“THE MOUNTAIN OF TERROR”

A REPORT ON THE INVESTIGATIONS OF TORTURE BY THE MILITARY AT MT. ELGON

MAY 2008

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

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Executive Summary

The Kenya National Commission on Human Rights has worked with the residents of Mt. Elgon in trying to solve the issues surrounding the allocation of the contentious phase three settlement scheme in the region which has resulted in torture and even deaths of so many people.

The Sabaot Land Defence Force (SLDF) was formed as an armed guerilla militia in 2005 to resist government attempts to evict squatters in the Chebyuk area of Mt. Elgon district. It has since been accused of killing more than 600 people, terrorizing the local population through physical assaults and threats and committing a variety of atrocities including murder, torture, rape, and the theft and destruction of property. It is estimated that more than 66,000 people have been displaced in an 18 month period.

The Kenyan army was deployed in March 2008 to quell the insurgency in response to the commission of hideous crimes by the SLDF and Mt Elgon residents welcomed the army at first. But Kenyan soldiers now stand accused of abusing those they are supposed to protect and details that the army has pursued a strategy of rounding up all the adult males in the district have emerged over the last few months with preliminary estimates by a number of human rights organizations suggesting that the military has detained thousands, tortured hundreds, and unlawfully killed dozens of people and the residents thus feel they are doubly victimized; first by the rebel militia and now by the army.

The Government of the Republic of Kenya has a direct responsibility and duty to repair any acts of individuals infringing on humanitarian rules which is confirmed by the Geneva Conventions of 1949 which stress the absolute character of this responsibility so that the Government of Kenya cannot absolve itself of liability incurred by the Armed Forces in respect of grave breaches of International Humanitarian Law. We remind the Government of its responsibility to protect its citizen and that where serious human rights violations have been committed, it should provide an avenue to address these violations for which KNCHR will continue to seek formal accountability.

This report also seeks to highlight some of the atrocities that were carried out by the SLDF up until the military started its operations.
Background

Mt Elgon district is an administrative district in the western province of Kenya. Its District headquarters is in Kapsakwony. The district is located in the south eastern slopes of Mt. Elgon and covers an area of about 944 sq.km with a population of about 135,033\(^1\).

Mt. Elgon is predominantly occupied by the Sabaot, Iteso and Bukusu communities. The Sabaot communities are further divided into several clans comprising of the Kony, Bok, Sebei and Bongom sub clans. The district is divided into four administrative divisions of Cheptais, Kapsakwony, Kaptama and Kopsiro divisions. Mt. Elgon district is served by one local authority the Mt. Elgon county council.

The conflict in Mt. Elgon region started in late 2006 but continued to intensify over the last two years. The Kenya National Commission on Human Rights on its fact finding missions sought to understand the causes of the conflict. To this end therefore several meetings were conducted in an effort to understand the resettlement in the scheme as well as the government’s role in averting conflict in the area. The first meeting held was with the then District Commissioner Mr. Kutswa Olaka, the sub-regional intelligence co-ordinator and the deputy OCPD. Several other meetings were held with the elders of both clans the Soy and Mosop as well as church leaders from different denominations.

It is said that the conflict took a different dimension and mutated to criminal activities from the controversial phase three contentions. There were interventions by the police, Rapid Deployment Unit and the provincial administration all of which did prove futile. The criminal gang dubbed Sabaot Land Defense Force (SLDF) continued to wreak havoc in the Mt. Elgon region.

In February 2008, the Kenya Army Officers were then deployed to Mt. Elgon in an operation aimed at flushing out and getting the illegally acquired guns from the SLDF. Reports received by the Commission indicated that the military officers were torturing people to death and those who survive are badly injured. The Commission further found out that the military have been using the former Member of Parliament’s very close friends to point out people whom they claim to be militias without any proof.

\(^1\) Kenyan Districts statistics
It is as a result of this that the Kenya National Commission on Human Rights conducted a fact finding mission in Mt. Elgon to unearth the true state of affairs and the whole military operation and its effects to the residents of Mt. Elgon.

**The history of the land in contention and the subsequent conflicts.**

The land in contention is located in Chebyuk settlement scheme which covers approximately 21,000 acres.  

From the previous meetings held with the community and the provincial administration it came to the fore that the land in contention was first occupied by the Ndorobo community in the early 1960’s. In 1971 the Ndorobo were moved out of the forest to a settlement scheme and it is here that close to 109 families were resettled. However the scheme was never degazetted out of forest land. In 1979, formalization of the scheme was proposed but the initial number of families had increased to over 2000. The exercise was thus nullified and left at that. Several other attempts at resettlement and finalization were carried out. In 1989 the government through a former Provincial Commissioner Mr. Francis Lekolooli tried to complete the resettlement but the process was marred with political interference, nepotism and corruption that saw an end to it. Applicants however held onto their ballot papers and allocation letters. 

The second attempt to resettlement was in 1990, but was also soon abandoned due to the 1992 land clashes that had hit most parts of the Rift Valley. Mt Elgon was one of the regions affected by the 1992 land clashes and its impact was highly manifested by an influx of people into the settlement scheme, most of whom were not original inhabitants of the area. There was also an attempt at resettlement in 1997 but was also abandoned due to a lack of political will. 

The recent attempt at resettlement was started in 2000 and in it the first two phases of the scheme were completed. 

It is imperative to note that both clans lay claim to the land and more particularly on phase III; this was manifested by both groups making delegations to the two former heads of state Daniel Moi to get his consent to the ownership of the contentious land. The Mosop (commonly referred to as the Ndorobo) were the first to petition the first president Mzee Jomo Kenyatta to give them the land, this was in a bid to get out of the harsher mountainous moorlands in the forest.

The Soy clan was also not left behind in allocation of the controversial piece of land; they sent a delegation to former President Moi demanding allocation of phase III settlement in its entirety. However in both cases there was no documentation to show the presidential decision or decree taken in regard to the land. 

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2 Interview with District Commissioner Mt. Elgon region
By 2002, allocation of land and issuance of title deeds in the settlement scheme had not yet been completed. In the hope of garnering votes and endearing themselves to the electorate, politicians vying for parliamentary seats used the same as a campaign promise and more specifically with the promise of settling squatters in households commonly known as “nyumba kwa nyumba”. This meant that all families were to be given title deeds based on where one stays or build their home or hut. None of the past MP’s (who have mainly be drawn from the soy clan) in the area have been successful in settling the squatters permanently, yet the populations were swelling in numbers. It was almost a consensus amongst the soy elders and area leaders that the Chebyuk settlement scheme be finalized and was therefore used as a campaign tool in endearing to the squatters. The Soy being the majority demanded a lion’s share in the allocation of the plots in the scheme. This marked the genesis of discontent with certain leaders notably the former area MP going against the initial agreement.

The surveying of phase I and II begun in 2003 with a total of 2,166 plots allocated. To date a total of 2157 plots have been shown to the registered beneficiaries who have been settled in five acre pieces of land each. Most disputes in the two phases have been completed and decisions have been implemented in the affected farms.

Phase I is 4,450 hectares, phase II is 1,410 hectares and phase III covers 1820 hectares. The settlement in the first two phases was done between the two clans in the proportions of 60:40 as between the Ndorobo and the Soy.

Phase III (Chepkurkur) posed a number of problems as the Soy clan who are mainly the majority felt dissatisfied with the allocations in the first two phases in which they only got 40% allocation. A number of consultative meetings between the elders of the two clans as well as political leaders were held, being chaired by the Provincial Commissioner Mr. Abdul Mwasera and an agreement of sharing the land was reached at as between the Soy and Ndorobo on a proportion of 50:50

Applications for allocation of the phase III settlement were received from both Soy and Ndorobo in all sub-locations in the district. For purposes of differentiating the two groups, they were registered separately. The vetting process for phase III begun in January 2006 and ended in March of the same year. A group of elders from both sides were used as opposed to chiefs. This was a measure to curb against cases of corruption and nepotism and the elders elected were not permanent but had to be re-elected each time the committee sat. The elders were drawn from the six sub locations, five from each clan. The criterion for vetting of the applicants was also strict and the rules were;

a) One had to be a Kenyan citizen and therefore production of Kenyan ID was mandatory

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3 District Commissioners report (extract from minutes of meeting held on 19th August 2005)
4 Extract from records from land office in Kapsakwony
5 Extract from records of land resettlement office Kapsakwony
b) One had to be alive-and leaving physically at the scheme.
c) Appearance in person for vetting(not by proxy)
d) The applicant must not have land elsewhere

During the consultative meetings, the methodology of settlement of squatters by “nyumba kwa nyumba” was found not to be viable mainly due to the fact that a number of people residing were not genuine applicants or had either land elsewhere and could therefore not meet the criteria for benefiting in the settlement scheme as set out. After completion of the vetting process, the names of the successful applicants were posted to all the chief’s offices in the area and a total of 866 applicants from each clan were successful and approved in the vetting process with a total of 1,732 plots set to be allocated. With the completion of the vetting process, a number of people were dissatisfied particularly those who were not allocated land. Some of the leaders were also not satisfied given the fact that the initial agreement by Soy leaders to have most of the land allocated to their community was not adhered to.

