

Trial Hearing  
WITNESS: UGA-PCV-0001

(Open Session)

ICC-02/04-01/15

1 International Criminal Court  
2 Trial Chamber IX  
3 Situation: Republic of Uganda  
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15  
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and  
6 Judge Raul Pangalangan  
7 Trial Hearing - Courtroom 3  
8 Monday, 14 May 2018  
9 (The hearing starts in open session at 9.32 a.m.)  
10 THE COURT USHER: [9:33:02] All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 PRESIDING JUDGE SCHMITT: [9:33:18] Good morning, everyone.  
14 Could the court officer please call the case.  
15 THE COURT OFFICER: [9:33:28] Thank you, Mr President.  
16 The situation in Uganda, case The Prosecutor versus Dominic Ongwen, case reference  
17 ICC-02/04-01/15.  
18 And we are in open session.  
19 PRESIDING JUDGE SCHMITT: [9:33:38] Thank you.  
20 I call for the appearances of the parties. Mr Gumpert first for the Prosecution.  
21 MR GUMPERT: [9:33:42] Good morning, your Honour. Ben Gumpert for the  
22 Prosecution. With me today Yulia Nuzban, Hai Do Duc, Julian Elderfield, Pubudu  
23 Sachithanandan, Phil Kwong, and Ramu Fatima Bittaye.  
24 PRESIDING JUDGE SCHMITT: [9:33:56] Mrs Massidda.  
25 MS MASSIDDA: [9:33:58] Good morning, Mr President, your Honours. For the

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1 Common Legal Representative team today, Ms Jane Adong, Mr Orchlou Narantsetseg,  
2 Ms Caroline Walter, Patrick Tchidimbo and myself Paolina Massidda.  
3 PRESIDING JUDGE SCHMITT: [9:34:14] Thank you.  
4 And Mr Cox.  
5 MR COX: [9:34:17] Good morning, your Honour. With me, Maria Radziejowska,  
6 and myself Francisco Cox.  
7 PRESIDING JUDGE SCHMITT: [9:34:21] Thank you.  
8 And for the Defence, Mr Ayena, please.  
9 MR AYENA ODONGO: [9:34:24] Good morning, Mr President and your Honours.  
10 Today I'm assisted by Chief Charles Achaleke Taku, Ms Beth Lyons, Mr Tom Obhof,  
11 Mrs Abigail Bridgman and myself, Krispus Ayena Odongo.  
12 PRESIDING JUDGE SCHMITT: [9:34:48] And your client, Mr Dominic Ongwen.  
13 MR AYENA ODONGO: [9:34:51] Our client Dominic Ongwen is in court here.  
14 PRESIDING JUDGE SCHMITT: [9:34:54] Thank you very much. And I understand  
15 that Mrs Lyons wants to address the Court.  
16 MR AYENA ODONGO: Yes.  
17 MS LYONS: [9:35:09] Yes. Okay. Can you hear me? All right. Sorry. It's been  
18 a while since I've been in this Court. Okay. Thank you, your Honour, for the  
19 opportunity to address you.  
20 I wanted to address the Court on a number of legal issues concerning the expert's  
21 report. Contrary to the speculation of Attorney Massidda, we're not challenging the  
22 expertise of the expert. We never said what we were going to do, but we're certainly  
23 not going to challenge that.  
24 What we are objecting to is admission to the expert report with the inclusion of pages  
25 38 to 42, which is the section on victim witness testimony. In short, if this section is

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1 expunged or excised or cut out, we have no problem with the admission of the report.  
2 The reason we're taking this position has to do with the specific examples used here,  
3 some of which go to Article 56 witnesses who are identified, some are anonymous  
4 Article 56 witnesses and a few others are just testimony thrown in.  
5 In the main, we consider in the aggregate all of these as prejudicial to the fair trial  
6 rights of the client if they are included in the report and it is admitted as such.  
7 Now, I've reviewed your most recent decisions about the issue of evidence and its  
8 admission in this case, particularly in reference to the victims' case. And you've  
9 clearly held that any evidence which goes to prove the elements of the charges alleged  
10 against Mr Ongwen or his alleged role in the commission of these crimes is not  
11 permitted in the LRV or CLRV case presentations.  
12 It's our position that the holding of the Trial Chamber is consistent with fair trial  
13 rights. And I refer you to decisions you know better than I, but decision 1248, 13 and  
14 14, decision 1199, paragraph 18, which is based on the, in part, on the prior rulings by  
15 your Honour in T-65. It was an oral decision I believe where you sustained an  
16 objection by my colleague, Chief Taku, in relation to a question asked by Mr Cox to a  
17 particular witness. In any case, these are the legal references.  
18 Now, you also decide in 1248 it would be case by case, and for that reason I wanted to  
19 go through case by case the 10 or 12 examples here so that you are clear about -- you  
20 are clear and I can clearly articulate for the record what it is I am talking about.  
21 First of all, on page 38, and it's ERN, number ending 0058, paragraph 1, there is no  
22 distinction between allegations against Mr Ongwen and the LRA. The first sentence  
23 reads: "Multiple victim witnesses provided testimony throughout the Court's  
24 proceedings. Included in this testimony were impact statements that detailed both  
25 the physical and psychological trauma that resulted from rapes and other crimes

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1 committed by Ongwen and the LRA."

2 Now, my client, Mr Ongwen, is not synonymous with the LRA. The LRA, the head  
3 of the LRA is not in this dock, perhaps my view is he should be, he's not here. My  
4 client is here. So that this is essentially making an assumption, it's guilt by  
5 association, it violates any specificity that Mr Ongwen is entitled to under fair trial.  
6 That's just the first example.

7 Now, the next example is page, sorry, page 39, let's start with paragraph 1, lines 1 to 4.

8 THE COURT OFFICER: [9:40:04] Excuse me, could we have the full ERN number?

9 Thank you very much.

10 MS LYONS: [9:40:10] Sure. No problem. The full -- do you want it each time or  
11 can I just give it once?

12 THE COURT OFFICER: [9:40:14] Just once.

13 MS LYONS: Okay.

14 THE COURT OFFICER: And then the page number only. Thank you.

15 MS LYONS: [9:40:19] Great. Okay. The full ERN number is UGA-PCV-0001-0020.

16 That's the start of the document. I apologise. Okay.

17 Now, page 39, we have a reference in the first paragraph to an Article 56 witness.

18 This essentially is an anonymous witness. It may be an Article 56 witness. I don't  
19 know who it is. I mean, I believe there were seven, if I'm correct, Article 56  
20 witnesses who testified a couple years ago before the Pre-Trial Chamber. There is,  
21 there is no attribution here.

22 Similarly, what is attributed to the anonymous witness is "I did not want to step in his  
23 house but he told me to do so." Now, there is no antecedent to "he". We do not  
24 assume that the "he" is Mr Ongwen. The "he" could be anybody.

25 It is clearly an example of, in my view, of prejudice here because we don't want to

1 make that assumption. And this is something that violates the fair trial rights of my  
2 client because we don't know who this "he" is.

3 Similarly on page 39 we have P-70's testimony where P -- I'm sorry, yes, P-70 talks  
4 about abductees being distributed between the LRA commanders. Again, there is,  
5 it's a general comment, but the fact that it's in this report on Ongwen and in this  
6 context in my view means that it is more likely than not that it could be read in a  
7 prejudicial manner.

8 Now, again on page 39, ERN ending 0059, we have the sentence "Repeatedly the  
9 Court heard Mr Ongwen or other LRA commanders raping children."

10 Now, as far as I know, Mr Ongwen is -- our allegations in his individual and in other  
11 forms of liability as to the rape charge, he is not charged with raping children. There  
12 is a conscription charge which is separate which sets the age limit at 15. You can't  
13 put these together and say it's raping children. It seems to me that this is prejudicial.  
14 This is not a charge. And that's a problem with this section.

15 Now moving on to page 40, again, we have in the middle of the page another Article  
16 56 witness articulated her traumatic experience of rape. Again, there is no  
17 attribution. We don't know who "he" is. So that the issues here are issues, these are  
18 the kinds of issues that deal with the potentially prejudicial effect of the inclusion of  
19 this in this report.

20 Now we have, now we have 172. Again, the presence of this section here, it's unclear  
21 as to its purpose, but in the context does not serve in our view to present the evidence  
22 in any way, shape or form that's consistent with the fair trial mandates of this Court.

23 Now looking at page, as I said, page 40, that Article 56 witness was anonymous.

24 Now moving ahead to page 41, we have 235, who was an Article 56 witness. Again,  
25 we believe that the Prosecution certainly could -- we believe that this testimony goes

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1 to elements of some of the conduct that has been charged by the Prosecution. I mean,  
2 there are a number of charges I'm sure fits into, there were six or seven in regard to  
3 the Article 56 witnesses.

4 PRESIDING JUDGE SCHMITT: [9:45:51] You can move on. We are --

5 MS LYONS: Okay. You've got the point.

6 PRESIDING JUDGE SCHMITT: [9:45:55] Yes.

7 MS LYONS: [9:45:56] Thank you. That helps me. All right.

8 PRESIDING JUDGE SCHMITT: [9:45:58] Exactly that, yes.

9 MS LYONS: [9:45:59] All right. Sorry. I understand that.

10 Okay. Page 40, that's 235.

11 P-45, again, the issue of the elements of the crimes charged.

12 Now we get to P-9. I want to speak a little bit about, again, P-9 being prejudicial.

13 The end of page 41 we get to P-227.

14 By the way, your Honours, I checked the testimony. I looked this up where P-227  
15 was, was T-10 and T-11 I believe, and again, here we have a problem in addition to  
16 talking about the elements of the charge, we have a legal conclusion because 227 on  
17 my readings of the transcripts never said she was a sex slave. Sexual slavery is a  
18 charge, so that here we have a legal conclusion being made by the expert. Legal  
19 conclusions are obviously your purview.

20 We have P-67. Again, the prejudicial effect of this. With P-214, same argument.

21 And in P-396 the prejudicial effect, because basically all of these, some -- all of these  
22 go to the elements of the crimes charged or would be fit in, if I were prosecuting the  
23 case, to one of the 70, but you know, within this section, one of the 10 or 12 sexual and  
24 gender-based crimes within here.

25 And so for that reason, because it's contrary to your ruling, I would argue that this

1 section, this whole section should be excised and then we don't have a problem with  
2 the report.

3 Now, in line with this, I have two brief arguments. First of all, we were handed  
4 summaries of this expert's report as well as the other two experts, Professor Musisi  
5 and Professor Wessells.

6 These reports were translated into Acholi. Look, I'm well aware that the Defence has  
7 not won on the issue based on our objections have been rejected, many of our  
8 objections regarding translation have been rejected by this Trial Chamber, but I would  
9 like to place, place on the record that the two-page summaries in fact are inadequate.  
10 The first paragraph of all of them, but particularly the one for the expert who will  
11 come in in a few minutes, is basically qualifications. So it's a CV.

12 The second is essentially the titles from the sections of the reports. In other words,  
13 there are no conclusions here. So the client has no way to understand before he  
14 comes to court what conclusions the expert today and the next two experts are going  
15 to testify about.

16 This is a problem because this is, this report is evidence. You've indicated in your, in  
17 your decisions that at the appropriate time the expert reports will come in through a  
18 68(3) proceeding. I'm arguing that, making the arguments now that the client has  
19 not had access to this evidence. You've also said, your Honours, as I understand it,  
20 that evidence would be translated for the client. So if the report comes in as under a  
21 68(3) proceeding, it's essentially, it's a statement but it's considered evidence. As  
22 evidence, it's our position that it should be translated for the client.

23 The bottom line is that what we have for today and for the next two experts is clearly  
24 inadequate and violates, in our view, Article 67(1)(f).

25 I would also point out that in the decision 1199, the Court had held that the

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1 Prosecution is obliged to translate the statement of its witnesses, reports of victims'  
2 expert witnesses need not be translated into the language of the accused where their  
3 evidence did not go to the attacks charged.  
4 Now, I've argued a few minutes ago that this evidence in 38 to 42 goes to the attacks  
5 charged, so that that argument should be added, it's a new argument to be added to  
6 our request for translation.  
7 What I would request from the Trial Chamber at the appropriate time is that you  
8 make a finding that the expert report needs to expunge or excise, I don't know the  
9 term, I'm used to -- we expunge the records in New York City, okay. But, okay, but  
10 expunge or excise 38 to 42, the victims' testimony. And that the second request we're  
11 making, a finding of the summaries which have been submitted, these two  
12 paragraphs for each of the three experts are inadequate and violate 67(1)(a) because  
13 they don't go to content.  
14 And we request findings in writing on these two points or we would accept an oral  
15 decision if this Trial Chamber decides.  
16 Thank you for listening, your Honour.  
17 PRESIDING JUDGE SCHMITT: [9:52:20] Thank you, Mrs Lyons.  
18 And of course Mrs Massidda has to have the right to respond.  
19 MS MASSIDDA: [9:52:27] Thank you very much, your Honour. I have a few  
20 observations. It will not take more than five minutes, I hope.  
21 The first one, it's in relation to the timing of the objection raised by the Defence. We  
22 already objected on Friday afternoon, indicating that in our view the Defence could  
23 have raised any kind of issues related to the expertise before. They failed to do so  
24 and it's too late. They have been provided with a report more than one month and a  
25 half before the start of the testimony. And we are now faced with a last-minute

1 objection.

2 Going to the substance of the objection, the first one in relation to the expunction of  
3 pages 38 to 42 of the report, we of course object to this request for mainly three  
4 reasons. The first one is clearly indicated on the letter of instruction provided to the  
5 expert. The expert was supposed to provide an expertise on mental health outcomes  
6 of rapes and other forms on gender-based crimes.

7 When the expert provided the report, and I'm referring verbatim to page 2 of the  
8 report of the expert, for the record ERN number UGA-PCV-0001-0021 in fine, the  
9 expert clearly indicated why he decided to use parts of a testimony which were  
10 provided to him in redacted version, and I quote:

11 "Lastly, this report connects the vast empirical literature that exists with actual victim  
12 trial testimony of the events in northern Uganda involving the LRA. By making this  
13 direct connection, we have provided strong evidence of the mental impacts of sexual  
14 violence and rape on survivors."

15 So the scope for the expert of providing these connections is only to explain how these  
16 kind of events have an impact on the mental impacts on the victims, and which is  
17 exactly the scope of our presentation of evidence to provide the Chamber with the  
18 extent or with an understanding of the extent of the victimisation suffered by the  
19 victims.

20 This is further explained and contrary to what my learned colleague just said in the  
21 part of the reports dealing with the testimony. And I will quote only two examples  
22 for the Chamber.

23 Page 48 of the report ERN ending with 0058: "It is important to note that the  
24 physical and psychological trauma that is highlighted in the literature and  
25 throughout this report is congruent with the testimony that was presented in court."

