

Trial Hearing
WITNESS: DRC-OTP-P-0868

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 3
7 Wednesday, 14 December 2016
8 (The hearing starts in open session at 9.32 a.m.)
9 THE COURT USHER: [9:32:35] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:33:01] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:33:03] Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: [9:33:17] Thank you, court officer.
19 Now appearances, and just limit yourself to changes compared to yesterday.
20 MS MORRIS: [9:33:27] Good morning, Mr President. Good morning, your
21 Honours. The composition remains the same as yesterday afternoon.
22 PRESIDING JUDGE FREMR: [9:33:33] Thank you, Ms Morris.
23 Defence, please.
24 MR BOURGON: [9:33:39] (Interpretation) Good morning. No change on the side of
25 the Defence, Your Honour.

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1 PRESIDING JUDGE FREMR: [9:33:42] And as to the Legal Representatives -- thank
2 you very much, Mr Bourgon. And as to the Legal Representatives, I can also note
3 that -- are there any changes? No changes. Yes, Mr Abdou and Mr Suprun, as
4 yesterday. Fine.

5 Mr Witness, good morning.

6 WITNESS: DRC-OTP-P-0868 (On former oath)

7 (The witness speaks Swahili)

8 THE WITNESS: [9:34:01] (Interpretation) Good morning.

9 PRESIDING JUDGE FREMR: [9:34:03] Mr Witness, are you feeling okay to continue
10 with your testimony today?

11 THE WITNESS: [9:34:16] (Interpretation) Yes.

12 PRESIDING JUDGE FREMR: [9:34:19] Very good.

13 I have two reminders for you. The first one, it's my duty to remind you that you are
14 still under oath, which means that you have to speak the truth and nothing but the
15 truth, and the second one, yesterday you have been examined by Prosecution and by
16 Legal Representative of Victims, and today you will be examined by Defence. And I
17 would like to highlight that this Court is governed by the principle of fair trial, which
18 also means that both parties, Prosecution and the Defence, should be treated equally,
19 which means for you that you should respond to questions put to you by Defence in
20 the same way like you did it to questions put to you by Prosecution.

21 And as concerns practical matters, I can just confirm that yesterday you perfectly
22 followed my guidance, you listened attentively to questions, you responded clearly.
23 You also observed some pauses between the question and your answer, so I would
24 like to encourage you, please, just continue in the same way like yesterday.

25 Do you understand that, Mr Witness?

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- 1 THE WITNESS: [9:35:46] (Interpretation) Yes.
- 2 PRESIDING JUDGE FREMR: [9:35:52] Good.
- 3 And now I am giving the floor to Mr Bourgon.
- 4 Mr Bourgon, we are in open session. Do you want to remain in open?
- 5 MR BOURGON: [9:36:01] Private session, please, Mr President.
- 6 PRESIDING JUDGE FREMR: [9:36:03] All right then.
- 7 Court officer, please, let's move into private session.
- 8 (Private session at 9.36 a.m.)
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24 (Open session at 11.04 a.m.)

25 THE COURT OFFICER: [11:04:47] We are in open session, Mr President.

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1 PRESIDING JUDGE FREMR: [11:04:50] Thank you. And update on timing:

2 Mr Bourgon, you have used so far 1 hour 26, which means you still have at your
3 disposal 34 minutes. I guess there is no chance that you would finish in the next 15
4 minutes.

5 MR BOURGON: [11:05:09] No, Mr President.

6 PRESIDING JUDGE FREMR: [11:05:10] Understandable. So we break now, and we
7 will reconvene 11.35.

8 THE COURT USHER: [11:05:17] All rise.

9 (Recess taken at 11.05 a.m.)

10 (Upon resuming in open session at 11.37 a.m.)

11 THE COURT USHER: [11:37:21] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [11:37:43] We are going to continue with the
14 remainder of cross-examination of our witness.

15 This witness is protected one, so I am asking Mr Bourgon whether, subject to his
16 upcoming questions, is there a need to move into private session?

17 MR BOURGON: [11:38:14] There is, Mr President.

18 PRESIDING JUDGE FREMR: [11:38:15] All right then.

19 Court officer, let's move into private session.

20 (Private session at 11.38 a.m.)

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23 (Open session at 12.17 p.m.)

24 THE COURT OFFICER: [12:17:23] We're in open session, Mr President.

25 PRESIDING JUDGE FREMR: [12:17:31] Thank you, court officer.

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1 Mr Witness, it concludes your testimony. On behalf of the whole Chamber I would
2 like to thank you for undergoing such a long journey and for testifying and for
3 patiently responding to all those questions put to you and I hope that your testimony
4 will assist us in our effort to find the truth in this case. So we thank you and we
5 wish you safe journey home.

6 And now we will break for time necessary -- go ahead, go ahead, Mr Witness.

7 THE WITNESS: [12:18:26] (Interpretation) Thank you, your Honour, for all the
8 help that I have had in the past two days. I just wish to convey my thanks. Thank
9 you very much.