Several dissatisfied parties began calling for a total overhaul of the process, legal action was sought where it is alleged that the group collected money for purposes of seeking legal redress. However, this action did not bear any fruits as the land in contention had not yet been degazetted and therefore the parties lacked *locus standi*. It is further alleged that the parties realizing that there was no political will to resolve the issue; they sought to channel the money into financing firearms for purposes of opposing the process and bringing it to a halt hence the formation of the Sabaot Land Defense Force (SLDF). The group is therefore mainly composed of parties who were opposed to the 50:50 sharing agreement between the two clans, as well as those who did not present themselves for vetting citing corruption in the process and that genuine people were left out.

Due to the increase in numbers, the allocation in phase III had to be reduced to two and a half acres to accommodate more people as opposed to the initial five acres as was the case in the first two phases of the scheme. The dispute amongst the two clans degenerated into clan warfare with the Soy calling the Ndorobo foreigners to the land and the Ndorobo threatening to take up arms should there be nullification to the scheme. The Ndorobo on their part are satisfied with the vetting process and are thus advocating for the resettlement process and issuance of title deeds to be completed.

**Security**
Discontent developed amongst a group of people, particularly on the realization that the vetting process was not going to be restarted afresh. This marked the beginning of violence and killings mainly attributed to the *Sabaot Land Defense Force* that took up arms and went into hiding in the forest. The opposition and general dissatisfaction culminated in the killing of a chief and an assistant chief in the area. Compounding the problem further, with the allegations of bribery
amongst the land brokers who are said to have taken colossal amounts of money from the squatters with the promise to get them land allocation in the scheme; this escalated killings in the area with the SLDF hunting them down. It is also said that a number of people sold their property in order to pay the brokers in the hope of getting land in the scheme. Further to this, the residents have been living in constant fear of killings and harassment by members of the group at the same time unable to report the same to the police for fear of reprisal or destruction of their property.

Schools have been greatly affected by the rise in insecurity, many children of school going age children have been forced to stay home due to the escalating insecurity, while many more have had to be transferred to schools in safer areas, an example is Kibuku girls secondary school which had to admit a number of students from other schools in areas that were hard hit by the violence. The security situation in the area became complex with residents leaving in fear of the dreaded SLDF as well as the police forces deployed in the area that are known to have used excessive force to flush out the SLDF members.

While it is acknowledged that the security forces are thus faced with the difficulty of getting members of the Sabaot Land Defense Force (SLDF) amongst the people, this does not justify the use of excessive force both by the then police and the military. The difficulty that led to the police intervention, the Rapid Deployment Unit (RDU) and subsequent military action is mainly attributed to the fact that members of the public are not willing to volunteer information even in instances where the culprits are well known to them.

As the killings intensified, the security forces including the military that started the operation in March 2008 took to conducting operations in various divisions of the district in a bid to flush out the offenders and restore peace to the area. However as noted above it has been done with excessive force and with utter disregard to the vulnerable groups amongst the people. The police resorted to indiscriminate burning of houses in the settlement scheme as well as in areas that the SLDF are suspected to be in hiding. Due to the increased insecurity in Chebyuk area, a number of the residents fled to hiding in Cheptais Division, mostly in the trading centres while many others are putting up with relatives in the area. As a result of this, the government security forces diverted the operations towards Cheptais division where government intelligence believes that the Sabaot Land Defense Force (SLDF) went into hiding.

With the start of the military operation, residents in the whole of Mt. Elgon have been affected in one way or another. All the men and young boys from the ages of 13 were taken away by the military to their operational bases that they set up in Kaptama and Kapkota where they were all subjected to torture as a method of interrogation by the military. A number of the people taken away died as a result of the alleged torture inflicted upon them.

While a majority of the residents in Mt. Elgon were content with the military operation at its onset, the residents have suffered immensely. Women have lost their husbands and sons who
were taken for “screening” and interrogation at the commencement of the military operation. A number of the men who have been tortured can no longer bear children. Many others have died as a result of the injuries. The Commission received reports about the security forces in the area who work in collaboration with the military personnel. The reports indicate that it has been impossible for the locals to file their complaints with the police as a result of this collaboration. It does not however mean that such atrocities will go unpunished.

**Common complaints resulting from the security operations (police) prior to the military operations.**

- The **excessive use of force** in an attempt to flush out the raiders was a major complaint.
- **Indiscriminate burning of houses and food storage** was a common complaint both in Cheptais and Chebyuk – At Kabero, Kabkwes and Bukweno locations, 187\(^6\) houses were burnt down and an unquantifiable value of property destroyed as a result of the operation. The following table shows a select number of people whose property/houses and grain granaries were burnt down by police forces in the cause of their operation in 2007.

<table>
<thead>
<tr>
<th>Name</th>
<th>Identification number</th>
<th>Location / area</th>
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<tr>
<td>Fredrick Chesori</td>
<td>9361656</td>
<td>Kabero/Kabkwes</td>
</tr>
<tr>
<td>John Meyke Miti</td>
<td>4373845</td>
<td>Kabero/Kabkwes</td>
</tr>
<tr>
<td>Lilian Cheret</td>
<td>24758817</td>
<td>Kabero/Kabkwes</td>
</tr>
<tr>
<td>Charles Chesori</td>
<td>(no identification given)</td>
<td>Bukweno</td>
</tr>
<tr>
<td>Pharise Ngomia</td>
<td>“</td>
<td>Bukweno</td>
</tr>
<tr>
<td>Jafred Kahemba</td>
<td>“</td>
<td>Bukweno</td>
</tr>
<tr>
<td>Shadrack Kiso</td>
<td>“</td>
<td>Bukweno</td>
</tr>
<tr>
<td>Alfred Kitui</td>
<td>“</td>
<td>Bukweno</td>
</tr>
<tr>
<td>Tabitha Chepsikati Kirui</td>
<td>4373517</td>
<td>Kabero/Kabkwes</td>
</tr>
<tr>
<td>Peninah Chesomit Kirimit</td>
<td>6083366</td>
<td>Kabero/Kabkwes</td>
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\(^6\) Data from Mt. Elgon paralegal human rights watch (local CBO) that is collecting and compiling data on the incidences in the area.
ðŸ‘€ Rapeing of women and young girls – there were several allegations of rape of which only one case of a 14 year old was reported to the police on February 14th 2007. All other victims were afraid to report as the ‘same people’ are responsible.

ðŸ‘€ Killings of innocent people by security officers involved in the operation - Many other deaths have also been attributed to the militias. The police were also victims of the militias where several police deaths were reported.

ðŸ‘€ Looting of property from the people whose homes were raided - Moses Kapchenga is one such case who confirmed that he was attacked at his home at about 8 p.m and property looted. Other people include; Geoffrey M chesitit, Fredrick Wilson Chesori, Joseph K Wasama, Isaac Kaptunwo, Patrick C. Ngweywo, David Chepkech Kibo, Evan Chesori, Tabitha Cheskati Kirui, Peninah Chesombit, Carolyn Khabetsa Ashiono to name a few.

ðŸ‘€ Indiscriminate arrest of residents without being informed about reason(s) for arrest.

ðŸ‘€ Beatings of innocent people by the police in an attempt to get information about the activities of the militias.

ðŸ‘€ Extortion of money from the residents for release upon arrest – A case in pont is Mr. Wycliffe Boiyo. The police beat him up and took Ksh 5,000 from him.

Whereas government efforts to bring to book criminals is appreciated, the manner in which the operation is being carried is of much concern as gross human rights violations are occurring in the district in the name of netting and flushing out the criminals. Of particular concern is the indiscriminate burning of houses, crop granaries, the rape of women and young girls as well as killings by police officers involved in the operation.

Further to this it has become increasingly hard for the residents to report such issues to the police who are also offenders in this case. For instance at Kabero, Kabkwes and Bukweno locations, a total number of 187 houses were burnt down by mid 2007 and an unquantified value of property destroyed as a result of the operation, a more worrying fact is the arbitrary killings by the police officers in the cause of carrying out the operation. Residents complain of killings of innocent citizens by the police on allegations that they are members of the SLDF.

While these cases have not been formally reported to the police, it is of much concern when the security forces that are tasked with the duty of law enforcement turn to committing gross human rights violations. It is more worrying that the alleged offenders might go unpunished due to fear of reporting by the residents of Chebyuk and Cheptais hence further fostering the culture of impunity.

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\[7 \text{ Data from Mt. Elgon Human Rights Watch (local CBO)}\]
Further to this, the burning of houses to evict people is a heinous act by the police force goes to show the aloofness in which the operations are being carried out. The government and the security personnel should have concentrated their efforts on working with the local communities in rooting out the real criminals as opposed to the application of a blanket operation that victimizes the innocent citizens.

**Political meddling**

There have been divergent views that there are political influences both on the allocation of the land and the activities of the SLDF. The controversial scheme has not been devoid of political meddling and local leaders in the area have been accused of influencing the process in one way or another.

