

Trial Hearing

(Open Session)

ICC-02/04-01/15

WITNESS: UGA-D26-P-0028

- 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 Cano Pangalangan
- 7 Trial Hearing - Courtroom 3
- 8 Thursday, 4 October 2018
- 9 (The hearing starts in open session at 9.31 a.m.)
- 10 THE COURT USHER: [9:31:09] All rise.
- 11 The International Criminal Court is now in session.
- 12 PRESIDING JUDGE SCHMITT: [9:31:33] Good morning, everyone.
- 13 Good morning, Mr Adek.
- 14 WITNESS: UGA-D26-P-0028 (On former oath)
- 15 (The witness speaks Acholi)
- 16 THE WITNESS: [9:31:52] (Interpretation) Good morning.
- 17 PRESIDING JUDGE SCHMITT: [9:31:53] Could the court officer please call the case.
- 18 THE COURT OFFICER: [9:31:56] Good morning, Mr President, your Honours.
- 19 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
- 20 Ongwen, case reference ICC-02/04-01/15.
- 21 And for the record, we are in open session.
- 22 PRESIDING JUDGE SCHMITT: [9:32:04] Thank you.
- 23 I call for the appearances of the parties.
- 24 For the Prosecution, Mr Gumpert.
- 25 MR GUMPERT: [9:32:09] Good morning, your Honour. Ben Gumpert. With me

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1 today, Yulia Nuzban, Colin Black, Pubudu Sachithanandan, Beti Hohler,
2 Julian Elderfield, Kamran Choudhry, Hai Do Duc, Colleen Gilg, Philip Lau,
3 Sanyu Ndagire and Grace Goh.

4 PRESIDING JUDGE SCHMITT: [9:32:29] Thank you.

5 And for the Legal Representatives of the Victims. Mr Manoba.

6 MR MANOBA: [9:32:33] Good morning, Mr President, your Honours. I am
7 appearing with James Mawira and my name is Joseph Manoba.

8 PRESIDING JUDGE SCHMITT: [9:32:41] Mr Narantsetseg.

9 MR NARANTSETSEG: [9:32:42] Good morning, Mr President.

10 My name is Orchlon Narantsetseg. I'm with Ms Caroline Walter. Thank you.

11 PRESIDING JUDGE SCHMITT: [9:32:48] Thank you.

12 And the Defence, Mr Ayena please.

13 MR AYENA ODONGO: [9:32:52] Good morning, Mr President and your Honours.

14 I'm Krispus Ayena Odongo. I'm assisted by Tom Obhof, Madam Beth Lyons,

15 Ayena Roy and Chief Achaleke Taku, Mr Bajnovic Tibor. And our client

16 Mr Dominic Ongwen is in Court. Thank you.

17 PRESIDING JUDGE SCHMITT: [9:33:15] Thank you very much. We continue with

18 the examination --

19 Yes?

20 MR AYENA ODONGO: [9:33:20] Abigail Bridgman will join us shortly.

21 PRESIDING JUDGE SCHMITT: [9:33:26] Okay. But I just wanted to say I don't see

22 her at the moment, so now it would be a little bit premature to already have her on

23 the record.

24 We continue with the examination of Mr Adek. I give the Prosecution the floor.

25 Mr Gumpert.

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1 MR GUMPERT: [9:33:48] Thank you, your Honour.

2 QUESTIONED BY MR GUMPERT:

3 Q. [9:33:52] Mr Adek, my name is Ben Gumpert and I will be asking questions on
4 behalf of the Prosecution.

5 Mr Adek, in Acholi culture, when making war, it is forbidden to attack women; am I
6 right?

7 A. [9:34:22] Yes, that is correct.

8 Q. [9:34:24] It is also -- I'm sorry, don't let me interrupt you.

9 A. [9:34:34] Like I explained, when someone is going to join the army, his parents
10 give him three wise words: Don't kill a woman, don't kill a child, and don't steal. I
11 repeat the same things. Thank you.

12 Q. [9:34:58] But it's not just killing, is it, Mr Adek? If you were to attack a child
13 and cause him or her an injury, that too is forbidden in Acholi culture, isn't it?

14 A. [9:35:28] The Acholi culture values and respects children. The culture says that
15 children are like angels because they are still innocent.

16 Q. [9:35:41] So abducting them from their homes would be a violation of the Acholi
17 custom?

18 A. [9:35:58] Abduction is what is happening in the -- currently because armies do
19 not respect the laws. In many cases, the abduction is not meant to punish the
20 child -- or, rather, the abduction does not punish the child but punishes the parents
21 because it is the parents who feel the pain.

22 Q. [9:36:31] Mr Adek, as a parent myself, I understand that answer, but my
23 question was about the rules. Abducting children is against the rules you've spoken
24 of, isn't it?

25 A. [9:36:56] The Acholi culture prohibits the abduction of children. In the past

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1 during the tribal and clan wars, when you abduct a child, you bring him home or her
2 home and raise the child as a member of that family. If it's a male child, he is later
3 given a wife and if it's a female child, the child is raised and married off to someone in
4 a respectful way. It is not like it is done now.

5 Q. [9:37:31] When commanders in the LRA ordered their fighters to abduct women
6 and take them as their forced wives, that too was against the rules you've spoken of,
7 wasn't it?

8 A. [9:38:12] Many times when someone is abducted and taken to the bush and
9 returns home, whether he or she escapes or is released, some ceremony is performed
10 in the Acholi culture to cleanse the person from whatever happened in the bush.
11 The Acholi culture values such things.

12 Q. [9:38:41] Mr Adek, I understand and I'm sure their Honours the Judges do, the
13 value of your wisdom on the subject of Acholi culture, but the question, the questions
14 I am asking are quite narrow ones, and this is the question which I'd like you to
15 answer: When LRA commanders abducted women and forcibly married them in the
16 bush, they were breaking the rules, weren't they?

17 A. [9:39:28] We understand that the war brought lots of abductions. That happens
18 in any war and any army could abduct. But no marriages should have taken place in
19 the bush. Marriages only take place in the families of the child.

20 Q. [9:39:51] And when LRA commanders ordered their fighters to pillage, to loot
21 food from civilians, that was breaking the rules too, wasn't it?

22 A. [9:40:14] No Acholi elder told any soldier of the LRA to go and pillage. That
23 was a crime. Even in the Acholi culture, it's a crime of the individual. Acholi
24 culture does not accept pillaging.

25 Q. [9:40:37] I want to ask you about three attacks of which I believe you are aware.

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1 They took place at these places: Koch, Padibe and Bolo. I'll take them separately.

2 Am I right that you know about an LRA attack at a place called Koch?

3 A. [9:41:19] Koch is in Acholi and it's not far away from my home state. I heard
4 what happened there, but I did not witness it. I did not see it myself.

5 Q. [9:41:37] And what happened there, amongst other things, was that LRA
6 attackers cut the hands of people whom they suspected of resisting them; that's right,
7 isn't it?

8 MR TAKU: [9:42:00] May it please the Court.

9 PRESIDING JUDGE SCHMITT: [9:42:02] Yes, Mr Taku.

10 MR TAKU: [9:42:04] This is beyond the scope of the charges and with regard to
11 attacks and crimes not charged, and I do not know why my colleague should be
12 exploring this area with this witness. And clearly also yesterday he didn't know
13 what occurred there. But even if he understood, it's beyond the scope of the charges.

14 PRESIDING JUDGE SCHMITT: [9:42:20] Mr Gumpert, you want to respond to that?

15 MR GUMPERT: [9:42:23] Yes, your Honour. I make firstly the traditional response,
16 if I can put it that way, it is part of the burden that the Prosecution has to prove, if it
17 can, that attacks on the civilian population were widespread, amongst other things.

18 And it's plainly relevant to establishing that matter that attacks took place in locations
19 other than those where there are charges.

20 PRESIDING JUDGE SCHMITT: [9:42:55] But then I would like to know about what
21 attack at what time especially we are speaking, that should be elaborated. And
22 furthermore, you are aware that the witness, Mr Adek, said that he does not have
23 direct knowledge of it, that it is hearsay. So the probative value would perhaps not
24 be really so high in the end what he would say to that. Of course it's like always,
25 that is up to the Judges in the end to determine that.

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1 MR GUMPERT: [9:43:29] Your Honour, yes. I'm dealing with a matter which is
2 dealt with quite extensively in this witness's statement. There is no surprise to what
3 I am asking about. And the witness has expressed his knowledgeable, albeit that it is
4 not first-hand knowledge, at some length in that statement.

5 PRESIDING JUDGE SCHMITT: [9:43:50] So I think what I would
6 allow is -- Ms Lyons.

7 MS LYONS: [9:43:54] Excuse me, your Honours. I don't -- I just want to add one
8 point to this, the objection, which is my understanding is that matters of cross concern
9 matters that were raised on direct. You cross-examine - at least in the system I come
10 from, maybe it's different here - but you cross-examine on matters that were raised in
11 direct. And the questions that are being posed by Mr Gumpert are not on matters
12 being raised on direct. The argument in regard to the burden is a separate argument,
13 but we're dealing here with what is proper in terms of cross-examination. So
14 I would ask you to consider that, please. Thank you, your Honour.

15 PRESIDING JUDGE SCHMITT: [9:44:36] Any comment? I think I know what
16 you're going to say, but ...

17 MR GUMPERT: [9:44:40] Sorry, I inadvertently changed channels. I had French in
18 my ears for a moment.

19 Yes, your Honour, while I would very respectfully concerning Ms Lyons' point
20 observe that she may not have been here throughout cross-examination conducted by
21 the Defence, and that certainly wasn't the rule that they observed.

22 Secondly, that whatever the rules in New York City may be, the rules here are not
23 proscribed by that example.

24 And, thirdly, that it is in the interests of justice and in finding out the truth for parties
25 to be able to explore all matters about which the witness may be able to give relevant

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1 evidence.

2 PRESIDING JUDGE SCHMITT: [9:45:22] So the objection is overruled. First of all,
3 we did not follow in this courtroom until today when we heard the Prosecution
4 witnesses the rule that the question on so-called cross-examination, meaning the
5 questioning of the non-calling party, had only to follow and only to address issues
6 that had been addressed on the examination by the calling party. So this has not
7 been followed, and the Defence was always allowed to also address issues that had
8 not been addressed by the Prosecution when they had examined their so-called
9 witnesses.

10 And, secondly, the Prosecution has the right to ask questions with regard to
11 contextual elements. As I have several times stated and also we have Chamber
12 decisions on that, we may entertain also other than the four attacks, that there can be
13 evidence of other facts and circumstances described in the charges, and especially
14 example is including especially contextual elements, modes of liability, and so on and
15 so forth.

16 Nevertheless, I would ask to limit that. We will shortly see how much knowledge
17 and direct knowledge the witness really has, and if the witness has information, it's
18 okay; if not, I think I would ask you to move to another point.

