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TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF
THE PROSECUTOR v. BOSCO NTAGANDA

Confidential

**Prosecution's response to "Supplementary submission on behalf of Mr Ntaganda
in relation to proposed Expert witnesses", ICC-01/04-02/06-1032-Conf**

Source: The Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Introduction

1. The Office of the Prosecutor ("Prosecution") submits that Trial Chamber VI ("Chamber") should dismiss the Defence objections to the admissibility of the reports and intended testimony of four Prosecution expert witnesses, P-0932, P-0885, P-0453 and P-0938 ("Contested Experts").¹ The Contested Experts possess sufficient qualifications and expertise. They are also impartial. Their reports and intended testimony properly fall within the scope of expert testimony and are relevant to the issues in the case.
2. Mindful of the Chamber's determination not to consider the probative value of the Contested Experts' reports at this stage,² the Prosecution reserves the right to respond to the Defence submissions on this matter in due course.
3. Additionally, the Prosecution informs the Chamber that Dr John Yuille, Witness P-0933, will not be able to testify due to a serious health issue. The Prosecution will submit his expert report under rule 68 of the Rules of Procedure and Evidence ("Rules") and is seeking to identify another expert witness to submit a report and testify on the same subject.

Procedural Background

4. On 16 April 2015, the Prosecution filed a list of thirteen expert witnesses it intends to call to testify.³
5. On 2 June 2015, the Chamber invited the Defence to file a notice indicating whether it: (i) accepts the Prosecution experts' reports; (ii) wishes to cross-

¹ ICC-01/04-02/06-1032-Conf.

² ICC-01/04-02/06-994, para. 7.

³ ICC-01/04-02/06-560. Ms Radhika Coomaraswamy appears under two separate headings in this filing, as the Prosecution intends to call her as an expert on two issues.

examine them; and/or (iii) challenges their qualifications as experts, or the relevance of all or parts of their reports and, if so, of which parts.⁴

6. On 15 September 2015, the Defence filed a notice setting out its position in respect of the Prosecution's experts.⁵ It objected to the four Contested Experts and sought guidance from the Chamber as to when and how to formally raise its objections.⁶ The Defence did not challenge the qualification of eight of the proposed experts (P-0931, P-0933, P-0810, P-0939, P-0420, P-0935, P-0937 and P-0934) and accepted their reports as being expert reports relevant to the trial.⁷ The Defence took issue with the probative value of two of these eight reports⁸ but took no position on the probative value of the other six reports for the time being.⁹
7. On 11 November 2015, the Chamber ordered the Defence to supplement its previous submissions in relation to the Contested Experts on: (i) their qualifications and expertise in relation to the subject matter of their proposed testimony; (ii) whether the proposed areas to be addressed properly fall within the scope of expert testimony; and (iii) the Contested Experts' impartiality and the relevance of their proposed testimony.¹⁰ The Chamber held that it would "not consider the probative value of the expert reports, or lack thereof, at this stage", and noted that the Parties will have an opportunity to make any submissions in that regard in due course.¹¹ The Chamber directed the Prosecution to file a response, if any, by 2 December 2015 and the Defence to file a reply, if any, by 8 December 2015.¹²

⁴ ICC-01/04-02/06-619, para. 38.

⁵ ICC-01/04-02/06-826-Conf, with public redacted version at ICC-01/04-02/06-826-Red.

⁶ ICC-01/04-02/06-826-Red, paras. 9, 14, 18 and 26.

⁷ ICC-01/04-02/06-826-Red, paras. 19-21 (P-0933), 27-29 (P-0939), 31-33 (P-0810), 39-42 (P-0420), 44-46 (P-0935), 48-50 (P-0937) and 52-54 (P-0934).

⁸ ICC-01/04-02/06-826-Red, paras. 19 (P-0933) and 31 (P-0810).

⁹ ICC-01/04-02/06-826-Red, paras. 27 (P-0939), 40 (P-0420), 44 (P-0935), 48 (P-0937), 52 (P-0934).

¹⁰ ICC-01/04-02/06-994, para. 9.

¹¹ ICC-01/04-02/06-994, para. 7.

¹² ICC-01/04-02/06-994, p. 6.