Firstly, by having their political cronies listed as beneficiaries in the scheme and secondly it is alleged that some prominent personalities are the key financiers of the dangerous SLDF, which has been terrorizing residents of Mt. Elgon region. This further complicated the security situation in the region as the much dreaded SLDF has been enjoying support and protection of some prominent personalities in the region. It has however been difficult as each side is advancing their agenda and taking a hard-line stand as to how the problem in the scheme should be resolved. The former area MP was greatly accused of putting his political supporters as beneficiaries to the scheme.

During the constitutional referendum of 2005 most of the people in Mt Elgon voted against the proposed constitution with the orange side garnering over 16,000 votes a fact that is said did not augur well with the former MP who mainly saw it as a rebellion towards him by his own people. Political rivalry is said to have intensified after the referendum.

**Previous Intervention measures from the KNCHR**

After understanding of the problem the Commission was requested by the communities to initiate dialogue between them as well as with the provincial administration. Peace and a ceasefire were an immediate priority as suggested by the community. For the Commission this was necessary before the land issue could be discussed.

Elders from the two sides (Soy and Ndorobo) were tasked with the responsibility of conveying the message of peace and ceasefire to the militia; this was however not successful as the killings continued despite dialogue with elders from both sides. The government efforts to get the militia were not successful and residents continued living in fear despite the heavy presence of security forces.
The coming of the military

Due to the continued insecurity, the government deployed security forces comprising of the regular police, the Anti-stock theft unit, the General Service Unit and the Rapid Deployment Unit (RDU) to the area. Despite the large number of forces in the area, the SLDF continued to terrorise residents, leading to loss of lives and a mass exodus of people from the affected areas of Cheptais and Kospiro. It was then that the military were deployed in the month of March, 2008 to flush out the SLDF from the forest. The military though went ahead and terrorized the locals in the villages. The commission has received written statements from the locals all of whom went through the military interrogation majority of who are still nursing the injuries inflicted upon them by the military.

Several allegations of military harassment and brutality were presented to the Kenya National Commission on Human Rights by area residents. Among the accusations leveled against the military include senseless beating, hanging them facing down in a moving helicopter, majority of whom had their scrotums pulled, a woman interviewed said the military officers inserted powdered pepper into her vagina, some were immersed and rolled in sewage, extra judicial killings and harassment. The killings in the area were attributed to the militia as well as police and military officers on operation.

Following the history of the contentious phase three it emerged that the SLDF took a different dimension from that of protecting their land to engaging in atrocious activities of maiming, extortion, chopping off peoples’ ears as a form of punishment and even beheading those who did not adhere to their wishes. They also started shooting people, stealing cattle from civilians, forcing young children to join the illegal force. The police and the Rapid Deployment Unit (RDU) were deployed in the area last year but the SLDF continued to terrorise the community.

In March 2008, the Kenya Army Officers were deployed to Mt. Elgon in an operation aimed at flushing out and getting the illegally acquired guns from the SLDF, and it was in trying to get the guns that the military started torturing residents in Mt. Elgon regardless of whether they were involved with the militia or not.

The military raided houses, an IDP camp in Teldet Primary School, they waited for early risers on the road and detained them, and they detained any student who looked older. Farmers who were going and coming from their farms were not spared either.

The Commission further found out that the military have been using the former Member of Parliament’s very close friends to point out people whom they claim to be militias. It is worth noting that the former MP’s point men that the military have been using also belong to a group known as Political Revenge Movement as well as the Moorland Defence Force which mainly consists of the Mosop. The militias belonging to these two groups are deep in the forest in a place known as Chepkitale where the military have not accessed.
It is as a result of this that the Kenya National Commission on Human Rights conducted a fact finding mission in Mt. Elgon to unearth the true state of affairs with regard to alleged torture inflicted to the Sabaot’s in Mt. Elgon by the Army Officers.

**Findings**

The Kenya National Commission on Human Rights received reports of ongoing torture against the members of the Sabaot community living in Mt. Elgon suspected by the military of being involved in activities of the Sabaot Land Defence Force (SLDF). The reports further indicated that the cases of torture were resulting into serious injuries and deaths. In response, the Commission sent a fact-finding team of officers to Mt. Elgon to authenticate the foregoing reports.

While on the ground, the Commission officers had a meeting with the residents in Cheptais who narrated their ordeal at the hands of the military officers. The military officers went to the village on the 13th March 2008, rounded up all the men and told them to go to their base to confirm that they did not have guns, and neither had they held guns. They were then bundled in the military trucks and taken to Kapkota. On arrival, they were all ordered to strip naked and crawl through a razor wire and while still in the razor wire they were whipped so that they would own up as to where the guns were hidden. After the razor wire ordeal, they were told to lie on their backs and thoroughly whipped using sticks. Some of the villagers told us that they were slapped very hard by the officers and then told to slap each other equally hard.

*A resident of Cheptais shot by the military during the operation on 10th March 2008.*
The man in the picture above was shot on 10th March 2008, in Cheptais. A bullet got through on the front of his chest and exited from the back as depicted in the picture above. He told the team that after being shot by the military, he was then taken to Bungoma hospital by the Red Cross where some nurses majority of who are from the Bukusu community decided o abandon him saying that he was a militia and has no reason to live.

They refused to treat him and since he understood the language having been born of a Bukusu mother and a Sabaot father, he decided to escape and went back to his home in Cheptais. Some members from the Sabaot community told the team that they were forced to pull each others’ penises and scrotums for hours. Majority of those who underwent the alleged torture died and it is alleged that the bodies were dumped at the forest. Most of those who were taken to the military bases for interrogation, told us that there was always a helicopter on standby and for those who died, their bodies were being taken to the helicopter.

There were a lot of complaints received which include beatings, torture, harassments and deaths of the Sabaots occasioned by the military. The team interviewed a group of remandees in Bungoma Prison who have been detained on suspicion of participation in war-like activities. They also narrated their suffering in the hands of military personnel and their injuries depicted the grievous extent of torture. Two of the interviewees recounted the way they were rolled in sewage and another one told the team of how he was tied in a military chopper and hung facing upside down in the moving helicopter for almost five minutes until he went unconscious. When he regained consciousness, he was still hanging upside down, this time on a tree in the forest. The Commission also interviewed members from the Sabaot community who are recuperating from the injuries sustained after being interrogated by the military personnel. Majority of the people claim of the same pattern of torture; beatings, crawling in razor wire, slapping, witnessing the military shooting their tribesmen and pulling of their scrotums and penices.

Further, the Commission also received complaints from the police officers in Mt. Elgon to the effect that six of their officers were shot by the SLDF just before the military operation started and three of them succumbed to the injuries. These are Police Constables James Koskei, Nixon Kiprop, and Administration Police Constable Dickson Kiplagat. The other are Administration Police Constables John Rama who had a bullet lodged in his stomach, George Wanjala who was shot on the right ankle and Hillary Cheruiyot who was shot on his left knee and a bullet lodged
on the knee. The administration officers informed the commission that the SLDF group has a clearly defined mode of operation and a clear command structure. The SLDF had gone to an extent of controlling the whole of Mt. Elgon and commonly committed torture as part of a general policy. These torture practices were employed as a means to maintain control over the people in the area and to sustain the war effort and the concomitant “way of life” of the group members. They had a court of their own where they punished people who acted against their wishes, they extorted money from the residents, stole their animals and even forced school going children to join the defense force.

The members of the community in Mt. Elgon have explicitly stated that they were happy with the military intervention in the region at the onset, but are now greatly disturbed by the harassment, torture and resultant deaths of their community members and generally the mode of operation.

From the fact-finding mission, the team found glaring evidence of ongoing torture which can neither be denied nor ignored. This was evidenced at the prison where quite a number of the members of the Sabaot community are being held. The injured are too many to be taken to hospital and they are being treated from prison by nurses from Bungoma District Hospital. The Commission sought views from the police and one OCPD from Bungoma Police Station who refused to talk to the team and referred the team to the Western Provincial Police Officer and the Provincial Commissioner.

**Human Rights Abuses Inflicted by the Military Officers**

The Army officers have been in Mt. Elgon since the beginning of March of 2008. The military as state agents are carrying out human rights abuses against the Sabaot community members of Mt. Elgon as evidenced by the nature of injuries they have inflicted upon the local community. The Commission was informed by the locals in the region that they are trying to enforce and maintain control over the SLDF suspects. The community members told of the army’s *modus operandi* where they rounded up villagers and then separated men and young boys from the women and children. The men and the young boys were then informed that they were being taken for a test to see whether they had guns in their possession. On arrival at the military bases that they have set up in Kapkota, Saandet and Kaptama areas of Mt. Elgon, they were then taken through the screening process where they undergo the harassment and subsequent torture.

The army intervention is proving to be counterproductive since it has actually participated in gross human rights violations in the area. The military have executed thousands of people in Mt. Elgon. Sources told the Commission that the military torture the members from the Sabaot community to death and those who survive are taken to the police station. Those who die are
taken to Kamarang’ a hill in Mt. Elgon where it is alleged that they are buried enemas. Prior to the military operation in the area, the SLDF used to damp bodies in that region which is situated in the forest but now it is alleged that the Saboots who die in the military camps are also dumped in the same place. Majority of the people who die in police custody as well as those who are dumped by the military in farms belonging to the residents are then taken to mortuaries. Those who are not badly injured are then taken to court while those in bad conditions are retained in police custody until they succumb. The reason for this is that the police do not want the court to see the nature of injuries. The Commission found glaring evidence in the bodies at the mortuaries of systematic forms of torture that were inflicted upon the victims. The methods of torture used by the military have become apparent and this was observed during interviews with the injured and the bodies that were viewed at the mortuariy.

