

1 International Criminal Court

2 Pre-Trial Chamber I

3 Situation in the Democratic Republic of Congo - ICC-01/04-01/07

4 Confirmation of Charges Hearing - Open Session

5 Friday, 4 July 2008

6 The hearing starts at 9.05 a.m.

7 COURT USHER: All rise. Please be seated.

8 PRESIDING JUDGE KUENYEHIA: Good morning. Could security bring
9 in the suspects, please.

10 Court Officer, could you call the case, please.

11 COURT OFFICER (interpretation): Situation in the Democratic
12 Republic of the Congo, in the case of the Prosecutor versus Germain
13 Katanga and Mathieu Ngudjolo Chui, number ICC-01/04-01/07.

14 PRESIDING JUDGE KUENYEHIA: Thank you. This is a continuation of
15 the confirmation hearing that started on the 27th of June, and I'd like
16 to say that liaison interpretation into Lingala is available to
17 Mr. Katanga in accordance with Regulation 61(1)(d) of the Regulations of
18 the Registry, and Mr. Ngudjolo Chui can use interpretation if he so
19 wishes.

20 The Prosecution started the presentation of its evidence and is
21 to continue this morning. So I will hand over the floor to the
22 Prosecution to continue the presentation of its evidence.

23 MR. MacDONALD: Thank you, Madam President. Before continuing
24 with the presentation of Ms. Hendriks, the Prosecution would like to just
25 draw the attention of the Chamber to a future presentation to come on

1 pillaging and destruction where we have a visual presentation, and in
2 this visual presentation we refer to sketches drawn by three witnesses
3 that are included in the Prosecution's presentation. The Prosecution
4 would like to show these maps as we have shown the other presentations to
5 indicate and show and demonstrate the extent of the pillaging and
6 destruction, but these maps are confidential -- or these sketches, sorry,
7 are confidential because they are annexes to witness statements that are
8 themselves confidential.

9 I have copies here of these three sketches to show the Chamber,
10 and we have on these three sketches removed any identifying feature that
11 could lead to the identification of these three witnesses because the
12 public has access.

13 Also, one of these witnesses is Witness 166, who is represented
14 by Ms. Bapita. I have consulted Ms. Bapita just before this hearing, and
15 she will be able to indicate her position to the Chamber herself, but she
16 is favourable to this map still being used in this public session by the
17 Prosecution.

18 So with your permission, I would show you these maps. There are
19 some writing, but this writing on this first map of Witness 166, it's a
20 legend basically of what the numbers indicate in the map and what they
21 refer to. Now, this information was not written by the witness himself
22 but by the investigator that took the statement.

23 On the other maps of Witness 233 and 268, and I can refer to the
24 ERN numbers also, of course there are things that are written, but they
25 mainly indicate where the UPC camp is located, where the Diguna area was

1 located, and things like that of a general nature, and the Prosecution
2 does not believe that this information could lead to the identification
3 of these two additional witnesses.

4 So I'm drawing the attention of the Chamber to this, these
5 confidential documents as you have requested it, and we would kindly
6 request the Chamber to grant permission to show these sketches, because I
7 think it would be helpful for the Chamber to be able to appreciate the
8 Prosecution's presentation regarding pillaging and destruction using
9 these maps. So I can provide a copy.

10 PRESIDING JUDGE KUENYEHIA: Ms. Bapita, I take it that you have
11 no objection to your victim's sketch being used?

12 MS. BAPITA (interpretation): I have no objections, no
13 objections.

14 PRESIDING JUDGE KUENYEHIA: I think that you have the
15 responsibility of ensuring that there are no identifying features. So if
16 you have assured the Chamber that there is no risk of anybody being
17 identified as a result of these, then the Chamber has no objection to
18 your showing it.

19 THE INTERPRETER: Microphone, please.

20 MR. MacDONALD: If ever the Chamber wants to view these maps, the
21 presentation will only be after the break this morning. So you can still
22 have a look if you wish.

23 Now I will give the floor to my colleague Ms. Hendriks.

24 MS. HENDRIKS: Madam President, your Honours, if you allow me,
25 the Prosecution will now resume with the presentation of a selection of

1 its core evidence in relation --

2 PRESIDING JUDGE KUENYEHIA: Please remember not to go very fast
3 so that the interpreters can do their work properly.

4 MS. HENDRIKS: I'll take note of that, your Honour.

5 We will resume with the presentation of a selection of its core
6 evidence in relation to count 1 and 2, murder or wilful killing, and
7 count 4, cruel or inhuman treatment. After this, with your Honours'
8 permission, I will continue with the presentation of the evidence on
9 count 3.

10 At the hearing yesterday, I presented the first part of the
11 presentation on these counts which covered the murders or wilful killings
12 of civilians at the commencement and during the attack. Your Honours, I
13 will now continue with the murders or wilful killings and the detention
14 of civilians at the Bogoro Institute.

15 The Prosecution submits that the evidence shows that the
16 attackers killed many of the civilians who sought refuge at the Bogoro
17 Institute, that about hundred corpses were scattered inside and outside
18 the former school, and that civilians were detained there and menaced
19 with weapons. Again, the Prosecution will lead the Court through a
20 selection of its core evidence.

21 Your Honours, let me start with Witness 287, and I refer to
22 1013-0205. Witness 287's account has been referred to earlier. She
23 stated that when she passed the Bogoro Institute, attackers forced
24 injured civilians into the building. According to this witness, most of
25 these people were women and children, but there were also some injured

1 boys and UPC soldiers. She recognised a civilian man who was an
2 electrician in Bogoro. He was also being pushed into the Bogoro
3 Institute by the attackers. He was injured and could not walk, so he had
4 to crawl. Witness 287 never saw this man thereafter.

5 She also explained in her statement what happened to her husband
6 during the attack. He sought refuge in the Bogoro Institute and when he
7 arrived there his parents and seven other family members were already
8 there together with many other civilians. When the UPC soldiers fled the
9 Bogoro Institute, her husband -- her husband decided to flee as well,
10 followed by his father and two brothers. After that, he never saw his
11 family who sought refuge at the Bogoro Institute again.

12 This is supported, your Honours, by Witness 159, and I refer to
13 0164-0472. Witness 159 was a Bogoro resident who hid close to the UPC
14 camp. He stated that he could hear the voices of civilians he knew were
15 being killed. From his hiding place he was able to see a great number of
16 civilians being killed by the attackers.

17 Witness 161, and I refer your Honours to 0164-0488, he has a
18 similar account. He stated that from his hiding place he could hear
19 gunfire and people's cries coming from the classroom in the UPC camp. He
20 believed the combatants were executing the people there.

21 Then Witness 268, and I refer to 1007-0095. Your Honours, this
22 witness was detained overnight by the attackers at the Bogoro Institute.
23 He was a Bogoro -- he was a Bogoro resident, and when the attack started
24 he decided to hide himself near a dry riverbed. When he later tried to
25 leave his hiding place after sundown, he was captured by Lendu fighters,

1 tied, and brought under armed guard to the UPC camp. Three of the
2 fighters who arrested him had firearms, two of them had spears.

3 The witness was asked whether he was with the militaries. The
4 witness replied that he was a civilian. The chief of the group which had
5 captured him ordered that he be imprisoned so that he could be used to
6 find others. They brought the witness, who was still tied, to the Bogoro
7 Institute. In front of the building where there was a canal to drain
8 water is where the witness saw the first corpses. He was then taken to
9 one of the classrooms of the Bogoro Institute where he was detained
10 during the night. The classroom was approximately 8 by 8 metres.

11 Your Honours, when Witness entered the classroom, he had to step
12 over the corpses that were scattered all over the room. The majority of
13 the corpses were bodies of children, women, and the elderly. According
14 to the witness, all of the victims were in civilian clothes. He saw
15 victims who were killed by machete blows and whose leg was cut off or the
16 head totally detached from their bodies. Other victims had been shot.
17 There was blood everywhere.

18 He spent the night imprisoned with these corpses together with
19 eight other prisoners. Witness heard from the other prisoners who were
20 detained with him that there were also corpses in the second classroom of
21 the Bogoro Institute. He knew four of the eight other prisoners. Seven
22 of them were civilians and one was with the UPC. The witness heard that
23 the UPC soldier, although hors de combat, was killed after Witness 268
24 was taken out of the classroom the next morning.

25 With respect to the other seven detainees, Witness 268 found out

1 later that the other three prisoners he knew survived the attack. Two of
2 them were women. He does not know the fate of the four other civilians
3 who were detained with him. The identifying information of those victims
4 is redacted in witness's statement, but according to him they were
5 approximately 15, 18, 40, and 50 years old.

6 Witness stated that he and the other detainees were all
7 frightened that night. The attackers were standing at the door, and they
8 were waiting to die.

9 The next morning witness was taken out of the classroom by the
10 attackers. As he left the room he saw six corpses in front of the door.
11 According to the witness, they were all civilians. Some of the bodies
12 were those of very young children, two years old and above. They were
13 undressed, and from the wounds he could see the victims were hacked on
14 their heads from behind. He recognised one of the killed persons. It
15 was a civilian, a woman called Henriette, who was approximately 45 years
16 old. Her leg was cut off and detached from the rest of her body. Her
17 head was cut from behind.

18 Your Honours, the fate of the civilians at the Bogoro Institute
19 is confirmed by former FNI and FRPI soldiers. They stated that killings
20 by their forces had taken place on a large scale. For example, Witness
21 250, and I refer to 1013-0002 and 0177-0262.

22 Witness 250 is a former FNI soldier who fought at the UPC
23 military camp that day. He said he was shocked by the sight of so many
24 corpses when he arrived at the Bogoro Institute. He walked along half of
25 the building and noticed that the corpses were in several classrooms.

1 Corpses were piled up one on top of the other and there was blood
2 everywhere. Corpses of civilians also covered the ground all around the
3 UPC camp. Witness said he also saw corpses of UPC soldiers.

4 The witness confirmed that civilians who had sought refuge in the
5 school inside the UPC military camp were killed. He said that those who
6 remained, they there were all exterminated.

7 According to the witness, Bahati and Yuda's soldiers killed the
8 civilians in those classrooms, and it was the chiefs who knew why this
9 happened as they were all at the centre, including Mathieu Ngudjolo and
10 Germain Katanga.

11 Also Witness 279 refers to Germain Katanga and Mathieu Ngudjolo,
12 and I refer to 1007-1077. Witness 279 is a former FNI child soldier, and
13 he stated that Germain Katanga and Mathieu Ngudjolo entered the Bogoro
14 Institute in the afternoon on the day of the attack. He believes they
15 stayed there for about an hour.

16 That many civilians were killed at the Bogoro Institute is also
17 confirmed by Witness 258. Your Honours, Witness 258 was a former FRPI
18 soldier. He arrived at Bogoro around 3.00 p.m. on day of the attack. He
19 recalled seeing the corpses of approximately a hundred people dressed in
20 civilian clothes inside the Bogoro Institute. The majority of these
21 victims were women. According to the witness, they were killed by
22 machetes. Witness 258 declared that he believed these victims were all
23 civilians. This is contained in 0173-0718 and 0173-0755.

24 This is confirmed by the account of a former FRPI child soldier,
25 Witness 28, who stated he saw many corpses of babies, children, and women

1 who had been shot at the Bogoro Institute. These bodies, together with
2 those of UPC fighters, were buried by this witness and other fighters in
3 the trenches surrounding the UPC camp. This is contained in 0171-0828.

4 Your Honours, that civilians were massacred at the Bogoro
5 Institute is not only stated by the Prosecution's victims witnesses and
6 confirmed by the former FNI and FRPI soldiers interviewed by this office,
7 but is also reported by MONUC. As explained, MONUC human rights officers
8 interviewed approximately a hundred survivors. The MONUC report confirms
9 that victims who were hiding in the Bogoro Institute were killed with
10 machetes, and I refer to document 0152-0286.

11 Another source that confirms is a MONUC report consisting of the
12 accounts of child soldiers. A former UPC child soldier who fought at
13 Bogoro stated that civilians took refuge in the school, but when the UPC
14 fled those civilians who remained behind were all killed with armes
15 blanches. This is contained in the report with number 0152-0274.

16 Your Honours, even after the UPC was defeated the FNI and FRPI
17 attackers continued to target civilian population in the following days.
18 With your leave, I will now move to the second part of this presentation,
19 murders or wilful killings of civilians after the immediate attack and in
20 the following days.

21 The evidence establishes that the attackers actively searched for
22 any remaining UPC soldier and civilian and that those they found were
23 usually killed. By different means the attackers tried to lure out the
24 villagers who fled into the forest and the brushwood. One of the means
25 to lure the civilians out of their hiding places was to set the forest on

1 fire. Such as explained by Witness 287, and I refer to 1013-0205.

