that "And if anything could
7 not be done ..." then someone or this will -- will not move out of State House. Did you say
8 "they" or "he" will not move out of State House?

9 A. He, Kibaki.

10 Q. Thank you, Mr Witness, for that.

11 I'm grateful, your Honour.

12 So Mr Witness, can you just describe to us how -- what -- what did you do during this
13 time when the demonstrations are going on in Eldoret?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Now you said, Mr Witness, that people were burning tyres and that there were
18 demonstrations. And just so it can be clear for the record, did you witness this yourself?
19 Did you see it or did somebody tell you about this on that day?

20 A. I was observing because I was in town. Immediately after announcement, I come out
21 of -- of the location 1, and I was in public, and later on I could also listen to the radio in
22 the -- some of the places and could hear a lot of messages that coming up, also radio and
23 televisions, and people were so angry at that moment and they were doing anything could do
24 to show they're not happy.

25 Q. You said, Mr Witness, as well (Redacted)

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1 (Redacted)

2 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, remember there is a red light over there, not
3 the green one.

4 MR GARCIA: Your Honour, I'll address that. I'll address -- I'll try and address other issues
5 for the moment.

6 Q. Now, Mr Witness, you've stated that you were -- that I could -- you've stated in one of
7 your responses, "I could also listen to the radio in ... some of the places and could hear a lot of
8 messages that coming up, also on radio ..." What -- what radio are you speaking about?

9 A. Kass FM.

10 Q. And what was being said on Kass FM?

11 A. Anyway, they were announcing that -- that the results had been announced and, you
12 know, this is not -- like Sang was saying that this results actually is -- we are not expecting,
13 but people should be ready to demand their rights. And that is what I can remember. And
14 he was even quoting his village in the Trans-Nzoia district that youths should be blocking the
15 roads that particular time that they were expecting the -- the cow to have -- already the calf to
16 come out, but now it has returned the stomach again. That is to show that the results were
17 not expecting.

18 Q. All right. Mr Witness, I'd like to go through that with you in portions.

19 PRESIDING JUDGE EBOE-OSUJI: Before you do again, at line 7 of page 9 was the word
20 "you" or "youth" after --

21 MR GARCIA: I heard "youth", your Honour, but I can ask the witness.

22 Q. Mr Witness, you said that -- what you heard is that you should be blocking the roads
23 that particular time. Is it that you should be or youth should be blocking the roads? Which
24 one is it?

25 A. Youth. Youth.

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1 Q. All right. So it is "youth".

2 Now, Mr Witness, you said it was Sang who was saying this. Do you remember if it
3 was on a particular programme, or what -- what --

4 A. I can't remember it was any -- no any programme by then but it was during the
5 announcement of the results, yes, and there was no particular programme if I can remember.
6 If there was -- it -- if it was any programme, then I could not stay long to listen if there was
7 any programme.

8 Q. All right. And just so we're clear on the matter, do you -- can you remember
9 approximately at what time you would have heard Sang say these things on the -- on
10 the 30th?

11 A. I can't remember exact time but before -- yeah, immediately after the results or some.

12 Q. And can you tell us from what your recollection, how was that -- how were the
13 results -- who was giving out the results on Kass FM on that day?

14 A. Because I think that radio station were not -- it was not directly because it was only KBC
15 who was communicating directly, but the others was be not -- I think it was stopped by them,
16 by this government if I'm not -- if I'm still sure about it. But -- but it was announcement just
17 directly by Sang, but announcement was made by -- in the -- by the electorals chairman
18 Mr Kivuitu.

19 Q. And would you know where Mr Sang was when he was announcing these results on
20 that day?

21 A. I am not sure. Either he was talking outside the stations or inside the station, I'm not
22 sure then.

23 Q. Now, Mr Witness, you mentioned something about the cow to have already the cows to
24 come out but now it has returned to the stomach again. Could you explain that? What did
25 that mean exactly?

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1 A. I think they were expecting Raila to be the president, now it's opposite. Now Kibaki
2 has been declared and that is to their disappointment.

3 Q. You also said that Sang was saying that "We are not expecting but people should be
4 ready to demand their rights." What did that mean?

5 A. Of course, to wait and see if Kibaki will not leave, then they should stand their farm to
6 demand their rights. That is how I can understand.

7 Q. And do you --

8 MR KHAN: Mr President, also --

9 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, I need to be clear, whether according to the
10 witness he heard anything said about cows or cow and stomach. If so, what exactly was it
11 that was said, if so?

12 MR GARCIA:

13 Q. Now, Mr Witness, we're --

14 MR KHAN: Mr President, just for the transcript, line 24 of the previous page, I think they
15 were expecting Raila to be the president instead of present.

16 PRESIDING JUDGE EBOE-OSUJI: Indeed, that's what the witness said.

17 MR GARCIA:

18 Q. Now, Mr Witness, we're going to try and clear up this matter. I asked you what was
19 being said on Kass FM, and in your response you said this whole matter regarding the cow,
20 the cows to come out, they were expecting the cow to have already, the cows to come out.
21 Can you just explain to us what was said exactly by Mr Sang in regards to the cow?

22 A. He was talking like in Kalenjin, and he was saying that the -- the leg of the calf from the
23 stomach had just shown but now it has returned to the stomach again.

24 Q. So it's the leg of the calf?

25 A. Yes.

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1 Q. And you as a -- what -- how did you understand that? What did you understand that
2 to mean?

3 A. Of course after the cow was returned, then it is -- it is not -- it is like now they were
4 expecting to have a cow, but now it is not yet -- it's no more again. That's why they say, okay,
5 this have to be -- that is to mean elections, they were expecting the president to be Raila, but
6 now it's opposite. That's what I'm -- I'm -- I'm meaning.

7 Q. Thank you, Mr Witness, for that. Now, you also mentioned that Mr Sang was telling
8 people that they should be ready to demand their rights. How did you understand that?

9 A. According to me, the -- the results to be reversed so that Raila could be declared the
10 president.

11 Q. And how would you go about demanding -- how would the people go about
12 demanding their rights?

13 A. Because people were in the street already, they're already demonstrating, doing many
14 things and including blocking roads and destroying property of a particular community, and
15 especially Kikuyus.

16 PRESIDING JUDGE EBOE-OSUJI: The question of course should be according to the
17 witness, did Mr Sang say how people should go about demanding their rights. So we want
18 to know what it is. According to the witness, he said he heard from Mr Sang. Let's avoid
19 putting the witness's whole interpretation of things upfront and then meeting what is missing,
20 what was actually said.

21 MR GARCIA: Your Honour, I was just simply asking what -- how he understood it, but I
22 will ask the question as to if anything was said in that regard.

23 Q. Now, Mr Witness, you said that Mr Sang --

24 PRESIDING JUDGE EBOE-OSUJI: I'm not saying you cannot ask him for his understanding,
25 but first let's get the words, and then you can ask him what he understood of that. But when

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1 we have him telling us what he understood of something he hasn't quite clearly said, how it
2 was said, it can lead to the wrong picture. Thanks.

3 MR GARCIA: Indeed, your Honour. I don't -- I don't want to confuse the witness or
4 mislead.

5 Q. Now, Mr Witness, I'd like to -- to ask you this question, you said that Mr Sang
6 said that people should be ready to demand their rights. Did he -- did he say
7 anything else in regards to how they should demand their rights?

8 A. He didn't say it, but he was saying young people should come out. So he could not say
9 that. I will not say he said that do this or that. He could not say -- I can't remember what he
10 said exactly when he was saying come out and demand your rights.

11 Q. Now, when you say that Mr Sang could not say it directly, can you explain that to us?

12 A. I'm saying that if say come out and no further explanation of that, and then I will not say
13 exactly that he said do this. That's what I am saying.

14 Q. Now, you, how did you understand it when -- what did you understand that to mean
15 when he was telling the youth to come out?

16 A. Of course to be -- go in groups so that they could also do what things that could show
17 that they are not happy about the results. And I will not say that he said that "do this" to
18 demonstration or whatever. He didn't say that. But to say come out and demand your
19 right.

20 Q. Now, we've understood that, Mr Witness, that Mr Sang didn't say that. I was just
21 asking you how understood it. You said that groups would do things. What things would
22 they do?

23 A. At that particular moment, there was a lot of demonstration I think almost country wide
24 by then, but I could say that this is kind of messages that could come out from a person who
25 people listen very much. And then people are waiting results at the same time, it shows that

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1 there was a lot of chaos in the country by then and Sang was really communicating the same
2 without saying that go and do demonstrate or do whatever, but he will say demand your
3 right. People could not go to Nairobi to demand their rights, but they do some funny things
4 in the areas to show that they are -- they want their rights, because they were singing we want
5 our rights (indiscernible).

6 Q. Just so the record can be clear, Mr Witness, when you say that people do funny things in
7 their -- in the areas, what were these funny things?

8 A. One of them is blocking roads or chasing Kikuyus from city -- town centres and even the
9 followers of the PNU, those are the things they were showing the anger to the people in the
10 ground, not because Kibaki was in the State House.

11 Q. You said that Mr Sang was even quoting his village and Trans-Nzoia District that you
12 should be blocking the roads that particular time. Can you explain that to us? What do you
13 mean by that?

14 A. I think the word itself "blocking the roads" is self-explained. How do you want me to
15 explain further from that, sir, what I have said?

16 Q. I'll ask you this question to clarify. You said that he was quoting his village in
17 Trans-Nzoia District. What is Mr Sang's village?

18 A. Kipkege.

19 Q. Is that K-I-P-K-E-G-E?

20 A. E-I, yes, Kipkege.

21 PRESIDING JUDGE EBOE-OSUJI: You can write it. And also try to not block your -- put
22 your hand in your mouth when you are speaking to the microphone, it can block the sound as
23 well.

24 MR GARCIA: Your Honour, I do have the spelling here and I think it is the correct one. It's
25 K-I-P-K-E-G-E.

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- 1 Q. Is that correct, Mr Witness?
- 2 A. P-K?
- 3 Q. K-I-P as in Peter K-E-G-E.
- 4 A. I is there. K, yeah.
- 5 Q. All right. So Mr Sang's village is Kipkege in Trans-Nzoia.
- 6 A. Yeah.
- 7 Q. Why was Mr Sang speaking about Kipkege?
- 8 A. Must have known the people around there. That's why he was quoting there, his
- 9 village.
- 10 Q. What was he saying about Kipkege?
- 11 A. No. He was just saying that youths should block the roads and, yeah, from that area.
- 12 I don't know. People know to come out to go to the Kitale area to save a site.
- 13 Q. When you were -- when you say that he was just saying the youth just block the roads,
- 14 these are youths from what area should block the road?
- 15 A. He was quoting Kipkege. Kipkege is his village area -- I don't know, yeah. I don't
- 16 know, his village or the area come from.
- 17 Q. So he was quoting -- Mr Sang quoted his village. What did he say? Tell us everything
- 18 he said in regards to his village?
- 19 MS BUISMAN: I'm sorry, I have to place an objection now. This is being asked many times.
- 20 I think he said what he said. There's nothing he wants to add so at some point you can leave
- 21 it.
- 22 MR GARCIA: I understand that Defence counsel might wish that I leave this subject, but I'm
- 23 trying to clarify matters with the witness.
- 24 PRESIDING JUDGE EBOE-OSUJI: Objection is overruled.
- 25 MR GARCIA:

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1 Q. Now, Mr Witness, please explain to us, we were not there obviously, explain to us what
2 was said by Mr Sang about Kipkege and the youth in Kipkege?

3 A. He was saying that youth should come out, especially from Kipkege, you know, youths,
4 you know, you have to come out, block the roads so that -- join the other people coming out to
5 block the roads so that can block people from going out from there because that area is also
6 Kikuyu dominated area in that -- at a part of that area. So if they block the road, then people
7 will not come out to -- for safe -- to the safety areas, Kikuyus especially.

8 Q. Now, did he say anything else in regards to Kipkege?

9 MR KHAN: Mr President, can I just say, of course I'm not trying to stop my learned friend
10 in the least, but it's an issue of clarity. I think what's useful is to have the witness say exactly
11 what he heard in one section. And after that -- so that's on record. And after that have the
12 interpretation. But to get piecemeal a line or a comment here and then an interpretation, it's
13 all mixed up.

14 So, your Honours, in my respectful submission, we should hear what the witness alleges
15 Mr Sang said and after that of course my friend can ask as many questions as he wants about
16 the interpretation of those comments, but to mix the two together makes it a bit difficult to
17 separate what is being said from the witness's understanding of what he recalls and also
18 difficult to separate speculation from fact.

19 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia?

20 MR GARCIA: Your Honour, I think the witness has been quite clear in what he says at
21 page 16, lines 23 and following. He said clearly what he heard Mr Sang say in regards to
22 Kipkege. Now I'm asking additional questions to find out if anything else was -- was said
23 and that's my last question on the record. So I don't see Defence counsel's objection in this
24 regard.

25 MR KHAN: Your Honour, it's to do with this issue about roadblocks for safety, Kikuyus, is

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- 1 that what Mr Sang said or is it an interpretation? And that's the danger we get into.
- 2 If the witness can give a narrative from his recollection as to what Mr Sang said in one
- 3 compartment and then my learned friend can break it down from that record as to what
- 4 phrases meant or what he understood Mr Sang to mean and so your Honours, when in some
- 5 time you are reviewing the transcript, all of us can understand exactly what he's heard as
- 6 opposed to the witness's interpretation of that.
- 7 And that's the only comment. Otherwise this comment about Kikuyus, is it what's said or is
- 8 it his understanding?
- 9 PRESIDING JUDGE EBOE-OSUJI: Mr Khan, we have to proceed. Your concern is noted of
- 10 course. We'll keep an eye on matters. Yes, I've indicated to Mr Garcia the need to first get
- 11 what was said in fact, then ask questions about that, but we don't want to be too categorical
- 12 about things of that -- that sort of directive. There may be the occasion when a lot might
- 13 have been said and there may be occasions when not a lot might have been said or nothing at
- 14 all said. We have to proceed.
- 15 MR GARCIA:
- 16 Q. Now, Mr Witness, you've already said initially that they blocked the road, then
- 17 especially will not come out to safety areas, Kikuyu especially. Can you explain that to us?
- 18 Why were they blocking the roads? What did Mr Sang say about blocking the roads?
- 19 A. The first word which I said "blocking the roads" is just clear itself that it's blocking the
- 20 roads. But to block -- to say Kikuyus were -- not to stop Kikuyus from going to their towns,
- 21 he didn't say that, but that is according to what I will -- I could think about, because I was not
- 22 there. I wasn't in that place.
- 23 Q. No. We all understand that, Mr Witness, that you were not there. The question I'm
- 24 asking you is what you heard Mr Sang say on the radio on that day, on Kass FM.
- 25 A. Yes, I could hear, remember he was saying that.