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1 PRESIDING JUDGE SCHMITT: [9:56:15] We are talking about 38 I think of the  
2 report.  
3 MS MASSIDDA: [9:56:19] Yes, page 48.  
4 PRESIDING JUDGE SCHMITT: [9:56:21] I think 38, but --  
5 MS MASSIDDA: [9:56:23] Yes, 38, three-eight. My apologies, your Honour.  
6 So this part again shows the limited extent for which the testimonies were used by the  
7 expert.  
8 Another example is page 41, in the middle of the page, ERN ending with 0061: "The  
9 terror of threat of extreme violence or death intensifies the trauma and contributes to  
10 the likelihood that rapes will result in poor mental health outcomes."  
11 It appears clear, and I will stop there, there are other quotes that I could make, your  
12 Honour, but it's clear for the report that the only purpose was to show the extent of  
13 the victimisations and the consequences, and the expert did not make any reference to  
14 any issue related to the responsibility of Mr Ongwen.  
15 Lastly, your Honour, all the evidence and quotes cited by the Defence are already  
16 evidence in the record of the case. We are not bringing new evidence. There is a  
17 decision of the Chamber particularly on the admission into evidence of Article 56  
18 statement -- proceedings, which is the decision of 9 May I think 2017, if I'm  
19 correct -- sorry, decision 520 of 10 August 2016. And the Defence knows about this  
20 kind of evidence, so they cannot allege now that they don't know to whom the  
21 evidence referred to.  
22 Second objection, your Honour, in relation to the Acholi translations, this issue has  
23 already been brought before the Chamber and a decision by the Chamber is pending  
24 on the matter. We simply defer to our submission in filing 257 dated 9 May 2018,  
25 paragraph 16 to 20 in which we clearly stated that the Chamber did not order to

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1 provide Acholi translation of a summary, first; and second, that the Defence did not  
2 challenge the inappropriateness, if I can put that way, of the summaries before.

3 In conclusion, your Honour, we ask to reject both objections by the Defence.

4 Thank you.

5 PRESIDING JUDGE SCHMITT: [9:59:18] Thank you.

6 Does the Prosecution want to comment on that? This is not the case, then we will  
7 have to go to the deliberation room for that, we have to reflect a little bit upon that,  
8 but I would suggest that you stay close by and not go for a coffee.

9 THE COURT USHER: [9:59:33] All rise.

10 (Recess taken at 9.59 a.m.)

11 (Upon resuming in open session at 10.25 a.m.)

12 THE COURT USHER: [10:25:22] All rise.

13 Please be seated.

14 PRESIDING JUDGE SCHMITT: [10:25:36] So we have to give the following ruling  
15 by the Chamber.

16 The request by the Defence to exclude pages 38 to 42 of the expert report into  
17 evidence is rejected.

18 With regard to the argument that the report mentions the testimony of unknown  
19 witnesses, the Chamber notes that all references made in the four pages are done by  
20 witnesses that are known to the Defence, that the extracts cited are already in  
21 evidence.

22 THE INTERPRETER: [10:26:06] Message from the interpretation booth: Could  
23 your Honour slow down a bit?

24 PRESIDING JUDGE SCHMITT: [10:26:12] Yes.

25 I'm admonished by the interpreters to speak slowly.

1 But did you get everything until here? Obviously, yes. So then I will slow down.  
2 The Chamber further stresses, as pointed -- now I have to look where I was, frankly  
3 speaking.  
4 The Chamber further stresses, as pointed out by the Defence, the limited purpose of  
5 the testimony by these witnesses. It recalls decision 1199 and its oral instruction  
6 from 4 April 2017 that the victim representatives may, and I quote again:  
7 "Appropriately ask certain questions to witnesses about other matters which are  
8 relevant to the personal interests of the victims."  
9 This may include questions about harms which the witnesses personally suffered or  
10 harms of other victims which the witness observed. The expert report is, therefore,  
11 not outside of these instructions.  
12 As to the last point raised by the Defence, it is of course ultimately up to the Chamber  
13 to make any legal assessment and to assess the evidence. As has been done in the  
14 past, the Chamber will take note of the evidence, and of course it will make the  
15 ultimate assessment of it.  
16 As also been done in the past, it will furthermore make its own legal conclusions. As  
17 has been done with the last expert, any references using terms with a legal  
18 connotation, such as rape, for instance, will of course be fully and only assessed by  
19 the Chamber. This is to assure the Defence that there will be no prejudice in that  
20 regard.  
21 Regarding the translation issue, the Chamber notes that this issue has been raised  
22 numerous times and is already under consideration in a request that has been  
23 submitted by the Defence.  
24 Accordingly, the Chamber rejects the exclusion of parts of the expert report and will,  
25 in line with its general approach, fully assess the evidence at the time of the issuance

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1 of the judgment.

2 This concludes the ruling by the Chamber and the witness can or the expert can now  
3 be brought into the courtroom.

4 And to fill the gap, so to speak, Mrs Massidda, we have as a Chamber, and also the  
5 Presiding Judge in person, reiterate several times the scope and purpose of such  
6 evidence, and we have recalled it also in this ruling, and I think you have taken note  
7 of it and you will follow this.

8 MS MASSIDDA: [10:29:32] Yes, your Honour, I'm guided. Thank you.

9 (The witness enters the courtroom)

10 PRESIDING JUDGE SCHMITT: [10:30:00] Good morning, Mr Reicherter. Do I  
11 pronounce your name correctly?

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13 (The witness speaks English)

14 THE WITNESS: Reicherter.

15 PRESIDING JUDGE SCHMITT: [10:30:07] You see, from Germany we would say  
16 "Reicherter". So you are, from now on, you are Mr Reicherter --

17 THE WITNESS: [10:30:14] Yes, thank you.

18 PRESIDING JUDGE SCHMITT: [10:30:16] -- for me. And sometimes it happens  
19 that procedural issues have to be discussed in a courtroom, this is the reason why we  
20 are a little bit later and start only a little bit later with your testimony, so to explain it  
21 to you.

22 THE WITNESS: [10:30:28] No problem.

23 PRESIDING JUDGE SCHMITT: [10:30:29] I would like to welcome you on behalf of  
24 the Chamber in this courtroom. And, Mr Reicherter, there should be a card in front  
25 of you with the solemn undertaking.

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- 1 THE WITNESS: [10:30:41] Okay.
- 2 PRESIDING JUDGE SCHMITT: [10:30:41] I would ask you to read this card out  
3 aloud, please.
- 4 THE WITNESS: [10:30:45] I solemnly declare that I will speak the truth, the whole  
5 truth, and nothing but the truth.
- 6 PRESIDING JUDGE SCHMITT: [10:30:49] Thank you very much.  
7 I have a few practical matters for you that you should have in mind when you give  
8 your testimony. As you know, everything we say here in the courtroom is written  
9 down and interpreted so everybody, including me, I have recently been admonished  
10 by the interpreters, have to speak slowly and clearly into the microphone so that  
11 everybody understands you and that the interpreters can follow.  
12 If you have any questions yourself, please raise your hand and I will give you then  
13 the floor.  
14 I think that is all what we need as preliminaries and I would then give Mrs Massidda  
15 the floor.
- 16 MS MASSIDDA: [10:31:29] Thank you very much, your Honour.
- 17 QUESTIONED BY MS MASSIDDA:
- 18 Q. [10:31:36] Good morning, Professor Reicherter.
- 19 A. [10:31:39] Good morning.
- 20 Q. [10:31:40] You have been called as expert by the team, one of the team  
21 representing victims in these proceedings and you are appearing in that capacity.  
22 Now, Professor Reicherter, could you please state your full name for the record?
- 23 A. [10:31:54] My name is Daryn Scott Reicherter.
- 24 Q. [10:31:58] What is your nationality?
- 25 A. [10:32:01] United States of America.

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1 Q. [10:32:02] And what is your occupation?

2 A. [10:32:06] I am a professor of --

3 THE INTERPRETER: [10:32:08] Message from the interpretation booth: Could the  
4 five-second golden rule be respected.

5 MS MASSIDDA: [10:32:15] Yes, so five-second rules.

6 PRESIDING JUDGE SCHMITT: [10:32:16] Now it has. I had forgotten to mention  
7 this five-second rule, which of course never is a five-second rule. It is simply that  
8 people at least obey two or three seconds, that we exaggerate here a little bit. This  
9 means that when one person has finished speaking, that the next person starting  
10 speaking should wait a couple of seconds at least so that they can follow.

11 MS MASSIDDA: [10:32:38] Me included, your Honour.

12 PRESIDING JUDGE SCHMITT: [10:32:40] Of course. I'm tempted to say especially  
13 you.

14 MS MASSIDDA: [10:32:46]

15 Q. [10:32:47] So, Professor, what is your occupation?

16 A. [10:32:50] I am a professor of psychiatry and the director of the Human Rights in  
17 Trauma Mental Health Research Laboratory at Stanford University in the United  
18 States.

19 Q. [10:33:04] There should be a binder in front of you.

20 A. [10:33:13] Not yet.

21 PRESIDING JUDGE SCHMITT: [10:33:18] So, in principle, we have the electronic  
22 file to 100 per cent, but since there are some people who are not really young here,  
23 especially also judges, we have also written paper, we still have paper, and we  
24 thought that you also have this paper in front of you. But now I think the whole  
25 thing is being fixed.

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1 MS MASSIDDA: [10:33:43] My apologies, your Honour. There must be an issue  
2 with that. Give me just one second.

3 PRESIDING JUDGE SCHMITT: [10:33:55] I think it will not be a mystery for you,  
4 Mr Reicherter, that we are now going to talk about your expert report.  
5 And again, Mr Gumpert was helpful.

6 MR GUMPERT: [10:34:13] I've made a couple of marks in it, but only underlinings  
7 of various matters which were raised earlier. I don't think it will affect the  
8 substance.

9 PRESIDING JUDGE SCHMITT: [10:34:23] No. I don't think so.

10 MS MASSIDDA: [10:34:24] My apologies, your Honour, for this inconvenience.

11 PRESIDING JUDGE SCHMITT: [10:34:28] No problem.

12 And, Mr Gumpert, by the way, we have here an expert who is an expert and who  
13 might have his own thoughts, will give his own evidence on what he thinks is okay or  
14 not okay.

15 MS MASSIDDA: [10:34:42]

16 Q. [10:34:42] Now, Professor Reicherter, you have the binder in front of you,  
17 correct?

18 A. [10:34:49] Yes.

19 Q. [10:34:49] Could you please turn to tab 1 of the binder. For the record, the ERN  
20 number UGA-PCV-0001-0006. Do you see the document in front of you?

21 A. [10:35:13] Yes.

22 Q. [10:35:14] Is this the curriculum vitae that you provided to me?

23 A. [10:35:17] It is.

24 Q. [10:35:20] Now, at page 1 of that document, same ERN number, you indicate on  
25 the top of the page that you are an expert in the area of cross-cultural trauma

1 psychiatry, having spent more than a decade dedicated to providing a combination of  
2 administrative and clinical services in trauma mental health locally and  
3 internationally.

4 Can you explain what cross-cultural trauma means.

5 A. [10:36:02] Yes. My area of expertise is in working clinically with persons who  
6 are refugees or from other places beside the place where I'm from, United States, and  
7 also working internationally with cultures that are not my own, specifically for people  
8 who are survivors of war crimes or traumatic experiences.

9 So in that capacity I am quite familiar with how psychological trauma manifests in  
10 cultures other than my own culture.

11 Q. [10:36:49] So is my understanding correct that you have a theoretical knowledge  
12 of the issue, but as well as a practical knowledge by virtue of the clinical services that  
13 you provide?

14 A. [10:37:02] Yes, absolutely. So I provide services in cross-cultural psychiatry  
15 locally and internationally. I also research that topic and write about it for the APA  
16 and for other peer-reviewed journals.

17 Q. [10:37:22] And for what APA stands for --

18 A. [10:37:25] Sorry.

19 Q. [10:37:29] -- for the ones who are not familiar with this term?

20 A. [10:37:31] APA is the American Psychiatric Association, the framer of the  
21 Diagnostic and Statistical Manual of Psychiatry.

22 Q. [10:37:43] Did you already testify before this Court?

23 A. [10:37:49] I testified at the International Criminal Court in the case of Bemba.

24 Q. [10:37:58] And on which topic did you appear as expert witness in that case?

25 A. [10:38:04] So similar to this case, I was an expert on the topic of outcomes in

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1 sexual violence and rape.

2 Q. [10:38:16] Now please, Professor, could you please turn to tab 2 of your binder?

3 A. [10:38:23] Yes.

4 Q. [10:38:23] And for the record, the ERN number UGA-PCV-0001-0020.

5 A. [10:38:38] Yes.

6 Q. [10:38:40] Do you recognize this document?

7 A. [10:38:42] I do.

8 Q. [10:38:45] Can you please explain to us what is this document?

9 A. [10:38:49] So this is an expert report that I wrote with my lab group from  
10 Stanford on the topic of rape and other forms of sexual violence, forced marriage and  
11 forced pregnancy, specifically for this case.

12 Q. [10:39:14] Now, at page 1 of this report under the section "Introduction" the  
13 report indicates that it was created by the Human Rights in Trauma Mental Health  
14 Laboratory comprised of a multidisciplinary team. Could you please explain the  
15 focus very briefly of the laboratory work?

16 A. [10:39:42] Yes.

17 Q. [10:39:42] And also, if you can, the value of assessing mental health from a  
18 multidisciplinary perspective.

19 A. [10:39:52] Yes. In our laboratory at Stanford, I'm the director of the laboratory,  
20 and it's quite helpful to have more than one opinion or avenue for putting an expert  
21 report together.

22 Most of the information that's in here, if not all of the information that's in here, is  
23 information that I'm quite familiar with as an expert. But having the breadth of also  
24 having people from other disciplines like law and anthropology as well as having  
25 some graduate students who are able to look a little bit deeper than the faculty might,

1 we're able to gather all of the relevant data and also have opinions from folks from  
2 other disciplines who can help us organise that in a way that makes the most sense for  
3 an expert report.

4 In the end, I'm the first author and primary author, Dr Matlow, my colleague, is my  
5 sort of backup to help me understand and help edit with me. And then some of the  
6 folks from the Department of Law are able to put their eyes over it to make us  
7 understand what would be most salient and sometimes if we have been too technical  
8 and should refrain some of our language for better understanding for a court process.

9 Q. [10:41:35] Now, could you please, Professor, turn to page 43 of the report, ERN  
10 ending with 0063.

11 A. [10:41:49] Yes.

12 Q. [10:41:50] Do you see a signature on that page?

13 A. [10:41:54] I do.

14 Q. [10:41:57] Whose signature is that?

15 A. [10:41:59] That is my signature.

16 Q. [10:42:04] Please turn now to binder -- to tab 3 of your binder. Is that the letter  
17 of instruction that you received from me?

18 A. [10:42:25] It is.

19 MS MASSIDDA: [10:42:32] And for the record, your Honour, I would like to correct  
20 a typo I think that your Honour has already spotted. It's written that the crimes  
21 were committed to an unspecified date in 2004, which is incorrect actually. In  
22 accordance with the decision of the confirmation of the charges, this should read, of  
23 course, 31 December 2005.

