

1 International Criminal Court
2 Trial Chamber II - Courtroom I
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 Wednesday, 17 November 2010
10 The hearing starts at 9.03 a.m.
11 (Closed session)
12 (Expunged)
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11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 9.08 a.m.)

15 COURT OFFICER: (Interpretation) We are in open session,

16 your Honour.

17 (The accused entered court)

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

19 Now, the accused are with us.

20 Good morning, Witness.

21 THE WITNESS: (Interpretation) Good morning, your Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) I see that you can hear

23 me. That's great.

24 Prosecutor, you may resume. Please proceed.

25 MR. MACDONALD: (Interpretation) Thank you, your Honours.

1 Questioned by Mr. MacDonald: (Continued)

2 Q. (Interpretation) Good morning, Witness. To inform you, I will
3 be finishing my questioning today, and after that, of course, my
4 colleagues, the Legal Representatives of Victims, will have some
5 questions for you. I would like to go back to a few items of information
6 that stemmed from your testimony yesterday. Now, my first question,
7 perhaps, you referred to a person by the name of Sipa. My question is as
8 follows: Do you know the complete name of this person?

9 A. I don't know any other name for Sipa. However, I do know -- I've
10 known him ever since I lived in Nyankunde, but I don't know him by any
11 other name. I met him when I was in Nyankunde.

12 Q. Very well. Let us continue. I would like to backtrack somewhat.
13 I would like to backtrack somewhat and talk about the APC soldiers.
14 First of all, let us hark back to a certain time, a certain time line,
15 that we discussed on the first day of your testimony, that is to say, on
16 Monday. The Lopondo government apparently was in Bunia up until the time
17 when he was driven out of Bunia by the UPC soldiers, and that happened in
18 August 2002, in the first part of August 2002.

19 My first question is as follows: The government of Lopondo, do
20 you remember the name of the army of the government of Lopondo, when the
21 government was posted in Bunia?

22 A. I think that the army of Lopondo was called APC. I don't know
23 whether the army had another name. I just know that its name was the
24 APC.

25 Q. Now, the Lopondo government, do you know where this government

1 went after they fled Bunia in August 2002?

2 A. With regard to the direction that the APC soldiers went in,
3 I would say when the fighting intensified, those soldiers headed towards
4 North Kivu, that is to say, in the region of Beni. According to the
5 information that I have, Loponde left. He left, but he did not go in the
6 same direction as those soldiers. He headed towards the collectivity of
7 Walendu-Bindi by way of Songolo. That is the information that I received
8 and everyone was talking about that. However, most of his soldiers
9 headed towards -- took the road that goes towards Komanda, and I think
10 that while we were fleeing, we met up with their position. We crossed
11 that position -- their positions but the UPC was advancing and they were
12 very strong. And if my memory serves me, they were driven out of that
13 place and pushed back to Komanda, and we fled with the APC soldiers from
14 Komanda. We headed towards North Kivu on foot. According to the
15 information that I received from people in the village, Loponde went
16 towards Songolo, and from Songolo, he then went towards Beni.

17 THE INTERPRETER: Correction from the English booth, positions
18 that they had installed around Irumu.

19 MR. MACDONALD: (Interpretation)

20 Q. When these forces were withdrawing, when the APC was withdrawing
21 and falling back towards the North Kivu area, to your knowledge, did some
22 APC soldiers set up operations in the Walendu-Bindi area?

23 A. Yes. I would say in response to that question, even though
24 I wasn't in the village at that time, when I went back I was in my
25 village and there was an APC camp in Singo, on a hill. So there was a

1 position there with APC soldiers in Singo.

2 Q. Witness, you referred to -- and this was yesterday -- you said
3 that when fresh supplies were being brought in by plane, the Mango Mat
4 plane, fresh supplies of ammunition and foodstuffs, to Aveba, there was a
5 plane, and Mr. Katanga was in that plane. You said that there were also
6 APC members in that plane. So what did these people from the APC do when
7 they arrived in Aveba? Who were these people and what was their role at
8 that time when they arrived?

9 A. When the APC soldiers arrived in Aveba, they began training the
10 soldiers there, and taught them how soldiers should behave with their
11 commanders. So they instructed the local combatants.

12 Q. And then after that? After they provided that instruction, did
13 some APC combatants join the FRPI force?

14 MR. HOOPER: That's rather a leading question.

15 MR. MACDONALD: (Interpretation) I shall rephrase my question.

16 PRESIDING JUDGE COTTE: (Interpretation) Indeed, rephrase your
17 question.

18 MR. MACDONALD: (Interpretation)

19 Q. Witness, I will refer to yesterday's transcript, and this is the
20 edited version, and I make reference, your Honours, to page 34, line 24.
21 You said that -- and I'm quoting you -- you said:

22 "And there were soldiers from the APC who came to live with us."

23 My question is as follows: When you said yesterday that they
24 "came to live with us," what did you mean by that, when you made
25 reference to those APC soldiers?

1 A. This is what I just told you. When they arrived, they stayed
2 there with us and they taught us how soldiers must behave in their
3 dealings with their commanders. For example, when a soldier runs into a
4 commander, he has to behave in a certain way. So we lived with those APC
5 soldiers during that period.

6 Q. Are you in a position to tell us, in approximate terms, how many
7 APC soldiers came and set up operations in Aveba?

8 A. There were not a lot of them. I would say perhaps 20 or 25.

9 Q. So were they the same soldiers that you were referring to who had
10 travelled to Kagaba and went to Kagaba before the attack on Bogoro?

11 A. Yes. We left with a number of them. As well, there were other
12 soldiers from the APC who fled from Bunia and they went to the Kagaba
13 camp. So there were other soldiers from the APC.

14 Q. And when those APC soldiers left Bunia to set up operations in
15 Kagaba, when they were in Kagaba, according to you, what group were they
16 part of once they had reached Kagaba?

17 A. In response to this question, I would say that depending on the
18 information that I have, there were a few APC soldiers in Kagaba and they
19 were soldiers who had lived in Songolo in the past. However, they were
20 unable to remain in Songolo after the fighting. They left Songolo and
21 went to Avenyuma, and from Avenyuma, a few soldiers went up and went to
22 set up operations in Kagaba. Their position was in Songolo, and from
23 Songolo, they fled to Avenyuma. And from Avenyuma, half went to Kagaba,
24 and that is why I'm telling you that some APC soldiers had set up
25 operations in Kagaba.

1 Q. Yesterday, you made reference to the fact that in Avenyuma, there
2 had been clashes, so to speak, between the combatants in Avenyuma and
3 that led to the creation of the camp in Kagaba, and you said that in
4 Kagaba, Yuda and Dark were responsible for the camp. You just mentioned
5 that APC soldiers went from Songolo to another location.

6 My question is as follows: These APC soldiers went at the same
7 time as when the camp was set up in Kagaba?

8 A. Yes. As I just explained to you, the combatants' base, those who
9 lived in Avenyuma or Kagaba, was Songolo, and from Songolo they fled
10 towards Avenyuma. And from Avenyuma, they went on and continued to flee,
11 heading towards Kagaba. So a few soldiers from the APC preferred to live
12 with combatants and they travelled with the combatants as battles
13 occurred. That doesn't mean that it was a camp that had been set up in
14 Kagaba. The only camp of the APC that was found in the collectivity of
15 Walendu-Bindi was to be found in Singo, on a hill.

16 Q. Witness, up until now, it has been shown that on the
17 7th (* as interpreted) of September, 2002, there was an attack on
18 Nyankunde, on the 5th of September, 2002, a very large attack. And so my
19 question is as follows: Do you remember where you were when that attack
20 occurred, that large attack on Nyankunde?

21 A. Could you specify which attack you are referring to? The attack
22 that led to people being driven out of the Walendu-Bindi collectivity?
23 They were forced to go to their region? Could you provide more
24 information so I can better understand your question.

25 Q. Indeed. I understand that there were a number of attacks on

1 Nyankunde. I'm not talking about the attack that led to the Ngiti being
2 driven out. I'm speaking of the attack that occurred on Nyankunde after
3 the fall of the Lopondo government in 2002. There was an attack on the
4 5th of September, 2002, an attack on Nyankunde. I am making reference to
5 that particular attack.

6 A. Yes, I am familiar with that attack.

7 Q. What do you know about that attack? And where were you when the
8 attack occurred?

9 THE INTERPRETER: Message from the English booth, if
10 Mr. MacDonald could speak more slowly.

11 THE WITNESS: (Interpretation) I would say this: With regard to
12 this attack, I didn't see that attack. I just know what I heard about
13 the attack, and the attack occurred when I was in Oicha. After that
14 attack, I travelled to my collectivity of origin, and when that attack
15 occurred, I was in Oicha, and I remember that later, I left Oicha to go
16 to my collectivity, that is to say, my village of birth. All I know is
17 that with regard to this attack, it was said that combatants led by
18 Colonel Kandro and Cobra headed towards Nyankunde and they fought and
19 they drove out the UPC soldiers who were there. * And at the same time,
20 they attacked the Bira and they killed some Bira people and they burned
21 houses. They also looted that village.

22 After this fighting, the combatants pillaged a great deal of
23 property, and were you to go there you would find traces of this looting.
24 They looted everything from vehicles to other property. And according to
25 the information I received, they looted and took as hostage a number of

1 Bira people whom they took to their village. Indeed, I did find some of
2 them in the village, that is to say, some Bira people. So there was
3 fighting, there were killings, there was looting, and hostages were
4 taken, and what I am telling you is a piece of information that I gleaned
5 because I was not personally an eyewitness to this fighting.

6 Q. What do you know about hostages being taken, abductions that
7 occurred in Nyankunde?

8 A. With regard to hostage-taking, I would say that I did not see
9 this with my very own eyes, but I heard it said that some people had been
10 taken hostage, and that they were killed in Singo. I also know that two
11 young girls (expunged)
12 (Expunged), those two girls --
13 well, I saw them with my very own eyes in Avenyuma. They had been taken
14 hostage by Safari Ndekote. Subsequently, when the APC -- the APC
15 soldiers and the combatants reconciled, Safari Ndekote brought the two
16 hostages that he was keeping together. In fact, he returned them to
17 their parents in Beni.

18 THE INTERPRETER: Correction from the English booth: He returned
19 them to their parents in Beni.

20 MR. MACDONALD: (Interpretation)

21 Q. Last question on the subject. You made mention of the fact that
22 you personally saw these two hostages, but with regard to the attack on
23 Nyankunde, who explained to you -- or who provided you with the details
24 you just furnished us on the attack in Nyankunde? How did you come to
25 learn about it?

1 A. I do not see why it is you want me to provide you with a name.
2 This was a well-known event that was recounted by all those who had taken
3 part in the operation. I'm not in a position to identify or provide you
4 with the identity of an individual who provided me with this information.

5 Q. So the details with regard to the attack on Nyankunde was known
6 by everybody in the collectivité of the Walendu-Bindi, was it not? Is
7 that what you're saying?

8 THE INTERPRETER: Overlapping of microphones.

9 MR. HOOPER: Impossible question to answer.

10 MR. MACDONALD: (Interpretation) I shall -- I was repeating what
11 the witness was saying, Mr. President.

12 PRESIDING JUDGE COTTE: (Interpretation) But by repeating what
13 he was saying, you are leading him to furnish you with the same response
14 that he provided previously.

15 MR. MACDONALD: (Interpretation) Yes. In the light of the
16 Chamber's response, I will continue.

17 Q. Mr. Witness, I am now going to change -- well, actually, I might
18 ask you a last question. You mentioned killings during the attack on
19 Nyankunde. What details did you glean with regard to the killings that
20 occurred?

21 A. No. I do not have any information -- additional information to
22 provide you with. The truth be told, people were killed, houses were
23 burned to the ground and looted. I do not have any additional
24 information to provide with respect to this issue.

25 Q. Very well. Let's continue. I would like to revisit an issue you

1 mentioned yesterday briefly, and for the purposes of this question I'm
2 going to put, I would refer you all to page 50, line 23 of transcript
3 217, that is to say, yesterday's transcript.