10 PRESIDING JUDGE FREMR: [12:18:59] Well noted. Thank you.

11 (The witness is excused)

12 PRESIDING JUDGE FREMR: And now we will have to break in order to allow
13 VWU to bring the next witness and also allow parties to prepare for examination of
14 the next witness.

15 So the Judges will wait in the deliberation room and, court officer, please inform us as
16 soon as the court will be ready.

17 THE COURT USHER: [12:19:23] All rise.

18 (Recess taken at 12.19 p.m.)

19 (Upon resuming in open session at 12.32 p.m.)

20 THE COURT USHER: [12:32:37] All rise.

21 Please be seated.

22 PRESIDING JUDGE FREMR: [12:33:15] Good afternoon. Welcome back. But
23 since I see some changes in composition I shall take appearances again, starting with
24 the Prosecution, please.

25 MS LUPING: [12:33:27] Good afternoon, Mr President, your Honours. There

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1 have been changes. Ms Nicole Samson and Ms Selam Yirgou are as part of the prior
2 Prosecution team. But now present in the courtroom are also myself Dianne Luping,
3 trial lawyer; and Mr James Pace, assistant trial lawyer.

4 PRESIDING JUDGE FREMR: [12:33:46] Thank you, Ms Luping.
5 Defence, please.

6 MR GOSNELL: [12:33:50] Good afternoon, Mr President. Christopher Gosnell for
7 Mr Ntaganda today, assisted by Erik Cookson-Montin and Maria-Kim Vasconi.
8 Thank you.

9 PRESIDING JUDGE FREMR: [12:34:03] Thank you, Mr Gosnell.
10 And now Legal Representatives of Victims, please.

11 MS PELLET: [12:34:09] (Interpretation) Thank you, Mr President. The former
12 child soldiers are represented by Mohamed Abdou and myself Sarah Pellet, counsel
13 at the Office of Public Counsel for Victims.

14 MS GRABOWSKI: [12:34:29] Good afternoon, Mr President. Good afternoon,
15 your Honours. Anne Grabowski for the victims of the attacks. Thank you.

16 PRESIDING JUDGE FREMR: [12:34:36] Thank you, Ms Pellet.
17 Thank you, Ms Grabowski.

18 Now we can turn to the scheduled testimony for the final witness of the seventh
19 evidentiary block, who is already with us in the courtroom and will testify without
20 protective measures and can therefore be referred to by name.

21 Dr Lawry, on behalf of the Chamber I would like to welcome you in the courtroom.

22 WITNESS: DRC-OTP-P0453

23 THE WITNESS: [12:35:02] Thank you, your Honour.

24 PRESIDING JUDGE FREMR: [12:35:05] We will proceed immediately to the
25 testimony and any objections to material will be addressed as they arise.

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1 Noting that the Chamber has issued a preliminary ruling in relation to this witness,
2 and I'm referring to decision bearing filing number 1159 as decided yesterday, we will
3 start only with the examination-in-chief of the witness today and cross-examination
4 will commence tomorrow.

5 Now I will start with guidance for the witness.

6 So, Dr Lawry, this Chamber has been established to try the case of the Prosecutor
7 against Mr Bosco Ntaganda and you are called today by the Prosecution to testify as
8 an expert. I would like to provide you with some brief guidance in relation to these
9 proceedings.

10 You will be asked questions both by the Judges and lawyers. If the question is not
11 clear to you, please feel free to ask for it to be repeated or rephrased. We want you
12 to tell the truth and we want you to only testify within the sphere of your expertise.
13 You are before us as an expert in epidemiology and if you do not feel that the
14 question put to you falls within your area of professional expertise, please then you
15 should indicate this.

16 Do you understand this, Dr Lawry?

17 THE WITNESS: [12:36:54] Yes, I do.

18 PRESIDING JUDGE FREMR: [12:36:55] Very good. Now I believe you have in
19 front of you a piece of paper with text of the solemn undertaking, so please could you
20 kindly now make your solemn undertaking by reading out the text on the paper.

21 THE WITNESS: [12:37:10] I solemnly declare that I will speak the truth, the whole
22 truth and nothing but the truth.

23 PRESIDING JUDGE FREMR: [12:37:17] Thank you.

24 Dr Lawry, now you are under oath and I am obliged to note that it is an offence
25 within the jurisdiction of this Court to give false testimony. Do you understand

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1 that?

2 THE WITNESS: [12:37:30] Yes, I do.

3 PRESIDING JUDGE FREMR: [12:37:34] Fine. And finally a few practical matters
4 you should have in mind when giving your testimony. I understand you will be
5 testifying in English today; am I right?

6 THE WITNESS: Yes, you are correct.

7 PRESIDING JUDGE FREMR: [12:37:49] Fine. But everything we say here is
8 written down and also translated into French. It's therefore important to speak
9 clearly and to speak at a slow pace, a bit slower than me now.
10 Please, which is also important, please only start speaking when the person asking
11 you the question has finished. To allow for the interpretation everyone has to wait a
12 few seconds before starting to speak, so I recommend you when a question is asked
13 please keep pause at least for 3 seconds and only then please give your answer.
14 If you have any questions yourself, please just raise your hand and we will then give
15 you the opportunity to speak.

