

Trial Hearing
Witness: CAR-OTP-PPPP-0221

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Monday, 29 November 2010
9 (The hearing resumes in open session at 2.17 p.m. from Courtroom 1)
10 THE COURT USHER: All rise. Please be seated.
11 THE COURT OFFICER: Good afternoon, your Honours. We are in open session.
12 PRESIDING JUDGE STEINER: Good afternoon. We are really in a very, very small
13 courtroom, so we had to reduce the number of persons attending. Thank you. So
14 we will resume now our afternoon session. We had no filings from the Prosecution.
15 MS BENSOU DA: Madam President, we have just sent an email informing the
16 Chamber that we will be able to do that tomorrow.
17 PRESIDING JUDGE STEINER: Tomorrow?
18 MS BENSOU DA: Tomorrow. We will submit the -- make the written submissions
19 tomorrow, because we need to put information together.
20 PRESIDING JUDGE STEINER: So my idea, Madam Bensouda, is to ask the
21 Prosecution to make this filing today in order to give the Defence some time for
22 responding.
23 MS BENSOU DA: I understand that, Madam President, but as I indicated we were
24 totally unprepared for this and I had to raise the objection to that, but it didn't mean
25 that we had a filing ready waiting for this because we were not expecting that this

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1 was happening today, but we are getting it ready and we will submit it tomorrow.

2 PRESIDING JUDGE STEINER: At what time tomorrow, Ms Bensouda?

3 MS BENSoudA: We can do that as early as possible, maybe in the morning, but
4 I think that there are enough counsel in the Defence team to -- for us to continue.

5 PRESIDING JUDGE STEINER: Yes. This is the Chamber that is going to decide
6 upon now we are going to -- we need to establish a time limit for you to make this
7 filing.

8 MS BENSoudA: Very well, Madam President.

9 PRESIDING JUDGE STEINER: So at 10 in the morning, please.

10 MS BENSoudA: Thank you, Madam President. We will try to submit it before
11 then.

12 PRESIDING JUDGE STEINER: Thank you very much. So in order to progress
13 matters, the Chamber is authorising the Prosecution to file submissions - written
14 submissions - by tomorrow morning and then we will give to the Defence the right to
15 respond by 4 p.m. tomorrow.

16 In the meantime, the Chamber asks that the Defence team, Maître Liriss as the leading
17 counsel, to appoint another counsel of your team to raise the objection that you said
18 you would raise in relation to the witness that we are about to call.

19 MR LIRISS: (Interpretation) Madam President, I'm sorry. The way we are
20 organised the only person who was responsible for that was Mr Kaufman and we
21 cannot suddenly ask someone to present a motion that he didn't sufficiently deal with.
22 I'm sorry, we are overwhelmed with work and, as you yourself are fully aware, we
23 cannot simply do what is being asked because the Prosecution does not want one
24 particular person. We are being driven up against a wall; we have no one else to
25 present that today. I'm sorry.

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1 PRESIDING JUDGE STEINER: (Interpretation) I'm also sorry. (Speaks English)
2 But the Chamber has not been put on notice that there would be any objection in
3 relation to the expert to be listened to this afternoon.
4 The evidence to be given by this expert was disclosed to the Defence more than one
5 month ago, so if the Defence had any objection in relation to the witness, or expert
6 herself, the Defence had time enough to prepare and not inform the Chamber on the
7 spot and leaving the Prosecutor as well in a difficult position to respond to such
8 objection.

9 So if the Defence insists on making an oral objection, the Chamber is given the
10 Defence the opportunity to choose among one of you to make this objection now;
11 otherwise, the Defence is precluded.

12 MR LIRISS: (Interpretation) Madam President, in any case, we will defer to your
13 decision. However, please, I would like you to bear in mind the heavy work burden
14 that we had to accomplish. Of course, it was with the assistance that you asked to be
15 provided to us by the office for -- Public Office for Defence Counsel, but despite the
16 fact that we had that obligation we were very busy preparing everything that we have
17 prepared so far.

18 If we want to fulfil all our professional obligations according to the code of ethics, we
19 will of course comply with your injunctions, but unfortunately we will be compelled
20 to do our work badly and I believe that that is not what you wish. If you want to
21 have a compromise solution, then we are at your disposal, but if you stand by your
22 decision we will comply, but we will not do a perfect job since you want a perfect job.

23 PRESIDING JUDGE STEINER: Maître Liriss, I understand that the Chamber is quite
24 sympathetic because the Chamber is aware that a volume of work that all parties
25 involved in this case had at the last month for the preparation of the trial has been

1 overwhelming. The Chamber is aware.

2 The fact is that we have a witness that since last week we were informed that this

3 witness could be available to the Chamber only today and tomorrow. The evidence

4 to be given by this witness was disclosed to the Defence one month ago, together with

5 the curriculum vitae of the witness and all information needed for the Defence to raise

6 any objection in relation to the testimony of this witness.

7 The Chamber has not been informed about the existence of any issue to be raised

8 against the testimony to be given by this witness. Therefore, the Chamber is not in a

9 position to suspend proceedings, waiting for the first issue raised by the Prosecution

10 in relation to the conflict of interest related to one member of your team and, second,

11 to listen to an objection to the witness. We don't have time for that.

12 The Defence team had one month to submit, to make a submission on whatever

13 objection the Defence had in relation to this witness. That's why, Maître Liriss, with

14 all due respect to the work - the hard work - that has been done by the Defence team,

15 the Chamber is deciding that you have the opportunity right now to raise the

16 objection in relation to the testimony of the witness.

17 If one of the members of your team is not in a position to do it, we are going to

18 proceed with the questioning of the witness. Of course, you can at any moment file

19 a submission on the objection that was about to be raised orally and the Chamber can,

20 maybe decide upon a written submission, but not now. So it's in your hands, Maître.