4 Now, before the attack on Bogoro, Mr. Witness, you stated the
5 following. Line 23:

6 "I know that in Aveba there was a meeting of the heads of the
7 FRPI who came together in Aveba, and after the meeting, they said -- in
8 fact, during the meeting, that people from Bavi should meet in Medhu.
9 After the battle we all gathered in Bogoro."

10 Witness, could you please tell us with regard to this gathering
11 or meeting in Aveba, could you please tell us who was present at that
12 meeting, that is to say, amongst the FRPI commanders?

13 A. There were several commanders in attendance but I can provide you
14 with a number of names. There were the commanders that were well
15 recognised. I shall start with him, Germain Katanga was there, Yuda was
16 there, so was Dark, Commander Cobra, Commander Oudo, and if I'm not
17 mistaken, Anguluma was also in attendance. Commander Bebi was there.
18 The Geti company commander was also in attendance. There were many
19 commanders there in addition to the ones I have just identified to you.

20 Q. Do you know who convened the meeting?

21 A. No. I do not have any additional information to provide you in
22 that regard. This was a meeting which was held at our residence, that is
23 to say, at Germain's residence. I would also like to add that the APC
24 commander was also in attendance at that meeting.

25 Q. And what is the APC commander's name?

1 A. His name was commander Blaise.

2 Q. And do you know what was discussed during the meeting?

3 A. I am not in a position to provide you with an adequate answer to
4 your question, but I do know that the planning of the attack on Bogoro
5 was raised.

6 Q. Are you in a position to tell us how long before the attack on
7 Bogoro, before the attack, that is, this meeting was held?

8 A. I do not know. However, I do not have any information as to the
9 date, but I do know that the meeting was held before the battle. I do
10 not know whether it was two or three days or a week ahead of the event,
11 but it happened before the fighting, and it was in the presence of
12 Commander Blaise who was representing the APC.

13 Q. Maybe we should mention another event in order to locate or place
14 this in your memory. You said, according to your testimony, that there
15 was distribution of ammunition that certain commanders went to Aveba.
16 You said that others received letters that they should go and pick up
17 their supplies, and you indicated yesterday that -- the time of the
18 distribution of ammunition. Now, before the attack on Bogoro -- and my
19 question is as follows: To your knowledge, the meeting of all the
20 commanders whose names you have just provided, in the attendance also of
21 Commander Blaise, did this meeting occur before the distribution of
22 ammunition?

23 THE INTERPRETER: Message from English booth. Could
24 Counsel MacDonald please slow down.

25 THE WITNESS: (Interpretation) I believe that this occurred

1 during the same period. I am not in a position to provide you with a
2 chronological indication whether it happened before or afterwards, but I
3 know that it happened during the same period. I would go on to add that
4 the rattling of gun-fire continued for quite some time, and this happened
5 before people went to fight.

6 MR. MACDONALD: (Interpretation) I am surprised. I am
7 attempting to speak very slowly, without speaking like this.

8 JUDGE DIARRA: Yes, but we are not following your exercise, now,
9 are we?

10 PRESIDING JUDGE COTTE: (Interpretation) Yes. You have a very
11 severe member of the jury here. Mr. Prosecutor, you see -- Witness, you
12 need to speak loudly and more slowly, but you're doing very well.

13 Mr. Prosecutor, please proceed.

14 MR. MACDONALD: (Interpretation)

15 Q. Witness, you say that during the meeting, the attack on Bogoro
16 was mentioned. Did you learn any details whatsoever on the subject of
17 planning operations?

18 A. After the meeting, information was provided to the effect that
19 there was an attack -- a plan to attack Bogoro, and according to this
20 information, there was an intention to attack Bogoro from two positions.
21 Some people were to meet in Medhu on the one side and on the other side
22 in Kagaba. This is information that was provided after the meeting.

23 Q. Mr. Witness, we shall now move forward in time, and we shall
24 place ourselves outside of Bogoro. I'm sorry, I shall rephrase my
25 question. I apologise. After leaving the meeting in Aveba, you said

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1 that there was information on the subject of Kagaba and the Medhu line.
2 Did you glean any information whatsoever on the subject of the FNI posted
3 in Zumbe at that moment in time?

4 MR. FOFÉ: (Interpretation) I apologise, Mr. President.

5 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, please
6 proceed.

7 MR. FOFÉ: (Interpretation) I do not believe that the witness
8 has already talked about this training or this political group,
9 correction. I do not believe he has.

10 MR. MACDONALD: (Interpretation) I might rephrase, Mr.
11 President.

12 THE INTERPRETER: Overlapping of microphones.

13 PRESIDING JUDGE COTTE: (Interpretation) Yes, please rephrase. Is
14 there -- is there any reference that you might provide with reference to
15 the --

16 THE INTERPRETER: Overlapping of microphones.

17 MR. MACDONALD: (Interpretation) Yes, I believe that it is not
18 necessary.

19 PRESIDING JUDGE COTTE: (Interpretation) Well, better still.
20 Please proceed.

21 MR. MACDONALD: (Interpretation)

22 Q. Mr. Witness, when coming out of the meeting in Aveba, the FRPI --

23 MR. HOOPER: It's being very difficult to follow much of this
24 evidence. At least I found it so, not least of all because of the way in
25 which the witness is being treated. We had a long monologue yesterday,

1 for example, on this particular area, then Mr. MacDonald went back and we
2 went then to various bits that Mr. MacDonald wanted to clarify. And
3 today we've spoken here about a meeting, an FRPI -- where FRPI were
4 present and the witness has spoken of Commander Blaise, for example,
5 being present there. It's unclear what meeting is he talking about. Is
6 he talking about the delegation from Zumbe meeting, which he spoke about
7 yesterday? What's this evidence rooted in? Why hasn't my friend asked
8 the witness, in fact, where he was, what the source of his information
9 was? Why is this evidence being led in a way that's all bits and pieces?
10 It was even worse the first day.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, I think
12 that the Prosecutor will confirm possibly, but it would seem to the
13 Chamber that for quite some time we were broaching the subject of the
14 Aveba meeting, which appears in transcript 217, French version, page 50,
15 line 23 and following. Now, are we still talking about the same meeting
16 here, Mr. Prosecutor?

17 MR. MACDONALD: (Interpretation) Yes, indeed. We are talking
18 about two different meetings. There's a meeting where there was the
19 delegation from Zumbe and then there's the meeting with the FRPI soldiers
20 only. My learned friend will have all the time necessary to
21 cross-examine my witness, and my learned friend also has the witness's
22 statements in this regard, more specifically second statement, paragraph
23 -- I cannot remember which paragraph this information is mentioned in,
24 but if I'm not mistaken, it is in or around paragraph 36.

25 PRESIDING JUDGE COTTE: (Interpretation) Well, we do agree that

1 the -- I'm coming briefly back -- I do apologise, I'm coming back to what
2 we were saying before Mr. Hooper rose, that is to say, page 14 of the
3 transcript, line 7, French version: "Coming out of the meeting in Aveba,
4 the commanders from the FRPI," and then Mr. Hooper intervened. They were
5 still talking about the Aveba meeting here today, the meeting that we
6 were talking about since the beginning of today's session. That's
7 page 50, transcript 217, line 3. So we are continuing in the same vein
8 as your questioning this morning and please proceed.

9 MR. MACDONALD: (Interpretation)

10 Q. Witness --

11 MR. MACDONALD: (Interpretation) Yes, this was indeed recounted
12 by the witness himself. Page 34, line 8, for my learned friends of the
13 Kilenda team.

14 Q. Now, whatever the case, whether we talk about the FNI or the
15 Zumbe combatants, coming out of this meeting in Aveba of the FRPI
16 commanders solely, did you glean any details whatsoever with regard to
17 the Zumbe commanders as to the planning of the attack on Bogoro?

18 A. Could you please rephrase your question?

19 Q. Now, mention was made of Kagaba and of Medhu. My question is as
20 follows: Was the issue of the participation of Zumbe combatants
21 mentioned during that meeting of FRPI commanders?

22 A. I would provide you with the following response. The version I
23 am giving you is the true account. I do not know which event occurred
24 before the other, however. My testimony reflects my knowledge with
25 regard to those events. When I speak of the meeting, I am referring to

1 the meeting between the FRPI soldiers and some APC soldiers who were also
2 in attendance. This was not a meeting with the delegation that came from
3 Bogoro in order to talk to the FRPI members. This was another meeting.
4 As I said, I am talking about two different meetings here. The one I am
5 referring to here is not the meeting that was held between the delegation
6 that came from Bogoro. This is another meeting entirely.

7 And with regard to the Zumbe delegation, it was the Bahati from
8 Zumbe that were supposed to represent this delegation because this
9 individual, Bahati de Zumbe, could go to Aveba and easily -- could go to
10 Aveba easily and make the return journey.

11 Q. Witness --

12 PRESIDING JUDGE COTTE: (Interpretation) There are many
13 requirements here. You really do need to respect that famous five-second
14 rule. Let us speak slowly and let us proceed.

15 MR. MACDONALD: (Interpretation)

16 Q. Witness, let us now place ourselves outside of Bogoro, at the
17 time when you were waiting to launch an attack on Bogoro. Now, in the
18 report you mentioned the fact that you were set up at a meeting point and
19 you waited, and then at a certain moment in time you moved forward to
20 Bogoro and you started the attack. When you were at that position, and
21 whilst you were waiting, my question to you is: Did you -- did you
22 know -- did you know, in respect of this attack, how the Zumbe combatants
23 or the FNI were going to take part in this attack? Did you have any
24 details at that moment in time as to their participation?

25 A. Yes, I did have that piece of information. The meeting had

1 occurred previously in Aveba. During the meeting, it was said that when
2 Bogoro came under attack, we would attack together with the Zumbe
3 combatants or with the FNI combatants.

4 Q. Did you know what -- how the FNI was going to proceed or what
5 they were going to do during the attack?

6 A. Could you please rephrase your question?

7 Q. I shall rephrase. The FRPI has the Kagaba line and the Medhu
8 line. Now, in respect of the FNI, when you were in position ready to
9 launch the attack on Bogoro, do you know which way they were going to
10 come in order to move on Bogoro?

11 A. No. I'm not in a position to answer that question. If you were
12 to give me the map of Bogoro, you will see that Bogoro is located in the
13 centre. We were on the one side, and Zumbe was on the other. I do not
14 know quite how they planned, and which road they wanted to use, to launch
15 their attack, but I would say that I did see them enter Bogoro. We were
16 already in an advanced position and they took up the rear. I saw them
17 arriving.

18 Furthermore, I would add that during that period, I had not yet
19 been to Zumbe.

20 Q. Where were you in Bogoro when you saw FNI soldiers for the first
21 time during the attack?

22 A. Well, I was on the road coming from Aveba to the junction with
23 another road that goes towards Asena (* as interpreted). I was beside a
24 stand.

25 Q. Now, just to clarify for the transcript, and the translation, you

1 said that you were at the junction of a road that goes towards which
2 particular place? Could you repeat the name of that place, please?

3 A. It is a road that is from Kasenyi and goes towards Bunia, and
4 there is another road that goes toward Kagaba, and it was at that
5 crossroads. And at that place, that crossroad, one continues along the
6 same road towards Bunia.

7 Q. Very well. I think we all know what place we are talking about.
8 So that was the position or that was the place where you saw for the
9 first time the FNI soldiers, is that what you're saying, at the
10 crossroads, or the roundabout in Bogoro?

11 A. I was already there. Zumbe is on slightly higher ground and
12 I saw them come, and once they crossed a river heading towards Bogoro, we
13 saw them, we saw them coming.

14 Q. And what were they doing?

15 A. They were going off to fight. They had weapons, and they were
16 carrying the signs that we also were carrying. And if I really think
17 about it, when they came in, they rang a bell, and we were in the habit
18 of doing that too. And they also yelled. They rang the bell, and they
19 moved forward.