16 Have you understood all this, Dr Lawry?

17 THE WITNESS: Yes, I have.

18 PRESIDING JUDGE FREMR: [12:38:44] Very good. Which means we can now
19 proceed with your testimony.

20 Prosecution will start. It, I guess, will be Ms Luping. Ms Luping, you have been
21 allotted two hours.

22 MS LUPING: [12:38:57] Thank you, Mr President.

23 Before I start, the Prosecution does wish to make a request to the Chamber for an
24 additional half hour. Essentially, in the original revised request that we had made
25 on 29 July 2016 indicated that the Prosecution was proposing to complete this

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1 witness's testimony in two and a half hours instead of four.

2 On 3 November the Chamber did indicate that it strongly encouraged us to complete
3 the testimony within two hours. However, your Honours, we have indicated
4 our -- to the Defence that we would be making this request. In our submission, this
5 time will be necessary. This expert's report comprises 81 pages. In addition, there
6 are seven related documents that have been referred to in the report which are
7 relevant to this expert's report and, in our submission, two hours will simply be
8 insufficient. Thank you.

9 PRESIDING JUDGE FREMR: [12:39:58] Give me a second. I have to deliberate
10 with my colleagues.

11 (Trial Chamber confers)

12 PRESIDING JUDGE FREMR: [12:40:38] So our decision is that the request is
13 rejected and briefly on the reasoning, we believe that, Ms Luping, you should focus
14 on conclusions mainly. You are right that it's -- the material is relatively extensive,
15 but there are also some parts of the report that probably is not -- or go beyond the
16 scope which is relevant for the case. I think that they have no impact on the legal
17 conclusions that Chamber will make at the end of the case. So I think with a
18 selective approach, we believe that you can make it in two hours.

19 MS LUPING: [12:41:23] Understood, Mr President, your Honours.

20 QUESTIONED BY MS LUPING:

21 Q. [12:41:29] So good afternoon, Dr Lawry. We have met before. My name is
22 Dianne Luping and I will be questioning you on behalf of the Prosecution.

23 A. [12:41:39] Thank you.

24 Q. [12:41:42] So, Dr Lawry, just a few questions first just to establish your identity.
25 Can you provide the Court with your full name?

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1 A. [12:41:52] My full name is Lynn Lieberman Lawry.

2 Q. [12:41:58] And are there any other names by which you were previously
3 known?

4 A. [12:42:03] Yes, I was known as Lynn Amowitz in the past.

5 Q. [12:42:08] And when were you born?

6 A. [12:42:13] I was born on August 8 of 1964 and in Florida of the US.

7 Q. [12:42:23] And, Dr Lawry, were you retained by the Office of the Prosecutor to
8 provide an expert opinion in this case?

9 A. [12:42:42] Yes.

10 Q. [12:42:43] And have you reached your expert opinion based on questions as
11 posed by the Prosecution in relation to survey results of human rights abuses
12 allegedly committed by members of the UPC or FPLC in Ituri and the health
13 consequences based on a 2015 study that you and others conducted in the DRC?

14 A. [12:43:10] Yes, I have.

15 Q. [12:43:12] And I will deal with that opinion shortly, but first I would like to
16 turn to your qualifications to testify as an expert.

17 MS LUPING: [12:43:24] Mr President, your Honours, just to note that the Defence
18 has stated it doesn't challenge Dr Lawry's qualifications.

19 PRESIDING JUDGE FREMR: [12:43:32] It was just my point, so I guess you can be
20 very brief.

21 MS LUPING: I will be brief.

22 PRESIDING JUDGE FREMR: There are no doubts about the expertise of this
23 witness.

24 MS LUPING: [12:43:39] Thank you. I will be very brief and I will justly simply
25 seek to lead her on some key points relating to her expertise, with your leave.

1 PRESIDING JUDGE FREMR: [12:43:48] All right with us.

2 MS LUPING: [12:43:49]

3 Q. [12:43:50] So, Dr Lawry, you're an epidemiologist and you obtained your
4 medical licence from the State of Massachusetts in the US in 1996?

5 A. [12:44:04] Yes, this is correct.

6 Q. [12:44:05] You have a number of degrees relevant to the particular expertise
7 for today. You have a Doctorate of Medicine from 1992 and in 1998 obtained a
8 Master of Science in Public Health specialising in epidemiology with a minor in
9 bio-statistics from Harvard Medical School?

10 A. [12:44:31] Yes, that is correct.

11 Q. [12:44:36] You have written extensively, including in relation to your
12 experience in the DRC and in relation to your quantitative methodology?

13 A. [12:44:48] Yes, I have.

14 Q. [12:44:50] In terms of your clinical experience, from 1990 to 2005 you held a
15 clinical appointment where you annually treated approximately 450 male and female
16 patients, including victims of sex and gender-based violence?

17 A. [12:45:10] Yes, that is correct.

18 Q. [12:45:14] You have extensive field and research experience in different
19 countries, including conflict areas, such as Rwanda, the DRC, Albania and Kosovo?