The nature of the injuries includes:

- Sexual violence to genitals (swollen testicles as a result of pulling)
- Forced to torture each other (pulling each others genitals and whipping each other
- Forced to witness torture by the military
- Food deprivation
- Sleep deprivation
- Broken arms and limbs
- Submerging in sewage
- Hanging upside down from a moving helicopter
- Forced to crawl in razor wire
- Deep lacerations resulting from whip lashes
- Bullet wounds
- Forced to swallow sand
- Inserting powdered pepper in the vaginas of women.

A mortician at Bungoma mortuary informed the commission of the bodies received from Mt. Elgon. They were twenty in number and they had been brought in by the police and marked as unidentified. Most of the bodies had indication of torture with two having bound hands with ropes.

At the Bungoma prison, there were 471 suspects’ remanded and 5 remanded on murder charges from the SDLF faction. All the suspects had undergone torture at various interrogation stages with the military, the injuries observed on majority of the victims interviewed are:-

- Whip lashes on their the back
- Swollen ankles and knees
- Swollen testicles with infection Broken limbs
- Bullet wounds
Applicable Law

The Constitution of Kenya

1. Section 81 (1) of the Constitution provides that “No citizen of Kenya shall be deprived of his freedom of movement, that is to say, the right to move freely throughout Kenya, the right to reside in any part of Kenya, the right to enter Kenya, the right to leave Kenya and immunity from expulsion from Kenya”.

2. While this freedom is not absolute and moreover the same section in sub section 2 (b) provides for “the imposition of restrictions on the movement or residence within Kenya or on the right to leave Kenya of persons generally or any class of persons that are reasonably required in the interests of defense, public safety, public order...”, the denial of the right of access to the Kenya National Commission on Human Rights, the media, human rights organizations and humanitarian agencies such as the Kenya Red Cross on grounds other than those provided in the Constitution is a matter of concern.

3. Further, the practice of detaining citizens in places of detention that are not gazetted as such-such as the Kaptama and Kapkota Military Camps-should be discontinued due to the numerous allegations of perpetration of torture that have been reported in these camps. And such a practice denies the KNCHR among whose primary mandate is to visit places of detention an opportunity to effectively carry out its mandate.


4. The authorities have further cited Cap 57 as one of the enabling legislation for the Military Operation. Nevertheless, part III of the Preservation of Public Security Act on the invocation of special public security measures-such as detention of persons, restriction of movement including the imposition of curfews and censorship, control or prohibition of communication of information under Section 4(1) of the Act- provides that these provisions can only be brought into operation through Section 85 of the Constitution by the President.

5. Section 85 (1) of the Constitution provides that the President may at any time, by order published in the Kenya Gazette, bring into operation, generally or in any part of Kenya, Part III of the Preservation of Public Security Act or any of the provisions of that Part of that Act. In the absence of a gazette notice signed by the President invoking Part III of Cap 57, it is not in the circumstances possible for the authorities to rely on Cap 57.

The Kenya National Commission on Human Rights Act

6. Section 17 (c) of the KNCHR Act makes it mandatory that in the performance of its work, the National Commission must have regard to all applicable international human rights standards and in particular to the fact that human rights are indivisible, interdependent, interrelated and of equal importance for the dignity of all human beings.

7. Accordingly, with International Humanitarian Law standards domesticated in Kenya through the Geneva Conventions Act, Cap 198 Laws of Kenya; all the security forces involved in the operation are under an obligation to ensure that the residents of Mt Elgon
where this operation is taking place at all times remain under the protection and the authority of the law of Kenya, the principles of the law of nations derived from established custom, the principles of humanity and the dictates of public conscience. The ongoing security operation must therefore be consistent with human rights standards and international humanitarian law values to which Kenya is bound.

The Geneva Conventions Act (Cap 198 Laws of Kenya)

8. While the Military has argued that it is acting in aid of civil power to restore law and order in the area under Section 3(2) of the Armed Forces Act, nevertheless, the manner in which the Kenya Army, the Kenya Police and Government authorities have conducted themselves have been questionable.

9. Under the authority to aid civil power in maintaining law and order, the Kenya Army should be guided by the Geneva Conventions Act cap 198 Laws of Kenya. This piece of legislation domesticates and thus makes applicable International Humanitarian Law (IHL) in Kenya. IHL is a special branch of the law of nations that governs situations of armed conflict seeking to mitigate the effects of military operations— even when in aid of civil power— by limiting the choice of means and methods of conducting military operations and by obliging the Military to spare persons no longer taking part in active hostilities.

10. The core of International Humanitarian Law is made up of the following international treaties:
   a. Conventions of the Hague, especially the Fourth Convention of 1907,
   b. The Four Geneva Conventions of 1949
      i. Convention I providing for the protection of the condition of the wounded and sick in armed forces in the field,
      ii. Convention II dealing with wounded and shipwrecked members of armed forces at sea,
      iii. Convention III for the protection of prisoners of war and
      iv. Convention IV for the protection of civilian populations)

11. Further, the four Conventions usually recall a standard clause— the Martens Clause, according to which in cases not covered by the rule of law, “the inhabitants and belligerents remain under the protection and the authority of the principles of the law of nations derived from the established custom, from the principles of humanity and from the dictates of public conscience” The Martens Clause constitutes a legal safety net covering the loop holes of positive law. In short, this clause would imply that the Military operating in Mt Elgon can never enjoy full freedom as to how to put down the SLDF rebellion and that it therefore behoves them to find a solution consistent with humanitarian values in all the circumstances of this conflict.
Allegations of Torture

12. While we condemn the acts of torture perpetrated by the SLDF, allegations that the Kenya Army has itself perpetrated equally horrifying acts are an issue of grave concern. The full legal definition of Torture now accepted under international law and contained in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession punishing him for an act he or a third person has committed or is suspected of having committed or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”.

13. The KNCHR is further perturbed by reports that the Army has resorted to the same tactics employed by Her Majesty’s Government during the Emergency Period-basically this has involved screening where residents of Mt Elgon camouflaged in military fatigues are used to identify suspected SLDF collaborators-a tactic perfected in the fight against the Mau Mau rebellion.

14. Due to the extremely serious nature of the accusations of Torture, the dictates of natural justice, the principles of the rule of law and Kenya’s obligations under the regime of International Humanitarian Law; it is necessary that the concerned authorities confirm whether or not these allegations have taken place. Kenya has signed the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which places the following immediate obligations on the Government from the complaints raised:

   a) Prevention of further abuses taking place during the ongoing security exercise.
   b) That the complaints of alleged torture and ill-treatment be dealt with in a manner which ensures that those who have allegedly suffered have a genuine opportunity to register their complaints for official action without fear or victimization.
   c) The prompt, impartial and effective investigation of the complaints made against the security agents involved in the exercise
   d) If investigations establish that torture has occurred, then the perpetrators be brought to justice and the victims granted adequate reparations.

15. The National Commission reiterates that the prohibition against torture is absolute, that there can be no exception to this prohibition and that the Government should not turn a blind eye to allegations of the torture of suspects and accomplices allegedly involved in criminal activities in Mt Elgon. The National Commission therefore invites the Military and Government authorities to institute impartial investigations into these allegations with institutional means present to secure credible investigations. We also expect that the
resultant findings by the responsible commanders will be made known to the whole
nation.

The Doctrine of Command Responsibility

16. We are reminding the Department of Defence that the doctrine of command
responsibility is applicable law in Kenya. This doctrine presupposes two thresholds that a
Military commander ought to meet before he can be found to have discharged his
mandate professionally.
  a) The first is that he must so effectively control his forces as to ensure that they do not
  break the law. A commander must therefore actively seek information of what his
  men are doing in the field and he should not consciously disregard information which
  indicates that his forces are breaking the law.
  b) If in spite of all such care and attention on his part, his forces still go ahead and
  commit crimes, then a Military commander will only absolve himself of liability if he
  submits the matter to a competent authority for investigation and prosecution. Be that
  as it may, if a Military commander has been negligent or reckless in the performance
  of his duty and crimes are committed by those under his command, then submission
  of the matter for investigation and prosecution will not absolve him from blame.

17. The commanders in charge of the Military operations in Mt Elgon thus must remember
that if they fail to control their soldiers, they will themselves be vicariously liable for the
offences committed by those they command. Kenya has signed and ratified the Rome
Statute establishing the International Criminal Court—and Parliament is currently debating
the ICC Crimes Bill—and it therefore behoves the commanders in charge to take
cognizance of these developments

CASE STUDIES.

On 18th April 2008, at around 9:00 pm, a number of army officers came to my house at
Gituamba.... those who entered my house were four. They bundled me in their land rover
and asked me to tell them where the militias (SLDF) were hiding.