20 Q. What time did the attack end? In other words, at what time did
21 the UPC -- was the UPC overthrown?

22 A. I no longer recall, but I know that we did get assistance from
23 Zumbe and the combatants did not take a lot of time. Between 10 and
24 10.30, I would say, by then the battle had ended.

25 THE INTERPRETER: Correction from the English booth: They

1 sounded the bugle, line 13.

2 MR. MACDONALD: (Interpretation)

3 Q. What happened at the end of the battle? What happened after
4 that?

5 A. At the end of the battle, the looting occurred, and a number of
6 houses were burnt down. So there you have it. There was looting and
7 houses were burnt down. And some corpses were buried, as much as was
8 possible.

9 Q. What items were looted?

10 A. I can't give you a list of the things that were looted, but they
11 were physical items, physical goods. They even took the sheet metal off
12 the houses. So I couldn't tell you whether they took money or clothing.
13 Everything was taken. Everything that could be taken was taken.

14 Q. Even cattle?

15 A. Furthermore, the cattle were taken first.

16 Q. What kind of cattle, exactly what kind of animals were stolen?

17 A. First of all, the cows, and then the goats. Everything that they
18 could lay their hands on, they looted.

19 Q. And who was doing the looting?

20 A. For example, the cows, as well as valuable objects, they were
21 taken by the combatants, and the rest, the heavy objects, were taken by
22 the Zumbe civilians, the women and the men. So the looting was done by
23 the combatants and by the civilians.

24 Q. Do you know -- do you know what market the live-stock were sold
25 at, the cows?

1 A. I would say that the cows were sold everywhere. Others were
2 killed and the meat was sold. In Beni cows were taken -- cows were taken
3 to Beni and they were sold there.

4 Q. You say that some houses were burnt down. And where were the
5 inhabitants of those houses when they were torched?

6 A. I would say that at that time there was no one in Bogoro, there
7 was no one. There were only bodies that were lying about in the streets.
8 One saw the corpses of old people in their houses. So there was not a
9 single living soul. There were only bodies in Bogoro.

10 Q. And why were the houses burnt down?

11 A. I don't know. All I do know is that when the UPC attacks a
12 village, a village in our locality, the UPC would burn down the houses.
13 So we did the same thing.

14 Q. You said that there were many bodies and you mentioned that you
15 buried the ones that you could. How did you bury them, and where did you
16 bury them?

17 A. At that time, we didn't have the time to dig graves. Some bodies
18 were buried in the latrines. The ones who were killed beside the
19 fox-holes of the UPC, we threw their bodies into those fox-holes and we
20 covered up those holes with earth.

21 Q. What happened to the corpses that you were unable to bury?

22 A. In Bogoro, all the corpses were cleared away. Some were buried,
23 but others -- other people died in the houses that had been burnt down.
24 The rest of the bodies that could be identified were thrown into the
25 latrines or thrown into the fox-holes. A few days after, we could smell

1 the odour, a bad smell, throughout the whole village of Bogoro, and it
2 was the smell of decomposing bodies.

3 Q. Who decided, or who gave the order to move these corpses and put
4 them into the fox-holes or into the latrines?

5 A. No specific order was given. The commanders were the ones who
6 gave orders, and their -- the people who reported to them carried out the
7 orders. So they were the ones who did that task.

8 Q. Yesterday you said that you were at the centre of Bogoro where
9 there was a school and classrooms. Now, in that place, in the centre of
10 the town -- correction, in the centre of the camp, could you tell us
11 which commanders from the FRPI and the FNI?

12 MR. KILENDA: (Interpretation) I beg your pardon.

13 THE INTERPRETER: Overlapping voices.

14 MR. KILENDA: (Interpretation) I believe that is a leading
15 question.

16 PRESIDING JUDGE COTTE: (Interpretation) Please rephrase,
17 Mr. MacDonald, if you could.

18 MR. MACDONALD: (Interpretation)

19 Q. Did you see FNI or FRPI commanders after the attack in Bogoro?

20 A. After the attack, after the end of the fighting, there were some
21 FRPI commanders and some FNI commanders.

22 Q. And what were they doing?

23 A. They were all very happy with the work that we had done. We were
24 all very happy.

25 Q. And how did that happiness -- how was that happiness expressed by

1 the commanders whom you saw?

2 A. We showed our joy by singing and by shooting into the air, and
3 later, the commanders kept us from shooting bullets into the air.

4 Q. Why?

5 A. I have no answer to give you to that question. All I know is
6 that they told us not to shoot bullets into the air.

7 Q. Who were the commanders whom you saw who were celebrating the
8 victory, be it commanders from the FRPI or the FNI? Could you give us
9 their names?

10 A. I would say that all the FRPI commanders were there. Except
11 Yuda. Yuda was not in Bogoro because he had been wounded. Germain was
12 there. Dark was there. Michelo. Oudo was there. Cobra arrived later,
13 after the fighting, after the end of the fighting. Ngudjolo arrived as
14 well, later, after the end of the fighting. Bahati de Zumbe was there.
15 Commander Cote was there, as well as other commanders whose name I don't
16 know. They were there.

17 THE INTERPRETER: Correction from the English booth,
18 Commander Bahati from Zumbe.

19 MR. MACDONALD: (Interpretation)

20 Q. Just one detail, Witness. You said that during the looting, some
21 houses had the roofs taken off. Everything that could be stolen was
22 stolen. And you mentioned that some combatants and civilians were
23 looting. But what was done with these various objects that were taken?
24 Where were these objects taken to?

25 A. Well, you know if someone loots goods, it's to use them. The

1 person might sell the goods or use them in his own particular way.

2 Q. Now, the celebration of the victory, you said that the commanders
3 were there. Could you tell us where the celebration was held? Was it
4 within the village of Bogoro? Could you tell us specifically where the
5 celebration was?

6 A. At the camp, it was at the camp. That is where they were
7 celebrating the victory. It wasn't around the camp. It was in the camp.
8 That is where the celebration occurred. The Bogoro camp.

9 Q. Witness, could you tell us whether children took part in the
10 fighting, either within the FRPI or amongst the Zumbe combatants?

11 A. There were children amongst all the camps, be it the UPC camp.
12 We even saw bodies of child combatants. There were children amongst the
13 FRPI ranks and also children amongst the ranks of the Zumbe fighters.
14 I couldn't say whether there were just combatants from the UPC or just
15 from the FRPI or from the FNI. There were children amongst all the
16 groups.

17 MR. MACDONALD: (Interpretation) If you could give me a few
18 moments.

19 PRESIDING JUDGE COTTE: (Interpretation) Certainly.
20 (Prosecution counsel confer)

21 MR. MACDONALD: (Interpretation)

22 Q. Were any hostages taken during the attack on Bogoro?

23 A. I would say that I did not see any hostages being taken during
24 the attack on Bogoro. Some UPC soldiers were not able to flee and they
25 were killed in the camp. However, I did hear that some hostages

1 apparently were taken to Kagaba but I didn't see them. Female hostages
2 were taken to Kagaba but I did not see them.

3 Q. Do you know why hostages were taken, why female hostages were
4 taken during the fighting? What was the purpose of that? Why were women
5 taken hostage?

6 A. I have no answer, no specific answer, to give you to that
7 question. However, I do know that the women were lucky to be taken as
8 hostages, or, rather, the women -- it was more likely that they would be
9 taken hostage. However, the men were killed. But I can't tell you the
10 reason why the women were taken as hostage.

11 Q. Do you know what happened to the women who had been taken
12 hostage? You say that they were more lucky, more lucky to survive? More
13 likely to survive? What was the fate of these women?

14 A. As I just told you, I didn't see this situation. However, I did
15 learn that women were taken hostage and they were taken to the Kagaba
16 camp. However, I don't know whether they were taken to help the
17 combatants with their work or to become their wives. I can't answer that
18 question.

19 Q. After the attack on Bogoro, who took control over Bogoro after
20 the attack? Who set up operations and who was the commander of the
21 Bogoro position?

22 A. Commander Dark was the one who set up operations and became the
23 commander of Bogoro right after that attack.

24 Q. And the fighters under his command, what group did they come
25 from? Were they just from the FRPI, since I believe Commander Dark was

1 from the FRPI? Or were there also combatants from Zumbe?

2 A. They were combatants from the FRPI. There were also commanders
3 (* as interpreted) from Zumbe who set themselves up there but not for
4 very long. Later they left.

5 Q. Just a clarification. A question of interpretation perhaps. Did
6 you say "combatant" or "commander"? Could you make that clear to us?
7 People from the FNI had established themselves in Bogoro for a while.

8 A. They were combatants, and their leader was Kute.

9 Q. Subsequently, after the Bogoro attack, did you take part in any
10 other fighting after Bogoro?

11 A. After the attack on Bogoro, we had planned to attack Bunia.
12 However, I did not take part in that attack. Subsequently, I took part
13 in the attack on Mandro.

14 Q. So before participating in the attack on Mandro, I understand
15 that there was the attack on Bogoro and then later there was the attack
16 on Mandro. Between Bogoro and Mandro, did you personally remain in
17 Bogoro itself or did you move about? That is, before taking part in the
18 attack on Mandro.

19 A. I would say the following: During the attack on Mandro, I was in
20 Bogoro. From time to time, we would go to the Kagaba locality.

21 Q. Which group launched the attack on Mandro?

22 A. The group of Zumbe combatants and the FRPI launched the attack on
23 Mandro. And if my memory serves me correctly, the FRPI combatants were
24 already mixed together with the Zumbe combatants. Also, they were
25 mingled with the APC soldiers. I'm not only saying that it was the FRPI

1 soldiers who launched this attack. There were also soldiers, APC
2 soldiers, who were living together with the FRPI soldiers.

3 Q. Who was the person in charge of the combatants posted in Zumbe at
4 the time of the attack on -- the attacks on Bogoro and Mandro?

5 A. Zumbe was Ngudjolo's territory. We only went there with a view
6 to bringing reinforcement and assistance, providing assistance, for the
7 combatants during the attack.

8 Q. Are you talking about the Mandro attack that you acted as
9 reinforcement for the Zumbe combatants, just to clarify?

10 A. I did not go alone. We went there with a view to providing
11 reinforcement to the Zumbe combatants.

12 Q. Mr. Witness, could you clarify? On the occasion of the attack on
13 Mandro, who was the person or commander in charge of the FRPI troops
14 during the fighting?

15 A. On the occasion of the attack on Mandro, the FRPI commanders
16 present were Germain, Muhito, Dark, and others whose names I would not be
17 able to provide you with. They were numerous, very numerous.

18 Q. And on the FNI side, are you able to tell us who the combatants
19 were who were there?

20 A. There were many of them.

21 Q. Are you able to provide us with the names of the FRPI commanders
22 who took part in the attack on Mandro?

23 A. As I have just stated, there was Germain. There was Sipa. There
24 was Muhito. There was Dark, and others.

25 Q. I do apologise, Mr. Witness. I apologise. I wanted to say the

1 FNI commanders or the Zumbe commanders. That's what I meant to say. It
2 was my mistake and I apologise.

3 So are you in a position to give us the names of the FNI
4 commanders who took part in the attack on Mandro?

5 A. In answer to your question, I would say that this was not our
6 position. This was an area, and I do not know who was in that area, but
7 I do know that we were welcomed by Ngudjolo, and Kute was there, as was
8 Bahati de Zumbe. He was also there. There were other individuals there.
9 Others who -- well, there were many of them who were preparing the
10 attack.

11 Q. Mr. Witness, could you briefly tell us, with regard to the
12 meetings held before the attack on Zumbe, could you tell us precisely
13 what was said?

14 MR. FOFÉ: (Interpretation) I believe that there is maybe a
15 mistake in what you just said. We are not talking about the attack on
16 Zumbe.

17 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. As the
18 question has been transcribed, Prosecutor, you said:

19 "Mr. Witness, could you briefly tell us, with regard to the
20 meetings held before the attack on Zumbe, could you tell us what was
21 said?"

22 So you need to correct yourself.

23 MR. MACDONALD: (Interpretation) Yes, indeed. Thank you, Mr.
24 President and learned friends. I wanted to say in Zumbe before the
25 attack on Mandro, when the FNI and FRPI commanders met.

