

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 Wednesday, 24 February 2010
10 The hearing starts at 9.33 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Expunged)

Witness: Witness P-0268 (Resumed) (Closed Session)
Questioned by Mr. Dutertre

Page 2

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)

13 (Open session at 9.37 a.m.)

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

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

16 Mr. Prosecutor, you have the floor.

17 MR. DUTERTRE: (Interpretation) Thank you, your Honour. Good
18 morning, your Honours.

19 Questioned by Mr. Dutertre:

20 Q. (Interpretation) Good morning, Witness.

21 A. Good morning.

22 Q. I am Gilles Dutertre, and I will be asking you some questions
23 today on behalf of the Office of the Prosecutor.

24 A. Fine.

25 Q. If I'm not clear, Witness, don't hesitate to ask me to ask my

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 3

1 question a second time or ask for clarifications.

2 A. Yes.

3 Q. I will address you as "Mr. Witness" or "Witness 268" for the sake
4 of protection, and please don't take that as a sign of rudeness or a lack
5 of courtesy.

6 A. Agreed.

7 MR. DUTERTRE: (Interpretation) Your Honour, with your leave, I
8 would like us to go into closed session so I can ask a number of
9 questions regarding the identity of our witness.

10 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, we
11 will go into private session so that the witness can answer the questions
12 of him in a very free fashion.

13 (Private session at 9.38 a.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 4 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 5

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 *A. We knew that it was a group of Lendu people and Ngiti people, the
17 FNI and the FRPI who attacked Bogoro.

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 6 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 7

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 7 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 8

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 8 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 9

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 9 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 10 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 11 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 12 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 13 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 14

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 10.13 a.m.)

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

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Prosecutor,
9 you can continue.

10 MR. DUTERTRE: (Interpretation) Thank you, Your Honour.

11 Q. Witness, I would like you to explain to us what happened on the
12 day of the attack in Bogoro in February 2003. Take your time and explain
13 to us what happened to you, what you saw, what you experienced, what you
14 heard throughout this attack. You can take the necessary time, and we
15 are listening to you.

16 Just a point of clarification: If you have information which --
17 like the names of people and you think that it would be an identifying
18 factor for you, then don't say it. That's something we can come back to
19 in a closed session. I'm speaking subject to the control of the
20 Presiding Judge here.

21 You can go ahead, Mr. Witness.

22 A. There were attacks. There was an attack in 2001. There was an
23 attack in 2003. Do you want me to speak about which attack, that of 2001
24 or the 2003 attack?

25 Q. The attack of February 2003, please, Witness.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 15

1 A. Yes. In 2003, I was with my paternal uncle and my brother
2 (expunged). We were sleeping. People came. There was shouting, but we
3 also heard shots. We heard gunshots. It was early in the morning.
4 People hadn't woken up yet. It was 5.00 in the morning.

5 My uncle on my father's side and my brother (expunged) and myself,
6 we woke up and we fled on our road -- we went into the bush. We heard
7 that there was gunfire which continued. Everybody took their own path.
8 I took the path leading towards the Bambu (phoen). It was next to the
9 house of my uncle on my father's side. I hid in a small place called
10 Matama. Everybody hid. I stayed hidden, and the firing continued. Then
11 I noted that there were people who were going through there who were
12 hiding in the reeds, and then another person met me and we stayed in this
13 hidden place until midday. Afterwards, we heard noises from the centre,
14 people who were taking objects, who were breaking doors of houses. These
15 were houses that were just next to us. They belonged to Bahemuka
16 Bamaraki and Raymond. It was his house that was broken. This house was
17 pillaged.

18 The gunfire continued, and the people who were next to me fled
19 and I did the same thing.

20 Towards 8.00 we noted there was gunfire near Bogoro Institute.
21 There was a lot of noise. People were screaming. People were crying.
22 They were cut up with machetes.

23 Afterwards, in the evening, the pillaging, the gunfire, ceased.
24 People who were -- people who were there went to Mount Waka, Waka
25 Mountain, and I thought that everything was finished. It was night, and

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 16

1 I left my hiding place, and arriving in the centre, next to the road --
2 the house of my paternal uncle, I ran into five fighters, and they took
3 me -- and they took me to their camp. It was in the institute where the
4 UPC camp was, and then they tied me up*. Somebody -- they wanted to take
5 all my clothes off, but his superior said, "Leave his trousers on." And
6 so they tied me up with a rope.

7 I found people who had been arrested. They had been --

8 MR. HOOPER: (Previous translation continues) ... witness, but
9 with respect the witness needs a degree of control because if we are
10 trying to take a note, it's difficult to keep up when there's a
11 monologue, a recitation of all the facts. So it would be helpful if my
12 friend could control his witness just a little bit. I don't want to
13 intrude overmuch.

14 MR. DUTERTRE: (Interpretation) I object to this objection.
15 We've asked a question to the witness. He is giving his precisions in
16 this regard. There's a transcript. Everybody can read the transcript,
17 and the witness is being interrupted and this is the wrong place to do
18 it. And while he's giving his account, that's what he's here to do.
19 He's meant to give an account as to what he experienced. We can go into
20 the details of it afterwards, but everybody can follow the transcript,
21 and this is also the point of the transcript itself. So we have to give
22 the witness the possibility to express himself. He's sworn an oath.
23 That's what he's here to do.

24 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, there
25 wasn't a matter of -- you -- wasn't a place to interrupt the witness at

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 17

1 this time.

2 Having said that, Witness, we are listening to you with a lot of
3 interest. You are giving your account which replies to the questions
4 that have been put to you by the Prosecutor. You will speak loudly. If
5 you would perhaps speak a bit more slowly, then the interpreters would
6 find it easier to translate what you're saying and everybody could
7 understand you better and understand the account that you're giving
8 better. So we're going to do that again from the place that you
9 finished, and you said that was the last note that I had taken myself.
10 I'm just looking at the transcript. That you were naked from the waist
11 up, and I would just ask for --

12 MR. DUTERTRE: (Interpretation) You were also tied up.

13 PRESIDING JUDGE COTTE: (Interpretation) "I was tied up with a
14 rope, and there were people who had been arrested, and there were other
15 people with wounded" and this is where the translation finished, Witness,
16 so I would like you to continue with your account and then we will
17 continue speaking slowly.

18 THE WITNESS: (Interpretation) There were people who had been
19 cut up with machetes.

20 PRESIDING JUDGE COTTE: (Interpretation) Please continue. You
21 can continue with your account.

22 THE WITNESS: (Interpretation) Where I was arrested there were a
23 lot of bodies. There were eight people who had been stopped. I don't
24 know what their names were. Among them there were four people whose
25 names I did know. The others who were there, I didn't know where they

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 18

1 came from.

2 MR. DUTERTRE: (Interpretation)

3 Q. You can continue, Witness.

4 A. The four people who I'm speaking about, well, there was one who
5 was a soldier in the UPC. He was from Bogoro. Another one was a woman
6 called (expunged). She was also from the same place. And the other person
7 was a girl, 20 years old, and she was called (expunged),
8 (expunged). She was also killed
9 during this battle.

10 Q. Witness, you can continue, but please don't give names at this
11 time, because it's public, and you can continue, but if -- you can speak
12 about persons, but don't give names. I'll allow you to continue.

13 A. Where I was stopped, I spent the night, and the next day I went
14 to their -- I was taken to their superior. I was questioned with regard
15 to the presence of other persons. I said that there had been people who
16 had been in the same place that I had been hidden, and in this way the
17 same people who stopped me and other people, ten people in all, they
18 accompanied me to the place where I had been hiding.

19 And when we got to this place in the centre, we took the path
20 going towards the hiding place. Some of them went ahead of me and some
21 of them stayed next to me. This was next to Matama. And some of them
22 started firing, and I lay down and those next to me, they also lay down
23 as well. There was a dried-up stream. I was -- well, I noted that there
24 were people who were hidden in the reeds, and they had also heard
25 gunshots and they came out, and there I saw the bodies of a woman who I

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 19

1 didn't -- the body of a woman who I didn't recognise, and this is how
2 they stopped. All these people who had just left the reeds. They were
3 hidden.

4 Sometime afterwards, when I noted that they left, I went next to
5 the school, Kavali, and there there was a former butcher's, and there was
6 a house, and I made an effort to go close to this house and to untie
7 myself, and I went into the bush and I arrived in a place called Wat and
8 there was a stream called Kahyoro and there I saw other persons,
9 refugees, and I said to them that there was no way of going back. We had
10 to go to Bunia.

