

Witness: Witness P-0151 (Resumed) (Open Session)
Procedural Matters

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1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Monday, 8 March 2010
10 The hearing starts at 9.02 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is in
13 session.
14 PRESIDING JUDGE COTTE: (Interpretation) The court is now in
15 session. Please be seated.
16 We are in open session and the accused are with us.
17 Court Officer, it's therefore possible to have the witness come in.
18 Usher, please could you go and find the person. Thank you.
19 (The witness takes the stand)
20 WITNESS: WITNESS P-0161 (Resumed)
21 (Witness answered through interpreter)
22 PRESIDING JUDGE COTTE: (Interpretation) Good morning, Witness.
23 Can you hear me well?
24 THE WITNESS: (Interpretation) Good morning. I can hear you
25 very well.

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1 PRESIDING JUDGE COTTE: (Interpretation) Perfect.

2 Counsel Hooper, you can therefore continue with your
3 cross-examination. You have the floor.

4 Questioned by Mr. Hooper: (Continued)

5 Q. Good morning, Mr. Witness. You may remember last week that we
6 promised that we'd get you a photograph and a reasonably thick pen to
7 mark the place where your three houses and cattle shed were, and also to
8 mark your hiding-place along the Waka River.

9 Now, as those are essentially personal and identifying matters,
10 while we go through this exercise, we should, I think, be in closed
11 session.

12 MR. HOOPER: So can we go into closed session for that exercise,
13 please, Mr. President.

14 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please
15 could you take us into private session.

16 (Public session at 9.07 a.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

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13 (Open session at 9.55 a.m.)

14 COURT OFFICER: (Interpretation) We are in open session,
15 Mr. President.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
17 Court Officer.

18 Mr. Hooper, please.

19 MR. HOOPER:

20 Q. Now, you remember in essence what you told us last week, how you
21 had woken up to gunfire at 5.00 in the morning, how you had got out and
22 looked and seen firing coming from near the crossroads, how you had told
23 your wife who was there, and you told the eight children to leave, to go
24 and hide at the usual hiding-place down by Waka River, and they went.

25 You told us of the UPC soldier who came for milk but then

1 realised he was cut off from going back to the Bogoro Institute, but
2 eventually he left to follow the Waka River to safety, and how
3 eventually, as I understand it, you saw the defence, the UPC defence at
4 the Bogoro Institute collapse and the Bogoro Institute become overrun by
5 its attackers. And a mixture of UPC soldiers and civilians then fled,
6 some in your direction, and you thought that that was about -- well, that
7 was at 8.00. You could tell from your watch.

8 So just pausing there am I right in -- in understanding you to
9 say that between 5.00 and 8.00, you remained by your farm, by your house,
10 with your cattle for those three hours? Is that right?

11 A. Am I going to repeat what I have already said several times? It
12 seems to me that you're asking me questions about my cows and my village.
13 I was an eyewitness to the fighting. I saw the soldiers and civilians
14 fleeing, and they came where I was. This is not an untruth, and I have
15 nothing to add to what I have already said.

16 Q. Yes. Well, thank you very much, and forgive me if it's
17 irritating, and I'm sure it is being -- having matters asked again, but
18 am I right in -- in understanding you to say that between 5.00 in the
19 morning and 8.00 when you say the UPC camp collapsed, that during that
20 time you were in the area of your house and cattle shed? Is that right
21 or wrong?

22 A. You want me to come back to the testimony that I have already
23 given? I said it before yesterday. I was in my house. People were
24 fleeing. They found me. The people were being killed, and I was waiting
25 for the members of my family who were at the hospital to see whether they

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1 would be alive or not.

2 You want me to add something. What do you want me to add? I
3 took an oath to tell the truth and nothing but the truth.

4 Q. Yes. I understand that, but it's to clarify an aspect for me.
5 So from what you just said, are you saying that between 5.00 in the
6 morning and 8.00 you were in your house, or were you outside your house?
7 Were you by the cattle, or were you in various places around your house?
8 What was the situation for you in those three hours?

9 A. It's just as if I was saying that no one was killed in Bogoro. I
10 have the impression that you think that what I'm saying is not true.
11 What else can I say in addition to what I've already testified to?

12 PRESIDING JUDGE COTTE: (Interpretation) Witness, in reality,
13 Counsel Hooper is not asking you to redo an account or remake an account
14 which you've already done. The Court does not think that Counsel Hooper
15 is challenging that, everything that you've said, or challenging that,
16 and particularly that that has gone against in any way your oath. The
17 Court just asks you right now to confirm certain details with regard to
18 the timetable and the locations, the times between 5.00 and 8.00, as well
19 as the place in which you were during that period.

20 I've just heard the question. Were you inside the house, outside
21 the house, near the cow shed? It's just this which is asked of you and
22 which, of course, you can make the effort to answer, but you are
23 certainly not asked to tell everything again, and nobody doubts what you
24 have said previously. You are just providing clarifications and details
25 to the extent that you can.

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1 Thank you.

2 THE WITNESS: (Interpretation) Thank you. When there were
3 shots, I was at my house. It was at 5.00 in the morning. All the
4 population of Bogoro was still in bed. I woke up. I went out. I left
5 the house, and then I went back to the house. I had concerns with
6 regards to my close family. I left the house, and I came back. Until
7 the people from the UPC were driven out, I was there. The population
8 came to my house, in the courtyard, and from there we took the decision
9 to go elsewhere.

10 There were bodies of people who had been killed next to this
11 river. There were four or five people next to my cow shed. There was a
12 woman who had been killed there as well.

13 And everything that I've said is the truth. I'm not going to
14 tell lies here. I have declared my -- the fact that I will tell the
15 truth before Jesus Christ.

16 MR. HOOPER:

17 Q. All right. Now, you remember telling us last week that the
18 Ngiti, as I understand it, from Songolo had in numbers, large numbers,
19 taken possession of Waka hill, and they stayed there, you told us, and
20 you didn't see any attackers come past you from Waka hill towards the
21 camp.

22 Now, while you were there in the middle, as it were, between
23 Waka hill and the UPC camp, who were resisting the attackers, weren't
24 you, in fact, caught in a crossfire from both sides? Wouldn't that have
25 been the position you were in, being shot at from both behind and in

1 front, as it were? Is that what happened?

2 A. No. Don't lead me to tell untruths. People who came from
3 Songolo stayed above the mountain. They didn't fire down. They waited
4 for people who had -- who would go up from the other side, but we can't
5 say that seeing that the people who were on the mountain, that we saw
6 them firing. And when the UPC were driven out and they took the lower
7 road, they weren't shot at by the others. The people who were above the
8 mountain were looking at the people who were going on the other side, and
9 at the same time they were attacking the others.

10 Q. Well, let me move on and ask you this: Your -- your hiding-place
11 by the Waka River, with your wife, was that further away from the
12 Bogoro Institute than your house or not?

13 A. I went down from my house towards the cow shed. That's where I
14 remained, next to the stream. The institute was opposite me, and my cow
15 shed was further up, about 25 metres from where I was. I was lower down.
16 I wasn't far, no. I didn't go away.

17 I think that the day that you came, I think I showed you the
18 place, and now I don't understand why you are changing the position.

19 Q. Let me ask you this question: When you were hiding in your
20 hiding-place by the Waka River, and you've told us about that, at that
21 point were you further away from the Bogoro Institute than you had been
22 at your house?