19 So perhaps you repeat your question and then Mr Adek may answer.

20 MR AYENA ODONGO: [9:47:09] Mr President, in that case, when during
21 cross-examination the opposite party touches on issues which were not raised in
22 direct and, therefore, they are now completely new subjects, is the calling party
23 entitled to reexamine the witnesses?

24 PRESIDING JUDGE SCHMITT: [9:47:42] Yes. That would be fair. That would be
25 only the consequence, of course. So I'm glad that you bring this up. This is, of

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1 course, it would be fair then to give the calling party the possibility to reexamine.

2 MR AYENA ODONGO: [9:48:01] Much obliged.

3 PRESIDING JUDGE SCHMITT: [9:48:04] That is absolutely clear. So you will get
4 your time afterwards if you want to reexamine. I can assure you that.

5 MR AYENA ODONGO: [9:48:11] Much obliged.

6 PRESIDING JUDGE SCHMITT: [9:48:13] So please, Mr Gumpert.

7 MR AYENA ODONGO: [9:48:15] I want to put on record that Madam Abigail
8 Bridgman is in court now.

9 PRESIDING JUDGE SCHMITT: [9:48:21] Yes, you have already been presumed to
10 be there, but you haven't, but now it has become a reality, so to speak.
11 Please, Mr Gumpert.

12 MR GUMPERT: [9:48:35] Let me in return note that Mrs Adesola Adeboyejo is also
13 now present in the court.

14 PRESIDING JUDGE SCHMITT: [9:48:45] Yes, but you have to really have a close
15 look into the farthest corner to really identify her.

16 Good morning.

17 MR GUMPERT: [9:48:57] Her significance is certainly not indicated by her location.

18 PRESIDING JUDGE SCHMITT: [9:49:01] Of course not.

19 Please, Mr Gumpert.

20 MR GUMPERT: [9:49:05]

21 Q. [9:49:06] Mr Adek, quite a long time ago now I asked you about an attack at
22 Koch, and I think you told me that Koch is in the area for which you have
23 responsibility as an elder; did I understand correctly?

24 A. [9:49:30] I do know where Koch is, but the attack which took place in Koch
25 happened when I was in jail. That happened in 1988. I was in Luzira prison in

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1 detention.

2 Q. [9:49:53] And you came to know that in the course of that attack, the LRA
3 attackers killed people and cut the hands off other people, didn't you?

4 A. [9:50:13] I did not hear about cutting the hands of people. But I heard that
5 there was an attack in Goma. I was in Luzira, but I had already been released.

6 When I was about to come back, I heard that an attack happened in Goma and I
7 postponed my return home.

8 I later heard lots of information from different sources about what happened in Koch,
9 and that makes it difficult to know the truth, because many people were talking about
10 different things. That is what I can say.

11 Q. [9:50:50] Very well. Let me move on to an attack at Padibe. Can you tell us
12 when that occurred?

13 A. [9:51:08] Padibe is not very close to Gulu. Padibe, we only heard about what
14 happened there through hearsay. It was said that the people in Padibe fought
15 against the LRA when leaders asked them to attack the LRA using machetes. But
16 Padibe is in the Kitgum area, and it's far away from Gulu. It's not easy to know what
17 exactly took place there.

18 Q. [9:51:45] And let me ask you about the last of those three attacks, an attack at
19 Bolo, when did that occur?

20 A. [9:52:00] The brother of the RDC, the late Apira, who was then called Ken, fled
21 from Bolo and came and sought refuge in my home. He told me that the people of
22 Bolo were also asked to attack the LRA with a bow and arrow and machetes. And
23 the LRA surrounded them and starting shooting at them.

24 When you are caught with the bow and arrow, you are punished using the same
25 arrow. That is the only thing I understood. He told me he fled and was able to

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1 escape. That is the only information I heard about Bolo when somebody who fled
2 from there came to my household, because Bolo also is not very close to where I was.

3 Q. [9:52:58] And can you help the Court when this was?

4 A. [9:53:09] I do not recall. It's been long.

5 Q. [9:53:17] Mr Adek, you made a statement to investigators in this matter on
6 6 January 2016. Do you remember making that statement?

7 A. [9:53:42] What is the statement about? Is it about the process at this Court?

8 Yes, I gave.

9 Q. [9:53:56] I'm grateful. I'd like to read four sentences which are in paragraph 57.
10 Your Honours, the statement is at UGA-D26-0010-0540. And paragraph 57 is to be
11 found almost at the very end, the last four digits are 0555.

12 Mr Adek, you told the investigators this: "This arrow boys army brought a lot of
13 amputation and mutilation of the population. The rebels would get you with a spear,
14 arrow and any of these rudimentary ammunition and then ask you to choose between
15 your life and your hand to be taken away from you. This was meant to discourage
16 taking up arms against rebels."

17 And lastly, this sentence: "If you make ululation to report them to government troop,
18 they would ask you to make a choice between your ears and your lips."

19 What would happen once the person who'd raised the alarm chose between their ears
20 and their lips?

21 A. [9:56:22] I got that information from one person who is like my elder brother.

22 For me to explain, and the Court understands well, I mentioned that the RDC Ocaya
23 started mobilising the community to attack the LRA using bow and arrow, knives and
24 machetes for self-defence. During a meeting, I protested this decision to mobilise
25 people and I told the RDC that if people are able to defeat the LRA using these

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1 rudimentary weapons, why don't they give the soldiers to use it against the LRA?

2 That happened, I did not see personally, in many locations. The only one that I was

3 very sure of is what happened in my brother's home. The LRA were moving and

4 they came across a home of one Opoka Lutebo. Opoka thought that the army that

5 was passing belonged to the government and he started conversing with them and

6 told them that, "If you were based here, it would be really very, very helpful to us",

7 because the LRA likes to stay at the home of Paulino Lutara.

8 Paulino Lutara is the brother I am talking about. They took the soldiers to

9 Paulino Lutara's home and they asked him that, "The LRA like to pass here. Are you

10 the one who keeps them here?"

11 Then he responded that, "I do not know whether these are LRA soldiers or

12 government soldiers. Every time they come, they stay in my home on their own. I

13 do not welcome them, but because of the force and the number, they actually stay in

14 my home."

15 Little did they know that the people they were talking to were the LRA soldiers.

16 They later on told him that, they told him that, "We are actually LRA. For now, we

17 are aware that you are the one who is reporting us to the soldiers of the government.

18 Because whatever happens here is not reported to us." And then that person who

19 reported the LRA, they cut off his ear and was warned that "Do not become party to

20 the conflict between the LRA and the government. We are cutting off your ear so

21 that you can listen next time." That is what I know and what I witnessed.

22 But everything that happened in the rest of Acholi was through hearsay. I only

23 know about what happened in my brother's homestead. That is what I know.

24 Q. [9:59:35] So your reference in your statement to people's lips was something you

25 had heard from other people, but you yourself know about a man's ear being cut off;

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1 is that correct?

2 A. [9:59:57] Yes, I know about a man whose ear was cut off.

3 Q. [10:00:02] And his ear was cut off simply because he was believed to have raised
4 the alarm about LRA activities, that's the size of it, isn't it?

5 A. [10:00:18] Not that he talked about what the LRA were talking about, but he
6 would be giving a report to the government. The LRA warned him that, "Do not
7 become part of the conflict between me -- between us and the government. You are
8 a civilian, do not be part of it." Because he was giving a report to the government,
9 the LRA saw him as a bad person. This is what I wanted to say.

10 Q. [10:00:48] And can I just come back to the word "ululation". That's a,
11 perhaps -- I'm not sure I can describe it, I'm certainly not going to try and demonstrate.
12 It's a high-pitched fluctuating noise which a person makes in their throat to sound an
13 alarm, isn't it?

14 A. [10:01:21] Ululation is a way of informing, sending information out.

15 Q. [10:01:32] (Microphone not activated) I'm grateful.

16 You heard that people who made that alarm would have their lips or their ears cut off;
17 is that right?

18 A. [10:01:54] I am aware that those who were reporting to the soldiers were the
19 ones whose ears or lips were cut, not the people who were sending out alarms. The
20 alarms were not given by one or two persons, but everyone else.

21 Q. [10:02:15] I should have asked you earlier, can you put a date on the occasion
22 when you saw the man whose ear had been cut off?

23 A. [10:02:33] Are you talking about that that happened at my brother's house?
24 The one I talked about was given to me by my brother. My brother is like myself. I
25 didn't see it happen myself, but what you know is whatever happens at my brother's

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1 place will eventually come out to me. I know the other person because he's called
2 Opoka Lutebo and they are neighbours with my brother.

3 Q. [10:03:10] I understand better now, I'm grateful for that. But I come back to my
4 question about the date. When did you find out about this?

5 A. [10:03:28] Well, I didn't put it down, but what I know is it happened one of
6 those days back when there was fierce battle between the two forces.

7 Q. [10:03:45] You told us earlier that there was a time when you came out of prison
8 in August 2003. Can you help the Court in this way: Was it before or after that
9 time?

10 A. [10:04:03] 2003 I was not yet arrested. The year 2003 was much later.

11 Q. [10:04:32] I think there may have been some confusion there. The question I'm
12 asking is: Did this, did your knowledge of the cut off ear come to you before or after
13 August 2003 when you were released from prison?

14 A. [10:05:04] That was before I was arrested in 2003. 2003 came much later. It
15 happened much earlier.

16 Q. [10:05:15] Thank you. I want to ask you now about a place called Bungatira.
17 That's a place for which you have responsibility as an elder. Do I understand
18 correctly?

19 A. [10:05:37] That's correct.

20 Q. [10:05:46] There came a time, so you said in your statement, when you became
21 aware that the LRA was planning an attack on Bungatira; am I right?

22 A. [10:06:03] That's correct.

23 Q. [10:06:05] Before I ask you any questions about that, can you help the Court
24 with the approximate date when you became aware of this? A year would be
25 helpful, if you can give one.

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- 1 A. [10:06:27] That was in the year 1995 when the RDC was mobilising the people.
2 I actually went and met the people in the bush because three people had disappeared
3 and they had escaped and then they wanted to come and attack the place. I went to
4 meet Kony. I went and told him that "Kony, if the spirits that you have are meant to
5 bring problems to people, then we would rather pray so that you are relieved of these
6 spirits."
7 Then he summoned his soldiers and briefed them. He told me to address his
8 soldiers. At that time it was Otti Lagony who was in charge of the soldiers. I
9 repeated my message to him and then he sought for the opinion of Otti Lagony and
10 others. Otti Lagony responded that, "Sir, this is something within your ambit, you
11 are the one to respond to it."
12 And then, well, I think it was not 1995, that was the time when Okot Ogony had not
13 yet been killed and that was before the peace talks. At that time I told him "Please
14 do not go and harm people." Then he told his soldiers that "I usually tell you that if
15 there is a command or if there is a message that we should go and do something and
16 we think it's bad, it's important that you come and advise. You look at this elder, I
17 trust him because each time he comes around he tells his opinion and then he advises
18 us." For that reason they never attacked Bungatira. They didn't attack it simply
19 because I was able to go and meet them and talk to them.
20 I also went out to Bungatira to witness that the people were also harmed with the
21 rudimentary weapons. When I went there I saw they were all armed and then I also
22 talked to them and told them "Please drop your weapons and leave attacking these
23 LRA fighters because they are going to harm you." That is what happened.
24 Q. [10:09:05] Which LRA commanders attended the meeting which Kony
25 summoned?