24 Q. [10:42:59] Apart from the letter of instruction, Professor Reicherter, you were  
25 provided with other material to provide your expertise; is this correct?

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- 1 A. [10:43:15] Yes.
- 2 Q. [10:43:19] You were provided with redacted transcripts of testimonies and  
3 redacted applications of victims participating in that case?
- 4 A. [10:43:27] That's correct.
- 5 Q. [10:43:32] You were also provided at a later stage with further transcript of  
6 testimonies at trial; is that correct?
- 7 A. [10:43:41] It is correct.
- 8 Q. [10:43:45] Did you personally review that material?
- 9 A. [10:43:48] Yes.
- 10 Q. [10:43:55] Professor Reicherter, do you confirm today that the content of the  
11 report is true to the best of your knowledge and belief?
- 12 A. [10:44:03] It is true.
- 13 Q. [10:44:08] Now, Mr Witness, the Rules of Procedure and Evidence of this Court  
14 allow for a report such as yours to be admitted into evidence if the author does not  
15 object to this course of events. Do you object to the submission of your report into  
16 the record of this case?
- 17 A. [10:44:29] I do not object.
- 18 MS MASSIDDA: [10:44:32] Your Honour, I think this provides all the requirements  
19 under Rule 68(3) for submission of a report.
- 20 PRESIDING JUDGE SCHMITT: [10:44:40] You assume correctly. Please proceed.
- 21 MS LYONS: [10:44:45] Your Honour, excuse me, for the record, I would like the  
22 objections of the Defence in regard to this report and sections of it to be part of the  
23 record. I'm not going to repeat them now, the previously raised objections.
- 24 PRESIDING JUDGE SCHMITT: [10:44:58] I think I would have thought that we  
25 have this already on the record, but --

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1 MS LYONS: [10:45:02] Okay. I wanted to be clear because --

2 PRESIDING JUDGE SCHMITT: [10:45:04] Yes, yes.

3 MS LYONS: [10:45:05] I just want the procedure to be clear and to make the  
4 objection contemporaneous to the request to admit the report, make the limited  
5 objections that we raised earlier. Thank you.

6 PRESIDING JUDGE SCHMITT: [10:45:16] I understand. I understand. I  
7 personally think it's simply a repetition, but nevertheless we proceed now with Ms  
8 Massidda.

9 MS MASSIDDA: [10:45:25]

10 Q. [10:45:25] Now, Professor, we are done with the formal requirements. It means  
11 that your report is now submitted, it will be submitted into evidence and, therefore, I  
12 will limit my questioning on some specific issues on which I'd like to have more  
13 explanation or details from your part.

14 As a matter of housekeeping, Mr President, and since the report does not contain the  
15 paragraph, I have been -- I will follow in my questioning the pages of the report in  
16 sequence so that we don't go back and forth. I thought it was easier for everybody.

17 PRESIDING JUDGE SCHMITT: [10:46:05] I think that is absolutely a good idea.  
18 And you also know and I reiterate that the procedural consequences of Rule 68(3) are  
19 such that the report is in evidence and that we should only ask additional questions  
20 that might provide us with additional information.

21 MS MASSIDDA: [10:46:27] Yes, your Honour.

22 PRESIDING JUDGE SCHMITT: [10:46:29] Or simply helps us to understand the  
23 report better.

24 MS MASSIDDA: [10:46:36] Yes, your Honour.

25 Q. [10:46:39] Professor Reicherter, you explained to us that you are an expert on

1 cross-cultural trauma. Now, in your experience and according to science, would you  
2 say that trauma and mental health outcomes in victims of rape and sexual and  
3 gender-based crime in Uganda are different or differ from that of other populations  
4 you have worked with?

5 A. [10:47:12] So we -- I have worked with populations really around the world. I  
6 think it's detailed to some extent in my CV. But pretty extensively with rape  
7 survivors from each -- most hemispheres and many different places. And there are  
8 very specific themes that seem to come up regardless of people's origin, culture, and  
9 in my experience in the reading that we've done and the other experts that we've  
10 spoken with, there seems to be very few differences between what we see in other  
11 rape survivors and the rape survivors from this event.

12 Q. [10:48:05] And when you refer to "very few differences", to what these  
13 differences could be attributed to?

14 A. [10:48:15] Sure. Well, let me clarify. You know, when we are using a basic  
15 instrument like the DSMs, the Diagnostic and Statistical Manual for clarification of a  
16 diagnosis like post-traumatic stress disorder or other diagnoses, those hold up well  
17 from one culture to another culture, and so there is basically no difference in terms of  
18 making that diagnostic inclusion for folks from one area or another.  
19 But what we do see is that sometimes there are cultural differences wherein  
20 somebody from one culture may express a symptom or an additional symptom that's  
21 not considered in the DSM. And those are in my mind nuanced and subtle and less  
22 important than the big picture of the fact that people have very important and bad  
23 outcomes after sexual violence.

24 Q. [10:49:30] Now, at page 11 of your report, and this is ERN ending with 0031, for  
25 easy reference it's the last paragraph of page 11.

1 A. [10:49:46] Okay.

2 Q. [10:49:50] In that paragraph there is a conclusion that you make which reads as  
3 follows:

4 "... there is strong reasons to believe that the range and severity of psychological  
5 distress suffered by victims and communities in Uganda extends beyond the singular  
6 diagnosis of post-traumatic stress disorder", end of quote.

7 Now, I will be interested in understanding a little bit more, or does it mean that it  
8 extends beyond that singular diagnosis? In other words, which other elements  
9 categorise the trauma?

10 A. [10:50:46] I actually don't see the line, but I don't think I need to find the line in  
11 order to answer the question.

12 You know what, one of the things we wanted to be clear about in this report is that an  
13 individual developing one case of post-traumatic stress disorder is different from a  
14 community of people wherein many of the persons have developed a mental health  
15 disorder, post-traumatic stress disorder or otherwise, some other mental health  
16 disorder, depression, some dissociative state, any other kind of disorder.

17 Furthermore, one individual in a community developing a mental health disorder like  
18 post-traumatic stress disorder can affect, you know, many of the other players in that  
19 community, their family, their children, their ability to operate and function within  
20 that system, and so therefore sort of pointing out in this line really that it's not only  
21 important for the specific victim, but important for their network of social  
22 functioning.

23 Q. [10:52:07] Thank you.

24 And again, I would like to have an additional explanation of another assumption that  
25 you are making at page 14 of your report, ERN number ending with 0034, and I'm

1 looking at paragraph 6, second sentence, and I quote:

2 "The absence of a formal mental health disorder after rape does not suggest total  
3 wellness for a victim," end of quote.

4 And again, I would like you to expand a little more on that concept and, particularly,  
5 what do you mean when you say that does not suggest total wellness on the part of a  
6 victim of rape?

7 A. [10:53:11] Yes, I think it's a very important point. I try to make this in all of my  
8 writing, whether it's for court or for academic publication. I think that some error  
9 can be made by readers that if a survivor does not have a formal mental health  
10 disorder as categorised by the DSM or some other, ICD9, ICD10, that therefore they  
11 are well, therefore they have not had a damage from the sexual violence event.

12 And I think that that concept is very much wrong, and in the literature, in the science,  
13 and in my personal experience of working with victims, it's very rare for someone to  
14 be the survivor of rape without having some long-term negative consequence on their  
15 psychology.

16 Q. [10:54:14] When you refer to long term, is there, and I understand that this is a  
17 difficult question maybe, but is it possible to have a range, to speak of a range of time  
18 which is necessary for a victim to recover, to some extent, from the consequences of  
19 rape or a sexual and gender-based crime?

20 A. [10:54:42] That's a difficult question to answer because, I think, each individual  
21 has a different capacity for the chronicity of symptoms. But I am aware of almost no  
22 survivor of sexual violence who hasn't had it impact them negatively or chronically.  
23 It would be quite remarkable, in my experience, for someone to be raped and have  
24 complete wellness and not think of it as a negative event in their life at any point in  
25 their life later.

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- 1 PRESIDING JUDGE SCHMITT: [10:55:27] May I shortly, Mrs Massidda.
- 2 MS MASSIDDA: [10:55:29] Of course, your Honour.
- 3 PRESIDING JUDGE SCHMITT: [10:55:30] So do I understand you correctly, that the  
4 individuals cope differently with such trauma, so to speak, and might it be that a  
5 person that has been raped suffers her whole life or his whole life?
- 6 THE WITNESS: [10:55:47] Yes, I think that that's absolutely true. I cannot say for  
7 sure that everybody will, but I think that more people suffer for longer than might be  
8 suggested by statistics around post-traumatic stress disorder.
- 9 PRESIDING JUDGE SCHMITT: [10:56:02] Thank you.  
10 Please, Mrs Massidda.
- 11 MS MASSIDDA: [10:56:07]
- 12 Q. [10:56:07] And this is a question that comes to my mind in relation to the  
13 previous one: Is it possible, Professor, in accordance to your experience, and  
14 according to science, for a nonprofessional to detect symptoms of post-traumatic  
15 stress disorder or other trauma? In other words, are symptoms of PTSD or other  
16 trauma always manifested in a way which is visible to nonprofessionals?
- 17 A. [10:56:44] I think that those are two different questions, and I think that  
18 sometimes, sometimes symptoms of PTSD may be missed by nonprofessionals and,  
19 depending on the patient or the accuracy of their interview, sometimes it can be  
20 missed by professionals.
- 21 At the same time I think nonprofessionals, and probably in a context like this Court  
22 where we are seeing a lot of traumatic events, some of those symptoms can be  
23 manifest in the behaviours and language of the people who testify.
- 24 MS MASSIDDA: [10:57:30] Your Honour, I will go on the topic in relation to age  
25 now. I don't know if you want me to continue or to have a break.

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1 PRESIDING JUDGE SCHMITT: [10:57:37] No, no, we have a break. And  
2 exceptionally we allow ourselves, for reasons not to be explained, a little bit longer  
3 break until a quarter to 12, please.

4 THE COURT USHER: [10:57:51] All rise.

5 (Recess taken at 10.57 a.m.)

6 (Upon resuming in open session at 11.48 a.m.)

7 THE COURT USHER: [11:48:48] All rise.

8 Please be seated.

9 PRESIDING JUDGE SCHMITT: [11:48:55] Mrs Massidda, you still have the floor.

10 MS MASSIDDA: [11:49:05] Thank you, your Honour.

11 Q. [11:49:07] Professor Reicherter, we stopped before the break, and we were  
12 touching upon some issues related to the impact of trauma on individual, family and  
13 community. And I will continue on that topic.

14 You touch upon the issue of age and gender a little bit in your report, but I will be  
15 interested in some details on the issue. In accordance with your experience and  
16 according to science, is the age of a victim at the time of rape or sexual and  
17 gender-based crime a factor likely to influence the extent of psychological impact of a  
18 crime?

19 A. [11:50:00] Yes. So sexual violence at earlier ages has a tendency to create more  
20 pathology ongoing. It is not to say that people who are mature, full adults that are  
21 victims of sexual violence do not have, you know, great risk for having bad outcomes,  
22 but definitely earlier in childhood or adolescence, while personality development is  
23 still taking place, there are a lot of other kinds of pathologies that may come of sexual  
24 violence.

25 Q. [11:50:46] And when you refer to different kinds of pathologies, can you just

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1 provide us with some examples --

2 A. [11:50:57] Yes.

3 Q. [11:50:57] -- of what you are meaning with that.

4 A. [11:51:01] Yes. So in many of the reports, this report included, you know, we  
5 use mental health diagnoses as a major marker of bad outcome. The prevalence of  
6 post-traumatic stress disorder, major depressive disorder, other disorders that we can,  
7 you know, mark a percentage rate for.

8 But we do mention in the report, and it's a little bit more difficult to quantify, traits or  
9 problems like the development of trust, the propensity to have love experiences as  
10 you grow older, and I think as when children are affected by sexual violence, these  
11 are real factors that can play out throughout their young adult and full adult lives,  
12 and yet they're harder to quantify maybe than some of the other things we have put  
13 with statistical information into the report.

14 Q. [11:52:05] Is my understanding correct that you are referring to the development  
15 of trust in himself/herself and also trust towards other people?

16 A. [11:52:20] Absolutely. Absolutely.

17 Q. [11:52:22] And that this expands to possibility of creating relationship and  
18 particularly with person of the other gender?

19 A. [11:52:37] So speaking generally, that is absolutely true. When children or  
20 young girls are sexually violated, it makes it likely that they will have problems  
21 developing trust and developing normal relationships in later, in early adulthood and  
22 adulthood.

23 And then in specific with regard to this case, there are so many other factors that my  
24 report barely touches on, the fact of being kidnapped, the fact of being in very  
25 traumatic circumstances for long periods of time, compounded by the sexual violence;

1 all of those are risk factors for bad outcomes and definitely for a younger age to have  
2 a worse outcome.

3 Q. [11:53:31] I have one more follow-up question on that.

4 I also understand from your report that there is an impact on the development of a  
5 child born of a rape, and I'm particularly interested in the relationship which can be  
6 developed between the mother and the child who is born as a result of a rape.

7 Now, which factors can influence the development of this child and how this child  
8 can develop or eventually develop differently from other children?

9 A. [11:54:13] Yes, that's a very big topic, and we've managed to touch upon it in  
10 this report, but it's, you know, it could be a report in and of itself.

11 So many factors, one of the factors is the mental health or, you know, mental illness of  
12 the mother and how that influences her propensity or ability to rear a child.

13 I think another factor that is very important is the cultural setting wherein a child  
14 born of rape may not be accepted by the community, may not be accepted by the  
15 mother, and all of these factors present together seem to create very bad prognosis for  
16 the child's well-being and also the child's mental well-being.

17 Q. [11:55:18] And in your experience, is this possibility of trauma, and eventually  
18 the trauma itself, something which will be chronically or not?

19 A. [11:55:34] Let me clarify the question, please. In the mother or the second  
20 generation?

21 Q. [11:55:40] Sorry, in the second generation.

22 A. [11:55:42] Yes. So there is a lot of evidence that we look at that shows that the  
23 children of people with post-traumatic stress disorder are at great risk for having  
24 mental health problems, whether or not they are themselves exposed specifically to  
25 trauma. And that includes anxiety disorders, it includes post-traumatic stress

1 disorder should they be exposed to traumatic experience. It includes also mood  
2 disorders and other mental health pathology, as well as substance use disorders.

3 Q. [11:56:21] And are you able to make any comments in relation to education of  
4 children? Are they more likely or less likely to progress in school because of this  
5 kind of trauma?

6 A. [11:56:40] Well, I think the question is general, and the way that I'd answer the  
7 general question is to say that people who have -- are risk factors for developing  
8 psychological problems or mental health disorders, you know, are at risk for having  
9 less capacity for doing well in school and getting education.

10 I think in the specific example, the reaction of the community in potentially rejecting  
11 mother and child born of rape marginalises them to such an extent that it's very likely  
12 that they would have a hard time completing school.