1 Q. Are you in a position to give us details as to the contents of
2 their discussions in preparation for the attack on Mandro?

3 A. I do not have any response to give you in this regard. I do know
4 that we were talking about fetishism. I do not know what they were
5 talking about. However, we were more focused on objects of fetishism.

6 Q. Émile Muhito, what responsibilities did he have or what
7 responsibility did he have during this attack?

8 A. Muhito was heading up our group of combatants, who launched an
9 attack on his part or his party.

10 MR. MACDONALD: (Interpretation) It might be that the
11 interpreters are somewhat tired here. We've got 7 minutes left before
12 the break, and I must say that there is a problem in the
13 interpretation of this answer. I am certain about that.

14 Q. Now, I'm going to put the question again. Mr. Muhito, do you
15 remember what responsibility he held during the attack, precisely what
16 did he do? I'm talking about the attack on Mandro.

17 A. I would say the following: I was part of the group that Muhito
18 was heading up. We fought, and he was hit in the arm. He received a
19 bullet in the arm. But we were able to recuperate a heavy weapon.

20 Q. And by what name does this heavy weapon go?

21 A. I do not know what it is called, but we used to call it
22 saba-saba.

23 Q. Did you see Sipa on the occasion of the attack on Mandro?

24 A. We saw Sipa subsequently, but during the attack we did not see
25 Sipa. We saw him subsequently.

1 Q. And where did you see him?

2 A. I do not know the name of that location, but it was on a hill,
3 and it was when we were seeking to return to Zumbe.

4 Q. Very briefly, and this is my last question on Mandro, what did
5 you do in Mandro during the attack, that is to say, all the combatants
6 together?

7 A. We fought, and everything went swimmingly. Reinforcement from
8 the UPC arrived, but we were able to fight, and those who wanted to loot
9 did so. And then when we were driven back, well, subsequently, we
10 returned.

11 Q. And what about the civilians who were present? What happened to
12 them?

13 A. I do not know. We do not have any information with regard to
14 civilians, whether they be Hema or Ngiti. The same applies to the Lendu
15 and the Hema. The Hema did not recognise any civilians within the Lendu
16 population and vice versa. I do not know quite how to answer that
17 question. I do not know whether the people who lost their lives were
18 civilians or whether the civilians were the ones bearing weapons. Some
19 of them were sporting military attire. Somebody who carries a weapon,
20 well, can you call them a civilian? We all deemed them to be soldiers.

21 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

22 MR. FOFÉ: (Interpretation) I apologise, Mr. President. I just
23 wanted to ask the witness to speak a little bit more slowly because in
24 his last answer, he gave many details, but at speed, and as a result, I'm
25 sure that the interpreter had difficulty interpreting. That's what

1 I wanted to say, Mr. President.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Fofé,
3 Professor Fofé.

4 So, Mr. Witness, please try and speak a little bit more slowly,
5 even more slowly, in fact. Thank you very much.

6 Mr. Prosecutor.

7 MR. MACDONALD: (Interpretation)

8 Q. Mr. Witness, I would now like to put questions to you on the
9 subject of your demobilisation. Do you remember at what time, that is to
10 say, month or year, you left the FRPI forces?

11 A. I would provide the following response: I did not rapidly leave
12 the FRPI. I do not have any recollection as to the month or the date or
13 even the year, but what is certain is that I left the FRPI group on the
14 occasion of the demobilisation. After several events had occurred, I got
15 up the courage, and, of course, once I had made the most of the advice
16 provided to me by a number of individuals, I was then able to go back to
17 school, and this until the demobilisation programme was put into effect.

18 Chief Germain said that the time for demobilisation had come.
19 He -- whoever wants to carry on within the armed groups should go to the
20 camp and register or enroll. This programme was launched in two stages.
21 One stage was given over to adults, and the other was given over to
22 minors. Minors were accepted at the site. They would receive clothing.
23 They would receive money. With respect to the minors, they were not
24 given money, no. They were given clothing. They were given foodstuffs,
25 and the minors would then spend some time at the site and then

1 subsequently they were demobilised. The adults were also accepted at the
2 site, and the programme involved spending a week there.

3 Myself and others gained access fraudulently. I had a firearm.

4 I could not be accepted in the site given over to the minors, but

5 I wanted to have some money. I handed over my firearm and I was given
6 money.

7 THE INTERPRETER: Message from the Swahili booth: Could the
8 witness please be requested to slow down.

9 MR. MACDONALD: (Interpretation)

10 Q. Just one moment, please, Mr. Witness. Please allow the
11 interpreter to have a breather. Maybe we should change interpreters for
12 the next bit. Because what you have just said, well, we really need to
13 take our time on the subject because it is important.

14 So, Mr. Witness, you were explaining to us how you demobilised or
15 how you were demobilised. You explained that there was a site or
16 location for minors and one for adults. You said that at the site for
17 minors, money was not distributed. But to your knowledge, was money
18 given to adults for the purposes of demobilisation?

19 A. I did not finish my account. Yes, money was indeed given to
20 adults. I had my firearm that I retrieved during the fighting, that I
21 had retrieved during the fighting. I wanted to hand it over at the site
22 but it was very difficult for me to do so. At that moment in time, it
23 was very difficult to walk around with a firearm. I was able to pick up
24 a bomb. I was not alone. I was in the company of other individuals.
25 Those who were at the site wanted the combatants to come and hand over

1 their weapons. I took a bomb --

2 THE INTERPRETER: The English booth presume he means a grenade.

3 THE WITNESS: (Interpretation) -- and other people did the same
4 thing. And then we went to the site. That was during the night. We
5 were welcomed and we completed all the administrative formalities, and
6 I was able to give a name which was not mine, and I also provided an age
7 that was not mine. I was given a badge and I then went back to live with
8 my family.

9 However, nobody was able to discover how I managed to actually
10 access the site. We were given a bit of money. I believe we were given
11 120 dollars or maybe 60 dollars. First of all, we were given an amount,
12 we were given beans, and we were given pots and pans, and clothing.
13 Nobody at the time realised that I had gained access to the site, because
14 I gained access fraudulently.

15 Q. I think we shall have a break subsequently, maybe a last question
16 here. When you say that you gained access fraudulently, are you
17 referring to the adult site or the site for minors?

18 A. I am talking about the site for adults.

19 Q. I thank you, Mr. Witness.

20 MR. MACDONALD: (Interpretation) Mr. President, with your leave,
21 I would suggest that we take the break. After this subject, I think I
22 have one further subject to cover very briefly and then I will be drawing
23 my examination to a close. Unfortunately, there were a few interruptions
24 that slowed us down, but I believe that in approximately ten minutes, we
25 will be able to, once we come back from the break, finish off with the

1 questions that remain.

2 PRESIDING JUDGE COTTE: (Interpretation) I thank you,
3 Mr. Prosecutor. Thank you for all those who helped us out this morning,
4 notably the interpreters, Swahili, Lingala, English, et cetera, because
5 maybe the task this morning was a little bit more delicate, and we thank
6 you because we really need your assistance.

7 Now, Court Officer, once the security officers have shown the
8 witness -- the accused out of the courtroom, we will go into closed
9 session. And, the accused, we will meet again in half an hour.
10 Mr. Witness, we will meet again in half an hour.

11 (The accused withdrew)

12 PRESIDING JUDGE COTTE: (Interpretation) So can we go into
13 closed session, please?

14 (Closed session at 10.57 a.m.)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Open session at 10.58 a.m.)

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

25 MR. MACDONALD: (Interpretation) Now, I'm making the most of the

1 absence of the accused. I just wanted to clarify something. There was a
2 change of interpreter during the witness's account. That was what I was
3 referring to earlier. Maybe we might replace the interpreter. I'm
4 talking about this during the account of the witness. It is not ideal,
5 of course, but I'm not talking about sending the interpreter away and
6 replacing them by another. I might have been somewhat direct and a
7 little short, but we will understand, of course, that this was at an
8 important juncture of the witness's testimony, which will be, of course,
9 an object of cross-examination, I'm sure of that.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well. The
11 interpreters have heard your clarification, but the Chamber wanted, as it
12 did previously, to say just how important they find their cooperation.

13 Court is adjourned, suspended, and we shall meet again in
14 30 minutes' time.

15 Recess taken at 10.59 a.m.

16 On resuming at 11.36 a.m.

17 (Closed session)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-OTP-P-0028 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

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1 (Open session at 11.37 a.m.)

2 PRESIDING JUDGE COTTE: (Interpretation) We will go into open
3 session.

4 COURT OFFICER: (Interpretation) We are in open session,
5 your Honour.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
7 Court Officer.

8 Witness, can you hear me?

9 THE WITNESS: (Interpretation) Yes.

10 THE INTERPRETER: But the Swahili booth is having difficulty
11 hearing the witness.

12 PRESIDING JUDGE COTTE: (Interpretation) Witness, remember to
13 speak right into your microphone slowly and loudly as you have been
14 doing, all in all, ever since the beginning of the proceedings.

15 Prosecutor.

16 MR. MACDONALD: (Interpretation) Thank you, your Honours.

17 Q. Witness, I still have a few questions, and then after that, my
18 learned friends, the Legal Representatives of Victims, will be taking
19 over.

20 Witness --

21 MR. MACDONALD: (Interpretation) For the next question, it might
22 be preferable, your Honour, if it -- we could very briefly go into
23 private session, because the question could have a bearing on the
24 witness's identity.

25 PRESIDING JUDGE COTTE: (Interpretation) Courtroom Officer, if

Witness: Witness DRC-OTP-P-0028 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

Page 37

- 1 you could.
- 2 (Private session at 11.39 a.m.)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
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- 25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 11.42 a.m.)

4 COURT OFFICER: (Interpretation) We are in open session,
5 your Honour.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Prosecutor.

7 MR. MACDONALD: (Interpretation)

8 Q. I would like to hark back to one particular detail. During your
9 testimony yesterday -- and I will turn to the transcript, yesterday's
10 transcript, page 14, line 6 -- I was asking you questions -- well, I'll
11 ask you how you knew that there were all those camps, all those camps
12 whose names you gave, in the Walendu-Bindi region, and your answer, and
13 I quote:

14 "We were not prisoners who stayed only in one place. We were in
15 the habit of going about within our villages. We would do various
16 checks, inspections or visits of various camps."

17 I'll stop at this point.

18 My question is as follows: What do you mean by: "We did checks,
19 we did inspections"? What kind of inspections did you do?

20 A. Well, checks or inspections. Could you explain to me what you
21 mean by "inspection"?

22 Q. I just read out the translation in an answer that you gave, the
23 translation of an answer you gave yesterday. I just read out the French
24 translation of the words that you uttered in Swahili. So you said:

25 "We would do checks ... inspections or visits in various camps."

1 Now, without using the term "inspection," if we just restrict our
2 self to the word "*contrôle*," in French, these checks, what kind of checks
3 did you do?

4 A. Well, with regard to these checks, for example, when we were sent
5 to stop someone in an area where there was another camp, before stopping
6 that person, one had to go by the camp and show our papers, our identity
7 documents. We had to show these documents to the secretary of the camp,
8 and if our documents were accepted, a person from the camp was to
9 accompany us to the village where we were to stop or arrest that person.
10 So we would leave and go to that village to carry out our task.

11 And if our documents, or our orders, were not approved, or if we
12 didn't have any, the soldiers, the soldiers in that area, if ever they
13 found us doing such things, they might get angry and even arrest us.

14 Q. To your knowledge, was Germain Katanga informed of the things
15 that were going on in the collectivity of Walendu-Bindi or the other
16 camps?

17 MR. HOOPER: I'd object to that because of its over-general
18 basis.

19 PRESIDING JUDGE COTTE: (Interpretation) That is so.

20 THE INTERPRETER: Overlapping microphones.

21 MR. MACDONALD: (Interpretation) But I don't think it's
22 unacceptable or illegal. I'm asking a general question to touch upon
23 this issue, and I am listening to the Chamber, perhaps the Chamber might
24 suggest a possible approach. We would be willing to begin it to -- to
25 adopt such an approach to begin.