20 A. [12:45:31] Yes, those are some of the places that I've worked.

21 Q. [12:45:36] For Physicians for Human Rights USA you first adapted your
22 epidemiology training to create a quantitative survey to assess health consequences of
23 human rights violations perpetrated predominantly against women in Afghanistan?

24 A. [12:45:59] Yes, that is correct.

25 Q. [12:46:03] You have approximately --

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1 PRESIDING JUDGE FREMR: [12:46:05] Ms Luping, as usually, you know, if
2 you -- it was us who put you under time pressure, I am aware of that, but still, if you
3 be too fast, it in fact would mean that you will have to repeat, you will have to correct
4 transcript. And the result, in fact, you will lose more time than if you would be a bit
5 slower.

6 MS LUPING: [12:46:28] Understood, Mr President.

7 Q. [12:46:31] So, Dr Lawry, you have spent at least 15 years quantitatively and
8 qualitatively studying the health consequences of human rights violations, including
9 sexual violence, including in Afghanistan, Iraq, Sierra Leone, Liberia, the DRC, Darfur,
10 Kenya and Chad.

11 A. [12:47:04] Yes.

12 Q. [12:47:06] You have interviewed hundreds of victims of sexual violence and
13 other human rights violations in Afghanistan, Iraq, Darfur, Chad and the DRC.

14 A. [12:47:29] Yes.

15 Q. [12:47:40] You have participated in numerous inter-agency forums on human
16 rights and sexual violence and you have served as an expert for the United Nations,
17 non-governmental organisations and various United States government bodies?

18 A. [12:48:00] Yes, I have.

19 Q. [12:48:02] And as an example, you have helped to create and standardise
20 quantitative surveys to assess sexual violence and other human rights abuses
21 amongst refugees and IDP populations, including for the US Department of State and
22 the World Health Organisation.

23 A. [12:48:28] Yes, I have.

24 Q. [12:48:33] Your quantitative data in a report co-authored with an expert
25 witness Beth Vann was referred to in the case of Prosecutor and Charles Taylor?

1 A. [12:48:50] Yes, it was.

2 Q. [12:48:53] Dr Lawry, could you please explain for us in layperson's terms what
3 is an epidemiologist?

4 A. [12:49:11] An epidemiologist is a person who looks at the factors that affect
5 health within populations or among populations.

6 Q. [12:49:24] And can you explain what are epidemiological population-based
7 surveys. In particular, in what sectors they are used.

8 A. [12:49:38] These type of surveys are used extensively, primarily by
9 organisations such as the World Health Organisation or the United Nations, to study
10 different factors within populations that affect health.

11 Q. [12:50:05] And just to be clear, what sectors can use these types of studies,
12 epidemiological studies?

13 A. [12:50:19] Any sector can use this type of methodology. We've seen these
14 studies used in health studies, in water and sanitation studies, in governance studies,
15 in human rights studies, population studies, there are all types of sectors that use.
16 It's really a methodology to develop an analysis.

17 Q. [12:50:47] And can you give us an example, just first drawing on the public
18 health sector, of a typical epidemiological survey or study that most people would be
19 common with -- familiar with, rather.

20 A. [12:51:04] If you're in the type of work that I do, which would be humanitarian
21 work or development work, you commonly see a study called the demographic
22 health study which categorises all of the demographic health issues within a
23 population. The demographic health study uses this type of methodology for
24 looking at the health of populations within a country.

25 Q. [12:51:32] And you've used in your report the example of smoking. Could

1 you just explain in very simple terms how an epidemiological study related to
2 smoking works so that we can understand the principles in basic terms?

3 A. [12:51:48] What you're doing, as I said, is looking at the factors that lead to
4 health. So one could say in epidemiology, if you carry matches in your pocket,
5 you're at risk for cancer. The answer is yes, that's a factor, but that's not the cause.
6 The cause is when you take those matches, you light a cigarette and you inhale the
7 smoke. So epidemiology teases out all those different variables within a study to
8 show what is the association with smoking and cancer.

9 Q. [12:52:30] And in your report you also talk about prevalence and quantitative
10 data. In simple terms could you explain what that means?

11 A. [12:52:42] So, in simple terms, prevalence is the proportion of the population
12 that is affected by the indicator or the factor that you're talking about. It could be a
13 percentage, it could be a mean, it could be a number of things, but more or less it's
14 really just what part of that population actually is affected.

15 Q. [12:53:06] And you have explained different reasons or purposes for these
16 types of surveys. Other than litigation, because this is one of the purposes that we've
17 asked you to provide your results and expert opinion on, what can these various
18 surveys be used for?

19 A. [12:53:32] The most important reason that you would use these surveys is for
20 being able to programme and fund programmes that help those who have issues and
21 needs. So defining the needs and gaps of an issue and being able to adequately
22 programme for the number that you come up with.

23 Q. [12:53:54] And, Dr Lawry, can you explain in simple terms what is a
24 bio-statistician?

25 A. [12:54:03] So a bio-statistician is one who uses data analysis to come up -- or to

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1 use data that comes from biological data such as health data and it creates an
2 analysis -- a bio-statistician creates an analysis to define and summarise the health
3 data.

