

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 Friday, 10 June 2011
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) Please be seated.
15 Good morning to everyone, and good morning, accused gentlemen.
16 We are going to continue from where we left off yesterday; that
17 is, at the beginning of the examination-in-chief of Mr. David Hooper. We
18 are going to go into closed session to allow the witness to be brought
19 into the courtroom. So, Court Officer, closed session, please, and,
20 Court Usher, please accompany the witness into the courtroom.
21 (Closed session at 9.05 a.m.)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Expunged)

Witness: Witness DRC-D02-P-0148 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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- 1 (Expunged)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Open session at 9.07 a.m.)
- 6 COURT OFFICER: (Interpretation) We are in open session,
- 7 your Honour.
- 8 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
- 9 Court Officer.
- 10 Good morning, Mr. Witness.
- 11 THE WITNESS: (Interpretation) Good morning.
- 12 PRESIDING JUDGE COTTE: (Interpretation) You can hear me
- 13 properly.
- 14 THE WITNESS: (Interpretation) Your voice is a bit low. Can you
- 15 speak louder, please?
- 16 PRESIDING JUDGE COTTE: (Interpretation) Very well. You have
- 17 heard, Mr. Hooper, that my voice is a bit low, which I thought was quite
- 18 clear, so you have to speak louder. Maybe the witness has a problem with
- 19 the volume in his headset, but you have to speak loud so that we find out
- 20 whether his headset is at a good volume level.
- 21 Mr. Hooper, please, you can begin.
- 22 MR. HOOPER: Thank you. Good morning, your Honour.
- 23 Questioned by Mr. Hooper: (Continued)
- 24 Q. Good morning, Mr. Witness.
- 25 A. Good morning.

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1 Q. In fact, I've been told that I'm not speaking into this
2 microphone sometimes sufficiently. If that does happen, can whoever
3 notices it let me know. Thank you.

4 Now, Mr. Witness, yesterday we'd started -- we'd started your
5 account of your life and experiences at a time that this court is
6 relevant -- is interested in, and let me just remind you that we come to
7 the point when Lopondo fell, was pushed out of Bunia, which we know
8 occurred in early --

9 MS. LUPING: Mr. President.

10 PRESIDING JUDGE COTTE: (Interpretation) Yes, Madam Luping.

11 MS. LUPING: From the start, my learned friend, that whilst
12 dates -- certain dates are very key incidents are clearly agreed to
13 between the parties, the Prosecution will be objecting to any dates being
14 given to this witness on the basis that the witness's recollections of
15 dates and understanding of time periods is very crucial to his testimony,
16 and we would like the witness to be able to reflect on the basis of his
17 own recollections without any suggestion of dates from Mr. Hooper. Thank
18 you.

19 MR. HOOPER: Well, that's particularly unhelpful. After all, we
20 all know that there are some landmark dates, and perhaps sometimes with
21 witnesses reflecting back over, what is it now, eight, nine years, coming
22 from a place where there was probably little recorded news or newspapers
23 or other contemporary records, when they're talking of, as this witness
24 is, being at a particular place at a particular time when a particular
25 event occurs, Lopondo arriving and having to go off essentially with this

1 man's bicycle, as we heard yesterday, from Songolo, it strikes me, with
2 respect, as extraordinarily restrictive on the part of the Prosecutor in
3 this case to not, in a way, have a witness and the Chamber, more
4 importantly, assisted, because we can landmark that date.

5 Here's a witness talking about the fall of Lopondo. We're not
6 talking about several falls of Lopondo. We're talking of the fall of
7 Lopondo, and it would be, I would have thought, of assistance to the
8 Chamber to landmark - and for this witness to have it landmarked - in
9 terms of a particular month in a particular year, and then we can step
10 through his evidence week by week, month by month, as best as he's able.
11 For all I know, he might know the date. I haven't come to ask him that.
12 But I really wonder what the objective of the Prosecutor is when that
13 kind of, frankly, obstructive view is taken. I say that with respect. I
14 know very well where my friend's coming from, but isn't it rather
15 over-obstructive to the process that we're engaged in, but I'm entirely
16 in the Court's hands.

17 I could ask this witness if he knows the date, and if not,
18 perhaps I can turn again to the Chamber and invite the Chamber to permit
19 me to put to this witness what is, in any event, in everyone's head.

20 MS. LUPING: Mr. President, if I could just respond to this to
21 clarify the Prosecution's objection.

22 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping, it is
23 crucial to observe the five-seconds, because the translation into French
24 was not completed, but you had already begun.

25 MS. LUPING: My apologies, Mr. President. Simply to clarify the

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1 Prosecution's objection, of course certain key events, including the fall
2 of Lopondo, the dates are clear as between the parties and as far as the
3 Chamber is concerned. However, with this particular witness, the
4 Prosecution submits that knowledge of key dates, of time periods is
5 crucial to his evidence.

6 I'm not going to spell it out in front of the witness as to those
7 issues that we're talking about, but they go to the crux of his
8 testimony. And on this basis, whilst we have no objection to Mr. Hooper
9 referring to the event in question, we simply have an objection to the
10 date being suggested to the witness.

11 Thank you, Mr. President.

12 PRESIDING JUDGE COTTE: (Interpretation) Very well. Mr. Hooper,
13 you realise that the Prosecution side is extremely rigorous.

14 So, Mr. Witness, please listen to me.

15 THE WITNESS: (Interpretation) I'm listening.

16 PRESIDING JUDGE COTTE: (Interpretation) What we are asking you
17 is to take your time, to make a great effort to try and remember dates
18 linked to the events that Mr. Hooper and probably the other parties or
19 participants will refer to. So please take your time to recall that in
20 your memory, even though these are events that took place a long time
21 ago. However, it is crucial for you to try to provide a testimony that
22 is as precise and clear as possible.

23 Yesterday, you gave us clear answers, and please continue to do
24 that. Do not rush into anything. If you need to reflect, tell us that
25 you need a moment to reflect.

1 Thank you for listening to me.

2 Mr. Hooper, you can continue from where we stopped yesterday,
3 that is, when Lopondo had been chased out of Bunia.

4 MR. HOOPER: Yes. Thank you, your Honour.

5 Q. And, Mr. Witness, you must have thought the last ten minutes or
6 so was all rather strange, but it's the kind of thing that happens from
7 time to time, and I'm sorry that we interrupted what you were telling us
8 to deal with that matter, so we -- we have to from time to time.

9 Let me ask you this: You told us yesterday of the fall of
10 Lopondo. Can you remember the approximate date or month and year when
11 that event took place? And if you have difficulty with dates and things
12 like that, don't worry about it, but if you can provide us with a month
13 or year, that will help us.

14 A. I believe that with regard to the date and the month of the fall
15 of Lopondo, I no longer remember. This happened a long time ago, but I
16 believe it was in 2001. So I have no idea as to the date and the month.
17 Once again, this is something that took place a very, very long time ago,
18 and I have forgotten all that.

19 Q. All right. And I did suspect that you might have. So don't --
20 don't worry about that, because we all know the date, and we all know,
21 when you speak of the fall of Lopondo, of actually where we are in the
22 history of -- of these events.

23 Now, after the fall of Lopondo, you've told us how you found
24 yourself at Songolo, and yesterday we left it at this point: You were in
25 Songolo and you were being attacked by, as you said, the Ugandans, the

1 UPC, and the Bira, and that's where we stopped yesterday in your
2 evidence.

3 Now, this attack at Songolo, what were the consequences of -- of
4 that attack? Were there casualties? What happened? Can you help us?

5 A. There was a lot of destruction during the Songolo battle. Houses
6 were set on fire, and people were killed. The enemy surprised the
7 population, and they forced their way into the town and wreaked a lot of
8 havoc.

9 Q. Do you know where those attacking forces had come from?

10 A. There are two ways into Songolo, an access road in Kombokabo and
11 another one at Faho (* phon). So the enemy came in from those two
12 directions, particularly the main road from Kombokabo.

13 Q. At that time do you know where the UPC headquarters was?

14 A. At that time, UPC had headquarters everywhere. For example, in
15 Nyankunde but also in Bunia and Rwampara. They were everywhere. They
16 were also in Bogoro. They had a headquarters there. There was also one
17 in Nyankunde, Rwampara, Bunia, and also Mandro. So they had a
18 headquarters in all the above-mentioned locations.

19 Q. Now, after you'd been attacked at Songolo, what happened then?

20 A. After the Songolo attack, we left Songolo to return to Avenyuma
21 where we protected the population after some long hours of fighting.
22 Houses had been set on fire, and we did not have anywhere to stay. One
23 of Kandro's body-guards died on the way.

24 Avenyuma was the native village of Kandro, and so we returned to
25 that village in Avenyuma to reorganise ourselves. We buried that dead

1 soldier there. We organised a funeral, and then later on we settled in
2 Avenyuma.

3 Q. And what happened after that?

4 A. We stayed in Avenyuma. Since Songolo had been burned down, we
5 were angry, and we prepared our revenge. We prepared for war. We
6 prepared for the attack against the UPC in Nyankunde. So we went
7 afterwards and attacked that position in Nyankunde.

8 Q. How long was it after you'd been attacked in Songolo that that
9 attack on Nyankunde took place?

10 A. You see, a lot of time passed, but I do not have a specific
11 answer. We said in Avenyuma, and then later on we left Avenyuma to
12 attack Nyankunde.

13 Q. Now, we -- don't worry about it, because we know the date of that
14 attack, but did you personally participate in that attack? Were you at
15 Nyankunde?

16 A. Yes, that is true, I took part in the attack on Nyankunde.

17 Q. Who were the principal commanders in that attack?

18 A. During that attack, the most important commanders were Kandro and
19 Cobra. There was also Faustin. Those were the main commanders during
20 the Nyankunde attack.