1 PRESIDING JUDGE COTTE: (Interpretation) Well, it is a very
2 general question:

3 "To your knowledge, was Germain Katanga informed of the things
4 that were going on in the collectivity of Walendu-Bindi ..."

5 Perhaps -- well, let us drop Walendu-Bindi and we will just ask
6 the question with relation to the other camps.

7 MR. MACDONALD: (Interpretation) Very well, your Honour.

8 MR. HOOPER: I mean, what things in other camps? Cooking
9 arrangements? What things?

10 PRESIDING JUDGE COTTE: (Interpretation) Well, I think you could
11 be more specific in that regard.

12 MR. MACDONALD: (Interpretation)

13 Q. To your knowledge, was Mr. Germain Katanga informed of the
14 activities that were going on in the other camps of the FRPI?

15 A. I don't know which activities you're speaking of, but to my
16 knowledge, when there were other operations, large operations, for
17 example, when -- when cows or livestock were taken, he would be informed.
18 He had to be informed. Because the people would go take the livestock
19 and take some of the livestock to the camp of Germain Katanga in Aveba,
20 but with regard to other events, I don't know about them, unless it might
21 have been some kind of operation, an attack, that might have occurred in
22 that collectivity. So in that case, I could confirm that he was supposed
23 to be informed.

24 Q. To your knowledge, other than the operations, the attacks, the
25 stealing of livestock, was he informed of the discipline or the lack of

1 discipline of combatants in other camps?

2 MR. HOOPER: I don't understand the question and I'm not sure
3 that the witness would.

4 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you can
5 rephrase your question or you can ask your question. Please try to ask
6 the question in a way that we are sure that the witness understands it
7 properly.

8 MR. MACDONALD: (Interpretation)

9 Q. Well, I will make reference to the transcript of yesterday,
10 transcript 217, page 23, more specifically around line 16 and 17. Now,
11 yesterday, you were speaking about your travels with Germain Katanga
12 to -- your trips to the camps, the time when you were present, and you
13 mentioned, among other things, at the end of your answer, you were
14 explaining the reasons why Germain Katanga was moving about and visiting
15 the other camps. And at the end, you mentioned, you said:

16 "And it was to know how the camps were operating."

17 My question is as follows: When Germain Katanga was moving about
18 to find out how the camps were operating, was that also to find out about
19 the discipline or the lack thereof of the combatants of the FRPI who were
20 living in those camps?

21 A. Discipline? Well, a combatant is a person who would live in a
22 camp, so I don't see what you are saying about the discipline of
23 combatants, because combatants had a duty, an obligation, to respect
24 orders, or the instructions of his leader, and he had to carry out the
25 orders of the chief, of the leader.

1 You talk about discipline. Well, it's true that if there had
2 been -- if there was any misconduct, if anything wrong was done by a
3 combatant, the combatant would be disciplined. For example, when a
4 combatant shot his weapon in an incorrect fashion, he would be -- he had
5 to be punished. He had to pay the price. He had to pay for the bullets
6 that were wasted. For example, he would have to pay -- he would have to
7 give a cow. With regard to discipline, the combatants were not allowed
8 to kill people that they met along the way. They had to respect the
9 civilians and protect them. And so when the combatants were guilty of
10 misconduct, they he were arrested, and they might spend two, three or
11 four days in prison, and then after that they would be freed.

12 Q. Very well. Let us leave that topic behind us. Another detail.
13 The women who were taken hostage in Bogoro and, according to the
14 information received, were taken to Kagaba, do you know or did you hear
15 or learn how they had been held in Kagaba, what place?

16 A. I think I've already answered, saying that I did not see those
17 women, I only heard about them. I heard that they had been stopped and
18 taken to the Kagaba camp. I repeat, to the Kagaba camp.

19 Q. Did you learn where they were kept in the Kagaba camp, what
20 physical location they were kept at?

21 A. I could say they were held in the cells, in the holding cell of
22 the camp.

23 MR. HOOPER: You see, if a witness is questioned enough, he may
24 be pushed into giving an answer like that, so perhaps we could inquire
25 the basis for that answer, given his previous answer.

1 PRESIDING JUDGE COTTE: (Interpretation) Continue.

2 MR. MACDONALD: (Interpretation) Thank you, your Honour.

3 Q. Now, the holding cell in Kagaba, do you know what it looked like,
4 how these holding cells were constructed?

5 A. In the camps, there were holding cells. These cells were
6 actually a house, really, inside the camp, and the house was kept very
7 secure and it was guarded, or there were cells where people were
8 imprisoned, people who were guilty of major offences, and they were holes
9 that had been dug, and people were kept in them. Above the hole, one
10 built a house.

11 Q. How or who -- or how did you learn that some women had been taken
12 hostage and taken to Kagaba?

13 A. I heard about that. Some friends of mine talked about that when
14 we were in Bogoro.

15 Q. And when you talk about your friends in Bogoro, are you talking
16 about civilians or combatants, these friends of yours?

17 A. They were combatants.

18 Q. Very well.

19 MR. MACDONALD: (Interpretation) Your Honour, I must apologise
20 to the people in the public gallery. We have a number of questions
21 regarding the education of the witness, very briefly. They will be our
22 final questions to conclude our examination-in-chief. And then after
23 that, I will ask if we could go back into open session with your leave.

24 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if we
25 could go into private session for a moment.

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Questioned by Mr. MacDonald (Continued)

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- 1 (Private session at 12.00 p.m.)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
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Witness: Witness DRC-OTP-P-0028 (Resumed) (Private Session)
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13 Page 45 expunged. Private session.

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Witness: Witness DRC-OTP-P-0028 (Resumed) (Private Session)
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13 Page 46 expunged. Private session.

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Witness: Witness DRC-OTP-P-0028 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

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1 (Expunged)

2 (Expunged)

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8 (Expunged)

9 (Open session at 12.10 p.m.)

10 COURT OFFICER: (Interpretation) We are in open session,

11 Mr. President.

12 PRESIDING JUDGE COTTE: (Interpretation) I thank you.

13 Mr. Prosecutor, please.

14 MR. MACDONALD: (Interpretation)

15 Q. Witness, I would like to thank you. This concludes the questions

16 that the Office of the Prosecutor had to put to you. I would like to

17 thank you.

18 MR. MACDONALD: (Interpretation) Mr. President, I shall now be

19 seated and leave the way open to the Legal Representatives of Victims to

20 put their questions.

21 PRESIDING JUDGE COTTE: (Interpretation) I thank you,

22 Mr. Prosecutor, now, Mr. Gilissen and Mr. Luvengika, you seized the

23 Chamber in compliance with the provisions of decision 1665, dated the

24 1st of December, 2009, with a view to putting a number of questions to

25 the witness. You noted that Mr. Prosecutor, throughout his

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1 examination-in-chief, put a number of questions to the witness which
2 cover issues that you wanted to cover or were suggesting that you
3 covered. I'm sure that you have sorted out what needs to be put in terms
4 of questions and what no longer requires to be put and the clarification
5 that you shall be seeking from the witness, I shall allow you to address
6 the Court.

7 Now, Maître Gilissen, you shall start as always.

8 Maître Luvengika, I wanted to indicate to you now, and I'm sure that
9 you've done this without the Chamber asking you, with regard to
10 question 2, the question that you had planned to put in your document,
11 your written document, we thought that this was not the kind of question
12 that was to be put by a Legal Representative.

13 Now, Maître Gilissen, please.

14 MR. GILISSEN: (Interpretation) I thank you, Mr. President.

15 I thank you, your Honours.

16 Questioned by Mr. Gilissen:

17 Q. (Interpretation) Good morning, Mr. Witness.

18 A. Good morning.

19 Q. My name is Mr. Jean-Louis Gilissen. I am a lawyer with the
20 Belgian Bar and I represent in these proceedings part of the group of
21 victims, notably victims of a particular type. That is to say, the child
22 soldiers. So with your assistance, I shall attempt to obtain some
23 additional information that I believe to be useful. I want things to be
24 clear, Mr. Witness, that we shall both try and attempt to assist the
25 Chamber, to assist Mr. President and the Judges, in providing them with

1 additional information and clarification so that they can better
2 understand the reality of the events and to make their task of
3 establishing the truth easier.

4 So I need you and I need your help in order to shed light on the
5 matter.

6 Mr. Witness, I'd like to broach my first questions now, which
7 refers us to an observation you made. I believe this is page 55 of
8 transcript 216, that's at line 20, when you spoke, Mr. Witness, about
9 your movements to Kaswara, when you were trying to pick up that
10 infamous -- Kaswara, when you were trying to pick up that infamous
11 bicycle that had been seized from you. I am not going to revisit those
12 events but I would like to hark back to a sentence you uttered. You
13 said:

14 "At that moment in time, young people found it difficult to move
15 about."

16 And, yes, indeed, we know that your movements indeed gave rise to
17 your arrest or your kidnapping, however you want to call it. Could you
18 please try to inform the Chamber as to what was happening at the time and
19 the type of difficulties that young people would be up against when
20 moving around in the region where you found yourself.

21 A. When I said that young people had difficulty, that quite simply
22 meant the following: Those who were not combatants had considerable
23 difficulty moving about, because they were badly treated by the
24 combatants. For example, were they to chance upon combatants and the
25 combatants had luggage, then they would have them transport that luggage

1 to their final destination. So this was the difficulty that I have just
2 mentioned.

3 Notably, a young person who is not a combatant is not free to
4 move about. He will not feel comfortable, because at any opportunity,
5 that is to say, when chancing upon a combatant, then that combatant would
6 inflict different types of treatment on them, and you would not be able
7 to discuss this with them because if you tried, then they would or might
8 beat you.

9 Q. I thank you, Mr. Witness. So I understand that you were under
10 the authority or the arbiter of the combatants. You were arrested and
11 you were sort of kidnapped, as I said earlier, and you were taken
12 forcibly to a camp. Now, the group of combatants that you chanced upon
13 when you were arrested, can you tell us how many people were in that
14 group and the type of persons it comprised? Were there any adults in
15 that group? Were there any young combatants or any very young combatants
16 in that group?

17 A. There were adults, and there were people who were not really
18 adults. I would say that there were young people and there were adults.

19 Q. And to your knowledge, Mr. Witness, with regard to what happened
20 to you, that is to say, you were arbitrarily arrested and you were taken
21 to a camp in order to undergo training and become a member of the
22 militia, was this an exceptional personal occurrence or did it happen to
23 other young people?

24 A. I would say that I lived a personal experience here. Were
25 something similar -- as to whether something similar happened to other

1 children, I would say that, yes, it is true, because during that period,
2 those individuals who were not combatants had it hard. I am not in a
3 position to give you any information with regard to any other individual
4 apart from myself.

5 Q. Mr. Witness, I know, because I've seen it with my own eyes, I
6 know how this experience of being arrested and this business of being
7 forced to train, I know how difficult and painful it is. I saw your
8 emotion during your testimony. You said that this training that you
9 underwent was a form of torture. That's the word you used.

10 Now, to your knowledge and on the basis of what you saw on the
11 basis of what other young people undergoing the same training
12 experienced, can you tell us whether other young people or some of those
13 other young people felt that this was also a form of torture for them?

14 A. Each and every person has their own experience, their own
15 sentiment in this regard. To my knowledge, well, if I have to think
16 about this, in a skin of a human, of a human being, well, I would say
17 that this was inhumane treatment. This was not the kind of treatment
18 that would normally be administered, and it was a bad or is a bad memory,
19 something that I shall never forget.

20 Q. Mr. Witness, I shall just put one question to you in order not to
21 revisit this painful part of your life, but if you had to summarise your
22 life, there is the part of your life, that is to say, the part of your
23 life which happened before you were arrested, and then, of course, you
24 went through the training, and can we consider that there was a sort of
25 form of break or rupture in your life?

