

 **Daily NATION / Special Report**



**Report of the
Judicial Commission
appointed to inquire into
tribal clashes in Kenya**

The Hon. Mr Justice A.M. Akwumi



PART III: NYANZA AND WESTERN PROVINCES



Clashes in Gucha and Trans Mara

The 1992 clashes in Trans Mara targeted mainly the Kisii. We were told that several of them had to flee Trans Mara because of increased cases of livestock theft, personal attacks and arson although it was not as widespread as was the case in 1997. Earlier, in 1989, the then provincial commissioner ordered the eviction of the Kuria, but this was not limited to the Kuria only. Other non-Maasai tribes, except the Kipsigis, were also affected. A contingent of over 200 Administration policemen was used to evict not only the Kuria, but all the non-Maasai except the Kipsigis, in the area.

However, then area Officer Commanding Police Division Joseph Kobia told us that the people moved away voluntarily. If that had been so, there would have been no need of employing such a large number of policemen to oversee the movement.

A scorched earth approach, so to speak, was employed and Mohamed Yusuf Haji was not afraid to admit this. Houses were set on fire in order to drive away the people affected. Furthermore, considering the number of policemen who were used against unarmed citizenry, the number of people who were moved must have been high.

Stephen Nyahiri Mwita told the Judicial Commission that there were over 8,000 Kuria, over 18,000 Kalenjin and a large number of Kisii in Lolgorian Division, and that during a baraza that he held on January 9, 1989, Mohamed Yusuf Haji had threatened that any non-Maasai who did not move out within 14 days would be forced out and his house burnt.

Indeed, during the execution of the eviction order on February 23, 1989, all houses belonging to non-Maasais were burnt. Gideon Muli, who was then the Officer Commanding Narok Police Division in 1989, before Trans Mara was carved out of that division, confirmed that fact, and added that the areas where these people had lived were left desolate.

The eviction was indiscriminately undertaken except where one would produce a letter of acceptance in which case, he could be moved to another area. We wish to state here that whether or not the people who were evicted were squatters, illegal or otherwise, the eviction was unlawful as no court order was obtained prior to that.

The law in Kenya, as indeed in most common law jurisdictions, is that an eviction is only lawfully done where it has been sanctioned by a court of law. The law binds the citizen as well as the government and its servants. It is therefore with dismay that we heard Mohamed Yusuf Haji say with pride that with or without a court order, as provincial commissioner, he could evict anybody if in his discretion the move was essential for the sake of security.



Such an attitude is not uncommon among provincial administrators. Nicholas Mberia, like Mohamed Yusuf Haji, evicted Luo squatters from Buru farm, without caring a whit about the law and on the pretext that they were a security risk. The evictions in Trans Mara in 1989, and even subsequently, were clearly politically motivated and were intended to weed out those who were perceived not to be politically correct.

Between early 1993 and 1996, there were only intermittent border conflicts, basically related to cattle-rustling. However, in 1997, we had a spate of violent incidents most of which occurred between October and December of that year. We were told of an alleged theft of Maasai livestock by the Kisii on October 8, 1997; the robbing of Maasai women at Nyangusu on October 10, 1997; the burning of Kingarro ole Mukire's house on October 13, 1997, by people suspected to be Kisii; a raid on October 14, 1997, by the Kisii who were allegedly blowing horns as they moved along to invite fellow compatriots to war against the Maasai; and the fight at Nyangusu on October 20, 1997, where a Maasai schoolboy, James Lemashan ole Passa alias Mumula, was beheaded by the Kisii, among other incidents.

All these incidents were narrated by Maasai witnesses who, in our view, sought to portray the Kisii as aggressors. The two Kisii from Gucha District who testified, Joshua Maroko Onkoba and Josiah Oundi Onyancha, in effect, gave what we considered to be a balanced account of the clashes.

They both conceded that up to and including 1992, during the time of the "chinkororo", armed conflict at the common border was blamed on both sides, but subsequently, after the "chinkororo" gang was disbanded, the Maasai have in effect been having an upper hand as they receive support from the security forces.

Indeed, in one incident, some Kisii youths, angry about the partisan role of the police in the area, attacked and killed three GSU officers in Nyabitunwa, a border trading centre, after five people, all Kisii, had been killed by the Maasai on October 31, 1997. These deaths were confirmed by the DOs of both sides. We note that a Criminal Intelligence Report, Exhibit 204, by a team of CID officers headed by John Namai who were sent to the area to collect and collate criminal intelligence, does support the contention that security personnel favoured the Maasai.

That report also states that some two Administration policemen were seen overseeing the illegal harvesting of beans by the Maasai from a farm in Maasailand leased by some Kisii. In our own assessment, the series of border skirmishes in October and November, 1997, were intended, by whoever was behind them, to create an excuse for the eviction of the Kisii from Trans Mara which eventually was effected on November 20, 1997. The fact that official government transport was used to move some of them to their ancestral



homes instead of provincial administration officers and the police providing security to the non-Maasai victims, can only mean that the non-Maasai were not wanted to vote in the area on polling day in the 1997 General Election.

On November 20, 1997, the clashes were not at the common border as before, but at Kilgoris Town. A band of armed Maasai raided the town market area, after a woman was heard screaming. They attacked and killed two Kisii men and wounded several others, looted and burnt several small shops and houses of the Kisii, and who were then forced to seek refuge at the district commissioner's office. By the time the police intervened it was too late. One Maasai was accidentally shot dead, and ironically the Administration policeman who shot him was quickly arrested, but no single raider was arrested.

Jonathan Silisili ole Sialo, the chief of Ololchany Location, within whose area the incident took place, told us that that incident marked the end of the clashes in his location that year, presumably because their purpose had been served. Had the Kisii been the aggressors, one would have expected that the incident at Kilgoris would have triggered reprisals from the Maasai, but it did not because the attack was one sided.

The then Commissioner of Police, Mr Duncan K. Wachira, in or about early December, 1997, sent a team of policemen headed by John Namai to Trans Mara and Gucha districts to collect and collate criminal intelligence as to the causes of the clashes there, on the grounds as stated in his January 12, 1998, letter to the then head of the Civil Service Fares Kuindwa, Exhibit 206, that reports reaching him from the two districts on the clashes there were ambiguous.

Exhibit 204, which we referred to earlier, was thereafter submitted to him in paraphrased form on or about December 11, 1997, (exhibit 205), wholly based on exhibit 204, above mentioned. Among other things, the report, which John Namai submitted to Noah arap Too, reveals that those who started the skirmishes were strangers who, after starting the clashes, would disappear from the scene. As will be recalled, we got a similar story in other areas we have already covered in this report, notably Sondu, Londiani, Enosupukia, Molo South and Njoro.

The clashes in Trans Mara and Gucha have a long history and they appear to have become part of the people's lifestyle. They also appear at times to be encouraged and supported by some provincial administrators, some members of the Police Force and politicians. The militia called "Chinkororo" and the Maasai morans, who were generally involved in the border wars, live among the people and yet the provincial administration officers, including chiefs, did not report them to the police for necessary action.

It is no wonder that John Namai's team found that chiefs and other public servants in Trans Mara and Gucha sided with their fellow tribesmen and either condoned their



activities or were directly or otherwise part and parcel of their operations. Heavy fighting along the border started in early October, 1997, at Kiango, a border trading centre which, together with Nyangusu, Nyabitunwa, Ramasha, among others, are known to be prone to border conflicts. We were told that a Kisii schoolboy was killed by the Maasai in the course of armed conflict between the two communities arising from stock theft. The Kisii were incensed by this and, in turn, attacked the Maasai. Thereafter, there were sporadic incidents along the border, culminating in the October 20, 1997, incident when in the course of the fighting at Nyangusu, a Maasai boy was beheaded, his abdomen cut open and his kidneys removed. His genitals were cut off and taken away, and his head was later stuck on a stick which was then planted on a hill some distance from his body. This incident enraged the Maasai who armed themselves and attacked the Kisii on, among other days, November 20, 1997.

The fighting, according to Joshua Maroko Onkoba, William Ndiwa and Arthur Bunde, the Kilgoris district officer, lasted slightly over three months. Many lives were lost, about 18 in all, of which 14 were Kisii and four Maasai. Several people were wounded, many livestock stolen, several small business shops and residential houses burnt and the business and social life of the people was disrupted.