21 Q. And we're aware of who Cobra is and, of course, Kandro. Who was
22 Faustin?

23 A. Faustin was an APC commander. He was also there. They had come
24 from Zumbe, and they had no way of going to Beni, so they found
25 themselves there, and they helped the combatants in the Nyankunde attack

1 because the fighting was very serious, and he was one of the APC
2 commanders.

3 Q. How many of you were there in that attack on Nyankunde?

4 A. There were many people. I can't tell you a precise number.
5 There were a lot of people. There were ordinary weapons. There were
6 bladed weapons.

7 Q. Do you know, I mean very approximately, how many of the attackers
8 had firearms, for example? Can you help us -- obviously not with a
9 precise number, but can you just help us, give us some idea how many
10 people attacked, how many people were armed?

11 A. There were roughly 200 armed people, armed with ordinary weapons.
12 There were other fighters who had bladed weapons with them. There were a
13 great many fighters, and it was impossible for me to count them, but I
14 would say there were about 200 people who were carrying ordinary weapons
15 and the others had bladed weapons.

16 Q. Now, after the battle Nyankunde, what happened then?

17 A. After the fighting in Nyankunde, the fighters won the day and set
18 up camp in Nyankunde. There was Cobra and the others who looted. Then
19 they went back to Bavi where Cobra had his HQ. I went back to Nyankunde
20 with Cobra -- correction, with Kandro. I went back with Kandro.

21 Q. And what happened then?

22 A. After that, Kandro was a colonel, Cobra was a colonel, too, and
23 there was some conflict between these two people. When we returned to
24 Bavi there was trouble, problems created for the population, and a
25 considerable number of people in the population trusted Kandro. Kandro

1 was sent to Bavi to calm down Cobra's soldiers who were harassing the
2 civilian population. Kandro went, but another plan had been set up, and
3 he was eliminated.

4 THE INTERPRETER: The Swahili interpreter stated that the witness
5 is speaking very quickly.

6 PRESIDING JUDGE COTTE: (Interpretation) Would you please,
7 Mr. Witness, speak a little more slowly, please. I know this is
8 difficult, but it would be easier for the interpreters. Thank you very
9 much.

10 Mr. Hooper, please proceed.

11 MR. HOOPER:

12 Q. Now, I know, these questions that I'm asking, I think we all know
13 that it's easy for me to ask these questions, and of course I'm making
14 you think and talk about things that may have been very upsetting and
15 distressful for you. We all recognise that. Let me ask you this: When
16 you say he was eliminated, I think we all know what you mean, but can you
17 just tell us what you mean? What happened to Kandro?

18 A. When we were in Nyankunde, after having gotten Nyankunde back
19 news arrived from Bavi. We learned that Cobra's fighters had been or
20 were harassing the civilian population. Kandro went there to calm things
21 down, and Cobra killed Kandro. He shot him and he died. At that time,
22 we were in Nyankunde.

23 Q. So with Kandro killed, what happened then?

24 A. After the death of Kandro, we learned about his death at 1.00 in
25 the morning, and we, the Nyankunde fighters, went to Bavi. Once there,

1 we found that Kandro's body was being taken to Avenyuma. That was where
2 he had lived. And since there was nobody in Bavi, because these people,
3 once they'd killed Kandro they fled, we found nobody there in Bavi.

4 Q. And what did you do then?

5 A. We buried the bodies. We stayed in Avenyuma for a short while,
6 and afterwards there was conflict between the garrison and Cobra. The
7 idea was to look for Cobra.

8 Q. Now, yesterday you recognised and named Germain Katanga. By the
9 time of Kandro's being buried, being killed and buried, did you -- had
10 you met Germain Katanga by then or not?

11 A. Before this event, I had already seen Germain Katanga. This was
12 in Bamanda on the road to Kisangani. At that time, the armed movement
13 had not yet been created.

14 Q. Just so that we're clear, when you met Germain Katanga at that
15 time, was he a militia, a combatant, or not?

16 A. No. At that point the armed groups had really not been formed or
17 created yet.

18 Q. Now, in your evidence, you've told us of a number of battles at
19 Tchei. You spoke of a battle there and battles elsewhere, about Sadgi,
20 et cetera, and, of course, Songolo and, of course, Nyankunde. Was
21 Germain Katanga present at any of those battles, to your knowledge?

22 A. If you want to know somebody, you must have seen him already. I
23 had never seen him in the battles or fights which I have mentioned. I
24 didn't see him.

25 Q. When was the first time that you saw Germain Katanga in the

- 1 collectivity of Walendu-Bindi? Can you remember?
- 2 A. No, I don't know the year, but it was a time of the funeral for
- 3 Kandro in the collectivity of Walendu-Bindi. That was where I saw him.
- 4 This was in Avenyuma.
- 5 Q. Avenyuma. All right. Did you ever go to Aveba at all or not?
- 6 A. I didn't understand your question, please.
- 7 Q. Have you ever visited Aveba?
- 8 A. Yes. I know Aveba very well.
- 9 Q. What connection, if any, do you have with Aveba?
- 10 A. I don't have any link with Aveba. There's quite a distance
- 11 between my locality and Aveba, and there's no link between myself and
- 12 Aveba.
- 13 Q. What caused you to go to Aveba?
- 14 A. I had only one friend in Aveba, so every time I went to Aveba, I
- 15 went to stay with him. This was the only friend I had in the whole of
- 16 Aveba. Apart from him, I didn't know anybody else.
- 17 Q. And what was the name of that friend?
- 18 (Expunged).
- 19 Q. You spoke of your -- your wife yesterday. Is she Ngiti?
- 20 A. Yes, my wife is Ngiti.
- 21 Q. And where does she originally come from? Do you know?
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Expunged)

1 Q. All right. Thank you very much. Now, after the death of Kandro,
2 you spoke of the *Garnison*, or "garrison" in English, but we'll use the
3 word *Garnison* in English as well because it may have a particular
4 meaning. What was the *Garnison*?

5 A. *Garnison* refers to a group of fighters. Kandro used this word.
6 He called this group of fighters the *Garnison* and the name stuck. It was
7 Kandro who created this word for the group that he was leading.

8 Q. And after Kandro's death, that is immediately after his death,
9 where was the *Garnison* based?

10 A. After Kandro's death, the group stayed in Avenyuma.

11 Q. What happened to the *Garnison* after its commander, Kandro, was
12 killed?

13 A. The *Garnison* stayed operational in Avenyuma and fell under the
14 orders of the younger brother of Kandro, Safco Safari. He stayed as
15 leader of the *Garnison* because he said this: He said that since his big
16 brother had died, he wanted to step in the shoes of his elder brother,
17 but the fighters did not agree with that. He took the decision by force,
18 in fact.

19 Q. And did he stay commander of the *Garnison*? What happened?

20 A. Yes. He continued to be the leader, the commander, of the
21 *Garnison*. However, he didn't stay very long in this post. It was just
22 for a short period.

23 Q. And what happened then?

24 A. After that, Cobra returned from the bush where he had gone after
25 having killed Kandro. He attacked us in Avenyuma, and he beat us. He

1 won because they had made a coalition with other groups, and there were
2 more men than we had. It was a big fight. We were dispersed. We went
3 to Kagaba. Cobra beat us in Avenyuma, and then we headed off for Kagaba.

4 Q. And what happened at Kagaba?

5 A. Once we arrived in Kagaba, we found Ngurima on the spot with some
6 of his fighters. He welcomed us, this was Ngurima, and asked the
7 civilians to set up a camp for us in Kagaba. We stayed there. The
8 younger brother of Kandro, Safari, was not a good commander. He caused a
9 lot of problems in this locality. He wanted to kill Yuda, and he wanted
10 to become the chief. He wanted Yuda to be his second in command. There
11 was fighting. We chased him out of Kagaba, and Yuda and Dark stayed as
12 the leaders.

13 Q. So now we have Yuda and Dark in Kagaba as commanders of the
14 *Garrison*. What was the position of - I've forgotten his name - Ngurima?
15 What was his position? He was the man who was already there at Kagaba.
16 What happened to him?

17 A. Ngurima welcomed us warmly. We didn't have any problems with
18 him. He gave us land and a camp was set up for us. Ngurima had his own
19 fighters, and we had our men. We lived side by side with Ngurima with no
20 real problems. However, Yuda suggested that we should all come together
21 in one single group, in a coalition. This was in the time we'd already
22 spent six months in Kagaba. I would say that this cohabitation period,
23 if you can call it that, was very harmonious.

24 Q. All right. Thank you. Now, again, I appreciate that you have
25 difficulty, perhaps, with the dates and things, but approximately what

1 time of year was it when Cobra attacked that camp at Avenyuma, forcing
2 you out to Kagaba? Can you remember when that was? For example, how
3 long was it after Kandro being killed? Or what time of year was it? Can
4 you help us at all?

5 A. After the death of Kandro and after the attack on Nyankunde, one
6 and a half weeks elapsed. Kandro went to Bavi where he died. We went to
7 Nyankunde. We buried Kandro.

8 You know, all of this happened a very long time ago. I would say
9 that after the death of Kandro, not much time elapsed before Cobra
10 attacked us. I would say roughly six months, no more than that.

11 Q. Right. Now, you are -- so there's a lot of, obviously from what
12 you've told us, disorder amongst the combatants at that time. Do you
13 know was anything done to try and bring the combatants together, to bring
14 harmony to them?

15 A. Would you be kind enough to repeat your question, please?

16 Q. With -- with all this disorder amongst the fighters, do you know
17 was anything done to try and bring peace, to try and bring them together?

18 A. Yes. This happened a long time afterwards, when we were in
19 Kagaba.

20 Q. All right. So what happened when you were in Kagaba?

21 A. When we were in Kagaba, we stayed there, we lived there, and then
22 after a few days, we managed to set up a comfortable camp and we stayed
23 there.

24 Q. Now, does the name Kisoro mean anything to you?

25 A. Kisoro was a commander in the Tchei area. We did not collaborate

1 with him. He was a certain distance away. He was someone who was very
2 disorderly, and we did not collaborate with him.