23 A. The institute of Bogoro was further away. I was nearer the cow
24 shed. The institute was further away from the place where I was.

25 Q. Let me just ask this a final time. Which was the closest

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1 position to the Bogoro Institute, your cow shed and house or the
2 hiding-place on the Waka River?

3 A. I left -- I left my house at 25 metres away. My cow shed was
4 behind. It was lower down than the place that I was. It was below
5 there. It wasn't far.

6 Q. So when you went to the hiding-place at the Waka River, did you
7 move further away from the Bogoro Institute than you had been before?

8 A. No. No. I didn't move away. I stayed in the same place until
9 sunset. I stayed there until 1.00.

10 THE INTERPRETER: At 1900 hours, corrects the interpreter.

11 MR. HOOPER: All right.

12 PRESIDING JUDGE COTTE: (Interpretation) Witness, please,
13 because the Court would like to understand well. You have the impression
14 that we often repeat the same questions to you, but we're always trying
15 to -- it's basically to try and help us understand.

16 From where do you see Bogoro Institute the best, from your house
17 or from the hiding-place that you went to? Is it near your house that
18 you see Bogoro Institute the best, or is it from the hiding-place where
19 you were? I think that you have understood my question.

20 THE WITNESS: (Interpretation) Yes, I have understood your
21 question, your Honour.

22 Where I was was next to a small hill, and it was clear.

23 PRESIDING JUDGE COTTE: (Interpretation) What we would like to
24 know is where did you see the institute best from? Was it from your
25 house or was it from the hiding-place? From which of these places could

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1 you see the institute best?

2 THE WITNESS: (Interpretation) It was from my house where my cow
3 shed was. That's where I could see the institute well from. But where I
4 was hidden, I just heard the noises, the shouts of persons. People were
5 screaming, and there was gunfire.

6 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, please
7 continue.

8 Thank you, Witness.

9 MR. HOOPER:

10 Q. Now, I want to ask you about your meeting with the Office of the
11 Prosecutor, that is when people from the ICC came to speak to you, and
12 you were good enough to provide a statement to them.

13 Now, looking at that statement, I can see on the statement that
14 the first interview you had with them was on Saturday, the 4th of
15 February, 2006. It started at 20 past 8.00, and it ended at quarter past
16 10.00 that morning.

17 Do you remember that first visit? Let me just remind you of the
18 people. There was a lady called (Expunged)

19 Do you remember that meeting, that interview?

20 A. When this person -- when these people arrived, they came to my
21 house. Whether they were white or other persons, I don't remember. I
22 don't even remember the date, but these people came to my house.

23 Q. Yes. And then later you had a meeting elsewhere, I think, and
24 that was on the 4th of February. That's 2006. And then eight months
25 later, on the 4th of October, 2006, there was a further interview with

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1 you. That started at 1.00 in the afternoon and went on to 6.00 that
2 evening.

3 Do you remember that longer interview that you had?

4 A. I can only say what I know. All that I declared before is
5 coherent, because I say today I never said an untruth. Even today I say
6 what I've said before. I've never contradicted myself.

7 Q. All right. And that interview on the Wednesday continued on the
8 Thursday, the 5th of October, from 7.00 in the morning -- 7.15 in the
9 morning until 11.00 in the morning, and those interviews appear to have
10 been with the same people. And I think those were French-speaking
11 people, but you had a Swahili interpreter, and from what I understand
12 your Swahili is very good; is that right?

13 A. (No interpretation)

14 Q. And at the end of the interview, I can see that that interview,
15 as I have it, was read back to you in Swahili, and you were asked if it
16 was all correct and whether you had anything to correct or anything to
17 add, and you said it was all correct.

18 Do you remember that interview being read back to you and you
19 having the opportunity to add anything or to correct anything?

20 A. This is my manner. When I say something, I don't usually add
21 other things to what I've already said previously.

22 Q. And obviously you were doing your best, as you are now, to
23 remember things as they were and to give an accurate history of those
24 events; is that right?

25 A. What I declare here is coherent with what I said to the people

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1 who came to meet me. The statements are not different to what I have
2 said here before this Court.

3 Q. Don't worry about that. I appreciate it's always a difficult
4 situation trying to remember things.

5 Now, I want to ask you, first of all, about what happened prior
6 to the attack of the 24th of February itself, and you've told us how
7 there was some forewarning of that. You mentioned a letter that had been
8 found on the road, and you mentioned -- which referred to they were
9 coming to look after their fields on a particular day, and you also told
10 us, and this is what I want to ask you about again, if I may, about the
11 conversations that you tell us you heard on the UPC radio that was
12 intercepted, and you may remember that you told us how you heard
13 conversations between Ngiti and Lendu. Do you remember telling us that?

14 A. Counsel, I'm not a small child. The letter that you speak about,
15 or the letters -- I was on the road. It was burning. People gathered
16 together these letters and they read them. Afterwards, they went to the
17 mission where the whites were, and without going on the RM road to
18 Mayi Ya Franga to go to Zumbe, and those who came from Zumbe went via the
19 mountain through the mission to be able to go to Gety.

20 These letters were then onto the road. It was the first day, the
21 day when Pastor Babona Mathia was carrying out mourning. Mathia had
22 communicated via radio in Kasenyi. Everybody followed that. And when
23 they heard the communication of Mathia --

24 Q. (Previous translation continues) ... just interrupt. Now, I'm
25 asking quite specific questions. Listen to the questions, please,

1 because you'll help us and yourself because we won't spend so much time.

2 I asked you -- quite right. I did refer to letters, and you've
3 told us about that, but I'm really asking you now about the radio
4 communications. Now, as I understand your evidence, you were invited to
5 come along and listen to radio communications that were in Ngiti in order
6 to explain what they were saying to the UPC soldiers. And as I
7 understand it, you heard that there was going to be an attack the next
8 day, and indeed there was an attack, the attack of the 24th of February.
9 Is that right? Did you listen to radio communication, and did you then
10 learn from that that there was going to be an attack, as indeed it turned
11 out there was on the 24th of February? Is that right?

12 A. I have an objective when I make my statement, and I have the
13 impression that you want to throw a -- something into my spokes. That's
14 the question that I'm asking.

15 You're asking me questions, asking me what happened, but you're
16 starting with the end instead of starting with the beginning.

17 Q. Did you listen to radio communications that forewarned you and
18 others that there was going to be an attack on Bogoro on the
19 24th of February?

20 A. Yes, I heard this information. I was with -- looking after my
21 cows the evening I went back to the house, and I heard that there were
22 concerns, and I said, "What's happened?" And they said to me, "Look,
23 they have picked up letters saying that the Lendu and Ngiti are going to
24 come here to grow their fields, here in Bogoro." And then there were
25 people who had already fled, and I asked myself the reason why. I said

1 to myself, Well, perhaps they threw letters just like that without a
2 specific objective.

3 The next day this state of affairs continued. We waited and the
4 next day, at 5.00 in the morning, war broke out.

5 Having said -- having said all that, do you think I could have
6 lied?

7 Q. No, look, you see, you're -- we're not here to have an argument
8 between us. I'm merely asking you to help us with some answers in
9 respect to some particular issues.