11 In my path I met Lendu. I said to them that it's difficult. I
12 said to the people it's difficult to continue during the day. We have to
13 wait for the night. And there were old people, elderly people, a young
14 girl, and there was a young boy as well. There were five of us, and we
15 waited for nightfall in order to continue with our path towards Bunia.

16 We arrived in Bogu and we spent the night there, and the next day
17 we arrived in Lengabo, Bira locality, and from Ngabu (as interpreted) I
18 went to Bunia. In Bunia I met soldiers who asked me certain questions,
19 and one of them took me to their supervisor or superior who asked me
20 questions with regards to my situations, and after that I then arrived to
21 my family.

22 Q. Thank you, Witness, for this account. I'm now going to go back
23 to the different stages or the different phases of what you experienced
24 during this attack in February 2003 so that you can give details to the
25 Judges.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 20

1 You indicated that -- that you'd been woken. You said it was
2 early. You said you had been woken up by gunfire and that you then fled.
3 Could you -- could you describe what you observed between the time when
4 you left the house of your uncle, when you fled, and the hiding place
5 where -- where you hid. What did you see in that time?

6 A. Between those two locations there were many gunshots. We were
7 with five soldiers at the Kavali school. Those soldiers were also
8 fleeing. We all fled, and there was a child who had -- who had been shot
9 at in front of my uncle's house in the centre. We fled. We went into
10 the bush. We wanted to go to the institute, but we found that it was
11 quite dangerous, and the soldiers were fleeing just like us.

12 Q. Can you tell us whether those soldiers stayed with you? You have
13 said that each person went on their own way. Did you see where those
14 soldiers went to?

15 A. It was quite difficult to observe, because everybody was trying
16 to find a hiding place. They also ran towards the bush. We separated,
17 but my other companions fled and went and hid in the bush.

18 Q. Can you tell us to which group, army, or militia these soldiers
19 belonged?

20 A. They were members of the UPC. They were there at that position
21 so that in the event of an attack, they would be the first to defend the
22 school at Kavali. So they were UPC soldiers.

23 Q. You mentioned that a child had been hit by a bullet, if I'm not
24 mistaken. Do you know approximately what age this child was?

25 A. At one point I came across a two-year-old child who was dead. He

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 21

1 had been hacked by -- with machetes.

2 Q. When you fled, can you tell us from which direction the gunshots
3 were coming?

4 A. The gunshots were coming from Katonie, quite close to where we
5 were.

6 MR. DUTERTRE: (Interpretation) Mr. President, I would like the
7 witness to be given a copy of the map, a copy that is not annotated so
8 that he can indicate the location of his hiding place.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. Court
10 Usher, please.

11 MR. DUTERTRE: (Interpretation) As the Court Officer said that
12 there was already an MFI, it can be placed on the screen and then marked
13 by the witness, with your leave, Mr. President.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. So the map
15 being presented is the unannotated version of an MFI document.

16 COURT OFFICER: (Interpretation) In order to see that unmarked
17 map, please press the "PC 1" button next to your screens.

18 MR. DUTERTRE: (Interpretation) Maybe the usher can also go and
19 assist the witness to look at the map.

20 COURT OFFICER: (Interpretation) This is a public document;
21 right?

22 MR. DUTERTRE: (Interpretation) Yes. Yes.

23 PRESIDING JUDGE COTTE: (Interpretation) Court Usher, please,
24 maybe you should go and sit by the witness so as to assist him in
25 handling that document.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 22

1 The document is going to appear on the screens, but it is not yet
2 there, at least not on everyone's screen.

3 After pressing on the "PC 1" button, you should now have the
4 document on your screens, and based on this document, questions will be
5 put to the witness by the Prosecutor. If that is the case --
6 Mr. Witness, can you hear me well? I can see you can -- you have put on
7 your headphones again.

8 THE WITNESS: (Interpretation) Yes.

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, please.

10 MR. DUTERTRE: (Interpretation) Mr. President, I would like a
11 zoom in on the map.

12 Q. Witness, I'm going to ask you to mark several things. To begin
13 with, please mark the location of the Kavali school. Maybe you should
14 use a red pen and mark with an X the location of the Kavali school.

15 THE INTERPRETER: The witness is speaking in a very low voice.

16 MR. DUTERTRE: (Interpretation)

17 Q. Can you speak into the microphone, please.

18 A. The Kavali school, from the institute, is here, slightly to the
19 left, and Katonie is towards the north, before you arrived Bunia; that
20 is, Katonie and Zumbe. And Katonie -- and Kavali is actually further
21 north. Where my uncle lived, it was just below, and I think I can mark
22 it here. This is where I put the mark before.

23 Q. Mark the Kavali school with an X on the screen. Maybe the Court
24 Usher can assist you.

25 A. It is here.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 23

1 Q. You can mark it directly on the screen, Witness, using your pen.
2 It will appear there.

3 A. This is the Kavali school.

4 PRESIDING JUDGE COTTE: (Interpretation) Witness, it is not very
5 easy for you.

6 THE WITNESS: (Interpretation) Here is the Kavali school, and my
7 uncle lives further down.

8 MR. DUTERTRE: (Interpretation)

9 Q. Can you write "1" next to the small red spot that you have marked
10 there?

11 A. (Marks)

12 Q. Thank you, Witness. You talked about the Matama stream. Can you
13 sketch it on this map using a different colour?

14 COURT OFFICER: (Interpretation) One question: Is the map that
15 he is marking public?

16 MR. DUTERTRE: (Interpretation) Yes.

17 THE WITNESS: (Interpretation) Matama is behind here, and it
18 runs down in this direction towards Nyakibira, further down.

19 MR. DUTERTRE: (Interpretation)

20 Q. Thank you, Witness. Can you indicate the Matama River with the
21 number 2.

22 A. (Marks)

23 Q. And in any case, that particular stream has been marked in blue.
24 Now, Mr. Witness, using a different colour, indicate to us approximately
25 the location where you hid that morning. Please mark it with an X.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 24

1 A. This is where I hid, inside there, in the reeds. That is where I
2 hid.

3 Q. There is a black dot there. Can you mark it with a large X.

4 A. That is the black dot.

5 Q. Yes. A black dot corresponding to the witness's hiding place.

6 Now, Mr. Witness, were there any hotels in Bogoro?

7 A. There was the Lagura hotel right here next to the institute.

8 Q. Use a pen of a different colour to indicate the location of the
9 Lagura hotel.

10 MR. DUTERTRE: (Interpretation) The witness has marked with a
11 black pen that location, that is to the left of the Bogoro-Bunia road,
12 just above the institute, and I'm saying this because the witness used
13 the same colour pen.

14 Q. Now, Mr. Witness, indicate with an arrow because you said that
15 the gunshots were coming from the direction of Katonie. Can you indicate
16 with a pen the direction from which the gunshots were coming.

17 A. They were coming from here, right towards our direction, that is,
18 from Katonie.

19 Q. Can you clearly mark that direction with an arrow so that we can
20 remember?

21 A. (Marks)

22 Q. Perfect. Thank you, Mr. Witness.

23 MR. DUTERTRE: (Interpretation) That will be all for now,
24 Mr. President, with regard to that map, and I would like it to be
25 tendered into evidence and assigned an EVD number.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 25

1 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, can you
2 please assign an EVD number to that document.

3 COURT OFFICER: (Interpretation) Mr. President, that -- that
4 map marked by the witness will bear the following reference:
5 EVD-OTP-00044.

6 MR. DUTERTRE: (Interpretation) Thank you, Mr. President. I had
7 a small problem with my transcript.

8 Q. Witness, you said that there were soldiers at the Kavali school
9 if I understood you correctly. Can you tell us how many soldiers were at
10 that location?

11 A. There were -- there weren't many soldiers in Kavali. Most of
12 those soldiers were at the Bogoro Institute, but there were only five
13 soldiers at Kavali.

14 Q. And you mentioned their role, their duties. Can you elaborate a
15 little bit on what they were doing at Kavali? What were their duties?

16 A. They were guarding the location, and in the event of an attack
17 they were supposed to forewarn the others.

18 Q. Very well. Can you now tell us how those soldiers were dressed?

19 A. They were wearing camouflage military uniforms.

20 Q. And did they bear weapons?

21 A. Yes. They were carrying weapons.

22 Q. Are you able to describe those weapons to us?

23 A. Well, I have never handled weapons, so I do not know which
24 weapons they carried.

25 Q. Understood. Now, let me go back to your hiding place. Did you

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 26

1 see any assailants, that is, from your hiding place?