21 MR LIRISS: (Interpretation) Can I have two or three minutes to consult, your

22 Honour?

23 PRESIDING JUDGE STEINER: Yes.

24 (Pause in proceedings)

25 MR LIRISS: (Interpretation) Madam President, as usual, we will comply with your

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1 injunctions, and as usual we would like to request a break of 20 minutes so as to
2 analyse and file that motion today. That is the only favour and the last one that we
3 are asking you for today.

4 PRESIDING JUDGE STEINER: So, if we are here to make concessions, I will give
5 you 15 minutes that will be discounted from the time you have to question the
6 witness. Please, I'm talking to Maître Liriss.

7 MR LIRISS: (Interpretation) As you say.

8 PRESIDING JUDGE STEINER: We suspend then this hearing for 15 minutes. You
9 have 15 minutes. We will resume at quarter-to-3.

10 THE COURT USHER: All rise.

11 (Recess taken at 2.30 p.m.)

12 (Upon resuming in open session at 2.45 p.m.)

13 THE COURT USHER: All rise. Please be seated.

14 PRESIDING JUDGE STEINER: Maître Liriss.

15 MR LIRISS: (Interpretation) Your Honour, my colleague Peter Haynes will present
16 this motion, if you allow him to take the floor.

17 PRESIDING JUDGE STEINER: Mr Haynes, you have the floor and please be as brief
18 as possible.

19 MR HAYNES: I will be very brief, not least because I don't think my voice will last
20 for very long. At the outset, I think the Court ought to know that I don't believe that
21 the evidence of Dr Akinsulure-Smith should or will detain us for very long. Her
22 evidence so far as we are concerned is substantially uncontroversial and, without
23 giving away too much, your offer to deduct the 15 minutes' time that you allowed us
24 just now from our cross-examination was probably longer than 'the cross-examination
25 will take in total.

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1 It is also one of the two submissions that I am going to make to you that that sort of
2 economy of advocacy ought to be exercised by the Prosecution. This witness has
3 provided a report. We have all read it; it will go into evidence. And it seems to us,
4 absent any further information which we haven't been provided with since the filing
5 of her report a month ago, that there really is no need nor benefit to anybody in her
6 being examined on oath at all, or at least very substantially.
7 So that really is the first submission we make; that this is a witness who quite simply
8 can come in, present her report, be asked a few questions and be gone this afternoon,
9 and that would be good case management and fair because it would be consistent
10 with the notice of her evidence that we have had.
11 The second point might be a little more controversial, and it might assist if we had a
12 little look at the section of the report about which the submission is made in eCourt.
13 And I think it hasn't got an EVD-T number yet, but the EVD number is
14 CAR-OTP-0064 and I hope it's at page 0567.
15 PRESIDING JUDGE STEINER: All evidence that was part of the Prosecution list of
16 evidence has been already tendered into evidence and has an EVD-T number. So,
17 please, court officer.
18 THE COURT OFFICER: Indeed, Madam President, document CAR-OTP-0064-0560,
19 which is the entire document, has already an EVD-T number attributed, which is
20 EVD-T-OTP-00003 and it has been classified as confidential unless otherwise
21 instructed by the Chamber.
22 MR HAYNES: Thank you. Then for present purposes, Madam President, can we
23 simply look at it on our screens and I will be careful what I say about it.
24 (Pause in proceedings)
25 PRESIDING JUDGE STEINER: Mr Haynes, I'm informed that in this courtroom this

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1 is no possibility for a document to be displayed only inside the courtroom screens. It
2 will necessarily be displayed in that one that can be seen by the public. If you want
3 this document to be displayed, we will have to lower the blinds, which is not a
4 problem. It's up to you.

5 MR HAYNES: Do you mind if I ask you a question?

6 PRESIDING JUDGE STEINER: Please.

7 MR HAYNES: Do you have a hard copy of the report in front of you?

8 PRESIDING JUDGE STEINER: Yes, we have.

9 MR HAYNES: Then we can work in that way. It's page 8 and it's section 2, and I
10 shan't recite it. I shall simply invite you to read it through and I shall make the
11 submission very briefly and it is this: That in any event that section 2 of that report,
12 which is really only a few lines long, it goes over to page 9 you will see, ought not to
13 be in any event received into evidence because the sourcing of that information is not
14 revealed.

15 PRESIDING JUDGE STEINER: Mr Haynes, I'm sorry. I cannot read and listen to
16 you at the same time.

17 MR HAYNES: I'm very sorry.

18 (Pause in proceedings)

19 PRESIDING JUDGE STEINER: You can proceed.

20 MR HAYNES: Thank you. I can make the points very briefly. The sourcing of the
21 so-called testimonies is not revealed. The exercise is plainly a brief and vague one,
22 and thus the resulting product is of little probative value for the issues before this
23 Court.

24 Lastly, with its references to such things as Banyamulengues, the section of the report
25 has little probative value, but has very high prejudicial effect.

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1 And so the two submissions we make about the evidence of Dr Akinsulure-Smith are,
2 firstly, that she should if examined in-chief at all be done so briefly and, secondly, at
3 the conclusion of her evidence such of her report that does go into evidence should
4 not include section 2.

5 PRESIDING JUDGE STEINER: Madam Bensouda, or Prosecution.

6 MS BENSOUDA: Madam President, first and foremost, we're aware that the
7 qualifications of this witness was challenged extensively by the Defence and we think
8 that it is our right to conduct the examination-in-chief as we wish and as we have the
9 right to do. I do not think that it is the Defence place to tell the Prosecution how we
10 should conduct the examination of our witness. That is in response to the first point.
11 And in response to the second point, Madam President, this is a report which was
12 conducted by this expert based on examinations that she has conducted, based on
13 analyses that she has made. If at all this objection is to be made, I think the Defence
14 should make these submissions at the end of the case, in making their final
15 submissions, about the weight that should be attached to the report, if any, but I think
16 right now the witness is here and it's the Prosecution's plan with the Chamber's
17 permission, of course, to examine the witness and to tender -- to receive at least or
18 examine the report that she has made.

