

1 International Criminal Court

2 Trial Chamber II - Courtroom 1

3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and

4 Judge Christine Van den Wyngaert

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

6 In the case of the Prosecutor v. Germain Katanga and

7 Mathieu Ngudjolo Chui

8 Trial hearing

9 Tuesday, 4 May 2010

10 The hearing starts at 9.04 a.m.

11 (Open session)

12 COURT USHER: All rise. The International Criminal Court is now
13 in session.

14 PRESIDING JUDGE COTTE: (Interpretation) Court is convened.

15 Please be seated.

16 The accused persons are in the courtroom. Good morning to you.

17 We have a certain number of issues to examine before calling in
18 the witness who is scheduled to testify today.

19 To begin with, the Chamber would like to point out that for some
20 time now a new legal officer was assigned to the trial division and
21 placed at the disposal of Chamber II. That is our Chamber. That is
22 Ms. Pauline Baranes, spelled B-a-r-a-n-e-s. In the future, the parties
23 and participants should kindly copy Ms. Baranes in their mails so that
24 she should be receiving the mails like Mr. De Smet and the other legal
25 officers assigned to this Trial Chamber, particularly since Madam Saracco

1 is working part time as well as Mr. De Smet, and this will redistribute
2 the work of our team of assistants. We thank you in advance.

3 The Defence team of Germain Katanga yesterday filed two motions,
4 and this, in our opinion, is late filings because they concern
5 Witness 249 who is scheduled to testify today. So if you can, please,
6 you have to submit your filings sufficiently early so that the time
7 necessary should be long enough and make it possible to respond.

8 The first filing is for the disclosure of photographs of
9 Prosecution witnesses. Yesterday, 3 May 2010, Mr. Hooper filed an urgent
10 motion, number 2060, confidential and ex parte, and accessible only to
11 the two Defence teams of the two accused persons and the Prosecutor. The
12 Legal Representatives will receive a redacted public version as early
13 today, and instructions to that effect were issued yesterday evening to
14 the Defence of Germain Katanga.

15 Mr. Luvengika and Mr. Gilissen, and through what I am going to
16 say, you will be able to follow the brief debate that we will have on
17 this point.

18 In that filing the Defence of Germain Katanga requested the
19 Chamber to order the Prosecutor to disclose the photographs of all
20 Prosecution witnesses and, as a matter of emergency, for witnesses 249
21 and 132; that is, the photographs in the possession of the Prosecutor.
22 And with exception of the Witness 233, 418, 419, 373, 32, and 317.

23 The Defence of Germain Katanga requests the Prosecutor to
24 disclose in their full versions any documents in their possession such as
25 identity cards, that is that are related to those Prosecution witnesses.

1 And lastly, the Defence of Germain Katanga is requesting for
2 leave to show those photographs to third parties for the purposes of
3 investigations while complying with the protocol recently put in place by
4 the unit, the Defence teams and the legal representatives of the victims.
5 The Defence, therefore, wishes not only to be granted leave to consult
6 those photographs and identity papers in case they exist, but that those
7 materials should also be disclosed to them so as to facilitate their
8 investigations insofar as the identity of those witnesses has usually
9 been varying, and the Defence would like to use those photographs in
10 compliance with the conditions laid down by the protocol that recently
11 was adopted.

12 Madam Prosecutor, since you are here as a representative of the
13 OTP, the Chamber would like to have your opinion on the three requests
14 made by the Defence while bearing in mind that you filed an application
15 for leave to appeal the decision approving the protocol prepared by the
16 unit, the Defence teams, and the Legal Representatives. However, it
17 cannot be excluded that you may wish to express an opinion on this third
18 request.

19 The Chamber would also wish to know whether it is correct, as the
20 Defence of Germain Katanga has indicated, that the Defence of Thomas
21 Lubanga benefitted from the disclosure of one or several photographs of
22 Witness 157. And if this were to be the case, the Chamber would like to
23 know the reasons in your office that justified a different treatment, the
24 different treatment reserved for the various Defence teams, that is, the
25 team of Lubanga and the team of Katanga and Ngudjolo. You can refer to

1 paragraphs 7 to 9 of that request.

2 Given that Witness 249 is appearing today, the Chamber would like
3 that you respond orally tomorrow morning at the beginning of the hearing
4 at 9.00 a.m., because you may not be actually able to do that right now.

5 MR. MACDONALD: (Interpretation) We can already provide certain
6 answers to your questions, but you have indicated that you want our
7 complete submissions tomorrow morning. We can also do that during the
8 second hearing, as you wish.

9 PRESIDING JUDGE COTTE: (Interpretation) My concern -- our
10 concern is not to use up too much of the hearing time devoted to the
11 testimony of the witness. So instead of having several responses, it is
12 preferable for you to provide your full answers tomorrow at 9.00 a.m.
13 Thank you.

14 Mr. Gilissen, please.

15 MR. GILISSEN: (Interpretation) With leave of the Chamber and
16 with inner most caution, given that I do not know much about this
17 procedure except what I have heard, it is not the first time that the
18 Legal Representatives have to point out that through ex parte hearings
19 the Defence teams or the Prosecution has been able to make submissions,
20 and this is their right. We have the feeling, and maybe that is
21 incorrect, we have the feeling that for the time being I believe that I
22 understand the reason for the Defence, at least part of the Defence, to
23 resort to trial by ambush and to be operating in the shadows, but the
24 rule is that these proceedings should be adversarial. We believe that we
25 should focus on the fairness of the trial, because the Defence is

1 presenting its problem in terms of fairness with the clearly expressed
2 purpose of avoiding -- making it impossible for the legal representatives
3 to express themselves. And more so, we were not even informed, or at
4 least not completely informed, and that is another problem.

5 We fully refer this matter to the Chamber without having to
6 recall the principles to anyone or to give any lessons to anyone, and the
7 Chamber knows these better than the Legal Representatives.

8 So we think that at the heart of the trial there are ex parte
9 proceedings that could pose a real problem to us and a real process -- a
10 real problem to the court. And if I go beyond that, I will be jumping to
11 conclusions, but I do not wish to do that. This is an opinion that we
12 are giving, and we have given a filing. We have submitted a filing to
13 that, and I believe the principles of the Chamber have to be recalled.
14 We have to repeat it even though we make mistakes, because this could be
15 beneficial. And I thank your Honours for having listened to me.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
17 Mr. Gilissen. We have fully understood you, and this is a factual and
18 legal opinion, and we believe that it is quite useful.

19 Regarding the second filing of Mr. Hooper, dated 3rd May 2010,
20 that one is a public filing. You received it yesterday, and it is only
21 because these filings were made at such a late hour, that is, just before
22 the appearance of Witness 249, and this is why there was no public
23 version of the other filings with the necessary redactions.