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1 A. [10:09:19] Otti Lagony was the leader at that time and the second in command
2 was the operation commander was called Ola (phon), Abonga was also there. Those
3 were the people I can clearly recall. I don't know all their names, but I only saw
4 them as leaders at that time. Those were the only three people I can clearly recall of.

5 Q. [10:09:48] And was Kony himself present when you addressed this meeting?

6 A. [10:09:59] I actually addressed myself to Kony himself. I did not talk to the
7 other people, but I talked to Kony himself.

8 Q. [10:10:09] And if I understand correctly, in short, you persuaded Kony that it
9 would be a bad thing to do to attack Bungatira, is that it?

10 A. [10:10:27] Yes.

11 Q. [10:10:29] And he changed his mind and called off the attack?

12 A. [10:10:37] Correct.

13 Q. [10:10:45] Thank you. I want to move to a new topic.

14 You told us yesterday that the best chance LRA fighters had to escape was during
15 combat; did I understand correctly?

16 A. [10:11:14] I said that was one of the ways I thought that they could escape. I
17 didn't say that was something I knew very well, but I said that's what I thought
18 would be a possibility.

19 Q. [10:11:31] You yourself were involved in radio broadcasts encouraging LRA
20 fighters to escape, were you not?

21 A. [10:11:48] Correct.

22 Q. [10:11:50] I want to ask you about a radio programme called Dwog Paco.

23 I think you made reference to it yesterday. That was a radio programme being
24 broadcast with the aim of encouraging LRA fighters to escape and come home, wasn't
25 it?

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1 A. [10:12:22] That was Mega FM. And it's correct there was a programme called
2 Dwog Paco. It was meant to call people to come back home. I talked about that the
3 previous day.

4 Q. [10:12:46] And you yourself were involved in meetings concerning the
5 broadcasts on that programme, weren't you?

6 A. [10:12:56] I did not say I went on radio for the programme Dwog Paco. I said
7 the person who was conducting the programme was called Lacambel. The radio I
8 went and talked on was in Congo addressing the people who were in Central African
9 Republic. I did not participate in the Dwog Paco radio programme.

10 Q. [10:13:30] But you approved of its message that fighters in the bush should
11 escape and come back home, didn't you?

12 A. [10:13:38] If I did not approve of it, I would not have gone on radio in the Congo
13 to talk to the rebels in Central African Republic. That meant that I supported the
14 idea.

15 Q. [10:14:00] Thank you. I want to concentrate now on the period between 2004
16 and 2006. As I understand it, in these years you were involved in setting up the
17 peace talks, the planned peace talks between the LRA and the government; is that
18 right?

19 A. [10:14:37] Correct.

20 Q. [10:14:41] Many senior LRA commanders escaped during that period, 2004 to
21 2006, didn't they?

22 A. [10:14:58] I heard of it.

23 Q. [10:15:02] You heard about the escape of Kenneth Banya in 2004, am I right?

24 A. [10:15:15] Kenneth Banya did not escape. He was captured.

25 Q. [10:15:23] Well, let me try and pin this down. Your evidence yesterday was

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1 that the, you thought, the best chance to escape was in combat. So I suppose what
2 you mean is that there's fighting going on, and the LRA man puts his hands up and
3 says "Don't shoot me, I surrender." Is that what you have in mind?

4 A. [10:16:09] I did not go to the details of how to escape, putting up your hands or
5 something like that. I just said I thought somebody would find a way of getting
6 their way out of there, because it was common talk that whenever there is a battle,
7 some people lose their ways. But I did not go to the details of having to raise your
8 hands and say "I surrender". That's not what I said. That's a lie.

9 Q. [10:16:44] Kenneth Banya spoke in public shortly after, let me use a neutral
10 word, shortly after he left the LRA, didn't he?

11 A. [10:17:01] I heard that they took him to Pader, where he came from, to go and
12 address the people.

13 Q. [10:17:12] And his message too was that people in the LRA, people in the bush
14 should come out, should escape, wasn't it?

15 A. [10:17:28] That's what I heard.

16 Q. [10:17:31] Let's move to another commander. You spoke about Acama Jackson
17 on Monday. He was one of the commanders that Kony sent to meet the Pope, wasn't
18 it?

19 A. [10:17:49] Not to go and meet the Pope. He went for prayers. If you are going
20 to meet with someone, that means you are going to talk to them. But if you went for
21 prayers, for instance, if you went to recharge, it doesn't mean you've gone to meet the
22 priest or the bishop. You've just gone for prayers. And even the person leading the
23 mass may not even know you.

24 Meeting is more personal. But if you go for a service or for mass, you go and join the
25 congregation and you may not even be known.

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- 1 PRESIDING JUDGE SCHMITT: [10:18:32] I think that's correct, simply correct, yes.
- 2 MR GUMPERT: [10:18:34] I'm well rebuked. Simply correct.
- 3 Q. [10:18:37] But he was indeed one of the people Kony selected to travel to be at
4 the same location as the Pope, wasn't he?
- 5 A. [10:18:49] I don't know whether he was selected by Kony, but he was one of the
6 people who came for the prayers. And I'm aware that it was Kony was in support of
7 that.
- 8 Q. [10:19:11] And he too escaped in 2004, didn't he?
- 9 A. [10:19:19] Who are you talking about, Banya?
- 10 Q. [10:19:23] No. That the same person, Acama Jackson, the one who went to be
11 in the same place as the Pope.
- 12 A. [10:19:32] I did not come to understand when he escaped. But I met Acama
13 together with Betty Bigombe in Juba. I don't know when exactly he escaped. But
14 we went and found him together with the soldiers who were in Juba. Afterwards he
15 was transported back to Uganda. But I don't know exactly when he escaped.
- 16 Q. [10:20:02] Let me ask you about a gentleman called Otim Charles, a well-known
17 one-legged commander of the LRA. He also escaped in combat in 2004, didn't he?
- 18 A. [10:20:26] I never talked about the escape of Otim. I'm just hearing about it
19 from you, though I know him. I don't know whether he escaped or he surrendered.
20 I don't know how he came out.
- 21 Q. [10:20:44] Then in the next year, in 2005, if I understand your statement correctly,
22 Sam Kolo escaped from the LRA, didn't he?
- 23 A. [10:21:01] Sam Kolo did not just escape. Brigadier Sam Kolo was caught up in
24 a battle, and then he was captured by the government soldiers. He was in touch
25 with Betty Bigombe, they were communicating with Betty Bigombe, but I had already

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1 pulled out of that discussion.

2 I had told Betty Bigombe that the peace talk of 2004 should not be done in Uganda

3 under trees. Betty Bigombe didn't follow my advice. And at one time there was a

4 conflict between Otti and Brigadier Sam Kolo. And I think Kolo was just captured.

5 I don't know the exact details. Maybe you can ask the people who were involved in

6 that.

7 Q. [10:21:58] Well, let me ask you about your statement.

8 And, your Honours, the ERN is the one that I have given before, UGA-D26-0010-0540.

9 This time the last four digits of the relevant page are 0545. And the paragraph

10 number is number 12.

11 Mr Adek, you were speaking at this part of your statement about the failure of the

12 talks, because your suggestion they be held in a foreign country had been ignored.

13 And you said the only thing positive from the situation is that Sam Kolo came out of

14 the bush.

15 MR OBHOF: [10:22:59] Objection, your Honour. We're going to the relevance.

16 The phrase there says "came out of the bush". It doesn't say whether he escaped,

17 was captured or surrendered. It is very neutral, and they're trying to influence the

18 witness, who already gave a clear answer, your Honour.

19 PRESIDING JUDGE SCHMITT: [10:23:13] But I think the witness -- or let me ask it

20 simply.

21 What did you understand when you phrased it like that, Mr Adek? Did you have

22 any further information how it happened, for example?

23 MR GUMPERT: [10:23:32] Your Honour, I take my courage in my hands. I'm

24 particularly interested in the word "positive".

25 PRESIDING JUDGE SCHMITT: [10:23:40] Please, Mr Adek, what did you mean by

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1 this wording?

2 THE WITNESS: [10:23:58] (Interpretation) If we are talking about Brigadier Sam

3 Kolo, he didn't come out because of the message we sent out on radio. The message

4 we sent out on radio was much later in the year 2014. Sam Kolo's return took place

5 in 2004.

6 But what I talked on radio was in the year 2014 and that was many years later. The

7 people who came out of the bush because of our messages on radio in the Congo was,

8 number one, Commander Okuti and then later on Ongwen also came out. That was

9 in 2014.

10 But the surrender of Brigadier Kolo after a battle and then that of the Banya was way

11 back in 2004. There is a difference of 10 years between 2004 and 2014. And at that

12 time I had not yet spoken on radio.

13 PRESIDING JUDGE SCHMITT: [10:25:09] You may proceed, Mr Gumpert.

14 MR GUMPERT: [10:25:11]

15 Q. I'll leave that. There are three more commanders I want to ask you about.

16 The well-known LRA commander Onen Kamdulu also escaped in 2005, didn't he?

17 A. [10:25:36] Onen Kamdulu talked to Ocora. Then Ocora was the district

18 chairperson. They are the ones who can recall the year exactly. I personally do not

19 recall. I heard about Onen Kamdulu when he was arrested and taken to prison.

20 Q. [10:26:19] I understand you may not remember the year, but your

21 understanding is that following his discussions with Walter Ocora, whichever year it

22 may have been, senior LRA commander Onen Kamdulu came out of the bush, yes?

23 A. [10:26:54] I actually did not see Onen Kamdulu. I have only heard his name.

24 If it were possible you would ask about his escape from Ocora and not me. I don't

25 know anything about Onen Kamdulu's return. He was in touch with Ocora instead.

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1 Q. [10:27:15] Let me move on to an LRA commander called Michael Acellam

2 Odongo. He too escaped in 2005, didn't he?

3 A. [10:27:31] Michael Acellam, I do not remember about his escape, but I talked to
4 him in the year 1999 after a meeting in 1998. I took Bishop Onono to go and meet
5 with him in 1999. I do not know when exactly he escaped.

6 But after talking to him, I only remember when I talked to him. And we were
7 discussing peace talks, which was orchestrated by Acholi religious leaders peace
8 initiative. That was the only time I met Michael Acellam.