2 Witness 287, a civilian who was hiding in the forest after she
3 managed to escape from her captors explained that one of the ways to
4 force the civilians to come out of their hiding places was to set the
5 forest on fire. The combatants then started to shout that they should
6 come out, and if they would find them in the forest it meant you were an
7 enemy. Witness 287 heard two persons coming out. The first one was told
8 to go to the camp, but when the second person came out, the combatants
9 said, according to the witness, that he was -- that he was old and should
10 be killed. She then heard shots.

11 The area surrounding the place where Witness 233 was hiding in
12 the forest was also set on fire by the attackers. He managed to hide
13 himself in the mud where the flames could not affect him. This is
14 contained in document 1007-0061.

15 Your Honours, another method of luring out the civilians who were
16 hiding in the forest was to make them believe the attackers were defeated
17 and to shout that the civilians could come out because it was safe.
18 Witness 268 was forced by his captors to do this. As we've heard before,
19 he was detained in the Bogoro Institute overnight and was taken out of
20 the classroom the next morning. He was then brought to the place where
21 he had previously hidden. His captors asked him to call-out to the
22 others who were still hiding there. No one came out.

23 Some of his captors who had marched to the other side of the
24 riverbed began then firing at him. He fell down into the reeds where a
25 woman lay who was already dead, and he laid in her blood and pretended to

1 be dead as well. The attackers left him there. This is contained in
2 document 1007-0095.

3 Another civilian, your Honours, Witness 132, who was hiding in
4 the forest for three days before she was captured heard on the second day
5 after the attack the fighters shouting Swahili that they should come out
6 because we are yours. Witness 132 was wise enough to remain at her
7 hiding place. She could hear the combatants wandering around in the
8 forest and shooting their guns from time to time. This is contained,
9 your Honours, in document 1016-0156.

10 These accounts of the victim witnesses are supported -- are
11 supported by Witness 250, a former FNI soldier who participated in the
12 Bogoro attack. He stayed in Bogoro for five days after the attack and
13 confirmed that after Bogoro was under their control they continued
14 searching for UPC soldiers and civilians who could be hiding. The ones
15 that were found were killed. They did not make any distinction between
16 civilians, UPC militaries, men, women, or children. This is contained in
17 0177-0299 and 1013-0002.

18 According to Witness 250, he saw after the immediate attack a
19 civilian who was stopped from fleeing the village being brought in front
20 of the commanders. Germain Katanga and Mathieu Ngudjolo were there.

21 According to the witness, the other commanders were engaged in a
22 conversation, so Dark gave the order for the civilian to be taken away,
23 which was understood to mean he'd be executed. This is contained in
24 1013-0002.

25 He had also seen how UPC soldiers fled into the forest, were

1 captured and taken to the centre where Germain Katanga and Mathieu
2 Ngudjolo were. According to the witness, they were questioned and judged
3 by Cobra Matata in front of Germain Katanga and Mathieu Ngudjolo. Matata
4 gave the order to kill them and they were taken to the Bogoro Institute.
5 According to Witness 250, after the takeover of Bogoro no civilians
6 remained in the village. All civilians who had taken refuge in the
7 Bogoro Institute were killed. The other civilians who managed to escape
8 went to Bunia and to other places.

9 Your Honours, that civilians were targeted at Bogoro after the
10 UPC was defeated is again supported by MONUC, and I refer to the reports
11 with ERN 0152-0286 and 0129-0267.

12 As explained, human rights investigators visited Bogoro barely
13 one month after the attack. They reported that when they visited Bogoro,
14 the Lendu armed groups were the only inhabitants. Based on interviews
15 conducted in Bunia with approximately hundred survivors of the attack,
16 MONUC reported that the attackers continued killing and looting after the
17 UPC abandoned the village.

18 Your Honours, let me now move to the last part of this
19 presentation, the estimate number of civilians who were killed during the
20 attack on Bogoro.

21 The flight of residents of Bogoro and the slow rate of their
22 return, among other factors, prevents any precise count of the number of
23 civilians killed during the attack. The Prosecution submits, however,
24 based on the accounts of the witnesses interviewed by this office and
25 other sources that at least 200 civilians were killed during the attack.

1 The six victim witnesses whose statements have been summarised in this
2 presentation lost together already 35 family members. Moreover, they all
3 stated they have witnessed other civilians being killed by the attackers
4 or saw corpses scattered around the village and in the forest.

5 The former FNI/FRPI soldiers whose accounts have been included in
6 this presentation also state they have seen the corpses of civilians in
7 the village and many dead civilians at the Bogoro Institute. Witness 258
8 talked about approximately hundred corpses, and Witness 250 was shocked
9 by the sight of so many bodies at the Bogoro Institute.

10 Let me take you to Witness 166, and I refer to 1007-002. This
11 witness generated a list which compiles reports identifying victims of
12 killings perpetrated during the three attacks on Bogoro. The list is a
13 compilation of the reports made to the witness, Witness 23T -- excuse me,
14 Witness 233, and the committee of displaced persons which was based in
15 Bunia. This list is on the Prosecution's list of evidence document
16 1007-0029. On the list there are the names of 152 victims of the last
17 Bogoro attack. Over half of these victims were girls, women, and over 40
18 were children of 12 years old or younger. The two victims named in count
19 1 and 2 are also on the list.

20 Your Honours, to emphasise, according to the witness this list
21 mainly includes the reports made by refugees in Bunia and is limited to
22 those victims who lived in Bogoro village at the time of the attack.
23 Therefore the list is by no means a complete list because according to
24 the witness on the day of the attack there were people from other
25 villages in Bogoro and after the attack people fled into different

1 directions and hence not only towards Bunia.

2 One of the media reports, for example, after the attack described
3 that more than 400 civilians were killed and 500 fled.

4 Your Honours, I would like to conclude this presentation with the
5 number of people killed according to the MONUC team that investigated the
6 attack on Bogoro. MONUC reported that around 260 persons were killed and
7 another 70 were missing. MONUC also estimated that among the victims,
8 173 were under the age of 18. This is contained in a report with
9 document number 0129-0267.

10 As a last remark, your Honours, the knowledge and the intent of
11 the two suspects with regard to these particular crimes is covered by the
12 presentation on the attack on civilian population and will again be
13 addressed in the presentation on the modes of liability.

14 Thank you, Madam President, your Honours. This concludes the
15 presentation on count 1, 2, and 4.

16 PRESIDING JUDGE KUENYEHIA: Thank you.

17 MS. HENDRIKS: If you allow me, your Honours, I will now present
18 a selection of the Prosecution's core evidence on count 3, inhuman acts
19 constituting a crime against humanity.

20 The Prosecution has shown in its prior presentations that during
21 the attack on Bogoro civilians were killed. The attack was clearly
22 carried out with the intention to wipe out the village. Among those
23 civilians who managed to survive, some were seriously injured
24 necessitating medical assistance, hospitalisation, and rehabilitation.

25 Your Honours, let me summarise the witness statements of Witness

1 132 and 287 who were both shot during the attack and who, up until now,
2 still suffer from their injuries.

3 I will start with Witness 132, and I refer to 1016-0156. I
4 mentioned her in my previous presentation. She explains in her statement
5 how she managed to flee from the house and ran towards the forest. As
6 she was running, many other civilians, including women and children, were
7 also fleeing with her. According to the witness, they were all unarmed.

8 Witness 132 described in her statement how she saw the Lendu and
9 Ngiti combatants running after the people while shooting at them. The
10 combatants were also chasing her. They shot her from behind while she
11 was running. The bullet hit her on her right shoulder, and she saw the
12 blood running down her arm.

13 Your Honours, Witness 132 detailed in her statement how she
14 managed to hide in the forest for three days before she was abducted and
15 kept as a sex slave by the attackers. She explained how during these
16 three days she lost so much blood that she often lost consciousness and
17 slept deeply during these three days due to the injury and because of
18 fear.

19 Your Honours, the injury sustained by Witness 132 and inflicted
20 upon her by the attackers is still visible today. May I kindly ask the
21 Court Officer to display document DRC-OTP-1016-0216. Excuse me, your
22 Honours, I would like to add that this is a confidential document, but it
23 doesn't show the identity of the victim.

24 COURT OFFICER: Can you please just repeat the number.

25 MS. HENDRIKS: The number is DRC-OTP-1016-0216.

1 COURT OFFICER: So everything is on PC1. Eventually, you have to
2 change the select the 1-2 button.

3 MS. HENDRIKS: Your Honours, if you allow me, I will continue.
4 This is a photo the right shoulder of Witness 132 taken during her
5 interview with OTP investigators at the beginning of January 2008. On
6 this photo, we can clearly see how seriously she was injured during the
7 attack on Bogoro. Five years after the attack she still has a massive
8 scar from the bullet wounds.

9 As a result of that wound, Witness 132 is seriously injured --
10 hindered in her daily tasks. She still has pain in her right arm and it
11 hurts when she needs to carry goods. She can't, for example, no longer
12 independently carry her water pot. It's too painful to lift the pot on
13 her head.

14 The case of Witness 132, your Honours, is not a stand-alone case.
15 Witness 287 also suffered very similar injuries, and I refer to
16 1013-0205. As previously presented, Witness 287 fled to the UPC camp and
17 hid with her two daughters under a bed in one of the houses in the camp.
18 After the attackers found her, they first threw a spear at her which
19 missed her but injured one of her daughters. Witness 287 explained in
20 her statement how the attackers then shot at her three times. Bullets
21 hit her leg, and she only noticed later she was seriously injured by the
22 gunshots.

23 Witness 287 detailed that when she later saw the opportunity to
24 flee from her captors, she had to crawl to the brushwood due to the
25 injury. She explained in her statement that she was reunited with some

1 of her family members in Bunia a few days after the attack. Her knee was
2 X-rayed, and doctors found bullets lodged in her right knee which had to
3 be removed. She was hospitalised for two months.

4 Your Honours, like Witness 132, Witness 287 still suffers today
5 more than five years after the attack from the injury that was inflicted
6 upon her. May I kindly ask the Court Officer to display document
7 DRC-OTP-1013-0255.

8 PRESIDING JUDGE KUENYEHIA: Is this also a confidential document?

9 MS. HENDRIKS: Excuse me, your Honours. I should have said that.
10 Yes. This is again a confidential document, but it does not include any
11 identifying information. Thank you.

12 Your Honours, this is -- excuse me. Your Honours, that is photo
13 of the right knee of Witness 287 taken during her interview with OTP
14 investigators in July 2007. In this photo it is visible how seriously
15 she was injured during the attack on Bogoro. She still has a massive
16 scarf more than five centimetres where the bullet had lodged in her knee.
17 As a result of the gunshot wounds, the witness often has pain in her
18 knee, especially when she carries heavy goods, when it is cold weather,
19 or when she travels. It seriously affect witness's life, and in her
20 statement Witness 278 described herself as being handicapped.

21 Your Honours, the fact that civilians were seriously injured
22 during the attack was confirmed by other witnesses. Witness 233, and I
23 refer to 1007-0061, knew some of the people who were injured during the
24 attack by gunshot wounds. He explained in his statement that one of them
25 is Witness 287 with whom he spoke after the attack. He also provided the

1 name of a woman who was injured by child soldier with an axe.

2 Your Honours, Witness 268, and I refer to 1007-0095, detailed in
3 his statement that he spoke with survivors of the Bogoro attack in Bunia
4 in 2003. One of them was a child of eight years old at that time. He
5 told the witness that the attackers were shooting at him while he was
6 fleeing from the UPC camp. He was injured by bullets in his buttocks.
7 The child showed Witness 268 the wounds.

8 As a final remark, your Honours, knowledge and intent of the two
9 suspects with regard to this particular crime is also covered by the
10 presentation of the attack against civilian population and will again be
11 addressed in the presentation in modes of liability.

12 Thank you, Madam President, your Honours, this concludes my
13 presentation on count 3, and I will now give the floor to my colleague
14 Dianne Luping.

15 MS. LUPING: Thank you. Madam President, your Honours, I'll now
16 present in a summarised form a selection of the Prosecution's core
17 evidence for counts 6 and 7 dealing with sexual slavery and counts 8 and
18 9 dealing with rape. In my presentation I'll be covering two main areas
19 of that evidence: How women taken from Bogoro during the attack were
20 sexually enslaved and raped, and showing the intent and knowledge of
21 Germain Katanga and Mathieu Ngudjolo to commit or order such crimes.

22 First, I'll describe the experiences of witnesses 249 and 132, as
23 well as other women who were sexually enslaved and raped by both FNI and
24 FRPI forces during the Bogoro attack. Turning first to the account of
25 Witness 249, I refer to her statement at 1015-0833.