3 Q. Did you ever have any particular difficulties with him?

4 A. Kisoro was very afraid of us, and he never came to our territory.
5 He could not do anything to our *Garnison*. He cannot create any disorder
6 in our area, because he was very afraid of us.

7 Q. Do you know if he created disorder anywhere else?

8 A. Yes. He caused disorder, for example, in Bavi. When he left
9 Tchey, he went to set up in Kaswara. It is as if Kaswara was his
10 village. Then he would go to Aveba to cause disorder there. We heard
11 about this once when I had gone to see my friend Garimbaya in Aveba. He
12 came to cause trouble, but we chased him away.

13 Q. When you say, "We chased him away," did you participate in that
14 action?

15 A. Yes.

16 Q. Now, can I come to Aveba, which you visited. Do you know if
17 there was a camp at Aveba?

18 A. Yes. There was a camp there, and that camp was at the airport
19 under the command of Mbadu and Garimbaya.

20 Q. Do you know how many camps there were at Aveba?

21 A. At that time, there was only one military camp in Aveba. It was
22 only later that the BCA camp was set up, which made a total of two.

23 Q. Do you know who the commander of the BCA camp was?

24 A. After the BCA camp was set up, it was placed under the
25 responsibility of Bahati de Zumbe to begin with.

1 Q. You say "to begin with." Did that change, and, if so, in what
2 way?

3 A. I was not from Aveba, and so I returned to my position in Kagaba.
4 Later on, our commanders, such as Dark and Yuda, were invited by Bayonga
5 to Tchei. They went there, and after their return, they told us that
6 Bayonga had invited them in order to appoint those who were going to lead
7 the FRPI.

8 Q. All right. I'll return to that in due course. I want to come
9 now to Bogoro. You mentioned Bogoro. You mentioned that it was one of
10 the places where the UPC had a headquarters.

11 Do you know anything about any attack or attacks carried out by
12 combatants against Bogoro, and if you do, can you tell us about them,
13 please?

14 A. Talking about the attacks against Bogoro, I would say that there
15 were attacks that took place there before our arrival in Kagaba. There
16 were commanders in Geti who tried to attack Bogoro. Subsequently, Move
17 also tried, as well as Tchopi (* phon). Then we set up camp in Kagaba,
18 after which we also tried to attack Bogoro. It was the
19 *garnison* Mayatano (* phon).

20 THE INTERPRETER: From the Swahili booth: Your Honour, the last
21 part of the answer was not understood by the interpreters.

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the last
23 part of your answer was not understood by the interpreters. Could you
24 please kindly repeat. Thank you.

25 THE WITNESS: (Interpretation) This is what I said. The fourth

1 attack took place in Bogoro, but there was a coalition during the fifth
2 attack. People came together from many areas to attack Bogoro on the
3 fifth attempt.

4 MR. HOOPER:

5 Q. All right. So let's concentrate on this fifth attempt, and this
6 is evidence that is of particular interest to the Judges. Did you
7 participate in this fifth attack on Bogoro?

8 A. Yes.

9 Q. So just tell us what -- what happened. You say that there was a
10 coalition who came together to attack it. What do you know about --
11 about how that attack took place?

12 A. What makes me to say that there were people who came from
13 everywhere is because it was the same collectivity, but there were
14 certain places like Medhu where the commander was there, Adjibale, as
15 well as Anguluma. He was there.

16 Q. Do you know, was Germain Katanga there?

17 A. I did not see him on that day.

18 Q. So just tell us what happened. What preparation was there for
19 it? How were things done? Just take us through it.

20 A. Regarding the preparations, Yuda, who was the commander in
21 Kagaba, as well as Dark, asked for the attack to be planned. There was
22 no way to cross over and travel to Bunia, because the road had been
23 blocked. The enemies came to Lakpa and Nombe to set houses on fire, so
24 Yuda decided that instead of allowing the people of Bogoro to do as they
25 wish, there should be a coalition. So he contacted all these people, and

1 so the initiative to attack Bogoro came from Yuda and Dark. The distance
2 between Kagaba and Bogoro is not far, so there were problems in that
3 area, so Yuda had to ask for reinforcement from other commanders to
4 attack Bogoro in order to re-establish calm.

5 Q. Does the name Blaise Koka mean anything to you?

6 A. Can you please repeat your question?

7 Q. Yes. The name Blaise Koka, does it mean anything to you?

8 A. That name does not ring a bell.

9 Q. Now, you mentioned that there'd been some APC in the -- in
10 Walendu-Bindi. Do you know if the APC participated at all in the attack
11 on Bogoro, the fifth attack on Bogoro?

12 MS. LUPING: Objection, Mr. President.

13 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping.

14 MS. LUPING: There have been a number of suggestive questions in
15 relation to the attack on Bogoro so far. We would ask that
16 Counsel Hooper keep his questions open, remain unsuggestive. If his
17 interest is in the attack on Bogoro, he should be asking open-ended
18 questions and not specific questions of this nature, including the last
19 question regarding the APC.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
21 Madam Prosecutor.

22 Mr. Hooper, please continue.

23 MS. LUPING: I apologise for interrupting. We would, for
24 instance, suggest an open-ended question such as, "Who did participate in
25 the attack?" That would be more appropriate.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
2 Madam Prosecutor. I have a feeling that Mr. Hooper will take your
3 proposal into account.

4 Please tip, Mr. Hooper.

5 MR. HOOPER:

6 Q. Who participated in the attack? What combatants or troops
7 participated in the attack?

8 A. It was the groups that set up a coalition to attack Bogoro. I
9 have already mentioned some names of the members of that group.

10 Q. All right. So let's come to the attack itself. Can you just
11 tell us what happened, particularly what you saw, of course, not what you
12 heard, but what you saw and did. Just take us through that account of
13 the battle of Bogoro.

14 A. Can you kindly repeat your question, please.

15 Q. All right. So what happened at the battle of Bogoro?

16 A. Regarding the Bogoro battle, we left Kagaba to go to Bogoro.
17 People had assembled in Kagaba before departure, and when we arrived
18 Bogoro, we launched an attack very early in the morning. The fighting
19 continued until we defeated the UPC. We took over control of Bogoro.

20 Q. Now, I want to ask you about civilians in Bogoro, not fighters
21 but civilians. Do you know if any civilians were killed in Bogoro?

22 A. What did you say about civilians? I did not quite understand
23 what I was told in Swahili.

24 Q. No. Well, this may be a problem, but do you know if any
25 civilians were killed in Bogoro? What did you see? What can you tell us

1 about any civilians being killed in Bogoro?

2 A. Yes. There were civilians killed during that battle in Bogoro.

3 Q. Do you know if there was an order from the commanders to kill
4 civilians or not? And that's an open question.

5 MS. LUPING: Objection, Mr. President.

6 PRESIDING JUDGE COTTE: Ms. Luping.

7 MS. LUPING: The Prosecution would submit that an open-ended
8 question such as, "Were there any orders prior to the battle, if any
9 given?" The question shouldn't be putting to the witness or suggesting
10 the response in advance. If Counsel Hooper can be asked to only ask
11 open-ended questions.

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, please ask
13 open questions, and particularly we should seek clarification from the
14 witness, details that are useful since he has told us that he took part
15 in this battle. We should act in a way that there should not be any
16 interruptions or objections. Here, the witness has to give us his
17 contribution from his memory.

18 Please proceed.

19 MR. HOOPER:

20 Q. I'm asking questions here about civilians. Were any orders given
21 before the battle in respect of civilians?

22 MS. LUPING: Mr. President.

23 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping, we have
24 understood that you would prefer that the question should be asked
25 whether orders were given, but the Chamber would like to know what

1 happened to civilians on the 23rd of February, 2003. I know that
2 sometimes it's important to have this cat and mouse game, but we -- the
3 important thing is to learn what the witness saw, observed, heard, and so
4 on. Let us try to avoid exchanges that do not concern him and which may
5 simply just unsettle him.

6 Mr. Hooper, please proceed.

7 MR. HOOPER: All right.

8 Q. Well, let me approach this a different way. You said that
9 civilians had been killed. What did you see yourself? Did you see
10 civilians being killed or what? Just tell us your story.

11 A. You talk about civilian deaths. Well, there were many people
12 there. There was a mixture of people there in Bogoro, but the majority
13 of people there were armed.

14 Q. Do you know how the civilians were killed, came to be killed?

15 A. Yes. I saw civilians who had been killed at the Bogoro school.

16 Q. I want to ask you about children, kadogos, children who are
17 soldiers. We're concerned here with the young, young children, no older
18 than 15, 14, 13, 12, or even younger.

19 Did you see any children of that age participating in the
20 fighting on your side, that is the combatants' side, at Bogoro?

21 MR. HOOPER: I see there's another interruption.

22 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping.

23 MS. LUPING: Mr. President, as Counsel Hooper is well aware,
24 these are issues that are at the heart of this case. It's not necessary
25 to elicit information using these highly suggestive questions. The

1 question can simply be, "What age was the youngest soldier that you know
2 participated in the attack," for example. Giving an age, indicating an
3 age that we're interested in, I would say, is not appropriate either.

4 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, do please
5 be more careful in your questioning without immediately talking about the
6 age. This may emerge through the answers.

7 MR. HOOPER:

8 Q. Did you see any child soldiers participating at Bogoro?

9 A. I didn't see any kadogo during the battle of Bogoro.

10 Q. Can I ask you a more general question? Let's forget Bogoro for a
11 moment. Generally at Kagaba, or elsewhere, do you know if there were
12 child soldiers?

13 A. I only got information about Kagaba. I don't have any
14 information about any other places.

15 Q. During the -- thank you. During this battle at Bogoro -- or
16 afterwards, do you know if there were any women who were raped?

17 A. I never witnessed women being raped at Bogoro, but I was witness
18 to a woman who had been stopped, arrested, but she was not raped.