Yet little was done by the provincial administration and the Police Force to prevent or promptly terminate the violence. We were told that there were several police posts and bases and both, as well as GSU and ASTU camps, along the border, but incidents of cattle rustling continued unabated. From the evidence that we heard, we have no hesitation in concluding that the partisan approach to the security issues in the area by the provincial administration and the Police Force was responsible for the continued violence in the area.

In this regard, it will be remembered that during the violence in Kilgoris Town, no arrests were ever made of those who perpetrated the violence. However, when an Administration policeman accidentally shot and killed a Maasai, he was quickly arrested. Security men were present when the fighting broke out at Kilgoris Town, but they did not stop it until after lives had been lost.

Provincial administration officers and the police, instead of dealing firmly with the perpetrators of the violence, applied the suspicious and conniving strategy of repatriating the victims and allowed the aggressors to go free, pleased with themselves. A somewhat similar behaviour was shown in Narok Town in respect of the violent confrontation between the supporters of the local rival politicians William ole Ntimama and ole Lempaka. We think that the behaviour the provincial administration and the police



displayed at Kilgoris on November 20, 1997, was a blatant and mischievous attempt to achieve a political purpose.

Trans Mara as a district is also a parliamentary constituency, and the large non-Maasai population's vote was considered crucial in determining who, among the several candidates, would win the election.

The report by John Namai's team, Exhibit 204, which Duncan Wachira accepted and praised, gives what we think were the underlying causes for the clashes in Trans Mara in 1992 and 1997. In Duncan Wachira's letter to Fares Kuindwa, Exht 206, which he copied also to Noah arap Too, who was then the director of CID, Duncan Wachira made some observations which we consider pertinent, more so considering the opening sentence in the letter which we had earlier referred to and which reads as follows:

"Due to the ambiguous nature of reports reaching us from the districts of Trans Mara and Gucha, I assigned the director of CID to dispatch a special team to go and verify the security information on the ground."

From the above excerpt, it is clear that Duncan Wachira was sure that he was previously not being fully and frankly briefed as to what was going on in the Trans Mara and Gucha districts regarding the clashes. He, therefore, decided that more independent and dependable persons be dispatched to verify the facts. From the report he received, he was able to discern, as we also do, that the District Security Committees of Trans Mara and Gucha were indifferent and partisan during the 1997 General Election period. He decided to transfer the Officer Commanding Trans Mara Police Division, Joseph Kobia.

But we think a mere transfer was insufficient in the circumstances in view of the many lives that were lost, the several people who were injured, the properties destroyed or damaged, and the displacement of hundreds of people. Duncan Wachira, seems to have written to Fares Kuindwa, more particularly because of his other observations, which we will revert to shortly, which concerned issues which he felt he was incompetent to deal with.

He wrote in pertinent part as follows: " ... I have these observations and recommendations to make:

- (a) The two DSCs in Trans Mara/Gucha should be changed and fresh officers posted to those two districts. There are glaring indications of indifferences (sic) and partiality on members of the DSC during the election period, particularly as is seen in Trans Mara. Due to this fact, I have changed the OCPD of the area;
- (b) Political goodwill by the local politicians is very important to restore people's confidence and reassurance;



- (c) Security officers in this area and who come from the same communities fighting should be transferred from the two districts.
- (d) Chiefs and their assistants should be restrained from fuelling tribal animosity;
- (e) The issue of land in this area is very sensitive and the government should address itself to it and issue the necessary instructions."

In our view, by writing his letter, Duncan Wachira's mind was put to rest regarding the causes of the clashes and who was behind them, and he had no doubt in his mind that the observations in the report of John Namai's team were correct. We think that Duncan Wachira found that this report really corroborated other previous reports which he had received.

Fares Kuindwa, too, accepted the report and the recommendations which he acted on, although in our view the action which he said was taken against chiefs and assistant chiefs who were reported to have fuelled the clashes was clearly congratulatory rather than penal. They deserved not just a warning but dismissal.

Back to Duncan Wachira's observations. Apart from blaming the District Security Committees, chiefs and their assistants, he also accused politicians as having been partly responsible for the clashes, but his observations fell short of identifying any crime or crimes any of the people he blamed may have committed.

When he was asked why he did not mention to Fares Kuindwa any possible criminal offences that the report may have disclosed, he became evasive and made us believe that by writing to Mr Kuindwa he was in effect avoiding a duty which squarely lay on the police department which he headed, of arresting and prosecuting the possible offenders, who may be politicians.

Duncan Wachira's answer in effect was that it was the responsibility of the CID director to investigate crimes and prosecute possible offenders. If that were so, one wonders why he, in the first place, took the trouble to instruct the director of CID to facilitate the collection of criminal intelligence.

Be that as it may, what emerged from the report of John Namai's team is that personnel on the ground, more particularly in Trans Mara, were in a way involved in the clashes. That explains why in certain areas action was not taken against the perpetrators of the violence whoever they were.

In fact one witness, Nyahiri Mwita, testified that the District Commissioner, Mr Wilson Litole, was seen at the battleground at Kilgoris Town on November 20, 1997, but took no action to direct the security personnel to stop the violence. We were also told by another witness that some security personnel were at the market before the clashes erupted, but all they did was to fire in the air and watched as some people were killed,



others injured, shops looted, and business premises and houses belonging to the Kisii, were burnt. Not a single raider was arrested!

The report of John Namai's team also blames two politicians, Julius ole Sunkuli and Ferdinard Obure, the then members of Parliament for Kilgoris and Bomachoge constituencies respectively. The latter is alleged to have made inciting statements calling upon his Kisii tribesmen to arm themselves to fight the Maasai.

The former, too, while addressing an election campaign meeting at Ilkarian Primary School, at Lolgorian trading centre, allegedly asked the Siria clan elders and the youths to cause chaos and chase away non-Maasai from Lolgorian Location, but they declined. He is also alleged to have signalled raiders at Kilgoris Town to attack the non-Maasai, particularly the Kisii, and to thereafter drive them out of Trans Mara District.

Although Julius Sunkuli denied it through his advocate, Mr Monari, the report of John Namai's team makes it abundantly clear that he is not blameless. We were told that Wilson Litole, and the District Security Intelligence Officer, Chirchir, were generally known to support him, a fact which, according to Namai, compromised their role in crushing the clashes in Trans Mara. It is noteworthy that during the clashes in Trans Mara, Sunkuli was an assistant minister in the Office of the President under which provincial administration officers and the Police Force fell, and the concerned officers in Trans Mara must have feared taking a position in the clashes which would have displeased him.

It is no wonder therefore that the report of Namai's team blames him for interfering with the police action against criminal suspects. It was alleged that his official car, GK Y456, a Peugeot 504, was sent to Kisii Police Station to collect a murder suspect in a clash-related offence whom he wanted released. Besides, Duncan Wachira in his letter to Kuindwa, may have had him in mind when he proposed that steps be taken, in effect, to tame the politicians in Trans Mara and Gucha Districts.

In doing so, we think, he felt incompetent or afraid to deal with Sunkuli. Kuindwa, like Wachira, did not consider that it was within his docket to deal decisively with political issues even if they had a direct bearing on the clashes. His evidence as appears in the verbatim report of the proceeding of the Judicial Commission on June 7, 1999, are as follows:

Mr Lumumba: My last question. Would you agree with me that during that period, politics played a very fundamental role in decision-making?

Mr Kuindwa: My Lords, I do not know whether I feel competent to offer a personal interpretation of that. If I restricted myself to this report, it did mention cattle-rustling, land and political issues as causes of those clashes. I do know at that particular time it



was during electioneering time. Indeed, the report itself does say that similar things happened in 1992 prior to another election. God forbid that it happens also in the year 2002 when we have some more political activities.

"But I do not think I am competent enough to offer a personal opinion on whether there was politics to do with what we are doing today."

Clearly, Kuindwa was avoiding the issue, yet throughout our inquiry politics has featured as the main cause of the clashes. It would appear to us that public servants, including provincial administration officers, the Police Force, and even permanent secretaries feared to take decisions, however laudable, which were likely to displease certain political personalities for fear of victimisation.

Also provincial administration and police officers who testified before us regarding the Kanu rally at Narok in September, 1991, gave oblique answers to questions that were put to them regarding what politicians who spoke at the rally said, for fear that they would displease the politicians who participated in it.