1 Witness 249 was abducted by Ngiti attackers during the Bogoro
2 attack after she came out of her hiding place when Ngiti attackers were
3 threatening to kill those they found. As soon as she was abducted from
4 her hiding place, she was raped by one of those attackers. She was
5 forcibly married to that person who raped her after his commander, Yuda,
6 threatened her that she had to choose between being killed or married.

7 Witness 249 says she had no choice but to stay with them, and she
8 was installed at a house in the Ngiti military camp at Bogoro where
9 Commander Yuda was also living, and she lived there as her rapist's
10 femme. She was guarded like a prisoner, and Witness 249 said, and I
11 quote: "(Interpretation) We the women could not go anywhere alone. The
12 Ngitis watched us and made sure that we did not leave. We were like
13 prisoners."

14 (In English) She was made to work by the Ngiti combatants,
15 including Commander Yuda. Yuda and others gave her orders. She was
16 beaten by the guards if she disobeyed. She was regularly submitted to
17 sexual violence by the person keeping her as his wife, as well as other
18 soldiers from the camp. She said she felt she had no choice. She could
19 not escape, and she knew if she resisted they would kill her.

20 She was impregnated during her time in captivity and was already
21 one-month pregnant by the time she escaped in May 2003. She does not
22 know the father's identity of her child because of the circumstances of
23 her sexual abuse in captivity. She was in captivity from February until
24 that escape in May 2003. She was unable to marry subsequently and must
25 care for her children on her own.

1 Witness 249's account are supported by other witnesses. Witness
2 233 met a woman who was and abducted and forcibly married as a sex slave
3 by an Ngiti combatant who stayed at Bogoro for some time, who had a child
4 to the commander and then escaped. I refer to 1007-0061.

5 Witness 271 describes her similar treatment was a sex slave of a
6 Ngiti commander. After she was abducted during an Ngiti militia attack
7 before the Bogoro attack, she was taken to Kagaba camp and then to Aveba
8 camp where she was installed in a guarded house in the camp as the femme
9 of a commander and impregnated whilst in captivity. At Kagaba when a
10 complaint was made about rape to the rapist's commander, she told she was
11 their butin. The commander and her abductors told her she belonged to
12 them as their butin, as their prisoner.

13 Witness 271 says she was not taken to be the real femme of her
14 commander as Ngiti militia did not take women of other ethnic groups to
15 be their femme but to humiliate them. I refer to 1019-0223.

16 I now turn to the experiences of Witness 132, and I refer to her
17 statement at 1016-0156.

18 On the third day after the Bogoro attack when Witness 132 was
19 found by six armed Ngiti combatants, she was raped by three of her six
20 abductors. They then took her to Songokoi, the Ngiti military camp in
21 the Walendu-Bindi collectivite. She was put in a prison, a hole in the
22 ground of a guarded house, where she remained for the duration of her
23 captivity from February 2003 until she escaped in July 2003.

24 Shortly after she was put in the prison, she was threatened that
25 she would be killed and heard combatants saying that she, as well as

1 other prisoners were going to be killed. She was judged by the camp
2 commander who told her she was their prisoner of war and their butin.
3 Inside the prison Witness 132 described how she was raped on numerous
4 occasions by combatants put in prison with her for bad behaviour, by some
5 of the guards, by the section commander.

6 When a complaint was made to the camp commander about her rape by
7 the section commander, not only did he not punish that section commander,
8 but he raped Witness 132 himself. She was also raped by other combatants
9 when she was taken out of the prison to work.

10 Witness 132 was impregnated as result of the rapes whilst in
11 captivity but was raped so many times she doesn't know who the father of
12 the child is. She was already pregnant when she escaped in July 2003.

13 Witness 132 was made to work by combatants who would fetch her
14 and then after she finished working would return her to her prison. She
15 was subjected to beatings and other ill-treatment. She said that as a
16 prisoner of war, anybody who wanted to hit her did so, and they often hit
17 her for the slightest error, punching her or hitting her with blocks of
18 wood. She said she could not escape and she was afraid they would kill
19 her. Whilst in captivity, her infected wound remained untreated. She
20 contracted syphilis from her time in captivity. Her birth was difficult,
21 and she required two operations. Witness 132 believes that her
22 reputation and value as a person were affected because of her rape.

23 Evidence from Witness 28 supports her account. He heard of women
24 abducted from Bogoro as sex slaves being kept in guarded cachots who were
25 used for household tasks and were women for more than one man which he

1 said was normal practice. I refer to his second witness statement.

2 He also said the that feticheur forbade them to pillage or rape
3 during the fighting at Bogoro attack but once the fighting was over
4 combatants could do what they wanted. He heard girls and women were
5 raped after the fighting at Bogoro. He did not see or hear about any
6 combatants being punished for that rape.

7 Thirdly, sources show that other females were abducted during
8 Bogoro attack and were raped and treated as sex slaves by FNI and FRPI
9 sources under Germain Katanga and Mathieu Ngudjolo.

10 First among the former FNI and FRPI witnesses, in addition to
11 Witness 28, Witness 258 says he saw three Hema women being taken by force
12 during the Bogoro attack who were made into wives. Two, by FRPI
13 Commander Yuda's forces who were taken to Yuda's camp, and one by FRPI
14 Commander Lobho Tshamangare taken to Golgota camp. Refer 0173-0755.

15 Victim witnesses also describe how they knew and heard of women
16 sexually enslaved who were taken during the Bogoro attack. Witness 132
17 learned of Lendu and Ngiti attackers abducting many women, and she
18 understood they were brought back to their camps. Witness 287 said
19 attackers who detained her during the attack indicated they were from
20 Zumbe, and she heard attackers taking women to their homes to do whatever
21 the combatants want -- wanted to do were guarded as prisoners and were
22 possibly raped.

23 Witness 161 learnt of women and girls taken during the attack to
24 Zumbe and to Gety as porters and then guarded by militia to be their
25 wives. Refer 0164-0488.

1 Witness 268 who was detained in the camp said he was detained
2 also with a female, Hema civilian, whom he learnt was forced to marry an
3 Ngitì combatant and who escaped with her daughter.

4 Witness 233 met a woman after the Bogoro attack who was forced to
5 marry a Lendu combatant and learnt of a woman kept by Lendu combatants.
6 He also met three Hema girls who told him how they were made wives of
7 Ngitì combatants. He said they were later killed when Ngitì learnt they
8 were actually Hema.

9 He was also told of a woman taken to Gety who had two children to
10 an Ngitì commander. A woman abducted to be a Ngitì sex slave during the
11 attack also told him how women were raped and killed during the attack.
12 Witness 233 provides a list of names of women abducted as sex slaves and
13 those raped and killed. Refer to 1007-0092, and 1007-0093.

14 A PUSIC political declaration also refers to how during attacks
15 at Bogoro, as well as Mandro and Bunia, the civilian population, in
16 particular Hema women, were taken and detained at Gety. I refer to
17 0041-0104.

18 I now turn to the evidence showing how Germain Katanga and
19 Mathieu Ngudjolo were both the main authority to punish those
20 responsible for sexual crimes within their forces, how they both had
21 actual knowledge of these types of crimes being perpetrated by their
22 forces, and how these crimes being perpetrated by their forces were
23 widespread.

24 Witness 250 said that in the period before the attack he knew two
25 examples of where Mathieu Ngudjolo dealt with two FNI commanders who took

1 women as sex slaves which show how Mathieu Ngudjolo was the authority to
2 punish his forces and how he punished only those who sexually enslaved
3 women of his own ethnic group.

4 In the first instance he punished a combatant where the girl was
5 Lendu, but in the second instance when a woman from Zumbe who was a Bira,
6 was abducted and treated as a sex slave, the commander, Commander Kute,
7 who was initially arrested, was quickly release and the Bira woman
8 remained with him as his sex slave. I refer to Witness 250's second
9 statement.

10 Witness 280 also explained that Mathieu Ngudjolo punished those
11 who took women from a Lendu village, but soldiers who took women from
12 villages of other ethnicities were not punished. I refer to 1007-1089.

13 Other witnesses also confirm Mathieu Ngudjolo's actual knowledge
14 of sexual crimes being committed. After the fighting at the UPC camp in
15 Bogoro had ended, Witness 287 describes how she was being led publicly
16 through Bogoro centre half naked, followed by a number of FNI combatants
17 at gunpoint when she saw a senior commander the attackers called their
18 chief whom she thought fitted the description she'd heard previously for
19 Mathieu Ngudjolo. He was surrounded by guards, including child soldiers.
20 Former FNI child soldiers support her account, including Witness 280, who
21 was one of those child soldiers with Mathieu Ngudjolo as he walked
22 through Bogoro centre.

23 Even after the Bogoro attack Witness 12 said that Lendus of Zumbe
24 and Gety attacked forces at Kasenyi in June 2003 and abducted women to be
25 sex slaves. One of these women who were taken to Zumbe, Ngudjolo's own

1 camp, who managed to escape, told the witness that she was amongst a
2 number of other women abducted and taken to Beni or Zombe and that the
3 attack was organised by Mathieu Ngudjolo or at least with his consent.
4 Refer to 0105-0085.

5 Witness 243, an Ngiti female, was raped in about August or
6 September 2002 by an Ngiti combatant based at Aveba camp, Germain
7 Katanga's own camp. I refer to 1016-0089. Her evidence shows that
8 Germain Katanga was the authority to punish his forces for sexual crimes.
9 When a complaint was made about her rape, it was made to Germain Katanga
10 as the Chef of the Ngiti militia. Whilst he ordered that her rapist be
11 punished, Witness 243 is of the same ethnicity as Germain Katanga, and
12 she confirmed that her relative who made that complaint about her rape
13 was known to him. Witness 243 said there were many cases where girls
14 were abducted by Ngiti militia, forced to become their femme, and this
15 was not considered bad and not usually punished.

16 Other witnesses confirm Germain Katanga's knowledge of such
17 crimes. Witness 267 said that women in the FRPI were abducted by the
18 militia to be their femme and that Germain Katanga knew there were women
19 taken by force by FRPI militia. Witness 267 knew two girls abducted from
20 Nyakunde by Ngiti combatants who never returned. Refer to 1016-0106.

21 Witness 250 described how prior to the battle at Bogoro
22 Garimbaya, the commander of Germain Katanga's own residence, abducted a
23 girl and kept her to be his wife. I refer to his first statement.

24 Germain Katanga minimum himself saw two sex slaves at FRPI camps
25 under his command. Witness 132 the sex slave at Songokoi military camp,

1 said a commander combatants called (Interpretation)President Germain
2 (In English) and who a camp resident told her was their Chef came to the
3 camp and saw all of the prisoners, including her, in the prison in the
4 hole in the ground when she was wearing the same dirty bloodstained
5 civilian clothes she wore when first abducted. She confirmed he saw them
6 all and she saw his face well. After his visit, she remained imprisoned
7 and continued to be raped.

8 PRESIDING JUDGE KUENYEHIA: Can you slow down a bit. I think
9 you're going very fast.

10 MS. LUPING: Yes, Madam President.

11 Witness 132 said that she understood that commander Germain was
12 also called Katanga and he was the president of all the Ngiti combatants,
13 that he was staying at Bolo near Ngiti, and that he was the person who
14 directed the attack at Bogoro together with Lendu combatants under
15 Ngudjolo's command.

16 Witness 271, the sex slave abducted by Ngiti militia and who
17 stayed at Aveba camp said she met Germain Katanga while she was living at
18 Aveba camp and he was staying there. Sources also show the widespread
19 nature of sexual crimes perpetrated by both FNI and FRPI forces in
20 addition to sources already cited. Witness 161 confirms that even in the
21 2002 attack on Bogoro, young girls were abducted and made to marry
22 combatants. Former FNI and FRPI soldiers also confirm the widespread
23 nature of these crimes.

24 Witness 28 said that during the first attack on Nyakunde many
25 young girls were kidnapped, raped, and killed. He said it was no secret.

1 He himself saw young girls at Singo.

2 Deceased Witness 258 said that women were often abducted as sex
3 slaves and, for instance, they were taken from Nyakunde to Gety.

4 Witness 250 said that before the Bogoro attack a women was
5 abducted as a sex slave by Lendu forces under Kute. I refer to his
6 second statement. He also learnt of women taken by FRPI Commander Lobho
7 and that about 32 women were forced to be his wives. I refer to his
8 third statement.

9 Witness 160 said that during attacks FNI and FRPI forces would
10 always commit crimes, including rape and sexual slavery. She knew of a
11 woman who was abducted by Lendu combatants. And a woman who was part of
12 the same group who escaped said that they were kept as sex slaves. I
13 refer to 0153-0006.

14 Other sources support the fact that sexual slavery and rape were
15 being perpetrated by both FNI and FRPI forces. They refer to such crimes
16 being perpetrated by all the armed groups in Ituri. I refer to the Human
17 Rights Watch report 0074-0797. The report of the Commission de
18 Pacification de l'Ituri at 0107-0223, and the MONUC report on children at
19 0152-0256.