9 The issue regarding his return, I do not have any records on that. One thing is that I
10 do not have the records of each and every person who escaped. Whenever they
11 escape, they don't come and report to me. I would only hear about their return like
12 any other person. It's the government that concerns itself with when who escaped.
13 I do not have these records.

14 Q. [10:28:57] I want to ask you something about the death of Vincent Otti. You
15 told us on Tuesday that you had seen Abudema wearing Otti's track suit and that was
16 when you realised that Otti was probably dead. Did I understand correctly?

17 A. [10:29:34] Yes, you understood well.

18 Q. [10:29:36] And you had a discussion with Kony about this.

19 A. [10:29:46] Yes.

20 Q. [10:29:49] The story that you heard was that Otti had arranged for a group of
21 hitmen to ambush Kony and kill him; am I right?

22 A. [10:30:07] Kony himself told us that I was not there alone, the entire delegation
23 was there, except just two people, Santa together with Matsanga were the ones who
24 were not there, but the entire delegation was there when Kony was talking about that.

25 Q. [10:30:33] Just picking up a name which hadn't appeared very clearly in the

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1 transcript, did I understand you to say that everybody was there apart from

2 Santa and Matsanga, did I hear correctly?

3 A. [10:30:59] Correct.

4 Q. [10:31:01] Kony told you that the ambush had failed and six of the seven hitmen
5 were arrested; is that right?

6 A. [10:31:32] This is what Kony told me. If you can allow me to repeat it. He did
7 not tell me alone, but he told the whole delegation that was there. He told us that he
8 was called, he did not want to come, but the paramount chief of Acholi, David Onen
9 Ocana, used Otti to call him.

10 When he came, Onen Ocana told him to help him, because he heard that Kony has
11 medication since he has a chest pain. But he told Ocana that: If you had told me
12 earlier about your problem, I would have brought the medication. I wasn't told the
13 reason for you calling me. Wait later, then I will bring it.

14 That is what he told us. And then he told us that when these people left, he went
15 back to his space and saw other soldiers fleeing. Some of the soldiers were captured,
16 the people who escaped, the capture of the UPDF was Opio Makas, and that is what
17 brought the killing of Otti, because Otti had arranged some people to kill him.

18 I quarrelled with Kony and told him off about the killing of Otti, because we are in
19 consultation with the ICC. But now what will we tell the ICC if they hear that you
20 have killed someone? That is what is in my statement and that is what I can repeat.

21 Q. [10:33:22] So I want to focus on the seventh man, the man who got away,
22 Opio Makas. As I understand it from your statement, all six were arrested, and then
23 I quote directly from the same ERN at page 0553, "and that is how Opio Makasi
24 surrendered back home". Is that your understanding of what happened?

25 A. [10:34:14] That is what was explained to me by Kony and that is how I

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1 understood it.

2 Q. [10:34:29] (Microphone not activated)

3 PRESIDING JUDGE SCHMITT: [10:34:40] Microphone, please.

4 MR GUMPERT: [10:34:41] Thank you.

5 Q. [10:34:42] There's just one last thing that I'd like to ask you about, and it
6 concerns the gentleman whom you named a moment ago. Matsanga, is that a
7 Mr David Matsanga?

8 A. [10:35:05] Yes, I also hear he's referred to as David Nyekorach Matsanga.

9 Q. [10:35:16] In what capacity was he involved in those peace talks?

10 A. [10:35:38] First he came as an ordinary person, as someone who is interested in
11 the peace talks, as a resource person, but later he became the chairperson, he was
12 appointed the chairperson of the delegation. He became a member of the delegation
13 much later. Matsanga came much later. He wasn't alone. Other people also
14 joined the delegation later.

15 Q. [10:36:16] And once he had joined the delegation, what can you tell us about the
16 work that he did?

17 A. [10:36:31] He was speaking on behalf of the delegation, rearranging the
18 members of the delegation and ensuring that there is order within the delegation.
19 I cannot explain everything that he used to say, but he was very resourceful in
20 arranging how the peace talks should proceed.

21 Q. [10:37:12] Would your Honour just give me one moment?

22 PRESIDING JUDGE SCHMITT: [10:37:16] Of course.

23 (Counsel confers)

24 MR GUMPERT: [10:37:45]

25 Q. [10:37:46] One clarification is suggested to me, and I'm going back to the seven

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1 hitmen. It's suggested there may be some doubt. As I understand your testimony,
2 six of those seven were arrested by the LRA, and the seventh, Opio Makas, escaped
3 and came into the custody of the UPDF. Have I said it right?

4 A. [10:38:18] I repeated here earlier that Kony told us exactly that.

5 Q. [10:38:30] Thank you.

6 MR GUMPERT: I have no further questions.

7 PRESIDING JUDGE SCHMITT: [10:38:33] Thank you very much.

8 Any questions by the Legal Representatives of the Victims?

9 MR MANOBA: [10:38:38] Mr President, we will not be asking any questions.

10 PRESIDING JUDGE SCHMITT: [10:38:41] Thank you very much.

11 And as already indicated and also foreseen by Rule 140(2)(d) of the Rules of
12 Procedure and Evidence, the Defence are the last to have the possibility to question,
13 which by the way shows that we do not follow exactly some common law or civil law
14 procedures one on one. We have simply an own procedure which, I also add, gives
15 at any moment the Judges also the option to question. So this shows again that we
16 have here a mixed procedure.

17 But, Mr Ayena, as I said, I would give you the floor if you want.

18 MR AYENA ODONGO: [10:39:24] Mr President, I have one or two questions I'll put
19 for purposes of clarification.

20 PRESIDING JUDGE SCHMITT: [10:39:35] Absolutely.

21 QUESTIONED BY MR AYENA ODONGO:

22 Q. [10:39:42] Mzee Yusuf Adek, you talked about people, you said that people were
23 instructed or mobilised to fight the LRA. Can you be specific about who actually
24 instructed these people. Was it the government, was it some community leaders, or
25 who instructed them?

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1 PRESIDING JUDGE SCHMITT: [10:40:20] May I shortly for my understanding.

2 Are we speaking about the so-called LDUs, arrow boys?

3 MR AYENA ODONGO: [10:40:28] No. We are talking about the population.

4 PRESIDING JUDGE SCHMITT: [10:40:31] Population in general.

5 MR AYENA ODONGO: [10:40:33] Yes.

6 PRESIDING JUDGE SCHMITT: [10:40:34] Okay. Thank you very much.

7 THE WITNESS: [10:40:40] (Interpretation) I have said it repeatedly here that RDC

8 Ocaya, the resident district commissioner Ocaya, who is a government worker, we

9 held a meeting and I objected to his suggestion that people should be mobilised using

10 bow and arrow and spears and machetes to attack the LRA. I told him if that such

11 rudimentary weapons could be used to win a battle, why did he not give the same

12 rudimentary weapons to government soldiers?

13 I do not know if maybe it is a bit confusing because I'm being asked the same question

14 over and over again. I have repeated the same thing over and over and I still say the

15 same thing.

16 PRESIDING JUDGE SCHMITT: [10:41:38] Mr Adek, this sometimes happens in the

17 courtroom that certain issues, certain questions are put several times and this is

18 something relatively normal, so we sometimes simply have to repeat what we already

19 said.

20 Please continue, Mr Ayena.

21 MR AYENA ODONGO:

22 Q. And for your satisfaction --

23 A. [10:41:59] I have understood it.

24 Q. [10:42:02] -- Mr Adek, when you hear the same question being asked over and

25 over again, you should know that it's important and Court must understand it clearly.

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1 There is this something about escape and you said it was your understanding that
2 during battles there might be possibilities of escapes. Did you come to find out
3 whether it was always the case that people had equal opportunity to escape or was it
4 the case that there were some people who might have been in a more difficult
5 situation to escape?

6 A. [10:43:33] Let me give one example. I was able to meet Okuti later, but when
7 we spoke with the LRA and those of Okuti surrendered or came out, I wanted to find
8 out exactly what the LRA would want to hear so that they could come out of the bush.
9 I wasn't allowed. But when he was free, I was able to speak to Okuti and he told me
10 that the way he escaped makes him actually fear even the soldiers who have been
11 assigned to guard and protect him. He went as if he wanted to ease himself and
12 later on escaped. That is how he escaped.

13 But since I am not a trained soldier, because I know soldiers are trained on issues such
14 as even escape, I'm not a trained soldier, I do not know how soldiers escape from
15 wherever they were. What I said in my statement was what I thought, but perhaps
16 during an exchange, a fire exchange between the warring parties, someone can find
17 an opportunity to escape.

18 I said this the other day. I repeat it again today. The example of Okuti is important
19 because I told him that he escaped when he went to ease himself, that means he
20 actually escaped from his own bodyguard. Because I had asked him that, "Why
21 didn't you escape together with your whole team that you lead?" Then Okuti told
22 me that it is not easy to escape because he had to even escape from his own
23 bodyguards.

24 Q. [10:45:40] In that case, Mzee Adek, would we understand that Okuti in effect
25 was saying that even his own bodyguards could have been spies around him?

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1 A. [10:46:06] I do not know what happens with them, the soldiers.

2 Q. [10:46:10] We are talking about Okuti.

3 A. [10:46:13] Yes, that is what Okuti told me, but I do not know what happens
4 there exactly because what he told me showed that he also feared his own
5 bodyguards, but I do not know what happens there.

6 MR AYENA ODONGO: [10:46:30] That's all.

7 PRESIDING JUDGE SCHMITT: [10:46:31] Thank you very much, Mr Ayena.

8 Mr Adek, on behalf of the Chamber, I would like to thank you that you came to this
9 Court to help us establish the truth. We wish you a safe trip back home.

10 THE WITNESS: [10:46:47] (Interpretation) Thank you very much.

11 (The witness is excused)

12 PRESIDING JUDGE SCHMITT: [10:46:50] We have now a break until 11.30 and then
13 we continue with Witness 150.

14 THE COURT USHER: [10:46:58] All rise.

15 (Recess taken at 10.46 a.m.)

16 (Upon resuming in open session at 11.31 a.m.)

17 THE COURT USHER: [11:31:45] All rise.

18 PRESIDING JUDGE SCHMITT: [11:32:03] So we have now the next witness.

19 Mr Witness, good morning and a good day. You are going to testify before the
20 International Criminal Court. On behalf of the Chamber, I would like to welcome
21 you to the courtroom.

22 Mr Witness, I will now read out the oath every witness has to take when they appear
23 before this Court, so please listen to me.

24 I solemnly declare that I will speak the truth, the whole truth and nothing but the
25 truth. Mr Witness, do you understand the oath?