10 Now, you told us last week about what you heard, forewarning you
11 and others of the attack of the 24th of February, and I understood you to
12 say that you actually had a conversation, that it was a live actual radio
13 transmission that you interrupted, and the man, indeed, on the other end
14 of the radio started to abuse you. Is that right?

15 A. Everything that was in this place, insulting. I wasn't the only
16 one. There were lots of people who were there who were following what
17 was said. Lots of people followed that, and those who followed it knew
18 what it was about. They knew how Bogoro was going to attack on the first
19 day as had been promised.

20 Q. But you gave us a very, if I may say so, clear account of how you
21 participated in the conversation; is that right?

22 A. I'm not a small child. When I left the fields, I went to look
23 after my cows. I went to try and find them, number. It was the Ngiti --
24 or said it was the Lendu, but while it was the UPC people had already
25 found their number, and they started to speak Ngiti, saying that the Hema

1 couldn't understand it, but at that time they said, "Who are you? Get
2 away. You have a mouth which stinks."

3 Q. Yes. I'm not disputing you listened to some recordings, and you
4 refer to it in your statement when you saw the -- spoke about this back
5 in 2006. You say that for that attack the UPC intercepted radio
6 messages. You see, you've said that before. I don't dispute that. I'm
7 not arguing with you about that at all.

8 What you say is that the intercepted radio messages were between
9 different Ngiti groups. You don't say they were between Ngiti and Lendu
10 groups, for example. So was it, in fact, radio messages between Ngiti
11 groups that you were listening to rather than Ngiti talking to Lendu?

12 A. You see, it was the Ngiti who were in Zombe and other Lendu who
13 were with the Ngiti. Now, these Ngiti were communicating with those who
14 were in Zombe, and those who were in Zombe were communicating with Lendu
15 who were in Ngiti territory. It's -- it happened like that.

16 The children who were born in Ngiti territory know that the
17 children who are born of Hema women, they know Ngiti well. If you bring
18 a child here who is Hema who's grown up in the territory -- Ngiti
19 territory, he will see that that person speaks very well Ngiti, speaks
20 Ngiti very well. There's another -- there's another woman and the --

21 THE INTERPRETER: The Swahili interpreter signals that he hasn't
22 heard the rest.

23 PRESIDING JUDGE COTTE: (Interpretation) At the very end of your
24 intervention the interpreter didn't understand the very last part, and it
25 would be desirable for you to speak slower, much slower. Even if you

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1 really do want to speak with a lot of vivacity, please remember that the
2 interpreters have difficulty when somebody speaks too fast.

3 Please could you repeat the end of your statement just a second
4 ago. Thank you.

5 THE WITNESS: (Interpretation) Your Honour, I have a lot of
6 concerns with regards to this testimony. I've been giving testimony here
7 for a long time and it seems to be an untruth while I'm telling the
8 truth. That gives me a lot of concerns.

9 PRESIDING JUDGE COTTE: (Interpretation) Witness, the Court
10 notes that this morning you have not more difficulties but that you are
11 perhaps a bit annoyed by the questions that the Defence is putting to
12 you.

13 It's difficult to testify, but at the same time, the Defence, if
14 you like, is playing its role. It's asking you questions again. It's
15 trying to obtain clarifications with regards points which you've already
16 spoken about, and it's irritating having to repeat the same things, but
17 that's it. That's what testifying is about. You accepted to testify,
18 and we thank you for it, you know that, but you have to go right to the
19 end of it, and you have to answer the question even if some of those
20 questions are something that you are indisposed to. So thank you very
21 much for your contribution.

22 Counsel Hooper, please continue with your cross-examination.

23 MR. HOOPER:

24 Q. Well, you see, you refer to going along to listen to these
25 conversations in your statement, but you make a clear point in your

1 statement. You say this, you say:

2 "The conversations that I heard were, in fact, some recorded
3 conversations that had been made by the UPC soldiers."

4 All right? Not that you actually tuned in and listened in as the
5 conversations were going on but that you were helping to translate or
6 help with conversations that had, in fact, been recorded by the UPC
7 soldiers. So was that the position, that you were listening to
8 recordings?

9 A. The UPC soldiers understood that language very well. I have even
10 said it here. There were some members of the UPC who understood Ngiti
11 and Lendu perfectly. I was not the only one.

12 Speaking a language does not necessarily mean that one has
13 studied it. It's simply to listen and answer. You can be very capable
14 of listening to a language with your own ears.

15 Q. And you say in your statement that you came to listen to these
16 recorded conversations in order to translate them from Ngiti, and you
17 say, as you told us, "I understand Ngiti, but I cannot speak it." Is
18 that right, that you don't speak but you can understand?

19 A. Ngiti can never criticise me in my presence, and the same applies
20 for a Lendu or even a Bira, because I grew up in various families. I am
21 someone who grew up in the middle of the family. How would it be
22 possible for me not to understand all those languages?

23 There are even Ngitis who understand Kihema and who speak Kihema.

24 Q. All right. Well, you've been very clear in respect of that.

25 Last week we had an interpreter say that you were speaking Ngiti,

1 and I just want to put it on the record that we subsequently found out
2 that no one in the booth speaks Ngiti, and so that would not be an
3 accurate statement, because we don't know whether you speak Ngiti or not.
4 I accept you may speak some, but whether you speak sufficient to have
5 understood what you claim to have heard, as we'll come to later, is still
6 an area of -- we don't know about, you see.

7 Let me ask you this: During the attack on the 24th of February,
8 is it your view that the Ugandans were present and taking a part?

9 A. When the Ugandans were there, we were in Bahema South. We came
10 to the other side while the fighting was going on.

11 At the beginning when people started carrying out massacres of
12 Hemas in Bogoro, I was there, yes.

13 Q. Just listen to the question. Is it your evidence that the
14 attackers of Bogoro, on the 24th of February, included UPDF soldiers?

15 A. The day on which the Lendu-Ngiti coalition attacked, yes, the
16 UPDF elements were there.

17 Q. And when you say they were there, whose side were they fighting
18 on?

19 A. No. The Ugandans had stayed there on the spot. When the others
20 attacked to kill people in Bogoro, the Ugandans fought against them and
21 chased them away. When they started killing people, the Ugandans were
22 saying the following: "This is not possible. Why is it that you are
23 killing each other, you Congolese?"

24 Q. Let me just read, then. I think it might be the easiest course
25 for us and the quickest course to -- just to read. I'm going to read

Witness: Witness P-0151 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 some things from your statement. Paragraph 30 of document 01640488.

2 At paragraph 30:

3 "During the fourth attack on Bogoro, the attackers were Ngiti,
4 Lendu, and UPDF soldiers."

5 Is that right or wrong?

6 A. That is correct. They were dressed in black uniforms, almost
7 khaki colour. These were very tall people.

8 Q. Thank you. You say this:

9 "The Lendu spoke Kilendu among themselves. The Ngiti spoke
10 Kingiti, and the Ugandans spoke Kiganda."

11 Do you remember saying that?

12 A. That is correct, and that is what happened.

13 Q. "I remember," you say, "hearing the attackers speak among
14 themselves as they came to my place to take my cows. I recall that the
15 Ugandans were saying to the Ngiti and the Lendu that they were not there
16 to intervene. They were there just to chase away the UPC. "

17 Is that something you heard?

18 A. No. It was the Lendus who said that. They said, when that woman
19 was killed, "If we had not come to join you, would you have been capable
20 to defeat the UPC?" Those are things that I heard with my own ears.