We think that in Trans Mara, too, public servants did not want to do their jobs as expected for fear that they would displease Sunkuli. In the result, they omitted to take decisive action to prevent the inter-ethnic clashes there and in the event, some people were killed, several others were injured, a lot of property was destroyed and many people were displaced.

It is our view, and we so recommend, that all the members of the District Security Committee then based in Trans Mara in particular be investigated further to establish their specific roles in the clashes with a view to necessary disciplinary criminal action being taken against them. Likewise all chiefs and assistant chiefs in Trans Mara, who were implicated, should be dealt with in similar manner.

As regards Sunkuli and Obure, serious allegations were made against them. They were duly served with statutory notices to appear before the Judicial Commission. Sunkuli but not Obure, appeared by counsel, Mr Monari, who cross-examined witnesses on the allegations against him. He did not, however, choose to testify to give his side of the story as we think he should have done. Having not done so, the serious allegations remain uncontroverted, and so are the serious allegations against Mr Ferdinard Obure.

In view of the foregoing, we would recommend that the two politicians, too, be further investigated regarding their respective specific roles in the clashes in the Trans Mara and Gucha Districts.



Land and Politics at Centre of Chaos in Western Region

The clashes in Western Province occurred in the old Bungoma District and to a very small extent in the old Kakamega District, along the boundary between Kakamega and Nandi Districts.

At the time, when the clashes erupted in December, 1991, Bungoma was the largest district in Western Province until the creation of Mt Elgon, made up of Cheptais, Kopsiro and Kapsokwony divisions.

The Mt Elgon region is densely populated except for the upper slopes of the mountain. At the time of the clashes, 80 per cent of the population were Bukusu who belong to the Luhya tribe, 10 per cent Sabaot and a few Ndorobo who are sub-tribes of the Kalenjin, 5 per cent Teso and the rest of the population were mostly Kikuyu and the Luo.

Except for Tongareni Division, which was part of Trans Nzoia District during the colonial times, it was not previously associated with white settlement or farms, hence the settlement pattern such as that which existed in the Rift Valley, was not found in this district.

Bungoma District is surrounded by Trans Nzoia in the Rift Valley Province, Kakamega and Busia districts both in Western Province, and Uganda. It had a number of administrative divisions at the time, namely Cheptais, Kapsokwony, Sirisia, Kimilili, Webuye, Tongareni and Kanduyi divisions.

Both Kapsokwony and Cheptais were inhabited by the Sabaot who were the majority, and a few of the Bukusu and Teso. There were a few Kikuyu as well. Kimilili and Sirisia divisions were occupied by the Bukusu who were the majority, and a few of the Teso and Sabaot. Webuye Division was inhabited by the Tachoni and the Bukusu. Tongareni Division was originally part of the White Highlands and a cosmopolitan settlement area where the Sabaot were the majority in Mt Elgon sub-district. In Kanduyi Division, a few Sabaot lived among the majority Bukusu.

Kapsokwony, Cheptais, Sirisia and Kimilili were all affected by tribal clashes, which were a spill over from Trans Nzoia in the Rift Valley Province.

Prior to the introduction of multiparty politics, all these communities lived reasonably peacefully. However, and not unlike the case of the Rift Valley, there were long-standing problems like cattle rustling by the Sabaot. Land was also an issue which had remained unresolved for a long time.



The Sabaot, being the indigenous inhabitants of the mountainous region, wanted to live alone and did not particularly enjoy the presence of strangers in their midst whom they had all along accused of settling on their prime land while many Sabaot remained landless.

They also disliked the fact that they lived among many of the Bukusu in Bungoma District in Western Province, while the rest of their Kalenjin brothers lived in Trans Nzoia in the Rift Valley Province.

Fearing that they would be further marginalised and completely forgotten with the introduction of multi-party politics, they intensified their demand for a Sabaot District to be hived out of Bungoma and which, they further demanded, should be administered from Trans Nzoia in the Rift Valley Province where most of the Kalenjin lived.

The Sabaot were unhappy that the government had ignored them for so long and they accused it of settling strangers rather than the landless Sabaot on ADC farms in Trans Nzoia District. Although all these problems existed prior to the introduction of multi-party politics, they did not at any one time lead to the kind of fighting that was experienced during the tribal clashes, neither did they ever lead to the eviction of the non-Sabaot from the area.

The demand for a Sabaot District was finally granted after the clashes in 1994, when the present Mt Elgon District was hived out of the old Bungoma. The new district, however, falls in Western Province with its headquarters at Kakamega, a fact which the Sabaot are unhappy about.

In evicting the non-Sabaot from Mt Elgon sub-District and from Trans Nzoia, the Sabaot saw this as a step in the right direction for the recovery of their ancestral lands, which they had lost to the white settlers.

However, upon the introduction of multi-party politics, these problems were exploited by the Sabaot and politicians to start tribal clashes in Bungoma, Mt Elgon and Trans Nzoia. Although the Sabaot were to say that the clashes were caused by the Devil or pepo mbaya that suddenly blew into the area, we have no doubt that they were politically instigated to drive away from the region, the non-Sabaot who were perceived to be supporters of Opposition parties, and also derogatorily referred to as madoadoa so that during the 1992 multi-party elections, the Sabaot who would be left behind would all vote for Kanu.

The clashes in the old Bungoma District started on the night of December 24, 1991, with the burning of houses of the non-Sabaot in Kapsokwony Division. This was a spillover from next door Trans Nzoia where the clashes were already on, and houses of the non-Sabaot had been set on fire.



Text f=Times Ten Roman s=8.75 w=8 l=9.25 Dropcap leader f=FranklinGothic No.2 d=6,6 B f=Times Ten Roman s=9.5 w=9 l=10 Text f=Times Ten Roman s=8.75 w=8 l=9.25 y April, 1992, the clashes had spread over a wide area into Cheptais, Sirisia as well as Kimilili divisions. Kopsiro Location, which is in Cheptais Division, had four sub-locations, namely Kapkateny, Teremi, Chelebei and Chepyuk. All these sub-locations, which have since then been elevated to locations in the new Kopsiro Division, were affected by the clashes.

The aggressors, who were the Sabaot, were armed with bows and arrows and spears and at times, guns. They wore red T-shirts and red shorts or black T-shirts and shorts. If they attacked during the day, they smeared their faces and bodies with clay to conceal their identities. The clash victims, mainly the non-Sabaot, were attacked in their homes or on their way home, brutally killed or maimed and their houses set on fire by the Sabaot.

A Bukusu victim, Ronald Simiyu, living on Sabaot Co-operative farm, in Trans Nzoia was killed and his body set on fire inside the house where he had sought refuge. Those Bukusu who were lucky to survive fled their homes and farms and sought refuge with relatives and friends at Sirisia.

Some of the victims together with their cattle and whatever personal effects they could carry camped at trading centres such as Kapkateny, Kimilili, Sirisia and Kimalewa.

Before we consider the clashes as they affected particular places in Western and Nyanza provinces, it is important to examine the issue of land which was exploited at the introduction of multi-party politics to evict the non-Sabaot from the area for political gain.

The Elgony, as the Sabaot were then known, were, under the colonial Crown Lands Ordinance of 1902, removed from their communal lands in Kitale and Trans Nzoia into Mt Elgon forest and North Kavirondo native reserves, to pave the way for white settlement within the Rift Valley Province.

Their pastoral way of life was considered a harassment to the white settlers as well as the colonial government, hence the need to confine them in reserves. Many of them were also pushed into Uganda with their cattle where they lived among the Sebei of Uganda. And up to today, the Sabaot have many close relatives in Uganda where they are known as the Sebei, and who in turn, have close relatives in Trans Nzoia and Mt Elgon District, the Sabaot.

Life in the Mt Elgon forest reserve, which comprised only 40,000 acres, was difficult for the pastoral Sabaot. As their numbers and that of their cattle multiplied, the reserve became too small for them and their cattle. Not unexpectedly, the Sabaot started demanding more land, particularly the whole of Mt Elgon region, including the lands



which had become white settler farms and from which they had been removed into the reserves, as well as all the areas they claimed to have occupied prior to 1895.

And so when the Sabaot headman, Arap Kasis, appeared before the Kenya Land Commission of 1932, which became known as the Carter Commission, sitting at Kitale on October 8, 1932, he is reported to have quite plainly told the Commission that: "The top of Mt Elgon is not sufficient land for us. We do not like the cold. It is our country. You are in a position to grant us land. We want a country where we can make our shambas and grow our food. This country is very small."