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1 WITNESS: UGA-D26-P-0150

2 (The witness speaks Acholi)

3 THE WITNESS: [11:32:51] (Interpretation) Yes, I do.

4 PRESIDING JUDGE SCHMITT: [11:32:53] And do you agree with the oath?

5 THE WITNESS: [11:32:56] (Interpretation) Yes, I do.

6 PRESIDING JUDGE SCHMITT: [11:32:59] Thank you. You have now been
7 sworn in.

8 I will now explain to you the protective measures that we have put in place for you.

9 First of all, there is face and voice distortion. That means that no one outside the
10 courtroom can see your face during the testimony on the screen or hear your original
11 voice. We will also use a pseudonym. In accordance with that, I am referring to
12 you as "Mr Witness" and not with your real name. This is also to make sure that the
13 public does not know your name.

14 When you give us information, when you answer questions that will not give away
15 who you are, we do that in open session. Open session means that the public can
16 hear what is being said in the courtroom.

17 On the other hand, when you are asked to describe anything that relates specifically
18 to you, or you are asked to mention facts that might reveal your identity, we will do
19 this in private session. In private session there is no broadcast and no one outside
20 the courtroom can hear you. And everyone here in the courtroom, parties,
21 participants, also the Judges, are vigilant in that respect.

22 Before we start with your testimony, also a few practical matters, Mr Witness, that
23 you should have in mind. As you are aware of, everything we say here in the
24 courtroom is written down and interpreted. It is therefore important to speak clearly
25 and at a slow pace and to speak into the microphone so that everyone, especially of

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1 course the interpreters, can follow.

2 If you have any questions yourself, you can raise your hand and I will give you then
3 the floor.

4 That was quite a lot of information. Have you understood, Mr Witness?

5 THE WITNESS: [11:35:03] (Interpretation) Yes, I have understood it.

6 PRESIDING JUDGE SCHMITT: [11:35:12] Thank you very much. We will then
7 start your testimony and we start of course with the Defence. And I see that
8 Mr Ayena is questioning you.

9 MR AYENA ODONGO: [11:35:22] Sorry, I had a short delay, Mr President and
10 your Honours, because I was entrapped by my own gown.

11 PRESIDING JUDGE SCHMITT: [11:35:38] No problem.

12 MR AYENA ODONGO: [11:35:39] Mr President and your Honours, I would like to
13 take this opportunity to introduce another member of our team, Ms Rachel Bouwma,
14 an intern, who has joined us.

15 PRESIDING JUDGE SCHMITT: [11:35:54] Thank you.

16 MR AYENA ODONGO: [11:35:55] Mr Gumpert, might you have had the luck to
17 have another member of the team?

18 MR GUMPERT: [11:36:06] Not guilty.

19 PRESIDING JUDGE SCHMITT: [11:36:08] No, no. But I am absolutely sure that
20 Ms Adeboyejo -- no, she is in front now. She has moved. Okay. Good. So I
21 withdrawal any remark that I intended to make. So please, Mr Ayena.

22 MR AYENA ODONGO: [11:36:22] Mr President and your Honours, we shall start
23 this in private.

24 PRESIDING JUDGE SCHMITT: [11:36:33] Could you, for the audience, could you
25 estimate how long we would have to stay in private session.

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1 MR AYENA ODONGO: [11:36:39] It will take between 30 to 40 minutes.

2 PRESIDING JUDGE SCHMITT: [11:36:43] So long? Really?

3 MR AYENA ODONGO: Yes.

4 PRESIDING JUDGE SCHMITT: We can't shorten it?

5 MR AYENA ODONGO: [11:36:47] Maybe could come to 20.

6 PRESIDING JUDGE SCHMITT: [11:36:49] Okay. But nevertheless, now we have
7 the information, it is not -- but whenever we get the impression that we can go back to
8 open session we will do that. But for -- as always, when you indicate we do it like
9 that, we go to private session then. Not so quick.

10 (Private session at 11.37 a.m.) *(Reclassified partially in public)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
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- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)

20 Q. [11:43:05] Thank you very much, Mr Witness.

21 Mr Witness, you and I come from more or less the same place and we understand
22 what we are talking about, but for the benefit of Court I will be asking you some of
23 the things that may be obvious to us but Court needs to know for the records.

24 PRESIDING JUDGE SCHMITT: [11:43:34] Mr Ayena, just -- it might be that I'm
25 wrong, but couldn't these matters be addressed in a way that does not reveal the

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1 identity of the witness? Mr Obhof is not in agreement. Could you perhaps
2 elaborate a little bit.

3 MR AYENA ODONGO: [11:43:53] I will let you know, Mr President, when I think it
4 is safe. Especially the subsequent parts.

5 PRESIDING JUDGE SCHMITT: [11:44:02] You know we have -- it is simply I just
6 put it on the table, that's it. I trust parties in that respect and I will do so in the future,
7 at least at first sight, so to speak. But the issue of spirits and spiritualism has been
8 addressed in open session quite often.

9 MR AYENA ODONGO: [11:44:25] Mr President, let me ask one particular question
10 which could be very revealing. And then I think we could go to --

11 PRESIDING JUDGE SCHMITT: [11:44:36] Okay. Please.

12 Also, Mr Obhof, you obviously are not in agreement and you will have reasons for
13 that, so. But only for all the parties and participants, the background is that - and I
14 repeat that, we have spoken about that before - that the people -- Uganda, and also
15 when there is audience here, want to know what is going on, as far of course as it is
16 possible, and as far as it is possible with regard to security issues and protection
17 issues.

18 MR TAKU: [11:45:35] Your Honours, because we also have the same tradition with
19 regard to spiritualism, the notoriety of a particular - let me say ajwaka - is that
20 it -- everybody will know. They will be able to eliminate to know that this
21 person -- isolate and say that this person must be this person.

22 PRESIDING JUDGE SCHMITT: [11:45:59] Yes. That is exactly what I wanted to
23 know, simply. This is the information that I needed. Then simply continue,
24 Mr Ayena. But when we really entertain realms of general matter, information that
25 someone could -- any person could give that has knowledge about spirits - any person,

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1 not this person - then I think we should go to open session. Please continue.

2 MR GUMPERT: [11:46:23] Your Honour has probably heard enough from lawyers,
3 but may I make a suggestion?

4 PRESIDING JUDGE SCHMITT: Yes.

5 MR GUMPERT: I would be perfectly happy for my learned friend to lead this
6 witness, securing simply his agreement to all of the personal matters which may gave
7 the witness's identity away - I will make no objection to that at all - so that we could
8 then come to the more general matters which can be discussed in public. And that
9 way we can proceed much more quickly.

10 PRESIDING JUDGE SCHMITT: [11:46:48] I think that that is a proposal that is fair,
11 and perhaps we can proceed in that way. So this would also be in the vein of
12 expeditiousness and effectiveness.

13 But now please continue, Mr Ayena.

14 MR AYENA ODONGO:

15 Q. [11:47:02] Mr Witness, I want to find out from you if we asked you about the
16 kind of sickness that you went through and -- I mean, that led to you becoming what
17 you ultimately became? Would that be revealing? For instance, if we talk about TB
18 and how you spent some time -- would that reveal your identity?

19 A. [11:47:28] No.

20 Q. [11:47:34] Thank you very much.

21 MR AYENA ODONGO: We can go back to open session.

22 PRESIDING JUDGE SCHMITT: [11:47:37] Back to open session.

23 (Open session at 11.47 a.m.)

24 THE COURT OFFICER: [11:47:50] We are back in open session, Mr President.

25 PRESIDING JUDGE SCHMITT: [11:47:54] Please proceed, Mr Ayena.

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1 MR AYENA ODONGO: [11:47:57]

2 Q. Mr Witness, did you have any major health issues when you were young?

3 A. [11:48:15] Well, I grew up a very healthy person until, when I reached about
4 19 years, I fell sick and became paralysed. I couldn't walk, I couldn't talk, but I could
5 see. I could not eat. I would only be fed. And sometimes when people are -- go
6 out, they leave me home, I would not be able to move. I would just have to crawl
7 like a snake to look for something to eat. I was in that condition for more than five
8 years. It started in the year 1977 until 1982. My parents tried medical intervention,
9 to no avail until they thought of looking for another way, and they eventually
10 discovered that I should be turned into a person who deals in spirits so I could heal.
11 They therefore brought somebody to come and help them to turn me into a witch
12 doctor. They carried out the ceremony and I eventually became normal again. I
13 was able to talk, I was able to walk and I started operating like any other person.
14 From that time, I started using spirits even before I got married. My cardinal task
15 was to help those who had problems with cen or spirits or those who had sicknesses
16 that were related to spirits until the year 2010. That was when I stopped that task.
17 The reason I quit the work was because of my elder daughter, she requested me to
18 abandon that task because they were being stigmatized that these were children of
19 a witch doctor.

20 In Acholi tradition, if you are a witch doctor, people look down upon you, they think
21 you are not a good person.

22 Secondly, I was also feeling I am growing up or getting older, if I carry on with that
23 task and later on if I die, where will I leave the spirits? It would be very difficult for
24 my children.

25 Thirdly, I was getting support and I was being counselled by religious persons from

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1 the Anglican church in Gulu diocese. They were advising me to abandon that
2 because that was related to satanic activities. One of the parish priests who kept so
3 close was counselling me and dissuading me from continuing with that, there was
4 also a bishop who was in charge of the northern Uganda diocese, and eventually I
5 stopped.

6 Q. [11:52:32] Thank you very much. (Redacted), can you tell Court exactly the
7 affliction that you suffered? What kind of disease was it?

8 A. [11:52:52] When I fell ill, I became paralysed. Initially they thought I had polio.
9 They tried everything else and I could not recover. They thought I had a stroke. I
10 was taken to the hospital, and they tested and found that I didn't have that. They
11 tried everything else, and they could not establish my condition. They had to take
12 me back home. There was nothing else they could do from the hospital.

13 And later on they looked for other ways to help me.

14 As I mentioned earlier, they looked for somebody who came and then helped me
15 until -- to turn me into a person who uses spirits to help people, and then I
16 got healed.

17 PRESIDING JUDGE SCHMITT: [11:53:51] Yes, Ms Lyons.

18 MS LYONS: [11:53:52] Your Honours, if I may, I don't want to interrupt the witness
19 or lead counsel, but I wanted to make a comment in closed session, if I may?

20 PRESIDING JUDGE SCHMITT: [11:54:04] It's a little bit unusual, but yes, let's go
21 very shortly into closed session, private session, yes.

22 MS LYONS: [11:54:10] Okay. It will take 60 seconds. Thank you.

23 (Private session at 11.54 a.m.)

24 (Redacted)

25 (Redacted).

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)

11 (Open session at 11.55 a.m.)

12 THE COURT OFFICER: [11:55:08] We are back to open session, Mr President.

13 MR AYENA ODONGO:

14 Q. [11:55:18] Now, Mr Witness, was the disease at any stage finally diagnosed?
15 Did somebody get to know exactly, either in the hospital or through a new
16 intervention, the exact kind of disease that you were suffering from?