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1 MS BUISMAN: I'm sorry, Mr President, but this has really been asked and answered so
2 many times.

3 PRESIDING JUDGE EBOE-OSUJI: Objection overruled.

4 MR GARCIA:

5 Q. Now, you said in response to my question: He was saying youths should come out
6 and I think it's especially from Kipkege, the youth, you know you have to come out to block
7 the roads, to join other people coming out to block the roads so they can block people from
8 going out from -- because that area is also Kikuyu dominated area at that part of the area?

9 A. I've just said that he was saying that blocking the roads, but other information, blocking
10 Kikuyus, it was my own thinking that -- because blocking the roads is to block people from
11 going out of the -- of the -- stopping people from running to the safer place. That is what I
12 was thinking about it, but he could not say that block Kikuyus from going to towns. He
13 didn't mention that.

14 Q. Now, just to be clear on the record, did Mr Sang say that they had to block the roads?

15 A. Yeah, that's what I say he said.

16 Q. And just also to differentiate what you -- your interpretation from what he said, did you
17 hear him say that, telling the youth from Kipkege to block the roads?

18 A. Yeah, youths from Kipkege to block the roads. But any further comments I cannot
19 remember, because I didn't stay long in that radio -- to listen to the radio.

20 Q. Now, Mr Witness, later on on that same day, 30 December, did anything else occur on
21 that day?

22 A. Yes. There was actually what happened in the area is called Yamumbi, an elderly man
23 was killed, and that is I think it was first person to be killed in Eldoret. The name of the
24 person is person number 10.

25 Q. Do you know what ethnicity this person is or was?

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1 A. He's a Kikuyu.

2 Q. Do you know how he was killed?

3 A. I don't know how he was killed, (Redacted)

4 (Redacted) But I didn't know how he was killed, but I think it was slash by youths, but I
5 cannot how -- understand how he was killed.

6 Q. Did anything else occur on that 30 December?

7 A. Yes. There was a lot of war cry, noise. The people were making a lot of -- now it was
8 already -- they were as -- almost broking out because people were making a lot of crying, war
9 crying and then all over that particular evening.

10 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, one minute.

11 Private session briefly, please.

12 (Private session at 10.20 a.m.) * Reclassified as Open session

13 THE COURT OFFICER: We're in private session, Mr President.

14 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. Witness, you said regarding the
15 elderly man who was killed, you said you don't know how he was killed, but later on you
16 went there (Redacted)

17 When you said you went there, where did you go?

18 THE WITNESS: To (Redacted)

19 PRESIDING JUDGE EBOE-OSUJI: To (Redacted)

20 THE WITNESS: Yeah.

21 PRESIDING JUDGE EBOE-OSUJI: All right. Thank you.

22 Do you want to ask follow-up questions on this, Mr Garcia, while we're inside?

23 MR GARCIA: Not on this particular topic, your Honour, but since we are already in private
24 I just had one -- a couple of questions that I didn't broach before because we were in public.
25 And if the Court allows, I can deal with those now.

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1 PRESIDING JUDGE EBOE-OSUJI: All right. Proceed, please.

2 MR GARCIA:

3 Q. Now, Mr Witness, just before when we were in public session, you mentioned (Redacted)
4 (Redacted) in Eldoret; is that correct?

5 A. Yes.

6 Q. Can you explain to the Court why that -- what happened exactly?

7 A. First of all, when I was in location 1, the people were watching together the -- the results
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)

13 Q. (Redacted)?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. (Redacted)

19 A. (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 A. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. And, just to be clear, these are events that happened on 30 December 2007?

2 A. Yes.

3 Q. (Redacted)

4 A. (Redacted)

5 (Redacted)

6 Q. (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 Q. (Redacted)

15 A. (Redacted)

16 MR GARCIA: Your Honours, we can go back into public session.

17 MR KHAN: Mr President, before that's done, I hadn't noticed when the PIS was originally
18 given, location 1, which (Redacted) perhaps the witness can confirm the correct
19 spelling is (Redacted)

20 MR GARCIA:

21 Q. Mr Witness, is that the correct spelling or is it (Redacted)? Which one is the spelling?

22 A. I know the -- the -- I can't remember the real spelling, but I know the -- the way it is
23 written, (Redacted) So I can't -- the spelling I cannot still remember very well,
24 but the pronouncement is (Redacted) along --

25 PRESIDING JUDGE EBOE-OSUJI: Well, the --

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- 1 Q. Thank you, mister --
- 2 PRESIDING JUDGE EBOE-OSUJI: -- both spellings can take that pronouncement.
- 3 MR GARCIA:
- 4 Q. Thank you, Mr Witness.
- 5 We can go into public session.
- 6 PRESIDING JUDGE EBOE-OSUJI: Open session.
- 7 (Open session at 10.28 a.m.)
- 8 THE COURT OFFICER: We're in open session, Mr President.
- 9 PRESIDING JUDGE EBOE-OSUJI: Thank you.
- 10 Mr Garcia.
- 11 MR GARCIA:
- 12 Q. Now, Mr Witness, you mentioned that on 30 December there was a lot of war cry, noise.
- 13 But what is a war cry? Can you explain that to us?
- 14 A. There is a specific kind of cry in Kalenjin community which mean a war cry, the
- 15 preparation for war. And that was the noise which was made by that particular evening.
- 16 Q. Do you remember at what time approximately that noise or that war cry was made?
- 17 PRESIDING JUDGE EBOE-OSUJI: Can we -- is it possible for the witness to assist us, get an
- 18 idea of what that noise is like? Is there any difficulty with that?
- 19 MR GARCIA: I just had this -- this first question and then obviously I'm going to get into the
- 20 war cry itself, your Honour.
- 21 PRESIDING JUDGE EBOE-OSUJI: Proceed.
- 22 MR GARCIA: I can do it either way.
- 23 PRESIDING JUDGE EBOE-OSUJI: Yes, proceed --
- 24 MR GARCIA: I can do it --
- 25 PRESIDING JUDGE EBOE-OSUJI: -- proceed as you were. Go on.

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1 MR GARCIA:

2 Q. Now, Mr Witness, do you remember at what time approximately you heard this war
3 cry?

4 A. I think immediately after. There was a demonstration, and then later in the evening I
5 ate after 6 or somewhere 7 in the evening.

6 Q. And can you tell us what is a war cry? Can you describe it to us?

7 A. This is a specific cry to mean that people should come out and to go to the directions of
8 the -- an enemy, where is it, and then could fight it back because the -- the word which was
9 said after the cry is to say they have attack us, that is to -- they were saying in Kalenjin that
10 word.

11 PRESIDING JUDGE EBOE-OSUJI: Witness, can you -- would you have any difficulty
12 demonstrating what this cry is? You don't have to, if you don't feel able or comfortable
13 doing that, but if you can that will assist.

14 THE WITNESS: Okay. If I can describe the words which was said, it was said kako book.
15 That is mean they have attacked us, and then they could also cry and then follow up with
16 the -- their message.

17 PRESIDING JUDGE EBOE-OSUJI: You said the words are what?

18 THE WITNESS: Kako book.

19 PRESIDING JUDGE EBOE-OSUJI: Can you spell for us. You have got a sheet of paper and
20 pen.

21 THE WITNESS: Yes.

22 PRESIDING JUDGE EBOE-OSUJI: Can you spell.

23 THE WITNESS: K -- it's -- I'm not sure if really the spelling. K-A-K-O and then K -- B, then
24 O, and then O-K.

25 PRESIDING JUDGE EBOE-OSUJI: K-A-K-O B-O-O-K?

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1 THE WITNESS: Yes.

2 PRESIDING JUDGE EBOE-OSUJI: All right. And you say it means what, they've attacked
3 us?

4 THE WITNESS: Yes, they have attacked us.

5 PRESIDING JUDGE EBOE-OSUJI: And how does -- okay, you said those are the words that
6 could accompany the cry --

7 THE WITNESS: Yes.

8 PRESIDING JUDGE EBOE-OSUJI: -- but what does the cry sound like?

9 THE WITNESS: It's a woman cry. That's how -- yeah. How -- I cannot ex -- what cry she
10 has.

11 PRESIDING JUDGE EBOE-OSUJI: A woman's cry?

12 THE WITNESS: Yes.

13 PRESIDING JUDGE EBOE-OSUJI: So is it the case that only women could make this war
14 cry?

15 THE WITNESS: Yes.

16 PRESIDING JUDGE EBOE-OSUJI: Men didn't make it?

17 THE WITNESS: No.

18 PRESIDING JUDGE EBOE-OSUJI: Please proceed, Mr Garcia.

19 MR GARCIA:

20 Q. And on that particular day was it men or women who were making this war cry?

21 A. I've just said women.

22 Q. And this word that you mentioned to the Court kako book, in what language is this?

23 A. Kalenjin.

24 Q. And can you also tell us this war cry, what ethnic group uses it?

25 A. The same, Kalenjin.

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1 MR GARCIA: Can I go into private session, your Honour, just for a minute?

2 PRESIDING JUDGE EBOE-OSUJI: Private session.

3 (Private session at 10.35 a.m.) * Reclassified as Open session

4 THE COURT OFFICER: We're in private session, Mr President.

5 MR GARCIA:

6 Q. Now, Mr Witness, as a Kalenjin yourself, when you hear this war cry, what does it
7 signify?

8 A. It is -- it means that enemy is already on the site and youths, people who are on the -- in
9 position to go to war should come out with all kind of weapons to go and protect their
10 community or fight.

11 Q. And what did you do upon hearing this war cry?

12 A. There is nothing I could do because I was in location -- around in Eldoret, in town, and
13 there is nothing I could do, because I was not in the village. But I could hear the noises.
14 And I will -- I could not do anything, but I was in the -- later in that evening I went to the
15 house of number 20, but briefly before I came back to there.

16 Q. Now, you said that you heard these war cries. Can you tell us where they were coming
17 from? From what area? And just remember five seconds before you respond.

18 A. It is neighbouring, because I was not far from -- if that location is here -- also we're in
19 private session, it was around Kapsaret area and Yamumbi, part of Yamumbi area which is
20 also in the town.

21 Q. All right. The first place that you mentioned, it was Kapsaret. Can you spell that --

22 A. Yes.

23 Q. -- for us?

24 A. Kapsaret is K-A-P for Peter S-E-R-E-D.

25 Q. Is that a D or a T?

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1 A. T.

2 Q. Thank you. And it's a P for Peter, correct?

3 A. Yes.

4 Q. So you say Kapsaret and in Yamumbi. Where -- where were -- where were you when
5 you were hearing these war cries in Kapsaret and -- coming from Kapsaret and Yamumbi?

6 A. I was not far from Langas area.

7 Q. How much of a distance is that approximately?

8 A. In Yamumbi -- first of all I was in Yamumbi and then later on -- Yamumbi is the
9 area -- the same area I was and then later Langas.

10 Q. And these war cries lasted for how much time?

11 A. I can't remember a time. It was I think overnight. I don't know. I can't remember.
12 Later on I went to location number where I stay.

13 Q. Actually maybe I'm not -- I wasn't that clear, but you said that you heard the war cries
14 and my question is can you tell us how much time these war cries went on for?

15 A. I think I can remember it was until late evening because during the 10 until somewhere
16 even after 10, so I cannot know exactly later on, because I went to a place where I could not
17 listen any more to any -- any -- yeah.

18 Q. Now, had you ever heard these war cries before in your life?

19 A. Yes. There was a time in 1992 it was such a kind of cry again, because there was
20 conflicts between Luhyas and Kalenjin.

21 Q. Can you just tell us briefly what you heard in 1992 and what happened?

22 A. It happens that I was in area which was called (Redacted) and there was a fight between
23 Luhyas and Kalenjin community and that particular thing was happened that time.

24 Q. What particular thing?

25 A. The -- the war cry and the killings took place again during those days.

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1 Q. Do you remember who made the war cries, what ethnic group?

2 A. It was Kalenjin and Luhyas also were -- also the attack at that particular time in that
3 particular area that I was.

4 Q. So in that 1992 incident, you said you heard the war cries. What happened afterwards?

5 PRESIDING JUDGE EBOE-OSUJI: Let's get that clear. Your question, Mr Garcia, was: Do
6 you remember who made the war cries? What ethnic group?

7 And the witness answer was: It was Kalenjin and Luhya also, also the attack at the
8 particular time in that area and so on.

9 I want to know whether he was saying that on that previous occasion both Kalenjins
10 and Luhyas uttered the war cries?

11 MR GARCIA:

12 Q. Mr Witness, on that particular occasion, who uttered the war cries? Because you
13 mentioned both Kalenjin and Luhyas.

14 A. It was Kalenjins.

15 Q. And what happened after the Kalenjin uttered the war cries?

16 A. There was a war.

17 Q. A war between whom?

18 A. Luhyas and Kalenjins.

19 Q. Anybody else?

20 A. And also Kikuyus.

21 Q. And what happened briefly?

22 A. People were evicted from their farms and killed, some of them, and that's what I can
23 remember.

24 Q. And when you say "people were evicted from their farm," they were people of what
25 ethnicity?

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1 A. Luhyas. I can remember Luhyas and also Kikuyus.