In response to their request for more land, the provincial administration had recommended that some 80,000 acres on the slopes of Mt Elgon behind and above the forest reserve, which the Elgony occupied, be granted to them. But the Carter Commission recommended that the moorland area, measuring only 40,000 acres in addition to the area already occupied by the Sabaot, be set aside for them.

That brought the total area to be set aside for the exclusive occupation and use by the Sabaot to 80,000 acres. This recommendation marked the beginning of the Sabaot land problem, which persists to date and which was exploited by politicians and the Sabaot community at the introduction of multi-party politics in Kenya.

According to the Sabaot, the recommendation of the Carter Commission was never considered when the government finally acquired and turned certain former white settler farms in Trans Nzoia into settlement schemes open to all Kenyans to purchase. The Sabaot, even today, view the farms in Trans Nzoia as part of the 80,000 acres which the Carter Commission had proposed should be set aside for their exclusive use and occupation in compensation for the land they lost to the white settlers in Trans Nzoia.

The Sabaot still resent the presence of the non-Sabaot who have purchased land in the area, and whom they accuse of having taken their ancestral land, leaving many of them either landless or confined to the mountainous area.

Prior to the introduction of multi-party politics, the Bukusu and the Sabaot in Mt Elgon region appear to have been united in the choice of their member of Parliament. Wilberforce Kisiero, who was the member of Parliament for Mt Elgon Constituency for along time, is a Sabaot. He told us that most of his supporters were the Bukusu and, indeed, the Bukusu witnesses who appeared before us told us that they usually voted for him during parliamentary elections.

This was clear evidence that ethnicity was not a serious issue prior to the introduction of multi-party politics. However, upon the introduction of multi-party politics, things changed, with the different ethnic communities supporting political parties along ethnic lines. The Sabaot already remained in the ruling party, Kanu. According to Wilberforce



Kisiero and the Bukusu witnesses, some of the Bukusu still voted for him in the 1992 multi-party elections in spite of the clashes that occurred in 1991 and 1992.

The late Masinde Muliro, a respected Bukusu elder and politician, was one of the founders of the opposition Ford political party which subsequently split into the Ford Kenya and Ford Asili Opposition political parties. Most of the Bukusu and especially those in Trans Nzoia, where Muliro lived, identified themselves with Ford Kenya. The Teso also did the same, while the Kikuyu identified themselves with either Ford Asili or the Democratic Party of Kenya, both of which were headed respectively by Kikuyus, Kenneth Matiba and Mwai Kibaki.

The Sabaot, being Kalenjin, considered themselves members of the ruling tribe and saw the introduction of multi-party politics as a threat to the presidency, which had to be resisted at all costs. They threatened all the non-Sabaot living in the area with eviction should they not support Kanu. The Sabaot brutally attacked the Bukusu, the Teso and the Kikuyu, set their houses on fire, killed or maimed them and drove away their cattle.

The purpose of all this was to drive them out of Mt Elgon sub-District in order to facilitate the creation of an exclusive Sabaot District so that come the 1992 General Election, the Sabaot could vote as a bloc for Kanu.

As mentioned earlier, the creation of an exclusive Sabaot District is a desire the Sabaot had held as far back as 1932. In paragraph 1081 of the report of the Carter Commission, appears the following confirming observation:

"The Elgony desire a country of their own, but it is hardly possible to consider these claims to a vast area of country for the exclusive use of a small and possibly dying tribe."

But finally, the Sabaot partly realised their dream in 1994 when the new Mt Elgon District was hived out of Bungoma District.

We shall now proceed to examine the clashes that took place in the divisions of Western and Nyanza provinces.

KAPSOKWONY DIVISION

Kapsokwony Division, which is next to Trans Nzoia District in the Rift Valley Province, is inhabited by the Sabaot, the Teso and a few Kikuyu traders. Prior to the outbreak of clashes in this division, tension was high and the Sabaot were hostile towards the non-Sabaot for their support of the opposition political parties.

The Sabaot were reported to have threatened to drive away the Bukusu from the area, stretching from Chwele Location, then in Sirisia Division of Bungoma District, to Saboti Division in Trans Nzoia District. The Bukusu, in response, threatened to drive away the



Sabaot to Uganda where their brothers, the Sebei, lived, should Masinde Muliro become President.

This increased the Sabaot fear of being further marginalised and they intensified their demand for a new district of their own, in which they hoped to live without the other tribes. Barazas addressed by the local district commissioner did not ease the tension and the situation remained explosive. The Sabaot, on removing the supporters of multi-party politics from the area so that during the 1992 elections they could all vote as a bloc for Kanu, then exploited the already existing disagreements to start the clashes.

On the night of December 25, 1991, the clashes which had already started in neighbouring Trans Nzoia erupted in Kapsokwony Division. The Sabaot, who were the majority there, armed themselves with bows and arrows, spears and other weapons and attacked the Bukusu and the Teso living in Chesito and Kaboyuo, burnt and looted their houses and stole their cattle. The Bukusu and Teso fled to Kimilili trading centre where about 500 Bukusu families camped.

The then Officer Commanding the Kimilili Police Station, Chief Inspector David Rono, who has since retired, and who appeared before the Judicial Commission, told us that he received information of the attack at 8 pm and left for Kapsokwony at 10 pm with 15 men and that because of the bad road, it took them two hours to reach their destination which was only 30 km away.

He, however, did not explain why it took them two hours to leave the police station. We got the impression that either his police station was not on the alert to attend an emergency or being a Kalenjin, like the Sabaot, he did not care about what happened to the non-Sabaot and that is why they took so long to leave the police station.

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Such information could easily have been obtained from the chief, assistant chief or village elders of the area but Rono unbelievably said that he did not look for them. The fact that it was the non-Sabaot and not the Sabaot who had fled is sufficient evidence that it was their houses which had been burnt down by the Sabaot, a fact that Rono knew but did not want to admit.



On December 28, 1991, 10 houses were burnt at Kaptamaa village, in Kaptamaa sub-Location of Kaptamaa Location which is at the border with Trans Nzoia District where houses were also burning. Once again, Rono did not bother to investigate who had burnt down these houses and told us that since the Sabaot and the Bukusu lived in the area, the houses that were burnt must have belonged to people from both at tribes.

He had no evidence whatsoever to support that finding which again cannot be true because it was his evidence that it was the Bukusu and Teso who had fled, and which obviously meant that they were the ones who had been attacked. At 7.30 pm the same evening of December 28, 1991, a Sabaot, Martin Chesebe, was found dead and the Sabaot, suspecting that he had been killed by the Bukusu in revenge, burnt more Bukusu houses in Kapromo in Kaptamaa sub-Location for quite a while.

By the end of December, 1991, one week after the clashes began, in Kapsokwony Division, David Rono and his men arrested a total of 88 people; 72 of them were Sabaot which was a clear indication that the Sabaot were the aggressors. Since all these people were too many to be held at Kimilili Police Station, Rono handed them over to the Officer Commanding the Police Division at the larger Bungoma Police Station where they were to be held.

It did not come as a surprise to us when Rono told us that neither himself nor any of his men made any statements concerning the arrest of these 88 people. This deliberate failure to make any statement or entries of the arrests made it possible for all those arrested, nearly all of whom were the Sabaot, to be set free without being charged.

We were also, at the close of his testimony, left in no doubt that David Rono had more useful information which he deliberately withheld from us. There is no doubt that he appeared before the Judicial Commission to protect the Sabaot who, like him, are Kalenjini. He was also clearly partisan during the clashes and his role should be investigated with a view to his being charged with aiding and abetting the clashes.

By January, 1992, the clashes in Kimilili Location had subsided but even now, many clash victims are too afraid to go back to their farms; they also need money to help them resettle on their farms. We would like to suggest that the government should help them financially to resettle on their farms and to evict the Sabaot who are now illegally occupying them.

CHEPTAIS DIVISION

Prior to the outbreak of clashes, the present Kopsiro Division was one of the locations in Cheptais Division with the following sub-locations: Kapkateny, Chelebel, Teremi and Chepyuk/Chepkurkur. With the elevation of Kopsiro Location to a division after the



clashes, Kapkateny, Chelebei and Teremi sub-Locations became locations. The tribal clashes of 1992 affected the whole of Cheptais Division.