24 As I have indicated to you, after we should have examined that
25 filing 2010, as we -- after looking at it, a public version was disclosed

1 to the Prosecutor, and as soon as everything is possible, we will do what
2 is necessary. And in future, we believe that everything will be done to
3 avoid any such problems.

4 Let me come back to this public and urgent application dated 3
5 May 2010, number 2061, and that is an application to lift the redaction
6 on the names of the parents and relatives of Witness 249, and also
7 relating to those that are close to and the partners of Witness 249 and
8 132, and it also concerns the places that these witnesses went to. And
9 Mr. Hooper is basing himself on the decision of the Chamber 1551 of the
10 22nd of October, 2009, a decision that was issued after a long hearing
11 during which in the presence of the OTP and VWU all the measures,
12 protection and redaction measures, in force were examined.

13 Mr. Hooper also bases himself on decision 1725 of the 16th of
14 October, relating to the application for leave to appeal, and
15 particularly paragraph 18 of this decision, and he indicates that his
16 application for the lifting of that redaction is indispensable for the
17 defence of his client, and in support he mentions some of the
18 difficulties that he came up across.

19 Ever since the 22nd of October, date on the decision of
20 maintenance and lifting of redaction measures that I have referred to
21 things have changed, and the trial phase itself has been progressing.

22 That being the case, Mr. Prosecutor, the Chamber is asking you
23 whether the redactions that have been referred to by the Defence of
24 Germain Katanga still seem to you to be justified. To that end, the
25 Chamber notes that by authorising the Defence of Germain Katanga to

1 consult the voter's card of Witness 132, you already allowed them to have
2 access to the names of the parents of that witness. I'm referring to the
3 previous motion of number 2010 of the 3rd of May, 2010, paragraph 10,
4 lines 5 and 6.

5 So, Mr. Prosecutor, at this current stage of the proceedings, do
6 you consider that maintaining the redaction of the names of Witness 249,
7 as well as 232, and the names of the places where those witnesses went
8 should still be redacted? And we bear in mind that in each of the
9 decisions of the Chamber in the area of redaction during the pre-trial
10 stage, the Chamber insisted on the fact that the necessity for redaction
11 measures had to be reviewed on a permanent basis.

12 Once again given the urgency of the matter and the fact that
13 Witness 249 will be with us very soon, your observations on this request
14 of the Defence should be submitted tomorrow morning at the beginning of
15 the hearing. Thank you, Mr. Prosecutor.

16 You will remember that during the hearing of the 19th of April,
17 2010, the Prosecutor in the person of Mr. MacDonald, and that is
18 transcript T 129, page 6, lines 22 to 25 and page 7, lines 1 to 8, the
19 OTP requested that the report of an expert in the Ngiti language be
20 assigned an EVD number, and that is the report of the expert in the Ngiti
21 language relating to certain utterances made by Witness 161 during the
22 hearings of the 4th and 9th of March, 2010, and this report was
23 transmitted on the 6th of April, 2010, by the Registry under number 2021.

24 On the 26th of April, 2010, in filing number 2049, the Defence of
25 Germain Katanga requested greater clarification on the substance of the

1 report of that expert, as well as on certain conclusions.

2 In paragraphs 9 and 10 of his filing, Mr. Hooper made proposals.

3 In paragraph 9, either meet with this expert to discuss with him the
4 difficulties encountered, or in paragraph 10, allow the Prosecutor or the
5 Chamber to call this expert and receive his testimony in court, which
6 will make it possible for the Defence to put questions to him and seek
7 the clarification that they need.

8 The Defence of Mathieu Ngudjolo, in e-mail -- in an e-mail of the
9 28th of April, 2010, indicated that they did not have any observations.

10 The Chamber would like to point out that we will be the ones to
11 take the initiative to call this witness at an unspecified date. We will
12 try to find out when he is available, and the Registry has informed us
13 that this is a witness who lives in Holland and who is frequently
14 travelling abroad. So we have to find an appropriate date to be able to
15 seek the clarifications from him that have been requested by the Defence
16 of Germain Katanga.

17 In filing number 2051 of the 28th of April, 2010, Mr. Kilenda
18 applied to the Chamber to postpone the hearings scheduled in the week of
19 the 17th to the 21st of May, 2010. In his application, Mr. Kilenda
20 mentions the organisation of a seminar open to all the Defence teams that
21 is supposed to hold on Monday the 17th and Tuesday the 18th, as well as a
22 training session that is scheduled for the 19th, 20th, and 21st of May.

23 In his filing, which is supported by many arguments, Mr. Kilenda
24 reiterates the absolute necessity within the context of legitimate
25 training to improve the training of all parties and participants so as to

1 provide better defence, and the Chamber can only subscribe to this need
2 for training which will ensure better competence and a better defence.

3 The Chamber contacted the Registry to better understand what --
4 given that the two Defence teams were going to register. The Chamber was
5 able to note that with regard to the Defence team of Mathieu Ngudjolo,
6 five members of that team were registered in the seminar of the 17th and
7 18th of May, and it was not planned that the entire team will attend the
8 training of the 19th to the 21st of May.

9 In a filing of the 28th of April, 2010, number 2054, the Defence
10 of Germain Katanga indicated that they were opposed to this postponement
11 of the hearings for that week. They indicated that given the
12 organisation of our hearings, which mean that the Chamber sits for half a
13 day each day that it was possible to organise the presence of the counsel
14 or co-counsel while each one of them was attending the seminar. Eight
15 members of the team of Germain Katanga were registered for this seminar
16 of Monday and Tuesday, but no one had been registered for the training
17 session. Mr. Hooper indicated at the end that the trial had to have
18 priority, and the Defence teams simply had to organise themselves.

19 The Prosecutor and the Legal Representatives did not give any
20 opinion. So Mr. Prosecutor, do you want to briefly and orally give us
21 your opinion on that?

22 MR. MACDONALD: (Interpretation) We leave everything to the
23 discretion of the Chamber.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
25 Mr. Prosecutor.

1 Mr. Gilissen, Mr. Luvengika, do you have any particular
2 observations to make?

3 MR. LUVENGIKA: (Interpretation) Yes, Mr. President. I would
4 like to point out to the Chamber that I personally registered for the two
5 days of training. With regard to the other aspects, I would defer to the
6 Chamber when it comes to resolving this issue.

7 MR. GILISSEN: (Interpretation) Just some additional
8 information. I was -- I received a request to make a presentation during
9 that training session. I do not think that there should be a problem
10 there. We have to sort of reorganise ourselves somehow. This was
11 information that I wanted to give you. Thank you.

12 PRESIDING JUDGE COTTE: (Interpretation) That was a good point,
13 Mr. Gilissen. I should have mentioned myself that I saw your name as one
14 of the presenters during that week.