They then took me to Kaptama base and made me sleep out in the cold. The following
morning at around 9:00 o’clock, the officers took me to their other base at Kapkota
where they took me to an open tent which had two officers manning the tent.

The officers told me to remove my underpants and forcefully inserted powdered pepper into my vagina using a spatula. They then told me to sit under the scorching sun until 5:00 pm after which they really beat me up at the soles of my feet.

At around 12:00 midnight, the officers transferred me to Kapsakwony police station where I spent the night. The next day, they took me back to Kaptama where they asked me where the SLDF were hiding. I told them I did not know and made me stay at the camp for another whole day. In the evening they took me back to the police station where I spent my second night.

It was the following morning that the OCS discharged me.

The above case was derived from a statement of a woman who underwent the “screening process” by the military officers.

On 19th April, 2008 at about 2 am, the military came and woke people in our village in Teldet and rounded us up. We were 23 in number and all of us were men. The officers were very many and it was dark so we could not even tell how they looked like, but we saw their uniforms. We were all told to lie facing down in a field at Teldet primary school which is just across.

They started whipping us on our backs, feet and buttocks. Then they told us to remove our clothes and continued beating us asking us to surrender our arms. We were kept at the school until 9:00 am all this time being whipped and told to jump up singing songs in our mother tongue.

Shortly thereafter, two lorries belonging to the military came and picked us up and we were then taken to Kaptama. We arrived at Kaptama at around 1:00 pm. At Kaptama, the military told us to lie facing down for around 30 minutes.

After that ten of us were released. We did not go through the screening process that others went through. The military badly whipped me on my knee and the soles of my feet.

Intervention Sought.
• The residents want a cessation of the continuing violations inflicted upon their members.

• Secondly, there is need to provide some level of disclosure on the violations that have been committed by the perpetrators; the police the military and the militia groups. This may be planned in the long terms as part of a truth telling process so as to prevent revenge and further killings. This is especially true in helping the victims see the remorse of the perpetrators for the violations committed.

• The people from the Sabaot community want to search for the bodies of their relatives killed or disappeared and assistance in the identification of those bodies.

• The area residents are now calling for protection from the military and not torture and want to resolve the issue at the grassroots level by the locals themselves.

• There are committees in place that had started solving the land dispute and they want to continue doing it locally through elders’ intervention.

• The locals want to have the freedom to walk around without fear of being arrested by the military officers.

Recommendations

• In seeking to return sanity in the area as a result of the atrocities being committed in the area, the military should stop the excesses of the security forces deployed therein. The Commission therefore calls for an investigation of the allegations against the police.

• KNCHR is of the view that the use of force has not elicited positive results and might have served to worsen the security situation; KNCHR further proposes that the government seeks to reach out to the militia in an effort to stop further blood shed in the area. However, KNCHR believes that there should be no amnesty to perpetrators of gross violations of human rights.

• It was also proposed that the government should come up with an acceptable formula of sharing out the land between the Mosop (Ndorobo) and Soy people as opposed to an imposed formula that leads to fresh clashes. The approach should not be an act that may lead to long term futility but rather one that brings lasting peace to the region.

• Suspension of the Kenyan Armed Forces in any ongoing or future United Nations Peace Keeping Operations on account of the violations.

Conclusion
The victims of military operation have collectively suffered harm, physical and mental injury as well as emotional suffering. The Government of the Republic of Kenya has a direct responsibility and duty to repair any acts of individuals infringing on humanitarian rules which is confirmed by the Geneva Conventions of 1949 which stress the absolute character of this responsibility so that the Government of Kenya cannot absolve itself of liability incurred by the Armed Forces in respect of grave breaches of International Humanitarian Law. We remind the Government of its responsibility to protect its citizen and that where serious human rights violations have been committed, it should provide an avenue to address these violations for which KNCHR will continue to seek formal accountability.

In monitoring the human rights abuses that are occurring in the area, it is imperative that all actors in the process have a concerted effort to ensure that first and foremost peace is restored in order to pave way for any meaningful discussions to take place on the allocation of land in the controversial scheme.

1. The Kenya National Commission on Human Rights sought views of the residents living in Mt. Elgon and some of those who were aggrieved by the SLDF militia welcome the military operation. However, majority of the people have lost at least a member of their family through death resulting from the torture. Many say that they are not aware of their family members’ whereabouts since the operation started and a very big number of men in the area have been harassed. There are some people and families who have suffered both under the arms of the militia as well as the military and resultant deaths arising of the same.

2. The Commission further took statement of the victims of torture and got a competent doctor to examine and give a report on the nature of the injuries of 26 patients who suffered at the hands of the military.

3. Attached in this report is the doctor’s medical report.
PART TWO.

MEDICAL REPORTS OF THE VICTIMS.

Catalogue of Names

1. David Kiprop Sabila
2. Robert Naibei Ngeiywo
3. Joseph Kibet Masai
4. Geoffrey Mosobo Cherop
5. Silas Mzee Geoffrey
6. Rodgers Kessis
7. Isaac Kwemoi Kirui
8. Jamin Tumwa
9. David Lawendi Ngeywo
10. Silas Ndiema Sigowo
11. Amos Kibet Matebo
12. Hudson Mining Cheminingwa
13. Ambrose Masete Wagisita
14. Kennedy Murambi Masai
15. Moses Sigowo Ndiema
16. David Cheromoi Tuoem
17. Benard Mining Kelvin
18. Moses Kitiyo Cheprot
19. Cheroen Cheminingwa
20. Simon Barasa Ndiema
21. Fred Melili Kirui
22. Geoffrey Kimtai Ndiema
23. Micah Naibei
Medical evaluation report 1

Case information

Subject’s given name: David Kiprop Sabila  Age: 18 years
Gender: male  Occupation: Student
Subject’s ID No: None  Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
Telephone: 0722368788.

My qualifications are: MBchB ( UON 1995 )
MMED Human Pathology ( UON 2005 )
Diploma Forensic Medicine ( Durban 2007 )

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment
The subject was at home in the company of two of his colleagues on 13/04/2008 when 4 army officers came to arrest them. They were whipped severally on the back and buttocks. As he was running away he was shot on the right side of face. He fell down bleeding as the officers went away. The victim was rushed to the hospital by his neighbours and he was admitted for 2 weeks.

**Physical symptoms and disabilities**

He is unable to open his mouth completely and the injured area is still painful.

**Physical examination**

He has a hypertrophic scar over the right maxillary region. It is 8mm in diameter and was the bullet entry wound.

There is a hypertrophic scar over the right mandibular angle and it measures 25 by 15mm. It is the bullet exit wound.

**Psychological state**

Essentially normal

**Photographs**

See the accompanying photographs

**Interpretation of findings**
The above findings are highly consistent with gun shot injury.

**Medical evaluation report 2**

**Case information**

Subject’s given name: Robert Naibei Ngeiywo  
Age: 36 years

Gender: male  
Occupation: Farmer

Subject’s ID No: 13154607  
Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

**Clinician`s qualification**

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is

Moi University school of medicine, Department of pathology,

P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are:

- MBchB (UON 1995)
- MMED Human Pathology (UON 2005)
- Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

The subject was at home two weeks ago when he was arrested by 4 army officers for allegedly being a member of the Sabaot Land Defence Force. He was severally hit on the back with a piece of stick as he was being escorted to board a lorry and he finally
ended at Kapkuto Military camp. At the camp, he was forced to crawl in a barbed wire cage for one hour as he was continuously beaten. Then he stayed in a building at the camp for 3 hours before being released. He was unable to walk and he had to be carried by family members to his home.

**Physical symptoms and disabilities**

Painful left thigh and knee on movement. He has right sided chest pains.

**Physical examination**

Swelling and tenderness over mid left thigh, 5cm diameter. The left knee is swollen and tender on the medial aspect.

Multiple pigmented scars on the back and posterior neck. There are 3 scars on the scalp i.e on the forehead, right and left parietal region. He has a healing laceration over the left iliac bone. Has a scar on proximal anterior left thigh.

**Psychological state**

He is anxious and slow in talking.

**Photographs**
See the accompanying photographs

**Interpretation of findings**

The above physical findings are highly consistent with the alleged torture.

**Medical evaluation report 3**

**Case information**

Subject’s given name: Joseph Kibet Masai   Age: 32 years
Gender: male   Occupation: Farmer
Subject’s ID No: 14673497   Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

**Clinician’s qualification**

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.
My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
Telephone: 0722368788.

My qualifications are: MBchB ( UON 1995 )

    MMED  Human Pathology ( UON 2005 )

    Diploma Forensic Medicine ( Durban 2007 )

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

He is one of those who were forcefully removed from Teldet settlements by police officers in February. It was alleged that they were occupying forest land. He went to camp in a school compound. About one and a half weeks ago he was arrested from the school camp and taken to Kaptuko military base. He was told to move within a barbed wire cage as he was whipped repeatedly for 2 hrs. He was then taken to a police cell where he stayed overnight before returning to the base where he underwent further torture. At one time he was forced to inhale powdered tobacco.

**Physical symptoms and disabilities**

He has a sore throat and pain on swallowing. Both ankle joints are painful and he limps.