2 Q. And from your knowledge of what happened at that time, who was evicting these
3 people from their farms?

4 A. Kalenjins.

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE EBOE-OSUJI: (Redacted)

18 MR BOURGEOIS: (Interpretation) (Redacted)

19 PRESIDING JUDGE EBOE-OSUJI: (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 THE WITNESS: (Redacted)
- 4 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 5 (Redacted)
- 6 MR GARCIA: (Redacted)
- 7 (Redacted)
- 8 Q. (Redacted)
- 9 A. (Redacted)
- 10 Q. (Redacted)
- 11 A. (Redacted)
- 12 (Redacted)
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- 17 Q. (Redacted)
- 18 A. (Redacted)
- 19 (Redacted)
- 20 Q. (Redacted)
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- 22 A. (Redacted)
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- 24 Q. (Redacted)
- 25 (Redacted)

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1 A. (Redacted)
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10 A. (Redacted)
11 Q. (Redacted)
12 (Redacted)
13 A. (Redacted)
14 Q. (Redacted)
15 (Redacted)
16 A. (Redacted)
17 Q. (Redacted)?
18 A. (Redacted)
19 Q. (Redacted)
20 A. (Redacted)
21 Q. (Redacted)
22 A. (Redacted)
23 Q. (Redacted)
24 A. (Redacted)
25 Q. (Redacted)

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- 1 A. (Redacted)
- 2 Q. (Redacted)
- 3 A. (Redacted)
- 4 Q. (Redacted)
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- 7 A. (Redacted)
- 8 (Redacted)
- 9 MR KHAN: (Redacted)
- 10 MR GARCIA: (Redacted)
- 11 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 12 (Redacted)
- 13 MR GARCIA: (Redacted)
- 14 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 15 MR GARCIA:
- 16 Q. (Redacted)
- 17 (Redacted)
- 18 A. (Redacted)
- 19 (Redacted)
- 20 Q. (Redacted)
- 21 (Redacted)
- 22 (Redacted)
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- 25 A. (Redacted)

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- 1 (Redacted)
- 2 Q. (Redacted)
- 3 A. (Redacted)
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- 6 Q. (Redacted)
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- 9 Q. (Redacted)
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- 11 A. (Redacted)
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- 14 Q. (Redacted)
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- 16 A. (Redacted)
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- 18 Q. (Redacted)
- 19 A. (Redacted)
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- 23 Q. (Redacted)
- 24 (Redacted)
- 25 A. (Redacted)

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1 Q. (Redacted)
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5 Q. (Redacted)
6 A. (Redacted)
7 Q. (Redacted)
8 A. (Redacted)
9 Q. (Redacted)
10 A. (Redacted)
11 Q. (Redacted)
12 (Redacted)
13 A. (Redacted)
14 Q. (Redacted)
15 A. (Redacted)
16 (Redacted)
17 Q. (Redacted)
18 (Redacted)
19 A. (Redacted)
20 Q. (Redacted)
21 A. (Redacted)
22 Q. (Redacted)
23 (Redacted)
24 A. (Redacted)
25 (Redacted)

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- 1 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 2 (Redacted)
- 3 MR GARCIA: (Redacted)
- 4 Q. (Redacted)
- 5 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 6 THE WITNESS: (Redacted)
- 7 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 8 MR GARCIA:
- 9 Q. (Redacted)
- 10 A. (Redacted)
- 11 Q. (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 A. (Redacted)
- 15 Q. (Redacted)
- 16 (Redacted)
- 17 A. (Redacted)
- 18 Q. (Redacted)
- 19 A. (Redacted)
- 20 (Redacted)
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- 23 (Redacted)
- 24 Q. (Redacted)
- 25 (Redacted)

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1 A. (Redacted)
2 Q. (Redacted)
3 A. (Redacted)
4 Q. (Redacted)
5 A. (Redacted)
6 Q. (Redacted)
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8 Q. (Redacted)
9 A. (Redacted)
10 Q. (Redacted)
11 A. (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 Q. (Redacted)
16 (Redacted)
17 A. (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 Q. (Redacted)
22 (Redacted)
23 A. (Redacted)
24 (Redacted)
25 Q. (Redacted)

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1 A. (Redacted)

2 (Redacted)

3 MR GARCIA: Your Honours, I see the time. We've passed by a couple of minutes. I
4 apologise for that.

5 PRESIDING JUDGE EBOE-OSUJI: That's all right. We will rise now for the morning break.
6 We will be back in 30 minutes.

7 Closed session, please.

8 (Closed session at 11.04 a.m.) * Reclassified as Open session

9 THE COURT OFFICER: We are in closed session, Mr President.

10 PRESIDING JUDGE EBOE-OSUJI: Thank you.

11 The witness will be ushered out of the courtroom.

12 (The witness stands down)

13 PRESIDING JUDGE EBOE-OSUJI: Court will rise.

14 THE COURT OFFICER: All rise.

15 (Recess taken at 11.04 a.m.)

16 (Upon resuming in open session at 11.36 a.m.)

17 THE COURT USHER: All rise.

18 Please be seated.

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

20 We're in open session. Quickly, announcements: Scheduling matter today, we
21 have to rise at 4 o'clock, not a minute later than that because this courtroom in being
22 used by the Appeals Chamber to deliver a judgment in the Lubanga case, I
23 understand.

24 And tomorrow we will be starting at 10 instead of 9.30 because Judge Fremr is also sitting in
25 another case that's taking place at that time. We may make up for the 30 minutes later on in

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1 the day.

2 Mr Garcia, please proceed.

3 MR GARCIA: Your Honours, I'd ask that we go back into private session.

4 PRESIDING JUDGE EBOE-OSUJI: Private session.

5 (Private session at 11.38 a.m.) * Reclassified as Open session

6 THE COURT OFFICER: We're in private session, Mr President.

7 MR GARCIA:

8 Q. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 PRESIDING JUDGE EBOE-OSUJI: (Redacted)

16 THE WITNESS: (Redacted)

17 PRESIDING JUDGE EBOE-OSUJI: (Redacted)

18 MR GARCIA:

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. (Redacted)

25 A. (Redacted)

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- 1 Q. (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 A. (Redacted)
- 6 Q. (Redacted)
- 7 (Redacted)
- 8 A. (Redacted)
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- 12 (Redacted)
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- 14 (Redacted)
- 15 Q. (Redacted)
- 16 (Redacted)
- 17 A. (Redacted)
- 18 (Redacted)
- 19 Q. (Redacted)
- 20 (Redacted)
- 21 A. (Redacted)
- 22 Q. (Redacted)
- 23 A. (Redacted)
- 24 (Redacted)
- 25 Q. (Redacted)

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1 (Redacted)
2 A. (Redacted)
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5 Q. (Redacted)
6 A. (Redacted)
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10 Q. (Redacted)
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12 (Redacted)
13 Q. (Redacted)
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15 A. (Redacted)
16 (Redacted)
17 Q. (Redacted)
18 A. (Redacted)
19 Q. (Redacted)
20 A. (Redacted)
21 (Redacted)
22 Q. (Redacted)
23 A. (Redacted)
24 Q. (Redacted)
25 (Redacted)

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- 1 A. (Redacted)
- 2 (Redacted)
- 3 (Redacted)
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- 6 Q. (Redacted)
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- 8 (Redacted)
- 9 Q. (Redacted)
- 10 (Redacted)
- 11 A. (Redacted)
- 12 Q. (Redacted)
- 13 A. (Redacted)
- 14 Q. (Redacted)
- 15 A. (Redacted)
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- 22 Q. (Redacted)
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- 24 A. (Redacted)
- 25 Q. (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0658

(Private Session)

ICC-01/09-01/11

- 1 MR KHAN: (Redacted)
- 2 (Redacted)
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- 4 MR GARCIA: (Redacted)
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- 6 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 7 MR GARCIA:
- 8 Q. (Redacted)
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Witness: KEN-OTP-P-0658

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- 10 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 11 MR GARCIA: (Redacted)
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- 16 THE WITNESS: (Redacted)
- 17 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
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- 20 THE WITNESS: (Redacted)
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- 24 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
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- 3 THE WITNESS: (Redacted)
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- 7 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
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- 9 MR GARCIA:
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- 1 A. (Redacted)
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- 5 PRESIDING JUDGE EBOE-OSUJI: (Redacted)
- 6 MR GARCIA:
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- 25 Q. (Redacted)

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22 A. (Redacted)
23 MR KHAN: (Redacted)
24 (Redacted)
25 (Redacted)

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1 MR GARCIA:

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9 A. (Redacted)

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11 (Redacted)

12 PRESIDING JUDGE EBOE-OSUJI: (Redacted)

13 THE WITNESS: (Redacted)

14 PRESIDING JUDGE EBOE-OSUJI: (Redacted)

15 (Redacted)

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17 (Redacted)

18 MR GARCIA:

19 Q. (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. (Redacted)

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- 1 A. (Redacted)
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- 1 Q. (Redacted)
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- 3 A. (Redacted)
- 4 MR KHAN: (Redacted)
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- 6 MR GARCIA: (Redacted)
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- 22 A. (Redacted)
- 23 Q. (Redacted)
- 24 A. (Redacted)
- 25 PRESIDING JUDGE EBOE-OSUJI: (Redacted)

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- 1 MR GARCIA: (Redacted)
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- 18 Q. (Redacted)
- 19 A. (Redacted)
- 20 (Redacted)
- 21 MR GARCIA: (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 PRESIDING JUDGE EBOE-OSUJI: Proceed.
- 25 MR GARCIA:

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1 Q. Now, Mr Witness, do you know if -- if any police or any policemen were sent over to the
2 location?

3 A. Yeah, I understand they were sent to the same locations, but I think police officers also
4 were overwhelmed by that time, and the attendance of the police also was not in good
5 number, because actually understand they didn't go directly to the area, but they use another
6 way to make them go in using, instead of few minutes, they use a long time before reach
7 there.

8 Q. Now, just before I move on in that subject, Mr Witness, you've confirmed that you were
9 listening to the radio on that particular day in the morning; is that correct?

10 A. Yes.

11 Q. What -- what radio station were you listening to?

12 A. I'm always listening to the radio Kass FM.

13 Q. And can you tell us what, if anything, you heard on the road on Kass FM that morning
14 from 6 o'clock onwards (Redacted)
15 (Redacted)

16 A. I heard, anyway I hear some results of some areas, announcement of the results, and
17 then also making people to announcing that these things is -- that the roads have been blocked,
18 announcing there are some roads which have been blocked along Kericho, where known
19 people from Eldoret.

20 Q. Who was talking on the radio that you were listening, you were listening to say these
21 things?

22 A. If I can recall, it was Sang.

23 Q. Now, I just want to be sure because you're saying "if I can recall." Are you sure or
24 you're not sure on this?

25 A. I am sure because, yes, he was in the station by then. But I don't know if he was really

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1 staying at the station permanently or if he was moving out and --

2 Q. All right. So I'd like to know exactly what Mr Sang was saying on Kass FM on that
3 morning. Take your time, speak directly into the microphone. Exactly what you remember
4 him saying on that morning from 6 o'clock onwards?

5 A. It was a mixture of words, I can't remember the exactly words, but I can remember
6 announcing the results. And also there was functions which was supposed to take place, like
7 harambee which was taking place. It's in Ziwa later in the evening, in the afternoon. I
8 heard he was announcing about that.

9 Q. I think you mentioned that was taking place later in the afternoon in -- is it Ziwa that
10 you said?

11 A. Yes.

12 Q. So you said that he was saying some of the results of areas?

13 A. Mm-hmm.

14 Q. Which areas was he speaking about?

15 A. He was just talking announcing the results of mainly Kalenjin areas announcing who
16 took -- who become an MP, who become especially members of parliament, but also touching
17 on national results of the president.

18 Q. You were also saying and you've also stated in your response "... and then also making
19 people to announcing that these things -- the road have been blocked." What did Mr Sang
20 say in that regard?

21 A. At some point he was reading -- saying that -- telling people to remain in peace. He
22 was also sometime preaching peace and talking about peace in the radio saying that people
23 should be patient, things will be sorted out and something like that.

24 Q. What was he saying in regards to the roads having been blocked?

25 A. At a certain point he could just say "You just open the roads," but in the other way he

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1 could also mean that he could use some, yeah, way to show that, yeah -- he was meaning
2 what in the public announcement he could preach peace.

3 Q. You said that he could just say "You just open the roads." Who was he saying this to?

4 A. To the listeners.

5 Q. And I need you to be more clear. What was he telling the listeners regarding -- in
6 regards to opening roads?

7 A. You could say that there is some women who went to deliver, and some youths give
8 them chance to be taken to the hospitals, something like that.

9 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, watch it with the tenses and the words to
10 avoid arguments later on when the witness is no longer on the stand to clarify things. The
11 word "could," the witness uses that term, that word quite often. When somebody else uses
12 "could" it may mean -- it could mean something else. But in the sense that this witness uses
13 that word, we're not always sure what it may mean; just for you to clarify the record in that
14 regard.

15 MR GARCIA: Thank you, your Honours. I'm guided.

16 Q. Now, Mr Witness, I need you to understand my question. I'm asking you what he was
17 saying, and in response you say "He could say that there is some woman" -- did he say that
18 about the woman or could he say that about the woman? Did you hear that? Did you hear
19 him say that on those days?

20 A. I hear him, but I can't remember the time or the date, but I think it was that particular
21 time that there were some women who need to reach to the hospital and really allow them to
22 go there to be taken to hospital.

23 Q. Now, you say that "I think it was that particular time." Do you remember what -- what
24 day or what days approximately he would have said this, what time period?

25 A. I can't remember exact date, but around between 30th and -- no, especially because 30th

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1 was peaceful but in the morning. But like 31st and 1st and even 2nd and 3rd.

2 But I could not stay to listen to the radio most of the time because I was somewhere.

3 I stay in house number -- for number 7. I ran out of my place.

4 Q. I understand that. So what did he -- what did Mr Sang say about this lady?

5 A. He doesn't know about that lady. I don't think she knows -- he knows. Which lady
6 are you talking about?

7 Q. You were saying that he was speaking about woman.

8 A. Women, just general women, not specific woman.

9 Q. And what was it about the woman that he was saying?

10 A. Because he was aware that -- and that there is some blocked road that has been blocked
11 all over, and he could say wish youths to accept to open some roads to allow some women,
12 not specifically Kikuyus or whatever, those who need services of the hospital by then.