19 Q. When you talk of a woman arrested, what happened?

20 A. This happened after the fighting. The soldiers who were
21 patrolling found a woman who had been injured. She had taken a bullet in
22 the shoulder, so the soldiers took her with them. Dark was the
23 commander. Yuda had already been injured, and Dark was now the
24 commander. So Dark sent two soldiers or several soldiers to the HQ in
25 Kagaba, and this woman was of the Nande ethnic group.

1 Q. Do you know what happened to her?

2 A. After having been taken to Kagaba where Yuda's wife was - and she
3 was Nande as well - then the soldiers presented her to Yuda's wife, and
4 the two women spoke together in their own Nande language. Yuda's wife,
5 in fact, confirmed that this woman was a Nande, and she was then taken to
6 a health centre for her injuries to be tended to.

7 Q. And what happened to her after that, do you know?

8 A. At the hospital, this wife (* as interpreted) became friendly
9 with Raymond, and after that, they got married. Raymond and this woman
10 got married.

11 Q. I want to ask you what happened after the battle of Bogoro. I
12 mean, what happened to you. Did you participate in any other battle
13 after Bogoro?

14 A. After the battle of Bogoro, I learnt that a child of one of my
15 aunts had been killed, and we went to the burial. Three days after the
16 funeral, I returned to Bogoro and we stayed there. Later on, the Zumbe
17 fighters asked us to come and help them because they were being
18 threatened by the UPC soldiers.

19 We left Bogoro, and we went to the so-called Mandro operation.

20 Q. Do you know if Germain Katanga participated in the Mandro
21 operation?

22 MS. LUPING: Mr. President.

23 PRESIDING JUDGE COTTE: (Interpretation) Madam Luping.

24 MR. HOOPER: I'll keep my head.

25 MS. LUPING: Again, a suggested question is being put to the

1 witness. The same question was put in relation to the Bogoro attack.
2 Counsel Hooper can simply ask, "Are you aware where Mr. Katanga was at
3 the time of the attack at Mandro?"

4 MR. HOOPER: I think I should be able to ask a direct question as
5 to whether this man, whether he knows whether he participated in the
6 attack. That's my interest.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well. Well, one
8 thing is clear for our witness. I think all the subtleties of these
9 discussions go largely over his head.

10 Mr. Hooper, would you please continue in a way that we can simply
11 discover what you want to find out and what we are all interested in.

12 MR. HOOPER: Yeah. All right. Well, let me ask it as my friend
13 would like.

14 Q. During the Mandro attack, do you know where Germain Katanga was?
15 Do you know whether he was at Mandro or not?

16 A. I did not see Germain Katanga at Mandro. I was conducting the
17 military to Zumbe, and I did not see Germain in Mandro.

18 Q. When you say you were conducting the military to Zumbe, what do
19 you mean by that? It might be clear to you, but can you explain to the
20 Court what you mean by that, conducting the military?

21 A. The order came from Zumbe. No. Well, it wasn't an order, in
22 fact. The people of Zumbe alerted Dark and Dark said to me, "Well, since
23 you're here, take a few men with you and go and reinforce the people in
24 Mandro," but I never saw Germain Katanga.

25 Q. All right. Thank you. Did you participate in any other battles

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1 after Mandro?

2 A. In Bunia there had been fighting. Once we were in Bogoro, we
3 heard gunshot fire. It was the Ugandans fighting against members of the
4 UPC. When we got there, we fought the Ugandans too. Later on, we
5 returned to --

6 THE INTERPRETER: And the Swahili interpreter did not hear the
7 very last part of the witness's statement.

8 PRESIDING JUDGE COTTE: (Interpretation) Where did you return
9 to, please? The interpreter simply didn't hear the last name. Thank you
10 very much.

11 THE WITNESS: (Interpretation) We returned to Bogoro where we
12 had our HQ.

13 MR. HOOPER: Just one moment.

14 (Defence counsel confer)

15 MR. HOOPER:

16 Q. Now, while you were fighting on that day, the Bunia battle, do
17 you know where Germain Katanga was? Do you know whether or not he
18 participated in that fighting?

19 A. I know that Germain Katanga was in Aveba. He was not in Bogoro
20 when there was the battle for Bogoro. We were in Bogoro and then we went
21 to Bunia. We went to where the Ugandans were and we took part in the
22 fighting, but I didn't see Germain.

23 Q. Now, I want to ask you whether you've heard of the name FRPI.
24 Have you ever heard of that, and what is your understanding, if you have,
25 of what it is?

1 A. I have heard of the FRPI, but only French speakers will
2 understand what that actually means. I can only say I've heard of this
3 acronym, FRPI.

4 Q. All right. Now, I want to come back to Germain Katanga. Do you
5 know if he held any particular position among the combatants and, if so,
6 what that was?

7 A. I know that after Bayonga at Tcheu was appointed, Germain was
8 appointed as the head of the FRPI, and he had a vice-commander appointed
9 as well. Muhito was his vice.

10 Q. Do you know when that happened? I mean, for example, let's take
11 the Bogoro battle. Do you know if it was before or after that incident?

12 A. Could you rephrase your question, please.

13 Q. Yes. You said that Germain was at Tcheu through Bayonga, that
14 Germain Katanga was appointed head of the FRPI. My question is: Do you
15 know a --

16 MS. LUPING: Mr. President.

17 MR. HOOPER: -- sorry, head of -- I'm sorry, he didn't say that.

18 MS. LUPING: Exactly. I would just ask that Counsel Hooper could
19 read out the transcript. (Overlapping speakers) That's not what the
20 witness said at all. And this is -- obviously is a crucial point, as my
21 friend is very well aware. If he could please --

22 MR. HOOPER: Yes, here it comes.

23 MS. LUPING: -- refer to the precise words of the witness on this
24 point.

25 MR. HOOPER: Yup. Here it comes. English page 27, line 2. "I

1 know that after," unclear, "Bayonga at Tchey was appointed Germain was
2 appointed as the head of the FRPI."

3 I thought that's in fact, what I said, but maybe I didn't.

4 Q. My question is: Do you know when that was?

5 A. I don't have any precise date to give you. Commander Dark
6 informed the members of his *Garnison* what happened at Tchey. Personally,
7 I don't remember the date of this event.

8 Q. All right. Thank you. Now, I want to ask you about fetish. Did
9 you ever use fetish? I mean yourself.

10 A. Well, I understand what you are saying, but there's a word which
11 I've not quite understood in Swahili, "*ba kambo*." I don't understand
12 that word.

13 PRESIDING JUDGE COTTE: (Interpretation) Well, our witness has
14 left us at the point where he does not understand the word "*ba kambo*."
15 I'm reading page 29 of the temporary transcript in French, line 4 or 5:

16 "I understand what you're saying, but there is a word I do not
17 understand in Swahili, '*ba kambo*.' I don't understand what that means."

18 Do we have a major interpreting problem on this word?

19 MR. HOOPER:

20 Q. I'll use the word -- did you ever use "*dawa*," yourself?

21 A. Okay. I understand you properly now. It was the word "*ba kambo*"
22 which I didn't understand properly, which maybe means traditional
23 medicines, but if you're talking about fetishes, yes, I have used them.

24 Q. Who was the main person in charge of fetish? Do you know?

25 A. Bayonga.

1 Q. And it's of some interest to us. I mean, you know all about
2 this, but, you see, we don't, but what did he do? How does it work? Can
3 you just explain it to us? We've heard a little about it, but can you
4 help us?

5 A. Fetishes were used either in the form of incisions, cuts being
6 made or as a drink. After meeting certain conditions, we received these
7 fetishes, but if we did not comply with the conditions having received
8 the fetish, then we risked running into trouble or ill befalling us.

9 Q. What were these conditions?

10 A. For example, you were given the fetishes and then you weren't to
11 steal, to rape. These were conditions which we had to meet.

12 Q. And what, if any, benefit was there for you by using fetish?

13 A. The person who received the fetishes had to ensure his own
14 security and, of course, avoid being killed. So that was the point of
15 getting a fetish drink. For example, people might fire guns at us, but
16 the bullets would not harm us.

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, unless you
18 have a very short question, maybe we'll wind up here.

19 MR. HOOPER: Certainly.

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, you've
21 been with us for two hours. We're going to adjourn for 30 minutes, which
22 will give you a little time to relax. We will be coming back here at
23 half past 11.00 for another two hours together. Thank you very much
24 indeed for your contribution this morning.

25 Madam Court Officer, can we go into closed session so that the

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1 witness can discreetly leave the courtroom.

2 Mr. Court Usher, would you please accompany the witness out of
3 the courtroom.

4 (Closed session at 10.59 a.m.)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Open session at 10.59 a.m.)

12 COURT OFFICER: (Interpretation) We're now in open session.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.

14 We are now going to adjourn. We will be back here at half past 11.00.

15 Recess taken at 11.00 a.m.

16 On resuming at 11.31 a.m.

17 (Closed session)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Open session at 11.33 a.m.)

1 COURT OFFICER: (Interpretation) We are in open session,
2 your Honour.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

4 Mr. Witness, can you hear me?

5 THE WITNESS: (Interpretation) Yes.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

7 Mr. Hooper, please proceed.

8 MR. HOOPER: Thank you, Your Honour.

9 Q. We're talking of dawa and fetish. You mentioned Bayonga. Was
10 Bayonga the only fetish – *féticheur*, or were there others?

11 A. There was another one that I knew apart from Bayonga.

12 THE INTERPRETER: The witness has mentioned a name, but the
13 Swahili interpreter did not hear that name.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, can you
15 repeat that name, because the interpreter has a difficulty.

16 THE WITNESS: (Interpretation) That name is Yusama.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

18 MR. HOOPER:

19 Q. You mentioned earlier in the context of the woman who had been
20 taken to Kagaba a Dr. Raymond. What part, if any, did he play in this?