2 A. I was able to see those attackers passing by from my hiding
3 place. I could see them passing by and shooting.

4 Q. You have said that you saw them pass by. Can you tell us the
5 direction from which they came?

6 A. They were coming from Zumbe and Katonie, and sometimes they
7 started breaking the roofing sheets. They broke chairs. They were
8 making a lot of noise.

9 Q. Did they pass far away from where you were hiding? What was the
10 distance from your hiding place?

11 A. The distance was not long. It was quite close.

12 Q. And how were they moving about? Were they moving through the
13 bush or using a path?

14 A. They were passing between the houses. They were burning down the
15 straw houses and breaking the sheet-metal houses.

16 Q. Approximately how many attackers did you see, if you can tell us.

17 A. There were many attackers. There were women and children. Many
18 of them were breaking the houses, but there were also men.

19 Q. Can you tell us the ethnicity of those attackers, those men,
20 women, and children that you have just mentioned?

21 A. They were Balendus and Ngitis. Those were the people who caused
22 us suffering there in Bogoro.

23 Q. How were you able to tell that they were Balendus and Ngitis?
24 How did you recognise them?

25 A. They could be recognised by the language they used. Since we

Witness: Witness P-0268 (Resumed) (Closed Session)
Questioned by Mr. Dutertre

Page 27

1 were living in the same community, we could tell the difference between
2 the Lendus and Ngitis.

3 Q. You do not speak Lendu/Ngiti; is that correct? But I do
4 understand that you are able to distinguish between them. Isn't that so?

5 A. I do not speak those two languages, but if a Lendu speaks, I
6 would know that he is a Lendu, and the same applies to the Ngitis.

7 MR. DUTERTRE: (Interpretation) I think we will take the break
8 now.

9 PRESIDING JUDGE COTTE: (Interpretation) I was simply reminding
10 you that we do not have much time left, so we can suspend now.

11 MR. DUTERTRE: (Interpretation) Yes. That is what I was
12 proposing.

13 PRESIDING JUDGE COTTE: (Interpretation) It is five minutes to
14 11.00. We will suspend. Before that we will go into closed session to
15 allow the witness to leave, and then we'll briefly go back into open
16 session before we suspend.

17 (Closed session at 10.55 a.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Closed Session)
Questioned by Mr. Dutertre

Page 28

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Open session at 10.56 a.m.)
9 COURT OFFICER: (Interpretation) We are in open session,
10 Mr. President.
11 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
12 Court Officer.
13 We will break now and reconvene at 11.30.
14 Recess taken at 10.57 a.m.
15 On resuming at 11.33 a.m.
16 (Closed session)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Open session at 11.34 a.m.)

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 29

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

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Madam Court
4 Officer, could you provide -- were you able to provide that information
5 to the Prosecutor that he requires?

6 COURT OFFICER: (Interpretation) Yes, your Honour. The
7 Prosecution has until -- has used 53 minutes so far for its
8 examination-in-chief:

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

11 Mr. Prosecutor, at the end of the afternoon and this evening, and
12 perhaps later on, if you could let us know what -- how much time you
13 expect to be taking for your examination-in-chief we'd appreciate that,
14 but for the time being you may resume. Please proceed.

15 MR. DUTERTRE: (Interpretation) Thank you, your Honour. I will
16 naturally provide that information.

17 Q. Witness, we will continue, but before we go on, I do have a few
18 points that I would just like to clarify in relation to what you said
19 earlier.

20 You said on page 23 of the transcript, lines 4 and 5, that you
21 wanted to go to the institute at the time you were fleeing, when you
22 fled, and ultimately you hid elsewhere. Could you specify why you wanted
23 to go to the institute, the Bogoro Institute?

24 A. I wanted to get to the Bogoro Institute because there were
25 soldiers there. That was the place to go to take refuge when there was a

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 30

1 war. That's where there were soldiers.

2 Q. When you say that, "That was the place we went to when there was
3 a war," does that mean the local population was in the habit of going to
4 the institute when attack occurred? Have I understood you correctly?

5 A. Yes.

6 Q. Regarding the UPC soldiers, Witness, you mentioned that most of
7 the soldiers were at the institute. You said that there were five
8 soldiers in Kavali, and you marked that on the map, and this is my
9 question now: Around Bogoro were there other positions where UPC
10 soldiers were located? Do you know?

11 A. Yes. There were some -- there was about ten on Mount Waka.

12 Q. To the best of your knowledge, Mr. Witness, were there other
13 soldiers positioned, other UPC soldiers positioned in places other than
14 the institute, the Kavali institute, and Mount Waka?

15 A. I don't know. I know the three positions where the UPC soldiers
16 were, that's all.

17 Q. We've taken note of that. Witness, on page 18, line 4 of this
18 morning's transcript, it reads as follows: You left your hiding spot at
19 night, the evening. So I've understood that you spent the entire day
20 hiding in that same spot, the place that you marked on the map a few
21 moments ago?

22 A. Yes, that's right.

23 Q. Mr. Witness, you also said, and this is also on page 18, line 1
24 this time of the transcript, that the evening there was looting, gunfire
25 and then it stopped.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 31

1 THE INTERPRETER: Correction: "The looting and the gunfire
2 stopped."

3 MR. DUTERTRE: (Interpretation)

4 Q. My question is as follows: I understand that there was shooting
5 throughout the entire day. Could you tell us when the shooting was the
6 most intense over the course of that day?

7 A. At the Bogoro Institute, the shooting was the most intense at
8 about 2.00 in the afternoon, and then there was -- the shooting was more
9 intense around Mount Waka, and in the evening there was calm.

10 Q. And the morning, between the time you found a hiding spot and
11 2.00 in the afternoon, could you describe the intensity of the fighting?

12 A. There was a great deal of gunfire, and then it decreased in
13 intensity. Some people were fighting, others were breaking down the
14 doors and were destroying the roofs of the houses, and then between 2.00
15 in the afternoon and the evening the gunfire decreased in intensity.

16 Q. Mr. Witness, I do realise that you said that you have never
17 handled firearms, but other than the sounds of the shooting, were there
18 other sounds, sounds of weapons that you might have heard?

19 A. We heard people who were yelling as they were being hacked into
20 pieces with machetes.

21 THE INTERPRETER: Inaudible.

22 THE WITNESS: (Interpretation) Arrows and spears were being used
23 in particular.

24 COURT OFFICER: (Interpretation) Mr. Prosecutor, could I ask
25 you to turn off your microphone after each question.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 32

1 MR. DUTERTRE: (Interpretation) I will be more careful about
2 that.

3 Q. Witness, you just mentioned the Lagura, Hotel Lagura. Is that
4 Hotel Lagura that you marked on the map a few moments ago?

5 A. Yes, very close -- it's very close to the institute, and I've
6 already shown that on the map. I placed a mark, an X, on the map.

7 Q. Now, could you tell us approximately what time it was when you
8 heard these cries at Lagura Hotel?

9 A. Lagura Hotel, well, we heard cries and people -- at 2.00 in the
10 afternoon. People were saying, "Forgive us, forgive us." And people
11 were destroying houses. People were setting the thatch houses on fire.

12 Q. Other than the cries of "Forgive us, forgive us," were people
13 saying anything else?

14 A. I heard nothing else. I heard cries, and it was just when people
15 were being -- and it was at that time that people were being killed.

16 Q. Witness, did you hear what the attackers were saying?

17 A. When the attackers arrived, they said, "We are going to capture
18 you with our hands," and that's what they said. That's what they yelled
19 out. And the Lendu -- they were the Lendu who came from higher up who
20 were saying this as they arrived.

21 Q. How did you realise -- how did you understand what they said?
22 They said, "We are going to capture you with our hands." How did you
23 understand that they were saying that?

24 A. I could hear them saying, "We are going to capture you with our
25 hands," and they were yelling as they arrived.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 33

1 Q. What language were those words uttered in when they said, "We are
2 going to capture you with our hands"?

3 A. They were speaking Kiswahili, and I could understand that. I
4 could understand them and their way of speaking Swahili.

5 Q. Now, am I correct, did I understand, by the way, that they were
6 speaking Swahili, "We will capture you with our hands"? Their way of
7 speaking. So you understood that it was Lendu people who were speaking;
8 is that correct?

9 A. Yes. I heard yelling, and I heard their voices, and I realised
10 that it was their voices.

11 Q. Witness, in your opinion what did they mean when they said, "We
12 are going to catch you with our hands"? What did that mean?