17 A. [11:55:50] Could you please repeat your question.

18 Q. [11:55:54] You had an affliction, you were suffering, you got paralysed. Can
19 you tell Court whether at any stage, either through medical intervention or through
20 the spiritual intervention, the disease that you were suffering from was diagnosed?

21 A. [11:56:24] From the hospital, the doctors could not diagnose my problem. But
22 later on when my parents tried to look for other avenues of helping me, they decided
23 to use traditional methods to help me, they found somebody who knew how to deal
24 with such problems. And the person told my parents that the kind of sickness I was
25 having could not be treated from the hospital. They needed to do traditional ways

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1 of treating this person because the problem was related to spirits.

2 Q. [11:57:20] And to whom were you finally taken? Was the person you were
3 taken to a specialist? And if he or she was a specialist, what is the title of that
4 specialist person?

5 A. [11:57:43] I was taken to somebody who had the skills and was a specialist in
6 dealing with such a problem. What they did to me was able to relieve me of my
7 ailment. I don't know how I should call that person, but what I know is the person
8 helped me. I witnessed it, I recovered from my ailment, and I can confirm that that
9 person was very knowledgeable on how to deal with spirits.

10 Q. [11:58:31] Mr Witness, do you know about witch doctors in Acholiland? Do
11 you know about ajwaka, or *ajwaki, plural, in Acholi?

12 A. [11:58:59] Yes, I do.

13 Q. [11:59:05] Could you have been taken to one of those?

14 A. [11:59:10] Yes, I was taken to an ajwaka. That's why I got ill.

15 Q. [11:59:21] Thank you very much.

16 Now, Mr Witness, what did the ajwaka determine as the source of your illness when
17 you went to see him?

18 A. [11:59:39] After I was treated, I recovered fully, I knew everything. I was told
19 that I was possessed by spirits. I stayed for quite some time before I could recover,
20 and that was how I came to realise that I had problems with spirits.

21 MR AYENA ODONGO: [12:00:14] Mr President, can we go to a short private
22 session.

23 PRESIDING JUDGE SCHMITT: [12:00:18] Private session.

24 (Private session at 12.00 p.m.) *(Reclassified partially in public)

25 THE COURT OFFICER: [12:00:22] We are in private session, Mr President.

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1 MR AYENA ODONGO:

2 Q. [12:00:34] Mr Witness, this spirit that possessed you, where did it come from?
3 Did it come from your ancestors within the clan or did it come from other sources?

4 A. [12:00:59] The spirits came from my ancestors from the same clan. But there
5 are many types of spirits. It can come in many forms. Some spirits can come from
6 your direct ancestors.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Open session at 12.02 p.m.)

16 THE COURT OFFICER: [12:02:27] We are back in open session, Mr President.

17 MR AYENA ODONGO: [12:02:36] Mr Witness, the Court, especially those who do
18 not come from our part of the country, of the world, would wish to understand the
19 kind of rituals that were performed on you by the ajwaka to rid you of the spirit
20 possession. What kind of items were needed and what was the purpose of these
21 rituals?

22 A. [12:03:19] In regard to what the ajwaka did to me, there are quite many and in
23 detail, but I have to mention briefly what happened. I know it is difficult for the
24 Court also to believe that there are spirits, but I can confirm to the Court that indeed
25 there are spirits. This is because when I was made to start working, using spirits, I

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1 needed to provide things like goats, chicken. When all these items were put in place,
2 an ajwaka was brought to our home and the ajwaka started performing the rituals.
3 Some spirits are celebrated with songs, then it possesses the person intended to.
4 Others were summoned from wherever they are and is made to possess the person
5 that is intended for.
6 But for my case, as far as I can recall, there were three spirits altogether. We had to
7 provide three goats and three birds as well. We also provided alcohol, local brew
8 and other items.
9 The spirit that was disturbing me was summoned to come out of me. It was not
10 appeased with the song. And when the spirit was summoned, spirits started
11 speaking with the ajwaka who had come to perform the ritual on me. The spirit was
12 asked, "Why did you call sickness on this person? What do you want?" The spirit
13 said that they want me to take on what my ancestors used to do, to practice what my
14 ancestors used to practice. I was asked whether I accepted. I first refused, that I
15 was still young and I could not manage the tasks. I was then told to choose between
16 life and death. If I wanted to live, I needed to choose to -- I needed to accept the
17 tasks that are being assigned to me, but if I wanted to die, I should refuse. The spirit
18 was summoned again and the goats and chickens were slaughtered and the spirit was
19 transformed as a spirit that is supposed to enter me so that I can use it to heal other
20 people. That is what happened.

21 Q. [12:06:59] That is quite revealing. Now, Mr Witness, there is a small portion
22 that maybe Court would be keen to know. When you say there are different ways of
23 asking them to come, but in this case -- I mean, for instance, they could use ritual
24 songs and then they come. In this case, you said that was not the case. In this case,
25 can you describe to Court exactly how they were summoned, what instruments were

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1 used to summon them to come and begin talking and in what form did they talk.

2 Did they talk through the ajwaka or they talked independent of the ajwaka?

3 A. [12:08:14] For my case when the ritual was being done, they did something that
4 the Acholi call ajaa. They put some things inside a gourd and other items that make
5 it sound, make some sound when shaken. When they made all those things, the
6 ajwaka who was brought to perform the ritual on me summoned the spirits.

7 Q. [12:08:55] Just a minute. Is this some form of rattle, it becomes a rattle? That
8 instrument rattles, the ajaa?

9 A. [12:09:08] Yes, a bit, it does rattle.

10 Q. [12:09:16] You can continue, Mr Witness.

11 A. [12:09:21] The things that have been put in the gourd rattles but on low pitch,
12 with a low volume. When the spirit hears the rattles, it starts speaking like a human
13 being, it comes and starts speaking like a human being. The spirit asks questions
14 and answers questions. It can also explain something that you want to hear from the
15 spirit. You can also ask the spirit questions and you exchange a conversation as if
16 you are speaking to a human being.

17 Q. [12:10:08] And as the spirit speaks, where will it be positioned?

18 A. [12:10:15] There are different ways that the spirit works, like I mentioned earlier.
19 For my case, there is a small house, a round house without rooms, it's open.
20 Whenever somebody comes to me for help, we would go inside that house at daytime
21 with that person, then I would, I would summon the spirit and the spirit would come
22 and talk to them. The spirit --

23 Q. Just a minute. Is that --

24 A. -- would talk to them.

25 PRESIDING JUDGE SCHMITT: [12:10:59] Mr Ayena, no overlap, please, with the

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1 witness because then I think the interpreters will have difficulties to follow. It seems
2 that you are also knowledgeable insofar and you are simply too quick a little bit. So
3 simply let the witness answer and when the witness has finished, you may continue.

4 MR AYENA ODONGO:

5 Q. [12:11:26] Mr Witness, you can continue. I just wanted to find out whether that
6 is a shrine instead of -- I mean, what is being termed as a house, is it a shrine or
7 something like that?

8 A. [12:11:43] No, it's not a shrine, but a grass-thatched house, round which is only
9 meant for that purpose. It's not a shrine.

10 Q. [12:11:57] Mr Witness, you can continue with the description of what exactly
11 will happen, how the spirits would be summoned.

12 A. [12:12:14] The spirit is a living being but invisible. You are not able to see it.
13 You can speak to the spirit through three means, three ways: You can summon
14 using the rattle. Or if the spirit can come on its own, then it will come and talk to
15 you, you will hear as if someone is speaking to you and will explain to you whatever
16 the spirit wants to communicate. Sometimes when you are lying down at night, you
17 can see or hear things in a dream.

18 Those are the three ways the spirit can talk to someone who uses it. Like I
19 mentioned earlier, there are many types of spirits because it's not only one spirit or
20 one type of spirit. Someone who uses the spirit can use it to help people or to cause
21 harm on people also if used -- if it is misused. But if used in the right way, it can
22 help people.

23 PRESIDING JUDGE SCHMITT: [12:13:58] The Judges would appreciate it if we at
24 some point in time could move specifically to the spirits that are related or allegedly
25 related Joseph Kony and the knowledge that the witness has. So that we at some

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1 point in time leave the general issue of spirits and especially of spirits that are related
2 to this witness.

3 MR AYENA ODONGO: [12:14:27] You see, Mr President, I was just at the very
4 citadel of --

5 PRESIDING JUDGE SCHMITT: [12:14:37] Good, good. Then please proceed.

6 MR AYENA ODONGO: [12:14:38] Because I thought a background would be useful
7 to Court.

8 PRESIDING JUDGE SCHMITT: [12:14:42] Yes, fine with us. So please proceed.

9 MR AYENA ODONGO: [12:14:45]

10 Q. Mr Witness, we are now going to talk about jok and how it impacts on the
11 minds of persons. But let us start with the basics. Can you tell Court what the
12 following terms mean, because you have talked about tipu, there is something about
13 jok, and so on and so forth. Can you explain to Court if they are different, these
14 terms, jok, tipu, cen, and orongo.

15 A. [12:15:32] They are all different.

16 Q. Can you start with jok and explain to Court?

17 A. [12:15:44] Jok is a type of spirit which is within the lineage of that family or
18 household, but you can also get jok spirits from hills, mountains and big trees.
19 Those are jok spirit.

20 On the other hand, orongo is a spirit which you get from the bush. These are mainly
21 spirits of wild beasts, wild animals, like lions, leopards, buffaloes. And when
22 someone kills such an animal and it is unfortunate that a spirit of such an animal
23 possesses him, he has to be appeased, otherwise it can kill the person. Such a person
24 is taken to a shrine known as abila in Acholi and then a ritual is performed. Then
25 the spirit would be transformed and will help the person in hunting expeditions. He

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1 can actually go hunting alone and wild beasts such as lions and leopards do not
2 attack him, he is able to kill them easily, because the spirit of animal which was in
3 him would help him to kill the animal. People will definitely say that the spirit that
4 possessed him, the orongo spirit that possessed him, would help him to kill such wild
5 beasts.

6 Q. [12:17:57] Let's talk about tipu.

7 A. [12:18:07] There are many types of spirits tipu. Tipu spirits are various. It can
8 be the spirit of someone who has died already. There are also three types of tipu
9 spirits of human beings. The spirit of someone who has died, when the person died
10 is a happy person and the ceremonies are performed accordingly, such a spirit has
11 a special place in the shrine, the shrine known as abila. But someone who died
12 miserable is known as la cen, a bad spirit. Such a spirit brings -- causes sicknesses,
13 can cause death without falling sick, can even clear the whole household, kill them all.
14 That one is called la cen spirit. If not attended to it can cause problems and havoc in
15 a family.

16 PRESIDING JUDGE SCHMITT: [12:19:33] I would say that really there is enough
17 foundation now. I think we see that, for example, in your summary, paragraph 9, 17,
18 23 and 24 relate specifically to Mr Kony. So I think we can now move to the, so to
19 speak, special part of the witness testimony.