21 It was at that time that the Lendus started shouting as follows:
22 "Where are the people from Zumbé? They should come and take one of
23 theirs who is injured here." And the UPC soldiers injured that person on
24 the hill. They took him and went away with him to the camp. I saw that
25 with my own eyes.

Witness: Witness P-0151 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Q. All right. Now, just listen, because what I'm reading to you is
2 what has been recorded that you told the people from the Prosecutor in
3 the course of these ten hours of interview they had with you, and I'm
4 going to quote again what it's recorded as you said. Now, listen,
5 please, to what I read.

6 "I recall that the Ugandans were saying to the Ngiti and the
7 Lendu that they were not there to intervene. They were there just to
8 chase away the UPC."

9 A. No. They did not understand me well. They took what I said down
10 wrongly. It was the Lendus I was talking about.

11 Q. You say this a little later:

12 "I'm certain there were Ugandans soldiers, as I saw them with my
13 own eyes. They had uniforms in dark green, and I could see that some of
14 them had rank markings on top of their shoulders. The Swahili that they
15 used was different to that spoken in the Congo, and this fact contributed
16 to convincing me that they were Ugandan soldiers."

17 Don't you --

18 A. Yes, I recognise at that statement.

19 Q. And do you stand by that today? Do you agree with that today?

20 A. To say that the Lendus were conversing on the day that that woman
21 was killed, that is one thing, but the information about the Ugandans is
22 something else.

23 Q. Now, I'm going to now ask you, and I'm sorry that I'm touching on
24 this but it's quite unavoidable for me, on some of the incidents where
25 you --

Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 THE INTERPRETER: There was an overlapping microphone. The
2 witness is supposed to have said, "I can forgive you."

3 MR. HOOPER:

4 Q. Well, thank you, because you understand my job, and sometimes my
5 duties mean that I have to perhaps ask things that perhaps I'd rather not
6 ask you, but -- and touch on, but I'm going to necessarily and with
7 regret touch upon some of the dreadful sights you saw that day and the
8 loss of family members in particular, people very close to you, your son
9 and sister and the like. So do forgive me.

10 Now, because we're going to talk about your family, it's
11 obviously going to be better if we do that in closed session, because
12 it's inevitable that we may unavoidably, otherwise, reveal your -- your
13 identity.

14 MR. HOOPER: So can we go into closed session, please?

15 PRESIDING JUDGE COTTE: (Interpretation) That is agreed,
16 Mr. Hooper.

17 Madam Court Officer, let us go into private session, please. And
18 I would like to seize this opportunity to remind one and all that it is
19 important to speak slowly. The court reporters pointed out a short while
20 ago that they are having a few difficulties because people are speaking
21 very fast. Thank you.

22 (Private session at 10.44 a.m.)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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13 Page 37 Expunged - Private Session

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0151 (Resumed) (Private Session)
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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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8 (Open session at 10.56 a.m.)

9 COURT OFFICER: (Interpretation) We are in open session,
10 Mr. President.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
12 Court Officer.

13 Mr. Witness, we are going to break, as you have heard, for
14 30 minutes. You will have the possibility to rest during that period.

15 Court Usher, please lead the witness out of the courtroom.

16 THE WITNESS: (Interpretation) Thank you very much,
17 Mr. President.

18 (The witness stands down)

19 PRESIDING JUDGE COTTE: (Interpretation) Court shall rise.

20 Recess taken at 10.58 a.m.

21 On resuming at 11.32 a.m.

22 (Open session)

23 COURT USHER: All rise.

24 PRESIDING JUDGE COTTE: (Interpretation) The court is now in
25 session. Please be seated.

Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 We are in open session. Court Officer, please have the witness
2 brought in.

3 (The witness takes the stand)

4 PRESIDING JUDGE COTTE: (Interpretation) Witness, can you hear
5 me? Can you hear me well?

6 THE WITNESS: (Interpretation) Yes.

7 PRESIDING JUDGE COTTE: (Interpretation) We can, therefore,
8 continue. Counsel Hooper, you have the floor to continue your
9 cross-examination.

10 MR. HOOPER: Thank you very much.

11 Q. Mr. Witness, so I'm just picking up on your last reply. In your
12 statement, at paragraph 55, you say this: That --

13 MR. HOOPER: Are we in open session? We should be in closed
14 session. Closed session, please.

15 PRESIDING JUDGE COTTE: (Interpretation) So, Court Officer, we
16 shall go into private session, which was the case before the break.

17 (Public session at 11.35 a.m.)

18 (Expunged)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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16 (Open session at 11.47 a.m.)

17 COURT OFFICER: (Interpretation) We are now in open session,
18 your Honour.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
20 Court Officer.

21 Please continue, Counsel Hooper.

22 MR. HOOPER:

23 Q. So, Mr. Witness, we're now in open session. Can I please remind
24 you to be on your guard about mentioning anything that might identify
25 you.

Witness: Witness P-0151 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 The murder of Ndora's wife was something you saw. You saw her
2 shot, and you were hiding just, you've just told us, 25 metres away.

3 Was your wife with you at that time?

4 A. No. When she came, I was alone next to the stream. This woman
5 had already fled.

6 Q. So that I'm clear, at what point did your wife leave the
7 hiding-place, and where did she go?

8 A. I saw my wife at 1500 hours. She had fled. And I called her
9 when I saw her moving. I said, "Why are you going to -- outside?" She
10 said, "Leave me to die, because my child has been killed." And I called
11 her and she joined me where I was hiding. Towards 7.00, we left our
12 hiding-place to go towards Bunia.

13 Q. All right. So -- so at the time that you saw Laurent Ndora's
14 wife murdered, your wife hadn't yet joined you. Was that the position?

15 A. She hadn't yet come. She found me next to the stream, and she
16 heard when the child had cried.

17 Q. Was this the wife who had been in the dispensary or the wife who
18 had been in your house? Which one was it?

19 A. In the house there were two women. One was at the dispensary,
20 another one. The one who went to the dispensary had fled. She went
21 elsewhere. I saw her in Bunia later.

22 Q. All right.

23 A. My wife who was at the dispensary was the mother of (Expunged)

24 Q. Well, I don't want you to -- my fault, probably, to mention
25 names.

Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 So she'd gone -- as I understood it, she -- you didn't see her
2 again, as you told us, that day, until you got to Bunia the next day, but
3 I thought the wife who was hiding by Waka, the Waka River, was -- was the
4 wife who you'd sent in the morning with the children. Don't name any
5 names. Isn't that right?

6 A. Two of my wives fled, another stayed behind accompanied by a
7 child who was killed. There was also the other wife who had a child
8 called (Expunged), and she hid in Luba, and during the war I found her when
9 she was fleeing, going through the bush.

10 MR. HOOPER: So I think we just need to go back into closed
11 session. I'm sorry. I thought we'd got away from identifying features.
12 Can we go into closed session again just to clarify this area.

13 PRESIDING JUDGE COTTE: (Interpretation) We will now go into
14 private session, Counsel Hooper.

15 Court Officer, please. Private session.

16 (Public session at 11.53 a.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0151 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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15 (Open session at 12.05 p.m.)