20 In the Human Rights Watch report, it also refers to women who
21 were taken and raped at Nyakunde. The PUSIC political declaration
22 referred to women who were taken and detained at Gety not only during the
23 Bogoro but also the attacks at Mandro and Bunia.

24 Your Honours, I will now present the Prosecution's core evidence
25 on count 10 dealing with outrage upon personal dignity. You've already

1 heard a detailed account of Witness 287. After she and her children were
2 shot and she was threatened she would be killed, Witness 287 was stripped
3 half naked. Attackers removed her skirt and undergarments. They cut her
4 underpants off with a knife. She was made to walk in public half naked
5 followed by armed attackers to lead them to the location of a UPC weapons
6 depot.

7 She was again threatened that she would be killed when they came
8 to the shop she presented was the depot. She escaped when the attackers
9 guarding her found people in a neighbouring house and were looting. She
10 walked to another village half naked until a woman was able to give her
11 some clothing.

12 According to Witness 287, her case was not unique. She heard of
13 attackers taking off women's clothing, making them bring stolen goods to
14 their homes, making them remain nude and working for them and possibly
15 rape them.

16 Other sources support Witness 287's account. First there was an
17 account recorded by MONUC investigators a month after the Bogoro attack.
18 A survivor of the Bogoro attack said that she ran towards the military
19 camp and was found hiding under a bed with her child. They fired at her
20 wounding her in the leg. Her child was taken from her. She was
21 undressed and forced to walk around naked, and she was asked for
22 whereabouts of weapons. She escaped when her abductors started looting
23 shops and discovered a man hidden in a house. I refer to 0152-0286.

24 Witness 160 who spoke of a woman and abducted by Lendu combatants
25 said that the woman abducted in the same group confirmed that they were

1 ordered to remain nude, wearing only a grass skirt as they were to be
2 made -- they were to be available at any time for the combatants.

3 Finally, your Honours, as already described, Witness 287 says
4 that a commander fitting Mathieu Ngudjolo's description saw her when she
5 was publicly led at gunpoint half naked through Bogoro centre by Lendu
6 attackers.

7 Thank you, Madam President, your Honours. That concludes my
8 presentation for the Prosecution, and I will now give the floor to my
9 colleague, Ms. Varga.

10 MS. VARGA (interpretation): Madam President, your Honours, I
11 will now present selections of the Prosecution's core evidence in
12 relation to count 5, the use of children to participate actively in
13 hostilities.

14 Your Honours, my presentation will address three main points. I
15 will first present the core evidence that shows that FNI and FRPI
16 militias used children under the age of 15 to participate actively in
17 hostilities. Secondly, I will detail the core evidence that shows that
18 child soldiers under the age of 15 were use by the FNI and FRPI during
19 the attack on Bogoro. Finally, I will present the core evidence that
20 shows that the widespread practice of using child soldiers within the FNI
21 and FRPI was well known to the suspects.

22 Your Honours, let me start with the first issue. The Prosecution
23 submits that several documents and witness statements on the
24 Prosecution's list of evidence established at the time relevant to the
25 charges, an important number of children under the age of 15 were being

1 used as soldiers by the FNI and FRPI militias. I will now lead you
2 through a selection of the core evidence starting with two UN reports. I
3 will then address the witness statements.

4 Your Honours, let me bring you to the first document, a report
5 titled "Ituri Investigations," number 0152-0286. The report summarises
6 the findings of a MONUC human rights -- of MONUC human rights
7 investigators who travelled to Bogoro one month after the attack. The
8 report states that all the militias involved in the Ituri conflict,
9 including the Lendus, still comprised a high number of minors and used
10 them in attacks or defensive battles. The findings of this report were
11 confirmed in the second report titled special report on the events in
12 Ituri, January 2002 to December 2003. And I refer to 0125-0267.

13 The report states that in the FNI and FRPI militias, recruitment
14 tended to be community based and depended on operational needs, that
15 after recruitment children were usually offered a summary training in
16 their own camps. Zumbe camp, however, was known as a regular training
17 site for newly recruited children, and that upon completion of their
18 training children were used in hostilities. The report also notes that
19 it was typical to the Lendu and Ngiti groups that children who did not
20 take part in combat participated in the subsequent pillaging.

21 Your Honours, the reports mentioned are supported by additional
22 documents on the Prosecution's list of evidence, including the statements
23 of several witnesses. Allow me to start with Witness 267.

24 Witness 267, who had knowledge about the demobilisation of former
25 child soldiers, and I refer to 1016-0106, in his statement explained that

1 in the second half of 2002 Ngiti war chiefs imposed a recruitment of
2 child soldiers within the Ngiti community, and that by the end of that
3 year the FRPI had already developed a widespread practice of using child
4 soldiers with the purpose of surveying enemy positions.

5 According to Witness 267, in June 2004, out of the approximately
6 200 soldiers present in Germain Katanga's camp in Aveba, many were child
7 soldiers below the age of 15, some part of Germain Katanga's personal
8 escort.

9 Witness 271 related similar facts, and I refer to 1019-0223. The
10 witness stated that kadogos were present in all FRPI camps and that on
11 average they were between 12 and 15 years of age. Witness 271 also
12 stated that children fought in battles and explained in this respect that
13 the child soldiers killed very easily.

14 Witness 271 also explained in her statement that Commander Yuda
15 at Kagaba camp used child soldiers as his escorts.

16 Your Honours, these accounts do not stand alone. The fact that
17 the FNI and FRPI used child soldiers -- used child soldiers is confirmed
18 by several witness -- by several other witnesses, including former FNI
19 and FRPI soldiers. By way of example I refer you to the statement of
20 Witness 250, who provides an insight into the use of child soldiers
21 within the FNI militia, and here I will be referring to two transcripts,
22 0177-0327 and 0177-0398, as well as the witness's third statement,
23 1013-0002.

24 Witness 250 explained in his statements that the youngest
25 combatants he had seen in FNI camps were about 13, 14 years of age. He

1 explains that the kadogos, who were soldiers below the age of 16, often
2 served as escorts to commander. He saw Commanders Kpadole, Kute, and
3 Boba Boba escorted by children. The child soldiers were sent to fight at
4 the front. The witness notes that there usually was a division of labour
5 among them. Those with the military training took part in combat while
6 those less well-trained mainly took part in the subsequent pillaging.

7 Witness 250 explained that the FRPI had more child soldiers than
8 the FNI for the reason that the FRPI was spread over an entire
9 collectivite made up of six groupement and conscripted children from this
10 entire collectivite. The FNI area, however, only extended to one
11 groupement.

12 Your Honours, I would now like to address the second part of my
13 presentation on the fact that child soldiers under the age of 15 were
14 used by the FNI and FRPI during the Bogoro attack.

15 Your Honours, the Prosecution submits that several documents and
16 witness statements on the Prosecution's list of evidence establish this
17 fact. I will first present the individual accounts of four child soldier
18 witnesses who themselves were forced to participate during the attack,
19 and these witnesses are Witness 28, Witness 157, Witness 279, and Witness
20 280. Then I will lead you through a selection of evidence from other
21 witnesses who were present during the attack and who saw the child
22 soldiers.

23 Your Honours, allow me to first start with Witness 28. Witness
24 28 was an Ngiti boy who was kidnapped just outside his school in Aveba by
25 FRPI soldiers when he was about 11 years old. While in the FRPI, he was

1 third in rank among Germain Katanga's escorts and lived in a hut near
2 Germain Katanga's house.

3 Throughout this presentation, I will be summarising from his two
4 statements, and I refer to 0155-0106, the first statement, and 0171-1828,
5 the second statement.

6 Your Honours, the witness was 13 years of age at the time of the
7 Bogoro attack. The date of birth declared by Witness 28 in both his
8 statements is supported by two school report cards, and I refer to
9 0171-1827, and 0171-1826.

10 As stated by the witness, the date appearing on the school report
11 cards is consistent with the dates appearing on all his previous school
12 records since the time he enrolled to primary school.

13 Your Honours, Witness 28 explained in great detail his
14 experiences in the FRPI militia. After he and three -- he and three of
15 his friends were kidnapped just outside their school in Aveba, they were
16 taken -- they were beaten and taken to a camp at Bulandjabo. As
17 mentioned Witness 28 was 11 years old at the time.

18 In the camp he found many other children, some who were younger,
19 some older than himself. He underwent a week of training, including in
20 the methods of handling a submachine-gun.

21 After his training he was sent to fight. He did not receive a
22 firearm, but he seized one in his first battle. Witness 28 explained
23 that because he was badly treated at camp Bulandjabo he decided to go to
24 Aveba camp. He went directly to Germain Katanga and stayed with him as a
25 soldier.

1 He found that in Aveba too there were many child soldiers. The
2 children in the camp were trained on Germain Katanga's orders, who
3 appointed the commander with a military background to train the new
4 recruits.

5 Your Honours, as you can see from his statements, the witness was
6 quickly integrated into Germain Katanga's military entourage. After
7 participating in a battle against the UPC, he was appointed the deputy of
8 Germain Katanga's chief of escort. At the time, Witness 28 was about 13
9 years of age. Witness 28 escorted Germain Katanga when he walked about
10 in Aveba or visited other Ngiti camps. The escort group included other
11 children. In fact, the witness explains that Germain Katanga preferred
12 to be escorted by children under 15 years of age because they escorted
13 his orders without opposition.

14 Like other children of his age, Witness 28 had to participate in
15 combat whenever there was war. In times of peace his duties included
16 guarding the camp or collecting money and food from the villagers at the
17 market. On one occasion he helped unload weapons and ammunition from an
18 aeroplane and transported them to Germain Katanga's house.

19 Under Germain Katanga's direct orders and his supervision, he
20 also helped with the construction of the military camp in Aveba.

21 Witness 28 participated in three major attacks. The second
22 attack on Nyakunde, the third attack on Bogoro, as well as the attack on
23 Mandro. He also took part in several defensive battles against the UPC.

24 At Nyakunde, Witness 28 and many other child soldiers between 10
25 and 16 years of age went to attack on Germain Katanga's signal. The

1 witness explained that child soldiers participated in attacks on their
2 own initiative, but they were never punished by Germain Katanga for doing
3 so.

4 Your Honours, Witness 28 explained that the Bogoro attack was an
5 exception from the practice of voluntary participation in battles. Here
6 specific orders were given for children to take part in the attack. The
7 Ngiti fighters who assembled for the attack, including Witness 28 and
8 many other child soldiers, received orders from their commanders in
9 Germain Katanga's presence to attack Bogoro. Some child soldiers among
10 the troops were as young as nine or ten years of age. The witness
11 noticed the presence of at least 50 child soldiers among the FRPI troops,
12 including girls.

13 Witness 28 stated that the presence of FNI's child soldiers at
14 the front was also very visible. Some FNI child soldiers looked even
15 younger than the witness himself.

16 Witness 28 stated that during the attack he was with Germain
17 Katanga until they began advancing to the centre of the village and
18 engaging in gunfight. He then lost sight of Germain Katanga until the
19 end of the battle, because he was focused on the fighting.

20 Witness 28 was armed with a submachine-gun and fought until the
21 end when they managed to take over the village. After the Mandro attack
22 the witness returned to Aveba where he resumed his role as Germain
23 Katanga's escort and stayed with him until the latter's departure to
24 Kinshasa in 2004.

25 Your Honours, the accounts given by Witness 28 are very similar

1 to those of Witness 157. Witness 157 is an FNI child soldier from Zumbe
2 camp who fought at the Bogoro attack. Throughout this presentation, I
3 will be summarising from his two statements, and I refer to 0164-0534,
4 his first statement, and 1006-0054, his second statement.

5 Your Honours, the witness was 12 years of age at the time of the
6 Bogoro attack. The date of birth declared by Witness 157 in his
7 statements is supported by a pupil identity card or carte d'eleve, and I
8 refer to document number 1015-0552, as well as a birth certificate, and I
9 refer to 1018-0110.

10 Your Honour, in his statements Witness 157 explained in great
11 detail his experiences. He explained how a few months before the Bogoro
12 attack he joined the FNI militia at Zumbe where he immediately became a
13 soldier. He explained that he lived at Zumbe camp and that his chief was
14 Mathieu Ngudjolo.

15 The witness stated that with the FNI he participated in the three
16 attacks on Bogoro, as well as in the Mandro --

17 PRESIDING JUDGE KUENYEHIA: Excuse me. Mr. MacDonald, some of us
18 have a concern about the possibility of these witnesses being identified
19 with so much information about them.