4 Q. [12:54:30] What is the role of the statistician in analysing data that's collected
5 from an epidemiological survey or specifically a population-based survey?

6 A. [12:54:45] So the bio-statistician is the one who creates the analysis that decides
7 how the data will be analysed, what things will be used, what things will not be used,
8 what things will be compared, what are important issues to take into account,
9 whether the data is okay or it's not okay.

10 Q. [12:55:15] And now, Dr Lawry, I'd like you to turn to tab 3 of your binder.
11 And for the record the document there is DRC-OTP-2080-0642. In particular, I refer
12 to your curriculum vitae. Dr Lawry, is it correct that you made the following
13 corrections during your witness preparation session, namely that your positions as an
14 instructor in medicine and faculty mentor at Harvard Medical School with Puralytics
15 and your position as director at the Initiative in Global Women's Health at
16 Brigham -- Brigham and Women's Hospital ended in 2016 and that you ended the
17 Lawry Research Associates International Inc. in 2015? Is that correct?

18 A. [12:56:13] Yes, that's correct.

19 Q. [12:56:14] And other than those corrections, can you confirm that the
20 curriculum vitae accurately reflects your education and experience today?

21 A. [12:56:28] Yes, it is correct.

22 MS LUPING: [12:56:29] Mr President, the Prosecution would seek admission of
23 this CV with the ERN number as indicated.

24 PRESIDING JUDGE FREMR: [12:56:37] Defence, any objection?

25 MR GOSNELL: [12:56:39] None, Mr President.

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1 PRESIDING JUDGE FREMR: [12:56:42] This document specified by Ms Luping is
2 admitted into evidence as a further Prosecution exhibit.

3 Ms Luping, please proceed.

4 MS LUPING: [12:56:50] And, Mr President, we understand that the Defence has no
5 objections to qualifying Ms -- Dr Lawry as an expert and particularly in the field of
6 epidemiology, and with your leave the Prosecution would seek to formally qualify
7 Dr Lawry as an expert and to question her now on that basis.

8 PRESIDING JUDGE FREMR: [12:57:06] Defence, can you confirm?

9 MR GOSNELL: [12:57:07] I do confirm.

10 PRESIDING JUDGE FREMR: [12:57:09] So the request is granted.

11 MS LUPING: [12:57:18]

12 Q. [12:57:18] Dr Lawry, did the Prosecution send you a letter of instruction dated
13 19 March 2015 asking, amongst other things, for you to prepare a written report on
14 the survey results of alleged human rights violations in Ituri allegedly committed by
15 members of the UPC or FPLC and their consequences based on your 2010 DRC study
16 indicating, where possible, the gender and ethnicity of the victims and the scale or
17 prevalence of the violations as close to the time period between 2002 and 2003 as
18 possible?

19 A. [12:58:13] Yes, that is the case.

20 Q. [12:58:17] And were you also asked to assess the impact of such crimes on the
21 alleged victims?

22 A. [12:58:28] Yes, I was.

23 Q. [12:58:31] Now, I refer at tab 1 to your expert report, for the record, that is
24 DRC-OTP-2084-0523 at pages 54 to 57 or ERNs 0577 to 0580.

25 Dr Lawry, do you have that document in front of you?

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1 A. [12:59:07] Yes, I do.

2 Q. [12:59:08] And can you please confirm that this is the letter of instruction that
3 you were provided?

4 A. [12:59:15] Yes, I was provided this letter.

5 Q. [12:59:18] And can I now ask you please to turn to tab 26, and that is
6 DRC-OTP-2084-0156. Can you please indicate when you have that document in
7 front of you.

8 A. [12:59:41] Yes, I have that document in front of me.

9 Q. [12:59:44] Is this a signed version of the identical version of the letter of
10 instruction as contained or attached to your expert report?

11 A. [12:59:54] Yes, it is.

12 MS LUPING: [12:59:57] Mr President, your Honours, we would seek to have the
13 signed version of the letter of instruction now admitted. Whilst it is identical to the
14 version as attached to the expert report as an annex, there is no change or difference
15 in the language. The only difference, it is a signed version and for that reason the
16 Prosecution would request that it also be admitted.

17 PRESIDING JUDGE FREMR: [13:00:20] Mr Gosnell?

18 MR GOSNELL: [13:00:21] No objection to that, Mr President.

19 PRESIDING JUDGE FREMR: [13:00:24] So document specified by Ms Luping is
20 admitted into evidence as a further Prosecution exhibit.

21 MS LUPING: [13:00:38] Mr President, I will be guided by you. We are at 1 o'clock.
22 The Prosecution is amenable whether you prefer to break now or to continue.

23 PRESIDING JUDGE FREMR: [13:00:47] It depends. If you would like to continue
24 with just the issue of qualification for five minutes, something like that, just to wrap
25 up this.

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1 MS LUPING: [13:00:56] The proposal now would be simply to have the -- to seek
2 to admit the report and two annexes as a procedural matter before leading on to the
3 supplementary questioning, but it's your decision, your Honours.

4 PRESIDING JUDGE FREMR: [13:01:09] But I guess it could lead to -- it depends.
5 Mr Gosnell, do you have any objection to prospective request for the admission of the
6 report? If yes, then we will break and we will deal with this after the break.