16 MR. HOOPER:

17 Q. And you were telling us about the death of the wife of Laurent --

18 PRESIDING JUDGE COTTE: (Interpretation) Just wait, please. We
19 were not yet there. Very well. Court Officer.

20 COURT OFFICER: (Interpretation) We are in open session.

21 PRESIDING JUDGE COTTE: (Interpretation) Yes, we are in open
22 session.

23 Mr. Hooper, please proceed.

24 MR. HOOPER:

25 Q. Again, don't mention any names of wives or children, to protect

Witness: Witness P-0151 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

Page 53

1 your identity, but when the wife of Laurent Ndora, when you saw her shot,
2 you were at that point by the Waka River, but you were alone. Is that --
3 is that the position? You weren't with any -- any of your wives?

4 A. It was at that time that my wife arrived. I -- after I had
5 called her, people were fleeing, and once I realised that she was nearby,
6 I said, "But look, I am here," and that is how she came back.

7 There were people who were taking off their clothes to flee.
8 Others were even hiding in the water.

9 Q. All right. Just please listen to the question. At the time that
10 you saw the wife of Laurent Ndora killed, were you alone or did you have
11 a wife with you?

12 A. What I'm saying is this: When Ndora's wife was killed, I was
13 alone. Subsequently, I heard someone coming through the bush. There was
14 a child crying. At that point I saw a woman with a small girl. That is,
15 where I was hiding there were three people. A child had already been
16 killed. When we heard Ndora's child crying on the stones, the woman who
17 was there was looking at the child, and when the bush was set on fire by
18 those same people, we were there. They were shooting into the bush. At
19 that time, we were there with that woman.

20 Q. Now, you tell her that -- tell us you saw Ndora's wife shot. You
21 were just 25 metres away. Let me just read what is in your statement at
22 paragraph 53, and you have the fighters questioning her and her telling
23 how she brought fish. You say:

24 "One of the fighters asked why -- asked why they were asking her
25 these questions -- said why they were asking her these questions that she

Witness: Witness P-0151 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 was a liar and had come to marry one of the UPC soldiers. This same
2 fighter said that there was no need to wait and they hit her with a
3 machete blow to the neck, and after killing her, the fighters searched
4 her body looking for money."

5 So just pausing there. So in this account of her death, she's
6 killed with a machete. She's not shot. Can you explain the difference
7 between that account you told the Prosecutor and your account of --

8 A. She was killed by a bullet, and then she was cut into pieces
9 by -- with a machete. It was a bullet, and then a machete was used
10 afterwards. I saw it with my own eyes. Another Bira called Liabo
11 (phoen) was also killed, and I saw it with my own eyes. He said he was a
12 Bira, and he was asked why he had fled to Bogoro. It was a Bira girl who
13 was killed at that time, and another Bira was hacked to death with
14 machetes.

15 Q. Now, you told us how you had stayed until, I think it was either
16 5.00 in the evening or 19 -- 1700 or 1900. I think -- can you remember
17 what time it was you left, approximately? I mean, was it light or was it
18 dark?

19 A. It was at 7.00 p.m. It was already dark. I was waiting for
20 nightfall to be able to leave. If I had gone away during the day, I
21 would not have been safe.

22 Q. I understand. Now, in your statement can I just refer to what it
23 was understood you were saying at the time you made your statement, at
24 paragraph 43, and when you say there, sir, is this -- or what's recorded
25 there:

Witness: Witness P-0151 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

Page 55

1 "During several days, I was hidden in -- in the forest and could
2 see all that was going on in Bogoro. It was like that I was the witness
3 to the summary executions done by the Ngiti with the help of machetes."

4 Can you explain -- or is there any explanation why in this
5 statement you have yourself hiding for several days and witnessing the
6 events in Bogoro for several days?

7 A. I'm sorry. I did not hide for several days. Who said that? It
8 was on the same day. I stayed there from 2.00 p.m. to 7.00 p.m. I
9 didn't speak of several days. This is a mistake.

10 There are people who spent an entire week, and when they arrived
11 Bunia, there was -- they were in a deplorable state.

12 Q. Yes, indeed, but in your statement it appears that you were
13 telling the Prosecutors then that you were one of those, that you'd
14 stayed several days and witnessed things as a result.

15 When the statement was read back to you, did you -- did you not
16 notice that mistake?

17 A. This is what I can say: When I left, I returned in 2005, and it
18 was in 2005 that they met me to ask me questions, but I never said that I
19 stayed there for several days. Even when the fighters arrived with their
20 vehicles, they asked me to come and help them to push the vehicles, and
21 this was in 2005.

22 Q. Now, when you saw the man with the white shirt and the whistle,
23 the man who spoke Congolese Swahili, telling the people to stop, not to
24 kill the -- not to kill the civilians but to kill the soldiers, where
25 were you when you -- when you heard that? Just briefly. You don't have

1 to tell the story again because we've heard what you said, but where were
2 you when you heard that?

3 A. At that time, I was at home. I had not yet left. When the UPC
4 soldiers fled, at the place where (Expunged) were killed, that is
5 where there was a person who could be seen. That is at the time that the
6 UPC soldiers and others were fleeing. I was at home and I could see this
7 person whistling, sounding his whistle and saying, "Do not kill the
8 civilians. You should instead kill the UPC soldiers." At that point he
9 said -- they said, "We are here to work. We have to kill the Hemas."
10 That is something that I heard. They were speaking in a language, and
11 the person who was saying this was at the top of the hill.

12 Q. So the man in the white shirts in the Bogoro Institute telling
13 people not to kill the civilians, and the person who answers him back
14 saying, "We're here to kill the Hemas," he was on top of Waka hill. Is
15 that the position? Have I got that right?

16 A. Yes, that is correct. When the person who was on the hill was
17 saying, "Do not kill the civilians," the others answered him by saying,
18 "We are here for work. We are not going to beg. We are going to kill
19 the Hemas." I heard that with my own ears. No one told me that.

20 Another person was telling those same people, "Today you have
21 really done some work. You have really done some work."

22 Q. Sorry, I didn't -- can I just clarify this? Where do you say
23 this man with the white shirt was? I thought you told us he was in the
24 Bogoro -- or at the Bogoro Institute, but now you told us he was on Waka
25 hill. Which was it, the institute or the hill?

Witness: Witness P-0151 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 A. No. The person who was at the institute said, "Do not kill the
2 civilians." He was in the courtyard of the school, where children play
3 football. And the person who was on the hill was answering him and said,
4 "We are here to work. Today the Hemas are going to see." That is what
5 the person on the hill was saying in answer to the one who was in the
6 courtyard of the school at the institute.

7 Q. I mean, can you have that kind of conversation, even a shouted
8 conversation, over that distance and in those circumstances? It's too
9 far, isn't it?

10 MR. GARCIA: (Interpretation) I will object, Mr. President. It
11 is not a question that the witness can answer. He's simply being asked
12 to speculate given the circumstances.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.

14 Mr. Hooper, you can rephrase your question such that the witness
15 can maybe give you an answer, but not in the initial way that you asked
16 the question. Thank you.

17 MR. HOOPER: All right.

18 Q. Now, let me move on. You made -- in your evidence, you told us
19 that you heard references to Germain Katanga and Ngudjolo, to their names
20 being shouted out. When you heard that -- when you heard that -- listen,
21 please. When you heard that, where do you say you were?