13 A. I understood that they had greater force than us, and they would
14 not have to use their rifles, and so they expressed themselves in that
15 way that I already described to you.

16 Q. Witness, just to make things clearer for the Bench, could you
17 tell us what the meaning was of this phrase "We are going to catch you
18 with our hands"? What did that mean?

19 A. By "catch" or "capture," I understood that to mean that they
20 would kill us with machetes.

21 MR. DUTERTRE: (Interpretation) Your Honour, I would like to
22 move -- I would like to move quickly into closed session if we could.

23 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed.
24 Court Officer, could we go into closed session.

25 (Private session at 11.50 a.m.)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 34

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 34 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 35

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 35 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 36

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 36 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 37

1 (Open session at 12.01 p.m.)

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

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Prosecutor,
5 you can continue.

6 MR. DUTERTRE: (Interpretation)

7 Q. Witness, you said that these fighters, these Lendu fighters, had
8 civilian clothes and also a Ugandan uniform. My question is as
9 follows -- excuse me. I just made a break.

10 How did you know that they were wearing Ugandan uniform?

11 A. The clothes that they wore resembled the military uniform of the
12 Ugandans they kept before their arrival.

13 Q. Witness, can you say approximately at what time the -- sorry, the
14 soldiers were guarding you? What time was that?

15 A. It was since 2000, and in 2001 they left and the UPC went in.

16 Q. We'll come back to this issue with regards to the dates. So I
17 understand that they were Lendus who were wearing military Ugandan
18 uniforms in the 2003 attack. So they were Lendus wearing Ugandan
19 military uniforms.

20 A. They were uniforms which resembled the Ugandan uniforms.

21 Q. My question is as follows: The people who wore these uniforms
22 which resembled Ugandan uniforms, they were those -- they were Lendu in
23 your opinion, the people who were wearing those uniforms?

24 A. Yes. They were -- it was the Lendus who were wearing the
25 uniforms which resembled those worn by the Ugandans. They were certainly

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 38

1 Lendus that I'm speaking about.

2 Q. And how did you know that they were Lendus?

3 A. I knew that among the soldiers who stopped me there was Kute who
4 had studied in Bogoro Institute at the same time that I was at Kavali
5 Institute.

6 Q. If we come back to this point, you -- you mentioned that there
7 were children. You had seen attackers, women and children. These
8 children, did they have -- were they wearing -- sorry, were they carrying
9 anything in their hands?

10 A. Yes. The children had weapons. Some of them had arrows and
11 others had spears. Those were the weapons that they had.

12 Q. Can you indicate to us approximately what age these children
13 were?

14 A. I can say that they were between 10 to 15 or 16 years old.
15 That's approximate. Their --

16 THE INTERPRETER: The interpreter -- Swahili interpreter didn't
17 hear the last part of the answer, and the English interpreter would like
18 to point out that is a 50-cycle hum when the witness speaks.

19 PRESIDING JUDGE COTTE: (Interpretation) Please, could you
20 repeat the last part of the answer that wasn't heard by the interpreter.
21 You said they were aged between 10 and 15 or 16. That was approximate,
22 and from that moment the booth did not hear the end of your answer.
23 Thank you.

24 THE WITNESS: (Interpretation) I said that there was a lot of
25 children. The children who were there were aged between 15, 16 -- from

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 39

1 10 to 15 or 16 years old.

2 MR. DUTERTRE: (Interpretation)

3 Q. I would like to clarify this answer with your help, Witness.

4 Should we understand from that that some children were aged 10, others 15
5 to 16, or could you give a range?

6 A. There were a lot of children. I -- I can say that there were a
7 lot of children.

8 Q. In your opinion, what approximately was the age of the youngest
9 child that you saw with a weapon?

10 A. There could -- were 8 to 10 years, 8 to 10 years old. That's
11 approximate. There were a lot of children. I couldn't tell you exactly
12 what their age was.

13 Q. Did you hear if these children said something?

14 A. Yes. I heard noises. They were smashing the houses, and they
15 were going through the different goods. They were quarreling over them.

16 Q. From your hiding place during the day, and we understand from
17 that that it was more the afternoon, what did you see in terms of
18 pillaging and destruction? From the place where you were hidden, what
19 did you see?

20 A. I saw that they took the metal-sheet roofing, and I was next to
21 the school of Kavali, and it was from there that I saw them smashing the
22 houses.

23 Q. You indicated, Witness, that in the evening the gunshots had
24 stopped -- or the gunfire had ceased, and you left your hiding place and
25 you were stopped. Could you describe the people who stopped you?

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 40

1 COURT OFFICER: (Interpretation) Prosecutor, microphone,
2 please.

3 THE WITNESS: (Interpretation) People who stopped me were
4 Lendus. Some of them were dressed in civil -- civilian clothes, and
5 others had greenish uniforms.

6 MR. DUTERTRE: (Interpretation)

7 Q. And where were you exactly when you were stopped?

8 A. It was at the time that I had left my hiding place. I went
9 towards the road. I was looking for the road to go to home, to go home.

10 Q. You know -- you said -- well, you knew that they were Lendu who
11 stopped you. How do you know this?

12 A. I recognised their way of speaking.

13 THE INTERPRETER: The interpreter didn't hear the last answer of
14 the witness. If he could speak a bit louder.

15 PRESIDING JUDGE COTTE: (Interpretation) Witness, the
16 interpreter didn't hear the end of your answer. We would therefore ask
17 you to repeat it. If you could also speak somewhat louder, a bit more
18 strongly, the task of the interpreters will be made much easier.

19 And we forgot to tell you yesterday that if you need to have a
20 drink, you have a jug with water in, and you have the perfect
21 authorisation to have a drink at any time you wish to be able to refresh
22 yourself should you so wish. Thank you.

23 THE WITNESS: (Interpretation) Good.

24 MR. DUTERTRE: (Interpretation)

25 Q. What language were they speaking, these Lendus who stopped you?

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 41

1 A. They were speaking Swahili. Their Swahili is mixed with Lendu
2 and Ngiti, their dialect.

3 Q. And were they armed?

4 A. Some of them were. I would say there were some who had rifles
5 and others had had arrows and spears.

6 Q. If I've understood what you said this morning, they took you to
7 Bogoro Institute; is that correct?

8 A. It was in the evening, and it was there at Bogoro Institute that
9 I spent the night, and the next morning they accompanied me to go to see
10 the other persons who were hidden and to tell them in my language -- to
11 say a message that they dictated to me.

12 Q. This is the evening that we're talking about with regards to my
13 question. Did they ask you anything, these Lendus who stopped you in the
14 evening when you left your hiding place?

15 A. They asked me, "What is your tribe?" and I said, "I am Hema,"
16 through my -- well, they could recognise me from my physical condition.
17 That's what they said.

18 Q. Did they ask you other questions?

19 A. At that time, no. Afterwards, they asked me other questions, but
20 at the time they just asked me what my ethnic group was.

21 Q. And what were the other questions that they put to you?

22 A. Those who stopped me?

23 Q. Yes.

24 A. They asked what your ethnic group was. They didn't ask other
25 questions.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 42

1 Q. So once you were at the institute, once you had arrived -- you'd
2 been taken to the institute, taken prisoner there. What happened at that
3 time on your arrival at the institute?

4 A. When I arrived at the institute, they made me go in, and it was
5 the next day that they took me to their chief, and their chief asked me
6 if they could untie me somewhat so that they could leave my trousers on,
7 and they asked me whether there were other people in the place that I was
8 hiding, and that's where they said, "Let's go and get them to bring them
9 back here."

10 Q. Okay. We're going to go back to that soon, but I'd like to go
11 through it in chronological order.

12 You say that at the institute they made you go into a place.
13 Could you just tell us exactly what you mean by they made you go into
14 these premises? Which -- what do you mean by this? Is that the
15 institute? What is the locale that you're referring to?

16 A. Yes. They made me go into the first door of the institute. It
17 had three different rooms. They made me go into the first one, which was
18 on the right.

19 MR. DUTERTRE: (Interpretation) Your Honour, at this time I
20 would like to have on the touch screen of the witness item -- public
21 Exhibit EVD -- EVD-OTP-00017.

22 PRESIDING JUDGE COTTE: (Interpretation) Understood, Prosecutor.
23 Court Officer, if you could carry out this request.

24 MR. DUTERTRE: (Interpretation) And --

25 COURT OFFICER: (Interpretation) In order to look at the

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 43

1 document, please press button "PC 1," which is next to your computers.