20 MR. MacDONALD: We were mindful of this, your Honour, during our
21 presentations, and we believe that the information, although it is
22 detailed, does not lead to their identification. Of course these
23 witnesses, in any event, are known to both Mr. Katanga and Ngudjolo, and
24 both of these witnesses are in the witness protection programme also.

25 MS. VARGA (interpretation): Thank you, Madam President.

1 PRESIDING JUDGE KUENYEHIA: We were just worried that this
2 information is also out there in the public domain, but with your
3 assurance it's okay.

4 MR. MacDONALD: I understand, your Honour, your concern, and of
5 course the Prosecution is always mindful that no information should be
6 disclosed in this public session that would lead to the disclosure of the
7 identity of a witnesses -- of a witness. But I think for the public in
8 general, your Honour, these details are not of such a nature that even if
9 they pieced them together that would lead to the identity of the
10 witnesses.

11 PRESIDING JUDGE KUENYEHIA: Okay. Please go ahead.

12 MS. VARGA (interpretation): Thank you, Madam President.

13 In the third attack on Bogoro, Witness 157 fought under the
14 orders of Mathieu Ngudjolo. Witness 157 explains that on the eve of the
15 attack his group from Zumbe was led by Ngudjolo to an assembly point in
16 Medhu. He states that they paraded and received instruction for the
17 attack from their commanders in the presence of the Mathieu Ngudjolo.
18 The witness himself received a weapon from Ngudjolo. The witness
19 remembers that the fighting at Bogoro was very fierce and lasted almost
20 an entire day. During the attack, the witness explicitly noted the
21 presence of other child soldiers below 15 years of age. And I refer to
22 the first statement of the witness, 0164-0534 at page 0544, paragraph 60,
23 and I quote: "(Interpretation) Since this was a rebellion, children were
24 not lacking. A child of eight years could not carry a weapon because it
25 was too heavy, but as of the age of ten years you could carry one. So

1 the children were aged 10 to 11 years and more."

2 (In English) (Previous translation continues) ... witness 157

3 decided to quit the militia at the time marked by the arrival of Artemis
4 to Bunia. He was then sent to an NGO specialised in the reintegration of
5 former child soldiers.

6 Your Honours, let me now turn to the third child soldier, Witness
7 279. Witness 279 is another Ngiti boy who fought at Bogoro under the
8 orders of Mathieu Ngudjolo. While in the militia, he was Commander Boba
9 Boba's bodyguard at Zumbe camp. I will be summarising from his
10 statement, and I refer to 1007-1077.

11 Your Honours, Witness 279 was 12 years of age at the time of the
12 Bogoro attack as indicated on the first page of his statement. Your
13 Honours, here is his story: Witness 279 was kidnapped from his village
14 by FNI soldiers led by Boba Boba and taken to Zumbe camp. The chief of
15 the camp was Mathieu Ngudjolo. The witness noted the presence of many
16 other child soldiers, some even younger than his own age of 12. The
17 witness received a week of military training in the camp. He noted that
18 children and adults were trained together. They were taught how to shoot
19 with a firearm, and they paraded twice a day.

20 During the first month the witness was tasked to guard the camp.
21 Later he was chosen by Boba Boba to be his bodyguard, a role he fulfilled
22 throughout his stay in the militia. There were several other child
23 soldiers in Boba Boba's personal guard, two of the same age as the
24 witness.

25 Your Honours, Witness 279 explained that Mathieu Ngudjolo also

1 had child soldiers among his bodyguards. The witness stated that a
2 couple of days before the Bogoro attack Ngudjolo announced at a parade
3 that they will attack Bogoro. For the attack, Witness 279 was assigned
4 to Boba Boba's group. After the fighting was over, on Ngudjolo's orders,
5 the witness helped bury the bodies of civilians. To this end, he was
6 ordered by Boba Boba and Kute to dig graves.

7 Witness 279 quit the militia shortly after the Bogoro attack,
8 after he had spent a year and several months with the FNI militia.

9 To conclude the group of child soldiers, I now turn to Witness
10 280.

11 Witness 280 is a former child soldiers who fought at Bogoro on
12 Mathieu Ngudjolo's orders. For a short while he also functioned as
13 Germain Katanga's bodyguard. I will be summarising from his statement at
14 1007-1089.

15 Witness 280 was 12 years of age at the time of the Bogoro attack,
16 as indicated on the first page of his statement. Your Honours, here is a
17 summary of his experiences as a child soldier with the FNI. Witness 280
18 was kidnapped by Commander Kute and taken to Lagura camp. The witness
19 explained that due to a shortage of soldiers in his camp Commander Kute
20 engaged in kidnapping children. The witness found many child soldiers in
21 the camp, the majority of his own age.

22 Commander Kute himself trained the children in the use of guns
23 and bombs. During the three months of his training, Witness 280 learned
24 everything about arms and how to use them. Witness 280 explained that
25 due to his courage shown in battle, he was assigned to the police

1 militaire. His task was to arrest soldiers who caused trouble in the
2 camp and take them to Mathieu Ngudjolo. The witness explained that many
3 children were appointed to the police militaire because they did not
4 hesitate to shoot if threatened.

5 Your Honours, Witness 280 explicitly stated that he was ordered
6 by Mathieu Ngudjolo through his commanders to fight at Bogoro. He was
7 assigned to a group of soldiers and was ordered by Ngudjolo to enter the
8 houses in the village and kill everyone they found. Witness 280 obeyed
9 the order and did what he was asked to do. And I will quote from his
10 statement, 1007-1089 at page 1096 and page 1097, paragraphs 48 and 51.

11 "(Interpretation) It was another one. It was an order. I
12 didn't have a choice. We all did the same thing.

13 "I do not know how many civilians I killed, but there were many
14 of them."

15 (In English) Your Honours, Witness 280 also explained that once
16 the attack was over they pillaged and set houses on fire. He also
17 explains how he was injured on his cheek by a stray bullet after the
18 fighting was over. Somewhat later that day Ngudjolo ordered him to
19 accompany him to the centre of Bogoro. He remained with Ngudjolo
20 throughout the time the latter inspected the site of the attack.

21 Your Honours, Witness 280 also took part in the attacks on
22 Mandro, Tchomia, and Kasenyi.

23 Shortly after the Bogoro attack the witness decided to leave the
24 FNI, tired of too much fighting. He went to Aveba and became Germain
25 Katanga's bodyguard. In Aveba he found that the majority of the soldiers

1 were children, even younger and smaller than the children in the FNI
2 camps.

3 After only two months he left Aveba camp because Germain Katanga
4 did not pay him. The witness explains how Commander Kute found him and
5 forced him to go back to Lagura camp where he was beaten and thrown into
6 prison for a week before he was reassigned his old post with the police
7 militaire.

8 After the Tchomia attack Witness 280 escaped from the FNI militia
9 and was sent to transit site for demobilised child soldiers.

10 Your Honours, the experiences of these four child soldiers who
11 participated at the attack on Bogoro were not isolated incidents. Former
12 FNI and FRPI soldiers and victims of the Bogoro attack confirm the fact
13 that a significant number of child soldiers participated at the attack on
14 Bogoro.

15 Your Honours, let's me bring you by way of example to Witness
16 250, former FNI soldier participated in the Bogoro attack. I will refer
17 to his third statement, 1013-0002, and the transcript of his first
18 statement, 0177-0327.

19 Witness 250 declared that during the Bogoro attack FNI child
20 soldiers below the age of 15 were present. Some of them looked very
21 young. He declared seeing children younger than 15 in Bahati's and
22 Kute's groups. On the FRPI side, he estimated that at least 60 child
23 soldiers also took active part in the attack.

24 After the attack, as Witness 250 stated, a number of these FRPI
25 child soldiers remained in Bogoro to guard the newly gained positions.

1 Another example of evidence that supports the Prosecution's
2 submission is Witness 159, a victim of the Bogoro attack, and I refer to
3 0164-0472.

4 In his statement, Witness 159 explained that he saw kadogos among
5 the Ngiti fighters arriving from Gety. The children aged between 10 and
6 15 were armed and wore military clothing.

7 Witness 159 explained that he saw many kadogos around Mathieu
8 Ngudjolo at the UPC camp in the centre of Bogoro. The children were
9 armed and wore military clothing. Ngudjolo was talking to them. The
10 witness saw them pillaging and killing in Ngudjolo's presence.

11 With your permission, your Honours, I will now address the final
12 issue of my presentation, namely that the widespread practice within the
13 FNI of using child soldiers under the age of 15 was well known to the
14 commanders.

15 The evidence presented thus far reveals that the use of child
16 soldiers below the 15 was well known to the victims, soldiers, and
17 Commanders Germain Katanga and Mathieu Ngudjolo alike.

18 Your Honours, the submission of the Prosecutor is supported by
19 the notable presence of very young child soldiers in Germain Katanga's
20 and Mathieu Ngudjolo's respective camps and in other FNI and FRPI camps,
21 by the fact that commanders under the orders of Germain Katanga and
22 Mathieu Ngudjolo organised the abduction and training of child soldiers;
23 that the personal guards of commanders, including that of Germain Katanga
24 and Mathieu Ngudjolo, included children under 15; that Germain Katanga
25 himself preferred to be escorted by children; that in Mathieu Ngudjolo's

1 camps children made up a significant part of the military police; that
2 children were clearly intended for use in combat since they received
3 military training in the same camp as adults and carried out the same
4 tasks; that children under 15 paraded in the presence of Germain Katanga
5 and Mathieu Ngudjolo where orders of attack were given and at times arms
6 were distributed; and that numerous children well below the age of 15
7 took part in attacks prior to and at the Bogoro attack.

8 In addition to the above, your Honours, several witnesses
9 confirmed the widespread nature of the use of child soldiers and the
10 awareness of the suspects thereof. As such, Witness 267 that I referred
11 to earlier declared in his statement that in 2004 Germain Katanga
12 admitted the presence of child soldiers in the FRPI troops and camps.
13 He -- he accepted to facilitate their demobilisation.

14 Witness 267 explained that Germain Katanga took all the decisions
15 concerning the transfer for demobilisation of child soldiers coming from
16 all the six FRPI battalions from the Walendu-Bindi collectivite.

17 Witness 267 stated that in total about 900 to a thousand child
18 soldiers under 18 years of age have been demobilised through the Aveba
19 sites, out of which 50 per cent were younger than 15. These children
20 have spent an average of two years in the militia.

21 Witness 250, and I refer to his transcript, 0177-0327 and
22 0177-0398, stated that in the immediate aftermath of the Bogoro attack at
23 least 20 FRPI child soldiers joined the combatants in the FNI camps,
24 raising the number of child soldiers of 13 to 14 years of age present in
25 the FNI camps to at least a hundred.

1 A UN report titled "Children Associated With Armed Groups in the
2 Ituri Conflict," at 0152-0256 estimated based on data collected in 2003
3 that the total number of child soldiers within the FNI and FRPI forces
4 was 3.200 with a significant number below the age of 15.

5 Your Honours, before concluding my presentation, I will refer to
6 one last document titled "(Interpretation) Agreement to Cease
7 Hostilities," (Previous translation continues) ... 43-0201. On 18th and
8 22nd of March, 2003, less than a month after the Bogoro attack, Mathieu
9 Ngudjolo and Germain Katanga both signed an agreement to end the
10 hostilities in which they admitted to the recruitment of child soldiers
11 into their forces, committed to put an end to their recruitment and use,
12 and recognised that such a practice was contrary to international law.

13 Madam President, your Honours, this concludes my presentation on
14 count 5. Thank you.

15 PRESIDING JUDGE KUENYEHIA: Mr. MacDonald, we have about 12
16 minutes left before we go on a break. Do you want to start something?

17 MR. MacDONALD: I would recommend that we take a break now, and
18 when we come back we have two final presentations, one on pillaging and
19 destruction, and the final one on modes of liability, and then the
20 Prosecution will be done. We do not believe that we will be taking the
21 full two hours that are left after the break. We believe that within
22 approximately one hour we should be covering the final part of our
23 presentation.

24 PRESIDING JUDGE KUENYEHIA: Okay. Thank you. I think we will
25 take a break now and come back at 11.30.

1 Recess taken at 10.54 a.m.

2 On resuming at 11.37 a.m.

3 COURT USHER: All rise. Please be seated.

4 PRESIDING JUDGE KUENYEHIA: Okay. Could the security bring the
5 suspects in, please.

6 Mr. Prosecutor, you can proceed with your presentation.

7 MR. SACHITHANANDAN: Your Honour, I was not present in the
8 morning so I will introduce myself. I am Pubudu Sachithanandan,
9 Associate Trial Lawyer, and I appear for the Prosecution.

10 Your Honours and Madam President, I wonder, like Mr. MacDonald
11 and Mr. Bulmer, if I could -- because I'm presenting a visual
12 presentation, if I could sit down for my presentation. Thank you.