22 A. At that time, one could not talk of the school. When we fled and
23 the combatants chased away the UPC soldiers and the population fled, they
24 started picking up objects. The children and women, some of them came to
25 my house. They took flour, and they took food to prepare, and today --

1 and they were saying that today Germain Katanga and Mathieu Ngudjolo have
2 done some work. It was a celebration in my compound. There were cows
3 and goats and chickens. There was everything.

4 Q. All right. So this is something said by the women and children
5 in your compound; is that right?

6 A. That is correct.

7 Q. And that's where they were. And where were you, and who were you
8 with?

9 A. I'm sorry, it was when people were fleeing. I did not have the
10 time to see who was nearby. I was hiding near the river. There was no
11 way to call anyone. It was simply possible to observe and see that there
12 was someone, but you could not call out to anyone.

13 Q. Were you with a wife?

14 A. No. At that time, my wife had not yet arrived.

15 Q. And the words you heard were, "Today Germain Katanga and
16 Mathieu Ngudjolo have done some work." Is that right?

17 A. Yes. "Today these children have done some work." That is what
18 they were saying. "Today you have worked."

19 God alone knows what I am testifying to here, but we are human
20 beings. We do not trust each other in order to know whether a person is
21 telling the truth or not.

22 Q. All right. So were they saying, "Today you have worked"? Were
23 they mentioning names, Katanga and Ngudjolo, or not? Were they referring
24 to the children or not?

25 A. There were people. There were many people who were celebrating,

1 beating drums in -- at the institute. It was a feast. Even the women
2 who had been taken were able to see that.

3 Q. Well, let me put it like this: Whatever was said, wherever it
4 was said, when you heard the names Germain Katanga and Mathieu Ngudjolo,
5 what did you take that reference to mean? What did it indicate to you?

6 A. I think it is difficult for me to give you an answer to your
7 question. What do you want me to say concerning the meaning that these
8 words would mean for me? They were congratulating them. What do you
9 want me to add?

10 Q. All right. So they were congratulating them. The people were
11 congratulating them. What were they congratulating those two for, as you
12 understood it?

13 MR. HOOPER: And I don't really need to be interrupted.

14 MR. GARCIA: (Interpretation) Once again, Mr. President, I do
15 not want to interrupt my learned colleague, but he is seeking an opinion
16 of the witness regarding a third party.

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, please
18 proceed.

19 And, Mr. Witness, try to answer the question that was put to you.

20 MR. HOOPER:

21 Q. And the question was: When you heard that, what did you yourself
22 understand it to mean? What were they congratulating them for, those
23 two, Katanga and Ngudjolo?

24 A. Your questions bother me. You know very well that when someone
25 does his job very well, he will be congratulated. He's told, "Thank you.

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1 You have done your job very well."

2 Q. And in this context, what was that job, do you say?

3 A. They were happy because they had massacred the population. What
4 do you want me to add?

5 Q. So did you take it they were being congratulated because the
6 people saw them as responsible for this success, this attack?

7 A. How would you want to change the reality? It's the Ngiti and the
8 Lendu who killed the Hema. How would the Hema congratulate each other?
9 It was them who were the ones who slaughtered the goats. No, it's not
10 the Hema who went to the Lendu territory.

11 Q. Now, you may remember Mr. President, the Judge, asking you last
12 week why these references that you make in your evidence now to Ngudjolo
13 and to Germain Katanga, why they don't feature, are not written down in
14 your statement to the Prosecutor. Do you remember the Judge asking you
15 that last week?

16 A. What you tell me isn't in my head, because the -- there's so much
17 material that it's difficult for me. I need some minutes for a rest.

18 PRESIDING JUDGE COTTE: (Interpretation) We're going to give you
19 five minutes. It's now 12.30 -- 12.35. We're going to start at 12.40.
20 If we want to have a break, we will start again at 12.40.

21 Witness, would you like to leave for a moment to the restroom?

22 And the Usher, I would ask you to take the witness out so that he
23 can have a rest. And then we'll have a break for seven minutes.

24 (The witness stands down)

25 PRESIDING JUDGE COTTE: (Interpretation) It's now exactly

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1 34 minutes past. We'll start at quarter to. I think it's important for
2 the witness to be able to have a bit of distance from this. So we'll be
3 back at 12.45.

4 Recess taken at 12.33 p.m.

5 On resuming at 12.44 p.m.

6 COURT USHER: All rise.

7 PRESIDING JUDGE COTTE: (Interpretation) The court is now in
8 session. Please be seated.

9 The two accused are with us. We are in open session.

10 Court Officer, please have the witness brought in.

11 Thank you, Usher.

12 (The witness takes the stand)

13 PRESIDING JUDGE COTTE: (Interpretation) We are again together,
14 Witness. Can you hear me well?

15 THE WITNESS: (Interpretation) I can hear you very well.

16 PRESIDING JUDGE COTTE: (Interpretation) Perfect.

17 So, Counsel Hooper, you can continue with your cross-examination.

18 MR. HOOPER: Yes.

19 Q. Mr. Witness, bear with me. I've only got a few questions left to
20 ask you, all right, and they won't last more than ten minutes.

21 So I was asking you, can you remember last week when His Honour,
22 the Judge, was asking you why these references to Ngudjolo and
23 Germain Katanga, why they don't appear in your statement that you made to
24 the Prosecutor, and you remember you said, and it's at transcript 111,
25 page 58, you said:

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1 "The people I was speaking to did not note it down, but I told
2 them."

3 Now, do you remember telling them about these invocations of the
4 name of Katanga and Ngudjolo? Did you tell the Prosecutor that when you
5 met him -- or met them?

6 A. I haven't understood your question.

7 Q. Well, I'll repeat it again. Last week when the Judge asked you
8 why that evidence didn't appear in the statement, you said:

9 "Well, the people I was speaking to, they didn't make a note of
10 it, didn't write it down, but I did tell them."

11 Is that the position, that you did tell the Prosecutor about
12 hearing the names Ngudjolo and Katanga mentioned, but they didn't write
13 it down in your statement?

14 A. Yes, that happened in that way. I asked myself the question of
15 why didn't they write that, and that's why I said they wrote some
16 information, but others they didn't write. So that's why I have to
17 undergo these questions and suffer.

18 Q. All right. I understand that. But over those days of
19 questioning and you giving an account, it was obvious to you, wasn't it,
20 that the Prosecutor was interested to know what had happened and also
21 interested to know who was responsible for it happening. That's right,
22 isn't it?

23 A. I don't know what you are referring to when you -- well, I don't
24 understand what you're saying. When you speak about those responsible.
25 I don't understand.

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1 Q. Well, let me put it again. When you were being interviewed by
2 the Prosecutor, wasn't it obvious to you that he was interested, he'd
3 like to know, who you thought was responsible for what had happened at
4 Bogoro?

5 A. You want to say those who came to attack Bogoro, those who came
6 to massacre in Bogoro?

7 Q. Well, those who were responsible for the attack. That was an
8 important point of interest, wasn't it, an important thing, who was
9 responsible for the attack?

10 A. There you have finally asked your question. Ngudjolo and
11 Germain Katanga came to Bogoro, attacked Bogoro.

12 Q. So why didn't you tell the Prosecutor that during those ten hours
13 of interview?

14 A. Can I mention their names without knowing how the -- everything
15 is going to be done afterwards? They are in Bogoro until today. They
16 drove out the people. They built houses in Bogoro and didn't go back.
17 They didn't want to go back.