1 A. I have nothing further to add. I have nothing further to add.
2 You know, if we provide a detailed description of my life -- well, I
3 believe I've done that before you. I have described all of my life, and
4 you all followed me, followed what I had to say. This is something that
5 happened. It happened. And I have nothing further to add. Really, I do
6 not have anything further to add.

7 Q. And of course, Mr. Witness, I will respect that. I will respect
8 your wish. And I'm sorry if I stirred up any emotion in you because I
9 believe, however, that it is important for the Chamber, for the Bench,
10 and those who are listening to us, those who are reading and those who
11 are following what we are doing, that they understand the extent of what
12 occurred, of what you lived through. I'm going to change the subject and
13 hope that in so doing I will be able to change your state of mind and see
14 you in a better state of mind, less unhappy.

15 I read that when you were in Aveba camp, you had a number of
16 missions to implement or conduct. You were tasked with going to seek out
17 people who were summonsed, you were asked to seize property, you were
18 requested to arrest individuals, and, well, I wanted to ask you, you were
19 very young at the time, you were very young. When you were tasked with
20 this mission, how old were you? How long did this last? And did the
21 adults accept your authority? Did they follow you, if you went and asked
22 them to follow you? Can you explain to me how this happened? You were
23 still a young child at the time.

24 A. Yes. They would obey. You know, you do not resist an armed
25 individual. And if somebody were to resist, we were in the habit of

1 using force.

2 Q. So the adults knew this. You did not have to use force on a
3 regular basis. There was -- or people were fearful of young people such
4 as yourself because they were armed. Is that what I should understand?

5 A. Yes. When we went on operation, we were armed. We did not go
6 empty-handed.

7 Q. I believe I understood, Mr. Witness, that these missions and
8 these mission orders that you had concerned people from your own ethnic
9 group; that is to say, that you were not sent to arrest the enemy, the
10 adversary or members of another ethnic group, but members of the same
11 ethnic group as yourself, that is to say, Lendu or Ngiti?

12 A. Yes. This happened in our village, and we were not going to
13 arrest a Hema in our village.

14 Q. Mr. Witness, might one assimilate the role that you fulfilled at
15 the time, generally speaking, to that of a policeman? Did you have the
16 role more or less of a military policeman?

17 A. Yes. We would go and arrest an individual. We had an official
18 document in our possession, and we were in the habit of arresting an
19 individual and taking them with us. When we arrested somebody, they
20 would prepare something to eat for us, maybe a chicken, and then we would
21 spend the night with them and we would give them the time to pay their
22 debt and pay for our travel expenses. We would go there in a peaceful
23 state of mind, and if somebody were to react calmly, then we would treat
24 them calmly. But if they attempted to resist, then we would beat them
25 and take them forcibly. I do not know whether what I am describing to

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1 you enters into the mission, the general mission, of a military
2 policeman, I do not know.

3 Q. Of course, your answer will interest Mr. President and
4 your Honours. Now, to complete this topic and a last question on the
5 subject, at that moment in time, was there a figure of authority within
6 the police force or -- was there any authority in the form of police or
7 police force, or were there only soldiers remaining?

8 A. No. There was no governmental institution at the time. There
9 were no policemen. All the force was in the hands of the combatants.
10 Even the *chef de localité* did not have any power. The combatants had all
11 the power in their hands. Nobody else.

12 Q. I thank you, Mr. Witness. Now, we shall move on, with the leave
13 of the Chamber and your permission, to the subject (expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged). Now, what is of interest to me is the various
17 journeys that you made to the camps that you mentioned to us. You talked
18 about distances -- you talked about the existence, correction, of at
19 least six large-scale camps in the Walendu-Bindi area. I wanted to know
20 whether you visited each of these camps and whether there were child
21 soldiers in each of these camps.

22 A. The combatants were not just children. There were adults too.
23 So the group was not made up just of adults or just of children. There
24 were some combatants who were parents, they were married and they had
25 children. So it was a mixture of all these different people.

1 Q. Witness, you used the word "*kadogo*." Could you tell us what you
2 mean by that word, just so that we can avoid any problems with
3 understanding? Is that the translation of "child soldier"? Does it
4 refer to a specific age? Could you tell the Chamber what the concept is,
5 the idea behind that word, "*kadogo*"?

6 A. Well, I will answer you in accordance with what I know. The word
7 "*kadogo*" means "a young soldier," but I don't know what age, what basic
8 age, at which one calls a soldier a "*kadogo*," but it means "a young
9 soldier."

10 Q. Just to ensure that we don't make any mistakes, Witness, if we
11 consider that there are young people of more than 18 years of age, then
12 there are young people who are not yet 15 years of age, when I speak of
13 child soldiers, I am speaking of people who are aged less than 15. Could
14 you confirm to us that in those camps there were children who obviously,
15 even if you didn't know their age, if you hadn't seen their identity
16 cards or information, but all the same, was it obvious that there were
17 some, in some camps, there were combatants aged under -- aged less than
18 15?

19 A. Yes, there were.

20 Q. And I'll try to be brief, Witness. There is no point in going
21 back over things that have already been said, but just to be sure, could
22 we say that these child soldiers under 15 years of age were also
23 considered to be like the other combatants, or not, that there was no
24 distinction made between people who were under 15 and people who were
25 over 15?

1 A. For someone who bears a firearm, well, you don't ask him what his
2 age is, that is what people say in our part of the world. And I'm
3 talking about combatants.

4 Q. Very well, Witness. Thank you very much. Now, in
5 transcript 217, page 37, you said, and I quote:

6 "When a Hema came to our place, he has no pity. He takes pity on
7 no one. He takes pity -- he doesn't take pity on old people or children
8 or women, and so on and so forth. And we too, we had no pity for them."

9 I would like you to explain to us, in a few words but clearly,
10 this lack of pity. Did this mean that people who were thought of as
11 enemies, people who were considered to be Hema, could -- that anything
12 could be done to them, even death? Is that what I am to understand?
13 Even if it is a young man or a girl or a woman, a child or even a baby?

14 A. Yes, indeed. I explained that in our way of doing things, when a
15 Hema came to where we were, he would kill all people who came across his
16 path. He would kill. I reiterate, he would kill any person who he met
17 up with. And on our side, that is what we did. There was no pity, not
18 for children, not for old people, not for anyone. So there was the Hema
19 on the one side and then on the other side there were the Ngiti, and they
20 were two different groups.

21 Q. That was indeed what was said on the same page, lines 12 and 13,
22 you talked about the usual methods, you said:

23 "We would apply our usual methods."

24 That's what you said. You spoke of a lack of any mercy, no pity,
25 towards the people who were thought of as adversaries, no matter what

1 their age or their gender.

2 A. Yes.

3 Q. And the usual methods, the children, the child soldiers under 15,
4 the *kadogo*, they also followed the usual methods? Was that part of the
5 usual methods as was the case for other combatants?

6 A. Yes, exactly. Everyone had received that order. All people who
7 were thought of as combatants had to follow that order, male or female.
8 It didn't mean that it was just adults who had to carry out that order.

9 Q. And so it was an order, you were told to do things, and that is
10 what you had to do? You did not have any freedom as a combatant on the
11 battlefield, that is what you had to do, that is what you were told to
12 do?

13 A. It's not that we were asked to do that, but it was the principle
14 of war between the Ngiti and the Hema, and that had been the case for a
15 very long time. It has always been such.

16 Q. Thank you very much, Witness. That is extremely interesting,
17 what you've been telling us.

18 Now, when you were in Kagaba, just before the attack on the
19 village of Bogoro, you told us about speeches that were given for the --
20 to the combatants. In particular you said, and this is in
21 transcript 217, page 49 and 50, you spoke of the speech by Mr. Yuda.
22 Now, this speech, if I've understood correctly, now, was this speech
23 relating to the application of the usual methods?

24 MR. O'SHEA: I'm sorry, Mr. President. That's the kind of
25 leading that my learned friend can't do in the circumstances. He can

1 certainly ask the witness for details as to what was said or what was the
2 speech about, but he cannot, having as he did -- led the previous
3 answers, now construct those previous answers and attach them to a new
4 leading question. So can he please ask an open question about this
5 speech.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.
7 Mr. O'Shea, Mr. Gilissen, as a Legal Representative of a group of
8 victims, a group of child soldiers, was striking at the very heart of the
9 mission that was conducted, of the mission of this courtroom. Indeed,
10 sir, be careful about the way in which you put your questions. Don't be
11 overly leading. The witness has had a great deal to say. You were
12 providing him some background or a starting point for a number of
13 questions, and quite properly so, but be careful about the way you phrase
14 your questions. And 99 per cent of the time, ever since the beginning of
15 this cross-examination, you have done so but, please try not to cast your
16 nets too broadly. Please be more careful.

17 MR. GILISSEN: (Interpretation) I will be careful but I will not
18 fall into the opposite trap. Earlier my colleague the Prosecutor was
19 accused of asking an overly general question, but I will try to ask my
20 questions in a way that will be satisfactory to Mr. O'Shea, and
21 I understand, and I thank you. It keeps me focused, so to speak.

22 PRESIDING JUDGE COTTE: (Interpretation) Yes. I didn't want to
23 repeat the last few remarks about Mr. O'Shea -- the last few parts of
24 Mr. O'Shea's remarks about being overly general, but in any event, please
25 proceed.

1 MR. O'SHEA: (* Previous translation continues) ...

2 Mr. President, I'm not suggesting that my learned friend ask general
3 questions. I'm suggesting that he ask neutral questions, as opposed to
4 giving his speculation as to the content of the speech and then offering
5 it on a plate to the witness. That's what I'm objecting to.

6 PRESIDING JUDGE COTTE: (Interpretation) I believe that we have
7 all made ourselves understood perfectly, and Mr. Gilissen may proceed.
8 Please proceed. It was important, Mr. O'Shea, for us to understand your
9 view-point properly and everything is to be found on the transcript.

10 MR. GILISSEN: (Interpretation) Thank you, your Honour. Thank
11 you, everyone.

12 Q. Witness, when you gathered in Kagaba, you told us that there were
13 between 1.000 and 2.000 combatants, that there were a group of *kadogo* in
14 there or not.

15 A. Yes, there were *kadogos*. All the combatants who were ready for
16 the battle were there, and there was no distinction between the adults
17 and the *kadogos*. We were all together.

18 Q. Now, without giving us any particular figures, I would imagine
19 that you didn't count the number, but what was the proportion of *kadogos*,
20 these people who were preparing to attack the village of Bogoro? What
21 was the percentage of *kadogo* amongst the combatants? Was it a large
22 proportion, a low proportion? Was it significant? Could you give us
23 a -- some kind of general idea of the number of *kadogos* amongst the
24 combatants who attacked Bogoro?

25 A. I can't give you specific information in that regard. There were

1 a great many combatants and they were everywhere in the Kagaba camp. I
2 am unable to give you an estimate of the numbers, because there were a
3 great many people there.

4 Q. That answer is suitable to me. You said there were a great many
5 number. Now the *kadogos* were there. They were the audience or the
6 target of the speech given by Commander Yuda. Was this speech also for
7 them?

8 A. Yes. Yuda spoke to everyone who was there, and there were all
9 kinds of combatants. The *kadogo* were not separated from the adult
10 combatants. The combatants were all together.

11 Q. And you -- can you confirm to us that before the battle, the
12 commanders of the FRPI asked all the combatants, including the *kadogo*,
13 and I am reading from page 48 of transcript 217 -- I'm just looking for
14 my reading glasses, I can't find them. That's not a big deal. As one
15 ages, that's the way of it. One needs reading glasses and loses the
16 train of one's thoughts and ...

17 PRESIDING JUDGE COTTE: (Interpretation) Take your time.

18 MR. GILISSEN: (Interpretation) Thank you.

19 Q. "He said -- I will summarise what he said. In fact, he
20 encouraged us, he encouraged the combatants, saying that we were going to
21 fight. It was a decision that had been made that we had to be resolute,
22 and the first thing to do once we got there was to fight, right until the
23 very end of the battle, and we had to wait until the end of the battle
24 before looting, and after looting we would -- we were to remain there.
25 So he said we had to attack and take control of the zone that had been

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1 looted."