13 Q. [11:57:19] Now if we look at gender, now, is the gender at the time of rape or  
14 sexual and gender-based crime a factor likely to influence the extent of psychological  
15 impact of a crime? Same question as for age, but in relation to gender.

16 A. [11:57:46] This is actually a challenging question to answer, because there is a lot  
17 of different data available to us. And I think the area where some data is lacking is  
18 that many male rapes, boys or men, will never report the rape. And so the science  
19 on the topic is less well known as the science on the topic of girls or women who have  
20 been raped.

21 In most cultures it is very, very shameful to be the victim of rape at all, but maybe so  
22 shameful for male rape that less is reported and therefore less knowledge in my  
23 literature on that topic.

24 But it seems clear that both genders are at high, high risk for having bad mental  
25 health outcomes when raped, and maybe some suggestion that there is a differential

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1 between the way that the psychology is manifested between a male rape victim and a  
2 female rape victim.

3 Q. [11:59:05] And why is that?

4 A. [11:59:06] I think it has a lot to do with culture and stigma around rape. I gave  
5 a talk at the London School of Economics where people, experts on this topic came  
6 together and talked about victims of male rape. And it was very fascinating. There  
7 was much less information available and, you know, one of the thesis of that  
8 conference was really more information needs to be gathered.

9 So to answer your question, I think it's because there is so much stigma and so much  
10 shame and guilt around male rape, it's simply not reported.

11 Q. [11:59:57] Now, in your experience, how easily do victims of rape and sexual  
12 and gender-based crime reintegrate into their families? This is one side of the  
13 question. And into their communities?

14 And you already touch a little bit on that, but I would like you if you could develop a  
15 little bit more taking into account your report.

16 And for the record I'm referring to page 23 -- 22, 23, ERN UGA-PCV-0001-0042 for  
17 page 22; 0043 for page 23. And then to page 32 and 33, ERN ending with 0052 and  
18 0053.

19 A. [12:01:13] So reintegration into family or culture is a challenge in most cultural  
20 settings, right, and then in some more so than others.

21 For instance, in southeast Asia, it's very, very difficult for a rape survivor to  
22 reintegrate into their family or into their community, and especially if that person has  
23 become pregnant and has had a child.

24 PRESIDING JUDGE SCHMITT: [12:01:49] May I shortly.

25 Do you have data and information available specifically for northern Uganda? I

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1 think if you had, please focus on that.

2 THE WITNESS: [12:02:00] Yes, we do. We have some literature and then also some  
3 conversation with local experts that I have had. And it seems to be true of northern  
4 Uganda, maybe as much or more so than other case examples that we have from  
5 around the world, where it is very, very challenging, very stigmatising for a woman  
6 rape survivor to reintegrate into her family, and then an extra level of challenge for  
7 her to reintegrate into her family if she's conceived a child from rape.

8 MS MASSIDDA: [12:02:44]

9 Q. [12:02:44] And in your experience, which kind of behaviours have you observed  
10 in mother and child who have this difficulty in reintegrating in the community and in  
11 the family? Do you notice in your experience specific behaviours?

12 A. [12:03:08] So I'll try to answer that question with an anecdote or a piece before I  
13 get exactly to the answer to your question, and that is that women who are rape  
14 survivors and women who have PTSD, whether or not they are well reintegrated into  
15 their community, often have a very different parenting style than people who do not  
16 have PTSD that are not rape survivors, right. So their parenting will often be quite  
17 different than someone who is non-traumatised and not a rape survivor.

18 And now you are, in your question, you are adding an element of reintegration or  
19 stigmatisation around them that's imposed from their family or community which  
20 would make -- which would emphasise that problem, make it much, much worse,  
21 make it much more difficult for a women to parent in a normal sense and would add  
22 risk for the dyad of mother/child and definitely add risk for that child's well-being  
23 going forward.

24 PRESIDING JUDGE SCHMITT: [12:04:35] Mrs Massidda, you allow me, please.  
25 You speak at UGA, and the last line is 0042, of revictimisation.

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1 THE WITNESS: [12:04:44] Yes.

2 PRESIDING JUDGE SCHMITT: [12:04:45] And you give the data for that. Could  
3 you explain a little bit why the outcome was as it is described there, that there is a  
4 higher risk of revictimisation for those victims?

5 THE WITNESS: [12:05:02] Yes, this is a phenomena that we see for persons who  
6 have post-traumatic stress disorder in general, and definitely persons who are the  
7 victims of sexual violence who go on to develop PTSD. I think you're asking the  
8 reason why.

9 I am not sure that that's 100 per cent decided, but the theory is that people with PTSD  
10 have a very, very difficult time understanding cues in the community that would  
11 suggest real stress. One of the hallmarks of PTSD is being hypervigilant to events  
12 around you. So you may misinterpret, you know, the ringing of a phone or the  
13 slamming of a door as a difficult or challenging event and miss a very real threatening  
14 event and allow yourself to be put into a position where you may be revictimised  
15 sexually.

16 PRESIDING JUDGE SCHMITT: [12:06:08] Thank you.

17 Please move on.

18 MS MASSIDDA: [12:06:10]

19 Q. [12:06:11] I'm moving on to another topic which relates to recollection of events  
20 and memory.

21 A. [12:06:22] Yes.

22 Q. [12:06:22] Now, if I look at page 35 of your report, ERN number --

23 PRESIDING JUDGE SCHMITT: [12:06:28] 0054.

24 MS MASSIDDA: [12:06:30] 55. Sorry.

25 PRESIDING JUDGE SCHMITT: [12:06:34] I think I'm right, but I won't -- I don't

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1 want to insist, of course. I don't want to. If you are speaking of page 34 it is indeed.

2 MS MASSIDDA: [12:06:45] 35, 35, your Honour.

3 PRESIDING JUDGE SCHMITT: [12:06:47] Yes. Then I misheard you, that is the  
4 problem.

5 MS MASSIDDA:

6 Q. [12:06:51] We are under section roman VII, A, first paragraph, and I'm quoting  
7 you:

8 "There can be a common misconception that traumatised individuals, such as the  
9 victims of rape and sexual violence testifying for this case, are unable to accurately  
10 recall events in the courtroom." End of quote.

11 Now, I am interested in the part of the sentence which referred to a common  
12 misconception. Why did you use that term and what do you mean with that?

13 A. [12:07:39] Yes. The way that I would like to kind of discuss that would be to  
14 say that one of -- again, a hallmark of PTSD is to have a memory about a traumatic  
15 event that sort of replays in different mechanisms, in dreams, in daydreams, in  
16 flashbacks. And really one of the major problems with post-traumatic stress  
17 disorder is having a memory of a traumatic event when you don't want to recall it.  
18 It may be very accurate, it may be very vivid, but it plays out, and that's kind of one  
19 of the keys that we look for as clinicians.

20 Those events could be articulated quite accurately in testimony or in recall of events.  
21 And sometimes they are considered maybe in, for instance, asylum courts to be not  
22 entirely accurate where, in general, the literature suggests that they are pretty  
23 accurate recounts of the traumatic events.

24 Q. [12:09:01] And in accordance with your experience, would you describe the  
25 experience of testifying for victims of rape or sexual and gender-based crime

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1 particularly stressful?

2 A. [12:09:17] Yes, so it's -- this becomes a challenge because it is so stressful to  
3 recount that event, particularly in front of strangers or in a high-stress situation like a  
4 court situation. Again, I can mention asylum courts where really, you know, a  
5 woman or man who has been raped is not only asked to recount that event, but then  
6 challenged by another attorney cross-examining saying that what they are saying  
7 might be untruthful, and that can be very, very stressful.

8 And, in fact, there is a quote in this paper that I wrote that might be helpful for that.

9 I think it's on page 40 -- 42, which is 0062, and it's the third paragraph, is an Article 56  
10 witness who said:

11 "Yes, that's correct. Yes, I have -- personally I find it extremely embarrassing to keep  
12 on talking about these things again because I've already spoken about it and find it  
13 embarrassing to keep talking about it."

14 I came across that theme in several of the witness statements that I looked at,  
15 completely consistent with my experience.

16 Q. [12:10:42] And finally I have a few questions on a last topic, which relates to  
17 healing.

18 If we look at the prospects of healing for this kind of trauma related to rape and  
19 sexual and gender-based crimes, is the vulnerability of a victim, because we assume  
20 that this kind of victims are normally particularly vulnerable, is the vulnerability of  
21 victims a factor which may affect the degree to which the victim is able to overcome  
22 the traumatic experience in a way? On the other hand, I'm conscious that  
23 "overcome" is maybe not the right term to use because of a type of trauma, but I mean,  
24 what I mean is to move forward from the traumatic experience.

25 A. [12:11:49] I'll try to answer that question. Please let me know if I'm not

1 answering it the way that it is intended to be asked. But I believe that at any stage of  
2 mental health pathology after trauma, there are opportunities to ameliorate or make  
3 better mental health pathology, and it sort of depends on many, many factors. It  
4 depends on, you know, how badly the person's psychology has been affected. It  
5 depends on how much time has elapsed and what direction that mental health has  
6 gone. It depends on the supports or lack of supports in the community.

7 But as the director of a centre for survivors of torture, you know, I'm a strong believer  
8 that at any point we can have an intervention that may be helpful for that person's life  
9 trajectory and mental health healing.

10 Q. [12:12:53] That's absolutely clear. My point was the fact that the person is  
11 vulnerable per se, per definition?

12 A. [12:13:01] Yes.

13 Q. [12:13:02] Is that factor making the recovery likely or less unlikely?

14 A. [12:13:12] I would say that to the extent that they remain vulnerable and remain  
15 in an unstable situation, the challenge is greater and maybe the challenge becomes  
16 stabilizing their current environment more than providing mental health services.

17 People who have trauma-related mental health problems or psychiatric outcomes, one  
18 of the most important thing is stabilizing their current situation, probably much more  
19 so than providing them evidence-based mental health services. The way I think  
20 about them in my clinic, and anecdotally the first thing that we do with refugees who  
21 are survivors of tortures, try to take care of their financial situation, their housing  
22 situation, their, you know, their visa in the country before we really implement direct  
23 mental health services for them, if that helps.

24 Q. [12:14:22] Yes. We are speaking of a holistic --

25 A. [12:14:25] Absolutely.

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1 Q. [12:14:26] -- vision and caring of a person?

2 A. [12:14:30] Yes, absolutely.

3 Q. [12:14:32] Now, in terms still of healing and reflecting upon your last comment  
4 in relation to stabilizing the person, is the lack of access to proper treatment a factor  
5 which could aggravate the situation of a victim? If I don't have any treatment  
6 available, what could happen to me?

7 A. [12:14:58] Yes, I think that's an absolutely true notion, if there is no resources or  
8 improvement concepts available, it's going to aggravate any mental health pathology  
9 that we see. I would be biased to say that western mental health strategies  
10 specifically, the absence of those, I'm not sure that I can say that those, you know,  
11 direct services are necessarily important from one culture to another, but definitely  
12 protective resources, resources that ensure safety, resources that help reintegrate  
13 communities, and as you say sort of holistic, big-picture safety resources for  
14 individuals are going to greatly improve the likelihood of their mental health  
15 becoming improved.

16 Q. [12:16:04] And then is the time elapsed between the crime and the possibility to  
17 receive a proper treatment a factor likely to influence the possibility of victims to  
18 move forward from a traumatic experience?

19 A. [12:16:23] It's probably universally I can say that the time that's elapsed with  
20 someone experiencing serious mental health symptoms makes it more difficult and  
21 less likely for them to have complete recovery, but I also think it's important for me to  
22 really emphasise that it is not -- it's never too late, especially, as you say, holistic or  
23 safety precautions that can make someone's life improved is much, much likely to  
24 improve their psychological/psychiatric state.

25 So probably preferred to have it early, but I think it's necessary to have these

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1 resources available at some point in recovery.

2 Q. [12:17:20] Thank you. I have covered all the items. Now do you have any  
3 other comment, Professor Reicherter, that you wish to make in relation to your  
4 expertise that I have not covered and that you think it's important for the knowledge  
5 of the Chamber?

6 A. [12:17:38] Only that I think, I feel like we did a fairly thorough job in covering  
7 the topic that we were asked to cover with this expert report and hopefully with my  
8 testimony today. But, of course, I just want to emphasise that these issues are  
9 happening in a larger context; in other words, you know, as we're talking about  
10 making people feel safe or reintegrating them, the survivors here were victims of  
11 more than just the topics of my report. There was more violence, more instability,  
12 and it seems continued instability even after the fact of what we've described here. I  
13 think it's an important idea to keep in mind as you hear about the different crimes  
14 that have been alleged and the different circumstances that I think we're going to hear  
15 about this week and probably have heard about throughout this trial, that these are  
16 sort of all happening in tandem. And from my perspective as a psychiatrist, each  
17 one compounding the other and making it more likely that bad mental health  
18 outcomes are going to be a big theme in this case and that they need to be addressed  
19 in each phase of this case.

20 Q. [12:19:14] Professor Reicherter, I thank you very much.

21 This ends my questioning, your Honour. Thank you.

22 PRESIDING JUDGE SCHMITT: [12:19:21] Thank you, Ms Massidda.

23 Mr Cox, any questions? No.

24 Mr Gumpert, any questions? Also no.

25 But I assume that the Defence will want to question Mr Reicherter.

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- 1 MS LYONS: [12:19:33] You assume correctly, your Honour.
- 2 PRESIDING JUDGE SCHMITT: [12:19:34] And who will be?
- 3 MS LYONS: [12:19:36] I will be the person.
- 4 PRESIDING JUDGE SCHMITT: [12:19:38] Yes. Are you prepared to start  
5 immediately?
- 6 MS LYONS: [12:19:41] I am prepared, however, I would ask, you know, I certainly, I  
7 would be -- I would not be truthful to say I would prefer we break for lunch and I do  
8 it in one stretch, I'd prefer that.
- 9 PRESIDING JUDGE SCHMITT: [12:19:56] Yes.
- 10 MS LYONS: [12:19:56] But obviously it's up to you because you control the Trial  
11 Chamber.
- 12 PRESIDING JUDGE SCHMITT: [12:20:00] No, but of course this is, of course,  
13 something that we would immediately accommodate. But do you have already an  
14 estimate how long your questioning might be?
- 15 MS LYONS: [12:20:07] Your Honours, I intend to finish today.
- 16 PRESIDING JUDGE SCHMITT: [12:20:17] Then we have the lunch break until 2  
17 o'clock.
- 18 MS LYONS: [12:20:19] If I talk fast, it will be even faster.
- 19 PRESIDING JUDGE SCHMITT: [12:20:22] If you talk fast it will last longer.
- 20 MS LYONS: [12:20:25] Okay.
- 21 PRESIDING JUDGE SCHMITT: [12:20:25] I am getting admonished and I have to  
22 convey this to you and then we -- I start a discussion, so --
- 23 MS LYONS: [12:20:32] I'm warned. Okay, in any case I'm hopeful that we finish  
24 today, your Honour.
- 25 PRESIDING JUDGE SCHMITT: [12:20:37] Okay, then we break until 2 o'clock.