15 Mr. Kilenda, the Chamber yet again must ensure balance between
16 the need, on the one hand, to enable the Defence teams to take part in a
17 seminar, which is an opportunity for vital exchanges between Defence
18 personnel, we understand that, and on the other hand, the need to enable
19 such and such a member of such and such a Defence team or Legal
20 Representatives to take part in training sessions which are a guarantee
21 of furthering your skills and therefore offering better defence. This is
22 part of the -- the balance that needs to be struck.

23 The first part of this, therefore, is to respect the need to be
24 as streamline as possible. I'm wondering that if -- given that we
25 already left -- we already lost some sessions last week because of the

1 problems with air traffic and also we were unable to sit last week.

2 Also, the first week of June we will not be able to sit because at the
3 same time we will have the revision conference of the States Parties to
4 which one of the members of our Chamber must take part because of the
5 responsibilities within the court.

6 You also know that it has not been easy for the OTP to modify the
7 order of appearance of witness, and the date of departure from the RDC to
8 The Hague needs to be organised. Their presence in this country is also
9 very difficult, and their presence in this city for many reasons must not
10 be excessively extended.

11 Therefore, it is truly vital that we find a balance between these
12 two needs, and I turn it to you again and ask you the following: The
13 Chamber would like to ask you for the two days of that week would it be
14 possible for the Germain Katanga Defence team to arrange alternation
15 between counsel and co-counsel so that the five days of the week can be
16 maintained. That is 20 hours of sitting in this Chamber, and we consider
17 this very important.

18 I think for the Legal Representatives of Victims this arrangement
19 is possible. Mr. Gilissen has had the possibility in the past to gain
20 representation during his absence. And Mr. Luvengika, for the two days
21 that you will be at that seminar, is it possible to get a replacement who
22 will obviously be able to satisfy your clients and who will enable the
23 Chamber to continue? Thank you.

24 And for the Defence team, Mr. Kilenda, is it possible for you to
25 do this so that the Chamber can sit for that week?

1 MR. KILENDA: (Interpretation) Thank you. For all of the
2 reasons you have just put, we will do our best and organise ourselves
3 along those lines. We hope that next year you will consult with the
4 Registry to find the best solution possible so that we can fully
5 participate both in the seminars and in the sessions of the court. Thank
6 you.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
8 The Chamber thanks you, Mr. Kilenda.

9 Court Officer, could you please take the suggestion that we are
10 making which then could be transmitted to your structure and indicate
11 that as far as is possible it could be worthwhile next year to ensure
12 that the organisation of these training sessions and seminars could be
13 organised just after the -- the recess of the court or the Easter break,
14 because if they could come at that time of year, that would avoid us
15 adjourning for unnecessary lengthy periods of time. So if, for example,
16 these dates of the 17th to the 21st of May had been organised in that
17 way, we would not have had that problem.

18 Mr. Luvengika, you've asked for the floor?

19 MR. LUVENGIKA: (Interpretation) Yes, sir. Thank you for giving
20 me the floor.

21 With your leave, your Honour, I wanted to make a request as
22 concerns the organisation of my replacement should I be unable to attend.
23 If my assistant Mr. Denis, Catherine who is a lawyer at the bar of
24 Brussels but who has also worked as an assistant in a Chamber in Arusha,
25 the Presiding Judge of Arusha in Rwanda. If I need a replacement,

1 Maitre Catherine Denis is currently listed as -- as counsel. So I just
2 wanted to bring that to your attention. Thank you.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Mr. Luvengika. You are the best placed to know who would be the best
5 replacement during your brief absence. The Chamber sees no problem with
6 it being Catherine Denis who replaces you. Thank you very much for
7 informing us.

8 And thank you to you, too, Mr. Kilenda.

9 Final issue before getting to Witness 249, perhaps you will
10 remember, although this could wait until tomorrow or the day after
11 tomorrow so as not to weigh down our session, on the date of the 3rd or
12 15th -- 3rd of May, 2010, you should have given us an update about
13 Witnesses 161 and 159. You will remember they were -- there had been
14 some challenges that the Defence teams both felt could have brought some
15 prejudice to the depositions, and you indicated what it might be
16 necessary for you to call these witnesses again. You said that this
17 would be done by a motion in writing, and she had simply said that this
18 would be assessed in time. And we said that we would come back to this
19 around the 3rd of May, and now what we would like you to do is to not
20 answer us right now, but if you by Thursday morning you could give us an
21 answer on this, then the Prosecutor could provide the information that we
22 have to enter. On the 6th of May, in the morning, could you please give
23 us an update as to where we are with these two witnesses, 161 and 159.

24 The Chamber thanks you for having borne with us while we asked
25 for your attention on these important issues which were not, nonetheless,

1 on our agenda initially. And so now we will move on to Witness 249.

2 Before the witness is led in, the Chamber would like to offer you
3 a few items of information about the protective measures that this
4 witness will have. Witness 249 has been called by the Office of the
5 Prosecutor. This witness is covered by decision 1667 of the 23rd of
6 November, 2009, concerning protective measures for certain witnesses.
7 The witness, therefore, benefits in accordance with her own expressed
8 wishes, the use of a pseudonym, voice distortion and image distortion,
9 which means that we will call a closed session whenever she enters and
10 leaves the courtroom.

11 The unit for the protection of witnesses and victims has had the
12 occasion to meet with this witness, first of all in March 2010 and again
13 yesterday, the 3rd of May, 2010. This is a witness who is vulnerable as
14 covered by decision 1667 that I've already mentioned, in paragraph 4, and
15 also under the meaning of Rule 88 of the RPE, which enables the Chamber
16 to order, and I quote:

17 "Special measures, in particular measures aiming to facilitate
18 the testimony of a traumatised victim or of a victim of sexual violence."

19 The unit indicated that, nonetheless, this witness had not
20 expressed the desire to benefit from a curtain between her and the
21 accused. Currently, the unit suggested the possible presence of a
22 counsellor or psychologist in the courtroom. They also suggested that we
23 should bear in mind that this victim has suffered rape and sexual
24 violence so that we should use respect and -- and understanding necessary
25 in such a case. So I know that the Chamber -- the Chamber knows that the

1 parties and participants will be aware of this and bear it in mind.

2 So, Court Officer, Usher, please also bear in mind that if there
3 are any documents to be read, the witness may require assistance with
4 this, and the same goes for any writing that may be required. If that is
5 the case, then a representative of the unit will assist the witness. We
6 will wait for the first occasion in which a writing or reading is
7 required to see whether this assistance is required or not. And since --
8 and we will see whether the assistant needs to stay in the courtroom
9 permanently or not so that we can save time.

10 The victim will be speaking Swahili. So, Court Officer, the
11 Chamber would like to go into closed session so that the victim can be --
12 the witness can be led into the courtroom. Then we will go through her
13 identity.