19 I seriously do not see any merit in either of the objections that have been raised by the
20 Defence and I urge the Chamber to allow the witness to come in and give her
21 evidence.

22 (Trial Chamber confers)

23 PRESIDING JUDGE STEINER: So thank you very much to the parties for being brief
24 in their submissions. I just regret that you have -- we have lost a lot of time in
25 objections that, as a matter of fact, the Chamber considers as no objections as first

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1 because the Defence had the opportunity to jointly instruct an expert and the Defence
2 did not agree, and so it's a little bit late that the Defence now preach about the merits
3 of economy of advocacy.

4 The fact is that the report is substantially uncontroversial so it comes to the benefit of
5 expeditiousness of the trial, in spite of the fact that so many times the Chamber
6 insisted for the parties to make motions on agreed facts and apparently no agreement
7 was possible in those instances. So the first objection the Chamber considers is no
8 objection at all.

9 The second point raised by the Defence, the Chamber agrees with the Prosecution that
10 this point goes straight into the merits of the evidence itself, whether the evidence to
11 be given to this witness has probative value or not, whether this probative value is
12 high or low is something that's going to be analysed at a later stage by the Chamber
13 when analysing the whole evidence of the case file and this has already been decided
14 upon by the Chamber how the Chamber is going to deal with all evidence tendered
15 by the Prosecution into the case file.

16 So the two points called -- so-called objections by the Defence have no merit and are,
17 therefore, dismissed.

18 Mr Court Officer, please could you bring the witness in.

19 Madam Bensouda, just to confirm the -- sorry. It's just the level of confidentiality can
20 be heard -- the witness can be heard in public session, I suppose.

21 MS BENSOU DA: Yes. Yes, Madam President.

22 (The witness enters the courtroom)

23 PRESIDING JUDGE STEINER: Good afternoon.

24 THE WITNESS: Good afternoon.

25 PRESIDING JUDGE STEINER: It is Dr Akinsulure-Smith; is that correct?

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1 THE WITNESS: That is correct.

2 PRESIDING JUDGE STEINER: Thank you very being present at this Court in order
3 to bring your expertise upon request of the Prosecution.
4 You are going to be questioned by the Prosecution first and later by the Defence team,
5 but since now the Chamber, the Court, would like to thank you very much for finding
6 time in your busy agenda to come and to come to this Court in order to testify before
7 this Chamber.

8 THE WITNESS: Thank you.

9 PRESIDING JUDGE STEINER: We very much appreciate.

10 Madam, first, I would like to inform the parties that Dr Akinsulure-Smith informed in
11 advance that she had some written notes in order to help her in coordinating her
12 thoughts, but in any case if the parties want to have access to these written notes in
13 order to see whether there is any problem with them, she is more than happy and we
14 can provide a copy for the parties.

15 Ms Bensouda.

16 MS BENSOU DA: Madam President, with your kind permission, your Honours, may
17 I invite senior trial lawyer Petra Kneuer to examine the witness?

18 PRESIDING JUDGE STEINER: Ms Kneuer, you have the floor.

19 MS KNEUER: Thank you, Madam President.

20 WITNESS: CAR-OTP-PPPP-0221 (Takes the stand)

21 (The witness speaks English)

22 QUESTIONED BY MS KNEUER:

23 Q. Good afternoon, Dr Akinsulure-Smith.

24 A. Good afternoon.

25 Q. As you know, my name is Petra Kneuer. I will be asking you questions on

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1 behalf of the Prosecution. First, I would like to identify yourself and, therefore, I will
2 ask for your personal details before we come to the report as such. Also, to give you
3 an idea how I will structure my examination, I first want to generally elicit your
4 professional background.

5 A. Okay.

6 Q. And then I will ask a few questions about your professional background that is
7 specifically relevant to the case that we are litigating here.

8 PRESIDING JUDGE STEINER: Ms Kneuer, I'm really sorry to interrupt you. It's all
9 my mistake. I am reminded by the court officer that the witness is supposed to take
10 the oath. I'm sorry. Court officer.

11 THE COURT OFFICER: Yes, Madam President, the card is in front of witness.

12 WITNESS: CAR-OTP-PPPP-0221 (Sworn)

13 PRESIDING JUDGE STEINER: Thank you very much. Ms Kneuer.

14 MS KNEUER: Thank you, Madam President.

15 Q. And at the end of my examination, I will ask you questions about your expert
16 report that you had submitted to the Court. Well, I know that you are a native
17 speaker. We are working here with interpreters, so I kindly ask you to slow down
18 when you are responding to my questions, and once in a while to take a break after
19 you finish a sentence in order to facilitate interpretation.

20 A. Okay.

21 Q. Please state your full name for the record.

22 A. Adeyinka Moronke Akinsulure-Smith.

23 Q. Your age and date of birth, please.

24 A. I am 44 years of old, born 21 March 1966.

25 Q. Where were you born, Doctor?

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- 1 A. Bo, Sierra Leone.
- 2 Q. What is your nationality.
- 3 A. US citizen.
- 4 Q. Do you have any other nationality?
- 5 A. No.
- 6 Q. Where are you presently residing?
- 7 A. In New York City, United States.
- 8 Q. Would you please tell the Court your profession?
- 9 A. I am a counselling psychologist.
- 10 Q. Where are you licensed to practice?
- 11 A. I am licenced to practice in the State of New York, USA.
- 12 Q. For how long did you practice as a counselling psychologist?
- 13 A. I believe I got my licence in 1997. Actually, maybe 1998, yes.
- 14 Q. Thank you, Doctor. I think for interpretation purposes, we both need to slow
- 15 down a bit. Okay?
- 16 A. Okay.
- 17 Q. Can you briefly describe your educational background, Dr Akinsulure-Smith?
- 18 A. I have an undergraduate degree in Honours Psychology from the University of
- 19 Western Ontario, in London, Ontario, Canada. I have three Masters degrees from
- 20 Columbia University. And I hold a Ph.D. counselling psychology from Columbia
- 21 University.
- 22 Q. What was the topic of your doctoral dissertation?
- 23 A. It was -- it focused on risk and preventative factors among Sierra Leonean
- 24 college students relating to HIV-AIDS sexual behaviour.
- 25 Q. Which licenses and certifications do you have?