2 MR. DUTERTRE: (Interpretation)

3 Q. Witness, can you see a picture on your screen?

4 A. Yes.

5 Q. Can you tell us what -- what is this building that we can see in
6 the picture?

7 A. This building is a school.

8 Q. Do you know what school it is?

9 A. It's Bogoro Institute.

10 Q. Perhaps with the assistance of the usher you can mark with a
11 cross the room in which you were placed on that day.

12 MR. DUTERTRE: (Interpretation) If the usher would be so kind as
13 to assist us in this regard.

14 THE WITNESS: (Interpretation) It's here that I was. That's the
15 place that they made me enter.

16 MR. DUTERTRE: (Interpretation)

17 Q. Please could you take the pen and put a cross on the place they
18 made you enter.

19 A. (Marks)

20 THE INTERPRETER: The interpreter points out that the witness
21 whispered something which was not understood by the interpreter.

22 PRESIDING JUDGE COTTE: (Interpretation) Witness, when you
23 wrote -- or when you drew onto the photograph, you put a mark on it in
24 front of a door, you whispered something which the interpreters did not
25 hear. If you want this remark to figure in the transcript, then please

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 44

1 repeat it. Thank you.

2 You've finished your sentence. "It's that place that they made
3 me enter." The transcript isn't quite finished, but that's what you were
4 talking about at the time. If you would like to add anything to that,
5 you can do so now. If not, the Prosecutor shall go on to another
6 question.

7 MR. DUTERTRE: (Interpretation)

8 Q. Witness, what did you see when you entered into this room in
9 Bogoro Institute?

10 THE WITNESS: (Interpretation) I don't hear. I can't hear
11 anything.

12 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, perhaps we
13 can admit this into evidence with an EVD number, and perhaps the witness
14 can sit back in his seat, and perhaps the usher can also sit down.

15 Court Officer, we can tender this into evidence with an EVD
16 number. A cross has just been mentioned which didn't figure on it
17 before, and the Court Usher, you can invite the witness to sit back in
18 his initial seat. He'll probably hear the questions better that are put
19 to him. Perfect. Witness, please speak well into your microphone.

20 COURT OFFICER: (Interpretation) The photograph which was
21 marked with a red pen by the witness will have the number EVD-OTP-00045.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Prosecutor,
23 either continue or go back to your question, it wasn't answered, but you
24 have the floor.

25 MR. DUTERTRE: (Interpretation) I'd like to ask my question

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 45

1 again, your Honour.

2 Q. Witness, what did you see when you entered into the room on that
3 evening?

4 A. Your Honour, I don't hear anything.

5 PRESIDING JUDGE COTTE: (Interpretation) The Court Officer, the
6 witness says to me that he can't hear anything. Perhaps there's an
7 adjustment that could be made, perhaps to the sound, with the button on
8 the right-hand side. Perhaps that needs to be turned.

9 MR. DUTERTRE: (Interpretation) I had the impression that it
10 switched that it switched itself off when he moved.

11 PRESIDING JUDGE COTTE: (Interpretation) Witness, can you hear
12 me now? Can you hear me now?

13 THE WITNESS: (Interpretation) Yes. Now I can hear you, your
14 Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, please ask
16 this question again.

17 MR. DUTERTRE: (Interpretation)

18 Q. Witness, when you entered into the room, what did you see on that
19 evening?

20 A. When I went in, I saw other people there who had been stopped,
21 and there were a lot of bodies next to the door. There were people who
22 had been cut up with machetes in the doorstep.

23 Q. When you say there were a lot of bodies in the room, could you
24 tell us approximately how many bodies there were?

25 A. There were a lot. I could not estimate the number of bodies. At

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 46

1 the start I saw six, and I recognised a woman who was called --

2 THE INTERPRETER: And the interpreter didn't hear the name of the
3 woman.

4 PRESIDING JUDGE COTTE: (Interpretation) Witness, apparently you
5 said a name or the end of a sentence which the interpreter didn't manage
6 to catch. You just indicated at this time, "I saw six bodies, and I
7 recognised a woman who was called," and from that moment the interpreter
8 no longer heard what you said.

9 Can we say it in open session, Prosecutor?

10 MR. DUTERTRE: (Interpretation) If it is a dead witness, I think
11 we can.

12 PRESIDING JUDGE COTTE: (Interpretation) In that case, please
13 continue. We are listening to you, Witness.

14 THE WITNESS: (Interpretation) The person I recognised was a
15 woman whose name was Henriette.

16 MR. DUTERTRE: (Interpretation)

17 Q. Witness, was this woman inside the room or outside?

18 A. She was at the door, that is outside of the room.

19 Q. Amongst the dead bodies inside the room, and you have said that
20 there were many of them, did you recognise any of the victims?

21 A. I did not recognise other dead bodies, but there were many
22 bodies, and many had been hacked with machetes and others had bullet
23 wounds, but I did not recognise any more people.

24 Q. You said it was in the evening, but was there some light in the
25 classroom? How were you able to see?

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 47

1 A. I was able to see with the light coming through the window, but I
2 recognised the dead body in the morning when I was going out.

3 Q. We are going to come back to this woman later. Regarding the
4 victims in the room, can you tell us what was the sex of the majority of
5 those victims?

6 A. Most of them were men, children, and women, but there were many
7 more women and children.

8 Q. You have said that there were men. What was their approximate
9 age bracket?

10 A. They were adults, 60 years. So you also had old people.

11 Q. What about the children you have mentioned whose dead bodies were
12 in the room? What was their age approximately?

13 A. There were children of 2 years, 8 years, 6 years. These were
14 children.

15 Q. Can you describe the way those victims were dressed?

16 A. I could not see the clothes. I only saw dead bodies that had
17 been hacked to death. Sometimes you could see a leg here and something
18 else there. It was difficult to recognise the faces.

19 Q. How were you able to enter into that room given that all those
20 bodies were there?

21 A. I walked through those bodies, and I sat nearby. I was with the
22 eight other prisoners, and they were not yet dead.

23 MR. DUTERTRE: (Interpretation) Just one moment, Mr. President,
24 to consult with my colleagues.

25 (Prosecution counsel confer)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 48

1 MR. DUTERTRE: (Interpretation)

2 Q. Witness, can you tell us what was the age bracket of the women?

3 You have told us about the men who were 60 years old and the children who
4 were 2 years, 6 years, and 8 years old. What was the age of the dead
5 women who were at the institute?

6 A. There were women of 40 years, 30 years. And I cannot tell the
7 precise age of the others, but they were also adults.

8 MR. DUTERTRE: (Interpretation) At this point, Mr. President, I
9 would like us to go into closed session to ask questions that might
10 identify people.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
12 let us go into private session.

13 (Private session at 12.37 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 49

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 49 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 50

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 50 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 51

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 51 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 52

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Expunged)

23 (Open session at 12.53 p.m.)

24 MR. DUTERTRE: (Interpretation) Yes. I'm going to ask a few
25 questions and then we can break, Mr. President.

Witness: Witness P-0268 (Resumed) (Closed Session)
Questioned by Mr. Dutertre

Page 53

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

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

3 Mr. Dutertre, proceed.

4 MR. DUTERTRE: (Interpretation)

5 Q. Do not mention the name, but regarding the last person that you
6 have mentioned, how was he dressed that evening in the classroom of the
7 institute?

8 A. He was in civilian clothing.

9 Q. You said previously that the Lendu soldiers had tied you up.
10 Were you still tied up while you were in the classroom?

11 A. Yes. I spent the night while tied up.

12 Q. And this is my last question for this session: Mr. Witness, were
13 you able to escape from the classroom that evening?

14 A. It was difficult. There were many of them. It was not possible
15 to escape.

16 MR. DUTERTRE: (Interpretation) I can stop here, Mr. President.
17 Not the direct examination, just with my questions for this morning.

18 PRESIDING JUDGE COTTE: (Interpretation) We have understood you
19 well. Thank you, Mr. Prosecutor.

20 And thank you also for your contribution, Mr. Witness.

21 Court Officer, let us move into closed session to allow the
22 witness to leave the courtroom.

23 (Closed session at 12.55 p.m.)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Closed Session)
Questioned by Mr. Dutertre

Page 54

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Open session at 12.56 p.m.)
11 COURT OFFICER: (Interpretation) We are in open session, your
12 Honour.
13 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
14 Court Officer.
15 We will break till 2.30.
16 Luncheon recess taken at 12.57 p.m.
17 On resuming at 2.31 p.m.
18 (Closed session)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Expunged)

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 55

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 2.33 p.m.)