13 If the Court Officer could, please, switch the screens.

14 PRESIDING JUDGE KUENYEHIA: Could you please remember to speak
15 slowly so that the --

16 MR. SACHITHANANDAN: Very well, your Honour.

17 PRESIDING JUDGE KUENYEHIA: -- interpreters could do their job.

18 MR. SACHITHANANDAN: Very well.

19 Your Honour, as indicated by the presentation on your screen, I
20 will be discussing the counts of pillaging and destruction of property.
21 Before I begin, I will sketch briefly the structure of my presentation.

22 I will begin by providing an overview of the totality of
23 destruction and pillaging that took place on the 24th of February in
24 Bogoro. Having done this, secondly I will provide a few examples of the
25 many accounts about pillaging and destruction that we have received from

1 witnesses. Thirdly, I will describe how pillaging and destruction formed
2 an integral part of the planning for the Bogoro attack as well as the
3 implementation of the Bogoro attack. Having done so, in conclusion I
4 will discuss the report of the United Nations mission after having
5 visited Bogoro barely a month after the perpetration of the attack.

6 To begin with my overview, if your Honours could please examine
7 the -- the display. You will find this map familiar. It is the same map
8 used by Mr. MacDonald in his presentation, except that it is rotated 90
9 degrees clockwise. If I can orient you briefly, Bunia is in this
10 direction, Aveba to the left of the screen, the Waka Mountain to the top
11 of the screen, the road to Kasenyi towards the bottom of the screen. The
12 village of Bogoro itself located in this area, and this area, this is the
13 area of Diguna. This is the location of the UPC camp, and the commercial
14 centre of Bogoro is in -- approximately in this area.

15 If you -- if you observe the yellow highlight on the map,
16 essentially, your Honours, it is an approximation made by the Prosecution
17 based on the evidence that it has received as to the destruction and
18 pillaging that took place in Bogoro. What I will be doing for the next
19 few minutes is essentially discussing maps provided by witnesses on the
20 basis of which we created this depiction.

21 The first witness who provided a map is Witness 166. I will move
22 to that map.

23 Your Honours will notice the evidence registration number at the
24 top right-hand corner of the map. You will also notice that the
25 alignment of the map is exactly the same as the previously shown

1 satellite image.

2 Very briefly, Bunia to this direction, Aveba/Gety to this
3 direction, and Kasenyi towards the bottom of the map. The UPC camp that
4 you have heard of is located in the centre of Bogoro here, and I will
5 mark it.

6 Your Honours, the reasons I begin with this map is because this
7 witness provides very comprehensive and very clear information about the
8 destruction and pillaging that took place. I will begin my discussion
9 with the Diguna area, which I will indicate slightly to left of the UPC
10 camp.

11 Witness 166 says that on the day of the attack the primary
12 school, which is marked number 4 on the map and which I have highlighted,
13 was destroyed apart from its walls. Similarly, the church right next to
14 the primary school, which I will also highlight, was also destroyed apart
15 from its walls.

16 Witness 166 also mentions that the houses on the opposite side of
17 the road, which I will indicate with my cursor here, marked number 7,
18 were also destroyed apart from its walls.

19 I will pause for a moment to indicate the fact that for every
20 fact I discuss, the source appears at the bottom of the screen, to the
21 bottom left-hand corner of the screen.

22 Moving on, your Honours, the building marked as number 8, the
23 Muzora Institute, was also destroyed, again apart from its walls. Now,
24 the final building that was -- that was damaged, to our knowledge, in
25 Diguna is the building marked number 9, the orphanage, which I will also

1 mark. This building did not lose its roof unlike the other buildings in
2 Diguna but was still damaged.

3 I will move towards the centre of Bogoro now. This 220 metre
4 stretch along the road to Gety between the Diguna area and the centre,
5 houses in this area were destroyed in the same way that I described the
6 destruction in Diguna.

7 Moving closer towards the centre, the commercial centre,
8 according to the testimony of Witness 166, was also destroyed, as well as
9 the hotel of Bogoro, which is -- which is the building right next to the
10 centre bearing the number 12. I must add the hotel was -- did not lose
11 its roof, unlike the other buildings, but it was also damaged according
12 to the evidence of Witness 166.

13 Your Honours, the other church in Bogoro, the Pentecostal church
14 which is marked with this cross here, was also destroyed apart from its
15 walls. And finally for the central area of Bogoro, the Ngiti
16 neighbourhood which lies immediately behind this spot that I highlighted
17 was almost entirely destroyed apart from two buildings where the walls
18 remained.

19 And finally, Witness 166 also mentions that with regard to the
20 roads heading towards Kasenyi and the road heading towards Bunia that
21 houses, private houses, beginning from this building marked 13, which is
22 a dwelling place itself, all the way up to this line drawn indicated by
23 the witness on the road to Bunia, that this entire area, that private
24 houses in this area were destroyed.

25 Your Honours, as will become obvious as I continue to discuss

1 witnesses, much of this information is also confirmed by several other
2 witnesses such as Witness 268, 233, 161, 159, et cetera.

3 I will move on to the next map provided by another witness. This
4 map is provided by Witness 268.

5 If you examine the map, your Honours, this map is again aligned
6 in the same way as the previous map, as well as the previously discussed
7 satellite image. The road to Bunia is this road here. The road to
8 Aveba/Gety is this road here, and the road to Kasenyi is this road here.
9 The Bogoro Institute -- I'm sorry, the UPC camp is indicated by this
10 circle here marked by the letters ES and the number 3. I will highlight
11 this.

12 Witness 268 was asleep on the day of the attack and he awoke to
13 the sound of gunfire. As he heard the gunfire he decided to flee the
14 village heading initially to this river here, which I indicate with my
15 cursor. The small river which is titled "Matama." His idea was to flee
16 along the Nyakibira River in the direction of Bunia. However, because
17 the sound of gunfire increased he decided to hide in this position here,
18 which I will mark, and it is from this position that he saw much of the
19 damage of the destruction and pillaging that took place on that day.

20 He saw Lendu combatants burning two houses within 20 metres of
21 where he was hiding, and again the reference for this information is
22 provided below. Apart from these houses he also sees Lendu combatants
23 pillaging one house in front of him. Importantly, the Lendu combatants
24 remove materials from the house and hand them to civilians. The
25 civilians then, around 3.00 that same day, remove these materials in the

1 direction of Bunia.

2 I would like to stress, your Honours, this -- this coordination
3 between combatants and Lendu civilians, because later on further down my
4 presentation I will discuss how civilians from Zumbe were brought down to
5 Bogoro in order to bury dead civilians and then remove pillaged goods
6 from Bogoro.

7 Apart from the information that he sees, apart from the
8 destruction and pillaging that he sees, he also hears pillaging and the
9 removal of corrugated roofs from the centre of Bogoro, from his hiding
10 place.

11 Later on that day, towards the evening, the gunfire reduces and
12 Witness 268 believes that the attack is over. Having believed this, he
13 heads towards the centre and is promptly arrested by Lendu combatants in
14 this area marked number 2 on the map. He is then taken to the Bogoro
15 Institute.

16 Your Honours, the traumatic experience that Witness 268 underwent
17 at the Bogoro Institute has already been discussed in -- in great detail
18 by Ms. Hendriks, and I will not discuss that. However, for the purposes
19 of this presentation, what is important is that the next day, in the
20 morning, the five Lendu combatants who arrested Witness 268, as well as
21 several Ngiti combatants, take Witness 268 back to his hiding place,
22 which as I mentioned is indicated by this dot here.

23 As he is being taken, he walks down this road -- or down the main
24 road of Bogoro, and as he walks he sees the aftermath of the pillaging
25 and destruction that he heard the previous day. He sees roofs having

1 been taken off private houses. He sees roofs having been taken off of
2 boutiques and commercial houses. And finally, your Honours, as he walks
3 he also sees that his uncle's house is pillaged and damaged by the
4 attackers as well.

5 I will move now to the third witness who provides -- third core
6 witness who provides information on damaging and -- pillaging and
7 destruction, Witness 233.

8 I must explain this map a little, your Honours. Unlike the other
9 two maps, this map is aligned in exactly the opposite direction. To
10 explain, as indicated Aveba is in this direction. Bunia is to the left
11 of the screen, and Kasenyi is towards the top half of the screen. The
12 large area indicated here is the UPC camp, which I will mark.

13 Now, in the same way as Witness 268 was awakened, Witness 233 as
14 well is awakened by the sound of gunfire. He flees initially towards the
15 UPC camp and then takes the avenue Sitaki, indicated here, towards the
16 Bayo River. Importantly, the Bayo River where Witness 233 stops is very
17 close to the Matama river where Witness 268 was hiding. In fact, so
18 close that Witness 268 sees Witness 233 and mentions this in his
19 statement.

20 Later that day Witness 233 heads to his final hiding place at the
21 source of the Bayo River. I will mark this and this position is
22 important for this is where he sees much of the destruction and pillaging
23 that he gives in his account.

24 As he watches, Lendu-speaking soldiers or Lendu-speaking
25 attackers head for the pastor's house indicated here which -- to which

1 they set fire. Crucially at this point, Witness 233 mentions that this
2 is the only house still standing. All the houses around the pastor's
3 house have already been burnt by the attackers. This I will indicate
4 with a cross-hatched area.

5 Apart from what he sees, he also hears looting from the farmers'
6 project area, from the office of the farmers' project in the Dordoy area
7 and then he sees, as indicated by this green arrow, looters taking
8 pillaged goods in the direction of Bambula collectivite towards
9 Mount Waka. The witness believes it importantly that the combatants --
10 I'm sorry, that the looters were taking these goods to -- in the
11 direction of Aveba and in the direction of the Ngiti camps. This again
12 becomes important, your Honours, for I will discuss how pillaged goods
13 were taken towards the camps of the Lendu and towards the camps of the
14 Ngiti.

15 Apart from this, Witness 233 also mentions that all schools in
16 Bogoro, apart from the Bogoro Institute, were destroyed on that day. He
17 especially mentions the -- the primary school run by the CECA church
18 located here.

19 Your Honours, that brings me to the end of my initial overview.
20 I will now briefly discuss a few other accounts which provide highlights
21 of the types of pillaging and destruction that took place that day.

22 Firstly, Witness 166, having described many types of pillaging
23 and looting similar to what we discussed already mentions -- I'm sorry,
24 Witness 161, mentions a particularly horrific example of the combination
25 of the offences of killing and of destruction of property. As he

1 watches, three children and two mothers run from -- run away from the UPC
2 camp. As they run away from the UPC camp, they are captured by the
3 attackers, placed in the house of Witness 161, and then the house set on
4 fire so that the -- the three children and the two mothers are burnt
5 alive in the house.

6 Also important, your Honours, is another category of destruction,
7 the fact that the fields that were used for agricultural purposes were
8 destroyed during the attack. Witness 161, at the reference that is
9 provided -- I'm sorry, your Honours, I'm mixing the witnesses up.

10 Witness 166 mentions that despite Bogoro having some 6.000
11 inhabitants prior to the attack, one of the reasons that the population
12 of Bogoro did not increase immediately after the attack was the fact that
13 there were no fields available for agriculture after the attack. An
14 example of this is the account of Witness 287, who mentions that after
15 the attack she did not have her fields that she farmed prior to the
16 attack.

17 Your honour, my learned colleagues from -- representing the
18 victims have already mentioned the importance of livestock for the
19 livelihood of the villagers of Bogoro. Several witnesses, including the
20 witness that I cite today, Witness 161, describe having lost their
21 livestock. In fact, Witness 161 mentions that as he -- as he watched,
22 some 68 cows that belonged to him were stolen by the attackers.

23 To conclude this section, I want to -- I will use -- or I will
24 mention Witness 287 who reiterates what was already described by
25 Witnesses 233 and 268. As Witness 287 hides and watches the aftermath of

1 the attack, she sees pillaged goods being taken towards Gety and towards
2 Zumbe.

3 I will now move to the next section, your Honours, which is
4 essentially regarding the integral role that pillaging and destruction
5 played in both the plan of attack as well as the implementation of that
6 attack. To begin this discussion, I must briefly go back to a portion of
7 Mr. MacDonald's discussion.

8 Your Honours will find this map familiar. It is the same map
9 used to discuss the movements of troops prior to the attack. You see the
10 Ngiti camps to the south, the Lendu camps to the north, the location of
11 Lagura and Kagaba and the location of Bogoro.

12 Now, one day prior to the attack several briefings are given
13 which are very important in the context of both destruction and
14 pillaging. In Kagaba, prior to the attack, Yuda addresses the troops in
15 the presence of Katanga saying that if they manage to conquer the UPC,
16 they will exterminate them, pillage their goods, burn their houses, and
17 install themselves there.