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1 A. New York State's -- as I said, New York State licence. I have level 1 and level 2
2 EMDR, Eye Movement Reprocessing Desensitisation. I am also a registered play
3 therapist in New York State.

4 Q. Doctor, could you briefly outline for the Court your clinical experience as a
5 psychologist, please?

6 A. Post-Ph.D., I worked for several years with children in foster care on Staten
7 Island in New York. After that, I worked at Columbia Presbyterian Hospital with an
8 HIV-AIDS population. Since then, since I think 1999, I have worked at the Bellevue
9 NYU programme for survivors of torture. Slow down, okay. Slow down. And I
10 continue to work there 'til today one day a week. 2006, I was appointed to the
11 psychology faculty at the City College of New York, which is part of the City
12 University of New York. And I also have a small private practice.

13 Q. You mentioned that you're also appointed to a university?

14 A. Yes.

15 Q. Can you please provide us more information in which areas of psychology you
16 teach and at what level?

17 A. I teach at both the undergraduate and the graduate level. The department of
18 psychology at the City College of New York has a Masters programme in counselling
19 psychology. Sorry, a Masters programme in mental health. And in that
20 programme I teach, you know, multicultural issues, theories and principles in
21 psychology, women's issues, human rights-related issues.

22 Q. Thank you, Doctor. How long have you been a teaching counsel and clinical
23 psychologist?

24 A. Since I got my Ph.D. in 1997.

25 Q. Doctor, can you please briefly summarise for the Court further professional

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1 activities?

2 A. Well, in New York City myself and some colleagues and friends founded an
3 organisation named "Nah We Yone" that provides services for African -- displaced
4 African immigrants, refugees, and the organisation has been going for a little over ten
5 years Nah We Yone.

6 I also, as a part of my work at City College not only teach, but I'm engaged in research
7 and grant writing for funds, so -- and my research has pertained not only to
8 immigrant-related issues, but I've also conducted -- been involved in research in
9 Sierra Leone.

10 Q. Would you please spell for the record the names of the institutions?

11 A. Nah We Yone is spelt N-A-H, next word W-E, third word Y-O-N-E.

12 Q. Doctor, you have provided your curriculum vitae to the Office of the Prosecutor;
13 am I correct?

14 A. Yes.

15 MS KNEUER: Madam President, I would like to display the CV of our expert
16 witness. If I understand your remark earlier, it's not possible if it's classified - and it
17 is classified - so we have I think two options: Either we use the hard copy or we go
18 into a private session, which would however only be related to the curriculum vitae.

19 PRESIDING JUDGE STEINER: The problem is the content or the display? If it is
20 the display, we just need to order the lowering of blinders.

21 MS KNEUER: Well, the curriculum vitae contains the private residential address of
22 the expert.

23 THE WITNESS: Private practice.

24 MS KNEUER: Private practice.

25 THE WITNESS: Yes.

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- 1 MS KNEUER: Which should be kept confidential.
- 2 PRESIDING JUDGE STEINER: Court officer, is it possible just to lower the blinds
3 behind the witness?
- 4 THE COURT OFFICER: Yes, indeed, Madam President. We only need to lower the
5 central blinds and the document will be displayed in your screens.
- 6 PRESIDING JUDGE STEINER: Ms Kneuer, are you sure that it is necessary to
7 display? Because I am informed that although the blinds are lowered, that from the
8 sides it's possible to have access to the witness screens.
- 9 MS KNEUER: Madam President, I think we can also use hard copies. It just will
10 take a few minutes. Thank you, Madam President.
- 11 Madam President, I have hard copies for the parties, participants and the expert
12 witness which I would like to give -- to hand over to the court officer and, with his
13 assistance, one should be given to the expert witness, please.
- 14 PRESIDING JUDGE STEINER: Court officer, I suppose we have an EVD-T number
15 for this document?
- 16 THE COURT OFFICER: No, Madam President. If I understand correctly, this
17 document has been filed in the record of the case and has not been uploaded in
18 Ringtail so far.
- 19 PRESIDING JUDGE STEINER: Would you like this document to be assigned an
20 EVD-T number, Madam Kneuer?
- 21 MS KNEUER: Yes, Madam President.
- 22 PRESIDING JUDGE STEINER: Please, court officer.
- 23 THE COURT OFFICER: Yes, Madam President. This document which ERN
24 number will be attributed after the hearing will be referenced as EVD-T-OTP-00598
25 and will be classified as confidential.

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1 THE INTERPRETER: Message from the English booth, if the interpreters could be
2 provided with a copy of the witness's CV, we would be most grateful.

3 MS KNEUER:

4 Q. Dr Akinsulure-Smith, can you confirm that the document in front of you is the
5 curriculum vitae that you provided to the Office of the Prosecutor?

6 A. Yes, it is. Yes, it is.

7 Q. And can you please quickly look at the document and confirm that what is
8 stated in it with reference to your educational and professional background, as well as
9 your publications for presentations is accurate.

10 A. Yes.

11 Q. Doctor, I would now like to ask you some questions about specific aspects of
12 your professional experience and work, and I will start with some questions about
13 your work with the Bellevue NYU programme for survivors of torture. You state in
14 your report, as well as in your curriculum vitae, that you started working for this
15 organisation in 1999 and that you're a senior supervisor -- supervising psychologist?