13 Q. Okay. Once again you said that "he could say." Did he actually say that? Did you
14 hear him or not?

15 A. Yes, I heard in a part of his pronouncement.

16 Q. And who was he saying this to, to let the woman go by?

17 A. I have indicated listeners of the radio, whoever. I could not say specifically to who,
18 youths.

19 Q. Now, you also mentioned that he was talking about Ziwa. What did he say about
20 Ziwa?

21 A. There was a function like harambee or fundraising that took place at that particular time
22 in the evening. It was like announcement.

23 Q. And what did he say about this harambee?

24 A. He was telling people to go and raise -- help to raise the money.

25 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, is this about a radio broadcast or radio

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1 broadcasts?

2 MR GARCIA: Yes, indeed, your Honour.

3 PRESIDING JUDGE EBOE-OSUJI: Why are we hearing it in private session?

4 MR GARCIA: I'm sorry, your Honour. Indeed, we could go back into public for this.

5 PRESIDING JUDGE EBOE-OSUJI: Open session.

6 (Open session at 12.37 p.m.)

7 THE COURT OFFICER: We are in open session, Mr President.

8 PRESIDING JUDGE EBOE-OSUJI: Please proceed, Mr Garcia.

9 MR GARCIA:

10 Q. Now, Mr Witness, what was Mr Sang saying in regards to this harambee or fundraising?

11 A. It was just announcement. I don't -- maybe it was bait at us for that to announce, or
12 just he was just releasing the message. I cannot remember.

13 Q. And did he, did Mr Sang say what this harambee or fundraising was for on the radio?

14 A. I can't remember the real -- what he said about functions, but my thinking about this
15 harambee was why is it happening and the Kenya was burning at that particular time.

16 Q. So how did you view this, this announcement of a harambee on 31 December?

17 A. I view it as part of theirs to -- first to help youth to transportation by the weapons.

18 Q. I think the transcript is not clear. You said "I view it as part of this to first to
19 help" -- I think you said "the youth for this transportation of weapons"?

20 A. Transport to the site of the war.

21 Q. Okay. To transport the youth to the site of the war; is that your testimony?

22 A. Yes.

23 Q. Was it normal to have a harambee on the -- on this date, on 31 December 2007?

24 A. Yes, it was normal like any other harambee, but that particular day, I think any person

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1 who think that it was not could not either to harambee, because Kenya was not in a good state
2 that particular day.

3 Q. Now, is there anything else that Mr Sang would have said when you heard him on that
4 particular day, the 31st --

5 A. No.

6 Q. -- of December?

7 PRESIDING JUDGE EBOE-OSUJI: One second. Why would -- I'm interested to know why
8 the witness gave that interpretation of the events, that is, why he would view the
9 announcement of the harambee as some sort of fundraising to enable the youths to get
10 transportation. Is that what he said?

11 MR GARCIA: Transportation for the war.

12 PRESIDING JUDGE EBOE-OSUJI: To the site of violence. I want to know why he gave that
13 interpretation to the harambee announcement.

14 MR GARCIA:

15 Q. Now, Mr Witness, why is it that you interpret this announcement of a harambee as
16 being -- as its purpose being to transport youth to help in this regard? Can you explain that
17 to the Court?

18 A. By then they were saying that there was a clearer picture that people were not
19 supporting the -- especially from PNU, to pay some money to help the youths, like, they call it
20 vegetables by them, to give money, but it was in a -- put it in -- then worded you have to give
21 some vegetables, that is to say money, like for -- and then they were saying that youths need
22 to be -- there was a wider speculation that the youth have to be helped to be transported to
23 the -- especially Eldoret by then because -- yes.

24 And that specific harambee, they were not having a specific agenda of it, what was it for.

25 Q. So I understand that you said this specific harambee had no specific agenda you

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1 mentioned there was wider speculation that the youth have to be helped to be transported to
2 Eldoret. Where --

3 A. Yes.

4 Q. -- was this coming from?

5 A. The group of people who say or if you meet people who say have -- people have to go to
6 help people because Munyaka was mostly populated by Kikuyus and it was actually needed
7 to be effected from their side.

8 PRESIDING JUDGE EBOE-OSUJI: All right. Witness, you testified that there was a
9 harambee announcement you heard on the radio and you said that you interpreted that
10 announcement to be part of the fundraising efforts for the war, as you called it. What I want
11 to know is whether anything was said as part of that harambee announcement which then
12 made you interpret the announcement as part of the fundraising efforts for the war, as you
13 called it. Was there anything said as part of the harambee announcement that led you to that
14 conclusion?

15 THE WITNESS: I didn't hear that one from the radio, but I hear it from the crowd or the
16 people who say that this is harambee for that particular purpose, but it was not announced
17 over the radio that this money is for the transportation to the -- yeah.

18 PRESIDING JUDGE EBOE-OSUJI: Did you hear -- I don't know whether you've answered
19 this before, but bear with me. Did you hear as part of the harambee announcement what it
20 was for?

21 THE WITNESS: I think it was only to say to help youths, but it wasn't say for the war
22 anyway, yeah.

23 PRESIDING JUDGE EBOE-OSUJI: So you said the harambee announcement did say that it
24 was to help the youth?

25 THE WITNESS: Yes, but I didn't hear anything to do with for the war, but what I could hear

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1 from the ground it was just meant for the -- to help supply the things, they call it things, but
2 that is to refer to weapons.

3 PRESIDING JUDGE EBOE-OSUJI: In the past, as far as you could recall, had there been
4 harambee announcements made to help the youth?

5 THE WITNESS: Yes, of course.

6 PRESIDING JUDGE EBOE-OSUJI: In the past?

7 THE WITNESS: Yes, your Honour.

8 PRESIDING JUDGE EBOE-OSUJI: Before the political violence in 2007?

9 THE WITNESS: Yes, your Honour.

10 PRESIDING JUDGE EBOE-OSUJI: Thank you.

11 Mr Garcia, please continue.

12 MR GARCIA:

13 Q. Now, Mr Witness, apart from these subjects, you mentioned the letting the woman go
14 by the roadblocks and the fundraising at Ziwa, did Mr Sang speak about anything else when
15 you heard him that morning?

16 MS BUISMAN: Sorry, can I just make one observation? Just for the public record to be
17 clear, since now we're going into another area, I think it would be fair if there was some sort
18 of summary of what he said in closed session about peace messages and opening the roads.

19 MR GARCIA: Your Honours, if Defence counsel wants to cross-examine on that point, they
20 can do it in -- when their time comes.

21 PRESIDING JUDGE EBOE-OSUJI: Indeed. We have to move on.

22 Yes, there was some testimony to that effect, but we stayed in private session longer than we
23 should have and that kind of testimony was given. What can happen is during your
24 cross-examination, do signal it so we will know parts of that testimony that you can discuss in
25 public.

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1 Mr Garcia, proceed, please.

2 MR GARCIA:

3 Q. Now, Mr Witness, I'll repeat the question. Apart from these subjects that you've
4 already spoken about, letting the woman across -- go through the roadblocks, the Ziwa
5 fundraiser, did Mr Sang speak about anything else that morning when you listened to him?

6 A. The time was too short and I can't recall any other message.

7 Q. Just one last matter in regards to letting the woman through the roadblocks, to your
8 knowledge was this followed?

9 A. He was -- I could know specific area -- I could not know the specific area because I was
10 not referring maybe at this place, but I could still see that the road was still blocked so -- but
11 anyway and that announcement was there in general, but I don't know if it really happened,
12 but that's what I heard Sang sometimes saying.

13 Q. And just one last question on that matter: Was that a message regarding all women in
14 general or women of a specific ethnicity? Who was Mr Sang referring to?

15 A. I think all women or any women who could have any problem, need medical services.

16 Q. And just to be clear for the record, what was the message regarding these women who
17 had any kind of issues? What was Mr Sang saying to the listeners?

18 A. I think Sang sometimes could use his (indiscernible) voice and actually he has a very
19 nice calling when he says something, but at this particular time he was really wanted
20 to -- some people to be given chance -- way to be taken to the hospital because he knew that
21 some other places was not possible.

22 Q. You said he could use his voice, what voice? What was the word you used?

23 A. His -- the radio public announcement to announce sometime peace.

24 Q. Now, Mr Witness, did you in fact attend or not this fundraising in Ziwa?

25 A. I attend because some people go. Some of the friends informed me to -- that I -- I go.

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1 Q. Can you tell us what means of transportation you used to get up to -- to Ziwa?

2 A. Some -- there were some vehicles which was carrying people, like public transport, but
3 it was not easy to go back to Ziwa part but (indiscernible) part because manning of the roads
4 was also there.

5 Q. So when you say the "manning of the roads was also there," what -- what happened on
6 your way back?

7 A. We were stopped on -- about three times to Ziwa.

8 Q. Who were you stopped by?

9 A. Youths.

10 Q. Do you remember at what places you were stopped going --

11 A. The same --

12 Q. I know that you're eager to answer, but just take the five seconds and then you can tell
13 us which places you -- you were stopped at.

14 A. Same roadblocks which were there in -- the three of them and one in a place called
15 Junction, but that one was not big one, but the one which was big one was in Kuinet.

16 Q. Now, did you manage to get through these -- these roadblocks?

17 A. Yes, we managed, but after the drivers talked and sometimes give out some money to
18 the youths.

19 Q. And just for the record, could you tell us where these roadblocks were situated on your
20 way back?

21 A. I've identified that the first three which was already talk in my first testimony and the
22 one at Junction of -- between Eldoret and Ziwa.

23 Q. Okay. So just for the record you mentioned to us a roadblock at Eldoret in the airstrip?

24 A. Yes, airstrip.

25 Q. Which one of the roadblocks would have been the first one that you -- you crossed that

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1 day going back, going to Ziwa?

2 A. The first one was start at airstrip.

3 Q. Did you manage to get through that one?

4 A. Yes.

5 Q. What happened at that roadblock?

6 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, we're in the red zone. Should we remain
7 here to receive his testimony?

8 MR GARCIA: We can go into private, your Honour. I -- I don't believe it is -- I think we
9 can go through it in the -- in public.

10 PRESIDING JUDGE EBOE-OSUJI: All right.

11 MR GARCIA: I don't believe that we need to go in private. Maybe if the witness thinks
12 otherwise, we can go in private if he's more comfortable.

13 PRESIDING JUDGE EBOE-OSUJI: All right. Witness, we are in public session so you can
14 testify to -- you can answer that question, but take care not to identify yourself with your
15 answers.

16 MR GARCIA:

17 Q. Now, were you able, Mr Witness, to get through that -- that roadblock?

18 A. I was not alone in the -- in the car. The car was allowed to pass through after some
19 negotiation by the driver.

20 Q. And can you tell us what the -- what the negotiation was about briefly?

21 A. To allow them to go back and bring some youth back to the town later on.

22 Q. Can you explain that to us? Who was going to bring back youth to the town?

23 A. Using their vehicles to carry the youths to come back to town.

24 Q. So just if you can explain that to us, just clear it up. How -- on what condition were
25 you allowed to go through that -- that roadblock? And wait -- wait a couple of seconds

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1 before you respond.

2 A. After the driver explained to them, to the youths, and then we were just allowed to pass
3 through that first roadblock without -- less than -- less than five minutes.

4 Q. What did the driver agree to do --

5 A. Just --

6 Q. -- to pass through that -- that roadblock?

7 A. He agreed to bring back the youths later from the villages to the town.

8 Q. To bring back the youths from what villages?

9 A. Ziwa or Kabarnet areas. Those are the areas -- rural areas of Eldoret.

10 Q. And what are the ethnic groups that live in these areas?

11 A. Kalenjins.

12 Q. And the agreement, just so we can understand, was to bring youth from these places,
13 from Ziwa to where? Remember the five seconds.

14 A. To Eldoret, especially Munyaka.

15 Q. Now, did you go through other roadblocks on your way back to Ziwa?

16 A. The second one at Rock Centre.

17 Q. And what happened at Rock Centre?

18 A. They do the same, ask why, "We need some -- some lunch."

19 Q. Who was saying that they needed some lunch?

20 A. The youths.

21 Q. And what happened?

22 A. I think the conductor of the car give them 100 euros -- 100 shillings I mean, not euros.

23 Q. Did you manage to get through that roadblock?

24 A. Yes.

25 Q. Now, did you encounter another roadblock on the way to Ziwa?

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1 A. A small one -- there was another one in around -- in around Kimumu area (Redacted)

2 Q. And what happened there at that -- at that roadblock?

3 A. We were blocked, but we were later released and there was a long lorry which were
4 carrying youths from the site of Iten which was there and dropping people from -- about over
5 300 youths.

6 Q. Now, the roadblock that you were blocked at, where was it specifically? Can you just
7 tell us exactly?

8 A. There was burning tyres along -- not -- between an area called Junction and -- and -- and
9 also Rock Centre, in between.

10 Q. And you said that there was a lorry which was carrying youth. Did you yourself see
11 this lorry?

12 A. Yes.

13 Q. And it was coming from what direction, the lorry?

14 A. It was coming from Iten, Iten Road.

15 Q. Now, I understand the Iten Road leads to -- I think it's a town called Iten; is that correct?

16 A. Yes.

17 Q. And what is the predominant ethnic group that lives in Iten?

18 PRESIDING JUDGE EBOE-OSUJI: Witness, remember I had before said try not to put your
19 hand over your mouth when you speak, please.