7 MR GOSNELL: [13:01:26] No objection to admission of the report and the two
8 annexes, Mr President.

9 PRESIDING JUDGE FREMR: [13:01:33] Okay, so could you just specify for the
10 record those documents.

11 MS LUPING: [13:01:38] Understood, Mr President.

12 Q. [13:01:40] So, Dr Lawry, I'd like to refer to tab 1. It's DRC-OTP-2084-0523.
13 Do you have the report before you?

14 A. [13:01:53] Yes, I do.

15 Q. [13:01:54] Can you confirm who wrote this report?

16 A. [13:01:58] I wrote this report.

17 Q. [13:02:01] Do you have any clarifications or corrections you wish to make to
18 the report?

19 A. [13:02:07] I do not have any clarifications or corrections.

20 Q. [13:02:11] And to the best of your knowledge, are the contents of this report a
21 true and accurate reflection of your views, impartially stated?

22 A. [13:02:20] Yes, they are.

23 Q. [13:02:23] And do you consent to admission of this report into evidence?

24 A. [13:02:28] Yes, I do.

25 Q. [13:02:31] And do you consent to being questioned, if necessary, by the other

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1 parties, participants and the Chamber in relation to this report?

2 A. [13:02:41] Yes, I do.

3 MS LUPING: [13:02:43] Mr President, your Honours, I would ask that this report
4 be admitted into evidence pursuant to Article 69(3) and Rule 68(3).

5 PRESIDING JUDGE FREMR: [13:02:52] Since I take it there is no objection from the
6 Defence, this document and associated documents are admitted into evidence
7 according to Rule 68(3) as a further Prosecution exhibit.

8 And now we can break, or do you have anything else in connection with this?

9 MS LUPING: [13:03:13] Just one related request for admission, your Honours.

10 PRESIDING JUDGE FREMR: [13:03:20] All right.

11 MS LUPING: [13:03:21]

12 Q. It's connected to annex 3, which is a reference to the 2010 DRC study
13 questionnaire and the Excel sheet or raw data as such. It's referred to as an annex to
14 your report, Dr Lawry, but it has a separate ERN at tab 2, and that is the Excel sheet.
15 It's a separate DVD, in fact, that's been provided to the parties and the Chamber,
16 that's DRC-OTP-2080-0220.

17 Dr Lawry, can you confirm who drafted the questionnaire?

18 A. [13:03:59] The questionnaire was drafted by myself and my statistician Jana
19 Asher.

20 Q. [13:04:08] Who drafted or inputted the various raw data entries into this Excel
21 sheet?

22 A. [13:04:13] She and I both shared the duty of entering the surveys into this data
23 sheet.

24 Q. [13:04:19] And did you have any oversight into the entries that she made?

25 A. [13:04:25] Both of us did 10 percent checks on each other's data to ensure that

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1 the data were as correct as possible.

2 Q. [13:04:33] And to the best of your knowledge, are the contents of the
3 questionnaire and the various data entries as reflected in the Excel sheet true and
4 accurate?

5 A. [13:04:43] Yes, they are.

6 Q. [13:04:44] And do you consent to the admission of this Excel sheet or raw data
7 being admitted into evidence?

8 A. [13:04:53] Yes.

9 MS LUPING: [13:05:01] Your Honours, with your leave, I would seek to have this
10 additional document that's related to the expert's report admitted into evidence.

11 PRESIDING JUDGE FREMR: [13:05:08] Mr Gosnell, any objection?

12 MR GOSNELL: [13:05:13] No objection, Mr President.

13 PRESIDING JUDGE FREMR: [13:05:17] With some hesitation, but no objection.

14 All right.

15 So this document is also admitted into evidence according to 68(3) Rule as a further
16 Prosecution exhibit.

17 And now we will take our lunch break and we will resume half past 2.

18 THE COURT USHER: [13:05:38] All rise.

19 (Recess taken at 1.05 p.m.)

20 (Upon resuming in open session at 2.31 p.m.)

21 THE COURT USHER: [14:31:28] All rise.

22 Please be seated.

23 PRESIDING JUDGE FREMR: [14:31:58] Good afternoon, everybody. We will
24 continue with examination-in-chief of our witness.

25 It is expected that this examination should finish before the normal end of our session,

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1 but anyway we will continue with cross-examination tomorrow morning.

2 Now, Ms Luping, you have the floor.

3 MS LUPING: [14:32:18] Thank you, Mr President.

4 Q. [14:32:20] So good afternoon again, Dr Lawry.

5 A. [14:32:26] Good afternoon.

6 Q. [14:32:26] Before I ask you some supplementary questions about the expert

7 report, I would just ask you to turn to tab 5 of your binder, and I refer to

8 DRC-OTP-2084-0271. And if you could just indicate when you have this document

9 before you.

10 A. [14:32:48] I have it.

11 Q. [14:32:50] And, Dr Lawry, can you confirm, is this the first peer reviewed

12 publication of the 2010 DRC study?