20 MR AYENA ODONGO: [12:20:21] Mr Witness, does every clan in Acholi have a jok?

21 A. [12:20:37] Yes, most clans in Acholi have their own jok spirit.

22 Q. [12:20:47] Do you know anything about the jok, or jogi for that matter, in Odek?

23 A. [12:21:10] In regards to the jok spirits which are in Odek, I have no clear
24 understanding of it.

25 Q. [12:21:35] Mr Witness, have you ever heard about this otherwise popular man

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1 called Joseph Kony?

2 A. [12:21:51] Yes, I have heard.

3 Q. [12:21:55] Do you know the clan he comes from and also the geographical area
4 he comes from?

5 A. [12:22:13] According to what I heard, because I have no direct knowledge, but
6 according to what people say, he comes from a place called Odek. In Acholi,
7 everyone knows it's common knowledge that Kony is possessed with spirits and he
8 uses spirits.

9 Q. [12:22:40] Let me ask another general question, are there spirits which are more
10 powerful than others?

11 A. [12:22:59] Most spirits have equal strength, unless someone finds a way of
12 increasing the power of the spirit. But according to my knowledge, most spirits have
13 equal strength.

14 Q. [12:23:28] And following from that answer, Mr Witness, is there a way the
15 power of a spirit can be increased?

16 A. [12:23:52] Yes, you can use some herbs as medication. We would use the herbs
17 to improve the strength of the spirit jok.

18 Q. [12:24:15] Mr Witness, when you were still a practising ajwaka, if another
19 ajwaka walked into this room, would you detect that he was an ajwaka?

20 A. [12:24:35] Yes, I would know if an ajwaka walked here.

21 Q. [12:24:51] Mr Witness, you have told Court that most of the clans in Acholi have
22 jogi. Can you tell Court why, if you can, is there any reason that would be ascribed
23 to why Kony's spirits were not controlled by other ajwakis?

24 A. [12:25:26] In regard to your question, I can answer this way: In reality, the
25 other ajwakis did not fail to bring down Kony's spirits. But Kony is a tough person.

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1 First he started by capturing the rest of the ajwakis. If he got you, he would kill you.

2 And for that matter, the other ajwakis left their place of practice and fled to town.

3 That is why Kony was able to continue working as a powerful ajwaka. That is what

4 I observe.

5 Q. [12:26:42] Now, Mr Witness, I want us to concentrate on the effect of these

6 spirits on persons. Can an ajwaka use his spirits to affect the mind of a person?

7 Turn him around and let him think differently?

8 A. [12:27:15] That happens. This is because spirits can transform people, can

9 determine how somebody lives, how somebody thinks. When I was still working as

10 an ajwaka, there are some children who would come from the bush who would be

11 taken to a rehabilitation centre after returning from captivity, and later they would be

12 taken back to their parents. But it will not take long before they start falling sick.

13 They can have things like head -- madness, or just become confused because he is not

14 thinking rightly. They would take the people to hospital, but they wouldn't manage

15 to heal. And they would bring them to me, or to someone who practices like me.

16 When I find out that he is being possessed by a spirit, I would remove the spirit from

17 him and he would become a healthy person, living normally.

18 I would also ask them questions, questions such as: "While you were in the bush did

19 it rain on you? Did you have enough food? Why didn't you come back home?

20 Why did you continue?" They would tell me that when you are there you would

21 lose interest in coming home. Something stops you from coming home. Even if

22 you go to work close to your homestead, you lose the interest to come out.

23 Secondly, I asked them that: "What do you think would cause that? What would

24 make you lose interest? And they only told me that they do not know.

25 Many of them also have some herbs and some form of medication tied around them

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1 and it is small pieces. You would ask "What are these for?" and they would say

2 "This is for protection."

3 I do believe that Kony was using the spirit in him to confuse those people so that it

4 fulfils what he wants. This is what I believe. When he puts this spirit or confusion

5 in you, you do as he wants, you do as he wants you to do. You don't think anymore

6 and you use -- the spirit that is in you would be the one to guide you instead.

7 Q. [12:30:39] Thank you very much. Let's talk about control of the mind. Can an

8 ajwaka use the spirits to control and monitor; control the mind of a person and also

9 monitor what he does?

10 A. [12:31:15] Yes, that happens. Because to achieve his end he will have to direct

11 and guide someone using the powers of the spirit so that that person does exactly

12 what he wants. That happens.

13 Q. [12:31:38] Was it also possible -- is it possible for the ajwaka to make a person

14 subservient to him and to make a person lose service to him and also lose his

15 self-identity?

16 A. [12:32:04] Yes, that happens as well. Because if you are under the spell of

17 a spirit you only do what the spirit wants you to do. If it instructs you to kill, you

18 have to kill. If it instructs you to abduct, you have to. It tells you leave, have you to

19 leave whatever you are doing. It tells you to go, you have to move. Stop, you have

20 to stop. You do exactly, you follow what the spirit tells you.

21 Q. [12:32:57] Mr Witness, you talked about the influence of modern religion. Can

22 you tell Court whether there has been a paradigm shift in the belief in ajwaka,

23 especially in the new generations of today in Acholi?

24 A. [12:33:35] Based on what I know, while I was still in the practice, most of the

25 people would come and would say they follow their religious beliefs, but very few of

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1 them were really strictly following that. Most of them were using the spirits or
2 consulting with the jok more than following their religion. For instance, back at
3 home, most of the people follow jok more than religion.

4 Q. [12:34:39] Mr Witness, your personal experience was very telling.

5 Can you tell Court whether after the divination and discovery of what was the matter
6 with you and, you know, turning the spirit around to come directly into you, there
7 was a need for the ajwaka that performed all this on you to give you some treatment,
8 extra treatment other than just changing over the spirits?

9 A. [12:35:31] There was nothing else he did, except after treating me and then he
10 left me. He didn't do anything else.

11 PRESIDING JUDGE SCHMITT: [12:35:44] I think we can leave that, because it
12 concerns the witness personally, and we have gotten the general background
13 information. And I think we can really more go to the special aspects, and we have
14 already entertained some of it when it came to the spirits that the witness spoke about
15 with regard to Mr Kony.

16 MR AYENA ODONGO:

17 Q. [12:36:12] Mr Witness, you said you had three spirits that you used.

18 A. [12:36:27] That's correct.

19 Q. [12:36:30] Is it possible that there are some *ajwaki, ajwaki who have more than
20 three spirits?

21 A. [12:36:44] Some people can be in possession of even more than ten.

22 PRESIDING JUDGE SCHMITT: [12:37:01] I'd like to encourage you a little bit now.
23 Of course, it's clear you have prepared it and I think the following line is suggesting
24 itself a little bit.

25 MR AYENA ODONGO: [12:37:12]

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1 Q. [12:37:13] Now, in this case when you have three spirits, did they have different
2 functions or they all performed the same functions?

3 A. [12:37:33] For the spirits, it depends on how you use them. If you would like to
4 use them to help people, yes, that would be it. If you want it to harm people, it can
5 also harm people. The spirits will do what you'd want them to do.

6 And for myself, the three of them, I was using them to help people, not to kill, not to
7 harm, not to bring any problems with people. I only used them to help people.

8 And then it also depends on how you treat them. I would give an example. I
9 would say Kony kept on using his spirits to do wrong, to take -- to go to fight with
10 resultant problems to people.

11 If he had used the spirits that he had, if he had tamed them and used them to help
12 people, he would not have done what he did. But he turned around and used his
13 the wrong way so much so that the spirits were doing wrong things.

14 I can also confirm that Kony has spirits, because if you hear he calls himself "Lord",
15 the Lord's Resistance Army. When he's referring to the army as "Lord's," he thinks
16 that the spirit is coming from God and that is why he has given that name. That is
17 what I think.

18 Q. [12:39:21] Can an ajwaka use his spirits to prophesize or to predict what is
19 coming ahead?

20 A. [12:39:38] Very well. Can prophesize, can see, foresee what is going to happen.
21 I would also tell you that that is the very reason Kony has been in the bush for all this
22 long. He would really foresee government soldiers coming to attack. He would be
23 directed on how to go and what to do. This can only be done with the help of spirits.
24 You know what has happened or what is about to happen when you have spirits.

25 Q. [12:40:08] Mr Witness, in your experience as an ajwaka and also as somebody

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1 who is fairly of advanced age, 60, about 60, would you know whether there are some
2 spirits who specialise in matters of war, matters of, you know, *fertility, matters of,
3 you know, medical treatment and so on and so forth?

4 A. [12:40:46] That is it.

5 Q. [12:41:04] Mr Witness, would the spirits reveal to you the type of herbs you
6 could use to treat different kinds of ailments?

7 A. [12:41:47] Yes, they do reveal, they can reveal to you herbs that can be used for
8 treating different ailments. Some of them work, but sometimes the herbs also fail to
9 bring results. But they would still reveal to you, for instance, there are some herbs
10 that Kony would attach to these young fighters. He would deceive them, telling
11 them, "If you go for a battle, you will be bulletproof." But during the battle you will
12 find these children have been shot, they are dying. And that means that some of
13 those herbs do not necessarily work.

14 Q. [12:42:42] Mr Witness, were these herbs or charms?

15 A. [12:42:50] These, some of them are roots, some of them are leaves of plants,
16 some of them are tree barks and branches. They are of different types.

17 Q. [12:43:19] Mr Witness, do you know something about lwit or lwit?

18 A. [12:43:34] Yes. Lwit is there, and most people who possess lwit or charms use
19 them to protect themselves against any form of problems that they might encounter.

20 Q. [12:44:06] Mr Witness, is it also the case that *ajwaki, all of them possess lwit?

21 A. [12:44:18] No, only a handful of them.

22 Q. [12:44:25] Mr Witness, you talked about spirits revealing different herbs that
23 could be used for treatment of different types of ailments. After somebody has left
24 the practice of being an ajwaka, is it still possible that he can remember some of these
25 and still help people without necessarily being an ajwaka now, like in your case?

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1 A. [12:45:06] Yes, I can remember a couple of herbs, but right now if I am to use
2 them, they don't work anymore, but I still remember them.

3 Q. [12:45:30] So in other words, they only work when they are controlled by the
4 spirits?

5 A. [12:45:44] Exactly.

6 Q. [12:45:48] Mr Witness, I want you to turn to tab 1, UGA-OTP-0022-0402.

7 PRESIDING JUDGE SCHMITT: [12:46:10] I think perhaps the court usher could
8 assist the witness and show him.

9 I think it would be enough, we don't have to go through all of the document to
10 authenticate it, simply, I would suggest, what it is about and everything. Yes.

11 MR AYENA ODONGO:

12 Q. [12:46:54] Mr Witness, please take a minute to flip through the pages. I'm
13 looking specifically at the left-side column. Can you look at luu pa mon and luu pa
14 coo, first page.