21 A. Raymond also played the role of *féticheur*. He produced fetishes.

22 Q. Do you know whether before any battle there was any kind of test
23 or role that was played by the *féticheur*?

24 A. Based on what I saw, their work was done before a battle, during
25 the preparation of the battle. Then the combatants went to the

1 *féticheur*. The *féticheur* gave conditions, and there were tests that were
2 carried out, and if those tests were positive, then the combatants could
3 go. Incisions were made, then there were concoctions that were drunk,
4 then the soldiers took fetishes in their pockets or on their rifles.
5 That is what happened with the *féticheurs*, as far as I know.

6 Q. So that's what happened if the test was positive, but what would
7 happen if the test was negative?

8 A. When the test was positive, then the person could go to battle,
9 but in the contrary case, it would be forbidden to go to battle. And if
10 someone went to the battle contrary to the instructions, then that person
11 could suffer or even die in the course of that battle because of their
12 stubbornness. That is what happened with the tests.

13 MR. HOOPER: All right. Thank you very much. Now, Mr. Witness,
14 those are the -- that's the end of my questions. You'll now be asked
15 questions by other people, and -- and then perhaps at the end I may be
16 asking you a few more questions. So I hope you will be patient with us,
17 and I appreciate these are circumstances you're used to. We all
18 understand that, and thank you for your help.

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

20 Mr. Kilenda, it is your turn in the Defence team of Mr. Ngudjolo.

21 MR. KILENDA: (Interpretation) It is Professor Fofé who will
22 examine the witness.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.

24 Professor Fofé, please, you can begin.

25 MR. FOFÉ: (Interpretation) Good morning, Mr. President; good

1 morning, your Honours, and thank you very much.

2 Questioned By Mr. Fofé:

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

4 A. Good morning.

5 Q. My name is Jean-Pierre Fofé Djofia Malewa, and I am co-counsel in
6 the Defence team of Mathieu Ngudjolo. After the examination-in-chief of
7 my learned colleague Mr. David Hooper, I have just a few points of
8 clarification that I need to seek from you. I am hoping that I will not
9 take too long, but we wished to seize the opportunity of your presence
10 before this august Chamber to have as much information as possible from
11 you.

12 I will try to speak slowly, and I ask you to also take your time
13 to reflect and to answer calmly. I am listening to you in Swahili, but
14 your answers have to be interpreted into French and English.

15 My first line of questioning relates to the Bogoro attacks. You
16 have just discussed them here, but I simply wish to have more details.

17 You mentioned a total of five attacks. Who launched the first
18 Bogoro attack, Mr. Witness?

19 A. There were attacks against Bogoro when our *garrison* was still
20 based in Songolo. With regard to attacks carried out while we were
21 already in Kagaba --

22 THE INTERPRETER: From the Swahili booth, there was a pause by
23 the witness.

24 THE WITNESS: (Interpretation) After we set up camp in Kagaba,
25 the *Garrison* carried out four attacks. The first took place before our

1 arrival in Kagaba, and according to the information I received, it was
2 Commander Move who launched that first attack against Bogoro. I was not
3 present. I am simply relaying to you information that I received.

4 MR. FOFÉ: (Interpretation)

5 Q. Thank you very much. I am observing a pause here. I have heard
6 what you said, but I'm waiting for the transcript.

7 And where did Move come from?

8 A. Move was based in Kaswara. That is where he had a position.

9 Q. Thank you, Mr. Witness. What about the second attack? Who
10 carried it out, which commander?

11 A. I believe that the second attack was carried out by commander --
12 well, I'm sorry I'm taking the time to remember the name of the
13 commander. It was Jöel, Ngiti whose position was at Geti centre.

14 Q. So you're saying that Jöel carried out that attack from Geti; is
15 that correct?

16 A. Yes. He had his headquarters in Geti.

17 Q. Do you know Androso?

18 A. There were several people bearing the name Androso. Maybe you
19 could be more specific so that I should know which Androso we are talking
20 about.

21 Q. Androso of Geti.

22 A. That is Joël. His name was Androso. That is the Joël from Geti.

23 Q. Thank you, Mr. Witness. That is the clarification that I was
24 seeking.

25 And who carried out the third attack?

1 A. The third attack was carried out by Commander Acho
2 Kubeliku (* as interpreted).

3 Q. And what is the distance approximately from Beleku to Kagaba?

4 A. Beleku is a camp, and that commander was based there. That
5 locality is about 5 kilometres away from Kagaba, 4 to 5 kilometres from
6 the centre of Kagaba.

7 THE INTERPRETER: The Swahili interpreter would like to make the
8 following correction: The interpreter thought that the witness has
9 mentioned Kubeliku, somebody's name, but it was actually Beleku, a place
10 name. We apologise.

11 PRESIDING JUDGE COTTE: (Interpretation) So are we talking about
12 a commander Acho Kobeliku or a place called Beleku? Can you clarify?
13 Thank you.

14 MR. FOFÉ: (Interpretation) Yes, of course, Mr. President.

15 Q. Mr. Witness, you have just testified that the third attack was
16 carried out by Acho of Beleku. Could you tell us precisely what Beleku
17 is?

18 A. Beleku is a name of the camp or the *garrison*. There were
19 militiamen in that camp, and the commander of that camp was known as
20 Acho. So this was a camp where there were militiamen.

21 Q. Thank you, Mr. Witness. Let us now turn to the fourth attack.
22 Who carried out the fourth attack?

23 A. The fourth attack on Bogoro was carried out by the *Garrison*. We
24 had already left Songolo and set up camp in Kagaba. That is when the
25 *Garrison*, led by Commander Yuda, launched the fourth attack against

1 Bogoro. So it was under the orders of Yuda that that fourth attack took
2 place.

3 Q. And where was Commander Yuda based?

4 A. Commander Yuda was the commander of the *garnison* based in Kagaba.

5 Q. Very well. Mr. Witness, you have just told us about those four
6 attacks carried out from Kaswara, Geti, Beleku, and Kagaba. Just to
7 enlighten the Honourable Judges, Kaswara, Geti, Beleku, and Kagaba are
8 located in which collectivity?

9 A. All those localities are located in the Walendu-Bindi
10 collectivity.

11 Q. You also mentioned the fifth attack. I simply want us to be very
12 clear. Who drew up the plans for that fifth attack on Bogoro?

13 A. The fifth attack against Bogoro was led by Commander Yuda,
14 assisted by Dark. It was those two commanders who planned that fifth
15 attack on Bogoro.

16 Q. And where were Yuda and Dark when they planned that fifth attack
17 against Bogoro?

18 A. They were in Kagaba.

19 Q. To your knowledge, Mr. Witness, did APC soldiers or commanders
20 also take part in that planning meeting for the attack on Bogoro?

21 A. I saw APC soldiers. There were not many -- there were not many
22 of them, but those who planned the attack were Yuda and Dark. APC
23 elements were there to provide reinforcements, because they had
24 experience in the area of heavy weaponry, but generally speaking, it was
25 Yuda and Dark who planned that attack. Dark was Yuda's deputy.

1 Q. Can you give us a few names of the APC soldiers who operated the
2 heavy weapons that you have just mentioned?

3 A. I have forgotten the names, but I remember one commander by the
4 name of Issa who was using a 60-millimetre mortar. As to the others,
5 this was a long time ago, and ever since then, everybody went in their
6 own different directions. This took place a long time ago, and it is
7 difficult to remember the names.

8 Q. Mr. Witness, apart from those 60-millimetre mortars, did those
9 APC soldiers use any other types of weapons? Do you remember?

10 A. Yes. There were other kinds of weapons: MAGs, RPG shells that
11 the fighters used.

12 Q. Mr. Witness, you have just told us that the major attack in
13 Bogoro had been led by Yuda and Dark. Can you tell us Dark's other name?

14 A. Androso, Zaba Dark. These were Dark's names as I recall:
15 Androso, Zaba Dark.

16 Q. You also said that after Yuda had been injured and evacuated to
17 the Aveba hospital that Dark took over command of the operations in
18 Bogoro; is that correct?

19 A. Yes. In the course of the Bogoro operations, Commander Oudo was
20 also there. That was on the Medhu side. On the other side you had the
21 commanders Oudo -- it was the -- Commander Yuda, when he was injured, he
22 was replaced by Commander Dark. Since Yuda was Dark's second, I would,
23 in fact, say there were two commanders heading the operation, Yuda and
24 Dark.

25 Q. Do you know somebody called Adibale?

1 A. Yes. Adibale was second in command to Oudo.

2 Q. After the victory over the UPC forces in Bogoro, who stayed in
3 Bogoro to occupy Bogoro?

4 A. After the victory in Bogoro, Commander Oudo, Commander Adibale,
5 too, returned because they had lost a lot of men. In fact, some of their
6 men died on the spot and were buried there. They left after that, and it
7 was Commander Dark who stayed on the spot to be in command.

8 Q. Mr. Witness, you said that you stayed in Bogoro yourself for a
9 short while after; is that correct?

10 A. No. On the very day of the operation, I did not stay. After the
11 operation, I lost my younger brother who died, and I went back to Kagaba
12 for the funeral. After that, I went to Aveba in order to see Yuda, and I
13 returned to Aveba after three days in Bogoro.

14 Q. How many companies stayed to occupy Bogoro?

15 A. If I remember correctly, I would say that there were three
16 companies. In fact, I was a company commander. My colleagues were
17 Commander Miki and Commander Bernard, and the three of us were on the
18 spot in Bogoro. That is my answer, if I remember things correctly. Let
19 me just add that all these companies had took up position in Bogoro. We
20 were the three company commanders in Bogoro.

21 Q. Now, where were these different positions situated, please.

22 A. There were three different positions. Bogoro has several main
23 entrance points, from Kasenyi and from Bunia and also leading to Kagaba.
24 One company was stationed at the main access road to Bunia. Another one
25 was stationed on the road to Kasenyi at the Mai Franga stream, and the

1 third one was positioned at the entrance to Diguna.