The inhabitants of Cheptais Division were mainly the Sabaot who considered themselves the original inhabitants of the division, and the Bukusu and the Teso. The clashes in this division were between the Sabaot and the Bukusu together with other non-Sabaot tribes.

But before we deal with the clashes themselves, it is important that we examine the existing land problems in the division prior to the outbreak of the clashes in 1992 because as was the case in the other places that we have dealt with, it was one of the existing problems which upon the introduction of multi-party politics in the country, was exploited to start the clashes in this Division.

As at 1991, when clashes broke out, many of the non-Sabaot held individual titles to land purchased by them. Those who had not obtained their title deeds held some documents to show the number of the land they owned. The Kikuyu, on the other hand, who were mainly small businessmen, were to be found at trading centres in the Division. Some of them, though, rented farms from the Sabaot for specified periods.

But like other tribes which lost land to the white settlers, the Sabaot had all along wished to recover whatever land they lost to the white settlers in areas like Trans Nzoia District and so complained that such land has been unfairly given out to the non-Sabaot whom they referred to as outsiders, without giving them the first option.

The Sabaot felt that the constitutional provision which allowed any Kenyan to own land in any part of the country did not favour them because it enabled outsiders who were richer than them to purchase their prime land and to live amongst them. That notwithstanding, these tribes prior to the clashes co-existed peacefully and neither were the non-Sabaot evicted from the area nor their houses burnt.

In 1991, things changed with the clamour for multi-party politics and the accompanying inflammatory utterances by politicians, which incited the Sabaot to violence. Initially, the Bukusu and the Teso in Cheptais Division appear to have continued their support for Kanu.

However, as proponents of multi-party politics from the neighbouring Trans Nzoia District preached their gospel in Cheptais, the Sabaot could no longer trust the Bukusu at Cheptais to support Kanu. This brought about tension between the Sabaot and the non-Sabaot living in the area. The fact that the Bukusu had also fenced in their pieces of land angered the Sabaot who accused the Bukusu of denying them grazing rights on their ancestral land.



The Sabaot made many bows and arrows and attacked any Bukusu they met. The rustling of Bukusu cattle by the Sabaot became the order of the day.

In addition to all this, there were some landless Sabaot living in forest reserves in Mt Elgon. Other Sabaot who had sold their land had moved into the same forest reserves in the hope of being settled by the government on some of the ADC farms in Trans Nzoia District. Then sometime in 1991, when the government ordered them out of Chebyuk and Kiborwa forest reserves or risk eviction, the Sabaot threatened that should they be evicted from these forest reserves, they would drive out the non-Sabaot from their farms and settle on them.

This, and the news coming in, in the latter part of December, 1991, of tribal clashes in Trans Nzoia District and Kapsokwony Division, created a lot of tension in Cheptais. During the month of February, 1992, about 10,000 Sabaot were evicted from Kiborwa and Chebyuk forest reserves and word went round that all the non-Sabaot must leave to make room for the landless Sabaot who had been evicted from the forest reserves.

The rustling of the Bukusu and the Teso cattle became more prevalent. The early part of 1992 also witnessed isolated burning of houses belonging to the Bukusu in Chesikaki Location of Cheptais Division. This burning of houses and cattle rustling continued up to April, 1992, when the situation became explosive. In response to the lawlessness that then prevailed, all the district officer in the division did was to hold several useless barazas at which he asked the warring unities to live in peace.

On April 5, 1992, the clashes began in earnest when groups of Sabaot warriors descended from the mountain and attacked non-Sabaot living in the entire mountain region. On April 7, 1992, in retaliation, a group of the Bukusu invaded the homestead of Robert Saima, a Sabaot, whom they had suspected of masterminding the Sabaot raids on them, and stole his cattle.

On April 11, 1992, the Sabaot, in revenge, and armed with bows and arrows, spears and guns descended at 4 am on the homestead of Joash Kibaba, a Bukusu, living at Kimabole Village, where they shot him dead and stole his cattle, and as they went away, attacked, killed or maimed any Bukusu that they came across, and burnt down their houses.

The Bukusu, on their part, did not take this lying down. The next day, April 12, 1992, a group of the Bukusu from Kimabole and armed with bows and arrows and home-made guns, raided the home of Psongoiwo, a Sabaot, and killed Kitelie Psongoiwo, a member of his family. During this encounter, a Bukusu, Franco Nicola, was also killed. The inflamed Sabaot continued burning the houses of the Bukusu in the whole division



and stealing their cattle and the Bukusu, fearing for their lives, fled to and camped at Sirisia trading centre in the nearby Sirisia Division.

While the Bukusu were away, the Sabaot looted their abandoned houses, set them on fire and stole their livestock. The response of the provincial administration was to call more and more futile barazas and stress the importance of living peacefully.

Although the provincial administration asked the Bukusu to return to their farms, the it made no effort to assist the Bukusu in resettling back on their farms or to provide security for them. Some of them who tried to go back to their farms were attacked. It took some two weeks for some of the Bukusu to return to their farms and some two years for others. Some have not gone back.

Although there is a police post in Chesikaki, no arrests were ever made. An example of a Bukusu who found herself in this predicament was Susan Nakhumicha Wamalabe who had bought a piece of land from Clay Masai, a Sabaot, and which was even registered in her name. She was driven away from the land during the clashes and is now camping at Kapkateny trading centre.

Mulwa Benjamin Clay Masai, the son of the vendor, has illegally settled on her land and has threatened to kill her if she tried to return to that land. Susan Wamabale is a living example of what many more non-Sabaot clash victims went through in the whole of Mt. Elgon and Trans Nzoia region. We have no reason to disbelieve what Susan Wamalabe told us and are of the view that Mulwa Benjamin must have taken part in, or at least, taken advantage of the clashes and is at the moment in illegal occupation of Susan Wamabale's land. He should be investigated for this.

Chelebei was one of the sub-locations in the old Kopsiro Location of the old Cheptais Division. Chelebei is now a location in the new Kopsiro Division. At the time of the clashes, Chelebei sub-location was inhabited by the Sabaot who were in the majority and by the Bukusu and the Teso.

As was the case in Cheptais Division, at the introduction of multi-party politics, the Sabaot were angered by the fact that the Bukusu did not support Kanu. They felt that the Bukusu lived on what they considered Sabaot land and, therefore, should support Kanu. They were easily irritated whenever the non-Sabaot flashed at them the two-finger opposition salute and claimed that Bukusu were doing so to provoke them. They wanted the Bukusu out of Mt Elgon, which was then a sub-district of Bungoma District and which they had declared to be a Kanu zone.

At Chelebei village in Chelebei sub-location too, the clashes started on April 5, 1992, with the false rumour, which may or may not have been deliberate, that either, the assistant chief of Chelebei sub-location, Simon Kimutai, a Sabaot, or his brother, Robert



Chenge, had been killed by the Bukusu at Chelebei to avenge the death of the many Bukusu alleged to have been killed by the Sabaot in Trans Nzoia District in the clashes which had started there in November and December 1991.

In fact, it was another brother of the assistant chief, Oponyo Chenge, who had been killed by unknown persons in Chelebei village, after a drinking party in a certain homestead. However, the false rumour which had started at Chelebei village moved like bush fire throughout the location and indeed the whole division and increased the anxiety and tension which had been created by the introduction of multi-party politics in the area.

In the same afternoon, after the burial of Oponyo Chenge in Chelebei sub-location, the Sabaot youths in the sub-location to avenge the murder of Oponyo Chenge, armed themselves with bows and arrows and spears, and attacked the Bukusu in the sub-location and set their houses on fire. One of the witnesses who appeared before us, Nathan Bwomnji Kirui, a retired Sabaot chief, who was in office at the time, met the armed Sabaot youths on their way to attack the Bukusu but did not stop them from going to attack and burn the houses of the Bukusu, or arrest any of them or report the matter to the police.

He was a Sabaot, and he must have approved of the intended actions of the armed Sabaot youths. He must be investigated to establish his role in the clashes with a view to dealing with him according to law. In the evening, the Sabaot in Kapkateny sub-location of Cheptais Division attacked the non-Sabaot at Toywaridet and set the house of one Alwala, a Luhya, on fire.

The non-Sabaot, who were mainly Bukusu, fled the area and Alwala, though a Luhya, but not a Bukusu, also fled never to return. Tension remained very high in Chelebei and Kapkateny sub-locations of Cheptais Division.