16 A. Yes.

17 Q. Is that still correct?

18 A. This is still correct.

19 Q. Doctor, what are the criteria to be accepted into that programme?

20 A. Well, first of all, to actually have the PhD, to have experiences that I have had, to
21 have a wealth of experiences in terms of working with different populations, because
22 in the programme we see people from all over the world who come to New York City,
23 fleeing human rights abuses, war, refugee trauma and so on. So, to have that
24 experience, to have a breadth of experience in terms of different types of diagnosis,
25 different types of psychological conditions, to also be able to supervise. We have

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1 our -- we are based at a training hospital, so we have a lot of interns and externs,
2 psychology interns and externs, medical residents who come through for training.
3 So, as a supervising psychologist, not only do I provide treatment but I also supervise
4 trainees, so -- and those are part of the expectations of that position.

5 Q. What is the demographic breakdown of the survivors of civil law that have
6 gone through this PSOT programme?

7 A. Very quite varied, frankly. As I said, we see people from all over the world.
8 However, we do have a large number of Africans coming through. I mean, basically,
9 what I should say is wherever there is some sort of upheaval going on, within a few
10 months' time, those who are able to make it to New York, we will see in our
11 programme. And also one thing that I didn't mention is as part of my role there, I do
12 a lot of immigration-related work, so I wind up testifying and presenting in
13 Immigration Court in respect to their symptoms and whether they qualify, if you will,
14 for immigration.

15 THE INTERPRETER: Message from the English booth: If the witness could be
16 asked to slow down for court interpretation and -- court reporting and interpretation
17 purposes. Thank you very much.

18 THE WITNESS: I am sorry.

19 MS KNEUER:

20 Q. Doctor, in your curriculum vitae, and I'm referring to page 2 at the bottom,
21 when you listed the Bellevue programme --

22 A. Yes.

23 Q. -- you stated that your work included evaluating and documenting
24 psychological trauma suffered by survivors of torture and civil war from asylum
25 hearings in New York and New Jersey.

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1 A. Yes.

2 Q. My question is, did you personally work with those survivors?

3 A. I personally worked with them and I also supervised trainees who worked with
4 them.

5 Q. For those you did not personally work with, were you privy to information
6 about their history and circumstances?

7 A. Yes. The way supervision works is that the trainee will meet with me on a
8 weekly basis to discuss the cases. So, I will meet with them to discuss the intake; I
9 will meet with them if they are doing treatment; I will meet with them once a week as
10 a treatment progresses - I need to slow down - to provide supervision and direction of
11 the way the care should go; and also we meet in an interdisciplinary team, a larger
12 team, to discuss our cases.

13 Q. Can you give an estimate of how many survivors you have assessed since
14 working with the PSOT?

15 A. Anywhere from 50 up and, actually, that's a very small number. I would say
16 probably more, 75 up, because I've been there for over ten years now.

17 Q. What is the gender make-up of these survivors who were victims of sexual
18 violence in that programme?

19 A. In that programme, I would say break-down majority would be women; I
20 would say maybe 80/20. Men are less likely initially to report sexual violence.

21 Q. Thank you, Doctor. And what are the age groups of those survivors who were
22 victims of sexual violence in that programme?

23 A. You know, in our programme we deal -- we work with children all the way up
24 to adulthood. I would say, in terms of the ones that I have worked with personally,
25 probably 18 up.

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1 Q. What kind of crimes were the victims of?

2 A. I'm sorry?

3 Q. What kind of crimes suffered the victims?

4 A. So in terms of whether they were war related or --

5 Q. Yes, the victims that are part of that programme, I understand are victims of
6 crimes.

7 A. So, yes. So, you know, some of them are torture, you know, related to war;
8 you know, for having different political views, you know. There is sexual violation;
9 there is beatings, you know. When I say "sexual violence," by one or multiple parties;
10 beatings. Some of them have witnessed things happen to family members; their
11 homes being burnt down; displacement; multiple losses, you know; forced to flee
12 from their country, clearly; forced to move from place to place within their country,
13 and so on.

14 Q. Were any of these victims diagnosed with post-traumatic stress disorder?

15 A. Yes, yes.

16 Q. Do you recall how many?

17 A. I would say in terms -- you're talking about the ones that I have worked with, or
18 in terms of the programme in general?

19 Q. Both, please.

20 A. Okay. I mean, in terms of the programme in general, a large number. In
21 terms of the ones that I have worked with, you know, there are a large number who
22 suffer from PTSD - post-traumatic stress disorder - but also have other symptoms,
23 other mental health diagnoses, including depression, including anxiety disorders, you
24 know, so there are a range.

25 Q. Thank you, Doctor. I would now like to talk about your experience in Sierra

1 Leone. In your curriculum vitae you state that in March 2000 and between January
2 and February 2001, you participated in human rights investigations in Sierra Leone
3 for an organisation called Physicians For Human Rights?

4 A. Yes.

5 Q. Can you describe in more detail what the objective of these investigations was?

6 A. Okay, the first part happened in 2000. I was part of a three-woman team that
7 was sent to Sierra Leone. We had been hearing rumours, anecdotal reports, at the
8 time of extensive violence towards women during the conflict, but none of it had been
9 really substantiated by research. So I was -- as I said, I was part of that fact-finding
10 mission. We went and we were there for, I think we were there for about two weeks.
11 And during that time we travelled and talked to people and women directly who had
12 experienced sexual violence. At the end of that mission, we were able to determine
13 that there were enough actual reports that warranted further research.
14 So then in 2001, a larger team went back with the objective to actually conduct
15 scientific research to document the extent of the sexual violence towards women and
16 young girls, and as part of a larger team I was involved in training our researchers.
17 And then out of that came the report, the Abramowitz report that appeared in -- I
18 can't remember the journal off the top of my head. I actually refer to it here, that
19 came out in 2002 in the Journal of the American Medical Association as a result of that,
20 really documenting the extent of that sexual violence.

21 Q. In your CV, and I'm referring to page 10 of your CV, you state that you
22 participated in a month-long investigation.