20 THE WITNESS: Okay.

21 PRESIDING JUDGE EBOE-OSUJI: (Redacted)

22 (Redacted)

23 (Redacted)

24 MR GARCIA: Thank you, your Honour.

25 Q. Now, Mr Witness, Iten, what is the predominant ethnic group that lives there?

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- 1 A. Kalenjin, Keiyos.
- 2 Q. That's Keiyo, K-E-I-Y-O; is that correct?
- 3 A. K-E -- yes, Y-O.
- 4 Q. K-E-I-Y-O, is that it?
- 5 A. Yes.
- 6 Q. I'm sorry, I misspoke the first time.
- 7 Now, when you saw this lorry, can you tell us what type of lorry this was?
- 8 A. A long lorry.
- 9 Q. Had you ever seen these lorry -- this type of lorry previously?
- 10 A. Yes, I can see the type of the lorry, but -- yes, I have see it before.
- 11 Q. And normally this type of lorry would carry what exactly? What was it used for?
- 12 A. Transportation of goods.
- 13 Q. Can you tell us approximately how many youth you saw on that lorry that day?
- 14 A. Because they were -- they were not sitting down, they were standing, I think it can be
- 15 approximately 300.
- 16 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, time.
- 17 MR GARCIA: Yes, your Honour.
- 18 MR KHAN: Mr President, perhaps my learned friend could be so kind to indicate how is he
- 19 doing for time. Does he still hope to finish by tomorrow lunch-time?
- 20 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia?
- 21 MR GARCIA: Your Honours, I indicated initially that I would take the first session
- 22 tomorrow to finish. I might -- I might need to take a bit more of the second session, but I will
- 23 be finished tomorrow.
- 24 PRESIDING JUDGE EBOE-OSUJI: A bit of the second session as in --
- 25 MR GARCIA: I understand -- I understand, your Honours, that the first session starts

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1 at 10 o'clock. I imagine it's going to last for an hour-and-a-half. I'm trying to cover as much
2 ground as I can today obviously, and I've looked over the material over the weekend to pick
3 out the things which are most relevant, so I am working as efficiently as I can. If need be, I
4 might ask the Chamber to have an extra session tomorrow, but I'll see how things go at the
5 end of the day today. I'll be able to inform the Chamber more accurately as to what
6 my estimates are, but as it stands, I probably will need an extra part of that second session
7 tomorrow morning.

8 PRESIDING JUDGE EBOE-OSUJI: You're saying about an hour-and-a-half. We will try
9 and keep it at that. When you say you may be asking the Chamber to take an extra session,
10 did you say?

11 MR GARCIA: We have three sessions per day normally, your Honour, and I said that
12 I would be finished by the first session. I might need the second session as well tomorrow to
13 finish.

14 PRESIDING JUDGE EBOE-OSUJI: All right. Let's try to avoid that and finish as you had
15 indicated before. We note that indeed we are starting 30 minutes later, but still let's try and
16 work within the original schedule.

17 MR GARCIA: Indeed, your Honour.

18 PRESIDING JUDGE EBOE-OSUJI: Thank you.

19 MR GARCIA: That's what I'm aiming for.

20 PRESIDING JUDGE EBOE-OSUJI: All right. We will now take our lunch-break.

21 We will go into closed session so the witness may be ushered out of the courtroom.

22 (Closed session at 1.03 p.m.) * Reclassified as Open session

23 THE COURT OFFICER: We're in closed session, Mr President.

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

25 (Redacted)

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1 (Redacted)

2 (The witness stands down)

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

4 THE COURT OFFICER: All rise.

5 (Recess taken at 1.03 p.m.)

6 (Upon resuming in open session at 2.34 p.m.)

7 THE COURT USHER: All rise.

8 Please be seated.

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

10 Witness, welcome back.

11 We are in open session.

12 Mr Garcia, please, proceed.

13 MR GARCIA:

14 Q. Good afternoon, Mr Witness. When we --

15 A. Afternoon.

16 Q. When we left off, Mr Witness, I was asking you about these 300 youth that you had seen
17 in a lorry. Could you tell us of what ethnicity they were?

18 A. I believe because it was coming from directions of Iten, then it must be Kalenjin.

19 Q. Were these youth armed or not?

20 A. Yes, they were armed. They were having arrows.

21 Q. Just for the record, did you say that they were having arrows?

22 A. Yes, your Honour.

23 Q. Is there anything else that you could observe that they were -- that they had as
24 weapons?

25 A. Machete.

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1 Q. Now, when you observed this lorry with the 300 youths, what distance were you from
2 this -- from this lorry at that time approximately?

3 A. Because there was just along the road start -- the road was in the -- at the -- by the road,
4 so it's almost the same area.

5 Q. I understand that it was on the road itself, but what distance were you from this -- from
6 this lorry?

7 A. Because I was inside the car, it's like 2 metres or three.

8 Q. And just so it could be clear as well, was -- how was -- I understand that you were in a
9 public car at this time. Was -- your public car, was it stationary or was it moving when you
10 saw this -- this lorry?

11 A. Yes, it was already stopped by youths. So we were stationed -- we were supposed to
12 go ahead, but stopping by -- to chat with the -- those who block the roads again at that side.

13 Q. Now, can you tell us from your observations what -- what happened when this lorry
14 came with the 300 youth? Did you see anything?

15 A. They were talking that in -- in Kalenjin language that -- which direction are we
16 supposed to go, just among themselves.

17 Q. Anything else that you heard?

18 A. We didn't stay long there, but they were just talking freely and facing the direction of
19 Munyaka?

20 Q. Now, I understand that when you saw them initially they were on the lorry. Did they
21 stay on the lorry?

22 A. No. They were -- some of them were already on the ground. Not all were. Some
23 few still in the lorry.

24 Q. Now, did you have a chance to see where the lorry went after?

25 A. No, but it was turned direction of the same area it was coming.

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1 Q. Now, in regards to this lorry where the 300 youth were on, was there anything
2 identifying about it? Anything that you can identify it by?

3 A. To identify what?

4 Q. Did it have any markings or anything? Name?

5 A. The lorry?

6 MR KHAN: Mr President, I would ask -- I mean the normal question of course is to ask a
7 witness to describe the lorry rather than point him in such a direct manner.

8 MR GARCIA: Your Honours, I do recognize that it is leading but I'm trying to get an answer
9 to a specific question.

10 PRESIDING JUDGE EBOE-OSUJI: Yes.

11 MR GARCIA: And it's --

12 PRESIDING JUDGE EBOE-OSUJI: The question is allowed. Proceed.

13 MR GARCIA:

14 Q. Now, Mr Witness, was -- were there any markings, any way of identifying this lorry?

15 A. The -- the site which was supposed to be put an address was put a paper to -- to seal
16 the -- the number and even the address.

17 Q. Now you said the site which was supposed to put an address, where is that normally?
18 Where would you find that normally on this lorry, the address of it?

19 A. At the door of the driver.

20 Q. And what could you see on the door of the driver on that particular day?

21 A. It was sealed, something, with a paper, and the number plate was also closed.

22 Q. When you say "the number plate was also closed," can you describe exactly what you --

23 A. It was put --

24 Q. -- could see?

25 A. -- a paper -- okay.

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- 1 Q. Just -- just remember the five-second rule, Mr Witness.
- 2 A. It was used a paper to close it, I think seal it or something else.
- 3 Q. Okay. So it was used a paper to close it, what do you mean by closing it?
- 4 A. To seal the number plate.
- 5 PRESIDING JUDGE EBOE-OSUJI: As in cover it.
- 6 THE WITNESS: Cover it.
- 7 MR GARCIA:
- 8 Q. Thank you for those clarifications, Mr Witness.
- 9 Now, I understand that you were proceeding towards Ziwa. What -- what road did
- 10 you take afterwards to go to Ziwa?
- 11 A. The same road, Iten-Eldoret roads to the place called Junction and then we took
- 12 Ziwa Road.
- 13 Q. What, if anything, did you see on Ziwa Road?
- 14 A. I see another lorry coming from that direction carrying youths again.
- 15 Q. When you say you saw another lorry coming from that direction, what direction are you
- 16 speaking about? And remember the five seconds.
- 17 A. Directions of Ziwa Road.
- 18 Q. And Ziwa Road leads to where? What town or what village?
- 19 A. It leads to Ziwa to Kitale again, yeah.
- 20 Q. All right. Just so we can be clear, it leads to Ziwa and then to Kitale, or is it --
- 21 A. Yes.
- 22 Q. All right.
- 23 You say you saw another lorry.
- 24 A. Yes.
- 25 Q. Can you describe to us this lorry that you saw on the Ziwa Road?

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1 A. This was also a long trailer lorry which was carrying youths and it was going the
2 direction of Eldoret.

3 Q. Now, long-trailer lorry, can you describe to us exactly what -- what kind of a lorry it
4 was?

5 A. It was a very long lorry, which was supposed to -- almost the same as the other one.

6 Q. And what is this -- normally what is this type of -- if you know, what does this type of
7 lorry usually transport?

8 A. It is to transport goods.

9 Q. Now, you said that you saw youths. How many youths, approximately?

10 A. I cannot guess, but maybe a lorry that maybe can also be 300 or 200 and something.

11 Q. And can you tell us if these youths were carrying anything with them?

12 A. Yes, I saw from behind after we pass over, but I could not see because they were inside
13 the lorry.

14 Q. Just to make sure before I ask you more questions, did you cross them on the same road,
15 the Ziwa Road?

16 A. Yes.

17 Q. Is that it? And were you able to observe inside --

18 A. Yes, it is -- yes, you can see from behind some youths having some bow and arrows.

19 Q. Were you able to observe how they were dressed?

20 A. No.

21 Q. Now, had you ever seen this type, this lorry before?

22 A. That one, that took --

23 PRESIDING JUDGE EBOE-OSUJI: There are two questions there. Can you clarify the
24 question, Mr Garcia.

25 MR GARCIA:

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- 1 Q. Mr Witness, were there any marks of identification on this lorry that you saw?
- 2 A. On this ones there was -- at the top of the lorry there it was some Mafuta farm.
- 3 Q. So you say at the top of the lorry?
- 4 A. Yes.
- 5 Q. What was the inscription at the top of the lorry?
- 6 A. It was written in a black colour "Mafuta Farm."
- 7 Q. And you say it was written in a plaque --
- 8 A. Yes, yes.
- 9 Q. Any particular colour? Can you describe the plaque?
- 10 A. Black.
- 11 PRESIDING JUDGE EBOE-OSUJI: Did you say plaque or black colour?
- 12 THE WITNESS: Black. Black. Black colour.
- 13 PRESIDING JUDGE EBOE-OSUJI: Black colour?
- 14 THE WITNESS: Yes.
- 15 PRESIDING JUDGE EBOE-OSUJI: As in the colour?
- 16 THE WITNESS: Yes.
- 17 PRESIDING JUDGE EBOE-OSUJI: Black?
- 18 THE WITNESS: Yes.
- 19 PRESIDING JUDGE EBOE-OSUJI: As opposed to white, something like that?
- 20 THE WITNESS: Yes.
- 21 MR GARCIA: Thank you, your Honour. I thought I heard plaque.
- 22 Q. Thank you, Mr Witness. Now, Mr Witness, had you -- had you ever seen a lorry prior
- 23 to that with a black inscription saying "Mafuta Farm" prior to that day?
- 24 A. I know the lorries of prominent farmer Mr Jackson Kibor is written that way.
- 25 Q. So just for the record, line 23 is, "I know the lorries of prominent farmer

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1 Mr Jackson Kibor is written that way." Is that what you just said?

2 A. Mmm-hmm.

3 Q. What is written that way?

4 A. Yes. Mafuta Farm.

5 Q. So just to be clear on the record, what is written that way on Mr Kibor's lorries?

6 A. It is written Mafuta Farm and some also like Samitui, I don't know, yeah, like that.

7 Q. I'm sorry, your last answer wasn't -- wasn't captured. It is written Mafuta Farm and
8 some also like?

9 A. They have also like written Samitui, but I cannot describe that word which was written
10 in which side, but Samitui, he was also -- he's also part of his property, yeah.

11 Q. And just for the record it's also written Sammy, S-A-M-M-Y, is that it?

12 A. Samitui is S-A-M-I-T-U-I.

13 Q. Okay. And just to be clear for the record, on that particular day you just saw the
14 inscription "Mafuta Farm"

15 A. Yes.

16 Q. -- in black?

17 Now, Mr Witness, did you eventually arrive at the fundraising event in Ziwa?

18 A. Yes, but -- yeah.

19 Q. Do you remember at approximately what time you arrived there?

20 A. It was afternoon hours, like after 3.

21 Q. And where was the fundraising being held in Ziwa? Was there a precise location?

22 A. It is an -- in a market area.

23 Q. Does the market area have a specific name? I understand that it's Ziwa, but is there a
24 specific name for the market area?

25 A. Ziwa Sirikwa.

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1 Q. And Sirikwa would be S-I-R-I-K-W-A; is that correct?

2 A. Yes.

3 Q. So when you arrive there and -- did you go to the marketplace?

4 A. I stayed in a café.

5 Q. And, Witness, I'm now going to ask you questions in regards to that specifically, but can
6 you tell us who was present at this fundraiser when you arrived?

7 MR KHAN: Mr President, I'd ask my friend not to lead on this. We've got the witness in a
8 café. Perhaps we can take it step by step.

9 MR GARCIA:

10 Q. Mr Witness, who was present at the fundraiser when you arrived?

11 A. To describe --

12 MR KHAN: I'm sorry, Mr President. I do object. We have the witness at a marketplace
13 and we have him in a café. My learned friend should take it step by step.

14 PRESIDING JUDGE EBOE-OSUJI: Is it about step by step or who was present? Is that not
15 the same thing?

16 MR KHAN: Well, Mr President --

17 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia should be free to organise his questioning as
18 he sees the objective he wants to pursue in light of what he has with him, and it will be up to
19 you, of course, to clarify things, if you want to. So that's a separate matter from whether
20 there was a leading question as to attendees, if any --

21 MR KHAN: Well, Mr President --

22 PRESIDING JUDGE EBOE-OSUJI: -- at the location.

23 MR KHAN: -- perhaps I wasn't clear. Of course my learned friend can ask who is present
24 in the café.

25 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, you can sit while Mr Khan is on his feet.