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- 1 MS LYONS: [12:20:38] Thank you.
- 2 THE COURT USHER: [12:20:40] All rise.
- 3 (Recess taken at 12.20 p.m.)
- 4 (Upon resuming in open session at 2.02 p.m.)
- 5 THE COURT USHER: [14:02:05] All rise.
- 6 PRESIDING JUDGE SCHMITT: [14:02:23] Mrs Lyons, you have the floor.
- 7 MS LYONS: [14:02:25] Your Honours, thank you.
- 8 QUESTIONED BY MS LYONS:
- 9 Q. [14:02:31] Good afternoon, Dr Reicherter?
- 10 A. [14:02:37] Reicherter.
- 11 Q. [14:02:38] Reicherter. Okay, I'll try not to massacre it too much.
- 12 My name is Beth Lyons, I'm one of the counsel for Mr Ongwen, and I'm going to be
- 13 doing the cross-examination.
- 14 During the direct with Ms Massidda she asked you some questions about your letters
- 15 of instruction, and she had written to you that there would be experts appointed,
- 16 hopefully, on trauma, child soldiers, Acholi culture, other experts.
- 17 You also write in your report in the introduction that you used the expert opinions of
- 18 Professor Musisi and also Dr James Okello. My question is this: Were both of these
- 19 experts identified to you or did you find them through other sources, through your
- 20 work through the lab at Stanford? How did you get to them?
- 21 A. [14:03:35] They were identified to me.
- 22 Q. [14:03:36] By whom?
- 23 A. [14:03:37] By counsel.
- 24 Q. [14:03:39] Okay. Thank you.
- 25 Now in your introduction you write that your submission is based on review of the

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1 evidence and trial record in the case as well as the pertinent literature. Isn't it true,  
2 Doctor, that since the Defence had not presented its case you only had access to the  
3 Prosecution evidence?

4 A. [14:04:15] That's correct. We had only the transcripts that were sent to us --

5 Q. [14:04:22] Okay.

6 A. [14:04:23] -- by the victim counsel.

7 Q. [14:04:25] All right. And would you agree with me that it may have been  
8 more accurate to say that the findings and the conclusions that you made in the report  
9 were based on what was given to you by victims' counsel which represented the  
10 Prosecution's case so far?

11 MS MASSIDDA: [14:04:48] Sorry, your Honour.

12 PRESIDING JUDGE SCHMITT: [14:04:49] Mrs Massidda.

13 MS MASSIDDA: [14:04:51] Sorry for my learned colleague.

14 This is slightly incorrect, because the witness was not only provided with the  
15 evidence, Acholi part of the evidence, because only the redacted transcripts of the  
16 witnesses who testified so far were provided to the expert, but also with other  
17 material, including the victims' applications of victims participating in this case and  
18 represented by the Common Legal Representative.

19 PRESIDING JUDGE SCHMITT: [14:05:24] Yes, this is noted, but is not really an  
20 objection. First of all, Dr Reicherter may answer to that, what he additionally had, so  
21 we have this on the record. And secondly, we have of course understood what  
22 Mrs Lyons wants to find out by that.

23 So please answer the question and you can also add what additional information you  
24 might have had.

25 THE WITNESS: [14:05:42] Yeah, we had -- you mean -- sorry, I think your question

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1 is what did I have from the Court, what transcripts did I have?

2 MS LYONS: Right.

3 THE WITNESS: And the transcripts that I had were those given to me by the victim  
4 counsel.

5 MS LYONS: [14:05:57]

6 Q. [14:05:57] And you also had victim applications, correct?

7 A. [14:06:01] That's correct.

8 Q. [14:06:01] Okay. Now, would it be fair to conclude that the report base -- is  
9 then based on an incomplete trial record, you had limited materials, since you weren't  
10 able to access not only all of the testimony in the Prosecution case, but, more  
11 importantly, you hadn't heard the Defence case because we haven't presented it yet?  
12 So I'm getting the issue of incompleteness, essentially.

13 A. [14:06:32] I think that's true.

14 Q. [14:06:35] Okay. Now, you mentioned in the, I believe it's in the introduction  
15 and also in an answer to questions this morning, that you and Dr Matlow were  
16 essentially principals in this project, but that you had a number of other law  
17 professors, students, professionals, experts, et cetera at your -- working for you.  
18 My question is this: Did you yourself go into the field to talk to any of the primary  
19 resources, by which I mean the victims? Did you go to northern Uganda?

20 A. [14:07:23] Did not go to northern Uganda.

21 Q. [14:07:25] Okay. If you know, did any person who assisted you in preparing  
22 the conclusions in this report, gathering the facts, preparing the conclusions, go to  
23 Uganda, to northern Uganda specifically, for the purposes of this report?

24 A. [14:07:46] Only the people we had conversations with, Dr Musisi and  
25 Dr Okello.

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- 1 Q. [14:07:52] So, essentially, would it be fair to say that you relied on Dr Okello,  
2 Professor Musisi for information from primary sources?
- 3 A. [14:08:05] And articles available in the scientific literature.
- 4 Q. [14:08:13] Sure.
- 5 A. [14:08:14] Yes.
- 6 Q. [14:08:15] Thank you.
- 7 A. [14:08:16] I'm not sure if it's worth noting, but we in the initial proposition  
8 were interested in interviewing witnesses directly, and the International Criminal  
9 Court's victim unit did not want us to do that.
- 10 Q. [14:08:31] Okay. This adds another layer.
- 11 A. [14:08:34] Well, not -- I'm not sure, I'm not sure what -- the victim unit, I'm not  
12 sure what they're called.
- 13 PRESIDING JUDGE SCHMITT: [14:08:44] Yes.
- 14 MS MASSIDDA: [14:08:45] Thank you, your Honour. I think what  
15 Professor Reicherter is referring to is to the fact that actually the laboratory asked  
16 victim counsel myself if they could speak with some of the victims participating, and  
17 the answer was negative because of security concerns in the field.
- 18 MS LYONS: [14:09:07] Okay. Thank you.
- 19 Q. [14:09:08] Now at page 6 of your report, and it's ERN ending in 0026, I'll read  
20 you the conclusions so it's in the record. You conclude that, quote:  
21 "The psychiatric outcomes of mass rape and gender-based violence in Uganda during  
22 the period ... are consistent with those predicted by the general psychiatric literature,  
23 with specific manifestations and expressions of distress being influenced by cultural  
24 factors and the strategic intent to target aspects of Acholi history and cultural  
25 traditions."

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1 Apologies for the speed. I'll slow down.

2 Now, is it correct to say this is a conclusion that you reached based on the work of  
3 Dr Okello and Professor Musisi?

4 A. [14:10:11] I think that that is correct, unless that was also based on the articles  
5 as well. But probably mostly from conversation.

6 Q. [14:10:22] Okay. Now, leaving aside for a moment the specifics involved  
7 regarding contacting victims, in general, do you feel that it's a limitation on your  
8 work as a physician, as a researcher, when you're unable to deal directly or talk  
9 directly with primary resources?

10 A. [14:10:55] It is better if I'm able to talk to primary resources than if I'm only able  
11 to use, you know, other people's opinions, other people's collected data and the  
12 literature that's available.

13 Q. [14:11:11] Okay. Now, in your report you refer to the victim trial testimony  
14 of the events in northern Uganda involving the LRA, and there are numerous  
15 references to the case, to the history, involving focussing on the LRA.

16 Now, I also notice in this report that one of your sources for some of your conclusions  
17 were reports from the Human Rights Watch organisation. They have written a  
18 report, it was written in 15 July 2003, which is in the time period of the charges in  
19 question. It was called "Abducted and Abused: Renewed War in Northern Uganda".  
20 Now in that report there is a section on rape and sexual abuse by the UPDF. There  
21 they conclude that, quote: "The apparent increased incidence of rape is associated  
22 with the increase presence of the UPDF and the vulnerability of the displaced  
23 population."

24 And secondly, they make a number of conclusions about UPDF torture, ill-treatment  
25 and rape and give examples in their report.

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1 My question to you is this: Do you --

2 PRESIDING JUDGE SCHMITT: [14:12:59] There is nothing to object, it is simply  
3 there has been no question at all, until now, and you simply prepare your question.  
4 Please continue, and then I would perhaps give Ms Massidda the floor.

5 MS LYONS: [14:13:12] Sorry, I looked at you and I missed Ms Massidda. I'm sorry.

6 PRESIDING JUDGE SCHMITT: [14:13:15] No, no. I simply would suggest that  
7 you continue and pose your question first.

8 MS LYONS: [14:13:21] Yes, okay. Thank you. I'm sorry.

9 PRESIDING JUDGE SCHMITT: And then we can receive any --

10 MS MASSIDDA: [14:13:22] Sorry, your Honour. It goes to the source.

11 PRESIDING JUDGE SCHMITT: The source is wrong?

12 MS MASSIDDA: My objection goes to the source. I'm not objecting to the question.  
13 I'm not objecting to anything. I wanted just it to be noted in the record that this  
14 document is not contained in the list of material provided by the Defence. That's the  
15 only issue that I want to put on the record.

16 Thank you very much.

17 MS LYONS: [14:13:50] My understanding is that we don't have to present the  
18 material. We're posing the information in a question based on our understanding, so  
19 that's the basis, that's the technical basis on which I am proceeding, your Honour.

20 Okay?

21 PRESIDING JUDGE SCHMITT: [14:14:05] That assumption is correct, but  
22 nevertheless to give Ms Massidda credit, it would of course be good if we had exactly  
23 the source, and if you would put it on the list, which I think would not be excluded --

24 MS LYONS: [14:14:21] Thank you.

25 PRESIDING JUDGE SCHMITT: [12:14:22] -- at that time.

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1 MS LYONS: [12:14:22] Thank you, your Honour.

2 PRESIDING JUDGE SCHMITT: [14:14:23] Yes? So then, please now proceed.

3 MS LYONS: [14:14:25] Okay.

4 Q. [14:14:26] The question now, and I need to -- okay, the question is: Would  
5 you agree, given the content of these conclusions in the human rights report that it  
6 would have been relevant to include in your report, especially given the time period  
7 involved, we're talking about the 2002 to 2003, 2004 period. Were you aware of these  
8 conclusions?

9 A. [14:15:01] Well, I'm actually not sure where we referenced Human Rights -- the  
10 Human Rights Watch. I think it might be in the section where it's sort of talking  
11 about the historical situation because I think that we relied -- we did not rely on that  
12 for conclusions. We relied more on research articles that focussed specifically, it sort  
13 of distinguished between sexual violence from the two opposing sides. But I'm not  
14 sure where you have that or where -- I mean, where we have the Human Rights  
15 Watch reference; I think it's in the beginning.

16 Q. [14:15:48] There is, in the beginning, there's an older report from --

17 A. [14:15:50] Yes.

18 Q. [14:15:51] -- 2007 that's referenced on -- in the section on situation history  
19 review.

20 A. [14:15:54] Right.

21 Q. [14:15:54] Okay, but the -- look, let me try to ask it in a more direct and clear  
22 way perhaps --

23 A. [14:15:59] Sure.

24 Q. [14:15:60] -- because I may not be making my point to you. There are  
25 organisations that have collected information, for example, about UPDF crime.

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1 A. [14:16:11] Yes.

2 Q. [14:16:13] Sexual and gender-based crimes. When I read your report, I saw  
3 no mention of this and the question is, why is it not there? What is your view of this  
4 and should it be there?

5 A. [14:16:29] Well, I think that we're focussing on the crimes in this case and not  
6 other crimes surrounding this case.

7 Q. [14:16:43] Let me also point out to you that the report that I mentioned from  
8 which I quoted is, in fact, listed as a source on your bibliography. It's at page 49, and  
9 the ERN number is 0069. It's a Human Rights report from 2003, "Abducted and  
10 Abused". So would it be fair to say that you were aware of the report since it's in  
11 your bibliography?

12 A. [14:17:19] Yes.

13 Q. [14:17:19] Okay. Now, were you provided with any testimony from  
14 Prosecution witnesses who testified in this case about sexual abuses by the UPDF?

15 A. [14:17:44] I do not think we were.

16 Q. [14:17:47] Okay. With the Chamber's permission, I would like to read  
17 sections of T-85 and T-86. Now, I want the Chamber to -- I'm sure you know, but to  
18 know that I know that this was given in private session. The witness has a number.  
19 So that I would like to read from the transcript, but I want a decision whether I can do  
20 it publicly or whether you want another layer of security.

21 PRESIDING JUDGE SCHMITT: [14:18:19] This depends on why it was said in  
22 private session. So if it was said in private session, then I think there would be an  
23 assumption that we should not read it out in open session. That would be my first  
24 reaction to that.

25 MS LYONS: [14:18:35] In that case --

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- 1 PRESIDING JUDGE SCHMITT: [14:18:37] Any comments by Ms Massidda or  
2 Mr Gumpert also because it obviously was a witness of the Prosecution.  
3 Ms Massidda, please.
- 4 MS MASSIDDA: [14:18:49] Your Honour, thank you. Just that we are a little  
5 surprised because we don't know exactly to which part of the testimony counsel will  
6 refer to. Again, this was not provided in the list of material, so we are guessing.  
7 Our first reaction is, as long as the quotes does not contain any identifying  
8 information, then of course this could be read in public. So this will be my logical  
9 sense of observation. Thank you.
- 10 PRESIDING JUDGE SCHMITT: [14:19:27] Mr Gumpert.
- 11 MR GUMPERT: [14:19:28] Yes, I -- sorry, two seconds. I make the same  
12 observation as my learned friend, Ms Massidda. I don't know precisely which  
13 passage it is the intention of the Defence to use. In principle, anything which was  
14 elicited in private session should now remain in private session, but there will, of  
15 course, as your Honour has observed in the past be portions, small portions of what  
16 happens in private that could, in fact, have been public at the time and certainly can  
17 be now.
- 18 PRESIDING JUDGE SCHMITT: [14:20:02] So this is the rare case, what  
19 everybody said was correct, so to speak. So what I would suggest is, we trust the  
20 professionalism and the insight of counsel, of Ms Lyons, and you read it out and if  
21 you encounter something that you would think might identify the witness, then you  
22 stop and we go to private session. Can we do it like that? Or you can also shortly  
23 confer with Ms Bridgman or Mr Ayena, yes?
- 24 MS LYONS: [14:20:38] Let me confer with Ms Bridgman. One second.  
25 Thank you for letting me confer.

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1 PRESIDING JUDGE SCHMITT: [14:20:49] Of course.

2 MS LYONS: [14:20:50] Now, let's see, where are we? Okay --

3 PRESIDING JUDGE SCHMITT: [14:20:53] And, of course, we are not entertaining  
4 a reading hour here, so it will be a relatively short portion.