23 A. Uh-huh.

24 Q. And that you conducted preliminary research on the extent and impact of
25 sexual violence during the war by interviewing the women and young girls, child

1 soldiers, et cetera?

2 A. Yes.

3 Q. What time period was the Sierra Leone conflict?

4 A. The Sierra Leone conflict was I believe, well, depending on when you look at it,
5 '92 to 2001. Roughly around then. 2001/2002. Roughly ten, ten and a half years.

6 Q. During your interviews, did you find out what happened to these women and
7 young girls who were victims of sexual violence during the conflict in Sierra Leone?

8 A. Yes. I mean, I was part -- I was one of the interviewers when we went the first
9 time, so I actually got very detailed histories from a number of the women about their
10 experiences, you know, how they suffered, how they were abducted, the type of rapes
11 that they endured, their suffering after, you know. A lot of depressive PTSD
12 symptomatology and the difficulties in trying to re-enter society as, you know, some
13 of them struggled with either, you know, abortions or children who were born out of
14 this and the struggles they had reconnecting, re-engaging in their communities.

15 Q. What was the gender make-up and age group of those victims?

16 A. You know, I think with the gender that we had, I believe we had to -- well, we
17 had to have consent forms, so they had to be adults. By "adult," I'm saying 18 on up.
18 It was pretty much -- women was the focus.

19 Q. Were you able to form a conclusion on the impact of sexual violence during the
20 war in Sierra Leone on these victims?

21 A. Yes, that there were, you know, significant abuses and that, you know, for many
22 of these women it had really impacted their lives in devastating ways.

23 Q. In your research and work, were those victims in Sierra Leone diagnosed with
24 PTSD?

25 A. Yes, some of them were I believe. Yes.

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1 Q. Thank you, Doctor. These were the areas of your professional experience I
2 wanted to cover and now I would like to move on to address some issues arising out
3 of your report in this case.

4 Doctor, can you confirm that you have written an expert report on gender crime and
5 Post-Traumatic Stress Disorder with respect to this case on the request of the Office of
6 the Prosecutor and Legal Representatives of Victims?

7 A. Yes, I have.

8 MS KNEUER: Madam President, I would like to show to the expert witness her own
9 report. It is also confidential. The EVD number is EVD-T-OTP-00003.

10 PRESIDING JUDGE STEINER: I think we are able to give the witness a hard copy
11 of -- yes.

12 MS KNEUER: For the assistance of the assistant, we are able to hand over a hard
13 copy, please. Thank you.

14 PRESIDING JUDGE STEINER: The Defence has a hard copy of the statement -- the
15 report?

16 MR HAYNES: Your Honour, yes.

17 MS KNEUER:

18 Q. Doctor, the report that was just handed over to you, is that the expert report that
19 you prepared for the Prosecution?

20 A. Yes, it is.

21 Q. Could you identify for the Court what the report's mandate was, and I am
22 referring specifically to section 3 of that report?

23 A. To discuss the impact of sexual violence on people during armed conflict.

24 Q. Could you explain to the Court the methodology that you used, please?

25 A. So in order to compile, to put together this report, I used various sources of

1 information. I drew from my experiences at the Bellevue NYU programme for
2 survivors of torture, from my private practice; I also drew from materials that had
3 been sent to me by the Court. I also went through the psychological literature and
4 looked at that, and finally I conducted interviews of survivors of sexual violence in
5 Bangui. Those were my sources of information.

6 Q. Doctor, in preparing this report, you have had the opportunity to study various
7 sources of information and material as detailed on page 2 and on page 8 of your
8 report and, for the record, I'm referring to CAR-OTP-0064-0560 at 0561 and 0567.
9 Could you please briefly explain to the Court from your research what did you come
10 to understand were the kinds of sexual violence that took place in the Central African
11 Republic?

12 A. What I gathered from looking at all these resources, that there was extensive
13 sexual violence that involved the majority of women, but also men, and the types of
14 sexual violence involved multiple gang rapes of at least two if not more perpetrators
15 towards an individual. The type of sexual violence involved anal, vaginal, oral
16 penetration, and, I guess if one could argue being a witness, witnessing acts of sexual
17 violation against another individual.

18 Q. Thank you, Doctor. What was the gender make-up of the victims?

19 A. We're talking about the ones that I looked at in -- the ones that I assessed or we
20 are talking about the ones that I saw in the reports, in the testimonies that I reviewed?

21 Q. The result of your research, the entire research, please.

22 A. Okay. Largely, largely female, but with some men.

23 Q. And what about the age groups?

24 A. The age groups varied. You know, looking broadly, I guess one would
25 say -- because some of the questions that were asked focused around children, so I

1 would say probably, you know, looking at maybe 12 up.

2 Q. Doctor, in your professional opinion and experience, what is the effect of sexual
3 violence during war on victims?

4 A. Extensive. One could look at it from the individual perspective where there
5 are severe psychological, physical/medical consequences. There are also family
6 community repercussions, a social impact as well, you know, that affect the
7 individual, and not only just the individual, but their communities and their families.
8 So, you know, the reverberations are extensive.

9 Q. Can you please explain in more detail these severe psychological,
10 physical/medical consequences that you just referred to?

11 A. Okay. So in terms of the physical -- and, you know, as I speak of this this is
12 what I know from the literature, this is what I know from the colleagues that I have
13 worked at at the Bellevue NYU programme for survivors of torture and also
14 from -- as I said, from what has been reported to me by the patients that I've worked
15 with, physically extensive.

16 As I have documented here, you know, tissue tears in the vaginal, bladder and
17 rectum area, you know, uterine prolapse, you know, other extensive injuries to the
18 reproductive system, you know, including, you know, incontinence, complications
19 associated with miscarriage for women who do become pregnant as a result, and for
20 those who have become pregnant and do not want to carry the pregnancy due to the
21 stigma and the shame, you know, those attempts to self-induce abortion can also be
22 detrimental to them.