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- 1 MR GARCIA: Maybe if it can help Defence counsel --
- 2 PRESIDING JUDGE EBOE-OSUJI: No, no. One second. We don't want two people
- 3 standing up at once in this courtroom.
- 4 MR KHAN: I'm most grateful, Mr President. I'll be brief.
- 5 Your Honour, I don't have a problem with my learned friend asking questions, but at the
- 6 moment we have him going to a marketplace in Ziwa and he goes to a café. The question
- 7 then should be: Who is in the café? We haven't got him to a location, and then my learned
- 8 friend is jumping the gun putting him into the fundraising itself, but as far as I can see we
- 9 have him in a café, nowhere else, unless -- unless it's said that the fundraising event is in the
- 10 café. And that's why I'm saying we're jumping.
- 11 PRESIDING JUDGE EBOE-OSUJI: That's not my understanding of that answer, not
- 12 necessarily, so --
- 13 MR KHAN: I'm grateful.
- 14 PRESIDING JUDGE EBOE-OSUJI: -- I believe that both of you can be accommodated in your
- 15 objectives.
- 16 MR KHAN: I'm grateful.
- 17 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia.
- 18 MR GARCIA: I just want to remind Defence counsel, your Honour, and just in response to
- 19 that is that we are in public session and I intend to go -- continue in public session. If I
- 20 canvass the questions that Defence counsel wants, I'm going to have to go into private session
- 21 so -- I will broach them obviously. This is not -- it's not a problem.
- 22 PRESIDING JUDGE EBOE-OSUJI: Proceed. Proceed.
- 23 MR GARCIA:
- 24 Q. Now, Mr Witness, when you arrived there at the fundraising event at the market, who
- 25 was present?

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1 A. There was two notable figures.

2 Q. Can you name these two notable people that were present?

3 A. One is Jackson Kibor.

4 Q. And the other?

5 A. And the other one was an MP who was elected, just selected from Mount Elgon,
6 Fred Kapondi.

7 Q. Just for the record, the other one, and that's line 23, page 19, the other one was an MP
8 from Mount Elgon, E-L-G-O-N, and it's Fred Kapondi, K-A-P-O-N-D-I; is that correct,
9 Mr Witness?

10 A. Yes, your Honour.

11 Q. And when you arrived there at the -- at the market in Ziwa Sirikwa, what were these
12 two people doing, Mr Kibor and Mr Fred Kapondi?

13 A. To clarify what was just said about if I was in a café or --

14 PRESIDING JUDGE EBOE-OSUJI: Wait, wait.

15 MR GARCIA:

16 Q. Just, Mr Witness --

17 PRESIDING JUDGE EBOE-OSUJI: No, no, no, no. Just follow Mr Garcia's questioning. If
18 by the time he finishes and he has not addressed that thing you have in mind, we can then
19 deal with it at that time, but for now let's follow his lead.

20 MR GARCIA:

21 Q. So, Mr Witness what were Mr Kibor and Mr Fred Kapondi doing when you arrived
22 there at the market in Ziwa Sirikwa?

23 A. They was just sitting in -- in the place where the -- the fundraiser was,
24 the (indiscernible) place.

25 Q. And can you tell us approximately how many people were there already when you

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1 arrived at the marketplace?

2 A. I cannot approximately, but it's a marketplace, many -- there were so many people there.

3 Q. So what happened, Mr Witness? I understand that you were there. What -- what did
4 you observe?

5 A. Because I was just a distant away, not far distant away for -- from the place, I could only
6 listen to and could see people talking, but I was not there in the -- that group of the people,
7 but I was a distant away.

8 MR GARCIA: Can we -- your Honours, can we go into a private session for just a couple of
9 minutes to clear up a matter.

10 PRESIDING JUDGE EBOE-OSUJI: Private session.

11 (Private session at 2.57 p.m.) * Reclassified as Open session

12 THE COURT OFFICER: We are in private session, Mr President.

13 MR GARCIA:

14 Q. Now, Mr Witness, before you said you were in a café; is that correct?

15 A. Yes.

16 Q. All right. And is this an indoor or outdoor café that you were in?

17 A. Outside, like, not far from -- just next to a café.

18 Q. Now, what was the distance between you and the -- and Mr Kapondi and Mr Kibor,
19 approximately?

20 A. Maybe 60 metres or less. I cannot -- I don't know how to approximate some distance,
21 but maybe for 60 metres or less.

22 Q. Now, were you able to see them from where you were?

23 A. When somebody come to talk and -- talk in a raised place, you can see, but when they
24 are sitting down, you can be blocked by the people.

25 PRESIDING JUDGE EBOE-OSUJI: Mr Garcia, what's the relationship of the café to the

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1 marketplace, geographically speaking?

2 MR GARCIA:

3 Q. Now, Mr Witness, you say that you were in a café and that the fundraising was going on
4 in the marketplace. Can you just describe to us where was the café in relation to where
5 Mr Kibor and Mr Kapondi were, where the fundraising was taking place?

6 A. They were -- the place where the fundraising was taking place is where Kapondi and
7 (indiscernible) was there. And I was distant away just sitting and listening to what is talked.

8 Q. And just to be clear for the record, this marketplace, is it indoors or outdoors?

9 A. It is out, not far from district officer's office.

10 PRESIDING JUDGE EBOE-OSUJI: Okay. The witness had -- the first time he mentioned
11 café he said he stayed in a café. Was this café in the marketplace, near it, or what? I'm not
12 sure that that evidence is clear on the record.

13 MR GARCIA: I'll ask the question, your Honours. I'm most grateful.

14 Q. Now, Mr Witness, you've heard the Court. I'd like to know, this café, is it in the -- the
15 marketplace or is it outside of the marketplace.

16 A. It's --

17 Q. Take the five seconds remember.

18 A. It is in the same market but just opposite where it was -- the fundraising was taking
19 place. You can see even what is going on there in the marketplace, in the venue of the
20 harambee -- fundraising. As you sit down you can even listen to everything what is taking
21 place there because there was a loudspeaker.

22 Q. Just so we can understand maybe better this marketplace, is it -- is it made of different
23 shops, different places? What is it made of?

24 A. Ziwa is not a big -- it's a small marketplace where there is shopping houses and
25 some -- and there is some open market where always on Tuesday and -- there could be used

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1 to sell some clothes and whatever, but there is small houses -- shops and, yeah. It's not a big
2 town. It's a small township.

3 Q. All right. Now, on that particular day when you arrived there and you said you were
4 in a café in this open marketplace, were there any -- any shops open or what was going on
5 exactly?

6 A. Yes, some of the shops is -- were opened and even some café were opened. Some
7 individual could go to the functions, maybe some invited or whatever.

8 Q. And the people were gathered where exactly in the marketplace?

9 A. Not in a real market in that -- I was calling it market, the Ziwa market, but there is a
10 place where always functions -- open functions is being done. Otherwise it's not a stadium,
11 it's just an open place.

12 Q. So from what I understand of your testimony it's in this open place --

13 A. Yes.

14 Q. -- where these functions --

15 A. Yes --

16 Q. -- normally --

17 A. Yes, but (indiscernible) in the market, Ziwa market. I didn't say exactly market area,
18 no.

19 Q. Now, what did you observe? What happened? I understand that you were in
20 the -- in the café.

21 Actually, we can go back into open session, your Honour.

22 But just -- let's not go back to the café, just -- I want you to just answer as to what you
23 observed there on that day.

24 PRESIDING JUDGE EBOE-OSUJI: Open session.

25 (Open session at 3.02 p.m.)

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1 THE COURT OFFICER: We are back in open session, Mr President.

2 MR KHAN: Mr President, also, at a certain point we may want to make sure the spellings of
3 some names are accurate on the record, but maybe that can be done in private or public.
4 I don't know if it would -- it seems to me it can be done in public, but certain names are not
5 properly recorded in the transcript.

6 PRESIDING JUDGE EBOE-OSUJI: Indeed.

7 MR KHAN: For example, page 96, line 5.

8 MR GARCIA: I thought I had said that. That's Mr Fred Kapondi at 96, 5.

9 Q. Now, Mr Witness, what did you observe going on at this fundraising?

10 A. There were some talks before the fundraisings, but the fundraising itself didn't take long.
11 It was only less than 20 or so minutes before everything was over.

12 Q. Now, you said that there were some talks.

13 A. Yes.

14 Q. Who talked? Who spoke? Remember the five seconds, Mr Witness.

15 A. It was some locals who were talking.

16 Q. Did you recognize any of these locals who were speaking?

17 A. I could see Isaac Maiyo.

18 Q. Did you hear what Mr Isaac Maiyo said?

19 A. Because he was just like a -- an organiser, he was just talking briefly and then give it to
20 another speaker.

21 Q. All right. I understand that you say that he was like an organiser. What do you mean
22 by that?

23 A. He was like an MC or leading the -- that function.

24 Q. So what did you hear Mr Maiyo say?

25 A. He was thanking the people, especially the guests, for coming and also saying that we

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1 are going to do these things, harambee, and he was just briefing -- brief like that and then he
2 give the speakers to still continue talking.

3 Q. And when you say that he was saying that "we are going to do these things, harambee,"
4 can you explain a bit more what he was saying?

5 A. First of all he started by saying that Kikuyus have steal the votes and we need still fight
6 for our right and we are going to do harambee, and he thanked the -- Fred for coming and
7 also Mzee Jackson and then give another old man, I cannot remember his name, of which also
8 he was also talking bitterly about rigging and telling youths to be prepared and make sure
9 that they -- they go to the Eldoret to make sure that these Kikuyus will not be in our soil
10 again.

11 Q. Now, you say that first of all he started by saying that the Kikuyu have steal -- I imagine
12 that you're saying that they had stolen the votes; is that it?

13 A. Yes.

14 Q. And you say also that he thanked Fred, I imagine that you're speaking about Mr Fred
15 Kapondi --

16 A. Yes.

17 Q. -- is that correct?

18 A. Yes.

19 Q. Wait the five seconds. And you say "...and also MC Jackson"?

20 A. No, I didn't say MC.

21 PRESIDING JUDGE EBOE-OSUJI: Did you say mzee --

22 MR GARCIA: I'm sorry.

23 PRESIDING JUDGE EBOE-OSUJI: -- Jackson?

24 THE WITNESS: (Overlapping speakers)

25 PRESIDING JUDGE EBOE-OSUJI: What did you -- you mentioned Jackson. Did you

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1 mention Jackson?

2 THE WITNESS: Yes, thanking also Jackson for -- for coming.

3 PRESIDING JUDGE EBOE-OSUJI: Did you say MC or mzee?

4 THE WITNESS: Mzee.

5 PRESIDING JUDGE EBOE-OSUJI: Mzee?

6 THE WITNESS: Mmm-hmm.

7 MR GARCIA: Thank you, your Honour.

8 Q. You say as well that he "... give another old man, I can't remember his name." What
9 happened there?

10 A. The old man was talking like a -- telling youths to be prepared to go to Eldoret to -- to
11 make sure these Kikuyus are no more in our -- in our soil.

12 Q. Now, just to be clear, Mr Witness, is it -- correct me if I'm wrong, is it Mr Maiyo who
13 gave the -- who gave the --

14 MR KHAN: Mr President, I object.

15 MR GARCIA: All right. I withdraw that.

16 MR KHAN: Your Honour, I've said repeatedly - I don't know how many times I need to say
17 it - that my learned friend should not lead on these issues. And, your Honours, I am not
18 speaking in vein and I do ask and I can have every expectation that learned Prosecution
19 counsel, knowing the sensitivity, will act accordingly.

20 MR GARCIA: I was just trying to clear up this paragraph, your Honour, but I can ask a more
21 neutral question. It might take a little bit more time, that's all.

22 PRESIDING JUDGE EBOE-OSUJI: Yes.

23 MR GARCIA: That's fine.

24 PRESIDING JUDGE EBOE-OSUJI: If it is a sensitive area --

25 MR GARCIA: I do --

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1 PRESIDING JUDGE EBOE-OSUJI: -- do take the time you need to deal it out, but I thought
2 the witness had mentioned a last name -- had put a last name to Mzee Jackson, did he not?

3 MR GARCIA: He did indicate Jackson Kibor, your Honour.

4 PRESIDING JUDGE EBOE-OSUJI: Yes, I don't think I see it on the transcript.

5 MR GARCIA: I know that the witness mentioned it -- indeed it should follow. Page 99,
6 line 22. It was Mzee Jackson Kibor.

7 PRESIDING JUDGE EBOE-OSUJI: I thought I heard that.

8 MR KHAN: Mr President, I can confirm that that was heard by the Defence as well.

9 PRESIDING JUDGE EBOE-OSUJI: Thank you.
10 Proceed.

11 MR GARCIA: I imagine that it will be in the edited transcript.

12 Q. Mr Witness, just so we can be clear on this matter, as for Isaac Maiyo, is that the extent
13 of -- is that the extent of what you heard him say on that day?

14 A. Because he was just a person inviting people, he could not talk much, just shortly and
15 then give it to another speaker.

16 Q. And who did he give it to afterwards, after him, who was --

17 A. There was also somebody else, a third person, who didn't talk much and then the
18 Jackson Kibor was the one to talk.

19 Q. And this person that you mention, another old man, where did he fit in? When
20 did -- when did he speak?

21 A. After Maiyo speak shortly that votes have been stolen, just talk and then say, "Okay", he
22 give it back to the old man of which the old man just talked briefly in Kalenjin and making
23 people to be ready to go to Eldoret to remove the Kikuyus from our soil.

24 Q. I just want to clear up something with you, Mr Witness. When you say you can't
25 remember his name but he was also talking bitterly about rigging and telling youth to be

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1 prepared and make sure that they go to Eldoret to make sure that these Kikuyu will not be on
2 our soil again.

3 A. Mmm-hmm.

4 Q. Who said this? Who was the person who said this?

5 A. The old man.

6 Q. Now, the older man, did you -- had you ever seen him previous to that?

7 A. Yes.

8 Q. Where had you seen him before?

9 A. In Eldoret, Ziwa, same area.

10 Q. And he was a person of what ethnicity?

11 A. Nandi.

12 Q. Is there anything else you know about this old man that spoke, that said these things?

13 A. I know him as a politician and also an older man who can talk on several meetings.

14 Q. Now, after this old man spoke, what happened? Did anyone else speak?

15 A. There was somebody else, but I can't remember but -- but he didn't talk much.

16 Q. All right. You mentioned in your response at page 102, line 89, then there was -- there
17 was also somebody else, that person didn't talk much, and then the Jackson Kibor was the one
18 who talk. Is that correct?