18 We are living there with Ngiti, Lendu. Why? Why didn't they
19 want to go home? Even their wives, women of this ethnic group, are
20 there.

21 Q. All right. Let me go back to the statement and read to you what
22 you did say about people who were -- when you were asked about this.

23 I don't want to confuse you, because this is going to be easy to
24 confuse you, but the first bit I'm going to read is paragraph 25. Now,
25 this deals with the attack in 2002. Not the February the 24th attack but

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1 an earlier attack in 2002. And I'm only reading this for completeness,
2 all right? I'm not particularly interested in this bit, but it's been
3 mentioned already by the -- by counsel for the victims. And at
4 paragraph 25, talking about the attack in 2002, I emphasise, you said
5 this:

6 "As for the leaders of the attackers, I remember that the names
7 Ndjabu," that's N-d-j-a-b-u, "and Ngudjolo were circulating as regards
8 the Lendu, and that for the Ngitis, one spoke of people such as Cobra and
9 Kakado," K-a-k-a-d-o. "I did not see these people at Bogoro at the
10 attack, and I know nobody who saw them. I remember simply that they were
11 names that were mentioned."

12 Now, that's dealing with the attack in 2002. Just pausing there,
13 though, do you remember saying that to the Prosecutors when they saw you
14 for this statement?

15 A. That's correct. That's correct.

16 Q. Thank you very much. I'm going to come now to paragraph 66,
17 which is the -- almost the last of the paragraphs of your statement, and
18 this paragraph has been headed with these words: "Those responsible for
19 the attack." And I'll read it all to you for completeness, and then I
20 will ask you a question about it. So listen to the Swahili translation
21 of what I'm going to read at paragraph 66.

22 "Those responsible for the attack.

23 "I do not know what was the name of the commander of the fighters
24 who attacked us in 2003. I know, on the other hand, that the Lendu
25 belonged to the FNI, and the Ngitis to the FRPI. I do not know what

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1 those letters stand for. I only know that that is the name they are
2 called on the radio. I believe that the name of the chief of the FNI at
3 that time was Ngudjolo (sic). I heard people say that the chief was
4 called that, but I do not know him, and I have never seen him. In
5 respect of the FRPI, I believe the chief was called Cobra. Again, I do
6 not know more."

7 MR. FOFE: Excuse me. (Interpretation) I'm sorry,
8 Presiding Judge. I would like to apologise, dear colleague.

9 I have to intervene, because in the interpretation, when
10 Counsel Hooper mentioned paragraph 66, which we have before our eyes,
11 instead of the name Ndjabu, the interpreter said the name Ngudjolo, but I
12 would like for this correction to be brought. It is not Ngudjolo, it is
13 Ndjabu. And the sentence is as follows, and I quote it:

14 "I think that the leader of the FNI at the time was Ndjabu,"
15 which is written N-d-j-a-b-u.

16 This correction is important, and I had to bring that to
17 everybody's knowledge. I would like to apologise.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that
19 clarification.

20 Counsel Hooper, please continue.

21 MR. HOOPER: That was my mistake. I'm sorry, there was a mistake
22 on my part. I'm very sorry.

23 Q. So should I read that last bit again so that we're quite clear?

24 "I believe," I'm going to read it again:

25 "I believe that the name of chief of the FNI at that time was

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1 Ndjabu," N-d-j-a-b-u. "I heard people say that the chief was called
2 that, but I do not know him, and I have never seen him. In respect of
3 the FRPI, I believe that the chief was called Cobra. Again, I do not
4 know more."

5 So, Mr. Witness, it's not just a question of you not mentioning
6 Mr. Katanga's name or referring to what you've told us in your evidence
7 last week, but you positively stated something I suggest contradicts that
8 which you said last week.

9 Now, have you any explanation for that, those differences between
10 your statement and you evidence?

11 A. There is the name of someone. I do not know whether it is
12 different. I know that it is only one person, and his name.

13 Q. Yes. All right.

14 MR. HOOPER: Well, I have no other questions. Thank you.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.

16 Mr. Witness, Germain Katanga's Defence has now concluded it's
17 cross-examination, and it will now be the turn of Mathieu -- Mathieu
18 Ngudjolo's team to begin with their cross-examination. You are going to
19 answer their questions. It is now 1.05 p.m., and we are going to stop at
20 1.25 p.m. so that you can leave the courtroom.

21 Are you the one taking the floor, Professor Fofe? Well, it's
22 going to be Professor Fofe, who will introduce himself to you.

23 MR. FOFE: (Interpretation) Thank you very much, Mr. President.

24 Questioned by Mr. Fofe:

25 Q. (Interpretation) Good afternoon, Witness. Good afternoon. My

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1 name is Jean-Pierre Fofe. I am co-counsel within the Defence team of
2 Mathieu Ngudjolo.

3 As the Presiding Judge told you at the beginning of your
4 testimony, you, Witness, came here to assist the Chamber to understand,
5 and to understand well, what happened in Bogoro on the 24th of February,
6 2003. Do not think even for one minute that we are asking questions to
7 you to create any difficulties for you. Not at all. We are instead
8 giving you the opportunity to speak the truth and nothing but the truth
9 to the Honourable Judges, and that is our role.

10 We do understand that you lived through a difficult situation in
11 your family, but given your status, which I cannot reveal in open session
12 because we are in open session, you know very well, Mr. Witness, that to
13 administer justice correctly, the Judges must have all the information
14 and all the details necessary. We are, therefore, asking you, appealing
15 to you, to provide simple answers to our questions which will be precise.

16 And please be reassured that we respect you as a witness. We do
17 not treat you like a child. We respect you as a witness. And I would
18 like to ask you to speak slowly so that your answers can be correctly
19 interpreted, translated and transcribed. And in particular, please
20 observe a pause between the end of my question and the beginning of your
21 answer, even if, as I think you do, understand French. So I would like
22 to ask you to wait for the translation into Swahili before answering the
23 question. I myself will make that effort, because I do understand
24 Swahili, but I will wait for the translation before continuing.

25 Have you understood me we well, Mr. Witness?

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1 A. Yes, I have understood you very well.

2 Q. Thank you. Mr. Witness, during your testimony on Friday, the
3 26th of February, 2010, you stated that you speak Kihema and Kiswahili.
4 Is that correct?

5 A. Yes, that is correct. Those are my languages.

6 Q. You also stated that you understand, and I specify that you
7 understand, apart from Kihema and Kiswahili, you also understand Kilendu,
8 Logo, Kibira and Kingiti. Is that correct?

9 THE INTERPRETER: There was no interpretation from the Swahili
10 booth.

11 MR. FOFE: (Interpretation)

12 Q. Mr. Witness, I simply want you to answer the question. I do not
13 need you to tell me why you understand one language or the other. It is
14 not necessary. All I'm asking you is the following: You understand
15 Kihema and Swahili, and in addition to that, you also understand Kilendu,
16 Logo, Kibira, and Kingiti; is that correct?

17 A. I have a question to ask you also. Today I'm here. You know
18 that I'm a Congolese, and if one day I married a white woman, wouldn't I
19 be in a position to speak her language?