23 Also, in terms of the physical, you know, musculoskeletal difficulties, and so on. In
24 terms of the psychological consequences, those are the ones, as I have outlined here,
25 that are much more difficult to document. Many of my patients say, you know, the

1 physical scars heal; the emotional stuff stays with me.

2 So we see, you know, extensive Post-Traumatic Stress Disorder. We see depressive
3 symptoms, anxiety-related symptoms. You know, so just to kind of sum-up, those
4 are some of those -- some of the things we see physically and psychologically.

5 Q. Is there a difference in the kind of impact sexual violence had during conflict on
6 female victims and on male victims?

7 A. You know, there is. Only now, as I mentioned in my report, are we beginning
8 to acknowledge and document, and men are becoming more willing to come forth
9 and talk about their experiences. For a long time, the focus has been on women and
10 continues to be so. There's very small literature on the impact on men.

11 Usually for men, it's shame; it's seen as being made to be a woman in a negative way.
12 There's fear of being viewed as homosexual. For women on the other hand, you
13 know, there are all the physical things that I laid out, but there's also the stigma, you
14 know, of having been used, being seen as damaged goods, if you will.

15 So that in addition to the physical and the psychological consequences, there's all of
16 the shame and the guilt and the blaming the victim that often comes with it, and that's
17 something that I, you know, saw in talking to people in Bangui that I also saw in
18 Sierra Leone and that I've seen with victims and survivors in New York who have
19 come to the US.

20 Q. Thank you, Dr Akinsulure-Smith. Can you explain what Post-Traumatic Stress
21 Disorder is, please?

22 A. So Post-Traumatic Stress Disorder is -- comes from -- it's a diagnosis, a
23 mental -- a mental health disorder that comes from the DSM, which is a psychiatric
24 coding system that we use in the US and is typically used in other areas.

25 In order to meet criteria for PTSD, there are certain factors. First of all, the

1 individual has to have either experienced or witnessed actual threatened or perceived
2 death, or fear of dying, or fear of something happening to their bodies, some sort of
3 damage to their physical integrity, and it has to be either that it happened to them, or
4 they witnessed it happening to someone else, and their reaction to this event is one
5 that involves intense fear, horror or helplessness. So that is the first piece of being
6 diagnosed with PTSD.

7 Then, having had that happen, there are three clusters of responses that the
8 individual can have, and those responses are re-experiencing, avoidance or numbing
9 and physical -- physical or psychological arousal.

10 In terms of re-experiencing, what we are talking about here is that the individual
11 experiences intrusive memories, or flashbacks, where they have -- they kind of
12 flashback. They go back to the incident happening. They have recurrent
13 nightmares, and again these are things that come to them when they don't want them
14 to come. They may feel as if the trauma were happening to them again and again.

15 You know, sometimes they may even have hallucinations where they see, smell or
16 feel like they hear things related to that traumatic event. So that's in terms of the
17 re-experiencing.

18 In terms of the avoidance and numbing, this is where the individual tries to avoid or
19 to forget what happened to them. So here we have often forgetfulness, avoidance of
20 thinking, talking, or remembering about the events. So, you know, you might try to
21 get them to talk about it and they will shy away, or they will seem to have forgotten.

22 Sometimes they will experience depersonalisation, and by that I mean that they will
23 feel detached or separate from other people around them, or their own body. They
24 may have some disassociation. They are confused when it comes to those memories.

25 They often will want to isolate themselves. So even if they have a support system,

1 they wind up withdrawing from it and a lot of people around them don't understand
2 why this person doesn't want to be around others any more.
3 And in terms of the numbing aspect of this particular cluster, they have a difficulty
4 feeling their own body, or feeling emotions. They are just blank, and often they will
5 try to deny that there is something wrong even when people around them observe
6 that there is something wrong with them.
7 And finally in terms of the psychological arousal, here we are talking about
8 hyper-arousal, exaggerated startle response where maybe someone is behind them,
9 they jump up, they react to things that remind them of that event. We see sleep
10 disturbances, inability to sleep, difficulties with concentration, and that's often
11 followed also with irritability and outbursts of anger.
12 Now, so you have the criteria, you have the cluster symptoms and these symptoms
13 typically last for more than six months. So that, you know, it is not something that
14 just happens and goes away. It stays and, you know, depending on the
15 circumstances, you know, what kind of support system there is, what kind of
16 treatment may be available, these symptoms can go on.
17 THE INTERPRETER: Message from the French booth: If the witness could be
18 reminded once again to try and slow down, please.
19 THE WITNESS: I am sorry, the last thing I wanted to add is that we also see in
20 addition to those things some physical stress responses, you can see headaches,
21 muscle tension, some nausea, muscle -- stomach problems. You know, and in really,
22 really difficult Post-Traumatic Stress Disorder, that's when we see the person trying to
23 take on the coping mechanisms, like they may start using substances to quell the
24 symptoms. You know, they might use self-harm and things like that to help contain
25 being overwhelmed by the repeated symptoms.

1 PRESIDING JUDGE STEINER: Sorry to interrupt you, Doctor. I received a
2 message from the booth that the French interpreters are having a little bit of difficulty
3 in following you and ask, please, you make pauses after each sentence in order to give
4 them time to provide the parties with interpretation.

5 THE WITNESS: Yes, your Honour.

6 PRESIDING JUDGE STEINER: Thank you very much.

7 MS KNEUER:

8 Q. Doctor, at the beginning of your response, and I cannot scroll back right now,
9 but I recall you mentioned DSM?

10 A. Yes.

11 Q. Could you please explain to the Court what that means?

12 A. Sure. The DSM-IV-TR now is a diagnostic and statistical manual, fourth
13 edition text revised, that is the official coding - psychiatric coding - system that we use
14 in the mental health field to determine diagnosis to explain mental disorders. The
15 DSM is -- usually when one uses the DSM to make a diagnosis, it falls on five axes.
16 So axis 1 is usually the focus of clinical treatment, and that's where something like
17 PTSD, depression, anxiety will go. I am trying to slow down.