**Physical examination**

Skin peeling off over the back and chest. Tiny healing abrasions over the back. Scars in the gluteal region bilaterally – left is 7 by 6cm and right is 4 by 3cm. There is a healing transverse bruise at the back measuring 15 by 0.5cm. Scars anterior knee bilaterally – left is 3cm diameter and right is 5 by 3cm. He has a staggering walking gait.

**Psychological state**
He is frightened.

**Photographs**

See the accompanying photographs

![Photographs](image1)

**Interpretation of findings**

The above physical findings are highly consistent with the alleged torture.

**Medical evaluation report 4**

**Case information**

Subject’s given name: Geoffrey Mosobo cherop          Age: 22 years

Gender: male                                      Occupation: Farmer
Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB (UON 1995)

    MMED Human Pathology (UON 2005)

    Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

He is one of those who were forcefully removed from Kiborobo farm by police officers who burnt their houses in February. It was alleged that they were occupying forest land. He went to camp in a school compound. About one and a half weeks ago he was arrested from the school camp by army officers and taken to Kaptama military base. He was whipped severally and made to lie prostrate on a cement floor. He was kicked hard with a boot and had a tooth fracture due to impact on the floor. The lower lip was also injured. He was slapped hard over both ears. Hit repeatedly on soles by a piece of stick (Falanga). He spent 4 hrs in the camp and then released.

Physical symptoms and disabilities
Inability to hear well.

**Physical examination**

Two healing abrasions on forehead, the largest measures 10 by 8mm. Ulcer on inner aspect of lower lip - 10mm diameter. Healing ulcer on the outer aspect of lower lip measuring 50 by 5mm. There is fracture of upper incisor tooth. Pigmented scars in the gluteal region - 5 parallel (tramline) on the right side and 2 parallel (tramline) on the left side.

**Psychological state**

He looks depressed.

**Photographs**

See the accompanying photographs

**Interpretation of findings**

The above physical findings are highly consistent with the alleged torture.

**Medical evaluation report 5**

**Case information**
Clinician's qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are:

- MBchB (UON 1995)
- MMED Human Pathology (UON 2005)
- Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

About one and a half weeks ago he was woken up by army officers in the early hours of the morning. He was taken outside his house and whipped severally by the officers. Then moved to Kaptama military camp where he was kicked and whipped for 4 hrs. Finally transferred to Kapkota military camp where he was forced to crawl in a barbed wire cage while being beaten for 5 hrs. The kicking and punching went on for 2 more hours after they were through with the cage. He was hit with a ‘rungu’ on both knees
and soles. In the evening he was put in a vehicle and driven to his place. He had haematuria for 2 days.

**Physical symptoms and disabilities**

He has back pains along the vertebral column. Also abdominal pains in the lumbar region bilaterally.

**Physical examination**

Multiple tramline scars on the back, largest is 20 by 0.5cm. Has a fore head scar- 2.5 by 1cm. Scar on the anterolateral chest-4 by 1cm. Scar on anterior right wrist-5 by 0.7cm. Multiple healing abrasions in the gluteal region bilaterally, largest is 10 by 3cm. 2 tramline scars on posterior left thigh, largest is 8 by 1cm. Tramline scars in the gluteal region. Multiple scars anterior knee bilaterally.

**Psychological state**

Essentially normal.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.

Medical evaluation report 6

Case information

Subject’s given name: Rodgers Kessis                Age: 31 years
Gender: male                                            Occupation: Farmer
IDNo: 20572745                                         Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR
Clinician's qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are:
MBchB (UON 1995)
MMED Human Pathology (UON 2005)
Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

About two weeks ago he was woken up by army officers at 4:00am. Outside his house, he was punched and kicked. Then taken to the school compound and forced to lie prone. Forced to bite the grass while being kicked and whipped severally by the officers. Then moved to Kaptama military camp where he was kicked and whipped for 4 hrs. Finally transferred to Kapkota military camp where he was stripped naked and the beating continued for 7 hrs.

Physical symptoms and disabilities

Pain on moving the right shoulder joint. Pain over the right scapula.

Physical examination
Multiple tramline scars on the back, largest is 20 by 0.5cm. Multiple scars in the gluteal region bilaterally. 2 tramline scars on left arm. Tenderness over right scapula. Transverse scar on anterior abdomen, superior to the umbilicus measuring 10 by 1cm. Multiple scars anterior knee bilaterally. Scars on both legs.

**Psychological state**

Essentially normal.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.
Medical evaluation report 7

Case information

Subject`s given name: Isaac Kwemoi Kirui Age: 24 years
Gender: male Occupation: Farmer
IDNo: 21729861 Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
Telephone: 0722368788.

My qualifications are:MBchB ( UON 1995 )

MMED Human Pathology ( UON 2005 )
Diploma Forensic Medicine ( Durban 2007 )

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

About one and a half weeks ago he was woken up by army officers at 4:00am. He was taken to the school compound and there he was kicked and beaten for 2 hrs. Then moved to Kaptama military camp where he was further kicked and whipped for 3 hrs. Transferred to Kapkota military camp where he and others were stripped naked and
made to crawl in a barbed wire cage, one behind another for 4 hrs. He was then released.

**Physical symptoms and disabilities**

He has general body weakness

**Physical examination**

Multiple scars on the back and posterior neck, the largest is 2 cm in diameter. Has a scar in the occipital region measuring 3 by 1 cm. There are multiple scars in the gluteal region bilaterally, the largest is 15 by 3 cm. Most of the scars are tramline. Multiple scars on both thighs, largest is 11 by 2 cm and are postero-lateral. Bilateral anterior knee scars. A healed scar on the middle finger - right hand. Multiple scars are on left forearm, largest is 5 by 3 cm.

**Psychological state**

Appears to be in low moods.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.
Medical evaluation report 8

Case information

Subject`s given name: Jamin Tumwa                        Age: 29 years
Gender: male                                                Occupation: Businessman
IDNo: 21473519                                      Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in
Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB ( UON 1995 )

MMED Human Pathology ( UON 2005 )

Diploma Forensic Medicine ( Durban 2007 )

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of
the above named subject.

Allegations of torture and ill-treatment

About one and a half weeks ago he was woken up by army officers at 4:00am while
asleep in his house. He was taken to the market centre and whipped for 2 hrs. He was
moved to the school compound, told to lie prone as he was whipped. The officers took
away his money and scratch cards. Then he was left in the compound as the officers moved the rest of the victims to Kaptama military camp.

**Physical symptoms and disabilities**

He passed bloody urine for 2 days. He feels chest pains on and off.

**Physical examination**

There are multiple scars in the gluteal region bilaterally. Has 2 tramline scars in the left lumbar region. Scar on the left lateral malleolus.

**Psychological state**

Essentially normal.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are consistent with the alleged torture.

Medical evaluation report 9

Case information

Subject’s given name: David Lawendi Ngeywo                          Age: 37 years
Gender: male                                                  Occupation: Farmer
IDNo: 11221064                              Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

He was working on his farm when he was arrested by 10 army officers on 12/04/2008. He was taken to Serena market centre and made to lie prostrate as he was beaten for 3 hrs. Then moved to Kaptama military camp where he was kicked and whipped for 6 hrs. At the camp they spent a night in a lony while being rained on. Finally transferred to Kapkota military camp where he was forced to crawl in a barbed wire cage while being beaten for 6 hrs. Was finally released.

**Physical symptoms and disabilities**

Unable to sit and he has severe pain in the gluteal region.

**Physical examination**

There are multiple scars in the left gluteal region. There is an infected and bleeding wound in the right gluteal region measuring 12 by 10cm. Has multiple tramline scars on both thighs posteriorly.

**Psychological state**

He is in a depressed state.

**Photographs**
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.

Medical evaluation report 10

Case information

Subject`s given name: Silas Ndiema Sigowo                      Age: 23 years
Gender: male                                                   Occupation: Unemployed
IDNo: 25668647                                                  Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is
Moi University school of medicine, Department of pathology,

P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB ( UON 1995 )

MMED Human Pathology ( UON 2005 )

Diploma Forensic Medicine ( Durban 2007 )

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

He was woken up on 12 / 04 / 2008 from his house by 40 army officers at 3:00am. He was whipped with wires and kicked as he was being taken to Kaptama military base. There the beating went on for 8 hrs. Then he was released.

**Physical symptoms and disabilities**

Has toothache.

**Physical examination**

There are three scars over the right mandible angle, largest has a diameter of 0.5cm. There are multiple small tramline scars on the back. Has fracture of the right upper molar tooth.

**Psychological state**

He talks with anger and rage.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.
**Medical evaluation report 11**

**Case information**

Subject`s given name: Amos Kibet Matebo                  Age: 21 years

Gender: male                  Occupation: Form 4 leaver

IDNo: None                     Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

**Clinician`s qualification**

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,

P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB ( UON 1995 )

MBchB Human Pathology ( UON 2005 )

Diploma Forensic Medicine ( Durban 2007 )

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

About one and a half weeks ago he was arrested from his home at 3:00am and taken to the school compound where he was severely beaten. He was put on a lorry and taken to Kaptama camp. After grilling and more beatings, he was transferred to
Kaptuko military base. He was told to move within a barbed wire cage as he was whipped repeatedly. He stayed at the camp for 2 days and then released.