14 I see, Mr. Prosecutor, you're standing. I will get to you.

15 And then we will go on to her testimony.

16 MR. MACDONALD: (Interpretation) I see that this curtain is
17 going to be closed. I see currently that there is a visual contact
18 between the witness's seat and the two accused. So I understand that the
19 curtain is going to be closed, and so will you be asking the accused to
20 be moved?

21 PRESIDING JUDGE COTTE: (Interpretation) No. No, this is not
22 the case. The witness has not requested that there be no visual contact
23 between the accused and herself despite her vulnerability given what is
24 contained in her testimony and the two meetings between the protection
25 unit and the victim. This victim did not -- did not ask for any other

1 measures than distortion of voice and image and use of a pseudonym. She
2 did not request the visual contact to be cut between the accused and
3 herself. So the -- so we have this clip holding back part of the curtain
4 so that Mr. Katanga, who is actually the worst placed physically in the
5 room, can actually see the witness if he so desires, and the witness can
6 also see Messrs. Katanga and Ngudjolo.

7 So the Chamber is extremely aware or very sensitive to the
8 witness's request, and with several contacts with the unit, we wanted to
9 be very sure that the witness saw no reason to block visual contact
10 between the accused and herself.

11 Have I answered your question? Thank you, sir.

12 Court Officer, we will therefore have this witness led in. So
13 please put us into closed session.

14 (Closed session at 9.44 a.m.)

15 (Expunged)

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1 (Expunged)

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5 (Open session at 10.27 a.m.)

6 COURT OFFICER: (Interpretation) We are in open session, your
7 Honour.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
9 Court Officer.

10 Witness, as you have done since the beginning, please listen to
11 me with great attention. Before starting on giving your testimony, you
12 have to take an undertaking to tell the truth. This is a solemn
13 undertaking which I shall read slowly so that you may understand the full
14 importance thereof. This is the formula:

15 "I solemnly declare that I shall tell the truth, the whole
16 truth, and nothing but the truth."

17 Have you understood me well, Witness?

18 THE WITNESS: (Interpretation) Yes, I have understood you well.

19 PRESIDING JUDGE COTTE: (Interpretation) You therefore commit
20 yourself to tell the truth, the whole truth, and nothing but the truth.
21 Are we in agreement?

22 THE WITNESS: (Interpretation) Yes.

23 WITNESS: WITNESS P-249

24 (Witness answered through interpreter)

25 PRESIDING JUDGE COTTE: (Interpretation) Good. The Bench or the

1 Court would ask you to listen with considerable attention. Witness, you
2 have just committed yourself to telling the truth. If during your
3 testimony or in answer to the questions that are put to you you do not
4 tell the truth, you could be prosecuted by the Court for false testimony.
5 And if the facts are proven, you could be subject to a conviction.

6 Have you also understood me well there?

7 THE WITNESS: (Interpretation) Yes. I follow you very well.

8 PRESIDING JUDGE COTTE: (Interpretation) You follow me very
9 well. That's perfect. The Court therefore notes that it has been
10 satisfied, in accordance with the provisions of Article 69(1) of the
11 Statute and Rule 66 of the Rules of Procedure and Evidence, and namely
12 paragraphs (1) and (3) thereof.

13 Once again, Witness, before the Prosecutor starts with her
14 examination if chief, the Court asks you to speak very slowly. Even if
15 you are moved by emotion, even if sometimes you are angry, please try to
16 speak calmly and slowly so that the interpreters can do their work
17 correctly.

18 If you are tired, if you have the impression that you are no
19 longer able to correctly follow the questions and debate, please state
20 this.

21 You also have before you a jug of water. I hope it's there. If
22 not, it shall brought to you. You have the possibility to pour water for
23 yourself if you wish so to do. This will cause no problem for the Court
24 if you wish to pour yourself a drink and drink. And you also have
25 some -- some handkerchiefs which you can use if you need to blow your

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 35

1 nose. The Court will not raise any formalities there. We want you to be
2 testifying under good conditions so that it can be useful.

3 Have you understood me, Witness?

4 THE WITNESS: (Interpretation) Yes.

5 PRESIDING JUDGE COTTE: (Interpretation) Very well.

6 Madam Prosecutor, you can begin with your examination.

7 MS. LUPING: (Interpretation) Good morning, Mr. President, your
8 Honours.

9 Questioned by Ms. Luping:

10 Q. (Interpretation) Good morning, Madam Witness.

11 (In English) Madam Witness, my name is Dianne Luping and I will
12 be questioning you today on behalf of the Office of the Prosecutor.
13 Before I start with my questions, there are some points that I would like
14 to raise with you. As a reminder, I'd like for you to take into account
15 when you are answering the questions: First, I would ask that you not
16 hesitate to tell me when any question that I ask is not clear. Simply
17 ask me to repeat the question or to clarify it.

18 Secondly, I would ask you to please listen very carefully, as you
19 have been, to the specific questions I ask and only answer that specific
20 question.

21 Thirdly, if there is anything I ask that you do not remember, you
22 can simply state, "I do not remember," or if you don't know the answer,
23 simply to say, "I do not know."

24 And finally, if there are any questions that might reveal your
25 identity, I will be asking those questions with permission of the

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 36

1 Presiding Judge in private session. What this means is that nobody
2 outside of this courtroom in the public can hear what you're saying that
3 might identify you.

4 Is that all clear, Madam Witness? Do you have any questions
5 before we start?

6 MS. LUPING: Mr. President, with your permission I'd like to seek
7 permission to go into private session. I have some questions of an
8 identifying nature.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well,
10 Madam Prosecutor.

11 Court Officer, let us go into private session so that the witness
12 can answer without revealing her identity.

13 (Private session at 10.34 a.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

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25 (Expunged)

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

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Page 37 expunged. Private Session.

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 38

1 (Expunged)

2 (Expunged)

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5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Open session at 10.39 a.m.)

10 COURT OFFICER: (Interpretation) We are in open session, your
11 Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

13 Prosecutor, please proceed.

14 MS. LUPING:

15 Q. Madam Witness, during the war in Ituri, have there been any
16 attacks on Bogoro village that you know about?

17 A. Yes.

18 Q. What dates did those attacks or that attack take place?

19 A. It was on the 24th of February.

20 Q. And do you recall what year that attack took place?

21 A. It was in 2003.

22 Q. And where were you during that attack on Bogoro village on
23 24 February 2003?

24 A. During that attack on Bogoro, I was in Kasenyi.

25 Q. And how did you learn about the attack at Bogoro of

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 39

1 February 2003?

2 A. I did not learn about the attack. We had left Kasenyi to go to
3 Bogoro, and I was carrying goods. This means that I left Kasenyi to go
4 to Bogoro.