2 Q. Thank you. So we have three companies, one on the road to Bunia,
3 another on the road to Kasenyi, and the other at Diguna.

4 A. I beg your pardon. The company called *État-Major* was positioned
5 in the centre with Dark. You know, when you took up your position, you
6 had to stay there. What I would call the 4th Company, called *État-Major*
7 was the company which was positioned in the centre of Bogoro.

8 Q. And this *État-Major* Company was headed by Dark and also in the
9 centre of Bogoro. Where precisely in the centre of Bogoro, please?

10 A. In the centre of Bogoro. The three companies were positioned at
11 the different entrance points to Bogoro; whereas, the *État-Major* Company
12 was positioned in the centre of Bogoro. As I said, the fighters who were
13 in the three companies were not supposed to be in the centre. They had
14 to stay in the positions on the fringes.

15 Q. Mr. Witness, was there any single unit positioned where the UPC
16 camp was in Bogoro?

17 A. I didn't understand your question. Could you please ask it
18 again.

19 Q. In your statement, you talk about a school - and I will come back
20 to this point in just a minute or two - but you say that this is where
21 the UPC military were in Bogoro. My question is therefore: At this
22 specific point where the UPC camp was, was there any unit of your
23 soldiers, soldiers who answered to the commands of Dark?

24 A. Yes. At the very spot where the school was there was also the
25 UPC camp, and Dark had taken up position there. This was the place that

1 we called *État-Major*.

2 Q. Thank you very much, Mr. Witness. Now, these fighters who were
3 commanded by Dark stayed in Bogoro up to what date, please?

4 A. These combatants stayed there for two weeks, until the Zumbe
5 people asked for reinforcements from Dark. Then we left for Zumbe, and
6 the position was kept in Bogoro. We went to Bunia. We returned once
7 again, and the position was still there. This position remained up until
8 the first brigade of the FARDC arrived.

9 Q. Mr. Witness, I would like to ask you to search through your
10 memories just a little more, and can you recall even approximatively when
11 this brigade of the FARDC actually arrived in Bogoro?

12 A. No. I have no idea about the date when they arrived in Bogoro.

13 Q. Thank you, Mr. Witness. When you were answering Mr. Hooper's
14 questions, you stated that civilians had been killed at the Bogoro
15 school. Are you talking about the school which was used as a UPC
16 military camp?

17 A. In these UPC camps, we dug trenches which we called foxholes.
18 The soldiers would go into them. The school was in the camp, and these
19 foxholes were in this camp. These trenches were dug all round the camp,
20 all round the school.

21 Q. Thank you, Mr. Witness. Could I come briefly back to this
22 question of fetishes which you have talked about. I'd like you to
23 provide the Judges with a little more information about this. You said
24 that you were given fetishes by Kakado before you left for the front.
25 Could you try and recall the different things that you were forbidden to

1 do so that evil would not befall you at the front?

2 A. Well, I thought I had answered this question. I thought I had
3 told about -- told you about the different questions.

4 First of all, you could not extort goods from people. You could
5 not steal. You mustn't rape. These were the conditions which were
6 imposed upon me.

7 Q. Thank you, Mr. Witness. What happened to fighters who did not
8 comply with these conditions?

9 A. When you are told what the conditions are and if you do not
10 comply with them then the consequences were as follows: Either you would
11 be injured in fighting or you would be killed in the fighting. Or if the
12 groups did not comply with the conditions, you would be beaten, you would
13 be injured, or several people would die in the group, or you would suffer
14 a terrible defeat.

15 Q. And you personally, Mr. Witness, did you meet all these
16 conditions? Did you comply with them?

17 A. Yes. Up until today, this very day where I am seated here, I
18 have not been injured, because I have always met the conditions. I had
19 a -- I was shot in the foot. In fact, my shoe was injured, and I was not
20 injured. I left the military without any injuries at all. If you can
21 imagine the problems that we met and everything we went through, then you
22 would not believe it, but I complied with all the conditions, and I put
23 God ahead of everything so that today I am alive and well, and I have no
24 physical handicaps because I complied with all the conditions.

25 Q. Thank you, Mr. Witness. You spoke several times about

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1 Cobra Matata. Do you know Cobra Matata well? If you saw him, if you met
2 him, would you recognise him?

3 A. Yes. I recognise him. I know him very well. Even if I were to
4 see him at a distance, I would still be able to recognise him.

5 MR. FOFÉ: (* No interpretation)

6 PRESIDING JUDGE COTTE: (* No interpretation)

7 MR. FOFÉ: (Interpretation) (* No interpretation)

8 THE INTERPRETER: Yes, just adding in from the English booth that
9 it was EVD-OTP-0080, and that this is a public document.

10 COURT OFFICER: (Interpretation) This photograph can be seen on
11 "PC 1."

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, do you see
13 this photograph on the screen?

14 Yes, apparently the accused gentlemen too.

15 THE WITNESS: (Interpretation) Yes.

16 PRESIDING JUDGE COTTE: (Interpretation) Accused gentlemen as
17 well.

18 MR. FOFÉ: (Interpretation)

19 Q. Can you see this photograph well?

20 A. Yes.

21 Q. On this photograph, there is one person standing up in front of a
22 group of other people. The person who is closer to us in the photograph,
23 do you recognise that person? Do you know him? Do you know this man who
24 is standing in the forefront of the photograph?

25 A. These are photographs that go back a long way, and, no, I don't

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1 recognise him.

2 Q. Is this person Cobra Matata?

3 A. No, that is not Cobra Matata.

4 Q. Thank you, Mr. Witness.

5 MR. FOFÉ: (Interpretation) Your Honour, with your agreement,
6 could the Court Officer put up the following document: EVD-OTP-0081.

7 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
8 please.

9 COURT OFFICER: (Interpretation) You can see the photograph on
10 "PC 1."

11 MR. FOFÉ: (Interpretation)

12 Q. Mr. Witness, would you please look closely at this photograph.

13 This is a close-up of the same person that we saw just now, and can
14 tell -- can you tell me if this man in the forefront of the photograph is
15 Cobra Matata or not?

16 A. No, it is not Cobra Matata.

17 MR. FOFÉ: (Interpretation) Thank you, Mr. Witness.

18 Thank you to you, your Honour. I have no further questions.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
20 Professor Fofé.

21 Madam Prosecutor, please take your time to get your things
22 together, and you may now proceed with your cross-examination.

23 Mr. Witness, you will now be answering the questions of Madam --
24 the Prosecutor.

25 Questioned by Ms. Luping:

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1 Q. Good afternoon, Mr. Witness. My name is Dianne Luping, and I
2 will be asking you questions on behalf of the Office of the Prosecutor.

3 Mr. Witness, I'm going to begin by just asking you a few
4 questions in relation to your background. I don't believe they are of an
5 identifying nature in and of themselves, but if there is a problem, I can
6 ask, obviously, to briefly go into private session.

7 Mr. Witness, you've already explained that you were born and
8 raised in Nyankunde and that your ex-wife is originally from Aveba.
9 You've also indicated where you're currently living, and I won't mention
10 it in open session, because you've already explained where you're living.

11 Now, from your days at Nyankunde, Aveba, and perhaps even from
12 your -- where you're currently living, did you come to know the family of
13 Mateso Omuani?

14 A. I did not have the opportunity to get to know the family of
15 Mateso Omuani at that time.

16 Q. Was there a time when you came to know the family of Mateso
17 Omuani?

18 A. I know Omuani but not his family. Right now, today, I know him.
19 Where I live.

20 Q. So, Mr. Witness, you know Denise, Germain Katanga's wife, then?

21 A. No, I do not know Denise.

22 Q. You know his sister Francine?

23 A. No.

24 Q. Mr. Witness, you've already explained to the Court that you did
25 visit Aveba. You had a personal friend there, Garimbaya. My question

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1 is: Do you know any of the family of Germain Katanga?

2 A. At that time when I visited Aveba, I did not know the members of
3 Germain Katanga's family. I went directly to Garimbaya's house. In
4 fact, I was not known in that area.

5 Q. And has there been a time that you came to know any of his
6 family?

7 A. No. At that time, no.

8 Q. Mr. Witness, you've explained that you saw Mr. Katanga for the
9 first time at Bamanda on the road to Kasenyi before the armed movement
10 was created. My question is: Could you explain where Bamanda is?

11 A. Bamanda is on the road to Kisangani. We carried some oil there,
12 and that was the very first time that I got to know Germain.

13 THE INTERPRETER: Your Honour, the Swahili booth is not sure what
14 the witness is saying, whether it is oil or fuel, because it is the same
15 word in Kiswahili.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the booth
17 would like to know whether you are referring to cooking oil or the type
18 of fuel that is used in vehicles.

19 THE WITNESS: (Interpretation) I'm talking about palm oil, which
20 is cooking oil.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.
22 Madam Prosecutor.

23 MS. LUPING:

24 Q. And is this near Lolwa?

25 A. Yes. It is not far from Lolwa. It is on the Kisangani road.

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1 There are a few villages nearby, and it is not far.

2 Q. So you had met Germain Katanga near his hometown, Lolwa, even
3 before he became a combatant. So indeed, Mr. Witness, you've known
4 Germain Katanga for a number of years, for many years, in fact.

5 A. It is not in Germain Katanga's place. It was in his father's
6 house. We spent the night in his parents' house before the combatant
7 movements began their activities. I have even forgotten what took place
8 there at that time. The movement was created later.

9 Q. So, Mr. Witness, you were staying at Germain Katanga's father's
10 house. Presumably you must have some contact, then, with the family if
11 you're able to stay at his father's house.

12 A. No. That is not the case. With us, the Ngitis, you don't send
13 away anyone who comes to your house, even if that person is not from the
14 family. If someone came and said that he was from any ethnic group, he
15 would not be driven away. It was not necessary to know the individual.
16 That is our custom. In our place, people who just show up are not chased
17 away. It was not in his mother's house. So it was really not necessary
18 to know anyone there. Those of us Ngitis, we do not drive away anyone
19 who comes to us.