15 PRESIDING JUDGE SCHMITT: [12:47:43] That is number 3 and 4 on the first page.

16 THE WITNESS: [12:47:46] (Interpretation) Yes.

17 MR AYENA ODONGO:

18 Q. [12:47:47] Can you tell the Court generally what that means.

19 A. [12:47:53] This is a person who cannot conceive and this normally happens in
20 a situation where the person has sought for medical help without success, and if they
21 are brought to an ajwaka, an ajwaka can give some herbs, and eventually the person
22 will be able to conceive and bear a child.

23 Luu pa coo, this is a man who is sterile.

24 PRESIDING JUDGE SCHMITT: [12:48:46] Mr Witness, have you prepared this
25 document? No. But do you recognise or could you tell us what it is? It is a sort of

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1 a medical book, so to speak, a sort of? Do we understand this correctly, if we are
2 look only at these columns 3 and 4?

3 THE WITNESS: [12:49:10] (Interpretation) I'm not the one who developed this book.
4 I have just seen it right now.

5 PRESIDING JUDGE SCHMITT: [12:49:25] Fair enough.

6 MR AYENA ODONGO: [12:49:33] Mr President and your Honours, this is
7 a document that is on court record, submitted I think by the Prosecution from the
8 LRA stock.

9 PRESIDING JUDGE SCHMITT: [12:49:48] Yes. Thank you for the information.

10 MR AYENA ODONGO: [12:49:51] Yes.

11 PRESIDING JUDGE SCHMITT: Okay. I understand.

12 MR GUMPERT: [12:49:53] Can I correct my learned friend. Disclosed. The
13 Prosecution has not submitted that this document has any relevance to any issue in
14 the case.

15 PRESIDING JUDGE SCHMITT: [12:50:02] But nevertheless, it was disclosed so we
16 know at least where it comes from and what the background is. That was important
17 I think for the Bench here because there was at least the possibility that the witness
18 has produced it somehow and I wanted simply to clarify that. I think we don't have
19 to go -- we will not go through all of these columns, but we have, I think we have
20 understood the principle of what it is about.

21 MR AYENA ODONGO: [12:50:32] I appreciate, Mr President, that it is now a matter
22 of semantics.

23 Q. You have seen on the right-hand column what seems to be prescriptions for
24 treating those, such as, Olaro Pule, Lutukwang, Lamure Mura whatever, and then
25 Ringo Ayom --

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1 PRESIDING JUDGE SCHMITT: Yes. You don't read the whole document to the
2 witness.

3 MR AYENA ODONGO: Yes.

4 PRESIDING JUDGE SCHMITT: And perhaps when I hear now your question, my
5 question, if it is sort of a medical book was not so wrong, I would say. If there are
6 prescriptions. So perhaps, Mr Witness, from what you see there, is it correct that we
7 have in front of us a sort of prescription for certain maladies, diseases, malfunctions?

8 THE WITNESS: [12:51:44] (Interpretation) That is right. And it works.

9 PRESIDING JUDGE SCHMITT: [12:51:53] I think that is enough for that document,
10 Mr Ayena. And if you want to rely on it, you can submit it, of course. As I
11 understood it, the Prosecution insists having it only disclosed.

12 MR AYENA ODONGO: [12:52:07] Mr President, I think this is a good point to stop
13 so that we can resume after lunch.

14 PRESIDING JUDGE SCHMITT: [12:52:16] Do you already have an estimate how
15 long your -- no? I haven't got it. How many minutes?

16 MR AYENA ODONGO: [12:52:26] Between 30 to 45 minutes.

17 PRESIDING JUDGE SCHMITT: [12:52:32] Okay. And then we will have the
18 Prosecution, and we will finish the witness definitely today I would say for this
19 auspices.

20 So at 2.30, we resume. We have now the lunch break.

21 THE COURT USHER: [12:52:42] All rise.

22 (Recess taken at 12.52 p.m.)

23 (Upon resuming in open session at 2.31 p.m.)

24 THE COURT USHER: [14:31:50] All rise.

25 PRESIDING JUDGE SCHMITT: [14:32:14] Good afternoon.

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1 Mr Ayena, you still have the floor.

2 MR AYENA ODONGO: [14:32:26] (Microphone not activated).

3 PRESIDING JUDGE SCHMITT: [14:32:28] Please, the microphone, yes.

4 MR AYENA ODONGO: [14:32:30] Yes.

5 Q. [14:32:32] Mr Witness, good afternoon again. I hope you had a fulfilling lunch.

6 And I am going to ask you very few questions and then I have it done with you.

7 Now, Mr Witness, (Microphone not activated)

8 PRESIDING JUDGE SCHMITT: [14:33:03] Yes, we can go to private session, yes.

9 MR AYENA ODONGO: [14:33:07] Yes, briefly.

10 PRESIDING JUDGE SCHMITT: [14:33:08] And briefly. So for the audience, this
11 will only be a short time and then we can go back to open session.

12 (Private session at 2.33 p.m.) *(Reclassified partially in public)

13 THE COURT OFFICER: [14:33:21] We are in private session, Mr President.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE SCHMITT: [14:33:50] Please proceed.

18 MR AYENA ODONGO: [14:33:51]

19 Q. [14:33:54] Mr Witness, in your practice, or during your practice, did you ever
20 help some institutions or individuals within institutions?

21 A. [14:34:22] Not as a group where people come to me individually. It can be
22 government workers, government officials, because of their personal problems.

23 They do not come as an institution.

24 (Redacted)

25 (Redacted)

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Page redacted – Private session.

25 Q. [14:38:26] This case, Mr Witness, is about war between the LRA and the NRA.

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1 And you, from our interaction since this morning, it is apparent that the LRA war was
2 steeped in spiritualism. Do you have any information as to whether the other side
3 also used some spirits to thwart the efforts of the LRA?

4 (Microphone not activated)

5 PRESIDING JUDGE SCHMITT: [14:39:17] Exactly that was what I wanted to
6 suggest.

7 Mr Witness, shortly we go to open session, then you can give your answer again in
8 open session please. Thank you.

9 (Open session at 2.39 p.m.)

10 THE COURT OFFICER: [14:39:31] We are back in open session, Mr President.

11 PRESIDING JUDGE SCHMITT: [14:39:40] Thank you.

12 Mr Witness, could you please repeat the answer.

13 THE WITNESS: [14:39:46] (Interpretation) Could you kindly repeat the question.

14 PRESIDING JUDGE SCHMITT: [14:39:51] That makes sense of course. Thank you.

15 MR AYENA ODONGO: [14:39:56]

16 Q. [14:39:56] I am saying, since this morning, we have been canvassing spiritualism
17 in the LRA and we specifically said the LRA war was steeped in spiritualism. My
18 question is: Do you have or did you have any information as to whether the
19 government forces also used some spirit medium to thwart the LRA advances?

20 A. [14:40:39] I did not get any information from the government. What I told
21 Court is what I did. That I did it once. Someone brought the commander to me
22 and I did it once, but I didn't get any other information.

23 Q. [14:41:01] Now, Mr Witness, it would appear spirits, or the use of spirits has
24 very strong controlling powers, especially in the direction of war. In a situation
25 where one side was using spirits, is it possible to deal with spirit warfare with

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1 ordinary munitions, or it also took spirit, you know, counter -- I mean, a spirit
2 medium to counter the efforts of LRA?

3 A. [14:42:02] As far as I know, Kony uses spirits to show how his soldiers should
4 fight. But they also have weapons, besides the spirits. The government also uses
5 weapons. To assert that they should use spirits to control each other, it is difficult
6 for me to say that you can actually use spirits without weapons.

7 Q. [14:42:41] You know, Mr Witness, I am insisting on this from -- so that I get it
8 from people, a person like you, who would understand the spirit world more than us.
9 When one side is using spirits to direct the effect of guns and ammunitions, is it
10 possible for the other side to depend only on guns and ammunitions without
11 countering the spirit component?

12 A. [14:43:29] I am sure they can do that. This is because they can use guns to also
13 protect themselves, but those who have spirits have both the guns and spirits. I can
14 respond this way, there may not be a direct confrontation, but they can use their
15 spirits stealthily because they would use the spirits to find out where the enemy is so
16 that we can attack them, kill them, and take their, their weapons and uniform. That
17 is how the spirit works. But if they meet in the battlefield, I am sure both of them
18 will get the repercussion of the war and there may be losses on both sides.

19 PRESIDING JUDGE SCHMITT: [14:44:30] I think that is fair enough, the answer. I
20 think we can move on.

21 MR AYENA ODONGO: [14:44:34] Yes.

22 Q. [14:44:36] Mr Witness, for a fighter who was under a spirit's spell, if he was
23 aware that he was under that spell and he was sent to the battleground, would he
24 exercise free will without being conscious that he is being controlled by the spirits?

25 A. [14:45:22] I know for sure that when somebody goes to a battlefield, especially

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1 when he is being controlled by some form of spirit, he would be acting in the belief
2 that he will be guided by the spirit and will be helped by the spirit in which he trusts.

3 Q. [14:45:47] Mr Witness, I want to take this opportunity to really thank you for
4 availing yourself to Court to understand some of these very intricate things, which
5 are brain-teasers to even those of us who know a little about it. But especially to the
6 Court.

7 We thank you very much.

8 Mr President and your Honours, this is the end of our questioning.

9 PRESIDING JUDGE SCHMITT: [14:46:18] Thank you very much, Mr Ayena.

10 And I call now the Prosecution for their examination.

11 MR GUMPERT: [14:46:23] The Prosecution has no questions for this witness.

12 PRESIDING JUDGE SCHMITT: [14:46:26] Does the LRV have any questions to the
13 witness?

14 MR MANOBA: [14:46:30] Mr President, no questions from us. But perhaps my
15 colleagues may have questions.

16 PRESIDING JUDGE SCHMITT: [14:46:35] Mr Narantsetseg?

17 MR NARANTSETSEG: [14:46:36] No questions, your Honour, thank you.

18 PRESIDING JUDGE SCHMITT: [14:46:39] Thank you.

19 That concludes your testimony, Mr Witness. On behalf of the Chamber, I would like
20 to thank you for coming to The Hague to this courtroom and providing us with
21 information that can help us to establish the truth. We wish you a safe trip back
22 home.

23 THE WITNESS: [14:47:02] (Interpretation) Thank you.

24 (The witness is excused)

25 PRESIDING JUDGE SCHMITT: Yes.

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- 1 And we conclude the hearing for today, resume on Monday at 9 o'clock -- Friday, yes.
- 2 Tomorrow is -- okay, tomorrow at 9.30. And with D-111. So this was right at the
- 3 end. So thank you.
- 4 THE COURT USHER: [14:47:26] All rise.
- 5 (The hearing ends in open session at 2.47 p.m.)
- 6 RECLASSIFICATION REPORT
- 7 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July
- 8 2016, the public reclassified and lesser redacted version of this transcript is filed in the
- 9 case.