20 Q. Yes, I understand, but I cannot answer your question because I'm
21 not in a position to do so. I'm simply asking you to answer my question,
22 which is simple.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, generally
24 speaking, when you don't quite understand a question that is put to you
25 by a member of the Defence team, the OTP, or the Legal Representatives of

1 the Victims or the Court, you have the possibility of asking that the
2 question should be repeated or clarified because you did not understand
3 it well, but you may not ask questions such as the one you have just
4 asked Professor Fofe. This is not a criticism of your person, it is
5 simply that this is not provided for in the procedures. You can answer
6 the questions or ask that they be clarified, but do not ask questions to
7 the person asking you questions.

8 So we are simply going to continue with the question asked to you
9 by Professor Fofe regarding the languages that you understand other than
10 the two that you equally speak.

11 THE WITNESS: (Interpretation) I speak Kihema and Kiswahili.
12 Regarding the other languages, I learned them because I grew up with
13 people who spoke them.

14 MR. FOFE: (Interpretation)

15 Q. Thank you very much. Now, Mr. Witness, to your knowledge, which
16 are the ethnic groups that speak Kilendu?

17 A. It is Ngudjolo's group which speaks Kilendu.

18 Q. And which group is that?

19 A. The Lendu people. That means the inhabitants of Zombe. They are
20 the ones who speak Kilendu. It is the Djugu area, and in that Djugu
21 area, people speak Kilendu.

22 Q. What about the Hemas from the north who are known as Geheres?
23 Don't they also speak Kilendu?

24 A. They also speak Kilendu. These are Djugu people, so they use
25 that same language.

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1 Q. And incidentally - I don't want to dwell on this issue - you know
2 very well that the Hemas of the north, that is the Gegeres, belong to
3 that party known as the UPC.

4 A. Who are you referring to, Counsel? Can you please repeat?

5 Q. I am talking about the Hemas of the north, that is the Gegeres.
6 They belong to the UPC. Isn't that correct?

7 A. Whether they are Gegeres or Hemas, they are all members of the
8 UPC. The Hemas and the Gegeres are members of the UPC. A Hema cannot
9 join a party belonging to a person of Lendu ethnicity.

10 Q. Mr. Witness, do you know about the Mbisa ethnic group? Mbisa is
11 spelled M-b-i-s-a.

12 A. Are you talking about Mbisa? Isn't that a language? In Lendu it
13 is said that Mbisas are Hemas.

14 Q. As far as you know, in Ituri, that is in your region, isn't there
15 an ethnic group known as the Mbisa?

16 A. I know the Mbisas. These are people who live beyond Lenga,
17 toward that direction. That is towards Penyi. The place is Panduru.

18 Q. And do you know which language the Mbisas speak?

19 A. The Mbisas speak a language that is related to that of the Lulus
20 and the Gegere.

21 Q. Isn't it true that the Mbisas also speak Kilendu?

22 A. If I had lived with them, I would be in a position to answer your
23 question, but I did not live with them.

24 Q. Very well. I know that you have already said this, but can you
25 briefly tell us where the Mbisas live?

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1 A. In that case, you really have to travel there to know it. Ever
2 since I was born, I never went to where the Mbisas live.

3 Q. Thank you very much, Mr. Witness. And now about the ethnic group
4 the Ndo, spelled N-d-o. Do you know about the Ndos? That is, it is
5 spelled N-d-o.

6 A. Yes, I know them.

7 Q. And which language do the Ndo speak?

8 A. They speak Lulu, or Kilulu.

9 Q. Don't they also speak Kilendu?

10 A. No. The Ndo do not speak the Lendu language.

11 Q. Yes. Mr. Witness, do you know the Lagabo village?

12 A. (Expunged). It is a village of the Hemas of the
13 south.

14 Q. And where is that village located in relation to Bogoro?

15 A. That village is about 5 kilometres away from Bogoro.

16 Q. Five kilometres from Bogoro. Is it to the east, to the west, the
17 north or the south?

18 A. When you leave Bogoro in the direction of Gety, Lagabo is about
19 5 kilometres away from Bogoro.

20 Q. That would be to the south of Bogoro; is that correct?

21 A. Yes, to the south.

22 Q. And what about the Lakpa village? Where is it situated in
23 relation to Bogoro?

24 A. The distance between Lakpa and Bogoro is about 7 kilometres, and
25 (Expunged) where the people of Hema south live.

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1 Q. Mr. Witness, can you tell us which are the languages spoken by
2 the inhabitants of Lagabo?

3 A. The inhabitants of Lagabo speak the Lendu language, because there
4 were intermarriages between the Lendus and Ngitis, and they speak
5 Kilendu.

6 Q. Thank you. And what about the inhabitants of Lakpa? What
7 languages do they speak?

8 A. They also speak Lendu. The chief of their locality is also a
9 Lendu.

10 Q. To conclude with this line of questioning, you also know the
11 village Nombe, don't you? And it is spelled N-o-m-b-e.

12 A. This village is between the Hema south people and the Nombes, and
13 the Nombes are Lendus.

14 Q. So the Nombes also speak Kilendu?

15 A. The people who occupied that locality were Lendus, and they speak
16 Lendu. People came to work in Nombe, and they had been brought by the
17 whites.

18 Q. One last question before the break.

19 A. But why did you not talk about Charukaka?

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, just as I
21 told you a short while ago, for the time being it is Professor Fofe who
22 is asking the questions. Please answer this last question for this
23 morning before we break.

24 Professor Fofe.

25 MR. FOFE: (Interpretation) Thank you, Mr. President.

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1 Q. Now, this is my last question, Mr. President. Can you tell us in
2 which collectivite the Lagabo, Lakpa, and Nombe villages are located?
3 Which collectivite?

4 A. Lendu is not spoken in Lagabo. The Lagabo was first built by a
5 Bira. Subsequently, the Lendus came and built there. It was a village
6 of the Biras. And the Biras occupied a certain part of it. Later on,
7 the Lendus came to Lakpa, and the Biras are in Charukaka. It is not
8 occupied by the Lendus and the Ngitis. It is the Lendus who are in
9 Charukaka. Later on there was a demarcation to determine the Bira and
10 Hema areas.

11 THE INTERPRETER: The witness is going very fast, says the
12 Swahili interpreter.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, please
14 speak slowly to end your answer.

15 THE WITNESS: (Interpretation) Yes, Mr. President.

16 MR. FOFE: (Interpretation) Thank you very much, Mr. Witness, we
17 are going to stop here for now. Thank you, Mr. President. Thank you,
18 your Honours.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
20 Professor Fofe. Tomorrow you will continue with your cross-examination.
21 Do you think you will need all the four hours of our hearing?

22 MR. FOFE: (Interpretation) I think so.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. That is
24 important, because we will not sit on Wednesday and Thursday, and that
25 will make it possible for the Registrar and the OTP to know that

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1 Witness 323 will not be present tomorrow.

2 Mr. Witness, thank you for your contribution of this morning.

3 The Court Usher is going to lead you out. We are going to meet again

4 tomorrow morning at 9.00 a.m.

5 THE WITNESS: (Interpretation) Thank you, Mr. President.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.

7 Tomorrow, then.

8 (The witness stands down)

9 PRESIDING JUDGE COTTE: (Interpretation) Court is adjourned.

10 The hearing ends at 1.28 p.m.

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