5 Q. And when did you arrive at Bogoro? Was this before or during the
6 attack?

7 A. We did not have any information about the attack. We arrived at
8 Bogoro. We were stopped. We were on board a vehicle, and we were told
9 that we could not continue on our way.

10 Q. And when was it that you arrived at Bogoro? Was this before or
11 during the attack?

12 A. It was before the attack.

13 Q. And how long before the attack was it that you arrived at Bogoro?

14 A. Can you allow me to say something, to express myself?

15 Q. Yes, please.

16 A. Can I proceed? Thank you for giving me the floor. I would like
17 to apologise regarding the speed of my speech.

18 (Expunged). I was trying to make ends meet, and we
19 had left Kasenyi to go to Bogoro. We arrived at Bogoro, but we were not
20 able to know that there would be an attack there, because we arrived
21 towards the evening. We were told we could not continue. We spent the
22 night in Bogoro.

23 That same night, the attack on Bogoro began. There was gunfire
24 during the night. There was intense firing, gunfiring. The vehicles
25 were at the gate.

1 Q. I'm sorry to interrupt you, Madam Witness. Before you go any
2 further into the detail of what happened, I simply wanted to remind you
3 as you're doing now, speak slowly, but also I wanted to caution you that
4 we're in public session, so that if there are any names of people that
5 might identify you, I will be asking you not to mention them now, because
6 I will ask you to mention them later. We'll go into private session for
7 that. But you were stating that you were there that night. There was
8 intense firing, gunfiring, and that the vehicles were at the gate.
9 Please continue.

10 A. Yes. The attack started in Bogoro. Houses were set on fire over
11 a long period of time. Many people started fleeing.

12 I was not very familiar with that locality in Bogoro. I started
13 running. There was a woman in front of me. She was hit by a bullet in
14 the stomach, and she fell down. I started to cross the road, and I was
15 hit in the leg by a bullet. I fell to the ground, and I crawled into a
16 wooded area where I hid. My leg was hurting, and I was bleeding. I went
17 under a tree and I waited.

18 There was intense gunfire. I spent a long time in that bush, and
19 I was quite weak because I had been hit in the leg. I tried to make an
20 effort to move forward, but I was not able to do so, which is why I
21 stayed put till nightfall.

22 The following morning, I saw many people shouting. There was a
23 lot of noise. They were beating drums. I wondered whether they were
24 villagers, and I wondered where they were coming from. I tried to go
25 close to the road, and I saw soldiers coming in my direction. I decided

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 41

1 to run, but they saw me and they came after me. They asked me who I was.
2 I told them that I had been hit in the leg and that I was not feeling
3 well.

4 It was in that bush. They took me into the bush. I was wearing
5 slippers and a jacket. They removed my jacket. I remained with a
6 T-shirt. There were six of them. They started taking off my trousers.
7 I told them I was feeling a lot of pain, and they said, "No. Take off
8 your trousers." They took off my slippers, and one of them started
9 raping me. After he was finished, another one came and threw me to the
10 ground, and all those people treated me in the same way.

11 I was very tired. I told them, "Please leave me alone. I am
12 tired." And they told me, "If you don't want to, we are going to kill
13 you in this wood." And I told them that they could kill me. I had no
14 problem with that.

15 They wanted to take me. I refused, but they threw me to the
16 ground. They raped me over and over and over again. I was very weak,
17 and I felt a lot of pain. I felt that my legs could no longer hold up.

18 And after that, we left that place. Those people took me to
19 their superior. There were many dead bodies lying on the ground. I was
20 even afraid to travel on that road. They told me to walk in front of
21 them. I wanted to be in the middle, but they refused. They put me ahead
22 of them, and they led me to a place where they started their operations.

23 I saw three women who were seated there, and the boss or superior
24 in question was known as Yuda. They -- he arrived.

25 THE INTERPRETER: The Swahili interpreter would like to ask the

1 President to request the witness to be -- to slow down.

2 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, we are
3 all listening to you, but you have to speak very slowly to enable the
4 interpreters to interpret. Even though you can remember all those
5 details, try to speak more slowly so that your testimony can be useful.
6 Thank you, Witness.

7 JUDGE DIARRA: (Interpretation) Before they have completed
8 translating what you have said, you have already gone too far ahead, so
9 it is difficult to interpret what you say while they're still
10 interpreting. And if you continue like that, it's as if you would not
11 have said anything. We do not speak Swahili. Those who understand
12 Swahili are interpreting it to us into French.

13 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, we
14 interrupted you at the time you were talking about the superior or the
15 commander that you referred to as Yuda, and you said he asked the people
16 who had brought you there where they had found you. The Prosecutor can
17 ask you other questions, but if you wish to continue, that is where you
18 had stopped.

19 You can now continue speaking, Madam Witness. We still have five
20 minutes before the break. We are listening to you.

21 THE WITNESS: (Interpretation) They took me to Yuda. Yuda said
22 that I had to be killed -- or, rather, the soldiers said that they wanted
23 to kill me, but Yuda said that I should be taken to his place. He asked
24 where I had come from, and I told him that I had been in a bush. I was
25 fleeing from the gunfire that I could hear, and I had been hit by a

1 bullet.

2 After that, Yuda told me, "Either we kill you or we do what we
3 wish to do with you. What do you choose?" I answered him that they had
4 to decide themselves and I will have to go along with their decision. He
5 kept quiet. He asked those people to keep me on the side, and that is
6 what they did. I thought they were going to kill me.

7 There were some women who were there next to me. I do not know
8 where they took them. I do not know whether they killed them or not.

9 After that there were dead bodies here and there, and that made
10 me very afraid. I was mentally tired.

11 The soldiers were there. They started beating me. There was a
12 small house nearby, and they started raping me again. I told them that
13 they were going to kill me. I told them that it would be better for them
14 to kill me rather than treat me like that, like an animal. The soldiers
15 said that they could kill me if they wished or maltreat me. I told them
16 to do what they wanted to do.

17 My leg had started swelling. I was no longer able to walk.

18 The soldiers in question left, and we slept. There was a school
19 there. That was the Bogoro school.

20 The following day, Red Cross workers came to pick up the dead
21 bodies that were there. There was a pit behind the Bogoro school, and
22 the Red Cross workers went and threw those dead bodies inside the pit
23 behind the buildings of the school. They dumped those dead bodies inside
24 a pit. I do not know where the Red Cross workers had come from.

25 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, I will

Witness: Witness P-249 (Closed Session)
Questioned by Ms. Luping

Page 44

1 have to interrupt you because we have to break now. We no longer have
2 any recording time.

3 You are going to continue with your testimony from where you
4 broke off in 30 minutes. So we are going to break right up till 11.30.
5 You have half an hour to rest before the next session of two hours.
6 Thank you for your contribution this morning.

7 Court Officer, let us go into closed session to allow the witness
8 to leave the courtroom.

9 Madam Witness, we will meet again at 11.30, and you can take off
10 your headset because you're going to leave the courtroom now.