The burning of Bukusu houses went on for one week despite the presence of security officers from the Kimilili and Bungoma Police Stations and the Kopsiro police post. We received evidence to the effect that whenever the security forces saw the Sabaot youths burning Bukusu houses, they would only shoot in the air which did not deter them from burning the houses. The burning of houses only stopped when the General Service Unit personnel were sent to the area and even then, they too, were very restrained and only fired shots in the air.

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obody was arrested, but the burning somehow subsided. During this violence, some of the Bukusu fled and camped at Chelebel trading centre and others fled to



Namwela and Kikai sub-locations down the mountain where other Bukusu lived. After the Bukusu ran away, their houses were looted and those still intact were set on fire.

Any cattle left behind were taken away. After the burning of houses had stopped, another Sabaot, Arap Kitesheni, was found lying dead in Chelebei sub-location. Those who killed him were not known, but because of the hostility between the Bukusu and the Sabaot in the area, the Sabaot accused the Bukusu who were camping at Chelebei trading centre of killing Arap Kitesheni.

This led to the burning of more houses in the location and by this time, the clashes had already spread into the neighbouring Kapkateny Location.

The inhabitants of Kapkateny Location and sub-location were the Sabaot, the Bukusu, the Teso and the Kikuyu. Apart from the prevailing tension in the Mt Elgon region due to the introduction of multi-party politics, the clashes in Chelebei sub-location affected those who lived in Kapkateny Location.

The Sabaot accused the Bukusu, who they said did not even belong to the Mt Elgon region, of having taken over their land after the white settlers left and by doing so, had confined the Sabaot to the upper realms of the mountain. The Sabaot also told the non-Sabaot that since they supported Opposition political parties, they would soon have to leave and go away. Under these circumstances, fighting between the Sabaot and the Bukusu together with the Teso and the Kikuyu erupted quite easily.

Again on April 5, 1992, at night, a group of Sabaot warriors came down the mountain and set on fire houses belonging to the non-Sabaot. Some of the arsonists went to the home of Leonard Ochokolo Olekete, a Teso, who recognised among them his neighbours Kwako Kisimani, Kwarati Kisimani, Chambu Mustuni, Chebure Shongoi and Chirono Mustuni.

These arsonists went round burning houses of the Bukusu. Some of the Bukusu and the Teso fled and camped for a week at Chesikaki in Bungoma District which was 10 km away; about 200 non-Sabaot families with their livestock camped at Chebich market in Kapkateny sub-location and were later joined by some of those who had fled to Bungoma.

Cattle-rustling remained very high as the burning of houses continued despite the presence of security personnel in the area who did not appear interested in apprehending anybody.

One night towards the end of April, 1992, a group of Sabaot men armed with bows and arrows, spears and guns, attacked the homestead of a Teso, Otwani, killed his wife and drove away his cattle. A group of non-Sabaot, armed with pangas and clubs, pursued the Sabaot raiders. In the course of this, Richard Otwani, a Teso, whose mother had just been



killed, was also shot and killed by the Sabaot raiders. The non-Sabaot realising that the Sabaot raiders were heavily armed retreated and at about 5 am reported the incident to the GSU at their camp at Kapketeny which was five km away. The response of the GSU officers who were well aware of the on going clashes, was most suspicious.

Instead of immediately going after Sabaot raiders, they did nothing until 11 am the following day by which time the Sabaot had had enough time to escape. No arrests were made and no cattle recovered. But one of the non-Sabaot, Leonard Ochokolo Olekete, told us that as they pursued the Sabaot raiders up hill that night, he heard the voice of Joseph Chemutai, a Sabaot home guard, among the raiders. Though Joseph Chemutai was later arrested in connection with the raid and the death of Otwani's wife and son, he was later released.

We received evidence that the regular and the Administration policemen together with the GSU men, did not do anything seriously to stop the clashes and cattle rustling or to recover guns, which were illegally in the hands of the Sabaot or which the Sabaot home-guards used in terrorising the non-Sabaot. It was not until the army came to the area and went up the mountain and recovered many guns from the Sabaot, that the clashes in Kapkateny Location was brought to an end. If only the army had been deployed in the area immediately the clashes began, the clashes would have been brought to a rapid conclusion.

SIRISIA DIVISION

The clashes in Sirisia Division took place in Chwele Location which has since been elevated to a division. At the time of the clashes, the Bukusu lived on the slopes of Mt Elgon together with a few Sabaot, while the majority of the Sabaot lived up the mountain as well as in the forest up the mountain.

A few Teso lived on land bought from either the Bukusu or the Sabaot. Like in Cheptais, most of the Bukusu and the Teso identified themselves with Ford Kenya, while the Sabaot were in Kanu. By early January, 1992, tension had already built up between the Sabaot and the non-Sabaot in Chwele Location because of the clashes that had taken place in Trans Nzoia District and in Kapsokwony and Cheptais Divisions and from where the non-Sabaot had been driven away.

In February, 1992, the Bungoma district commissioner, Changole, and a Kalenjin to boot, addressed several barazas, warning people against joining Ford Kenya political party without first finding out what it was all about. He was clearly warning them against joining Ford Kenya and by the same token giving a broad hint that those who attacked the supporters of Ford Kenya would have his support.



This, but not surprising act, having regard to the fact that Changole was not only a Kalenjin, but also a senior member of the provincial administration helped to build up tension between the Sabaot and the non-Sabaot. If Changole is still in the provincial administration, then he should be investigated with a view to being disciplined.

On April 5, 1992, which seems to be the date chosen by the Sabaot to launch their attacks on the non-Sabaot in Western Province, the Bukusu who lived together with the Sabaot up the mountain and who were accused of supporting Ford Kenya, were attacked by the Sabaot, who burnt their houses, stole their cattle and drove them down the mountain to where the other Bukusu lived.

They were told to go back to Bungoma if they did not want to support Kanu. The Bukusu, who lived downhill, in revenge, attacked the Sabaot who lived among them, and burnt their houses. The Sabaot fled and joined the Sabaot up the mountain. The clashes in Sirisia Division had begun.

In the evening of the same day, at about 7 pm, the Sabaot came down the mountain and attacked the Bukusu who lived in Lukhome village in Mukuyuni sub-location. During this attack, the Sabaot drove away a herd of 20 cattle belonging to Ainea Mumiukha, a Bukusu. The following day, some 34 Bukusu and four policemen went up the mountain in an attempt to recover the cattle stolen the previous night.

On the way, they met other policemen from Kipsiro Police Station, who had recovered some other cattle which they were asked to escort to Kipsiro Police Station. On the way to the police station, they were attacked by the Sabaot who shot and injured a Bukusu in their group. This happened at noon, in broad daylight, and all that the four policemen who were with the Bukusu did was to shoot in the air, a clear indication that they were not interested in arresting the Sabaot. Bukusu houses were burnt in each incident of cattle rustling and the Bukusu retaliated by burning houses of the Sabaot living among them.

On April 14, 1992, a large group of the Sabaot, with about 10 of them armed with guns and the rest armed with bows and arrows and spears, again attacked Lukhome village, stole another herd of 20 cattle and burnt Bukusu houses as they went away. This time, 10 policemen accompanied the Bukusu in tracking the stolen cattle. Surprisingly, the policemen told the Bukusu to lead the way as they followed at a safe distance.

Later when they saw the armed Sabaot with the cattle going up the mountain, the policemen, after shooting in the air, called off the pursuit, saying the Sabaot were armed with better weapons than they had. That day, the Sabaot also killed a Teso at Lukhome market, looted all the shops there and burnt more houses as they went away. Isolated cases of cattle thefts by the Sabaot continued for the rest of the month of April, 1992.

During the month of May, 1992, the Sabaot again attacked



Lukhome village, killing a Teso woman and her son. They also killed at Lukhome market, a Teso mechanic, George Olekete, who had gone there to repair a posho, mill belonging to a Bukusu. In retaliation, the Bukusu burnt the houses of the Sabaot in the area and who fled up the mountain to join the Sabaot there. These attacks continued on and off, until August, 1992, when about 100 Sabaot men, armed with bows and arrows, attacked Lukhome village once more and stole many cattle belonging to one Kituyi Mukhim. This time round, the policemen who had been deployed in the area attacked and killed one Sabaot but made no arrests in this encounter which left six Bukusu injured.