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

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

10 Now, Mr. Witness, we have one and a half hours of hearing before
11 us, and the Prosecutor will now resume his examination.

12 Mr. Prosecutor, please proceed.

13 MR. DUTERTRE: (Interpretation) Thank you, your Honour.

14 Q. Witness, we are in an open session, and I would like to remind
15 you not to mention any names right now, but in the case of one of the
16 people who was with you in the classroom in the institute, and you said
17 that this person was a UPC fighter in civilian clothing. Now, without
18 giving his name, could you tell us whether you saw this person again?
19 Did you ever see him alive after that time?

20 A. I never saw him again. He died, and we learned how his mother
21 had been killed after.

22 MR. DUTERTRE: (Interpretation) This leads me to ask you, your
23 Honour, if we could move into closed session.

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

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 56

- 1 (Private session at 2.35 p.m.)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 (Expunged)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Expunged)
- 15 (Expunged)
- 16 (Expunged)
- 17 (Expunged)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Expunged)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 57

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)

13 (Open session at 2.40 p.m.)

14 COURT OFFICER: (Interpretation) We are in open session, your
15 Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

17 Mr. Prosecutor, please go ahead.

18 MR. DUTERTRE: (Interpretation)

19 Q. This question is still on the same matter, but we are --
20 correction, I'm asking this in open session, so please no names now. Do
21 you know when this UPC fighter was killed?

22 A. Since I left that place, I never saw him again. I don't know the
23 circumstances under which he died. It was only later that -- well, I
24 saw -- rather, later I learned that he had died.

25 Q. In the first classroom at the institute that night when you were

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 58

1 detained, you described -- you said that there were dead bodies, and in
2 particular, unless I'll mistaken, you saw that people had been killed
3 with machetes and that people's legs had been cut off. Did you see other
4 kinds of injuries, other signs of machete wounds on other dead bodies --

5 THE INTERPRETER: "On these dead bodies," correction by the
6 English interpreter.

7 THE WITNESS: (Interpretation) Yes. I saw machete marks. And
8 even at the Lagura Hotel I saw a dead body, and that person had also been
9 struck with a machete.

10 MR. DUTERTRE: (Interpretation)

11 Q. And so the dead bodies in the classroom in the institute, what
12 part of the bodies had received the blow or the stroke of the machete?

13 A. Usually the neck and the legs, around the level of the thigh, and
14 the head.

15 Q. What happened the next day, the next morning? I believe you said
16 that someone came to get you from the classroom.

17 A. That day, nothing happened. The fighting lasted only one day.

18 Q. I'll rephrase my question. The next morning, were you taken out
19 of the classroom?

20 A. Yes. I was taken out of that classroom, and I was told that I
21 had to go find the other people who were hiding where I had been hiding
22 myself.

23 Q. We will get to that point soon. Now, as you were leaving the
24 classroom, did you notice anything on the floor?

25 A. I saw dead bodies, dead bodies, in particular the dead body of

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 59

1 Henriette. I was able to recognise her amongst the other corpses that
2 were outside the classroom.

3 Q. What was the ethnic origin of Henriette?

4 A. Henriette was born in Bogoro, but she was of the Boga Hema ethnic
5 group. She was a Hema person from Boga.

6 Q. How old was she on the day of the attack?

7 A. This is an estimate: She would have been about 35 to 37 years of
8 age. She was an adult.

9 Q. Could you describe the injuries that she had incurred?

10 A. She had been injured, her head and her leg, in the middle of her
11 leg.

12 Q. Could you be more specific? How was she hurt? How did they harm
13 her, her head, her leg?

14 A. She was hit at the neck and her knee.

15 Q. What kind of weapon caused her wounds, judging by what you saw?

16 A. I believe that she was struck with a machete.

17 Q. What did Henriette do for a living?

18 A. Henriette cooked at the Mapendo restaurant for her paternal
19 uncle.

20 Q. Witness, were you able to recognise other victims amongst the
21 dead bodies you saw that morning as you left the classroom?

22 A. I wasn't able to recognise any other dead bodies except for eight
23 people that I've already mentioned here.

24 Q. Could you be more specific? Which gender did the dead bodies
25 belong to as you were leaving the classroom?

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 60

1 A. There was everyone, children, many women, and a few men. Most
2 were children and women.

3 Q. Could you describe the injuries that you saw on the dead bodies
4 of these women and children, the corpses of the other women and children?
5 Could you describe what injuries they had suffered?

6 A. They were injuries caused by spears, machetes, bullets, all
7 kinds -- there were all kinds of injuries.

8 Q. And the injuries caused by machetes on other dead bodies, what
9 part of these dead bodies had been struck?

10 A. With a machete, you can cut the neck or the head, and people were
11 injured on the leg, but for the most part it was the neck and the head.

12 Q. Well, rather, what kind of clothing was on these dead bodies?
13 Could you describe the clothing that they were wearing?

14 A. Some victims had no clothes on. Others wore a few pieces of
15 clothing.

16 Q. Could you describe this clothing?

17 A. They wore torn clothing. The clothing had been torn by the blows
18 of the machetes.

19 Q. Regarding the -- now, we understand that the clothing had been
20 ripped or torn, shredded by the machetes. What kind of clothing were
21 they wearing?

22 A. I didn't pay attention. I didn't really observe the clothing. I
23 saw that these people had died, but I didn't pay a lot of attention to
24 the colour of their clothing.

25 PRESIDING JUDGE COTTE: (Interpretation) I believe we are still

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 61

1 in private session? I'm asking you, I'm asking you --

2 MR. DUTERTRE: (Interpretation) Yes, yes.

3 PRESIDING JUDGE COTTE: (Interpretation) We are in private? Had
4 we gone back into open session? I wanted to make sure of that point.

5 I didn't see the light. I should have been more careful. Pardon
6 me.

7 Getting back to the question about the clothing, Mr. Prosecutor.

8 MR. DUTERTRE: (Interpretation)

9 Q. You asked (as interpreted) about the dead bodies of children as
10 you -- that you saw as you left the classroom. Approximately how old
11 were these children?

12 A. They were of all ages, 2 years, 6, 8. They were very young
13 children.

14 Q. These dead bodies that you saw as you left the classroom, in
15 relation to the door of the first classroom where you were, how were
16 these dead bodies distributed? Were they all in the same place? Could
17 you tell us?

18 A. I saw dead bodies scattered in front of the classroom, six
19 bodies. Others were inside the classroom, but as far as I am concerned,
20 I'm speaking about the classroom where I saw dead bodies myself.

21 Q. With the -- the other prisoners that you were with in the first
22 classroom, did you speak to them?

23 A. We didn't have an opportunity to talk. Each person had his own
24 concerns, and it was not the time to talk.

25 Q. One clarification, Witness. This may be a matter of translation.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 62

1 Now, all these dead bodies that we've been talking about, they are
2 dead -- they were dead bodies that were outside the classroom that you
3 saw as you left the classroom? Is that correct? Not the same -- not the
4 same as -- not the dead bodies that you saw in the classroom. You're
5 talking about other dead bodies?

6 A. Outside there were six dead bodies. I saw six dead bodies. But
7 inside there were mainly dead bodies of women.

8 Q. Now, once you left, could you describe the fighters whom you saw
9 as you left the classroom?

10 A. I saw many fighters.

11 Q. Could you give us an idea of how many there were?

12 A. I couldn't tell you the exact number. There were many of them.
13 I would suppose 400 people. There were women and children as well.
14 There were many of them.

15 Q. What ethnic group did these fighters belong to?

16 A. Two ethnic groups were represented. There were Lendu people and
17 Ngitu people in large numbers.

18 Q. How did you recognise the Ngitu people?

19 A. I know that Ngitu people express themselves differently from
20 Lendu people. They are two different communities that speak two
21 different languages.

22 Q. Which language did you hear spoken? What language were these
23 fighters speaking?

24 A. Amongst themselves they spoke their own language as well as
25 Swahili, but it was a form of Swahili that was -- included a mixture of

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 63

1 words from other -- another language.

2 Q. You said they spoke their language. What was that language?

3 A. Some of them spoke Ngiti. Others spoke Kilendu. Kilendu is
4 close to Kilendu Kikegere (phoen), whereas Ngiti has nothing to do with
5 Kilendu, is entirely different from Kilendu.