11 (Closed session at 10.58 a.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Open session at 10.59 a.m.)

20 COURT OFFICER: (Interpretation) We are in open session, your
21 Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The hearing
23 is suspended until 11.30 a.m.

24 Recess taken at 11.00 a.m.

25 On resuming at 11.32 a.m.

Witness: Witness P-249 (Closed Session)
Questioned by Ms. Luping

Page 45

1 (Closed session)

2 (Expunged)

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10 (Expunged)

11 (Open session at 11.33 a.m.)

12 COURT OFFICER: (Interpretation) We're in open session, your
13 Honour.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 Court Officer.

16 Just one item of information for the participants. The unit for
17 the protection of victims and witnesses has indicated during the break
18 that they have no other documentation for this witness other than the
19 passport. So we must use the item of information concerning the date of
20 birth that we heard a moment ago.

21 Madam Prosecutor, you may then continue your examination-in-chief
22 if you will. You have the floor.

23 MS. LUPING: Thank you, Mr. President.

24 Q. Madam Witness, you stated that you arrived in Bogoro (Expunged)
25 (Expunged)

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 46

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 Q. You stated that you spent the night in Bogoro before the attack.

5 My question is: Where did you stay in Bogoro that night?

6 A. We spent the night in a house in Bogoro.

7 Q. You stated that you were shot in the leg as you were fleeing.

8 Which leg were you shot in?

9 A. The left leg.

10 Q. You've also stated that you saw a woman being shot, and you saw
11 many dead bodies. My question is: Did you see people being killed with
12 your own eyes?

13 A. Yes.

14 Q. And these people you saw killed with your own eyes, were they
15 civilians or military or both?

16 A. There were civilians. At least the majority of the people I saw
17 were civilians.

18 Q. And the civilians that you saw being killed, do you remember what
19 gender they were, whether they were male or female or both?

20 A. I only saw bodies. I saw several bodies. There were men and
21 women. Others had even been burned in their houses.

22 Q. And the civilians that you saw being killed, do you know -- or
23 could you estimate the age of the youngest you saw being killed?

24 A. No, I'm not able to answer that question.

25 Q. Could you tell the ethnicity of the attackers you saw killing

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 47

1 these civilians?

2 A. Yes, I can answer that question. They were Ngiti.

3 Q. And how could you tell that they were Ngiti?

4 A. Ngiti are small people and dirty.

5 Q. You stated you saw someone being shot who fell, and people were
6 set on fire in their houses. How else were people killed that you saw?

7 A. They arrived in the night. There was no way for people to run
8 away in night. I think that's why they always operated at night. Some
9 people died. I don't know if they were people who tried to escape. Many
10 of the people died, and we escaped. There was myself and other people
11 too. I fled, and I was hit by a bullet in my leg.

12 I don't know what happened next, whether these people were killed
13 by knives or not.

14 PRESIDING JUDGE COTTE: (Interpretation) Please speak slowly,
15 Madam Witness. Please take your time.

16 Madam Prosecutor, you may continue.

17 MS. LUPING:

18 Q. You stated that you saw attackers setting houses on fire. Did
19 you see attackers doing anything else to the houses or property in the
20 village?

21 A. I had already fled at that stage. I was in the bush.

22 Q. Did you see any of the attackers taking any of the property?

23 A. That may be true, because if they arrived to conduct their
24 operation, that could be true.

25 Q. You said that the attackers that you saw during the attack were

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 48

1 Ngiti. Can you estimate the age of the youngest Ngiti attacker that you
2 saw during the attack?

3 A. No. I'm not able to give the date. There were several young
4 people, but I would not be able to tell you their age.

5 Q. And the young people that you saw, would you estimate if they
6 were below or above the age of 15 years? Only if you would know?

7 MR. HOOPER: Your Honour, that's really a question too far in the
8 circumstances, with respect, I'm afraid.

9 MS. LUPING: Mr. President.

10 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor,
11 perhaps you could reformulate your question if you would like to have
12 more clarification from the witness.

13 MS. LUPING: Yes, Mr. President.

14 Q. Madam President, the young people that you saw, could you
15 estimate if they were below the age of 15?

16 A. Among them there were big ones and small ones.

17 Q. And these small ones, were they children or adults?

18 A. They were people who were more or less older, say 10 years or
19 15 years of age, but to be honest, I don't know their date of birth.

20 Q. And these children of 10 or 15 years, did you see them carrying
21 any weapons?

22 A. Yes. They had weapons. They had knives and different types of
23 weaponry.

24 Q. And can you recall the different types of weaponry that you saw?

25 A. There were knives, there were arrows, and there were ordinary

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 49

1 weapons as well.

2 Q. And what do you mean by "ordinary weapons"?

3 I'll repeat my question. You said there were ordinary weapons as
4 well. What do you mean by "ordinary weapons"? What type of weapons?

5 A. I saw rifles, but I don't know the type of weapon. That's why I
6 cannot give you a more clear answer. They looked like ordinary rifles.
7 I saw ordinary rifles, arrows, and knives, but as to what kind -- kind of
8 weaponry, I can't explain. I was tired. I was afraid. I couldn't
9 identify what kind of weapon it was.

10 Q. You said that whilst you were still in your hiding-place you
11 heard many people shouting and the beating of drums. My question is:
12 The people who were shouting, do you recall what language they were
13 speaking in?

14 A. No, I don't know, because I was in the bush. And I could just
15 hear that there was calling and there were drums, but I don't know what
16 language it was.

17 Q. And when you say there was calling, what do you mean by this?

18 A. Excuse me?

19 Q. You said -- you said you heard people calling, attackers calling,
20 calling out. What do you mean by this? What were they calling out?

21 A. When they finished their operation, it was the morning when they
22 were singing. I heard noises, and I said to myself, Are these the
23 villagers who have returned to their homes? This was not true. It was
24 soldiers. I came out, and I was stopped. I was caught in the ambush at
25 that point in time.

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 50

1 Q. You said that when you came out of the bush, soldiers came in
2 your direction and stopped you, that they took you into the bush and
3 raped you.

4 A. Yes.

5 Q. My question is: What was the ethnicity of these soldiers who
6 stopped you and then raped you?

7 A. I don't know their ethnic group. I know that I was raped. I saw
8 them. I could say that they were Ngiti because they were small in
9 stature.

10 Q. You said that they spoke to you and ordered you to take off your
11 trousers. What language did they speak to you in?

12 A. They spoke in Swahili.

13 Q. And did you hear them speaking in any other languages, even to
14 them -- between themselves?

15 A. No, I didn't hear.

16 Q. And these soldiers, these same soldiers, can you recall what they
17 were wearing?

18 A. They were wearing a military uniform.

19 Q. And were they carrying any weapons?

20 A. Yes.

21 Q. Can you recall what types of weapons that they were carrying?

22 A. They had weapons, but I don't know the types of weapons that they
23 had. I know they just had ordinary weapons, but I can't say which
24 category of weapon it was.