2 I am reading from lines 18 to 27 of the transcript,
3 transcript 217.

4 Let me go back to my earlier question, and it's not general or
5 suggestive or leading. Looting, fighting right to the very end of the
6 battle, was that the usual method or was that not the usual method,
7 Witness?

8 A. Well, we began by fighting, and the looting would come after.
9 The first thing was to fight, and after fighting we were supposed to
10 loot, because if we looted before fighting, we would not have been able
11 to fight. We had to fight first. And that was the system used by the
12 combatants. It had been used by a long -- for a long time.

13 THE INTERPRETER: Your Honour, the Swahili booth hears the voice
14 of someone speaking in English and we are unable to interpret properly.

15 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, how can
16 we deal with this inference (* as interpreted)? The interpreter says
17 that there is a problem, and it is not due to your way of expressing
18 yourself but the interpreters are having some difficulty. It is some --
19 an interference, another voice.

20 Very well. The interpreters, you require better working
21 conditions. We shall continue.

22 MR. GILISSEN: (Interpretation)

23 Q. So you said this is the system that had been used for a long time
24 by the combatants. Now, this system, and we mustn't be mistaken here,
25 this is the system that is a system that knows no pity, one fights

1 without any pity, and then one loots.

2 A. Yes.

3 Q. Witness, now, did the child soldiers follow the same methods,
4 fight first and then loot? Did this apply to them as well? Are we in
5 agreement on this point?

6 A. I've already explained that what we did was done by all the
7 combatants. It wasn't just the adults or just the children or just the
8 child soldiers alone. It was done by all the combatants without any
9 exception relating to age.

10 Q. Now, in this system, this system that knew no pity, this usual
11 system, was rape done? Was rape a regular part or not, or not at all, of
12 this system, or these usual methods?

13 A. You used the term "rape." What do you mean by that?

14 Q. That's an excellent question, Witness, an excellent question, and
15 let us agree on what we -- let us agree on a meaning, and hopefully
16 I think the Chamber and my learned friends opposite will agree as well,
17 that rape is a sexual approaching of a person that leads to the
18 introduction or to an act that is sexual nature, one places a genital
19 organ into another genital organ. I think that is the attitude or that
20 is how we can call it. In other words, were people sexually abused?
21 Were the Hema people sexually abused, men, women, old, young, did such
22 cases of abuse occur?

23 MR. O'SHEA: I've been trying to recall the parts of the
24 transcript from the questions of Mr. MacDonald, but I believe that my
25 learned friend is trying to expand the scope of where this witness has

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1 gone so far. It may be that Mr. MacDonald has touched on the subject,
2 but certainly the witness has not provided any information, as far as I
3 can recall, relating to rape. And in those circumstances, in my
4 submission, it would not be fair for the Legal Representatives to open up
5 this new subject at this stage.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, once
7 again, using my memory, now, if we stick to the replies from the witness
8 to the questions posed by Mr. MacDonald, the Prosecutor, today, yesterday
9 and the day before that, it would appear to the Court that the witness
10 was relatively discreet when it came to these matters. And with regard
11 to young girls who were abducted and taken to Kagaba, he also specified
12 that he did not see but he had heard mention made with regard -- these
13 issues are important. We don't under-assess that, but either refer to
14 passages from the transcript that will allow you to find the proper
15 wording of your questions, or please be far more specific. I think it's
16 important for someone to specify, in a sufficiently clear yet somewhat
17 allusive manner, to the witness what is meant by the word "rape." And
18 from that point on be careful in the wording of your questions.
19 Mr. O'Shea's remarks must be heard.

20 MR. GILISSEN: (Interpretation) I have heard that, and
21 I certainly have understood. I do know what I am driving at.
22 Transcript 217, line 17, I quote:

23 "We too, we did not take any pity on them."

24 What I am trying to delineate, with the assistance of Mr. O'Shea
25 and the Chamber, goes -- is really how far did this lack of pity go to?

1 Just how far did things go? Myself, I know that my concept of the lack
2 of pity is rather hazy and weak. I don't want -- I don't like to make
3 people or animals suffer or even insects, but perhaps things were
4 different.

5 He was a militiaman, a soldier, and I think this really should be
6 of great interest to Mr. O'Shea. We are trying to determine the truth,
7 just how far did things go? And I intend to ask questions, were they cut
8 into pieces, were they raped, were they eaten, so that we understand from
9 the witness who experienced the intent just how far things went. I don't
10 want to attribute anyone -- I don't want to attribute events to anyone
11 that -- events that were not proven but I think it's extremely unfair,
12 Mr. O'Shea, for people to attempt to play hiding, to play games of cat
13 and mouse or playing legal games. When I hear that there was no pity, my
14 hair stands on end. I think of the most horrible things and I don't want
15 to be subjective and attribute facts or events to people.

16 So there you have it, your Honour. That is my position.
17 Clearly, this is not going to finish really -- this is not a dart game.
18 I think that we must not be afraid of anything. If we --

19 PRESIDING JUDGE COTTE: (Interpretation) Briefly, because the
20 Court has understood what the Defence has in mind, we listen.

21 MR. FOFÉ: (Interpretation) Thank you, your Honour. I do not
22 want to enter into this debate but I have been listening to the witness
23 in Swahili, and I think the witness, before the remarks made by
24 Mr. O'Shea, the witness had answered the question. I said -- I have said
25 this before him. Perhaps he could confirm, to the question, as worded by

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1 Mr. Gilissen, the witness replied, saying, "hapana" in Swahili, "hapana,"
2 and that means "no." Just before the remarks made by Mr. O'Shea. So the
3 debate began after that reply from the witness, "hapana," which means
4 "no."

5 PRESIDING JUDGE COTTE: (Interpretation) Now, if I've understood
6 correctly, Professor Fofé, and if we refer to page 63 of the transcript,
7 just before Mr. O'Shea spoke, at line 4, we read, we can leave that
8 latitude there. You were the one speaking, Mr. Gilissen. You -- we
9 can -- the question was, was there sexual abuse, did such cases of abuse
10 occur? Professor Fofé seems to be telling us the witness apparently
11 answered saying no.

12 MR. FOFÉ: (Interpretation) The witness is present. He can
13 confirm this or say that it is not the case.

14 PRESIDING JUDGE COTTE: (Interpretation) Witness, do you
15 remember the answer that you gave to that specific question from
16 Mr. Gilissen? Let us hope that the whole conversation that just occurred
17 has not clouded your memory.

18 THE WITNESS: (Interpretation) Yes. I said no, in Swahili,
19 "hapana," because in our part of the world, we were rebellions and we did
20 all kinds of things. And with regard to sex, that was not allowed.
21 Because you see we had the fetish rituals, we were not supposed to have
22 sexual relations before we went into battle or during the battle. That
23 was forbidden. It was contrary to the use of the rituals or the various
24 fetish items that we had. If we went to the village and raped a woman,
25 well, that would be breaking a prohibition from the fetishist rituals, so

1 that did not happen. There was no sexual violence, before or during the
2 fighting, because our fetishist rituals did not allow for such sexual
3 relations between a man and a woman.

4 THE INTERPRETER: Your Honour, the Swahili booth wishes to
5 confirm that the witness gave some answers that were not interpreted
6 because there were a series -- there was a series of rapid interventions
7 between the various parties and participants.

8 PRESIDING JUDGE COTTE: (Interpretation) Yes, thank you
9 interpreters. Do not be concerned. Professor Fofé does it rarely, and
10 whenever he realises that on your side there has been a difficulty or bad
11 interpretation, well, everything is fine, don't worry, thank you.

12 Mr. Witness, you have just given us a precise and interesting
13 answer at a rather tense moment in our proceedings. Even if the Chamber
14 does not have the floor now to put questions, but you indicated to us
15 that when you were carrying a fetishist item, that you could not have
16 sexual contact before or during the fighting. Now, just after the end of
17 the fighting, was it possible, that is to say, once the camp had been
18 taken and the enemy driven out, was it possible to have sexual relations
19 that we should call or describe as forcible with the civilian population
20 that was still on location, whether it be young women or less young
21 women, let's remain within the context of sexual relations between men
22 and women here.

23 THE WITNESS: (Interpretation) Unfortunately, I did not live
24 such an experience. I did not see a combatant sleeping with a woman
25 after the battle. I did not see that. However, a combatant is an

1 individual who might commit acts which are not good. But our fetishism
2 or fetishist rituals forbade such activities.

3 In addition, I would add the following: For young people, well,
4 we are not concerned with the issue of women. We are not in the habit of
5 giving ourselves to women in order to make sure that our fetishist
6 rituals are properly conducted.

7 PRESIDING JUDGE COTTE: (Interpretation) Well, Maître Gilissen,
8 I'm going to allow you to address the Court once again. Let us hark back
9 to what you were saying at an earlier stage. Now, the witness said on a
10 number of occasions that on the part of the combatants, and he was in
11 their midst, there was no more pity towards them than the Hema had
12 towards their group. And you sought to obtain clarification with regard
13 to what you described as did not take any more pity or not.

14 So we are talking here about total absence of pity or partial
15 absence of pity, and we understand that this is the question you were
16 asking, but I do believe that the questions need to be sober in nature.
17 They need to be brief. They need to enable the witness to ask himself
18 the question, what kind of treatment was given over to women. And please
19 don't take this badly, we just want to conduct proceedings properly, and
20 we do not want the witness to have the feeling that he's somewhat under
21 the -- under a question that is sometimes more -- very literal. We need
22 brief and simple questions.

23 MR. GILISSEN: (Interpretation) Of course, I'm not going to take
24 this badly. I thank you very much because, of course, your observation
25 is entirely founded. But you know, Mr. President, your Honours, and dear

1 learned friends, I'm trying or attempting to apply paragraph 78 of the
2 decision you rendered, which defines the rights for the Legal
3 Representatives of Victims. The decision states that the examination
4 should have a bearing on elements that attempt to clarify or complete
5 evidence that has already been led through the witness.

6 Now, the idea is what precisely? That we know that in this kind
7 of case or trial, unfortunately, we are in a situation where each
8 authorises the crimes of somebody else in order to gain ground. Now, we
9 have an extremely interesting element here, notably defining the
10 authorisation that he had to be pitiless because others are behaving in a
11 pitiless fashion. Now, in this -- well, in this establishment of how
12 much horror there was, I believe that each person is authorised to move
13 forward in the way they deem fit. I shall be or attempt to be far
14 briefer in my questions. I believe that the Chamber has understood.

15 Q. Now, Mr. Witness, in addition to potential acts of rape, did you
16 hear of any acts of cannibalism practised in Bogoro?

17 A. I did not hear speak of any cannibalism. I heard in Bunia at a
18 later stage that the Ngiti combatants were eating human flesh, but I was
19 not personally witness to this, ever. I heard this -- I did not hear
20 this in Bogoro, correction.

21 Q. I thank you, Mr. Witness. Did you hear about manners in which
22 civilians were executed, not by machete or gun-fire or by bladed weapons
23 but after having undergone torture?

24 THE INTERPRETER: Overlapping of microphones.

25 MR. O'SHEA: (Previous translation continues) ... I'm afraid

1 that -- of course, we are here for the truth, but my learned friend must
2 respect the rules of the game. There are rules of notice to the Defence.
3 We cannot be placed in the position after the Prosecution has finished
4 their cross-examination (sic), where the Legal Representatives open up
5 new subjects by way of leading questions pointedly at the witness. And
6 apart from not respecting the rules of the game which are designed in
7 order to be fair to the Defence, it raises another situation where, if
8 this kind of questioning is allowed, and the witness does actually enter
9 into the leading questions of my learned friend, we might be forced into
10 a position to ask for an adjournment to investigate these new matters.
11 And that would be a very unfortunate situation for the Court and for the
12 Defence.