6 Q. Could you describe how all these fighters, these Ngiti and Lendu
7 fighters were clothed?

8 A. Many of the fighters were wearing civilian clothing, and half of
9 the group was wearing green uniforms.

10 Q. Could you describe the weapons that they had?

11 A. I'm not very familiar with weapons, but some were carrying
12 weapons known as Natos and others known as Singes. There were also some
13 of the weapons with long belts as well as others with a small box in
14 front of them. This is a weapon that is used with a tripod.

15 Q. What does this Singe look like? Can you describe it?

16 A. The Singes that I saw looked like a weapon into which you can put
17 something such as a knife. This is the weapon known as the Singe.

18 Q. What about the Nato. Can you describe what it is?

19 A. The Nato could be recognised because of the noise that it made.
20 That weapon could be recognised from afar.

21 Q. You mentioned women and children also. Did the children carry
22 anything that morning?

23 A. That morning they didn't have anything except arrows.

24 Q. Can you tell us how old these children were; that is, the
25 children who had arrows?

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 64

1 A. Those children were aged 6, 8, or 10 years. They were not
2 adults.

3 Q. And proportionally speaking, that is amongst all the combatants,
4 what was the proportion of children?

5 A. The children who were there were helping transport objects. So
6 were the women. And after having transported those objects, they
7 assembled at a single location.

8 Q. Coming back to the children who had arrows, approximately how
9 many of them were there?

10 A. I am not able to tell you that, but I can tell you that there
11 were many of them, that is, the children who had arrows and spears.

12 MR. DUTERTRE: (Interpretation) Mr. President, I would like to
13 go briefly into closed session.

14 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
15 let us move into private session.

16 (Private session at 3.04 p.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 65

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)

16 (Open session at 3.07 p.m.)

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

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

21 Mr. Prosecutor, let us proceed.

22 MR. DUTERTRE: (Interpretation) Thank you.

23 Q. Witness, you were taken out of the classroom. You have described
24 the dead bodies of the fighters. What happened after you came out of the
25 classroom?

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 66

1 A. When I left the classroom, I saw six dead bodies on the ground.
2 We went to another place where I saw another dead body, and this was
3 close to the Lagura Hotel, close to the institute. There was a dead body
4 that had been cut into pieces. The face was covered, so I was not able
5 to recognise the person, and I cannot tell you what was the gender of
6 that body.

7 Q. I do remember, and I stand to be corrected, that after you came
8 out of the classroom someone asked you questions. You said that you did
9 not leave directly but that someone asked you questions.

10 A. Before leaving that place, their superior or their leader asked
11 me questions. He wanted to know whether there were soldiers or other
12 people in the hiding place in which I had been. So that is how he
13 ordered me to leave, but together with those people and to take them
14 away, that is from where the leader was.

15 Q. What was the ethnicity of the leader? Who told you that?

16 A. He was a Lendu. He --

17 THE INTERPRETER: Or, rather, he did not speak Lendu, corrects
18 the Swahili interpreter.

19 THE WITNESS: (Interpretation) But he spoke Swahili, and I was
20 able to know that he was Lendu by the way he spoke Swahili.

21 MR. DUTERTRE: (Interpretation)

22 Q. If you remember, how was this leader dressed?

23 A. He was dressed in a greenish uniform similar to the uniform of
24 the Ugandans.

25 Q. Did he have anything in his hands?

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 67

1 A. He had a weapon.

2 Q. What type of weapon?

3 A. I do not know. I wouldn't be able to tell you whether he had a
4 Single or another weapon. I really cannot tell you.

5 Q. Maybe this is a bit leading, but was it a firearm or a bladed
6 weapon?

7 A. There were spears, arrows, and machetes where that commander was.

8 Q. Was he carrying anything else?

9 A. No, I did not see anything else.

10 MR. DUTERTRE: (Interpretation) Just one moment, Mr. President,
11 with your leave.

12 (Prosecution counsel confer)

13 MR. DUTERTRE: (Interpretation)

14 Q. Do you know who that commander was?

15 A. No, I do not know who he was.

16 Q. And did you see him communicate with other people?

17 A. No. I did not see him communicating with other people.

18 Q. You said that you had to bring back the other people who were
19 hiding near your own hiding place. What did you think that the commander
20 or the leader wanted to do with those people once they had been brought
21 back?

22 A. He would have assembled us together and would have killed us.

23 Q. You went in the direction of your hiding place. Who specifically
24 was with you?

25 A. I was accompanied by ten combatants, the five who had stopped me

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 68

1 and five others who had joined us. We went to the place where I had been
2 hiding, and they asked me to speak in my language and announce to the
3 members of the population that the war was ended, but I did not say that.
4 I told them that the enemies were there. My younger brother heard me,
5 but he did not answer. At that time, they were firing, and the people
6 hiding there thought that I was already dead, and this is why one of them
7 came out, and he was caught by the same combatants who took him away with
8 them.

9 Q. We will come back to the other details, but what was the ethnic
10 group of the five new combatants who joined the other five who had
11 stopped you the previous day?

12 A. They were a mixture of Ngitis and Lendus.

13 Q. When they asked you to speak in your language, that would be
14 Hema. Isn't that so?

15 A. Yes. I spoke in Hema.

16 Q. Can you give us any further details on the people who came out of
17 their hiding places?

18 A. The person who had been hiding and that I knew was (Expunged)
19 (Expunged). Other people had left their hiding places and
20 had gone away, but I do not know them.

21 Q. Can you now explain how you managed to escape?

22 A. I did not flee. I stayed put. I was lying down. They started
23 shooting. They thought that I was dead, and after they left I was able
24 to go away.

25 THE INTERPRETER: Prosecutor's microphone.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 69

1 MR. DUTERTRE: (Interpretation)

2 Q. And where did you go?

3 A. After I left, I went towards the abattoir which was near the
4 former market. It was a rundown place. I leaned up against the wall to
5 try and untie myself.

6 Q. And once you undid the ropes, where did you go?

7 A. After that I crossed the small stream which was there, and I
8 turned right in the direction of Bogoro. I saw someone there with whom
9 we went with to Bunia passing through the bush paths. There there were
10 combatants from the Rwakalongo mountain. We passed through the Kahyoro
11 river. That is where I hid, and where I met other people.

12 Q. I would like to go briefly into closed session Mr. President?

13 PRESIDING JUDGE COTTE: (Interpretation) Yes. Madam Court
14 Officer, let us go into private session.

15 (Private session at 3.20 p.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 70

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 70 expunged. Private Session.

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 71

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 3.25 p.m.)

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

7 Mr. President.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

9 Mr. Prosecutor, please proceed.

10 MR. DUTERTRE: (Interpretation) Thank you, Mr. President.

11 Q. Witness, can you simply repeat the name of that person who was
12 asking those who had fled the names of those they had lost?

13 A. It was Mr. Methuselah.

14 Q. Did you speak with other survivors of the Bogoro attack?

15 A. Yes. I spoke with Commander Aboki who had been looking for me.
16 I told him what had happened to me.

17 Q. Did you speak with people other than that commander?

18 A. No, I did not speak with anyone else.

19 Q. Did you see other survivors in Bunia?

20 A. No. I do not understand what that means, "survivors."

21 Q. I'm sorry. It's a good thing you asked. Did you see other
22 people who had successfully fled Bogoro?

23 A. Yes. There was (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 72

1 MR. DUTERTRE: (Interpretation) I probably should have gone into
2 closed session, Mr. President, and I would like to go there now.

3 PRESIDING JUDGE COTTE: (Interpretation) So let us go into
4 private session, Madam Court Officer.

5 (Private session at 3.29 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0268 (Resumed) (Private Session)
Questioned by Mr. Dutertre

Page 73

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)

21 (Open session at 3.35 p.m.)

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

24 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you can
25 continue.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 74

1 MR. DUTERTRE: (Interpretation) Thank you, Your Honour.

2 Q. I have a certain number of other issues to address, however, I'd
3 like to go back over certain points referring to the attack on Bogoro of
4 2003. I would like to -- I think this is something that I can do from my
5 own computer. If you would allow me to do so, I would like to show a
6 video. The ERN number is DRC-OTP-1018-0145. DRC-OTP-1018-0145, and here
7 we're talking about a video taken in 2007, communicated -- disclosed to
8 the Defence. Certain parts of it are redacted with the agreement of the
9 Chamber, and I'm just going to show a short passage from it, 2:30 to 2 --
10 3:40. So around one minute of video. Everything is going to be in
11 public session, open session.