25 Q. And when you say "ordinary weapons," because you've used this

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 51

1 expression before, do you mean again rifles or do you mean bladed
2 weapons?

3 A. Excuse me?

4 Q. When you say "ordinary weapons" - you've used the term before -
5 do you mean guns?

6 A. I don't know anything about weapons. I don't know anything about
7 weapons.

8 MS. LUPING: Mr. President, my next question is of an identifying
9 nature, so if I could please ask if we could move briefly into private
10 session.

11 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed,
12 Mrs. Prosecutor.

13 Court Officer, may we please go into private session so that we
14 can avoid any identification of the witness.

15 (Private session at 11.54 a.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

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Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 52

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Page 52 expunged. Private Session.

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 53

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15 (Expunged)
16 (Expunged)
17 (Expunged)

18 (Open session at 11.59 a.m.)

19 COURT OFFICER: (Interpretation) We are in open session, your
20 Honour.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
22 Court Officer.

23 Please continue, Madam Prosecutor.

24 MS. LUPING:

25 Q. Madam Witness, my next series of questions may seem very personal

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 54

1 to you, and I'll be asking you for specific details of precisely what
2 happened. I want you to understand that it's not intended to make you
3 feel uncomfortable or upset, but that it is very important that the
4 Judges have the full details to understand what happened.

5 A. Yes.

6 Q. You stated that soldiers stopped you when you came out of your
7 hiding-place. You were taken back to the bush and they raped you. My
8 question is: Which parts of their body made contact with yours. If you
9 to state the name of that body part used to rape you, for the record.

10 A. It was their penis, which was put into my vagina.

11 Q. And how many of the attackers raped you in this way when they
12 took you to the bush?

13 A. There were six of them.

14 Q. And did they all rape you this way, by putting their penis in
15 your vagina?

16 A. (No interpretation)

17 Q. And these soldiers, in addition to raping you, did they hurt you
18 physically any other way?

19 A. They controlled me. They treated me very, very badly.

20 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, in response
21 to the question which you asked if these persons, if these six persons
22 all raped you in the same way, by putting their penis into your vagina,
23 the short response of the witness was not interpreted. It does not
24 figure in our transcripts. There was a reply. It is important for us to
25 know what it is.

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 55

1 Witness, I'm sorry to ask you this question again, but we have to
2 have your answer. The Prosecutor asked you a moment ago if the six
3 persons, all six of them, raped you in the way in which you described a
4 moment ago, by putting their penis into your vagina. Please, could you
5 answer even if it is difficult for you. Could you reply to that once
6 again. Thank you.

7 THE WITNESS: (Interpretation) I do not understand you very
8 well. Please could you ask your question again.

9 PRESIDING JUDGE COTTE: (Interpretation) Of course, Witness.

10 A moment ago the Prosecutor asked you a question. She he asked
11 you if the six persons raped you, all six of them, by putting their penis
12 into your vagina. You answered, but we didn't manage to hear the answer.
13 It is not recorded in the transcript of the proceedings. Please could
14 you -- could you restate the answer that you gave just now.

15 THE WITNESS: (Interpretation) Yes. But that wasn't in my
16 statement. I was ashamed to say that with regards to this treatment that
17 I was subjected to. I spoke about these people, but when we took the
18 statement, I was ashamed to state it before the investigators, but I am
19 prepared to say it today.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness. We
21 certainly understand. So we take as answer that you've said, that it
22 was six persons, that these six people therefore raped you in this way.

23 Prosecutor, please continue with this cross-examination, please.
24 Examination-in-chief, I'm sorry.

25 MS. LUPING: Thank you, Mr. President.

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 56

1 Q. Madam Witness, I'm going to repeat my prior question to you. You
2 said you were -- they threw you on the ground and you were raped. My
3 question is: Did they hurt you physically any other way?

4 A. Having raped me, they told me that they weren't going to leave me
5 behind. They decided to take me to their superior.

6 Q. You have stated that you were taken to their superior. You gave
7 us a name, and I'd ask you because we are in public session not to repeat
8 that name. My first question is: How did you learn that superior's
9 name?

10 A. When I arrived, I heard them state the name of (Expunged), and I
11 deducted that (Expunged) was their superior.

12 Q. I've few other questions about this superior, and again just a
13 reminder if you could not state his name. My first question is: Can you
14 give us a physical description of this commander or superior?

15 A. It was a man who was thin with a very long beard.

16 THE INTERPRETER: Slim rather than thin.

17 MS. LUPING:

18 Q. And can you remember how he was dressed?

19 A. He was wearing a military uniform.

20 Q. You've stated that this superior spoke to you and stated, "Either
21 we kill you --"

22 A. Yes.

23 Q. " -- or we do what we wish to do with you. What do you choose?"
24 My first question is: What language was he speaking to you in
25 when he stated that?

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 57

1 A. He spoke in Swahili.

2 Q. You then stated that he told the people to keep you on the side,
3 and that is what they did. Can you explain what you mean by that?

4 A. They said that they must put me aside. I stayed there. I didn't
5 move until a certain time. Night fell, and they moved. They carried out
6 their operations in Bogoro, and when they finished in the evening, they
7 put me in a place, in a school, and it was there that I spent the night.
8 In the evening, they came back. They raped me again in that night.

9 Q. And this superior, did you hear him saying to any of these
10 soldiers what they should do with you? Did you hear this with your own
11 ears? You said --

12 A. Please could you repeat the question.

13 Q. You stated that this superior told the people to keep you on the
14 side. Did you hear them giving any other orders about you in your
15 presence?

16 A. No. I just heard them say that they had to put me on the side.

17 Q. And when you state that they raped you again in the night, could
18 you clarify who you mean by "they"?

19 A. It was the same night or evening. The same group raped me. The
20 same people who had raped me in the bush and who had ordered me to go
21 into that place. They did what they wanted with me. It was, in
22 particular, (Expunged) who did that much more than the others. He
23 subjected me to a lot of atrocities.

24 Q. And when you say that the same group raped you, when you say
25 "rape," do you mean they did the same thing to you as in the bush?

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 58

1 A. Yes.

2 Q. And you stated previously that they put their penises inside your
3 vagina. When you say they raped you in the house, you mean they did the
4 same thing again?

5 A. Yes.

6 Q. Sorry, you had stated "school," as a point of clarification. I
7 apologise for my error.

8 A. What have you just said with regards to a school?

9 Q. I was clarifying that you had stated previously that they put you
10 in a school.

11 A. Yes. In a place which was at that school.

12 Q. Before they brought you to this place -- I'm going to go back to
13 when you were still with their superior and he spoke to you, and you
14 stated that he gave you a choice to be killed or to do with you as they
15 wished. My question is: Did this superior ask you any other questions
16 about yourself?