18 Axis 2 is where we have long-term personality disorders and mental retardation, and
19 by long-term personality disorders we are talking about chronic ways of the
20 individual functioning that get in the way of their interpersonal relationships.

21 Axis 3 usually refers to medical or physical diagnosis, so if the individual that you are
22 treating had diabetes, or had a heart condition, that's where you would put that.

23 Axis 4 are the environmental conditions, so that you have a full flavour of what is
24 affecting the individual as they function. So, you know, if there is poverty you
25 would note it there; if they are refugees you would note it there; if they had been

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1 tortured you would note it there.

2 And then axis 5 is what is referred to as GAF, the Global Assessment of Functioning,
3 and this is rated on a scale of 1 to 100 and this is where the clinician would kind of
4 rate the individual's overall functioning. The higher the GAF, the better their
5 functioning is. The lower the GAF, the more concerned you are.

6 Q. Doctor, you just explained the criteria and symptoms of PTSD and what
7 behaviour is consistent with someone who develops PTSD. You mentioned earlier
8 that you conducted psychological assessments in the Central African Republic;
9 correct?

10 A. Yes, I did.

11 Q. How many victims did you assess in the Central African Republic?

12 A. Three.

13 Q. Did you employ these criteria of PTSD assessment when conducting your
14 assessments of these three victims of sexual violence in the Central African Republic?

15 A. That was one of the diagnoses, yes.

16 Q. When conducting your evaluations of these three victims, did you conduct
17 clinical interviews and psychological testing?

18 A. Yes, I did.

19 Q. Could you please explain the purpose of these interviews in the psychological
20 assessment process?

21 MR HAYNES: I thought the second report had been determined to be inadmissible
22 and that is the evidence that the witness is giving now.

23 PRESIDING JUDGE STEINER: What has been inadmissible is the amended report
24 and the three supplementary assessments.

25 MR HAYNES: Yes, and that is --

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1 PRESIDING JUDGE STEINER: So the question refers to one of these documents that
2 has been deemed not admissible, Ms Kneuer?

3 MS KNEUER: Madam President, the Prosecution understood that the supplemental
4 report plus its three annexes are not admitted into evidence. However, the
5 Prosecution understands that this does not limit the oral testimony of the witness, and
6 indeed the questions that I am asking right now are with respect to the three victims
7 that the witness examined in the Central African Republic.

8 PRESIDING JUDGE STEINER: So the questions are not related to the report we
9 have in front of us?

10 MS KNEUER: Madam President, I am trying to elicit from the expert how she
11 arrived at the conclusions of her report, and I believe that the examination of the three
12 witnesses in the Central African Republic were part of her conclusions. I am not
13 referring to the supplemental reports. I am trying to elicit information in this oral
14 testimony of the witness.

15 PRESIDING JUDGE STEINER: So making it clear that the Chamber is not going to
16 use this information as evidence, so we should maybe be more focused on the
17 evidence which is the report we have in front of us, so we are going to spend some
18 time now on questions that the Chamber will not take into consideration at all. So I
19 would just ask the Prosecution to -- the same I did with the Defence, to use your time
20 with wisdom.

21 MS KNEUER: Well understood, Madam President. If I may direct your attention
22 to the fact that the witness - the expert witness - earlier when I was asking her about
23 the methodology that she applied referred to assessments and interviews that she
24 conducted in the Central African Republic of these three witnesses, and I believe it
25 would be helpful for the Court to hear this evidence in order to be best advised by the

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1 expert witness that is in front of us today.

2 PRESIDING JUDGE STEINER: Ms Kneuer, I am not convinced, I am sorry, about
3 your arguments. You can ask the questions, if you want. I am just warning you
4 that the Court is not going to use these answers as part of the evaluation of probative
5 value or relevance of the evidence given by the witness, but in any case I am sorry I
6 have to interrupt in any case. The interpreters and court reporters have been very,
7 very generous in accepting that we extend this session until 4 o'clock. We were
8 supposed to finish at 3.30, because we started at 2, so we are not going to abuse the
9 interpreters' and court reporters' generosity. We will have to adjourn for today and
10 continue tomorrow with the testimony of Dr Akinsulure-Smith.

11 I have made informal consultation with the parties, and apparently the
12 preference - mainly from the Defence - is that we start tomorrow at 9.30 as we started
13 today, is that correct, because we are having sessions in the morning and in the
14 afternoon?

15 MR HAYNES: I wasn't aware we had voiced a preference. We will do whatever is
16 most convenient to the Court.

17 PRESIDING JUDGE STEINER: I was informed by the --

18 MR HAYNES: Then maybe somebody else voiced a preference.

19 PRESIDING JUDGE STEINER: It's the problem a lack of communication within the
20 Defence team, or coordination. In any case, we will resume tomorrow at 9.30 in this
21 courtroom. So we will have a hearing from 9.30 to 11, half-an-hour break, 11.30 to
22 1 p.m. and then 2.30 we resume in Courtroom 1 where we will sit until 4 o'clock in the
23 afternoon.

24 If there are no objections for this proposal, we thank you very much and we wish you
25 a nice evening with this wonderful weather in The Hague and so we will resume

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- 1 tomorrow morning at 9.30 in the morning. The witness, please, can be -- can leave
- 2 the courtroom.
- 3 (The witness stands down)
- 4 PRESIDING JUDGE STEINER: So once again I want to thank very much the
- 5 interpreters and court reporters for this concession. I promise that we are not going
- 6 to make of this a practice. Today was really an exception. And, thanking the
- 7 Prosecution's team, the legal representatives of victims, OPCV, Defence team, this
- 8 hearing is adjourned and we resume tomorrow at 9.30 in this courtroom.
- 9 THE COURT USHER: All rise.
- 10 (The hearing ends in open session at 4.00 p.m.)