12 PRESIDING JUDGE COTTE: (Interpretation) Perfect.

13 COURT OFFICER: (Interpretation) In order to watch the video,
14 please press "PC 1."

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

17 MR. DUTERTRE: (Interpretation)

18 Q. Witness, I'm now going to show a video. If you would like, we
19 can show it a second time to give you the time to watch it.

20 PRESIDING JUDGE COTTE: (Interpretation) I just wanted to ensure
21 that everybody could see the video on their screen, the accused as well.
22 Okay.

23 MR. DUTERTRE: (Interpretation)

24 Q. And I will ask you questions subsequently. First of all, I'm
25 going to show it from 2 minutes and 31 seconds.

Witness: Witness P-0268 (Resumed) (Open Session)
Questioned by Mr. Dutertre

Page 75

1 (Video-clip played)

2 MR. DUTERTRE: (Interpretation) I'll therefore stop at 3 minutes
3 and 41 seconds. I would just like to add a clarification, but there's
4 normally sound with this, but to stop the commentary from influencing the
5 witness in any way, I put on a version which has no sound to it, but it
6 was disclosed to the Defence, and it was done so with the sound as well.

7 Q. Witness, would you like me to show you this video again, this
8 sequence again?

9 A. I've already seen it.

10 Q. Very well. Do you recognise what was shown?

11 A. I can see that it's an institute, but I don't see it very well.

12 Q. Well, I can show it again.

13 (Video-clip played)

14 MR. DUTERTRE: (Interpretation)

15 Q. Witness, you had -- or you have been able to say what it is or
16 not?

17 A. I saw somebody inside the building with something, but I didn't
18 see exactly what it was.

19 MR. DUTERTRE: (Interpretation) Your Honour, I will go back to
20 this extract from this institute. I will consider that I've got another
21 half hour, approximately, but I would like to ask for the permission of
22 the Chamber, if there's no problem, to be able to finish this tomorrow so
23 that we can bring together a certain number of questions linked to this
24 in a more precise way with regards to these points. It's just a
25 suggestion that I would make. So in that case we could allow the witness

Witness: Witness P-0268 (Resumed) (Closed Session)
Questioned by Mr. Dutertre

Page 76

1 to go. We could mention certain issues of an administrative nature, and
2 then we could continue tomorrow.

3 PRESIDING JUDGE COTTE: (Interpretation) So do you think it's
4 useful to stop at this moment, to stop the examination if chief and we
5 will then take it up again at 9.30? You think you need the first
6 sequence tomorrow, the first session?

7 MR. DUTERTRE: (Interpretation) No, not more than the first
8 session. I think between half an hour and three-quarters of an hour I
9 should have finished, just to give the Defence an idea so they can
10 prepare themselves for it.

11 PRESIDING JUDGE COTTE: (Interpretation) So we're now going to
12 go into closed session to allow the witness to leave the courtroom.

13 Witness, the Court would like to thank you for your contribution
14 to our proceedings. You have clearly answered. You've spoken loudly
15 into the microphone. You've been a very disciplined witness where it
16 concerns the functioning of the proceedings, and we thank you for it.

17 (Closed session at 3.44 p.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 3.46 p.m.)

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

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

8 The Chamber would just like to draw the attention of the Legal
9 Representatives, who have certainly been vigilant to this, to the
10 opportunity of seeing the questions which they would like to put in the
11 light of what the Prosecutor has already asked in terms of questions.
12 There might be aspects of redundancy, but there's still apparently an
13 hour of the -- of the examination-in-chief tomorrow, so there is a
14 certain degree of latitude there.

15 Now, Prosecutor, you've got a communication which you wish to
16 give to us.

17 MR. DUTERTRE: (Interpretation) Just a -- an issue with regards
18 to the timetable. It concerns the arrival of the following witness.
19 Should the Prosecutor already prepare tomorrow for the following witness?
20 Could the Defence give indications in that level?

21 PRESIDING JUDGE COTTE: (Interpretation) You are quite right.
22 This is a question which we asked you to put.

23 The Prosecutor says normally tomorrow he will have finished at
24 the end of the first part of the hearing. Therefore, David Hooper or
25 Counsel Kilenda's team, I don't know which of you two will start first.

1 Perhaps Counsel Hooper.

2 Counsel Hooper, can you approximately give us an idea of the time
3 you would need for your cross-examination, which could start tomorrow
4 quite irrespective of any questions the Legal Representatives might ask,
5 but that shouldn't take an enormous amount of time, so we could imagine
6 that Counsel Hooper's team would start tomorrow, and if not tomorrow
7 morning, then tomorrow afternoon. So how much time would you need
8 approximately?

9 MR. HOOPER: I'll be -- I'll be fairly short. I suppose that's a
10 relative situation. I'd been surprised if I ask any questions. I may
11 not. If I ask any questions, I will not exceed 30 minutes.

12 PRESIDING JUDGE COTTE: (Interpretation) Counsel Kilenda,
13 Professor Fofe.

14 MR. KILENDA: (Interpretation) Thank you, your Honour. Given
15 the fluidity with which the Prosecution carried out his
16 examination-in-chief, we don't think that it's going to be ver long
17 either in our case, but we will have certain questions for clarification.

18 Furthermore, I would also like to take this opportunity to ask
19 for a favour. We note that when we go into things it might seem
20 important for us to meet our client to go over certain issues which
21 witnesses have raised, and when you have hearings also in the afternoon,
22 the detention centre isn't always able to allow us to contact our client
23 in the evening. Would it be possible for you to act in this regard with
24 the detention centre such that we can have authorisation to sometimes,
25 around 6.00 or 7.00, be able to meet our client?

1 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
2 are able to answer, if not, you'll tell us tomorrow morning having
3 consulted the Court Services Division, but what is the best formula? A
4 complex derogation to obtain from a detention centre, when we know that
5 the rules are generally extremely strict, or, on the other hand, is there
6 a possibility that it would be granted after the hearing in the premises
7 of the court itself for the Defence teams if they want to meet their
8 client? You perhaps are not able to give us an immediate response, but
9 could we have an answer tomorrow morning unless you wish that either
10 Mr. Dubuisson or another person comes to the hearing and gives a short
11 communication in this regard to explain the possible difficulties there
12 are, constraints, and possible solutions.

13 It's true that we have quite a high rhythm with regards to the
14 hearings. We're going to be three days in the afternoon next week, so
15 without doubt, it is possible to go to the centre in the morning, but at
16 a general level basically the situation could arise again over the weeks
17 when we're sitting as we are doing this week, and if you have the
18 possibility to transmit the message to Counsel Kilenda relayed via the
19 Chamber, then we would be very grateful for that.

20 No problem. So an answer tomorrow will be sufficient.
21 Therefore, we can state that it is now more or less the situation that
22 268 will have finished his testimony at the end of the week and perhaps
23 even beforehand.

24 Prosecutor, this means that we cannot rule out that Witness 161
25 can start from Friday, and perhaps tomorrow, but tomorrow I think might

1 be a bit short where it concerns any possible security measures for this
2 witness, because yesterday we issued an oral decision which opens the
3 possibility for Counsel Luvengika to go to the unit, and I think you're
4 going to go this afternoon. So things have been set up as fast as
5 possible, but we have a minimum of time that's needed in order to rule on
6 this. I don't rule out that it's possible to do so on Friday. Whatever
7 the case, it is possible that tomorrow or on Friday that 268 will have
8 finished his testimony, so I think you have to have this in mind knowing
9 that 161 will be coming immediately afterwards, perhaps even on Friday
10 afternoon, and that Witness 323 will be following.

11 MR. DUTERTRE: (Interpretation) That's correct.

12 PRESIDING JUDGE COTTE: (Interpretation) I have to consult my
13 notes.

14 MR. DUTERTRE: (Interpretation) 159 from my memory, your Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Is this okay to
16 everybody? Well, in that case we are now going to adjourn our hearing.
17 We will like to thank all the participants for the quality of these
18 proceedings. The session is adjourned.

19 The hearing ends at 3.53 p.m.

20 CORRECTIONS REPORT

21 The following corrections have been made to the English transcript:

22 * Page 16 line 4 "and then they tortured me" is corrected by

23 "and then they tied me up"

24 (expunged)

25 (expunged)

1 (expunged)

2 (expunged)

3 (expunged)

4 (expunged)

5 RECLASSIFICATION REPORT

6 *Pursuant to Trial Chamber II's email instructions dated 10 July 2012, the
7 excerpt of the transcript page 5 lines 16 to 17 is reclassified as public,
8 as ordered by the Chamber.