17 A. They asked me which ethnic group I belonged to. I told them that
18 I wasn't Hema but Lulu. They asked me if I knew where the Hema were. I
19 said I didn't know and that I was a visitor. I didn't live in Bogoro.
20 (Expunged). They asked me to make an effort to tell them where
21 they were. I said I didn't know. I didn't know where they lived. I
22 therefore couldn't indicate where they were.

23 Q. And did they say anything about what they would do to you if you
24 didn't cooperate?

25 A. Could you repeat your question.

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 59

1 Q. Did they say anything to you about what they would do to you if
2 you didn't do what they told you to do?

3 A. They told me that as I didn't want to tell them the place where
4 the Hema were, I had to choose between being killed or becoming their
5 so-called wife. I left them the choice. I said that they had to choose
6 themselves.

7 Q. You stated previously that you told them you were not Hema but
8 that you were Lulu. My first question is simply a point of
9 clarification. When you say "Lulu," is this the same as Alur, a person
10 of the Alur ethnicity?

11 A. I was afraid of saying my ethnic group. I thought they were
12 going to kill me. Spontaneously I said Lulu. I was afraid of being
13 killed. It was the first ethnic group that I could think of.

14 Q. And how did they react when you told them that you were Lulu?

15 A. They told me that I was lying. They said that they could smell
16 me and that I was Hema. I said I wasn't, I was not Hema.

17 MS. LUPING: Mr. President, if I could ask to go into private
18 session.

19 PRESIDING JUDGE COTTE: (Interpretation) Can we go into private
20 session, please, Court Officer.

21 (Private session at 12.18 p.m.)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 60

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Page 60 expunged. Private Session.

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 61

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Page 61 expunged. Private Session.

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 62

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18 (Expunged)
19 (Open session at 12.28 p.m.)
20 COURT OFFICER: (Interpretation) We are in open session, your
21 Honour.
22 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
23 Court Officer.
24 Please continue, Prosecutor.
25 MS. LUPING:

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 63

1 Q. Madam Witness, did you learn where the attackers were from?

2 A. These soldiers came from Zumbe, from the mountain.

3 Q. And other than Zumbe, did you hear of any other places that the
4 attackers were from?

5 A. They came from Kagaba.

6 Q. And how did you learn this?

7 A. It was when I heard them speak. I understood what they said, so
8 I understood. I was available to them. I could hear their
9 conversations.

10 Q. You have stated that you saw many dead bodies during the attack
11 at Bogoro and that you saw Red Cross workers putting bodies in a pit
12 behind the school. My question is: These people putting the bodies in
13 the pit, could you tell their ethnicity?

14 A. No, I do not know.

15 Q. And do you recall what they were wearing?

16 A. They were wearing two types of clothes. They had military
17 uniforms as trousers, and they had some singlets that they were wearing
18 but they were also wearing vests. Behind the vests it was marked "Red
19 Cross."

20 Q. And these dead bodies that you saw them putting into a pit, could
21 you see the types of wounds that were on these bodies or not?

22 A. No. I could not say on which parts of the bodies the dead bodies
23 had been hit. I was on the ground. My feet were swollen, and could I
24 not move from where I was, and these dead bodies were all around me.

25 MS. LUPING: Mr. President, if we could move back into private

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 64

1 session. I have some questions now of a potential identifying nature.

2 PRESIDING JUDGE COTTE: (Interpretation) Private session,
3 please, Court Officer.

4 (Private session at 12.33 p.m.)

5 (Expunged)

6 (Expunged)

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Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 65

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Page 65 expunged. Private Session.

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 66

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Page 66 expunged. Private Session.

Witness: Witness P-249 (Closed Session)
Questioned by Ms. Luping

Page 67

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- 22 (Closed session at 12.49 p.m.)
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Witness: Witness P-249 (Closed Session)
Questioned by Ms. Luping

Page 68

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6 (Open session at 12.50 p.m.)

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

8 Mr. President.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The hearing
10 is suspended for ten minutes. We will meet again at 1.00 p.m.

11 Recess taken at 12.50 p.m.

12 On resuming at 1.03 p.m.

13 (Closed session)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

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Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 69

1 (Open session at 1.05 p.m.)

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

3 PRESIDING JUDGE COTTE: (Interpretation) In that case,

4 Court Officer, please go to private session. Private session or closed

5 session? Let's go back to private session.

6 (Private session at 1.06 p.m.)

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Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 70

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Page 70 expunged. Private Session.

Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 71

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12 Page 71 expunged. Private Session.

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Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 72

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Witness: Witness P-249 (Private Session)
Questioned by Ms. Luping

Page 73

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21 (Open session at 1.21 p.m.)

22 COURT OFFICER: (Interpretation) We are in open session, your
23 Honour.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
25 Court Officer.

Witness: Witness P-249 (Open Session)
Questioned by Ms. Luping

Page 74

1 Madam Prosecutor, you may continue.

2 MS. LUPING:

3 Q. Madam Witness, can you estimate the age of the youngest soldier
4 that you saw at this military camp, living at the camp?

5 A. I cannot know that. I've simply seen soldiers. I think that
6 these soldiers had roughly the same ages.

7 Q. And did you see any children amongst these soldiers?

8 A. There were no children. I would say that there were people of
9 small stature, but they were adults.

10 MS. LUPING: Mr. President, with your permission I would ask if
11 we could suspend now, because in terms of the additional questions I was
12 going to move on to, it would be more logical if I begin them tomorrow,
13 with your permission.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. I think
15 this is very wise given the late hour, Madam Prosecutor.

16 Witness, that is all for today. The Chamber thanks you for the
17 contribution that you have made this morning. The hearing will reconvene
18 tomorrow morning at 9.00 a.m. Before you come into the courtroom, we
19 will have some conversations with the Prosecution tomorrow, who has to
20 respond to a list of questions that were asked today. Therefore,
21 Madam Witness, you may leave the courtroom. The Court Officer will put
22 us into closed session so that you may leave unperceived, and we will see
23 you here again tomorrow at about 9.00. So we will be starting at 9.00
24 but we will see you slightly after 9.00. Thank you very much again,
25 madam.

Witness: Witness P-249 (Closed Session)
Questioned by Ms. Luping

Page 75

1 (Closed session at 1.24 p.m.)

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11 (Open session at 1.25 p.m.)

12 COURT OFFICER: (Interpretation) We are in open session, your
13 Honour.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 Court Officer. The Chamber thanks all of those who have assisted with
16 this morning's session. This session is therefore adjourned, and we will
17 reconvene tomorrow at 9.00 a.m.

18 The hearing ends at 1.26 p.m.

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