After this incident, more policemen were deployed in the area and there was no more trouble. However, the Bukusu who had been driven from their farms up the mountain felt too insecure to ever go back there. Some of them sold their farms to the Sabaot at throw away prices, while the farms of those who did not find buyers have been taken over by the Sabaot who now live and work on them.

Although this is common knowledge, the provincial administration in conjunction with the police have made no effort to assist the clash victims to resettle on their farms and no trespassers have been arrested and prosecuted. In the meantime, the Bukusu remain landless with some of them still living in camps and at trading centres. The provincial administration and the police should now take appropriate steps to prosecute those who have committed criminal trespass.

ENDEBESS DIVISION

The tribal clashes in Trans Nzoia District affected Kwanza, Endebess, Cherangani and Saboti divisions which was a settlement area and part of the former White Highlands. The original inhabitants prior to colonial intervention were the Ndorobo, the Sabaot, and the Suk who were, subsequently, as a result of the Crown Lands Ordinance of 1915, and in order to make room for white settlement in Trans Nzoia District, moved into Mt Elgon forest reserve and the North and South Kitosh Locations in North Kavirondo reserve.

Due to economic pressure and overcrowding in the reserves, some of the Bukusu, the Teso, and even the Luo from the North Kavirondo and the Central Kavirondo reserves, migrated to Trans Nzoia where they provided cheap labour on European farms and lived on portions of such farms set aside for them as squatters.

At independence, and as was done in other parts of the country, the government purchased some of these farms through State corporations like the Agricultural Development Corporation and Settlement Fund Trustee, some of which they sold to individuals who were not necessarily resident in the area but who could afford to buy them, and some to co-operative societies, most of which were formed by the squatters



who were not necessarily all from the same tribe. This is how the Bukusu, the Teso, the Turkana, the Kikuyu and other non-Sabaot came to be settled in Trans Nzoia among the Sabaot who were in the majority.

Whilst individual purchasers of farms had their individual title deeds, the co-operative societies held block titles to the purchased land and in some cases, although surveys of individual plots had taken place, individual titles had not been issued. That notwithstanding, every member of a co-operative society held some document to show which land he owned. At the time of the clashes, Trans Nzoia was the home of the Sabaot and non-Sabaot communities already enumerated, who had all purchased land in the area.

Endebess Division had many farms, among them Sabaot Co-operative farm otherwise known as John Power farm, which was inhabited by the Sabaot, the Bukusu, the Teso and a few Kikuyus; Mango farm otherwise known as River Bank farm which was inhabited by the Sabaot, the Bukusu and the Teso and Matumbei; farm otherwise known as Bunyala farm which was inhabited by the Sabaot, the Bukusu and the Teso. A fourth farm, Basala farm, was exclusively inhabited by the Bukusu. These four farms, among many others in the division, were affected by the tribal clashes of 1991 and 1992 which were between the Sabaot on one side and the Bukusu and other non-Sabaot tribes on the other.

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Indeed, the various tribes co-existed and interacted reasonably well and there were cases of inter-tribal marriages. But the introduction of multi-party politics marked a turning point in the lives of these people who had otherwise lived here relatively peacefully.

The Sabaot, like other Kalenjin elsewhere, were opposed to the introduction of multi-party politics in the country and particularly in Trans Nzoia District. They saw it as a threat to the presidency and this they had to resist at all costs. The declarations made at the Kapkatet and Kapsabet Kanu rallies, held on and September 7 and 21, 1991, respectively by Kanu leaders from the Rift Valley Province, that the Rift Valley Province belonged to the Kalenjin, and that the other tribes living there should go away immediately placed the future of the non-Sabaot living in Trans Nzoia in jeopardy. They



were also seen as political enemies of the Sabaot who warned them to either support Kanu or risk eviction from the area.

Masinde Muliro, lived in a farm in Trans Nzoia and the Bukusu there supported him politically and joined the Opposition party which he had helped to establish. This angered the Sabaot who felt strongly that all the non-Sabaot who lived in Trans Nzoia, which was the ancestral land of the Sabaot, like them, should support Kanu and no other party. In order to achieve this, the Sabaot exploited their long time desire to drive out the non-Sabaot from Trans Nzoia and the Mt Elgon region as a whole and to reclaim the land they had lost to the white settlers.

Politicians played a big role in inciting the Sabaot against the other tribes in the area. Kanu political rallies like the Kapsabet and Kaptatet rallies were convened and at which politicians made inflammatory speeches, which served to increase the tension that was already building up between the different communities in the area.

Kalenjin Cabinet ministers at these rallies and other Rift Valley politicians resolved to support the re-introduction of the majimbo system of government to counter the demand for multi-party politics. They also said that when the majimbo system of government was introduced, every non-Kalenjin would be required to move out of the Rift Valley Province back to their places of origin.

It was further declared at these rallies that the Rift Valley Province was a Kanu zone and any supporter of multi-party politics, if seen in the Rift Valley Province should be beaten and driven away. Masinde Muliro was ordered out of Trans Nzoia to Bungoma where most of the Bukusu lived.

At the Kapkatet rally Christopher Lomada, then assistant minister for Culture and Social Services, menacingly warned Masinde Muliro, that if he did not change heart and support Kanu and dared to set foot in any part of Trans Nzoia, the Pokot would deal with him. The late Chepkok, at the same meeting, urged the people of the Rift Valley Province to arm themselves with bows and arrows and clubs and to destroy any Ford party member on sight.

The leaders accused all the non-Kalenjin living in the Rift Valley of having taken land which belonged to the Kalenjin and ordered them to leave the province and return to their own districts. Pronouncements made at these Kanu rallies were widely reported via the electronic and print media and, considering what followed thereafter, on the various farms in the Trans Nzoia District, they must have been taken seriously by those who heard and read them, including the Sabaot.

The clashes broke out on the night of December 16, 1991, on Sabaot Co-operative farm and spread to Mango and Pole farms in Endebess Division. By December 25, 1991,



the clashes had spread to Cherangani and Saboti divisions and spilled over next door, into Kapsokwony Division of Mt Elgon District, but which then was a division of Bungorna District in Western Province. During the months of March and April, 1992, Kwanza Division and the remaining farms in Saboti Division experienced the clashes.

Text f=Times Ten Roman s=8.75 w=8 l=9.25 Dropcap leader f=FranklinGothic No.2 d=6,6 S f=Times Ten Roman s=9.5 w=9 l=10 Text f=Times Ten Roman s=8.75 w=8 l=9.25 abaot Co-operative farm is in Endebess Division. Because of the financial difficulties of its owner, the ADC repossessed the farm in 1984 and sold it to the Sabaot Farmers Co-operative Society which consisted mostly of the Sabaot, some Bukusu and Teso and one Kikuyu who had all lived on the farm since 1974. The different tribes lived and worked without any crucial problems on their respective sub-divided farms until the end of 1991, when tension began building up between the Sabaot and the non-Sabaot in the whole of Mt Elgon region.

The Sabaot claimed that since they were the indigenous inhabitants of the Mt Elgon region, all the non-Sabaot living there, and who favoured the introduction of multi-party politics, should leave and go. According to William Omuse Osuru, a Teso, who gave evidence before the Judicial Commission, the inflammatory utterances made by the Kanu politicians at the Kanu majimbo rallies, declaring the Rift Valley Province a Kanu zone, were constantly repeated by the Sabaot who had been incited into believing that they had sold their land cheaply to people who would not even reciprocate by supporting Kanu.

The non-Sabaot, therefore, had to be driven out of the area without further delay. The electoral rule which required that a successful presidential candidate should garner 25 per cent of all the votes cast in at least five provinces in the country, compounded the problem as the Sabaot felt that this favoured the non-Sabaot in the area who were in the Opposition and who would not vote for the Kanu presidential candidate.

All these factors were exploited so that the non-Sabaot could be evicted from the Endebess Division before the 1992 elections so as to enable the Sabaot to vote as a bloc for Kanu.

The period preceding the clashes, that is 1990 and 1991, saw an increase in cattle rustling on the farms by the Sebei from Uganda and the Sabaot and which made it unprofitable for the Bukusu and the other non-Sabaot to keep any cattle.