8. On 23 November 2015, the Defence filed its supplementary submission in relation to the Prosecution's experts. The Defence objects to the reports and testimony of the four Contested Experts.¹³ The Defence stated that it does not challenge the qualifications of a further proposed expert, Witness P-0945, or the relevance of his report.¹⁴

Confidentiality

9. This filing is classified as "Confidential" pursuant to regulation 23bis(2) of the Regulations of the Court because it is a response to a submission bearing the same designation. As the present submissions do not contain any information that needs to remain confidential, the Prosecution requests that the Chamber order their reclassification to a public document.

Prosecution Submissions

Professor Kambayi BWATSHIA, Witness P-0932

10. The Defence challenges Professor Bwatshia's qualifications and expertise on the basis that his *curriculum vitae* does not list any publication about Ituri, or his having carried out work there in 2002 and 2003.¹⁵ The Prosecution notes that Professor Bwatshia is qualified to provide the anticipated testimony because of his long experience specialising in *histoire des mentalités* (the history of the attitudes, mindsets and world views) of social and cultural groups in the Democratic Republic of the Congo ("DRC"). His *curriculum vitae* indicates that he has delivered, among others, a conference entitled "*La problématique du port du nom identitaire en RD Congo*".¹⁶ He is a consultant to Radio Okapi on the meaning and importance of names. Radio Okapi, the radio network of the United Nations in the DRC, was created in 2002 to inform the Congolese public about the

¹³ ICC-01/04-02/06-1032-Conf.

¹⁴ ICC-01/04-02/06-1032-Conf, paras. 58-60.

¹⁵ ICC-01/04-02/06-1032-Conf, paras. 8-9.

¹⁶ DRC-OTP-2083-0513 at 0515.

humanitarian situation and political transition,¹⁷ and broadcasts in Ituri, among other locations.¹⁸ Professor Bwatshia has recently supervised a thesis or paper entitled “DU MOM CHEZ LES ALLUUR EN ITURI” (2015).¹⁹ Professor Bwatshia’s *curriculum vitae* lists interviews conducted in Bunia among the sources of part of his expert report.²⁰ Moreover, Professor Bwatshia was qualified as an expert by Trial Chamber I in *Lubanga*.

11. The views of an expert witness need not be based upon first-hand knowledge or experience.²¹ He or she may provide the judges with any information useful to an evaluation of the facts.²² The Defence will be able to question Professor Bwatshia on his credentials during cross-examination. Specifically, it can question him about the extent to which his knowledge of the administrative, cultural and social life in the DRC in general also extends to Ituri.
12. The Defence also challenges the relevance of Professor Bwatshia’s report and proposed testimony on the basis that he failed to answer the questions put to him in the letter of instructions.²³ Professor Bwatshia was not specifically asked to answer each of the questions individually. He was asked to answer the questions in his report insofar as possible in light of his competence, and to be prepared to testify about them. As such, the questions were meant to inform the expertise provided, rather than to elicit specific answers to each of them. The level of detail in which Professor Bwatshia answered the questions is not conclusive as to the relevance of his proposed testimony. The Defence will have an opportunity to put any additional questions it deems relevant to either his competence or the substance of his testimony during cross-examination.

¹⁷ See <http://www.radiookapi.net/page/propos>, last consulted on 2 December 2015.

¹⁸ DRC-OTP-2083-0513 at 0513.

¹⁹ DRC-OTP-2083-0539.

²⁰ DRC-OTP-2083-0524, at 0538.

²¹ *Prosecutor v. Popović et al.*, Decision on Joint Defence Interlocutory Appeal Concerning the Status of Richard Butler as an Expert Witness, Case No. IT-05-88-AR73.2, 30 January 2008, para. 29; *Prosecutor v. Martić*, Decision on Defence’s Submission of the Expert Report of Professor Smilja Avramov Pursuant to Rule 94 bis, 9 November 2006, para. 21.

²² *Prosecutor v. Hadžihasanović and Kubura*, Decision on Report of Prosecution Expert Klaus Reinhardt, Case No. IT-01-47-T, 11 February 2004, p. 4.

²³ ICC-01/04-02/06-1032-Conf, paras. 15-16.