5 MS LYONS: [14:21:01] This is not reading hour. No. This will be relatively short.

6 PRESIDING JUDGE SCHMITT: [14:21:05] So please proceed.

7 MS LYONS: [14:21:06] Okay.

8 Q. [14:21:07] (Redacted), this particular person recalls how she escaped  
9 from the LRA. When she escaped, she was pregnant and wounded. The bottom  
10 line is that in her escape, she ends up with -- at the barracks of, or headquarters of  
11 UPDF soldiers. (Redacted)

12 PRESIDING JUDGE SCHMITT: [14:21:44] I recall it.

13 MS LYONS: [14:21:46] Okay. She's talking about the commander, and the quote is,  
14 "he ... raped me because he was saying that from the bush, we would allow men to  
15 sleep with us, but know when we are with them," referring to the UPDF, "we don't  
16 want to sleep with them. He raped me when I was pregnant."

17 In the next transcript in private session, the Defence asked, lead counsel asks if she  
18 had reported this particular incident to the authorities. She admitted she did not  
19 because she was afraid.

20 Then at some point, I believe, there was a question asked (Redacted)  
21 in reference to other abuses of civilians by the UPDF, and this is what this person said:  
22 What happens was that in the evening someone would come and knock at your door,  
23 you open the door, they will begin harassing people, and they would remove the  
24 woman while the man remains inside. The woman, they would go with the man,  
25 sleep with her until dawn before she is brought back to the husband. The man

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1 would not have the capacity to complain. You would not even know where your  
2 woman is coming from. And the context, as I recall, is the same UPDF military  
3 context here.

4 Now, my question is to you is this: If you had had access to this testimony from a  
5 Prosecution witness in regard to the crimes of sexual violence and abuse that she  
6 experienced, would you have included them in this report?

7 A. [14:23:56] Well, I probably would have included that piece in the report. We  
8 did include in the report an article that's actually a part of this, I don't know what this  
9 is called, my notebook here in front of me, that kind of talks about both systems of  
10 rape by government troops as well as systems of rape by LRA. But we were  
11 specifically asked to talk about consequences of rape by LRA in our report. I have  
12 no doubt that some people experienced violence from both, from both sources.

13 Q. [14:24:42] And based on that, would a number of the conclusions that you  
14 testified about this morning that are in your report, is it fair to say they would also  
15 apply to victims of rape by the -- and the sexual violence by the UPDF?

16 A. [14:24:57] Right. And especially if somebody was raped by both entities, that  
17 would amplify or increase the risk of their developing mental health outcomes.

18 Q. [14:25:14] Thank you. One minute, your Honour.

19 Now --

20 A. [14:25:20] So, for instance, this woman that you just talked about, I mean  
21 I would say that she sounds like she has experienced sexual violence from both  
22 entities, and, you know, I mean, I don't know anything about her, so it's only  
23 speculation that increases her odds of developing a mental health outcome.

24 PRESIDING JUDGE SCHMITT: [14:25:42] Perhaps we have some time to think  
25 about how you want to continue.

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1 I have a question in that regard.

2 THE WITNESS: [14:25:46] Sure, yes.

3 PRESIDING JUDGE SCHMITT: [14:25:47] I already asked you before the break  
4 about revictimisation.

5 THE WITNESS: [14:25:51] Yes.

6 PRESIDING JUDGE SCHMITT: [14:25:52] Does such an incident also tell you  
7 something in the context of revictimisation or would this be too far going?

8 THE WITNESS: [14:26:01] I think this is a difficult, you know, revictimisation is  
9 something that we think about that somebody who has developed PTSD or has been  
10 sexually violated maybe lacks some judgment or has a difficult time knowing a very  
11 dangerous situation from a less dangerous situation. I think what's being described  
12 right now is somebody who's just been violated in multiple spheres.

13 PRESIDING JUDGE SCHMITT: [14:26:33] So I understand you correctly that, from  
14 the point of view of psychiatry, the expression is quite narrow, I understood?

15 THE WITNESS: [14:26:46] Well, I think it's widely understood. I think the context  
16 that we're talking about in such a severe case as this one is, is maybe the more narrow  
17 situation. In other words, somebody who is in a war zone that continues to be the  
18 victim of violence, I think that is not necessarily what's always meant by  
19 revictimisation. A very common use of the term revictimisation might be in a  
20 concept like domestic violence.

21 PRESIDING JUDGE SCHMITT: [14:27:15] Or if you will also, but this is also  
22 especially in criminology a special expression, "secondary victimisation" of course.  
23 I thought about that such victims are more vulnerable and therefore prone to further  
24 victimisation. This was my idea, but perhaps it does not fall under the expression  
25 how you understand it of revictimisation.

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1 THE WITNESS: [14:27:43] Well, I think you'd be correct, but I think that what she's  
2 describing is somebody who was just abducted more than one time.

3 MS LYONS: [14:27:47] It looks that way, but I --

4 THE WITNESS: [14:27:52] Yes, but I don't have that transcript and I don't know  
5 enough about that situation.

6 PRESIDING JUDGE SCHMITT: [14:27:57] Thank you very much. Please proceed.

7 MS LYONS: [14:27:59] Thank you.

8 Q. [14:27:59] Now I wanted to ask you, did you look at the issue of what happens  
9 to male abductees in these situations where there is rape? In particular, in reference  
10 to this case.

11 A. [14:28:22] So we had almost no information on that subject.

12 Q. [14:28:28] Let me, let me go a little further there. No information was  
13 provided?

14 A. [14:28:34] We were not able to find information in the literature relative to the  
15 amount of information about female victims, and I don't think that we had transcripts  
16 from male victims who were victims of rape.

17 Q. [14:28:57] Okay. Did you have transcripts from male victims, not victims of  
18 rape, but whose partners were rape victims?

19 A. [14:29:11] Off the top of my head, I don't remember gleaning any information  
20 for our report from cases like that.

21 Q. [14:29:20] Did you have any information either in transcripts or in the  
22 literature from male abductees who were in the LRA who were in situations where  
23 they were forced to take wives, forced to commit rape, forced to conduct acts of  
24 sexual violence on the command of the supreme commander, Mr Kony? Did you  
25 have any of that kind of information?

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1 A. [14:29:55] No, I don't think we had much of that information.

2 Q. [14:29:58] Did you in the process of dealing with the subject of LRA and sexual  
3 relations within the LRA, did you look at any studies about the effects of Joseph  
4 Kony's orders in regard to male/female relations and the strict regulation and  
5 enforcement for breaking those rules which were prevalent in the LRA?

6 A. [14:30:25] Yes, that was in literature and also could be gleaned from transcripts.  
7 I'm not sure it was always clear that at whose command that was, but it was often  
8 referred to as the order of the LRA, sometimes referred to as being Kony's order.

9 Q. [14:30:48] In this courtroom I think probably a week or two ago, an expert  
10 testified, Ms Atim. She testified publicly, so I'm using her name. She was one of  
11 the experts for, I'm sorry, one of the victims' cases. And in the transcript, for the  
12 reference later for the Court, T-174, pages 72 to 73, she stated that she had spoken to  
13 men in her research on sexual relations within the LRA and was told that senior  
14 commanders ordered junior people in the LRA to take wives.  
15 Now, would you conclude from this example I'm giving that the junior people had  
16 any kind of choice about taking a wife or not taking a wife?

17 A. [14:31:49] I don't think I can make a conclusion.

18 PRESIDING JUDGE SCHMITT: [14:31:52] Well, that is, Ms Lyons --

19 MS LYONS: Yes.

20 PRESIDING JUDGE SCHMITT: The answer is given, but of course the question  
21 could have been objected, frankly speaking, because this is not the expertise of the  
22 expert here.

23 MS LYONS: [14:32:08] It's --

24 PRESIDING JUDGE SCHMITT: [14:32:11] But he has given the answer, so we  
25 don't have to entertain this and to follow this up, but I would -- he is an expert on the

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1 effects of sexual violence, gender-based violence on victims. He cannot tell us, also  
2 he has not been here hearing all the evidence, he cannot tell us something about the  
3 chain of command, so to speak, and what effect this might have. If you want to  
4 know something about that, you would have to rephrase the question.

5 MS LYONS: [14:32:44] All right. Your Honour, may I just say that I raise the  
6 question only because, obviously, there was extensive work, not necessarily you  
7 meeting with an LRA person or a victim, either/or, but there was extensive work in  
8 the literature, which I recognise the scholarship and the work that was done; so I  
9 would just say that it was in that context that I was asking this question. It's  
10 somewhat methodological as well.

11 PRESIDING JUDGE SCHMITT: [14:33:23] Yes, I understand now. If you will, so  
12 to speak, the whole context in which this appeared, if Mr Reicherter has considered  
13 that, we could ask that perhaps. But you have done this already, and I assume he  
14 would have done it. I simply assume.

15 MS LYONS: [14:33:38] All right. Thank you. All right. Let me move on.

16 Q. [14:33:41] Dr Reicherter, what I would like to do is give you a number of  
17 factors, I will propose them to you, and based only on what I have said ask you  
18 whether you can give an expert opinion. Maybe you can, maybe you can't, okay?

19 A. [14:33:59] Okay.

20 Q. [14:33:59] All right. These are the factors. We have a situation where we  
21 have one omnipotent, controlling supreme leader, Joseph Kony, who orders in his  
22 organisation in the LRA under what conditions men and women can relate to each  
23 other, how they deal with each other, the structure of the male/female relationship.  
24 But basically the control comes on top, he orders it.

25 The second factor is he doles out severe punishment for violations of these rules. For

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1 example, those who participate in extra-marital sex are subject to severe punishment.

2 And, thirdly, these rules and the punishments are imposed on men and women who  
3 are abducted as children, some as young as the age of 9 or 10, uprooted from their  
4 community, social situation, their structures, abducted by the LRA and forced in a  
5 coercive environment to the LRA to function.

6 Now, given these three factors, would you conclude within the framework I've  
7 provided that an individual woman or man has any choice about his behaviour in  
8 terms of sexual relations?

9 MS MASSIDDA: [14:35:46] Objection, your Honour.

10 PRESIDING JUDGE SCHMITT: [14:35:48] You don't have to object. You have  
11 to -- it's simply a follow-up what we already said.

12 I have already explained and you know this, what the expertise of Dr Reicherter is.  
13 So you can put these proposals to propositions --

14 MS LYONS: Right, I did.

15 PRESIDING JUDGE SCHMITT: -- propositions to Mr Reicherter, but in another  
16 context you can, you can only -- you cannot refer to the possible effects on such a  
17 proposition on the alleged perpetrator, so to speak. You can only ask Dr Reicherter,  
18 because this is the centre of his expertise, not only of his report, but also of his general  
19 expertise, if such a framework as you word it has any influence on the victims of these  
20 crimes.

21 MS LYONS: [14:36:38] Okay. I was going to ask you for your suggestion, because  
22 obviously I'm not --

23 PRESIDING JUDGE SCHMITT: Yes.

24 MS LYONS: My questions are not addressing your concerns. So I needed some  
25 help from you, your Honour, okay.

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1 PRESIDING JUDGE SCHMITT: [14:36:47] So now I think I have worded it,  
2 Mr Reicherter has understood it, does this scenario, so to speak, that Mrs Lyons has  
3 put to you as a proposition, simply take it as a proposition, does this have any  
4 influence on your expertise with regard to the victims of such crimes?

5 THE WITNESS: [14:37:09] Yes, I mean, I'm not sure if I'm answering the question  
6 you want answered exactly, but it seems to me that whether they have choice or no  
7 choice, the victims would still suffer; and if they felt they had no choice and no  
8 control, it seems that that might make their suffering more confusing and make the  
9 likelihood of them developing a mental health disorder greater.

10 MS LYONS: [14:37:42]

11 Q. [14:37:43] Thank you.

12 And thank you for your help.

13 Now I just had before I continue, there were a couple of points on the report I just  
14 needed some clarification. On page 3, which is ERN 0023, at the top you state that in  
15 response to Operation Iron Fist, the LRA launched a serious of retaliatory attacks  
16 characterised by, among others, rape, other forms of sexual gender-based violence as  
17 well as forcible recruitment of children.

18 Now, Operation Iron Fist was in 2004. Let me ask you, are you suggesting here that  
19 the methods, that these methods of the LRA which you identify were not previously  
20 used in the beginning of the conflict?

21 A. [14:38:54] I do not think that that's my suggestion.

22 Q. [14:38:57] Okay. In other words, you're not limiting this by the time?

23 A. [14:39:06] Correct.

24 Q. [14:39:07] Okay. Now, you also mention at page 23 that the camps, the IDP  
25 camps were targeted by the LRA. Now, I have two questions on this. Are you

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1 aware or cognisant of the criticisms of these IDP camps as concentration camps? It's  
2 a term that's used by Dr Olara Otunnu, the former UN General and Special  
3 Representative for Children in Armed Conflict.

4 A. [14:39:48] I've not heard them described as concentration camps, but I am  
5 aware that they are non-adequate from my reading.

6 Q. [14:40:02] And when you say "non-adequate", could you be a little more  
7 specific, non-adequate in respect to what exactly?

8 A. [14:40:10] Well, I think I'm getting a little bit out of my area of expertise to  
9 comment on those camps, but based on reading, it seemed like they were not ideal.  
10 They were limited in, you know, some of the basic needs that people had, as are many  
11 internally displaced persons camps or refugee camps. But I don't know how good or  
12 bad those camps were.

13 Q. [14:40:41] At this page, same page 3, ERN 0023, you halfway down the page,  
14 you say, "... the LRA also manipulated the belief systems" -- systems, yes, "of  
15 abductees".

16 So what belief systems, to what belief systems are you referring here?

17 A. [14:41:09] Well, I think that the LRA had some specific beliefs that they  
18 instilled in people that they abducted and expected that everyone who was part of  
19 their membership would believe.

20 Q. [14:41:26] All right. Let me just ask you, based on your, you know, your  
21 reading and your study, et cetera, can you tell us are we talking about, I mean, what  
22 kinds of systems are we -- can you be more specific about the beliefs? Beliefs about  
23 what? Or give some examples, that's good enough.

24 A. [14:41:45] I don't want to get myself too far into someone else's domain of  
25 expertise, but it seemed like about spirituality, sexuality, sexual fidelity.

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1 Q. [14:42:05] Let me ask you if you know, I don't know if this is within your  
2 expertise, but dealing with the relations between the sexes and how young, young  
3 children, the young children who were abducted by the LRA learned about this. So  
4 if someone is abducted, let's say at the age of 9 or 10, if you know, would they have  
5 already learned about sexual relations at home, or after their abduction would they  
6 tend to assimilate into or adapt the beliefs in the bush? Do you have a sense of what  
7 I'm asking?

8 A. [14:42:39] I have a sense of what you're asking, I think. I think I may not be  
9 the correct expert to answer that question being that it's a cultural-specific question,  
10 I think.

11 Q. [14:42:51] Okay. Let me ask you if you recall, if you can recall, did this issue  
12 arise in the materials or the information that you obtained from Dr Okello and  
13 Professor Musisi, who played a role as the cultural experts in this situation, if you  
14 recall?