**Physical symptoms and disabilities**

Has back pains.

**Physical examination**

Has 2 parallel scars on the upper back - 2 cm long. Multiple lower back scars, largest is 5 by 1 cm. Multiple tramline scars in the gluteal region and posterior thighs. 2 parallel scars on the lateral aspect of left elbow.

**Psychological state**

No psychological disorder detected.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.
Medical evaluation report 12

Case information

Subject`s given name: Hudson Mining Cheminingwa          Age: 30 years
Gender: male                                                Occupation: Farmer
IDNo: 20769509                                              Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
Telephone: 0722368788.

My qualifications are: MBchB (UON 1995)

MMED Human Pathology (UON 2005)

Diploma Forensic Medicine (Durban 2007)

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

He was arrested by army officers on 12 / 04 / 2008 while working on his farm. He received severe beatings, including pulling on his testicles, while being asked to hand over the guns he might be harbouring.
He was put on a lorry and taken to Kaptama camp. After grilling and more beatings, he stayed on a lorry overnight while it was raining. Next morning he was transferred to Kaptuko military base. He was told to move within a barbed wire cage as he was whipped repeatedly. In the evening he was taken to Kimilili police station but the cells were full. They were then transported to Webuye police station where a special room was created for them since the cells there too were full. The next morning they were released.

**Physical symptoms and disabilities**

Has pains in the left lumbar and suprapubic region. He had haematuria for 1 day after the beatings.

**Physical examination**

Multiple scars on the back, largest over the left scapula measuring 5 by 4cm. Multiple scars on the right shoulder. One scar on the left shoulder with a diameter of 3cm. Multiple scars on both elbows posteriorly. A healed bite scar on the left arm and on the right anterolateral neck. Multiple scars in the gluteal region bilaterally.

**Psychological state**

He is anxious and in low moods.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.

Medical evaluation report 13

Case information

Subject’s given name: Ambrose Masete Wagasa | Age: 22 years
Gender: male | Occupation: Farmer
IDNo: 26047442 | Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB (UON 1995)
On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

He was arrested by army officers while working on his farm. He received severe beatings and then put on a lorry and taken to Kaptama camp. After grilling and more beatings, he stayed on a lorry overnight while it was raining. Next morning he was transferred to Kaptuku military base. He was told to move within a barbed wire cage as he was whipped repeatedly. He was slapped severally in the face.

**Physical symptoms and disabilities**

He has earaches and unable to hear properly. There are chest pains.

**Physical examination**

Multiple scars in the gluteal region bilaterally, most of them are parallel.

**Psychological state**

Normal

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.

Medical evaluation report 14

Case information

Subject’s given name: Kennedy Murambi Masai Age: 23 years

Gender: male Occupation: Tout

IDNo: 25338429 Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology, P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB (UON 1995)

MMED Human Pathology (UON 2005)

Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment
His house was burnt in February by police officers on the allegation that they were
occupying forest land. Him and other affected families moved into a school compound
where they were stating in tents. It was about 2 weeks ago that the army officers came
to their school camp and arrested them at about 4:00am. He was beaten while being
grilled about the whereabouts of the SLDF members. He had boarded a lorry that was
to take them to Kaptama military camp but he was singled out by one of the officers
and released.

**Physical symptoms and disabilities**

Painful left ankle joint on walking.

**Physical examination**

Multiple scars in the gluteal region bilaterally, most of them are parallel. 4 parallel scars
anterior chest, longest is 6cm long. Multiple scars on both forearms and back. There is a
scar on left lateral malleolus.

**Psychological state**

Normal

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.

Medical evaluation report 15

Case information

Subject’s given name: Moses Sigowo Ndiema Age: 29 years
Gender: male Occupation: Farmer
IDNo: 23305626 Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
Telephone: 0722368788.

My qualifications are: MBchB (UON 1995)

    MMED Human Pathology (UON 2005)

    Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

His house was burnt in February by police officers on the allegation that they were occupying forest land. Him and other affected families moved into a school compound where they were staying in tents. It was on 21/04/2008 that the army officers came to their school camp and arrested them at about 3:00am. He was kicked whipped for 5 hrs while being grilled about the whereabouts of the SLDF members. Taken to Kaptama military camp and the beatings continued for 4 hrs. Transferred to Kapkota military camp where they were forced to crawl in a barbed wire cage for 4 hrs. He was slapped severally over both ears.

**Physical symptoms and disabilities**

Painful left ankle joint on walking. Unable to hear well.

**Physical examination**

Multiple scars in the gluteal region bilaterally. A scar on the left thigh, 5cm long. Multiple scars on the anterior right knee. There is a scar on left lateral malleolus.

**Psychological state**

Normal

**Photographs**
See the accompanying photographs

Interpretation of findings

The above physical findings are highly consistent with the alleged torture.

Medical evaluation report 16

Case information

Subject’s given name: David Cheromoi Tuoem  
Age: 33 years

Gender: male  
Occupation: Farmer

IDNo: Don’t remember  
Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. Iam a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.
My qualifications are: MBchB (UON 1995)

MMED Human Pathology (UON 2005)

Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

His house was burnt in February by police officers on the allegation that they were occupying forest land. Him and other affected families moved into a school compound where they were staying in tents. Recently the army officers came to their school camp and arrested them at about 3:00 am. He was kicked whipped for 5 hrs while being grilled about the whereabouts of the SLDF members. Taken to Kaptama military camp and the beatings continued for 4 hrs. Transferred to Kapkota military camp where they were forced to crawl in a barbed wire cage for 4 hrs.

Physical symptoms and disabilities

Complains of chest pains.

Physical examination

2 cm scar on the frontal region. 2 parallel scar on the anterolateral right chest-2 cm long. A scar on the right arm-10 cm long. Scar running from left elbow to the proximal part of left forearm. Multiple scars over both shoulders. 2 healing abrasions on the left arm. Multiple scars on the left forearm. Scar on the anterolateral aspect of left leg-3 cm in diameter and another one anterior leg-4 by 2 cm.

Psychological state

Forgetful and anxious.

Photographs

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.

Medical evaluation report 17

Case information

Subject’s given name: Benard Mining Kelvin
Age: 20 years

Gender: male
Occupation: Farmer

IDNo: Don’t remember
Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification
My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are:

MBchB (UON 1995)
MMED Human Pathology (UON 2005)
Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

His house was burnt in February by police officers on the allegation that they were occupying forest land. Him and other affected families moved into a school compound where they were staying in tents. Recently the army officers came to their school camp and arrested them at about 3:00am. He was kicked and whipped for 5 hrs while being grilled about the whereabouts of the SLDF members. Taken to Kaptama military camp and the beatings continued for 4 hrs. Transferred to Kapkota military camp where they were forced to crawl in a barbed wire cage for 4 hrs.

**Physical symptoms and disabilities**

His back hurts. Limited movement of the left hip joint.

**Physical examination**
Multiple small tramline scars on the back. Pigmented scars over left iliac region. Has a scar on proximal left forearm - 10cm long. Bilateral scars - anterior knees. Healing bruise on right medial malleolus.

**Psychological state**

Essentially normal.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above physical findings are highly consistent with the alleged torture.

Medical evaluation report 18

Case information

Subject’s given name: Moses Kitiyo Cheprot Age: 34 years
Gender: male Occupation: Farmer
IDNo: 14673672 Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
Telephone: 0722368788.

My qualifications are: MBchB (UON 1995)

    MMED Human Pathology (UON 2005)

    Diploma Forensic Medicine (Durban 2007)

On 30/04/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

His house was burnt in February by police officers. Him and other affected families moved into a school compound where they were stating in tents. Recently the army officers came to their school camp and arrested them in the early hours of the morning. He was kicked and whipped for 3 hrs while being grilled about the whereabouts of the SLDF members and whether he kept any guns.

Physical symptoms and disabilities

His back hurts and pain on moving the right shoulder. He has chest pains.

Physical examination

Tenderness over both lumbar regions of the abdomen.

Psychological state

Essentially normal.

Interpretation of findings

The above findings are consistent with the alleged torture, slight degree of support.

Medical evaluation report 19

Case information

Subject’s given name: Cheroben Cheminingwa Age: 41 years
Gender: male                                      Occupation: Farmer

IDNo: 8025076                                         Exam requested by: KNCHR

Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,

P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB ( UON 1995 )

               MMED Human Pathology ( UON 2005 )

               Diploma Forensic Medicine ( Durban 2007 )

On 30 / 04 / 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

He was arrested by 3 army officers on 12 / 04 / 2008 while working on his farm. He received severe beatings and taken to a market centre where he was put on a lorry and taken to Kaptama camp. They found soldiers doing press-ups, saying they have to exercise in order to discipline people more effectively. After grilling and more beatings, one of the victims died. He stayed on a lorry overnight while it was raining. Next morning he was transferred to Kapkota military base. He was told to move within a barbed wire cage as he was whipped repeatedly. In the evening he was taken to Kimilli police station but the cells were full. They were then transported to Webuye police station
where a special room was created for them since the cells there too were full. The next morning they were released.

**Physical symptoms and disabilities**

He has impaired hearing.