13. Professor Bwatshia's expert report offers insight into the law and practice in Ituri and elsewhere in the DRC on issues of relevance to the case, including registration of civil status, naming conventions, family structures, and the impact of the war on such matters.²⁴
14. With respect to the Defence challenge that Professor Bwatshia's expert report fails as to methodology and supporting references, which it argues impacts on the relevance of his proposed testimony,²⁵ the Prosecution submits that this may – at most – affect the weight to be accorded to Professor Bwatshia's evidence depending on the outcome of his testimony.²⁶ It does not, however, go to relevance.
15. The Prosecution reserves its response to the Defence's argument that Professor Bwatshia's expert evidence would be of marginal probative value²⁷ for a later stage in the proceedings, in light of the Chamber's direction in this respect.²⁸

Ms Radhika COOMARASWAMY, Witness P-0885

16. The Defence does not contest that Ms Coomaraswamy's evidence falls within the scope of expert testimony. Rather, it claims that her report improperly departs from the Prosecution's instructions, in particular by providing legal opinions on the elements of the charges. Thus the Defence alleges that the report goes beyond the scope of admissible expertise.²⁹ On the same basis, the Defence challenges her impartiality.³⁰ The Defence argues that the Chamber should adopt the jurisprudence of the *ad hoc* tribunals, which it submits has consistently ruled

²⁴ See references to Ituri in DRC-OTP-2083-0517 at 0517, 0519, 0520, 0521, 0522. And see DRC-OTP-2083-0524 at 0524, with specific reference to the Alur.

²⁵ ICC-01/04-02/06-1032-Conf, para. 17.

²⁶ *Prosecutor v. Delić*, Decision on Paul Cornish's Status as an Expert, Case No. IT-04-83-T, 20 March 2008, para. 14; *Prosecutor v. Martić*, Decision on Defence's Submission of the Expert Report of Professor Smilja Avramov Pursuant to Rule 94 bis, Case No. IT-95-11-T, 9 November 2006, para. 19; *Prosecutor v. Perišić*, Decision on Defence Motion to Exclude the Expert Report of Morten Torkildsen, Case No. IT-04-81-T, 30 October 2008, para. 16.

²⁷ ICC-01/04-02/06-1032-Conf, paras. 11-12.

²⁸ ICC-01/04-02/06-994, para. 7.

²⁹ ICC-01/04-02/06-1032-Conf, paras. 20-21.

³⁰ ICC-01/04-02/06-1032-Conf, paras. 26-27.

inadmissible expert reports on legal issues.³¹ The Defence posits that, even if the Chamber is in principle inclined to receive assistance from an expert on legal issues, parts 1, 3, 4, 6 and 10 of Ms Coomaraswamy's report fail to provide meaningful assistance on specific issues of a technical nature that are outside of the Chamber's experience and knowledge.³²

17. There are no strict rules preventing the Chamber from admitting an expert opinion on points of law if it finds it of assistance to do so.³³ Nor does an expert's opinion on such points detract from the Chamber's ability to apply the provisions of the Statute in compliance with article 21. As a case in point, Trial Chamber I in *Lubanga* adopted interpretations of the law that had been advocated by Ms Coomaraswamy.³⁴ It was also able to set aside interpretations of the law advocated by her when necessary in light of the charges in that case.³⁵

18. The Defence fails to explain how Ms Coomaraswamy's views on specific legal issues demonstrate her lack of impartiality *vis-à-vis the Accused*, which is the critical issue. The Prosecution submits that the fact that this witness adopts a particular legal view is insufficient to demonstrate a lack of impartiality in this regard. In any event, concerns about Ms Coomaraswamy's impartiality should not affect the admissibility of her report. Rather, they may be relevant to the

³¹ ICC-01/04-02/06-1032-Conf, para. 22.

³² ICC-01/04-02/06-1032-Conf, para. 23.

³³ The case law relied on by the Defence in fact supports the more nuanced proposition that the Chamber has discretion to refuse the testimony of an expert whose evidence relates to legal matters. See *Prosecutor v. Nahimana et al.*, Judgment, Case No. ICTR-99-52-A, 28 November 2007, para. 294. In a case before the International Tribunal for the Former Yugoslavia ("ICTY"), the Chamber admitted expert evidence about the general view among scholars that genocide is a crime of state. See *Prosecutor v. Slobodan Milošević*, Decision on Motion for Judgement of Acquittal, Case No. IT-02-54-T, 16 June 2004, para. 234. See also testimony of Dr. Zwaan at *Milošević*, transcript, Case No. IT-02-54, 21 January 2004, p. 31,230, ll. 16 ss, available at http://www.icty.org/x/cases/slobodan_milosevic/trans/en/040121ED.htm.