This period also saw an influx of the Sebei who Wilberforce Kisiero said were the descendants of those who had been pushed into Uganda by the colonialists to make room for the white settlers, into Mt Elgon Sub-District to live with their relatives. Other Sebei bought land in Trans Nzoia District. It is believed that these Sebei returnees from Uganda



smuggled in firearms which the Sabaot used during the clashes to drive out the Bukusu and the other non-Sabaot from Trans Nzoia and the Mt. Elgon region.

William Omuse Osuru further told us that apart from Wilbeforce Kisiero, the other Sabaot who also preached that non-Sabaot who were unwanted blemishes, madoadoa, should be kicked out of Endebess Location were Councillor William Chebus Tumwet, John Ngeiywo, Dismas Chemwolin. William Omuse Osuru also told us that several days before outbreak of fire in Sabaot Co-operative farm, a Sabaot, Dismas Chemwolin, who must have known about the intended attack, had warned him to leave the farm as non-Sabaot would be driven away and their houses burnt.

Then at night, on December 16, 1991, a group of the Sabaot armed with bows and arrows and guns attacked the non-Sabaot on the farm, set their houses on fire and drove their cattle away. During the attack, a Bukusu, Ronald Simiyu Wapang'ala, was shot dead with arrows and his body burnt in the home of his Sabaot neighbour, Benson Chilia, where he had gone to seek refuge.

William Chebus Tumwet then repossessed the farm which he had sold to Ronald Wapangala, and sold it to someone else. William Chebus Tumwet conceded before the Judicial Commission that after repossessing the farm, he had refunded the purchase price to the sons of Ronald Wapangala. The sons of Ronald Wapangala did not appear before us, but what is clear to us is that William Chebus repossessed the farm in order to ensure that the sons of Ronald Wapangala who, like their father were Bukusu, did not resettle on the farm. The circumstances under which William Chebus repossessed the farm land should be investigated.

Following the violence that was unleashed upon them on December 16, 1991, the non-Sabaot fled the Sabaot Co-operative farm to Endebess trading centre where they camped for several weeks until they were forcibly dispersed by the provincial administration who wanted them to go back to their farms, without putting in place any security arrangements to ensure their safety.

Most of them, therefore, moved to Halwenge farm in the same location where they purchased farms on which they live up to now. Some of them moved out of the location completely to live with relatives and friends in Bungoma District and other places.

The clashes continued into the early part of 1992, during which, all houses on the farm belonging to the non-Sabaot were burnt and their cattle forcibly taken away by the Sabaot. All the non-Sabaot fled the farm never to return. The Sabaot then moved in and occupied those farms, having achieved what they wanted, that is, to rid the farm of all the non-Sabaot so that there would be no supporters of opposition political parties to come the 1992 elections.



Some of the non-Sabaot were forced to sell their farms to the Sabaot at throw-away prices. The farms of the others who were unable to sell them have either been settled on by the Sabaot or are being used for the grazing of the livestock of the Sabaot.

Mango farm, which was also known as River Bank farm, and which belonged to Mwangi Kabure, a Kikuyu, was next to Sabaot Co-operative farm. There lived on part of Mango farm as squatters, the Sabaot, the Bukusu, the Teso, the Kikuyu and a few Turkana who when they learnt that Mwangi Kabure was planning to sell the farm, formed a Co-operative Society known as Namutokholo Farmers Co-operative Society with a view to buying the farm.

Some other people, who were all Bukusu but who were not squatters on the farm, formed the rival Mango Farmers Co-operative Society and moved into the farm. This obviously caused tension between the members of the two co-operative societies which was intensified with the introduction of multi-party politics as the Bukusu were seen to be anti-Kanu.

Because of this, the houses of some of the Bukusu were burnt on November 12, 1991, and on the night of December 16, 1991, the burning of houses which had started on the neighbouring Sabaot Farm spread to Mango farm where many more houses belonging to the Bukusu and the other nonSabaot were burnt.

On December 24, 1991, the Sabaot, armed with bows and arrows, spears and guns, invaded the farm and burnt all the remaining houses belonging to the non-Sabaot and drove them out of the farm.

The Sabaot, being the only ones then alone on the farm, formed the Moso Farmers' Co-operative Society and purchased the farm, which has now been renamed Mosop Farm.

A group of the Sabaot and the Bukusu formed a co-operative society which purchased 40 acres of land from Francis Malova which they named, Pole Farm and which was next door to Mango farm. Prior to the outbreak of clashes on this farm, leaflets had been circulating, warning the non-Sabaot that they would be attacked before December 25, 1991, because they did not support Kanu.

John Wekesa Nandasaba reported these threats to Frederick Kalombo, the Officer Commanding the Endebess Police Station who promised to take action, but did nothing to prevent the attack. The burning of the houses of the non-Sabaot on Mango farm on the night of December 16, 1991, spread to Pole farm and on December 17, 1991, at 7 am, four groups of organised Sabaot youths armed with bows and arrows and guns, in red or black shorts, with head bands around their heads, and their faces and bodies smeared with clay to conceal their identifies, crossed into Pole farm, burnt houses of the non-Sabaot



and stole their cattle. The non-Sabaot victims fled to Endebess town where they joined other clash victims who were camping there.

On December 27, 1991, there was yet another attack on Pole farm and many more houses of the non-Sabaot were burnt. The remaining non-Sabaot then fled and joined those who were camped at Endebess town. The original owner of the farm, Francis Malova, has since sold a portion of the same Pole farm to some Sabaot leaving only 10 acres on which the non-Sabaot clash victims who returned to the farm, are now living. The victims have since filed a complaint with the District Officer at Endebess Division which has yet to be resolved.

In 1991, there were farm labourers who were all non-Sabaot, and who worked and lived on Chorlin ADC Farm. Sometime between December 26, 1991, and the early part of 1992 at 9 pm, Sabaot warriors armed with bows and arrows and guns invaded the farm, attacked the labourers and-demolished their houses.

In the ensuing gunfire, the Sabaot shot a Bukusu and, by mistake, shot and killed one of their own. Upon this happening, the attack ended abruptly. This incident was reported at the Endebess Police Station which was only 3 km away, but the police did not come to the farm until the next day, when they recorded statements and left.

The Officer Commanding Police Division at Kitale and the District Commissioner of Trans Nzoia brought a lorry full of policemen who patrolled the area, but surprisingly, no arrests were made.

The clashes continued to spread within the division and the Bukusu fought back. And so by the early part of 1992, houses of both the Bukusu and the Sabaot had been burnt on Koibei, Kaboyuo, Chernkengen, Matumbei and Quintin farms which were predominantly occupied by the Sabaot, and on Salama, Basale, Nalulingo, Gatatha and Namwichule, farms which were predominantly settled by the Bukusu community.

However, the Judicial Commission did not hear any detailed evidence regarding the clashes on these farms except that on each of them, it was the non-Sabaot, mainly the Bukusu, that were attacked and killed or maimed, and driven out of their houses which were, thereafter, looted and set on fire and their cattle stolen.

CHERAANGANI DIVISION

Cherangani Division was inhabited by the Bukusu and the Sabaot. On December 24, 1991, clashes broke out on Kelchinet and Kelemai farms, which were both, occupied by the Bukusu and the Sabaot. The fighting continued until December 31, 1991, by which time, all the Bukusu had fled the two farms.



SABOTI DIVISION

The clashes in Saboti Division began on December 6, 1991, on Sabaoti farm which was mostly occupied by the Bukusu. A group of Sabaot warriors armed with bows and arrows, hand grenades and guns descended on the farm attacked the Bukusu killing and injuring some of them and set their houses on fire.

The attack by the Sabaot on Mango farm on 24th December, 1991, was followed by an attack on 26th December, 1991, by the Sabaot on Gitwamba farm which was exclusively occupied by the Kikuyu who were driven out of their farms. Attacks on the non-Sabaot were intensified and between 24th and by 31st December, 1991, the clashes had spread to Mango, Mukuha and Mwitha farms all exclusively occupied by the Bukusu.

They continued into the new year and violence escalated. Schools did not reopen in January, 1992, as the non-Sabaot teachers were threatened with death if they reported to work. Fighting continued into the month of February, 1992, with another attack on the Kikuyu in Gitwamba farm on 10th February, 1992, and into March, 1993, when it spread to Chemichemi and Chepkoilel farms, both predominantly occupied by the Bukusu.

The Bukusu fought back and in revenge, invaded Kapretua and Machewa farms in March, 1992, burning down the Sabaot houses on those farms. The whole Division was affected by serious fighting which went on for most of 1993.