**Physical examination**

Scars in the gluteal region bilaterally, left scar is 20 by 15cm and right scar is 3 by 2cm. Multiple scars involving both ankle joints. Left forearm has multiple tramline scars.

**Psychological state**

Normal.

**Photographs**

See the accompanying photographs

![Photograph of a back with scars]  

**Interpretation of findings**

The above findings are consistent with the alleged torture, high degree of support.
Medical evaluation report 20

Case information

Subject’s given name: Simon Barasa Ndiema Age: 58 years
Gender: male Occupation: Farmer
IDNo: 380861 Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
Telephone: 0722368788.

My qualifications are:MBchB (UON 1995)

MMED Human Pathology (UON 2005)

Diploma Forensic Medicine (Durban 2007)

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

He was arrested by 2 army officers on 12 / 04 / 2008 while working on his farm. He received severe beatings and taken to a school compound where he was put on a lorry and taken to Kaptama camp. He was forced to lie down and then kicked and whipped for 4 hrs. He stayed on a lorry overnight while it was raining. Next morning he
was transferred to Kapkota military base. He was told to move within a barbed wire cage for 1 hr as he was whipped repeatedly. In the evening he was taken to Kimili police station but the cells were full. They were then transported to Webuye police station where a special room was created for them since the cells there too were full. The next morning they were released.

**Physical symptoms and disabilities**

He has headache. Failure of erection from the day he was beaten.

**Physical examination**

Multiple tramline scars-lower back and left gluteal region. 2 parallel scars- posterior right thigh. Swelling and tenderness over the right medial malleollus.

**Psychological state**

Anxious and overly concerned about his failure to achieve penile erection.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above findings are consistent with the alleged torture, high degree of support.

Medical evaluation report 21

Case information

Subject’s given name: Fred Melli Kirui Age: 59 years
Gender: male Occupation: Farmer
IDNo: 5738454 Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB (UON 1995)

MMED Human Pathology (UON 2005)

Diploma Forensic Medicine (Durban 2007)

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment
He was arrested by 2 army officers on 12 / 04 / 2008 while herding cattle. He received severe beatings and taken to an open field where he was put on a lorry and taken to Kaptama camp. The victims were forced to slap each other as they were kicked and whipped. He stayed on a lorry overnight while it was raining. Next morning he was transferred to Kapkota military base. He was told to move within a barbed wire cage as he was whipped repeatedly. In the evening he was taken to Kimilili police station but the cells were full. They were then transported to Webuye police station where a special room was created for them since the cells there too were full. The next morning they were released.

**Physical symptoms and disabilities**

He has back and neck pains. Inability to hear well.

**Physical examination**

Tiny multiple scars on the back. Healing bruises in the right gluteal region. **Psychological state**

He is in a depressed mood.

**Photographs**

See the accompanying photographs

**Interpretation of findings**

The above findings are consistent with the alleged torture, high degree of support.
Medical evaluation report 22

Case information

Subject`s given name: Geoffrey Kimtai Ndiema                   Age: 48 years
Gender: male                                                      Occupation: Farmer
IDNo: 1039801                                                   Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:

Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.

Telephone: 0722368788.

My qualifications are: MBchB (UON 1995)

MMED Human Pathology (UON 2005)

Diploma Forensic Medicine (Durban 2007)

On 30 / 04/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment

He was arrested by 2 army officers on 12 / 04 / 2008 while planting maize. Taken to a market centre, made to lie down as he was whipped and hit with a panga. He was put on a lorry and taken to Kaptama camp. He underwent more beatings for 4 hrs. He stayed on a lorry overnight while it was raining. Next morning he was transferred to
Kapkota military base. He was told to move within a barbed wire cage as he was whipped repeatedly. He was then grilled for 4 hrs. Finally he was dropped by a lorry at Chwele market and left to find his way home.

**Physical symptoms and disabilities**

He feels pains in the left ankle joint on walking.

**Physical examination**

Multiple tramline scars on the back, largest is 6cm long. Multiple tramline scars in the gluteal region and both thighs posteriorly. Swollen and tender left ankle joint.

**Psychological state**

Essentially normal psychological state.

**Photographs**

See the accompanying photographs

Interpretation of findings

The above findings are consistent with the alleged torture, high degree of support.
Medical evaluation report 23

Case information
Subject`s given name: Micah Naibe Age: 18 years
Gender: Male Occupation: Standard 8 student
IDNo: None Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification
My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
P.O Box 4606, Eldoret, Kenya.
Telephone: 0722368788.
My qualifications are: MBchB ( UON 1995 )
MMED Human Pathology (UON 2005 )
Diploma Forensic Medicine ( Durban 2007 )

On 01 / 05/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

Allegations of torture and ill-treatment
He was arrested by many army officers on 12 / 04 / 2008 while on the market. Told to lie down and whipped for 2 hrs. He was put on a lorry and taken to Kaptama camp. He underwent more beatings for 4 hrs. He stayed on a lorry overnight while it was raining. Next morning he was transferred to Kapkota military base. He was told to move within a
barbed wire cage as he was whipped repeatedly. Then was remanded at Busia police station. Next day he was moved back to Kapkota and grilled for 4 hrs. Finally he was dropped by a lorry at Chwele market and left to find his way home.

**Physical symptoms and disabilities**

He has headache and backache. Feel dizzy.

**Physical examination**

Three scars on the back and one in the epigastric region. There are 3 scars- anterior chest.

**Psychological state**

He looks afraid.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above findings are consistent with the alleged torture, moderate degree of support.

Medical evaluation report 24

Case information

Subject’s given name: Pius Simatwa Taboe Age: 45 years
Gender: Male Occupation: Farmer
IDNo: 8003397 Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is:
Moi University school of medicine, Department of pathology,
My qualifications are:

- MBchB (UON 1995)
- MMED Human Pathology (UON 2005)
- Diploma Forensic Medicine (Durban 2007)

On 01/05/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

He was woken up while asleep in his house on 25/04/2008 at 2:00am. The army officers then took him to the school compound where he was hit with a wire for 4 hrs. Was then put on a lorry and moved to Kaptama military camp. There he was grilled as he was repeatedly hit over the soles of his feet and the medial side of right knee.

**Physical symptoms and disabilities**

He has pains in the right knee.

**Physical examination**

Tenderness over the right knee. There is pigmentation of the skin over the medial aspect of the right sole.

**Psychological state**

He looks afraid.

**Photographs**

See the accompanying photographs.
Interpretation of findings

The above findings are consistent with the alleged torture, moderate degree of support.

Medical evaluation report 25

Case information

Subject’s given name: Rodgers Ndiwa Tekweny       Age: 26 years
Gender: Male       Occupation: Farmer
IDNo: 23007671       Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician’s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is

Moi University school of medicine, Department of pathology,
On 01 / 05/ 2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

He was woken up while asleep in his house on 19 / 04 / 2008 at 4:00am. The army officers then took him to the school compound where he was kicked with a boot on the left orbital region. Then forced to lie down and beaten for 4 hrs. Was then put on a lorry and moved to Kaptama military camp. There he was grilled while being beaten for 3 hrs. Transferred to Kapkota for further grilling. He spent the night at Chesikaki police cell and returned to Kapkota where he was forced to crawl in a barbed wire cage for 2 hrs.

**Physical symptoms and disabilities**

He is unable to see with his left eye.

**Physical examination**

Left eyelids swollen and covering the eye. Has a pink scar on the left brow. There is left subconjunctival haemorrhage. Scars on the anterior knee bilaterally. Multiple pigmented scars on the buttocks.

**Psychological state**

Normal

**Photographs**

See the accompanying photographs
Interpretation of findings

The above findings are consistent with the alleged torture, moderate degree of support.

Medical evaluation report 26

Case information

Subject`s given name: Hellen Chepkemoi      Age: 34 years
Gender: Female                           Occupation: Businesswoman
IDNo: 20398697                                      Exam requested by: KNCHR
Medical report transferred to: Dona Anyona, KNCHR

Clinician`s qualification

My names are Dr Walter Wekesa Nalyanya. I am a pathologist working as a lecturer in Moi University, Department of pathology.

My physical address is

Moi University School of Medicine, Department of pathology,
On 01/05/2008 at Mount Elgon Hospital Kitale, I conducted a medical examination of the above named subject.

**Allegations of torture and ill-treatment**

She was arrested by army officers from her home on 18/04/2008 at 9:00pm. She was slapped severally and almost strangled by the collar of her cloth. Taken to Kaptama military camp where she spent a night. She owns a hotel at Gituamba market and the officers wanted to know the identity of people she sells food to. Moved to Kapkota camp she was grilled in a tent and pepper was applied on her buttocks. She was also hit severally on the soles of her feet (falanga). She was taken to Kapsokwony police cell where she spent a night. Then transported back to Kapkota for further grilling. She spent another night in the same cell and then released.

**Physical symptoms and disabilities**

The victim has had laparotomy twice for ectopic and now she feels pains over the scar.

**Physical examination**

Has a scar on the left side of her neck measuring 5cm by 1cm.

**Psychological state**

She is frightened and angry.

**Photographs**

See the accompanying photographs
Interpretation of findings

The above findings are consistent with the alleged torture, slight degree of support.