20 Q. Mr. Witness, you met Germain Katanga on a number of occasions
21 when you were visiting Aveba; isn't that right?

22 A. No.

23 Q. Mr. Witness, I could -- I would like to ask you, then, why is it
24 that it's stated in your statement that "We met on a number of times at
25 Aveba because I went there often."

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1 MR. HOOPER: I think --

2 MS. LUPING: Before my friend objects --

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper.

4 MS. LUPING: -- I'm happy to give a copy of the statement to the
5 witness.

6 MR. HOOPER: There's a problem here, of course, because the
7 witness may not, I'm pretty sure does not, read French, which is the
8 language of the statement, and may have some difficulty in reading, in
9 any event, as has been explained. So I'd suggest that my friend formally
10 refers in clear and slow tones to the part of the statement -- reads that
11 part of the statement so that it can be translated into Swahili. And I
12 hope the booths have a copy of the statement to assist them. And then
13 the question can be posed. And the page and reference should be given in
14 the normal way so that that appears, of course, on the transcript. It's
15 a bit -- it's a little more burdensome than usual, but I think with the
16 language difficulty, I submit it's the only fair to conduct that
17 exercise.

18 MS. LUPING: Mr. President, the Prosecution has no problems,
19 obviously, in reading the passage for the witness.

20 PRESIDING JUDGE COTTE: (Interpretation) Do the interpreters
21 have a copy of the statement?

22 THE INTERPRETER: "Yes," says the Swahili and French booths.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well.

24 Ms. Luping, you can continue, making sure that that excerpt is
25 read very slowly so that the interpreters can interpret properly for the

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1 witness. Thank you.

2 MS. LUPING: Certainly, Mr. President, and I understand that the
3 Defence is consenting to us reading without the witness sighting the
4 document.

5 MR. HOOPER: Well, what I ask my friend to do is to introduce --
6 or we make reference, first, to the precise part of the statement that's
7 going to be referred to, just pause to let us find it, and then she's
8 entitled to refer the witness to it.

9 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,
10 Ms. Luping.

11 MS. LUPING: If the Court Usher could actually provide the
12 witness with a copy of his statement and stay there to assist the witness
13 to ensure that he is turning to the correct number of the page, because I
14 will be actually wanting to first look at the very end of his statement,
15 the very last page first, before reading the relevant passage.

16 MR. HOOPER: Can I just interrupt for one moment. It may be a
17 matter that my friend could seek clarity from from the witness, but my
18 understanding is that when he spoke of staying in the house, it was the
19 mother's house that he referred to, but it's been incorrectly, perhaps,
20 translated to father. We had one reference to father and then a
21 reference to mother. We had a reference to the father's house. Then we
22 had a later reference to the mother's house. I understand that the first
23 reference may have been to the father's house, in fact. And again, I
24 think this is a Swahili, perhaps, difficulty.

25 MS. LUPING: Mr. President, I don't believe it's necessarily an

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1 interpretation issue. The witness has indicated that it was the parents'
2 home. If Mr. Hooper wants to clarify this, he can obviously do so in
3 re-examination, but if I can turn now to the question I was going to put
4 to the witness. If the statement could be provided to him.

5 PRESIDING JUDGE COTTE: (Interpretation) Very well. The witness
6 should be shown the statement, and on page 49 we have the reference to:
7 "We spent the night in his parents' house," and later on: "We stayed in
8 Germain Katanga's father's house." Perhaps this can later be clarified.
9 It is not a problem.

10 Mr. Witness, you have in front of you a statement that you gave
11 to the Defence team, which is in French. The Prosecutor will read from
12 that document.

13 Madam Prosecutor, please.

14 MS. LUPING: If the Court Usher could assist the witness by
15 ensuring that we turn to the last page, that's 0770, that's
16 DRC-D02-0001-0770.

17 Q. Mr. Witness, you gave this statement to the Defence on the 11th
18 of May, 2011; is that right?

19 A. Can you please repeat the date?

20 Q. Yes. The date you signed the statement was on 11 May 2011.

21 That's 11/05/11; is that correct?

22 A. Yes.

23 Q. And that is your signature and your initials at the bottom of
24 that page; is that right?

25 A. Yes.

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1 Q. And this statement, it was read to you in French but then
2 translated for you in Swahili; isn't that right?

3 A. Yes.

4 Q. And you consider the contents of the statement to be the truth;
5 is that right?

6 A. Yes.

7 MS. LUPING: The Court Usher could now assist by turning to page
8 8 of the statement, that's 0757. And I'll be reading from the second
9 paragraph of that statement.

10 Q. Now, Mr. Witness, first of all, the initial at the bottom of that
11 page, that is -- that's your initial, isn't it? Along with the initial
12 of a Mr. Jean Logo Dhengachu?

13 A. Yes.

14 Q. I'm now going to read for you the second paragraph. I'll read it
15 in French.

16 "(Interpretation) Germain was present at the burial. I met
17 Germain at Lolwa, as Ngiti. Then we met at the funeral of Kandro at
18 Avenyuma. Later on, we met again several times in Aveba, because I went
19 there frequently. (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 A. Yes.

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1 Q. Mr. Witness, you can put your statement to one side for one
2 moment.

3 MS. LUPING: I won't be referring to it immediately, but perhaps
4 it could be turned upside down and put to one side, to the right of the
5 witness. Thank you, Mr. Court Usher.

6 Q. Mr. Witness, you've described how at the time of the fall of
7 Lopondo you were living in Songolo, and (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)

12 MR. HOOPER: Can I just indicate? We've asked for a redaction in
13 respect of that.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper.

15 MR. HOOPER: Can I just say that we've asked for a redaction in
16 terms of that, so if my friend could just be a little careful about -- we
17 know the role. It's just that it becomes more specifying than any other
18 detail.

19 MS. LUPING: Thank you.

20 Q. Well, I won't need to refer to that, what your specific role was.
21 But what I would ask is if you could explain what were the duties of the
22 escorts of Commander Kandro.

23 A. The duties of an escort was to guard the commander, organise work
24 in his house, and organise the shifts of the guards in his house, as well
25 as those who had to accompany him or carry his luggage when he had to

1 travel. So we had to accompany him. That is what we did for Kandro.

2 Q. Now, I'm going to ask you what your rank was at the time at the
3 fall of the Lopondo. I don't think that in of itself is identifying.

4 A. When I was with Kandro, I did not have a rank. I was simply a
5 foot soldier.

6 Q. Mr. Witness, at the time of the Bogoro attack, you've already
7 confirmed that you're one of the *Garnison* Company commanders based at
8 Bogoro. Now, your rank at that time was a lieutenant; isn't that right?

9 A. Yes. At that time, I was already a lieutenant.

10 Q. So at the time you're based in Bogoro as a company commander,
11 you're a lieutenant, to be clear?

12 A. Yes.

13 Q. Now, at this time that you had this role as Kandro's escort, he
14 was considered the supreme commander of all the Ngiti combatants; isn't
15 that right?

16 A. Yes. He was a well-known commander, intelligent, brave, and very
17 respectful of others, and everybody depended heavily on him.

18 Q. And in addition to being the supreme commander, he also led the
19 *Garnison* battalion; is that right?

20 A. Yes. And, in fact, it was he who left behind him this name of
21 *Garnison*. He created this name. The name *Garnison* comes from Kandro.
22 He created this.

23 MS. LUPING: Mr. President, I'm going to be continuing with my
24 questions, but I just wanted to alert the Chamber to the fact my computer
25 is no longer working. So perhaps if that could be attended to while I

1 impose myself on my colleague and his computer.

2 PRESIDING JUDGE COTTE: (Interpretation) Of course. Madam Court

3 Officer is going to deal with this straight away. Are you able to

4 continue with your examination of the witness, Madam?

5 Judge Diarra is even suggesting that you might exchange seats

6 with your colleague and sit in the place of Mr. Garcia. Maybe that's too

7 complicated. We'll leave it up to you to decide how you can best work.

8 MS. LUPING: Thank you, your Honours. I think I'm fine in my

9 current position, but thank you.

10 Q. Mr. Witness, now, after Lopondo was ousted from Bunia, you say he

11 came on foot to Songolo. He arrived barefoot to Songolo, didn't he?

12 A. Yes, he arrived barefoot.

13 Q. And Kandro and Lopondo, they had actually personally known each

14 other for a long time, hadn't they, even since -- since the days of

15 Mobutu's army?

16 A. Yes. They knew each other well before in Mobutu's army.

17 Q. So Lopondo and his -- his men travel from Bunia, and they then

18 seek shelter, refuge, if you like, at Songolo. Isn't that right?

19 A. They fled to Songolo, but they only spent one night there. After

20 they had been chased out of Bunia, they went to Songolo, and there Kandro

21 took them in because they knew each other. They spent the night in

22 Songolo, and the next day they left.

23 Q. Now, Lopondo goes on to Beni. About 20 of Lopondo's APC forces

24 remained at Songolo; isn't that right?

25 A. Yes. Half stayed on, as well -- the people from Ituri, the

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1 people who were tired, they stayed there; and the others, most of them,
2 in fact, left.

3 Q. Now, Mr. Witness, you described how UPC forces at Nyankunde
4 attacked Songolo, and you explained how they killed people and houses
5 were set on fire. Now, many civilians were, in fact, killed at Songolo,
6 weren't they?

7 A. Yes. Houses were burnt down, civilians were killed. The attack
8 came from Nyankunde and was launched against Songolo.

9 Q. Now, you explained how Faustin came from Zumbe and that he helped
10 in this serious fighting. In fact, for the attack on Nyankunde, there
11 were other Zumbe-based militia who participated as well, weren't there,
12 including Bahati de Zumbe?

13 A. I didn't say the name of Bahati of Zumbe. It was the APC people
14 who came from Zumbe and who tied up with the fighters in order to attack
15 Zumbe (* as interpreted).