15 A. [14:43:12] This specific question that you are asking --

16 Q. [14:43:14] Yes.

17 A. [14:43:15] -- did not.

18 Q. [14:43:15] Okay. Now, at page 24 of the report, and it's page 4, ERN 0024.

19 A. [14:43:32] 24.

20 Q. [14:43:33] Yes.

21 A. [14:43:34] Yes, okay.

22 Q. [14:43:35] The next one.

23 A. [14:43:36] Yes.

24 Q. [14:43:37] Okay. You give percentages of women who escaped the LRA.

25 And it's from other sources. I'm referring to the line here that says "It is believed that

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1 83 per cent of forced wives left LRA captivity by means of escape," and the authors  
2 are Pham, et al, and Annan, et al, there. But is it fair to say you adopted this as a  
3 factor -- as part of your analysis for the report since you have it there?

4 A. [14:44:05] Correct, yes. Using their information.

5 Q. [14:44:07] Okay. Now, did you find anything in the testimonies that you read,  
6 or that you were given, and the victims' application supporting this 83 per cent? Did  
7 you find any support for this proposition?

8 A. [14:44:24] For that number?

9 Q. [14:44:27] Yes, roughly.

10 A. [14:44:28] No.

11 THE INTERPRETER: Your Honour, could the parties please respect the silence  
12 between the question and answer.

13 MS LYONS: Yes. Sorry.

14 PRESIDING JUDGE SCHMITT: [14:44:37] So this was again a fall back into --

15 MS LYONS: [14:44:40] It's in the same language, I know --

16 PRESIDING JUDGE SCHMITT: (Overlapping speakers)

17 MS LYONS:

18 Q. [14:44:43] Let me repeat the question.

19 Did you find anything in the testimonies and the victims' applications supporting  
20 those numbers?

21 A. [14:44:52] No.

22 Q. [14:44:57] Now, are you aware that Joseph Kony on numerous occasions  
23 ordered the release of women and children during the charged period? Any  
24 examples of this? Are you aware of this?

25 A. [14:45:14] Only through supplemental reading.

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1 Q. [14:45:18] Okay. So you are aware through supplemental reading. Okay.  
2 Now, would you conclude that -- if you can, I mean within -- would you conclude  
3 that the 83 per cent of the women were able to succeed because their escapes were  
4 premeditated, preplanned, pre-organised? Do you have any sense of the factors that  
5 make the 83 per cent here that you used, from other people?

6 A. [14:45:52] I'm sorry, I don't have a sophisticated opinion about that specific  
7 number other than from that. So it's --

8 PRESIDING JUDGE SCHMITT: [14:46:03] I think, I think reading it, and also  
9 hearing what Mr Reicherter says today, it is clear that he simply, simply recounts here  
10 secondary sources, and also it is believed, so you can take this a fact, as established  
11 scientific fact, I would say.

12 MS LYONS: No --

13 PRESIDING JUDGE SCHMITT: This figure. This figure, simply.

14 MS LYONS: [14:46:26] That's fair.

15 PRESIDING JUDGE SCHMITT: I would simply say.

16 MS LYONS: But I was just trying to understand how to read it. I understand about  
17 primary and secondary sources. I just want to -- you are right, I want to understand,  
18 your Honour. So I have one more question along these lines.

19 Q. [14:46:44] You indicated that you've done reading; you've read the literature,  
20 obviously. Did you read of any instances where escapes by women from the LRA,  
21 or men, for that matter, abductees, were sometimes attributed to chance or  
22 opportunity? You know, for instance, somebody may be caught in an ambush and  
23 got separated and got injured, I mean, the situation provided the possibility of escape.  
24 Did you come across this in (Overlapping speakers)

25 A. [14:47:29] Yeah, I believe so. Oh, sorry. I believe I did see that in, at least in

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1 transcripts.

2 Q. [14:47:37] Now I wanted to ask you about -- we're on page 0029 of your report,  
3 it's page 9, ERN 0029. And you make a statement at the top about:

4 "Victim testimony in the present court case describes how soldiers would  
5 immediately come in and pillage the community, stealing resources such as  
6 mattresses and making the women cook for them."

7 If you recall, is this a reference to whom? The UPDF, the LRA? Can you provide  
8 some contextual information for us here.

9 A. [14:48:46] I'm not sure that I can provide a specific testimony unless it's  
10 in -- cited in my paper at the end. But there were numerous testimonies about  
11 women doing camp chores, cooking for men, that were abducted by LRA, where  
12 there's the threat if they did not do so.

13 Q. [14:49:17] All right. Let me ask you though, in this sentence you say "soldiers  
14 would immediately come in". So I assume the conclusions you reached here are not  
15 about the LRA, but about soldiers, because the LRA is referred to sometimes in  
16 literature as rebel, and the soldiers are references to government soldiers, essentially?

17 A. [14:49:38] No, I believe we're referring to LRA soldiers. And if that is a  
18 confusing statement, then my apologies, but I believe we're referring to LRA.

19 Q. [14:49:54] But you can't -- there are no citations here to the transcripts. Okay.  
20 Now --

21 A. [14:50:09] And I'm not sure if it ended up being pointed out at the end, but  
22 there was -- there were many witness statements that talked about forced labour and  
23 specifically cooking. I'm not sure that we entered that in here because this report is  
24 about sexual violence. But, you know, I was numerous in my reading and, you  
25 know, I would take notes on it, but I'm not sure that they ended up in the report itself.

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- 1 Q. [14:50:43] Okay. No, I'm asking because I just wasn't clear and I was trying to  
2 clarify where, from where this came. All right.  
3 I wanted to deal with this a little bit, with the section in the report under the Situation  
4 History Review. It's around -- it's early on, I'm sorry I'm out of order, page 2, ending  
5 in 0022.  
6 Here you talk about mass rape, you talk about, quote:  
7 "... rape and sexual violence are regularly used on a mass scale as a mechanism of  
8 destabilisation ... campaigns of mass rape". My question to you is what do you have  
9 to support this, particularly the conclusion you reach, of campaigns of mass rape in  
10 the context of the LRA? That's what we're talking about.
- 11 A. [14:51:52] Well, the literature and the witness statements suggest that many  
12 girls and women were abducted and raped in mass.
- 13 Q. [14:52:09] All right. I'm going to stop you there only because I honestly don't  
14 understand "raped in mass". What do you --
- 15 A. [14:52:18] Well, a primary objective of the abduction was to use girls and  
16 women, as in sexual ways, forced sex.
- 17 Q. [14:52:38] My issue has to do with the mass part of it. I'm not contesting --
- 18 A. [14:52:44] Sure.
- 19 Q. [14:52:44] -- at this moment -- I'm not saying -- you're using the term rape, I'm  
20 not contesting the term rape at this moment, but I'm contesting the mass rape.
- 21 A. [14:52:54] Okay. I think the -- almost the majority of the women who were,  
22 and girls, who were abducted were subject to threat or actual rape.
- 23 Q. [14:53:15] But now, because you use the same term in the expert report you  
24 present at the sentencing hearing in Bemba, right? Mass rape. Are we talking  
25 about systematic rape? What are we talking about here?

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1 A. [14:53:33] I think we're just talking about fraction, like the percentage of  
2 women who were threatened or actually raped after abduction by LRA.

3 Q. [14:53:45] All right. Is it possible that within your definition there's a sense  
4 that -- of mass going not just to an individual person who was raped but has effects  
5 on the community, the man in her life, on children? Is that included in your concept  
6 of mass rape?

7 A. [14:54:04] Yes.

8 Q. [14:54:06] All right. One moment.

9 May I have a moment, your Honour?

10 PRESIDING JUDGE SCHMITT: [14:54:11] Yes.

11 MS LYONS: [14:54:14] Thank you.

12 (Counsel confers)

13 MS LYONS: [14:54:50] (Microphone not activated)

14 Q. [14:55:05] Now one last question on this term, do you think that the term as  
15 you've used it is fact specific to country situations, or is it generally a term that's used  
16 separate from the particulars, whether it's the -- whether it's CAR in the Bemba  
17 sentencing hearing testimony, or the situation in Uganda? I just want to be clear.

18 A. [14:55:37] I think that we -- I think that the term can be used in many different  
19 situations when we are talking about the fraction of victims who are threatened or  
20 actually raped. So, I mean, I think we use the same term in Yugoslavia, you use the  
21 same term in Cambodia.

22 Q. [14:56:04] And would you use the same term given high statistics of rape, for  
23 example, in, let's say, you know, in a city like New York, right?

24 A. [14:56:12] No.

25 Q. [14:56:13] Would you use that mass rape?

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1 A. [14:56:15] No.

2 Q. [14:56:15] You wouldn't? All right.

3 I wanted to ask you whether in your research you found any prevalence of gang rape  
4 of women within the LRA?

5 A. [14:56:33] Not, not much.

6 Q. [14:56:35] Not much, okay. Did you find any at all of gang rape?

7 A. [14:56:46] I don't, I don't recall. It seemed that the rape was usually under  
8 these, like, specific rules where it would be a single person raping. But there were  
9 instances where there was more than one, if I'm not mistaken.

10 Q. [14:57:07] Okay.

11 One moment.

12 MS LYONS: [14:57:34] (Microphone not activated)

13 PRESIDING JUDGE SCHMITT: [14:57:36] Microphone, please.

14 MS LYONS: [14:57:38]

15 Q. [14:57:39] Some researchers -- this is on a slightly different subject, maybe goes  
16 back to the beliefs 20 minutes ago, but some researchers have done extensive work  
17 into the importance of spiritualism in the Acholi culture and, in fact, the misuse, that's  
18 my term, the misuse of Joseph Kony of spiritualism within the structure of the LRA.

19 There's a person named Sophie Kramer from Yale, she writes:

20 "The institution through which the LRA most powerfully shaped its forces' behaviour  
21 was its spiritual order."

22 My question to you is this: Do you have any information about how the spirits or  
23 this spiritual order affected the sexual code in terms of the LRA or its enforcement?  
24 Was this part of your work and research and basis of knowledge?

25 A. [14:58:48] So on the part of the LRA or its victims? I'm not sure --

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1 Q. [14:58:54] Well, I mean, you can answer on the part of the LRA. I'm talking  
2 about Kony making the rules, and also we can talk about the victims in terms of those  
3 persons who have presented evidence.

4 A. [14:59:08] Yes, I have some knowledge of it from reading, and maybe more  
5 knowledge of it from speaking with my colleagues, the local experts who, you know,  
6 talked about spirituality in the presentation of mental health outcomes. But I do not  
7 think I -- I don't think I can -- I think the answer to your question ultimately is not  
8 great knowledge.

9 Q. [14:59:38] Okay. Thank you.

10 I would like to move on to the section in your report entitled "Broad Psychiatric  
11 Impact of Gender-Based Crimes and Rape in Uganda", where you talk a lot about  
12 PTSD. First, in this section I have just a procedural question. You write that:  
13 "The Lab conducted all interviews by phone with the directive of consulting with the  
14 ICC for the purpose of developing expert reports for the OPCV."

15 Could you tell us with whom you consulted at the ICC or who you interviewed?

16 A. [15:00:33] So we interviewed Professor Musisi and Professor Okello, and they  
17 are each local mental health professionals who deal with trauma and its outcome.

18 Q. [15:00:57] Did you interview anyone from the specific -- anyone from the OTP  
19 unit that deals only with sexual and gender-based crimes, any of their advisers?

20 A. [15:01:13] No.

21 Q. [15:01:14] Now I would like to move on, on page 9, pages, actually, 9, 10, 11, 13,  
22 it's a section on post-traumatic stress disorder. You make a number of conclusions  
23 and I want to make sure that I understand them and that my reading of them is as  
24 you intend them to be in the report.

25 A. [15:01:39] Okay.

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1 Q. [15:01:40] In page 9 you conclude that PTSD is one of the common diagnoses  
2 associated with rape and sexual violence; is that correct?

3 A. [15:01:51] Yes.

4 Q. [15:01:51] On page 10 you conclude that PTSD is a chronic and debilitating  
5 mental illness; is that correct?

6 A. [15:02:00] Yes, often.

7 Q. [15:02:09] On page 11, and it's ERN 0031 at the bottom, you talk about, "In  
8 particular, psychiatric sequelae of trauma may extend beyond the classic symptoms of  
9 PTSD" in three situations; 1, the victim is a child and still undergoing development,  
10 which lasts until 25 years of age; the victim has experienced more than one traumatic  
11 event in his or her lifetime; and/or number 3, the trauma is experienced in the context  
12 of a caregiving or support system that does not ensure safety and stability.

13 On page 13 you talk about dissociative symptoms as another common response to  
14 trauma, sexual assault, and rape that's not fully captured in the PTSD diagnostic  
15 criteria.

16 And lastly, on that same page of your report, you write about co-morbidity, which  
17 means, as I understand it then:

18 "Many other mental health diagnoses are related to trauma and are often seen as  
19 co-morbid with PTSD."

20 My question to you is this: Would it be fair to conclude that PTSD does not, quote,  
21 "stand alone"?

22 A. [15:04:09] I think you need -- if it's okay, maybe you could refine that question  
23 a little bit. The way I would answer it as you posed it is it doesn't necessarily stand  
24 alone. There are many instances where someone is exposed to trauma and, you  
25 know, basically the outcome is that they have PTSD and nothing else. But also, very

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1 often people who experience, especially a great deal of trauma, may develop PTSD or  
2 not, and then also develop some other mental health diagnosis.

3 Q. [15:04:44] Would it be accurate to say then, based on your answer, that trauma  
4 may be seen within multiple diagnosis; depressive disorders, anxiety, dissociation,  
5 others identified in the report?

6 A. [15:05:01] Yes.

7 Q. [15:05:02] Okay.

8 Now this analysis, I understand, was made in the context of your mandate here to  
9 deal with the issues of rape and sexual violence, but the question I have is, is it  
10 possible, based on your expertise and analysis, is it possible that when a person  
11 experiences other traumatic events, for example, abduction by the LRA at an early age,  
12 a situation where that same person's parents are killed, one set of parents by the LRA,  
13 the other set by the government forces, is it possible that there would be evidence of  
14 PTSD, depression, dissociative disorder and other trauma and mental health  
15 disorders that you've identified and discussed in your report?

16 A. [15:06:03] So that is not the purpose of the report, but absolutely it's almost the  
17 definition of PTSD and the description of PTSD in the America Psychiatric  
18 Association literature, yes.

19 Q. [15:06:22] Thank you. Now, at page 34 of your -- it's 0034, sorry, which is  
20 page 14 of your report --

21 A. [15:06:33] Okay.

22 Q. [15:06:36] -- you conclude, "The absence of a formal mental health disorder  
23 after rape does not suggest total wellness for a victim," the same point that  
24 Ms Massidda made. Now, you quote some literature that suggests that  
25 interpersonal issues, anger, suicidality, and lack of self-identity are all associated with

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1 sexual assault that may or may not be part of a formal diagnosis.

2 My question to you is this: Can these symptoms also be attached to other forms of  
3 trauma suffered by an individual, or are they only applicable to sexual assault  
4 instances?