18 Around the same time in the --

19 PRESIDING JUDGE KUENYEHIA: You do realise that the record, the
20 transcript does not have any references to the evidence that you're
21 using. It doesn't refer to it because you're putting it on the screen.

22 MR. SACHITHANANDAN: Very well, your Honours.

23 PRESIDING JUDGE KUENYEHIA: So the transcript is not referring to
24 any of these numbers, the ERN numbers.

25 MR. SACHITHANANDAN: Your Honours, my understanding is that the

1 presentation itself will also be available to the parties.

2 To move on, your Honours, a very similar briefing is now being
3 given around the same time in Lagura. Prior to the attack Bahati
4 addresses the troops in the presence of Ngudjolo. He states that the
5 fighting had to be finished first, but thereafter if the soldiers wanted
6 to pillage, they could do so.

7 Again a very clear understanding that pillaging and destruction
8 was an integral part of the attack and certainly not something that was
9 forbidden.

10 This -- these orders given by senior members of the FNI and FRPI
11 were understood in this same way by the attackers themselves.

12 Witness 28, a child soldier, has already been discussed
13 extensively. He says: "When Bogoro fell, FRPI troops looted properties
14 and burned houses. The FNI also pillaged and took roof tops made of
15 metal sheets from houses. These acts were considered to be 'normal'
16 following a triumph on the battlefield."

17 Again and sign of acceptance as -- as normal and as acceptable,
18 the acts of pillaging and destruction.

19 Importantly, not only were these orders -- not only was pillaging
20 and destruction discussed at the planning level, the highest levels of
21 FNI and FRPI leadership also participated in making this an accepted
22 practice as mentioned by Witness 250, another attacker who participated
23 that day. "Mathieu Ngudjolo instructed his soldiers to bring civilians
24 from his village to Bogoro. They were also authorised to pillage."

25 Now, this very same understanding that existed in the minds of

1 the attackers as well as the leadership of the FNI and FRPI was clearly
2 perceived by the victim witnesses who also provided information.

3 Witness 159, a civilian resident of Bogoro, mentions that Ngiti
4 kadogos, or child soldiers, were looting in the presence of Mathieu
5 Ngudjolo in the UPC main camp in Bogoro.

6 Again a sign that this looting took place -- that this pillaging
7 took place with the knowledge and acceptance of FNI/FRPI leadership.

8 The same witness adds that "Lendu and Ngiti combatants destroyed
9 a large number of houses in Bogoro. Almost all the houses in Bogoro were
10 destroyed."

11 In the same paragraph the witness adds that from the beginning,
12 he understood the intention of the attackers was to raze Bogoro. In
13 other words, to destroy it completely.

14 This, your Honours, must be considered along with the aims of the
15 FNI/FRPI discussed by Ms. Luping in her presentation yesterday.

16 Your Honour, I will move on to the last section of my
17 presentation, the report of the special investigations team of the United
18 Nations.

19 As my colleagues have already mentioned, barely a month after the
20 attack the special investigations team of the United Nations travelled to
21 Bogoro, and they realized several things on their arrival. Firstly, they
22 meet Commander Dark, a commander in the FNI, who is -- who says that he
23 is in charge of the village, and he says that he is under the command of
24 Germain Katanga. In other words, the FNI/FRPI who attacked the camp were
25 still in control of the village.

1 At that, point although they are not allowed access to the
2 village, they see that most of the buildings and houses in Bogoro had
3 been destroyed or burnt.

4 The very next day, that is the 27th and the 28th of March, they
5 interview several, several, many, many witnesses who were present that
6 day, and these witnesses told the special investigations team that the
7 aggressors continued looting after the UPC abandoned the place. In other
8 words, after the village of Bogoro lost any semblance of being a military
9 target.

10 On that note, your Honours, I come to the end of my presentation
11 on pillaging and destruction. I thank you.

12 PRESIDING JUDGE KUENYEHIA: Thank you.

13 MR. MacDONALD: We will now conclude with our final presentation,
14 the presentation of the Prosecution's evidence for the purposes of this
15 confirmation hearing, your Honour, and I give the floor to my colleague
16 Ms. Florence Darques-Lane.

17 MS. DARQUES-LANE: Good morning, Madam President. Good morning,
18 your Honours.

19 The Prosecution submits that the evidence establishes substantial
20 grounds to believe that the suspects committed the alleged crimes during
21 and after the attack on Bogoro either as co-perpetrators of a common plan
22 or, in the alternative, ordered the attack on Bogoro and its underlying
23 crimes.

24 This Chamber has previously define the elements of
25 co-perpetration as set out in Articles 25(3)(a) and 30 of the Rome

1 Statute. It presupposes the existence of a common plan between two or
2 more persons, which is verified in this case.

3 During the Aveba meetings that you have already heard about, a
4 common plan was crafted and agreed upon by Katanga -- by Germain Katanga
5 and Mathieu Ngudjolo and other FNI and FRPI commanders to carry out a
6 joint attack to wipe out the village of Bogoro. This plan consisted in
7 attacking both civilians not taking part in hostilities and UPC soldiers
8 quartered at the camp inside Bogoro.

9 The Prosecution submits that the evidence establishes substantial
10 grounds to believe that Germain Katanga and Mathieu Ngudjolo, through
11 their essential contributions, had joint control over the crimes. The
12 other FNI and FRPI commanders did not have such joint control but
13 assisted in the implementation of the common plan.

14 And here I take the opportunity, your Honours, to make an
15 amendment to our document containing the charges that was filed on the
16 26th of June. At paragraph 93, it presently reads on the second line:
17 "Katanga and Ngudjolo, as well as the other co-perpetrators, were, at a
18 minimum, all mutually aware," et cetera, et cetera. And at this stage we
19 would like -- we are amending the words "co-perpetrators" for "members of
20 the common plan."

21 Germain Katanga and Mathieu Ngudjolo made an essential
22 contribution to the common plan and to the crimes it furthered in the
23 following ways: One, by providing weapons and ammunition to both FNI and
24 FRPI commanders for the implementation of the common plan.

25 Two, by overseeing and ensuring that the common plan was executed

1 by the FNI and FRPI forces in a coordinated and joint manner.

2 Three, by overseeing and directing the implementation of the
3 common plan among the FRPI and FNI combatants by communicating details of
4 the plan to all the FRPI and FNI commanders.

5 Four, by ordering their subordinates to execute the common plan.

6 The Prosecution is of the view that these acts taken by the
7 suspects which amount to their contribution to the crimes encompass those
8 identified by the Pre-Trial Chamber in each of its decisions issuing the
9 warrants of arrest against the suspects. This Chamber has determined
10 that Article 30 encompass the mental element of *dolus eventualis* for
11 crimes committed through co-perpetration as long as the co-perpetrators
12 had, if required, the *dolus specialis* or ulterior intent for the type of
13 crimes involved. It is our submission that the co-perpetrators satisfied
14 at least the mental element of *dolus eventualis* for each and every charge
15 in the document containing the charges.

16 It is also our submission that the contributions to the crimes
17 are indivisible as they give the co-perpetrators joint control over the
18 crimes. Therefore, each of the contributions can be imputed to other --
19 the other co-perpetrator. Germain Katanga and Mathieu Ngudjolo can each,
20 as co-perpetrators, be held vicariously liable for the contribution made
21 by the other.

22 To avoid repetition of elements already presented by my
23 colleagues, I will recall the core evidence already identified as they
24 apply to the Prosecution's theory as to knowledge and intent of the
25 suspects pursuant to the co-perpetration theory. I will not call-out

1 document numbers since those have already been presented by my
2 colleagues.

3 The arguments which support that the suspects had the required
4 knowledge and intent necessary under the theory of co-perpetration for
5 counts 1 through 4 and 11 through 13 will be presented first. For count
6 5, second; for counts 6 through 9, last.

7 For counts 1 through 4 and 11 through 13, the Prosecution submits
8 that the suspects' knowledge and intent regarding these crimes can be
9 established based on a number of indicators. One, the suspects'
10 knowledge of prior indiscriminate attacks conducted by Lendu and Ngiti
11 forces where civilians were targeted.

12 Two, circumstances in which the Bogoro attack was conducted.

13 Three, the information the suspects are invested with during the
14 attack and their supervision of the attack.

15 Four, the suspects' failure to take measures to stop the
16 combatants from continuing the massacre or to punish their subordinates
17 for the crimes already committed.

18 During prior attacks conducted by Lendu and Ngiti combatants
19 civilians and their property were targeted, and I'm referring to the
20 attacks of Bogoro of 2001 and 2002, the Zumbe attack following the
21 takeover the Bunia in 2002, the Nyakunde attack of the 5th of December
22 2002.

23 During these attacks the Hema civilian population was targeted
24 and its property plundered and destroyed by Lendu and Ngiti combatants.
25 These occurrences were well known amongst the soldiers of the Lendu and

1 Ngiti forces. Soldiers were not punished for their crimes against the
2 civilian Hema population.

3 The Prosecution asserts that such a repetition of circumstances
4 creates a substantial likelihood that they will reoccur, especially in
5 the absence of any punishment. Therefore, prior to the Bogoro attack, it
6 is foreseeable for Germain Katanga and Mathieu Ngudjolo that the crimes
7 against the Hema civilian population and its property as captured by the
8 aforementioned accounts will reoccur and they accepted such a risk.

9 A second indicator relevant to the mental element of the suspects
10 is based on the circumstances in which the Bogoro attack was conducted.
11 Such circumstances are derived from the orders and instructions given to
12 the combatants prior to the attack. The orders and instructions given by
13 the suspects and the other commanders to their combatants were clear:
14 Bogoro was to be wiped out or crushed.

15 Commanders, in the presence of the suspects, delivered
16 hate-filled speeches mixing civilian and military targets. They
17 encouraged their troops to intone war chants glorifying the killing of
18 the Hema. Such orders and instructions in light of the climate, which
19 existed in the region at the time, were clear indications that the
20 suspects foresaw that crimes against civilians and their property could
21 or would occur and accepted such outcome. Other circumstances are linked
22 to the mental state of the combatants when sent into -- into combat.

23 Prior to attacking, the combatants are encouraged to sing songs
24 by their commanders which describe the killing of the Hema. The Ngiti
25 and Lendu soldiers are conditioned by an environment which actively

1 encourages hatred of the Hema with no distinction between soldiers and
2 civilian population. Under such conditions committing crimes against
3 Hema civilians and their property can be considered a normal course of
4 events.

5 A third indicator of the suspects' mental element regarding the
6 aforementioned counts is based on the information the suspects had
7 duration the attack and their supervision of the attack. Germain Katanga
8 is on the battlefield. He arrived in Bogoro at the beginning of the
9 attack and was seen at the end of it. Mathieu Ngudjolo communicated with
10 his commanders during the attack through shortwave radios. He was later
11 seen in the afternoon at the centre of Bogoro where bodies of civilians
12 were scattered around and plunder and destruction of homes had and were
13 taking place.

14 The fourth indicator is that the suspects take no measures to
15 stop their subordinates from continuing the massacre or to punish them
16 for the crimes already committed at Bogoro. The attacks against the
17 civilians and their property continue throughout the day of the 24th of
18 February and into the next day when civilians who survived the attack are
19 lured out to be stripped of their possessions and killed by the
20 combatants.

21 Germain Katanga and Mathieu Ngudjolo do nothing to stop the
22 perpetration of further crimes against the civilian population and its
23 property, which continued after the UPC camp was taken, and the camp was
24 taken over at approximately 9.00 in the morning.

25 The militiamen then target the civilians and proceed to massacre

1 the civilian population.

2 The suspects witness the fact that crimes against the civilian
3 population and its property had been committed and were aware that
4 without taking measures to stop them they would continue to occur. At
5 the centre of Bogoro, where Katanga and Mathieu Ngudjolo stood in the
6 afternoon of the 24th of February, there are -- there are visibly a great
7 number of bodies of civilians and houses being looted and destroyed.
8 Instead of attempting to stop further crimes from occurring and punishing
9 their subordinates for the ones already committed, they rejoice and
10 declare that their soldiers did good work. Mathieu Ngudjolo would have
11 even encouraged them to continue the work after Bogoro had been
12 conquered.

13 I will now move on to the factual underpinnings to the suspects'
14 mental element as regards to count 5, using children to participate
15 actively in hostilities.

16 Your Honours, you have heard my colleagues speak about the fact
17 that FNI and FRPI child soldiers under the age of 15 took part in the
18 Bogoro attack. The fact that these two militias regularly abducted
19 children to recruit them in their forces, train them in military camps,
20 and sent them to the front. Children under the age of 15 were used in
21 prior Lendu and Ngiti attacks. Germain Katanga and Mathieu Ngudjolo
22 attended a number of parades in military camps at which very young
23 children were present. Children under the age of 15 were part of the
24 suspects' personal escort at the time of the Bogoro attack.