³⁴ ICC-01/04-01/06-2842, paras. 615-618, concerning the unavailability of "voluntary" enlistment as a defence from the charge under article 8(2)(e)(vii) of the Rome Statute – a position advocated by Ms Coomaraswamy and adopted by Pre-Trial Chamber I in *Lubanga* and, as noted by Trial Chamber I in the *Lubanga* Judgment (ICC-01/04-01/06-2842, para. 616), by the Trial and Appeals Chambers of the Special Court for Sierra Leone in the CDF case.

³⁵ ICC-01/04-01/06-2842, para. 630 and fn. 1811, citing to Ms Coomaraswamy's position that sexual violence may properly be included within the scope of using children under the age of 15 to participate actively in hostilities, and deeming it impermissible to rely on the relevant evidence in the case.

weight to be given to her evidence,³⁶ and can be properly addressed during cross-examination.³⁷

19. The Defence also challenges the relevance of Ms Coomaraswamy's report and proposed testimony. In particular, the Defence objects to parts 2, 5, 7, 8, 9 and 11 of her report, arguing that her unique knowledge of the phenomenon of recruitment and use of child soldiers throughout the world does not amount to expertise that would assist the Chamber in understanding or determining issues in dispute in the present case; that her empirical observations are too general in scope to assist in better understanding the accounts of witnesses who will give evidence on the Prosecution's allegations or in ruling on any of the issues in dispute.³⁸ The Prosecution notes in this regard that in *Lubanga*, Trial Chamber I drew from Ms Coomaraswamy's evidence on the phenomenon of child soldiers globally to inform its own findings about the situation that children under the age of 15 found themselves in the UPC/FPLC.³⁹

20. Ms Coomaraswamy's expertise will also assist the Chamber in the instant case. It will be able to consider her evidence, along with other evidence adduced at trial, and to decide at a later stage whether it deems her evidence probative and if so, the weight to be accorded to it.

³⁶ *Prosecutor v. Stanišić and Simatović*, Decision on Prosecution's Submission of the Expert Report of Nena Tromp and Christian Nielsen pursuant to Rule 94 bis, Case No. IT-03-69-PT, 18 March 2008, para. 10; *Prosecutor v. Popović et al.*, Decision on Joint Defence Interlocutory Appeal Concerning the Status of Richard Butler as an Expert Witness, Case No. IT-05-88-AR73.2, 30 January 2008, para. 21; *Prosecutor v. Dragomir Milošević*, Decision on Admission of Expert Report of Robert Donia, Case No. IT-98-29/1-T, 15 February 2007, para. 9; *Prosecutor v. Slobodan Milošević*, Decision on Admissibility of Expert Report of Kosta Čavoški, Case No. IT-02-54-T, 1 March 2006, p. 2; *Prosecutor v. Brđanin*, Decision on Prosecution's Submission of Statement of Expert Witness Ewan Brown, Case No. IT-99-36-T, 3 June 2003, p. 4.

³⁷ *Prosecutor v. Brđanin*, Decision on Prosecution's Submission of Statement of Expert Witness Ewan Brown, Case No. IT-99-36-T, 3 June 2003, p. 4.

³⁸ ICC-01/04-02/06-1032-Conf, paras. 29, 32-34.

³⁹ E.g. ICC-01/04-01/06-2842, para. 606, where the Trial Chamber refers to her "relevant background evidence" about the wide range of tasks children in armed groups frequently undertake, as part of the Chamber's analysis of the acts that could constitute conscripting, enlisting and using children under the age of 15 to participate actively in hostilities.

21. As for the Defence challenge that Ms Coomaraswamy's report does not follow a methodology that qualifies it as an expert report,⁴⁰ the Prosecution submits this may, at best, be relevant to the weight of the evidence determined at the conclusion of her testimony or of the trial, rather than to its relevance.

Dr Lynn LAWRY, Witness P-0453

22. The Defence argues that Dr Lawry's report goes beyond the scope of expert testimony⁴¹ and is irrelevant⁴² because it is based on data covering a five-year period which extends beyond the temporal scope of the charges, including a period during which the Defence purports the UPC/FPLC did not exist.⁴³ According to the Defence, Ms Lawry's reliance on data from 2000-2005 "will inevitably lead to distorted and misleading conclusions".⁴⁴ The Prosecution disagrees with this assessment in two respects.