5 A. [15:07:28] They are applicable to other situations of traumatic experience.

6 Q. [15:07:34] Okay. Thank you.

7 Now, you, in your section on Psychosocial Consequences of Deceases Contracted  
8 through Rape, if you know, what has the government of Uganda done to address the  
9 multilevel health issues of those who are victims of rape?

10 MS MASSIDDA: [15:08:08] I'm sorry, your Honour. I really have to object this  
11 line of questioning. This is not the expertise of the expert, it's not the reason why  
12 this expert has been called. The expertise is very limited to the mental health  
13 outcomes of rapes and sexual and gender-based crimes, and I think that we have  
14 listened to a lot of questions which are not pertinent to this expert and I would  
15 like -- I'm sorry, I'm abusing of your passions -- but I would like to be this recorded in  
16 the record.

17 Thank you.

18 PRESIDING JUDGE SCHMITT: [15:08:40] Yes. But I would have stepped in if I  
19 thought there was inappropriate line of questioning. And you have of course a point  
20 here, but I simply would assume that Mr Reicherter answers that he does not know  
21 and that this was not a part of his expertise and then the issue is solved. Otherwise  
22 I would have to decide.

23 Mr Reicherter, would you answer my suggestive question, so to speak.

24 THE WITNESS: [15:09:09] I know little about the measures taken, and I am urged to  
25 put in hearsay in that -- and I'm going to call it hearsay, but it seemed like I didn't

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- 1 read about it because there was not a lot of resources.
- 2 PRESIDING JUDGE SCHMITT: [15:09:27] So, simply, you have not --
- 3 THE WITNESS: [15:09:30] No, I have not heard of good resources.
- 4 MS LYONS:
- 5 Q. [15:09:32] Fair enough. I mean the question is really if you know. If you don't
- 6 know, you know --
- 7 A. [15:09:37] I don't think I --
- 8 Q. [15:09:38] That's fair enough. No, that's fine.
- 9 A. [15:09:39] I think, if anything, I was aware that people, that witnesses talked
- 10 about having few resources.
- 11 Q. [15:09:47] Okay. That's --
- 12 PRESIDING JUDGE SCHMITT: [15:09:50] Ms Lyons, of course Ms Massidda has a
- 13 point when she says we should stick to the content of the expert report and to the
- 14 expertise of Mr Reicherter as a psychiatrist.
- 15 MS LYONS: [15:10:02] No, I would abide by that. But I just want your Honour to
- 16 understand that it comes out of -- there's an emphasis on what can be done, what
- 17 healing, what needs to be done. So, to me, it was a logical question that didn't fall
- 18 from the sky.
- 19 PRESIDING JUDGE SCHMITT: [15:10:17] I did not reject the question, but I
- 20 simply wanted --
- 21 MS LYONS: [15:10:22] Fair enough.
- 22 PRESIDING JUDGE SCHMITT: [15:10:24] -- to tell you, with your further line of
- 23 questioning, that you really concentrate on what the expert report is about.
- 24 MS LYONS: [15:10:31] Thank you.
- 25 Q. [15:10:34] Now, all right. Ms Bridgman says I can start.

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- 1 On page 22, which is ERN 0042, towards the -- in the middle section at the end, you  
2 refer to testimony about -- testimony of Professor Allen about stigmatisation of  
3 victims of sexual and gender-based crimes, and I think that's in his testimony in T-28.  
4 In this section you highlight what you describe as a systemic disruption and  
5 interference of the LRA conduct on traditional Acholi cultural practices for  
6 establishing lineage, inheritance, and family affiliation. I'm reading from the report  
7 here.
- 8 My first question is: In your work did you find evidence to suggest that victims did  
9 not know who the father of their child or children is -- or is, even if they are no  
10 longer -- the father is no longer alive or cannot be traced? Did you find evidence to  
11 this effect in your work?
- 12 A. [15:12:19] That they did not know who the father --
- 13 Q. [15:12:23] Of the --
- 14 A. [15:12:24] Of the child is.
- 15 Q. [15:12:25] Yeah, did you come across that?
- 16 A. [15:12:32] I have to admit I don't know if I did or not.
- 17 Q. [15:12:35] Okay. Let me ask you, if you know, isn't it true that generally in  
18 Uganda, or northern Uganda in particular, apart from traditionally sanctioned wife  
19 inheritance systems, it's harder for a woman to remarry and find stable partners,  
20 especially if they have children from previous relations? You're shaking your -- you  
21 have to -- for the record you have to say yes or no?
- 22 A. [15:13:06] That is my understanding from --
- 23 Q. [15:13:09] Okay.
- 24 A. [15:13:10] -- my reading. And I think Mr Allen's testimony and also his book.
- 25 Q. [15:13:19] Now would you agree -- certainly based on your concluding

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1 remarks on direct -- but wouldn't you agree that in a situation of conflict, especially  
2 war, there is a disruption of people's daily lives and daily institutions?

3 A. [15:13:40] There can be, yes.

4 Q. [15:13:42] And you've put forward the conclusion that the LRA disrupted  
5 Acholi culture. Given your general analysis, as well as your work and information  
6 that has come out in this proceeding, would you agree that disruption is just as likely  
7 when there is rape and other abuse carried out by the UPDF or when the conflict  
8 generally forced women in the camps to resort to prostitution in the bush?

9 A. [15:14:23] I think we're comparing two things that are different. I'm not sure  
10 if you're asking me, if you're asking if war and rape can cause these outcomes and  
11 also specifically the actions of the Lord's Resistance Army can cause these outcomes?  
12 Is that what you're asking me?

13 Q. [15:14:43] Well, you posited in your report, let me, I may not -- let me try to get  
14 clearer myself here. But you posited in the report the LRA disrupted Acholi culture.  
15 I'm presenting you with another proposition which says that the rapes and other  
16 abuse which were carried out by the UPDF in the camps and what the women in the  
17 camps were forced to do, to force into forced prostitution because the situation in the  
18 UPDF organised and maintained camps, in the IDP camps, whether or not that's a  
19 disruptive force? Would you consider that disruption?

20 A. [15:15:23] I would consider that a disruptive force.

21 Q. [15:15:36] Now I want to move on to your section that deals, section 5, which  
22 deals with the impact of sexual assault on child development. Okay. At page 24,  
23 which is ERN 0044, you conclude that, "As a result of trauma and rape experienced  
24 during childhood or adolescence has been shown to have more pervasive and severe  
25 consequences than adult exposure due to the negative impact on the development of

1 cognitive and intellectual capacities, executive functions, emotion regulation,  
2 interpersonal skills."

3 What interests me in the conclusion is the connection here between trauma and rape  
4 experienced as a child and for an adult. I'm interested in the more pervasive and  
5 severe consequences. And the question is this: Is this conclusion or this analysis,  
6 basically the analysis is children who are traumatised or suffer from crimes, I mean,  
7 children, it's harder for them than it is for adults generally? I mean, not every single  
8 child, not every single adult, but that's -- my sense is that that's the general sense.

9 A. [15:17:25] It's a generalisation that is backed up by a lot of literature. And,  
10 you know, what you are pointing out here is an example, right?

11 Q. [15:17:28] Right.

12 A. [15:17:30] So you're taking back in the timeline of a human course, adding a  
13 trauma early on --

14 Q. [15:17:40] Right.

15 A. [15:17:42] -- where that has potentially more developmental damage that it can  
16 cause, and, in fact, that's what is often seen relative to, say, whatever somebody with  
17 a developed personality and who is farther along in their time course, correct.

18 Q. [15:18:00] Okay. Now, using -- I should count to 5, 10, 20. Okay.

19 Now, would it -- using this analysis, would you -- is this applicable to other forms of  
20 trauma, for example, the form of trauma experienced by a child abducted by the LRA  
21 at 9 or 10, a young age, and forced to be a child soldier?

22 A. [15:18:42] I believe so.

23 Q. [15:18:43] Okay. Now, you also make some conclusions here in the same  
24 section about children and survival skills, which are triggered or necessitated by the  
25 trauma. And again it's the same question: Does this apply generally to children

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1 who have been traumatised in other situations, war, abduction, forcible extraction  
2 from family and community, in other words, non-rape and sexual violence situations  
3 which are traumatic?

4 A. [15:19:35] The answer to the question is yes. But I do want to, I want to point  
5 out that the literature review that we did was mostly specific to rape scenarios.

6 Q. [15:19:40] Okay.

7 A. [15:19:42] And while I agree that what you are saying is true and accurate, you  
8 know, all of the citations that we are putting in this paper, most of them have to do  
9 with sexual violence. I just want to make sure that that's clear. But I agree with  
10 your line of questioning, where you're going, the answer is yes.

11 Q. [15:20:05] Okay, fair enough, and I appreciate and respect that.

12 PRESIDING JUDGE SCHMITT: [15:20:08] I think Mrs Lyons simply wants to  
13 know how far your findings could also be applied to other forms of criminality.  
14 And I think you have made your point.

15 MS LYONS: [15:20:21] Thank you.

16 THE WITNESS: [15:20:22] And I think that the --

17 PRESIDING JUDGE SCHMITT: [15:20:23] I understood it, yes.

18 MS LYONS: [15:20:24] All right.

19 THE WITNESS: [15:20:25] I think the answer is very often that it is generalisable.  
20 But I have to say that many of the reports that we're pulling are specifically about  
21 sexual violence. And as I'm looking over them, I'm not sure which ones are which,  
22 in other words, which ones are backed by the literature that we have in this paper.

23 MS LYONS: [15:20:41] All right.

24 PRESIDING JUDGE SCHMITT: [15:20:42] But of course we all understand that the  
25 content of your expert report was specifically on sexual and gender-based crime and

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1 violence.

2 THE WITNESS: [15:20:52] Yes, right, right.

3 MS LYONS: [15:20:53]

4 Q. [15:20:54] Now, at page the same -- no, the next section, page 26, ERN 0046,  
5 you talk about the ripple effect.

6 Now, the question I want to ask you is, and this is a question based on your expertise,  
7 it's a general question: When rape occurs in a coercive environment where neither  
8 the man nor the woman has any choice about the coercive environment, they're there,  
9 each is forced to be in that environment, does the ripple effect affect the women and  
10 the man? How does it work? Are they both affected by the situation?

11 A. [15:21:56] So there's probably a lot of cultural considerations, in other words, it  
12 would be hard for me to generalise, but to the extent that I may generalise, I would  
13 say that it affects both the male and the female, and in many cultures the female to a  
14 greater extent than the male.

15 Q. [15:22:21] Okay. Now, the last question in this section actually goes a little bit  
16 back to a few questions ago.

17 A. [15:22:30] Okay.

18 Q. [15:22:32] Would you agree that if a child has experienced sexual abuse or  
19 trauma, there is a greater likelihood that she or he is more likely to replicate the same  
20 behaviour as an adult than exists for somebody who did experience that trauma as a  
21 child?

22 A. [15:22:55] So yes, that's borne out in the literature.

23 Q. [15:23:00] All right. Now, the last section, and I'm reaching the end, I read, I  
24 read with interest, I read your report in Bemba, and I read your testimony in Bemba,  
25 and I wanted to ask you because it was -- I assume this is in order, it deals with some

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1 of the same subject matter, and I wanted to ask you a few questions about that so that  
2 I'm clear.

3 Now, in Bemba at the sentencing hearing you testified about trends in scientific  
4 evidence in reference to mental health trauma and rape. And at one of the  
5 transcripts, I'll read it out, for the record it's transcript 368 from the Bemba main case,  
6 page 87. What you said was, "It's pretty straightforward, we're aware that very  
7 traumatic experiences cause bad mental health outcomes."

8 My question to you is: Do you agree with this statement today? Would you stand  
9 by it?

10 A. [15:24:10] Yes.

11 Q. [15:24:11] Okay. Now, you also at the same time at page 90 --

12 A. [15:24:17] I think I'd amend it only by saying that they tend to.

13 Q. [15:24:20] Okay.

14 A. [15:24:21] It is not, it is not as simple as one, two, three, but absolutely tend to.

15 Q. [15:24:34] Okay. Now, in Bemba at the transcript number 368, page 97, you  
16 testified about PTSD rate in the US among the general population, which included,  
17 you know, victims or victim survivors of domestic violence, returning vets, you know.  
18 It included groups that have been hit hard by PTSD. You said that the general  
19 population has a PTSD rate of about 1 per cent. And then you also said that in  
20 Cambodia it was closer to 50 per cent, where you described people obviously living  
21 under "tremendous violence".

22 You also wrote, said in your testimony, that children who are violated, children who  
23 are raped tend to have worse and more pervasive bad mental health outcomes given  
24 that context, and so it is expected that they would have mental health changes that  
25 would be lasting.

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1 Now, does this analysis in terms of particularly children, does this apply to children  
2 who were abducted by the LRA?

3 A. [15:26:00] So children who have experienced severe trauma are at great risk for  
4 developing, yes, mental health pathology.

5 Q. [15:26:13] Okay. And the last, the last set of questions also from Bemba, the  
6 transcript 369 at the sentencing hearing on page 3, you testified about - this is my  
7 word, not yours, so I accept responsibility - that you testified about the commonality  
8 of mental health issues in those who suffered trauma. And you focussed, you  
9 mentioned rape, forcible displacement, tortured child soldiers, those who suffered  
10 trauma as children.

11 And do you still conclude today that PTSD is common among all of these groups or  
12 can be common among all of these groups?

13 A. [15:27:07] Yes.

14 Q. [15:27:07] Okay. And lastly I want to ask you, you talked about the nature of  
15 PTSD in the Bemba trial, and you talked about the chronic continuous nature, and  
16 you gave an example of you interviewing a rape survivor five years after the incident  
17 or ten years, and very often there are residual lasting chronic mental health issues.

18 And I want to ask you, do you still stand by your conclusion that PTSD can be  
19 recurring in a person's lifetime and that its appearance and its effects can recur within  
20 a person's lifetime? Is that fair conclusion from your testimony?

21 A. [15:28:04] I would say that I -- the answer to the question is yes. And I'd say  
22 that in each of questions, I think the last three questions that you've asked me --

23 Q. [15:28:15] Right.

24 A. [15:28:17] -- is also, you know, well established in the literature.

25 Q. [15:28:18] Okay. Thank you.

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- 1 One moment.
- 2 (Counsel confers)
- 3 MS LYONS: [15:28:44] (Microphone not activated)
- 4 PRESIDING JUDGE SCHMITT: [15:28:47] Yes, conceded.
- 5 (Counsel confers)
- 6 MS LYONS: [15:29:35] Your Honour, our cross-examination for this witness is
- 7 finished.
- 8 I want to thank you very much for answering the cross-examination questions.
- 9 THE WITNESS: [15:29:47] You're quite welcome.
- 10 PRESIDING JUDGE SCHMITT: [15:29:49] Thank you very much, Mrs Lyons.
- 11 And also of course thank you very much, Mr Reicherter. This concludes your
- 12 testimony. We wish you a safe trip back home.
- 13 And continue tomorrow at 9.30 with PCV-2.
- 14 THE COURT USHER: [15:30:04] All rise.
- 15 (The hearing ends in open session at 3.31 p.m.)