25 I will now move on to the factual underpinnings to the suspects'

1 mental element as regards to sexual offences, it's count 6 through 9.

2 Your Honours, from my colleague's presentation on the commission
3 of sexual offences of the Bogoro attack, it was clear that prior to
4 Bogoro there was a widespread practice of abducting, humiliating, raping,
5 and sexual enslaving of women by Ngiti forces. It was the case in the
6 Nyakunde attack of September 2002 where women were kidnapped, raped, and
7 sexually enslaved. It was a common practice that the rape of abducted
8 women during attacks or following attacks were raped -- pardon me. I
9 will correct. It was a common practice that the women who were abducted
10 during attacks or following attacks were raped and were often forced to
11 marry the rapist or to be used as sex slaves by several combatants. Some
12 FRPI commanders such as Lobho Tshamangare, Garimbaya, who is a commander
13 of Germain Katanga's residence, and Yuda had numerous sex slaves living
14 in their quarters.

15 When FRPI commanders were informed that women had been taken at
16 Bogoro during the attack to be used as sex slaves by their subordinates,
17 no one was punished. Germain Katanga himself, while visiting Songokoi
18 camp sees Witness 132 in a hole dug in the ground which is used as a
19 prison. Her clothes are ripped, and she is in a cell with male
20 prisoners. Germain Katanga takes no remedial measures.

21 Similarly, FNI troops, before the Bogoro attack, abducted women
22 on the road to Kasenyi to be later used as sex slaves. Following the
23 Bogoro attack, among the civilians used to carry the plundered goods were
24 women, some of whom were killed after completing their task. Others were
25 detained at Zumbe Ngiti to be raped and used as sex slaves by the FNI

1 combatants.

2 Upon finding out that women are kidnapped and used as sex slaves,
3 Mathieu Ngudjolo only took action, albeit not sufficiently severe to be
4 reasonable, against soldiers who had abducted Lendu women. Kidnappings
5 and sexual enslavement of women of other ethnicity went unpunished.

6 In the alternative, the Prosecution asserts, based on Article
7 25(3)(b), that Germain Katanga and Mathieu Ngudjolo, as principals,
8 ordered the attack on Bogoro. Germain Katanga and Mathieu Ngudjolo each,
9 vested with the power and authority as chief of all the FRPI combatants
10 and FNI combatants from Zombe, respectively, ordered the subordinates to
11 attack Bogoro with the necessary intent and knowledge to provoke or
12 induce the commission of the crimes charged.

13 This concludes my presentation, your Honours.

14 MR. MacDONALD: With your permission, Madam President, and for
15 the -- following your remark while my colleague Mr. Sachithanandan was
16 presenting his animation, you referred to the fact that it would be maybe
17 pertinent at this stage to have into the record the different DRC
18 references or ERN numbers referred to in the visual presentation so that
19 they be in the record for the completeness of the record, and I would
20 suggest that we read, slowly for the translation, between 10 to 15 ERN
21 numbers to complete the record.

22 MR. SACHITHANANDAN: Thank you, your Honours. DRC-OTP-1007-0027,
23 1007-0002, 1007-0113, 1007-0095, 1007-0088, 1007-0061, 0164-0488,
24 1013-0205, 1016-0156, 1013-0205, 0155-0106, 0177-0327, 0155-0106,
25 0177-0327, 0164-0472, 0152-0286.

1 Thank you.

2 PRESIDING JUDGE KUENYEHIA: Thank you. Is that all?

3 MR. HOOPER: Before we move on can I just raise one matter? In
4 Ms. Darques-Lane's submissions we note that the Prosecution announce that
5 they were amending the charges, and it may be that the particular section
6 under which that is being amended, it would appear without request for
7 leave of the Chamber, has escaped our attention, in which case we'd be
8 helpfully informed of the section which permits that amendment. We had
9 no notice of it. It served as a distraction because of course we were
10 flicking through the Articles and Rules while not listening to
11 Ms. Darques-Lane's submissions. But apart from that disadvantage, we'd
12 be grateful if we could have indicated first the authority for that
13 amendment at this stage.

14 MS. DARQUES-LANE: I do take the point presented, explained by my
15 colleague from the Defence. It is not an amendment to the charges. It's
16 just a correction to the text at paragraph 93 of the document containing
17 the charges. I hope that clarifies the matter.

18 MR. MacDONALD: Just to be clear, Madam President, as you may
19 recall, Mr. Hooper and Mr. Kilenda both filed applications contesting the
20 way the document containing the charges was drafted. We provided a
21 response to this, and in this response we clearly indicated that the two
22 co-perpetrators in this case were Mr. Ngudjolo and Mr. Katanga.
23 Following this filing, this -- sorry, madam the Single Judge Steiner, if
24 I'm not mistaken, issued the decision requesting us to re-file the
25 document containing the charges striking the paragraphs on admissions and

1 also deleting, removing the word "inter alia" to indicate how the
2 co-perpetration was being executed in this specific case, and this is
3 what we did.

4 Now, looking back at former, I think paragraph 96, which is now
5 93, we realized that this line in the DCC was still remaining, this part
6 of the sentence.

7 The purpose of our intervention this morning on this very
8 specific point is to alleviate any doubt as to who the co-perpetrators
9 may be in this casement. We're flagging this. We don't need to request
10 an amendment for this. We just want to clarify that paragraph 93, as
11 indicated in our response, Mr. Ngudjolo and Katanga are the alleged
12 co-perpetrators. The other commanders are part of what we describe as
13 the common plan and its execution of the common plan. So this is the
14 Prosecution's position.

15 MR. HOOPER: Well, it's -- it's news to us. It's new, and
16 there's a significance, of course, between -- and a considerable one
17 between being a co-perpetrator and being a member of a common plan, and
18 this is a matter that we submit should have been raised at an earlier
19 point and certainly should have been -- we should have been put on notice
20 of this before it was merely announced in -- in open session, taking us
21 by surprise and distracting us from the real work at hand.

22 I'll say no more about this at the moment. We may take it up
23 later, and in any event, it really is essentially now a matter for the
24 Chamber.

25 PRESIDING JUDGE KUENYEHIA: Okay. Thank you. The Chamber will

1 look at the issue and do what it has to do.

2 MR. MacDONALD: Again, it was indicated in our response to the
3 filing made by Mr. Katanga. In our response we had clearly indicated
4 what was the Prosecution's theory as accepted or recognised -- sorry, as
5 acknowledged by Madam the Single Judge Steiner in her decision. We're
6 just reiterating our position and nothing more. We are putting it
7 formally on the record and nothing more. It is nothing -- it's not
8 taking anybody by surprise because it was mentioned in writing in our
9 response to the Defence's challenge of the document containing the
10 charges, and again acknowledged by Madam the Single Judge.

11 PRESIDING JUDGE KUENYEHIA: Thank you, Mr. MacDonald. As I said,
12 we will look at it.

13 I take it that the Prosecution has finished presenting its
14 evidence. And --

15 MR. MacDONALD: We have, your Honour.

16 PRESIDING JUDGE KUENYEHIA: Thank you very much.

17 I would like to remind the Prosecution to provide to the Chamber,
18 both Defences, and the Legal Representatives of Victims, the PowerPoint
19 presentations used as visual aids in yesterday's presentation and today's
20 presentation by 4.00 p.m. today so that it will facilitate the
21 presentations next week. You had actually indicated you would do so, so
22 we shall be most grateful if it could be done by 4.00 p.m. today.

23 MR. MacDONALD: What I would -- we take note, your Honour, of --
24 and it was our intention and I spoke to my colleagues. I did indicate to
25 my colleagues of the Defence that we would do our utmost effort to burn,

1 the expression burn, CDs for 4.00 or at least maybe 6.00 p.m. depending.
2 It should not be a problem, but it will be given today. And I just want
3 to note that if there are any technical problems, there should not be
4 technical problems, so what I suggest is that we can set an appointment
5 with the colleagues and the Legal Representatives to come to our offices
6 to pick up the CD, and we will make sure that your Honours also receive
7 each a copy.

8 PRESIDING JUDGE KUENYEHIA: Now, the Chamber would like to, in
9 view of the fact that we have a few minutes before we're supposed to
10 finish, to find out from the Legal Representatives of Victims whether
11 they yet have an idea of the order in which they want to make their
12 presentations on Monday. That's one question. And secondly, whether
13 they intend to use the whole of the time allocated to them. That's the
14 second question.

15 MS. BAPITA (interpretation): Madam President, we shall begin
16 with the anonymous victims and Mr. Keta. For the non-anonymous victims I
17 shall begin --

18 PRESIDING JUDGE KUENYEHIA: Only non-anonymous victims have the
19 right to comment or discuss the evidence presented. Anonymous victims
20 cannot make any presentations in those two days.

21 MS. BAPITA (interpretation): Thank you.

22 MR. KETA (interpretation): Thank you, Madam President. I
23 represent an anonymous victim whose rights are very limited. Notably we
24 do not have the right to take the floor. However, I do have a small
25 concern. I have in my possession a very important document which could

1 clarify matters for the Chamber, notably as regards the context. In
2 order to grasp how the events took place, for instance. This document I
3 would like to present to the Chamber. It is not a piece of evidence, but
4 it would assist in understanding the context of the events in -- which
5 took place in Ituri. Notably, I have an agreement between the Hema and
6 Lendu communities which took place in August 1997 where one sees the
7 causes of the conflict. This could be important for victims as regards
8 the plan, the plan to commit certain crimes.

9 I do not know if I can proffer those documents to the Chamber.
10 They are not evidence as such, but I believe that they could throw light
11 on the matter for the Chamber.

12 (The Pre-Trial Chamber confers)

13 PRESIDING JUDGE KUENYEHIA: Mr. Keta, victims cannot produce
14 evidence of any kind in this -- in the process in this court. They can,
15 if they are non-anonymous, discuss the evidence presented by the
16 Prosecution, but they cannot produce evidence. They can also discuss
17 legal facts. And so I'm afraid the Chamber cannot accept the document
18 that you refer to, because we have only one Prosecution -- Prosecutor,
19 and that is the Office of the Prosecutor. We cannot allow a second
20 Prosecutor in this process.

21 And I'll therefore go back to Madam Bapita. As I said, only
22 non-anonymous victims have a right to discuss the evidence presented by
23 the Prosecution.

24 MS. BAPITA (interpretation): Yes. Indeed, Madam President. So
25 the order for our interventions will be as follows: I will begin by

1 discussing the evidence adduced by the Prosecutor. I will be followed by
2 Herve Diakiese. Paolina will explain, I believe, on her behalf what her
3 strategy is as I cannot speak for her.

4 MS. MASSIDDA: Madam President, your Honours the office has been
5 appointed only on the 2nd of July. We have received something like 412
6 documents on July the 2nd at 6.30. We are still going through the entire
7 documents provided to us, and in order to compare with the victims we are
8 at present representing there is any need for myself to intervene on
9 Monday and Tuesday, I will be able to assess this need by Sunday and I
10 will be able to provide the Chamber early Monday morning on our position,
11 considering also that the office has been appointed provisionally and
12 that the Chamber is awaiting a report from the Registry for Monday
13 morning. So it is still open the possibility that the office will not be
14 representing any more the eight victims that I am representing at the
15 moment.

16 In any case, I have been keeping updated Mr. Mulamba, and
17 Mr. Mulamba was also following the hearings from the public gallery. So
18 I'm confident that myself or Mr. Mulamba will be able to discuss the
19 evidence on Monday or Tuesday.

20 Thank you, Your Honours.

21 PRESIDING JUDGE KUENYEHIA: There was a second part to my
22 question to which I had no answer. Are you going to utilise all the two
23 days?

24 MS. MASSIDDA: On my side, Madam President, I cannot answer the
25 question at this point in time. I will be able on Monday morning. Thank

1 you.

2 MS. BAPITA (interpretation): For our part we intend to use all
3 of the hours which have been allotted to us in order to verify the
4 various items of evidence which have been presented by the Prosecutor.
5 If we are able to conclude our submissions in a shorter period of time,
6 we will be able to inform you of that on Monday morning before
7 commencing.

8 PRESIDING JUDGE KUENYEHIA: Thank you very much. This is just to
9 allow the -- to enable the Chamber to do -- to re-adjust the schedule if
10 necessary.

11 On that note, I think that we can adjourn the hearing until
12 Monday morning at 9.00.

13 Thank you very much to everybody, to our interpreters, to our
14 recorders, to the Prosecution and to the Defence, and to our legal
15 officers and the Registry for our help in bringing us this far. Have a
16 nice weekend.

17 COURT USHER: All rise.

18 The hearing ends at 12.48 p.m.

19
20
21
22
23
24
25