23. First, it submits that the entire time period covered by Dr Lawry's report properly falls within the scope of expert testimony. Even if it were possible to isolate the data relied on in her report pertaining to the periods within and outside the temporal scope of the charges, the data relative to the years immediately outside that time frame would also be relevant to the case, just as the evidence concerning the Accused's conduct prior to and subsequent to the period of the charges has been deemed admissible by the Chamber⁴⁵ and the Single Judge of Pre-Trial Chamber II in this case.⁴⁶ Indeed, pattern evidence of Hema militia or UPC conduct is relevant to demonstrate, *inter alia*: the background or context of the events within the temporal period of the charges, the widespread or systematic

⁴⁰ ICC-01/04-02/06-1032-Conf, para. 36.

⁴¹ ICC-01/04-02/06-1032-Conf, para. 40.

⁴² ICC-01/04-02/06-1032-Conf, paras. 44, 45.

⁴³ ICC-01/04-02/06-1032-Conf, paras. 40-43.

⁴⁴ ICC-01/04-02/06-1032-Conf, para. 42.

⁴⁵ ICC-01/04-02/06-T-27-CONF-ENF ET, p. 50, ln. 2 – p. 52, ln. 7 (open session).

⁴⁶ ICC-01/04-02/06-308, para. 30.

nature of the attacks on civilians, the common plan or common purpose of the group, and the Accused's intent and knowledge.⁴⁷

24. Second, and although the Accused is not on trial for facts that occurred in 2000, 2001, 2004 and 2005, the data relied on in Dr Lawry's report *includes* data from the years 2002 and 2003, which is within the time frame of the charges. Dr Lawry's data is statistically valid for the years 2000-2005 and she will explain during testimony the significance of the data including on the years relevant to the charges. While she is unable to isolate the data for the years 2002 and 2003, the Prosecution should be permitted to overlay the findings of her study with other evidence in the case to identify the periods of time when the UPC/FPLC was most active in the commission of crimes.

25. Moreover, contrary to the Defence submission, the evidence does not establish that the UPC/FPLC did not exist before September 2002.⁴⁸ The timing of the UPC/FPLC's creation and period of operation is a matter in dispute in the case on which the Parties can adduce evidence. The data relied on by Dr Lawry indicating the commission of crimes by the UPC/FPLC is an example of such evidence. The Prosecution should be allowed to present such evidence, which the Chamber may assess together with all other evidence in the case. Whether the data, stemming as it does from the 2000-2005 time frame, will be persuasive taken together with other evidence in the case, is a question of weight, not a question of relevance.

26. The Defence further contends that Dr Lawry's report is irrelevant because of her reliance on sociological and medical concepts and "human rights definitions of harms", such as "sexual violence", which have a specific meaning in her field of

⁴⁷ See e.g. ICC-01/04-01/06-2842, paras. 1022, 1352; ICC-01/05-01/08-2299-Red, paras. 51, 61, 67; ICC-01/04-01/07-717, paras. 225-228; *Prosecutor v. Ngirabatware*, ICTR-99-54-T, Decision on Defence motion to exclude evidence falling outside the temporal jurisdiction of the Tribunal, 3 February 2011, paras. 1, 16; *Prosecutor v. Strugar*, IT-01-42-T, Decision on the Defence Objection to the Prosecution's Opening Statement Concerning Admissibility of Evidence, 22 January 2004, pp. 3-4; *Prosecutor v. Stakic*, IT-97-24-A, Appeal Judgment, 22 March 2006, paras. 126-128; *Prosecutor v. Perisic*, IT-04-81-T, Decision on Expert Reports of Ewa Tabeau, 23 April 2009, para. 16; *Prosecutor v. Ratko Mladic*, IT-09-92-T, Decision on the admission of intercepts and authentication charts, 6 February 2014, para. 20.

⁴⁸ ICC-01/04-02/06-1032-Conf, para. 42.

expertise and “do not easily match international humanitarian law concepts which the Chamber is bound to apply”.⁴⁹ Use of the term “sexual violence” does not render the data irrelevant for the purposes of the trial. The Defence can explore the meaning of such concepts in cross-examination, and can make submissions to the Chamber if in its view the use of this term makes the data unreliable. Dr Lawry’s report is highly relevant as it deals with human rights abuses attributed to the UPC/FPLC committed during the period of the charges, irrespective of the precise legal characterisation thereof.