13 A. [14:33:00] Yes, it is.

14 Q. [14:33:02] And who wrote it?

15 A. [14:33:06] It was written by a group of us, so all of the authors that are stated

16 in the paper are authors who wrote and reviewed the paper.

17 Q. [14:33:18] And were you one of the coauthors?

18 A. [14:33:22] Yes, I would -- in academic literature you're considered the senior

19 author if you're last, so that means that I had final say and corrections.

20 Q. [14:33:33] And now turning to tab 13 of your binder, and that is

21 DRC-OTP-2080-0769, this is a document which has a reference to eMethods.

22 I would refer you to footnote 36, page 18 of your expert report where you state, and I

23 quote:

24 "Details of the sampling frame, including the selection of clusters/villages, selection of

25 households, and selection of participants within households, are described in the

1 online supplemental eMethods." End of quote.

2 My question, Dr Lawry: Is this the eMethods document to which you refer in your
3 expert report?

4 A. [14:34:27] Yes, this is the online -- basically the online annex to the paper that
5 was published.

6 Q. [14:34:34] So just to clarify, this is the online annex to the paper that was
7 published, that was the document at tab 5 that we just discussed a moment ago?

8 A. [14:34:45] Yes, that's correct.

9 Q. [14:34:46] And can you confirm who wrote the eMethods document?

10 A. [14:34:53] So the eMethods document was primarily written by myself and
11 Jana Asher, the statistician, but also edited and reviewed by the other authors of the
12 paper.

13 Q. [14:35:07] And do you consent to having both of these documents also
14 admitted as evidence into the record?

15 A. [14:35:15] Yes.

16 MS LUPING: [14:35:16] Mr President, your Honours, with your leave I would seek
17 to have both of these documents admitted. They are effectively annexes to the
18 expert report, they contain the original 2010 study which is at the heart of the report,
19 plus the annex, which provides your Honours with additional detail explaining the
20 various methodology, including the weighting system that was applied. That is not
21 contained in the expert report itself.

22 PRESIDING JUDGE FREMR: [14:35:42] Mr Gosnell?

23 MR GOSNELL: [14:35:44] No objection, Mr President.

24 PRESIDING JUDGE FREMR: [14:35:46] So those two documents are admitted into
25 evidence as a further Prosecution exhibit.

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1 Ms Luping, please proceed.

2 MS LUPING: [14:35:55] Thank you, Mr President.

3 Q. [14:35:58] So, Dr Lawry, I'm now going to be turning to ask you a number of
4 questions related to the report itself. And the first is to focus on the conclusions of
5 your expert report. My first question is: Have you reached an expert opinion on
6 the scale and prevalence of human rights abuses allegedly committed by members of
7 the UPC/FPLC and the gender and ethnic identity of their victims as close to 2002 to
8 2003 as possible?

9 A. [14:36:43] Yes, I have.

10 MR GOSNELL: [14:36:45] Objection, Mr President.

11 PRESIDING JUDGE FREMR: [14:36:47] On what grounds?

12 MR GOSNELL: [14:36:49] There was no problem with the question until the very
13 end when there was that formulation about "as close to 2002 to 2003 as possible."

14 Your Honours are aware of the limitations in respect of the information provided in
15 the report and I think that formulation is not specifically accurate.

16 PRESIDING JUDGE FREMR: [14:37:11] Yes.

17 Ms Luping, I would also like if you can make some clarification on that because -- of
18 that because it seems from the report, and you can correct me, that the conclusions
19 concerns time from 2002 to 2005.

20 MS LUPING: [14:37:25] Yes, Mr President, the point was simply to flag to the
21 expert or to remind her of the question that was put to her, which was if she could
22 reach an expert opinion as close to 2002 to 2003 as possible was the question that was
23 posed for the purposes of writing the report. The expert of course will explain in her
24 own words what was as close as possible to the time period of relevance and interest,
25 your Honours, which is indeed 2000 to 2005.

1 PRESIDING JUDGE FREMR: [14:37:55] Because, yes, I would like to indicate that
2 it's one of the concerns we have with this, so please be aware of that.

3 MS LUPING: [14:38:00] Thank you.

4 Q. [14:38:01] So, you have already indicated that yes, you have. And I would
5 also ask you, Dr Lawry, have you also reached an expert opinion on the impact of the
6 crimes on the victims?

7 A. [14:38:14] Yes, I have.

8 Q. [14:38:17] And before I ask you to summarise what that is, is your expert
9 opinion and the various conclusions as set out at pages 35 to 53 of your expert report?
10 And for the record, I refer to 2084-0523 at ERNs 0558 to 0576.

11 A. [14:38:44] I'm sorry, can you ask that question again.

12 Q. [14:38:47] I'm just asking you to situate where the conclusions are found in
13 your report. Are they at pages 35 to 53?

14 A. [14:38:55] Sorry. Yes, they are.

15 Q. [14:38:57] And could you please summarise your expert opinion on the first
16 question, focussing first on the first question about the scale and prevalence of abuses.

17 A. [14:39:10] To briefly summarise the abuses that were noted, again these are
18 between 2000 and 2005 based on how we collected the data, but if you look at those
19 that were -- those type of abuses which included physical violations, sexual violence,
20 including rape, as well as movement violations, the UPC, among other groups, were a
21 main contributor to the abuse.