13 PRESIDING JUDGE COTTE: (Interpretation) Maître Gilissen, now,
14 independently, Mr. O'Shea, of what you just said, I think that at the
15 stage we have reached, it would be preferable, and I believe that you
16 shall do so if you deem it necessary, to tell the witness that he
17 indicated on a number of occasions that you were or he was, when talking
18 to the witness, pitiless because the Hema were pitiless towards you, that
19 they did not show any pity towards you. Tell us, as precisely as
20 possible, Mr. Witness, how or in what form, or what form this absence of
21 pity took and what kind of acts this led you to commit? The witness will
22 then answer your question and we will move on to another subject.

23 We can see that the witness is in a position to understand all
24 the questions we are putting to him perfectly and he, when he has the
25 information, provides a specific or accurate response, but sometimes he

1 says that, "Even though I don't know personally, I can tell you ..."

2 He has well understood the way in which conducts -- or
3 proceedings are conducted. I believe that it is indispensable at this
4 juncture to move forward in such a manner. Notably, how or what form of
5 the lack of pity took and what kind of acts it led to.

6 I am going to leave the floor to you and I would request, Maître
7 Gilissen, that you help us in moving proceedings forward.

8 MR. GILISSEN: (Interpretation) Yes, indeed, I will make a point
9 of moving the proceedings forward.

10 Q. Now, you said, as you just heard, that you were -- in a manner of
11 the Hema, you were without pity. Now, which acts are you aware of, that
12 you saw or that you heard speak of, that were made without showing any
13 pity or without any show of pity? We don't want to hear of all types of
14 horrors, but we would like to hear of the type of acts that were
15 committed that you believe to fall into that category of acts that are
16 pitiless.

17 A. I have nothing to say, but when I say that we were pitiless, this
18 was with regard to killings and looting activities. This did not concern
19 acts of rape, because that was forbidden. That was contrary to our
20 fetishist rituals. When I said that no pity was shown, that means that
21 one might kill, one might burn things down or one might loot property,
22 but this did not involve rape, because that was forbidden. That was
23 forbidden because of the fetishist rituals, but I wouldn't say that
24 combatants or a combatant was always a good person, no.

25 Combatants were run-of-the-mill individuals but I would say

1 that --

2 THE INTERPRETER: The interpreter corrects: They might kill,
3 burn down and loot, but they could not -- but we could not rape, we could
4 not use sex. This was forbidden by our fetishist rituals.

5 MR. GILISSEN: (Interpretation)

6 Q. And still under the control of the Chamber and your Honours. So
7 combatants were normal individuals. Nobody doubts that fact. Of course,
8 they were normal men and women, but when one commits or conducts such a
9 pitiless attack, how does one feel afterwards? Does one remain normal?
10 Or does this stay with you once you have committed pitiless acts of this
11 ilk?

12 A. It was after these acts -- well, no, I didn't really understand
13 your question. Could you put it again?

14 Q. Well, yes, I'll try and put it in other words, Mr. Witness, in
15 order to enable you to understand it correctly, and I am sorry if you
16 didn't understand it the way in which I worded it because it was not
17 correct. Well, you have told us, and I think this is an essential fact,
18 the combatants are normal individuals, normal men, but once they have
19 entered the militia as combatants and once they have committed all these
20 acts of combat in such a pitiless manner, how does one feel after that?
21 How did you feel as a young man, that's how I shall put it, as a young
22 man, as a youngster, when you think back to this? What can you tell the
23 Chamber in this regard?

24 A. I would say the following: These things occurred, but the acts
25 were not laudable. I would say that they were not laudable, because when

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1 I think of the number of victims who fell, when I think of the stench
2 given off by the corpses, I would say that this is not a good thing.
3 Even in providing you with an account of these events, I am remembering
4 everything that happened. I am visualising it. I am reliving everything
5 that occurred. I am not in the habit of recounting what I lived through
6 because, well, you know, when I recount what I lived through, well, I'm
7 living through it all again. You're listening to what I'm saying but I'm
8 living through the whole process again.

9 Q. And this manner in which you are reliving the events,
10 Mr. Witness, is it painful for you? Have you found it bothersome since
11 you reintegrated civilian society? What can you give us in terms of
12 information in this respect?

13 A. Could you please put your question again?

14 Q. We can see only too well, Mr. Witness, that you are reliving the
15 events when you recount them. We saw you very emotional at a certain
16 point in time. And what I'm trying to ascertain, and I believe that this
17 will be of interest to everybody, is how one feels after committing such
18 terrible acts as those, those pitiless acts? How does one feel? One is
19 a normal individual, one is a combatant, and then one commits acts of
20 this type. What is your view of what was done, what was committed, and
21 how do you feel about it?

22 MR. KILENDA: (Interpretation) I am under the impression that my
23 learned friend, Maître Gilissen, has already put this question and that
24 the witness has answered it.

25 PRESIDING JUDGE COTTE: (Interpretation) Maître Kilenda,

1 Maître Gilissen is really occupying his role of the Legal Representative
2 for child soldiers. He has this witness before him. The witness has
3 just requested that he rephrase his question. I believe that the witness
4 has now understood.

5 Mr. Witness, when you returned to civilian life, did you see or
6 did you find that what you had seen and lived had an effect on your life?
7 Did it have an effect in terms of weight? And then we will listen to
8 what you have to say. And then we will draw this hearing to a close.
9 This is your last response for today, Mr. Witness.

10 THE WITNESS: (Interpretation) Your Honours, it is true that
11 these acts were not laudable, and when I think back to them, sometimes
12 I would dream about all of these events, but now that I have grown up,
13 I no longer think about it. You are going about it so that I am now
14 reliving all of these events. Now I am feeling tired because of you,
15 because you are inciting me to recount everything that I lived through.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, we have
17 understood you only too clearly. And we know that these events are
18 difficult to relive, and, of course, this is the whole point of your
19 testimony, and we thank all those witnesses who accept to come here to
20 testify, because we know that for each and every one of them, this is a
21 difficult time because you have difficult memories to deal with.

22 Now, Court Officer, we will request that you ask the accused to
23 leave the courtroom for a few minutes, two or three minutes, while the
24 witness is shown out of the courtroom.

25 MR. HOOPER: I had thought I was going to start my cross today

1 and I was going, in those circumstances, to ask you for a 10- or
2 15-minute adjournment for me to take instructions in respect of material
3 that I'm receiving even this morning. I can't see the accused at 1.30
4 because there is difficulty the Registry tell me today. They are
5 generally opposed to us visiting prisoners after 1.30. I'm not quite
6 clear why but that's the problem we face. And for the little that I need
7 to go and discuss at the moment with Mr. Katanga, I'm loath to commit
8 myself to a two-hour chunk of the afternoon, going up to the prison,
9 getting into the prison, waiting to get into the prison and all the rest
10 of it. So I was going to ask, even though there is just five minutes
11 left, whether we could rise, and in those circumstances whether the Court
12 could encourage those who hold the prisoner, i.e., Mr. Katanga, to permit
13 to have access at least until 2.00. Just ten minutes, that's all I
14 need to cover some matters that he has raised with me this morning.

15 PRESIDING JUDGE COTTE: (Interpretation) Now, Mr. Hooper, it is
16 true that, generally speaking, the discussions with the accused will be
17 conducted within the penitentiary, within the prison.

18 THE INTERPRETER: Interruption over the microphone.

19 PRESIDING JUDGE COTTE: (Interpretation) Very well. We so shall
20 do our comings and goings, the accused, please, could you leave the
21 courtroom for a few moments? The time for the accused to be shown -- for
22 the witness to be shown out of the courtroom. Court Officer, could we
23 please go into closed session for the witness to be able to leave the
24 courtroom quietly.

25 (The accused withdrew)

1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, until
2 tomorrow morning.

3 (Closed session at 1.24 p.m.)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Open session at 1.25 p.m.)

12 COURT OFFICER: (Interpretation) We are in open session,

13 Mr. President.

14 PRESIDING JUDGE COTTE: (Interpretation) The accused are joining
15 us anew for three or four minutes of duration.

16 (The accused entered court)

17 PRESIDING JUDGE COTTE: (Interpretation) Very well. Now, two

18 points. Firstly, with regard to intermediary 316, the Defence for

19 Mathieu Ngudjolo noted that Trial Chamber 1 has decided to extend the

20 decision that it had granted in favour of the Defence for

21 Germain Katanga, to also grant this to the Defence for Mr. Ngudjolo. So

22 the same conditions apply. The Chamber would refer you to the oral

23 decision on the basis of the regulation 42 of the regulations of the

24 court, and the Chamber intends to adopt the conditions adopted by

25 Trial Chamber 1, and I believe that the Office of the Prosecutor will, as

1 it did for the Defence for Germain Katanga, send you the relevant
2 transcripts.

3 Now, with regard to Mr. Hooper's application. Generally
4 speaking, contacts between the Defence and the accused are conducted in
5 the afternoon at the penitentiary facility. Now, the Defence may meet
6 with the accused after the hearing has concluded. This complicates
7 things, generally speaking, because this means that the departure of the
8 accused is somewhat belated as a result, and visits conducted in such a
9 manner are to be done on an exceptional basis. They do happen
10 occasionally. I do believe that such a thing did occur since the
11 beginning of the week. Mr. Hooper is due to start his cross-examination
12 tomorrow and the Chamber would want the Registry, after this hearing, to
13 allow for there to be a brief moment of contact between Mr. Hooper, his
14 team, and Mr. Germain Katanga. That is a brief moment of contact.

15 Now, Mr. Hooper, we should be clear that from tomorrow, and next
16 week, such discussions must occur in the afternoon at the penitentiary
17 facility. And in particular, because next week we will have three
18 ongoing simultaneous trials within the building, and of course, the
19 escort service for witnesses -- for the accused will become complicated.
20 We should not make life too difficult for the Registry, especially during
21 this experimental week because this will be the first time that we have
22 three trials going on simultaneously within the court.

23 Court Officer, please could you make sure that today, if the
24 cross-examination starts tomorrow, that Mr. Hooper has satisfaction in
25 this regard?

1 Mr. Kilenda.

2 MR. KILENDA: (Interpretation) Very briefly, Mr. President. We
3 received this letter from the Registry informing us of the difficulties
4 that were at hand in organising such encounters directly after the
5 hearing. Our team has decided not to conduct discussions with our client
6 here, but I did want it say that yesterday, we did organise for
7 Mr. Ngudjolo to work within the penitentiary facility with some members
8 of our team. We just wanted Mr. Mathieu Ngudjolo to be taken back to the
9 penitentiary facility immediately after the hearing.

10 PRESIDING JUDGE COTTE: (Interpretation) So the Registry will
11 try and satisfy all and sundry and -- in order to avoid that Mr. Ngudjolo
12 and his return not be belated. Mr. Hooper will be able to talk to his
13 client for ten minutes or so.

14 Now, Maître Gilissen, do you have an estimate as to how long you
15 will need tomorrow morning?

16 MR. GILISSEN: (Interpretation) I believe, Mr. President, that I
17 will not take any longer than five minutes for things to be clear.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika, do you
19 have an idea of how long you will be taking?

20 MR. LUVENGIKA: (Interpretation) I do not believe that I will
21 need much time because my learned friend, Maître Jean-Louis Gilissen, has
22 brought me forward considerably in my list of questions. I think that I
23 will need approximately 20 minutes.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
25 Maître Luvengika. The Chamber has a number of questions seeking

1 clarification that it intends to put to the witness.

2 Now, Mr. Hooper, it seems understood, therefore, that you will be
3 starting your cross-examination tomorrow morning during the first part of
4 the session.

5 We would like to thank all the interpreters, of whatever language
6 that may be, and the stenographers, for their wonderful help during this
7 hearing and we meet again tomorrow morning.

8 Court is adjourned.

9 The hearing ends at 1.30 p.m.

10 CORRECTIONS REPORT

11 The following corrections have been brought to the transcript:

12 * Page 8 lines 19 to 21:

13 "And at the same time, they attacked in Bira and they killed people in Bira and they
14 burned houses in that town." Is corrected by

15 "And at the same time, they attacked the Bira and they killed some Bira people and
16 they burned houses."

17 * Page 44 line 15:

17 "(Expunged)" Is corrected by

18 "(Expunged)"

19

20

21

22

23

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25