19 A. Yes.

20 Q. Now, were you there or not when Mr Jackson Kibor spoke?

21 A. I was still in the same position. I was never -- these things take place only less than 20
22 minutes or 20 minutes or so.

23 Q. Now, were you able to hear what Mr Jackson Kibor said?

24 A. Yes.

25 Q. Can you tell us what he said?

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1 A. He was saying that Kikuyus, referring as "kokoek have steal our votes" and him, he's an
2 old man, he doesn't want to do anything, but he will help in contributing where necessary to
3 help youths to acquire things, that is -- he referred "things" but which I -- I don't know which
4 kind of things but he was talking that way, that he's old, man he cannot go to the war, but he
5 can help some other places to get things for youths, but he didn't quote anything to do what is
6 something.

7 Q. Did he say anything else?

8 A. Yes, he was saying that, "The Kikuyus should be removed from the Rift Valley or our
9 soil. This is the time we have to use."

10 Q. Was that it, or was there anything else that he said?

11 A. That's what I can remember.

12 Q. Now, at the start of your response you said that he was saying that Kikuyus, referring
13 as, steal our votes. What is the word that you -- that you use there, referring as what?

14 A. Kokoek.

15 Q. Can you spell that word for us, the word that you've just used?

16 A. K-O-K-O and then E-K.

17 Q. So K-O-E-K, is that it?

18 A. K-O-K-O-E-K.

19 Q. And that's a word in what language?

20 A. Kalenjin.

21 Q. And what does it mean?

22 A. Kikuyus.

23 Q. Now, literally does it mean anything else, this word?

24 A. No. It's Kikuyu in Kalenjin.

25 Q. You said that he said that he would help youth to acquire things. He referred to things.

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1 Now, in your mind what did he mean by these things?

2 A. Because he was saying that he cannot participate in the war, but he can contribute, he
3 can help youth to get things which I can say things are -- because he was talking in Kalenjin,
4 things like tuguk, so that is to say that weapons or something else to help youths, but he
5 didn't say weapons, things.

6 Q. And how did the --

7 PRESIDING JUDGE EBOE-OSUJI: What word did he say was used in Kalenjin?
8 Did you say a specific word was used, tuguk?

9 THE WITNESS: Yes.

10 PRESIDING JUDGE EBOE-OSUJI: How do you spell that?

11 THE WITNESS: T-U-- U-- T-U-G-U-K.

12 PRESIDING JUDGE EBOE-OSUJI: T-U-G-U-K?

13 THE WITNESS: Mmm-hmm.

14 PRESIDING JUDGE EBOE-OSUJI: He said yes.

15 Is it D or T?

16 THE WITNESS: T.

17 PRESIDING JUDGE EBOE-OSUJI: T?

18 THE WITNESS: For town, yeah.

19 PRESIDING JUDGE EBOE-OSUJI: For town. Thank you. So that will be T-U-G-U-K.
20 All right. And you say it means what?

21 THE WITNESS: Things.

22 PRESIDING JUDGE EBOE-OSUJI: Things?

23 THE WITNESS: Yes.

24 PRESIDING JUDGE EBOE-OSUJI: Thank you.

25 MR GARCIA:

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1 Q. Now, Mr Witness, how did the crowd react to what Mr Kibor was saying?

2 A. They were clapping and supporting the -- the talk.

3 Q. And Mr Kibor was speaking in what language?

4 A. Kalenjin.

5 Q. Now, what happened after Mr Kibor spoke?

6 A. Then Honourable Kapondi.

7 Q. Now, do you recall what Mr Kapondi said?

8 A. He was saying that you people from this side, that is Uasin Gishu, should remove
9 Kikuyus while I'm going to -- he was just saying he was just come from prison and "I was
10 elected when I was in prison" and he said that people from -- "I'm going to help to remove the
11 Luhyas in Trans-Nzoia."

12 Q. So just at page 106, line 16, I think -- it's been put -- it is Trans-Nzoia, that's correct.
13 Did he say anything else?

14 A. Yes, he was saying that these Kikuyus have mess up the country. And we -- me -- him
15 and Kibor will go and bring things, which I don't know which things is this.

16 Q. Did he say anything else?

17 A. That's what I can remember.

18 Q. Now, you mentioned briefly that Mr Kapondi spoke about prison or being in prison.
19 Can you just briefly explain to us what -- what that was about?

20 A. In the previous days or a few days before he was in prison I think because of violence
21 which also took place in Mount Elgon and he was in prison for some time, but he was just
22 release, and he was even elected while he was in prison to be -- represent ODM as a member
23 of parliament, in -- during the nomination time.

24 Q. Now, Mr Witness, if you can just help us, Mount Elgon, you said he was an MP for
25 Mount Elgon, where is that exactly? It's bordering what -- what state?

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1 A. It's bordering Uganda and it is in Western Kenya Province.

2 Q. Now, do you know where they were going to be getting these things as they were
3 calling them from?

4 A. He was talking as if he knows because you know -- he know what is going on in
5 Mount Elgon which is -- actually that is the place maybe he knows much, I cannot say where.

6 Q. What is it that goes on in Mount Elgon that it's the place as you say it?

7 A. They always fight there. People are killing each other using the guns and many things
8 there.

9 Q. Now, do you know, Mr Witness, where guns could be obtained from that region?

10 A. I will not know, but maybe from neighbouring country Uganda also because it is -- that
11 Mount Elgon is a forest, it's like forest so anything can be sneaked through there, that side, but
12 I cannot confirm where it exactly came from.

13 Q. And what happened after Mr Kapondi spoke? How did the crowd react to his
14 comments?

15 A. They were cheering him most of the time and immediately he finished talking and then
16 they start harambee directly.

17 Q. Now, I understand that a harambee is a fundraising?

18 A. Yes.

19 Q. Is that correct?

20 A. Yes.

21 Q. So was there any money that was eventually collected?

22 A. Yes.

23 Q. Can you tell us about that?

24 A. Kapondi was the chief guest, he was getting -- receiving the money. He collect from
25 the public and then finally receive from Kibor. Kibor gave out 200,000 from Mheshimiwa

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1 Ruto.

2 Q. So how much money in all was collected?

3 A. Like, it was not announced, the figure, but -- and then Kibor himself gave out 20,000 and
4 Kapondi finally gave 10,000 and the rest were 5, 6, 10, like that.

5 Q. All right.

6 A. So --

7 Q. So you said that Kapondi was the chief guest and he was receiving the money?

8 A. Mmm-hmm.

9 Q. He collected the money from the public?

10 A. Yes.

11 Q. And then he received from Kibor. How much did he receive from Kibor?

12 A. 20,000 from Kibor himself and 200 from Mheshimiwa Ruto.

13 Q. Now, this 200 -- and it's 200 --

14 A. Thousand.

15 Q. So 200,000 from Mheshimiwa Ruto. How do you know that this was from
16 Mheshimiwa Ruto? Hold on. Wait a couple of seconds and explain that to us.

17 A. Kibor was giving out an envelope and say from Mheshimiwa Kibor -- Ruto.

18 Q. And how do you know that there was 200,000 when --

19 A. He announced the figure.

20 Q. What did Kibor say? Wait the five seconds. What did Kibor say -- Mr Kibor say in
21 regards to this 200,000?

22 A. He say that Mheshimiwa have given us his hands and he's helping us in Nairobi the
23 way you see and he could not be -- he was supposed to be the chief guest in their function but
24 he didn't come, that he has given his hand. That's what you call it directly when you talk in
25 Kalenjin.

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- 1 Q. And what does that mean he has given his hand?
- 2 A. That he's --
- 3 Q. Remember -- remember the five seconds.
- 4 A. He has given his contribution.
- 5 Q. And you say that finally Kapondi gave 10,000, just for the record; is that correct?
- 6 A. Yes.
- 7 Q. And how did you know that, that he gave 10,000?
- 8 A. After receiving from Kibor and then Kibor also received from him, give it to Kibor,
- 9 10,000, he said "This is what I have" and he said, "You know I have just come from prison.
- 10 This is what I could contribute."
- 11 Q. And what happened after that?
- 12 A. Then the harambee was over.
- 13 Q. What did you do after that, after the harambee?
- 14 A. I stayed there a little bit and then I board the car to Eldoret.
- 15 Q. Did you have any problems going back to Eldoret?
- 16 A. Yes, there was a lot of youths going toward Eldoret and also some roadblocks, but it was
- 17 easy when you are going back than when you are coming to that direction.
- 18 Q. You say there were a lot of youths going towards Eldoret?
- 19 A. Yes.
- 20 Q. Can you explain to that a little bit further. What -- what did you see?
- 21 A. There was still some small cars and tractors carrying youths towards the direction of
- 22 Eldoret. Even if it was too late in the evening, that they are still going there at that particular
- 23 moment.
- 24 Q. At what time did you see this?
- 25 A. It was around 5 in the evening.

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1 Q. You said that there was still some small cars and tractors. About how many of these
2 did you see going towards the direction of Eldoret. Remember the -- remember the five
3 seconds, Mr Witness. Approximately? I know that you can't give us a precise figure.

4 A. I saw about three, but the tractor I don't know if it could reach Eldoret because it is far,
5 about 50 kilometres.

6 Q. And you say about three. What -- what type of vehicles were these vehicles that you
7 saw?

8 A. Pickups.

9 Q. And these pickups, can you tell us approximately how many people they were
10 carrying?

11 A. Like 14, 15. Like that.

12 Q. And the youth that were on these pickups were they armed?

13 A. Yes.

14 Q. What did they have?

15 A. Bows and arrows.

16 Q. Were you able to observe if they were dressed in any particular way?

17 A. Eh? You say what?

18 Q. Were you able to observe if they were dressed in any particular way? Wait for the five
19 seconds.

20 A. Most of them were having shorts and short-sleeved T-shirts.

21 Q. Were you able to see their faces?

22 A. Yes.

23 Q. Did you have any problems going through the roadblocks?

24 A. Not really. But before we reach Eldoret town there was still burning of the tyres in the
25 roads, could stay and then we remove and then go ahead.

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1 Q. Did you eventually reach Eldoret that evening?

2 A. Yes.

3 Q. Can you describe to us what you saw in Eldoret?

4 A. There was some -- a lot of lorries who were carrying people, especially those who had
5 been affected from the -- their farms in rural areas and even within the town who have come
6 to take refuge in town.

7 Q. Now, you're saying they were carrying people. They were -- these people were
8 from what -- of what ethnicity?

9 A. Mainly Kikuyus.

10 Q. You say you saw a lot of lorries. Approximately how many?

11 A. I saw one standing next to High Court of Eldoret and I saw another two next to -- not far
12 from police station Eldoret and I saw another one in a place called -- in a building -- next to a
13 building called KVDR (phon).

14 Q. And do you know where these lorries were heading in Eldoret? Where were they
15 heading to?

16 A. They could stay there. They don't know where to go, but later on they -- they go to
17 the -- to the showground but of -- that day I was just seeing them there.

18 Q. Where did you go on that evening?

19 A. I went to police station and then because -- around 8 in the evening.

20 Q. Can you tell the Court what you saw at the police station?

21 A. Mmm?

22 Q. Are we speaking about the Eldoret Police Station?

23 A. Yes.

24 Q. Can you tell the Court what you saw at the police station, the Eldoret Police Station on
25 that evening?

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1 A. There were so many Kikuyus there, some of them having their belongings and some of
2 them were crying that they have been chased away from their farms.

3 Q. Can you tell us approximately how many Kikuyus were there?

4 A. I cannot approximate because it was so many Kikuyus actually, especially women and
5 children.

6 Q. I understand that before in your testimony you mentioned that the police station was a
7 compound; is that -- is that correct?

8 A. Yes, some of the -- were -- some in compounds, some of them were along the road.

9 Q. Now, did you have a chance to speak to anyone at the police station?

10 A. There is a guy whom I know, number 25.

11 Q. And what did he tell you?

12 A. He was complaining that you know many Kal -- many people would call all Kalenjin
13 Nandis, so they were saying Nandis have burned our houses, wa Nandi, we don't know what
14 we are doing.

15 Q. And this person he was of what ethnicity?

16 A. Kikuyu.

17 Q. And he came from what area?

18 A. He always in town.

19 Q. You said that he was always in town, but what area was his -- where was he living at at
20 that time?

21 A. The area before Huruma, then after Huruma.

22 MR GARCIA: Just before we move on, your Honours, I'd like to show the witness
23 KEN-OTP-0036-0095, that's at binder number 3, and it's tab 66, I believe.

24 I'm wondering if that could be put on the screen in front of the witness.

25 THE COURT OFFICER: Mr Garcia, could you please confirm the level of confidentiality of

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1 the document, please.

2 MR GARCIA: That is a confidential document, it should not be shown outside of the
3 courtroom, but just to the witness and to the people in the courtroom.

4 MR KHAN: Mr President, I object that the witness be shown this particular document.

5 Your Honour, I've previously made objections that when something that's prepared out of the
6 courtroom is sought to be tendered by a particular witness, the proper and better way of
7 doing it is getting the witness to annotate any map in Court. Your Honour, it is relevant to
8 recollection, it is relevant to consistency and the veracity of an account.

9 And your Honour we have something that was prepared out of the courtroom, that can be
10 used to compare with whatever is done in the courtroom, but there are dangers, in my
11 respectful submission, about producing, quote unquote, "one that was prepared earlier" in the
12 course of evidence and under oath.

13 So, your Honour, I don't have an objection if my learned friend wishes to put a blank map and
14 annotated. In fact, normally that's what happens as one seeks to lead a witness through
15 evidence, you get the witness to mark as it goes on and at the end of the testimony a
16 completed map is prepared, but the way that it is being done is fraught with dangers and that
17 is the basis of my objection.