16 MR. FOFÉ: (Interpretation) Excuse me, Madam Prosecutor. Still
17 on this question of Zumbe and Nyankunde. Page 58, line 7, it should have
18 been "to attack Nyankunde" and not "Zumbe."

19 PRESIDING JUDGE COTTE: (Interpretation) Absolutely.

20 "I did not say the name of Bahati of Zumbe. It was members of
21 the APC came from Zumbe and who tied up with the combatants in order to
22 attack Nyankunde."

23 Is it indeed Nyankunde, Mr. Witness?

24 THE WITNESS: (Interpretation) Yes, it is Nyankunde.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

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1 Madam Prosecutor.

2 Thank you to you, Professor Fofé.

3 MS. LUPING:

4 Q. Now, Mr. Witness, this was a well-known attack, wasn't it? There
5 were many combatants, possibly as close to a thousand combatants. It was
6 a renowned attack, wasn't it?

7 A. Yes. It was major attack, because the APC soldiers came from
8 Zumbe and they set up in Singo. Kandro was in Avenyuma, and he came
9 there, met Faustin, and they planned the operation together. It was a
10 very big operation indeed. The aim was to send many soldiers. There was
11 a UPC base there, a major UPC base.

12 Q. And, Mr. Witness, you've already explained that after the UPC
13 attack on Songolo that your group was angry, that you were preparing your
14 revenge. In fact, Mr. Witness, hundreds and hundreds of civilians were
15 killed at Nyankunde, weren't they?

16 A. When we were attacked, civilians were killed on our side, and in
17 Nyankunde, civilians were killed there too.

18 Q. So the point is, isn't it, Mr. Witness, they killed your people.
19 They killed your civilians. So it was time for your people to kill their
20 civilians.

21 A. No. That's not exact. The aim was to attack soldiers in their
22 camp, and civilians could, of course, be injured, but the aim was not to
23 attack them or kill them.

24 Q. In fact, many civilians were also killed by machete, weren't
25 they, Mr. Witness? I'm talking about old people, young people, children,

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1 killed by machete; isn't that right?

2 A. Civilians were killed, others survived. During the fighting,
3 some people were armed with firearms. They were at the front fighting.

4 THE INTERPRETER: Your Honour, could you please ask the witness
5 to slow down. Request from the Swahili booth.

6 PRESIDING JUDGE COTTE: (Interpretation) Would you please speak
7 more slowly. Thank you. Would you please go back over what you've just
8 said, but do speak more slowly for the interpreters. Thank you.

9 THE WITNESS: (Interpretation) Very well. What I'm saying is
10 this: When you go to the battlefield, some soldiers carry firearms,
11 others carry bladed weapons. Those who are carrying firearms are at the
12 front, and they do not know what is happening behind them. And when they
13 go back, they turn back on their steps, they realise that civilians have
14 been killed, and they say to the others, "Why did you attack the
15 civilians?" And then the others say -- for example, the civilians were
16 killed by firearms or shot by arrows, but for those with firearms, the
17 aim is to advance and to attack the enemy.

18 MS. LUPING:

19 Q. Yes, but, Mr. Witness, you haven't directly answered my question.
20 In fact, hundreds of civilians were killed by bladed weapons; isn't that
21 right?

22 A. Some civilians were killed with bladed weapons, but there were
23 not many who were killed that way. That's an exaggeration. There were
24 soldiers who were wearing civilian clothing, half military, half
25 civilian. For example, they might be wearing soldier's trousers and a

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1 civilian top.

2 Q. Mr. Witness, children, old people, were killed at the hospital in
3 Nyankunde, weren't they?

4 A. Personally, I did not go into the hospital. I did not personally
5 see such facts.

6 Q. Children, old people, were killed by machete at Nyankunde. Yes
7 or no, Mr. Witness?

8 MR. HOOPER: Well, I'm going to object. He's given his answer,
9 and again the Prosecution are drifting into this way of making assertions
10 of fact which I'm not entirely sure has been supported by evidence.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor.

12 MS. LUPING:

13 Q. Mr. Witness, it became well known the incident at the hospital,
14 didn't it, the fact that civilians were killed there?

15 A. The problem is this: Everybody wants to say their opinion. The
16 people on both sides want to state their opinions. There were people
17 killed at Nyankunde, some people killed with firearms, but everybody is
18 trying to tell their own version of things. Personally, I cannot tell
19 you about things which I have not personally seen.

20 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, please
21 go ahead.

22 MR. FOFÉ: (Interpretation) I think we need to check or listen
23 once again to the answer of the witness, page 60, line 5. This is to
24 transcribe the whole answer of the witness. This is page 60, line 5. We
25 could do this later on.

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1 THE INTERPRETER: Line 25, correction from the English booth.

2 MR. FOFÉ: (Interpretation) We need to check what the witness
3 said in Swahili, just to make sure that everything he said was fully
4 transcribed on page 60, line 25.

5 PRESIDING JUDGE COTTE: (Interpretation) Very well. When the
6 transcript is checked and the final version is drawn up, when the -- at
7 the point of where the witness was talking about the clothing of the
8 soldiers, the court reporter will be careful. Thank you.

9 Now, Mr. Witness, you were answering a question, saying:

10 "The problem is this: Everybody wants to state their own
11 opinion, to give their own opinion of things. It's true that there were
12 shots fired at Nyankunde ... people were killed, but everybody wants to
13 give their own version of things. As far as I'm concerned, I cannot tell
14 you what I did not see with my own eyes."

15 Now, Mr. Witness, I don't know if you want to continue, or maybe
16 Madam Luping would like to continue with her examination.

17 THE WITNESS: (Interpretation) I have nothing to add.

18 MS. LUPING:

19 Q. Now, Mr. Witness, you said you didn't see the killings at the
20 hospital with your own eyes, but you certainly know of these killings,
21 don't you? This was a well-known incident at the hospital. (Expunged)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Expunged). In

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1 Nyankunde, you have to know that there were a lot of fighters.

2 Kandro did not have a machete. He didn't have any arrows. He
3 had a firearm.

4 Now, all these different versions, confusing different versions,
5 came from the fact that some fighters had bladed weapons and others had
6 firearms.

7 Q. So -- Mr. Witness, so we're very clear on this, is this your
8 testimony to the Court: That you did not know about the killings of
9 civilians at the hospital at Nyankunde? Is that your testimony,
10 Mr. Witness? And I remind you, you are under oath.

11 A. I have sworn to tell the whole truth, and the truth is in
12 relation to what I personally saw. I cannot state something or talk
13 about something which I did not see or was not a witness to.

14 Q. Mr. Witness, you're evading my question. I simply asked you: Do
15 you know, did you hear, of the killings of civilians at the hospital in
16 Nyankunde? Please answer the question.

17 A. How often do you want me to answer your question? I said that I
18 heard people talk about this, but I was not a witness. I was not --
19 being an eyewitness and hearing people talk about something are two very
20 different things.

21 PRESIDING JUDGE COTTE: (Interpretation) There's a very clear
22 distinction drawn by the witness here on this point between what you see
23 and what you hear said by others.

24 MS. LUPING:

25 Q. Now, Mr. Witness, the forces at Nyankunde pillaged the hospital,

1 didn't they, and the medical centre there?

2 A. Let me say this: The hospital was not looted on the day of the
3 fighting. The hospital was looted when we went to bury Kandro. Those
4 who stayed behind in Nyankunde and who were in charge of Nyankunde were
5 parts of the APC. We wanted to protect the medicines and drugs in order
6 to look after the injured. Two weeks later, Kandro was killed. We went
7 off to bury him, and it was Commander Faustin who took over. The looters
8 then went off to Beni.

9 Q. Mr. Witness, Cobra Matata's forces were involved in the pillaging
10 at the hospital, weren't they?

11 A. Cobra and his men wanted to loot the hospital, but Kandro
12 dissuaded them. He persuaded them otherwise. He said, "If anybody is
13 injured, then he will be looked after with these drugs and medicines that
14 we have here. This created dissension between Cobra and Kandro, and
15 Cobra went back to Kadhi (* phon) because he was very angry at this.
16 This is how the conflict arose between the two men.

17 Q. Mr. Witness, I'm going to ask the usher to stand by you again
18 with your statement.

19 MR. HOOPER: Do you have time? I don't --

20 PRESIDING JUDGE COTTE: (Interpretation) Madam Luping, we have
21 three minutes left. Can we do this in three minutes? Okay. Very well.

22 Court Usher, could you please quickly hand over to the witness
23 the copy of his statement. Well, he still actually has it.

24 MS. LUPING: Mr. President, bearing in mind the limited time that
25 we have, I will indeed hold off and wait till Monday, I believe, to ask

1 the remainder of my questions on this point.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
3 Madam Prosecutor. Then we will move back into closed session so that the
4 witness can leave the courtroom.

5 I'd like to thank you, Mr. Witness, for your work with us. We
6 see each other Monday afternoon at 2.00. Monday afternoon, 2.00.

7 (Closed session at 1.28 p.m.)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Open session at 1.28 p.m.)

14 COURT OFFICER: (Interpretation) We're now in open session.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Do you
16 think it would be possible for the following witness to arrive in -- for
17 the second part of the hearing on Monday? In other words, would it be
18 possible to finish with this witness in the space of two and a half to
19 three hours, bearing in mind that the witness after him has to hear of
20 the assurances and guarantees. This is simply so that the unit knows
21 roughly what time to present the next witness.

22 MS. LUPING: (* Microphone not activated) ... thought that it's
23 possible. We obviously have to -- to judge and see how the witness
24 responds to our questions on Monday, but we believe it should be
25 possible.

1 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
2 then in the first part of the hearing, we will see if DRC-D02-P-0047, I
3 believe is the reference for the next witness, to come along for the
4 second part of the hearing. We are going to adjourn.

5 The hearing ends at 1.30 p.m.

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