27. The Prosecution disputes that Dr Lawry’s report infringes on the Chamber’s exclusive role.⁵⁰ Based on data collected as part of the survey, Dr Lawry concludes that the Lendu-Ngiti were more likely to suffer abuses perpetrated by the UPC/FPLC relative to other ethnic groups.⁵¹ This is not a conclusion on the sufficiency of *the evidence before the Chamber in the case*, but of the data available to Dr Lawry as a result of the survey. The Prosecution disagrees that Dr Lawry’s report offers an opinion on the ultimate issue. However, the Prosecution notes that the jurisprudence of the ICTY allows expert witnesses to offer their opinion on the ultimate issue where the Chamber determines that it will be of assistance.⁵²

28. The Prosecution reserves the right to respond to the Defence’s submission that Dr Lawry’s study is not sufficiently probative to justify its admission.⁵³

Dr Maeve Lewis, Witness P-0938

29. The Defence objects to the report and proposed testimony of Dr Lewis on the basis that she exceeded the terms of the expertise requested by the Prosecution by providing her personal assessment of the credibility of four Prosecution

⁴⁹ ICC-01/04-02/06-1032-Conf, para. 46.

⁵⁰ *Contra* ICC-01/04-02/06-1032-Conf, para. 49, quoting ICC-01/04-02/06-826-Conf, para. 16.

⁵¹ DRC-OTP-2084-0523 at 0558.

⁵² *Prosecutor v. Gotovina et al.*, Decision on Part of the Gotovina Defence’s Rule 73 Motion *In Limine*, Case No. IT-06-90-T, 21 May 2008, para. 6.

⁵³ ICC-01/04-02/06-1032-Conf, para. 47.

witnesses, infringing upon the Chamber's role.⁵⁴ In the Defence's view, this "approach" does not fall within the scope of expert testimony.⁵⁵

30. The Prosecution notes that Dr Lewis's reports address the questions raised in the Prosecution's letter of instruction. Her reports are relevant and fall squarely within her field of expertise. Dr Lewis is offering a professional opinion on whether the four witnesses exhibited psychological harm or consequences that are consistent, on the basis of her years of experience, with signs of rape. Her comments on credibility should not be taken out of context.⁵⁶

31. As for the Defence challenge to Dr Lewis's impartiality,⁵⁷ the Prosecution submits that this is an area for the Defence to explore on cross-examination and to eventually be considered when assessing the weight to be assigned to the expert's conclusions.

Dr John Yuille, Witness P-0933

32. The Prosecution also wishes to inform the Chamber that Dr John Yuille, Witness P-0933, can no longer testify as an expert in this case due to serious, unexpected health issues. The Prosecution will seek to admit his expert testimony under rule 68 of the Rules. The Prosecution is identifying alternate experts and will apply to add a new expert on trauma under regulation 35 of the Regulations of the Court.

Conclusion and Relief

33. The material before the Chamber demonstrates that the Contested Experts are qualified to give expert evidence in the case. They possess specialised knowledge

⁵⁴ ICC-01/04-02/06-1032-Conf, paras. 54-56.

⁵⁵ ICC-01/04-02/06-1032-Conf, para. 56.

⁵⁶ See e.g. DRC-OTP-2059-0058 at 0062-0063, in relation to P-0018. Apart from the portion of Dr Lewis's report quoted by the Defence (ICC-01/04-02/06-1032-Conf, fn. 50, quoting from the second-to-last line in Dr Lewis's assessment), Dr Lewis concludes that Witness P-0018's distress in recounting the details and other factors "all lend credibility to her account and **comprise typical responses of rape victims to their experience**" (emphasis added).

⁵⁷ ICC-01/04-02/06-1032-Conf, para. 57.

which is likely to assist the Chamber in understanding the evidence and issues in dispute. The reasoning or methodology underlying their reports is valid and applicable to the facts at issue. The Defence's challenges to the experts' evidence should first be dealt with on cross-examination.

34. The Prosecution thus requests that the Chamber dismiss the Defence objections to the admissibility of the Contested Experts' reports and permit the Prosecution to call them to testify.



Fatou Bensouda,
Prosecutor

Dated this 2nd day of December 2015

At The Hague, The Netherlands