18 MR GARCIA: Your Honour, actually for prior witnesses we've -- we've done it in this same
19 manner.

20 I can say to the Court that everything that is on this map the witness has already testified on,
21 actually, and that's purposefully why I did this at the end of all of his testimony regarding the
22 incidents he went through, the roadblocks. And, actually, it's to help the Court because it
23 indicates the different locations, it indicates the locations where the witness was at initially,
24 precise places and I think it would be quite helpful for the Court and it, in my opinion, it
25 doesn't -- it will not lead the witness in any manner as he's already testified on all of these

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1 items and already given clear evidence on the matter.

2 So it is simply for the Court. I think there could be a valuable court -- tool for the Court to
3 understand the witness's testimony when looking at this map.

4 And as I've stated at the start we've done this previously with other witnesses. It's more
5 efficient, it saves some time rather than having the witness do it once again here in court and
6 taking up valuable time in which the witness could be testifying about other matters.

7 MR KHAN: Your Honour, I'll say no more except we've had previous witnesses that the
8 Court will recollect where, for example, photographs have be shown, and when the witness
9 was asked to mark those photographs in Court a very different - a very different - picture
10 emerged from that that was prepared in the interview room with the investigators and the
11 witness alone.

12 PRESIDING JUDGE EBOE-OSUJI: The Chamber's ruling is that Mr Garcia may proceed
13 with showing this document to the witness.

14 MR KHAN: I'm grateful, mister --

15 PRESIDING JUDGE EBOE-OSUJI: And then we will see to what extent the witness is unable
16 to indicate having, should I say, authentic knowledge about information on the document.
17 Proceed, Mr Garcia.

18 MR GARCIA: I understand that the document is being shown to the witness on his screen.

19 Q. Now, Mr Witness, you see that -- the document before you on the screen?

20 A. Yes.

21 Q. Now, at the bottom right-hand corner it says "8/8/2010". Is that your signature that we
22 see above the date?

23 A. Where, at the -- at where?

24 Q. At the bottom right-hand corner.

25 A. Yes.

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1 Q. All right. Now, if you look at the -- this map, starting from the top right-hand corner
2 we see "E" and there are indications written by hand, "Iten, "Ziwa". Is that your
3 handwriting?

4 A. Yes.

5 Q. All right. So as to Iten, and you've put an arrow heading in a certain direction, is that
6 the direction of Iten?

7 A. Yes, that direction.

8 Q. And if you look at the other side there is an arrow and then it says "Ziwa". Is that -- is
9 that also your handwriting indicating where Ziwa is?

10 A. The direction of Ziwa.

11 Q. Now, there's also an indication of -- I think it says "lorry" right before Ziwa. What is
12 that?

13 A. It was a lorry which I told you earlier that it was carrying youths.

14 Q. And if we go down the map there's an indication that says, I believe, "Kimumu". Can
15 you see that?

16 A. (Redacted)

17 Q. Hold on.

18 Now, I'm just going to continue on, Mr Witness, and just -- I'd ask your Honour, that we go
19 into private session just for two minutes.

20 PRESIDING JUDGE EBOE-OSUJI: Private session.

21 (Private session at 3.41 p.m.) * Reclassified as Open session

22 THE COURT OFFICER: We are in private session, Mr President.

23 PRESIDING JUDGE EBOE-OSUJI: Thank you.

24 THE WITNESS: (Redacted)

25 (Redacted)

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- 1 MR GARCIA:
- 2 Q. (Redacted)
- 3 (Redacted)
- 4 A. (Redacted)
- 5 Q. (Redacted)
- 6 (Redacted)
- 7 A. Okay.
- 8 Q. Now, Mr Witness, it says "Kimumu". (Redacted)
- 9 (Redacted)
- 10 A. Yes.
- 11 Q. Now, we see that between Kimumu, if you look at the other side it says "Munyaka".
- 12 Do you see that? Is that your handwriting, too?
- 13 A. Yes. Yes.
- 14 Q. And between them both there is this -- there is a road.
- 15 A. Yes.
- 16 Q. Do you see that?
- 17 A. Yes.
- 18 Q. Now, which road is that?
- 19 A. This is Iten-Eldoret Road.
- 20 Q. And if we just pass that road I think there is an inscription that says "person killed"; is
- 21 that correct?
- 22 A. Yes.
- 23 Q. And you've also put an indication "I left the people"; is that correct?
- 24 A. Yes.
- 25 Q. With a point.

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1 A. Yes.

2 Q. And I understand it you've also put the different locations heading to Eldoret. I see
3 "Rock Centre".

4 A. Yes, that is a roadblock.

5 Q. And then there is an inscription that says "Roadblock" and next to it is "Jerusalem"; is
6 that correct?

7 A. Yes.

8 Q. Also I see "Airstrip roadblock"; is that correct?

9 A. Yes.

10 Q. Now, if we go down that same road there is another inscription, maybe you can read
11 that out for us. Right on top of "Kipchoge Stadium" what does that say?

12 A. I can't read it properly.

13 Q. That's -- that happens to be my problem as well. And then if you go down it says
14 "police" station (sic); is that correct?

15 A. Yes.

16 Q. And then if you look at the different roads there's a road going at the bottom right-hand
17 to "Eldama Ravine"; do you see that?

18 A. Eldama Ravine we came --

19 Q. Do you see that it is over at the bottom --

20 A. Yes.

21 Q. -- right on top of your signature actually?

22 A. Yes.

23 Q. All right. Is that correct that that road leads to Eldama Ravine?

24 A. Yes.

25 Q. There's another road going down to Burnt Forest. If you come closer towards the

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1 centre at bottom. Do you see that? Just -- just take a couple of seconds. Do you see that
2 going to Burnt Forest?

3 A. Yes.

4 Q. Is that correct as well?

5 A. That's correct.

6 Q. And then there's also at the bottom centre "Kapsabet", a road going to Kapsabet; is that
7 correct as well?

8 A. (No audible response)

9 Q. And finally at the top in the middle left-hand corner there it says "To Leseru and Moi's
10 Bridge"; is that correct that that road goes in that direction? I know it's quite small.

11 MR KHAN: Mr President, I think the witness answered but the microphone is --

12 MR GARCIA: Oh.

13 MR KHAN: -- pointing in a different direction. Perhaps it can just be moved towards --

14 THE WITNESS: Okay. Sorry.

15 MR KHAN: No, not at all.

16 THE WITNESS: Sorry.

17 MR GARCIA:

18 Q. So is that road going to Moi's Bridge?

19 A. Which one?

20 Q. The top -- actually, right in the middle, the top left-hand. You will see there's only one
21 road going upwards. Right next to Eldoret to the left.

22 A. Because -- okay.

23 MR KHAN: Mr President, if it helps my friend as the annotated map is already in front of
24 the witness, my friend can lead in relation to the map, it's there, so it may help him get
25 through quicker.

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1 THE WITNESS: Yes, because I know this map. The way I could see generally it's for -- it's
2 from Eldoret.

3 MR GARCIA: Your Honours --

4 PRESIDING JUDGE EBOE-OSUJI: Moi's Bridge, where is that?

5 THE WITNESS: I cannot see Moi's Bridge.

6 PRESIDING JUDGE EBOE-OSUJI: One second.

7 MR GARCIA: To the left of Eldoret itself where it says "Eldoret". There's one road going
8 up to the top of the page, left-hand side.

9 PRESIDING JUDGE EBOE-OSUJI: "To", is it, "Leseru and Moi's Bridge", is that it?

10 MR GARCIA: Yes, I see "Leseru and Moi's Bridge".

11 THE WITNESS: But Leseru is another different direction where Moi's Bridge is. Another
12 place.

13 MR GARCIA:

14 Q. All right, but is that road -- going in that direction, is it going to Moi's Bridge?

15 A. I'm not sure because there is a main junction going straight to Uganda and then Kitale
16 Roads, that it is Kitale-Moi's Bridge Road.

17 Q. All right, I understand.

18 A. But I don't know this Leseru, Leseru is the other side. Yeah.

19 Q. Okay. Now, as for the rest of the inscriptions that you've put on this map they're
20 correct; is that it?

21 A. Yes, like police station, Kimumu is okay.

22 MR GARCIA: Your Honours, I would like to have this tendered in as a Prosecution exhibit.

23 PRESIDING JUDGE EBOE-OSUJI: Defence counsel?

24 MR KHAN: No objection.

25 MS BUISMAN: We have no objection.

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1 PRESIDING JUDGE EBOE-OSUJI: Admitted as the next Prosecution exhibit.

2 THE COURT OFFICER: The confidential document KEN-OTP-0036-0095 will bear number
3 EVD-T-OTP-00250.

4 PRESIDING JUDGE EBOE-OSUJI: Thank you.

5 Mr Garcia, just to be clear on the record, while we have the witness on the stand,
6 you've more or less indicated that the handwritten inscriptions on the map are in
7 handwriting of the witness. What about the word processed legends on the map?

8 MR GARCIA: It's just the handwritten portions are the witness's. I believe that the rest is
9 our product, the OTP.

10 PRESIDING JUDGE EBOE-OSUJI: When you say your product, I mean did you get a map
11 that the OTP did not make and the map came with those letterings on them, or did the OTP
12 get a blank map and put the letterings on the blank map?

13 MR GARCIA: Your Honours, I don't wish to mislead the Chamber on this matter and if
14 I could possibly get back to the Chamber tomorrow morning on this I can find out more --

15 PRESIDING JUDGE EBOE-OSUJI: Yes, please.

16 MR GARCIA: -- as to the provenance of the specific legends that are on the map.

17 PRESIDING JUDGE EBOE-OSUJI: Thank you.

18 MR GARCIA:

19 Q. Now, Mr Witness, tell us what happened while you were in Eldoret that night?

20 PRESIDING JUDGE EBOE-OSUJI: And we are inside. Do we remain inside?

21 MR GARCIA: Briefly, your Honour.

22 PRESIDING JUDGE EBOE-OSUJI: Okay.

23 MR GARCIA: I can ask the question even more precisely and it'll -- maybe we'll be able to
24 get out much faster.

25 Q. Mr Witness, did you remain in Eldoret that evening?

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1 A. No -- yes, I tried to move to go to location -- to the area of my place, (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. And what happened? Did you -- did you eventually get to your area, to your location?

5 A. No, we went -- when we were about to -- on the way, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 (Redacted)

16 MR KHAN: Can I clarify, I'm sorry, at page 123, line 6 and 7, the witness said (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 MR GARCIA: That's correct, I'm grateful to Defence counsel for that.

21 Q. Now, were you returned back to town?

22 A. Yes, after I told them and -- anyway, (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. What did you do when you got back to town?

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- 1 A. (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 Q. (Redacted)
- 12 A. (Redacted)
- 13 Q. (Redacted)
- 14 A. (Redacted)
- 15 Q. (Redacted)
- 16 A. (Redacted)
- 17 Q. (Redacted)
- 18 A. (Redacted)
- 19 Q. And did you remain in Eldoret?
- 20 A. Yes, the following day I still remain in Eldoret. Around -- until after 11 or before that.
- 21 There was a lot of running up and down in -- still in town.
- 22 Q. Who was running up and down in town?
- 23 A. Youths also. And town now was also almost deserted by people, but we remain with
- 24 number 20, number 29 and sometime number 33.
- 25 Q. What were you still doing in town with these -- with these people?

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1 A. Of course if like number 20 – this is always coming to the town (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. So what happened, did you remain in Eldoret with this group of people?

5 A. Just remain until what time, around -- until after midday because there was a rumour
6 that a church has been burnt down.

7 Q. A church where?

8 A. Kiambaa -- in Kiambaa.

9 Q. So what happened after midday?

10 A. After that we -- we actually get information that the church -- that
11 the (indiscernible) had burnt down and then the people were inside. You -- it was really a
12 very painful moment when we heard such a things had happened that -- we later go to Moi
13 Teaching and Referral when it was -- people were brought or corpse were brought there to the
14 referral, but people were not -- anyway, police were not allowed to keep -- were just bringing
15 their corpse and then return them because it was already full. So it was so painful moment
16 that -- later on we came to town and then some group of people were coming up
17 thinking -- they come to shop of the -- a Kikuyu, shoe shop, they want -- they broke the
18 glasses (Redacted)
19 (Redacted) motorbikes which took us to the direction of -- to the house of
20 number 20.

21 Q. The house of number 20 is located where?

22 A. In corner -- (Redacted)

23 Q. And just one clarification, you said that the -- I think the Moi Referral was full of -- it
24 was full of what exactly?

25 A. Dead people, a mortuary.

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1 Q. I just have one additional question just to finish off today's session.

2 If we could just put to the witness again KEN-OTP-0036-0095, confidentially, of course.

3 Mr Witness, it says here on your -- on the map it says you wrote down "person killed".

4 Who was this person that was killed there at the place that you indicate on the map?

5 A. Where? In which site? (Redacted)

6 Q. Yes, indeed. If you look at it there's an indication between Kimumu and Munyaka, a
7 point and it says --

8 A. Yes, he --

9 Q. -- "person killed. "

10 A. -- he was a Kikuyu, but I don't know where he is coming from. I understand that he
11 was a teacher, but I don't know exactly if -- who he was.

12 Q. I see the time, your Honour.

13 PRESIDING JUDGE EBOE-OSUJI: Yes, we will leave it there for the day and we will resume
14 tomorrow at 10.

15 Witness, we will adjourn for the day. Please do not discuss your testimony
16 overnight, all right?

17 THE WITNESS: Yes.

18 PRESIDING JUDGE EBOE-OSUJI: Thank you.

19 We will go now into closed session to usher the witness out of the courtroom and
20 then we will adjourn.

21 (Closed session at 4.01 p.m.) * Reclassified as Open session

22 THE COURT OFFICER: We are in closed session, Mr President.

23 (The witness stands down)

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

25 THE COURT OFFICER: All rise.

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- 1 (The hearing ends in closed session at 4.01 p.m.) * Reclassified as Open session
- 2 RECLASSIFICATION REPORT
- 3 Pursuant to Trial Chamber V(a) 's Decision, ICC-01/09-01/11-981, dated 24 September
- 4 2013, the version of the transcript with its redactions becomes Public.