22 Q. [14:39:56] And could you indicate your -- based on your expert opinion and
23 analysis of the data, what was the -- what were the ethnic groups that figured most
24 significantly amongst the various ethnic groups who reported abuses attributed to the
25 UPC?

1 A. [14:40:23] In order to answer that question you first have to understand what
2 the proportion of each of the ethnic groups are in the area. One of the difficulties in
3 DRC is getting any accurate census figures or broken down by ethnicity because it
4 tends to be very political. What we have to rely on in our surveys is actually asking
5 the ethnic groups to determine what proportion within our sample are represented by
6 each ethnic group. If you look at the table 4 on page 42, there is a litany of ethnic
7 groups that persist. The first column is the number over the total number of
8 household survey, the second number is the percent that that household -- or those
9 ethnic groups represent within the total sample.

10 What comes out frequently in all of the calculations when you look at all human
11 rights abuses, if you look at everything from movement violations, physical violations
12 and other violations, that the one group that tends to have the most violations based
13 on the fact that their ethnicity is represented is the Lendu-Ngiti.

14 There are other groups, however, that have higher rates of abuses, particularly when
15 you look at movement violations on page 48. Out of all of the groups that are listed
16 in that pie chart, the only one that represents the same number as their proportion in
17 the population, the Lugbara. The rest of them all have higher movement violations
18 than what would be expected.

19 In other words, what I'm saying is that if you randomly went into the population and
20 committed an abuse, you should randomly get the same distribution that we did of
21 the ethnic population. If you look at the other unspecified who refused to tell us
22 what their ethnicity was, they were three times more likely to report a movement
23 violation. If you looked at the Lendu-Ngiti, then they were twice as -- or two and a
24 half times as likely to report a movement violation.

25 Q. [14:43:06] And I just want to ask you a question drawn from a comment that is

1 at page 35, that's ERN 0558. Do you have that in front of you? There is a reference
2 there, and this is just a comment in the report, it states:

3 "Had the UPC randomly perpetrated attacks, the percent of violations among each
4 group should have been similar to the ethnic distribution in the sample."

5 Could you briefly explain what you mean by that?

6 A. [14:43:51] So again let's just give a simpler example because there is so many
7 different ethnic groups. If you have four ethnic groups in an area, so each one
8 represents 25 percent of all the different ethnic groups, and you randomly go in and
9 you commit some crime, each group should have the same number of violations
10 because you haven't gone in to basically target one group over another.

11 In this case, we're seeing that there are some ethnic groups that have more violations
12 that are higher than what you would expect if you just randomly went in and chose a
13 household to commit a violation.

14 Q. [14:44:41] And, Dr Lawry, can you briefly explain how you reached these
15 conclusions?

16 A. [14:44:50] These conclusions are based on a secondary analysis of the data that
17 we collected in the 2010 study which was published. We took the data from Ituri
18 and pulled it out of the dataset to look at it separately and to answer the questions
19 that we were posed.

20 Q. [14:45:17] And just briefly turning to that 2010 study, could you briefly
21 describe what was the purpose of that study, the original 2010 study?

22 A. [14:45:33] The original 2010 study was basically a health study, it was to assess
23 what had happened to areas in DRC that were under conflict to be able to programme
24 and come up with policies to help people that had suffered health consequences from
25 human rights violations in DRC or in the eastern territories of DRC at that time.

1 Q. [14:46:02] And could you explain what was your role in the 2010 study?

2 A. [14:46:12] My role was very extensive. I designed the study. I created the
3 survey. I helped to interview data collectors, the supervisors. I supervised all of
4 the data collectors. I worked on the data analysis with the statistician. I wrote the
5 report and then I also did follow-up interviews for data to get qualitative, or stories to
6 understand the data better even after the study.

7 Q. [14:46:51] Now just turning to the three main forms of human rights abuses
8 that form the basis of the study, you've referred to movement violations, physical
9 violations and effectively a subset of those, sexual violence. The definitions, is it
10 correct that the definitions are as set out at pages 35 to 36 of your report?

11 A. [14:47:26] Yes, the definitions are on those pages.

12 Q. [14:47:29] And the definitions that were used, are they typical of the types of
13 epidemiological population-based surveys done looking at the consequences of
14 human rights abuses that you had briefly conducted?

15 A. [14:47:45] "Typical" I think is limiting. I think depending on who was doing
16 the study, they will determine what their definition of those violations are. However,
17 we use standard UN definitions for this type of work in order to use it to compare
18 later. If you don't use a standard definition you can't go back and compare other
19 groups of data to these data.

20 Q. [14:48:15] And now, just turning to the sampling size that was used for the
21 purposes of this study, if I could refer you to page 36, could you explain the sampling
22 that was used for the study. Sorry, I should say more specifically in relation to the
23 Ituri human rights abuses.

24 A. [14:48:45] Could you rephrase that? You used "sampling size" and "sampling
25 frame" in the same sentence and those are very different.

1 Q. [14:48:51] I'll be more specific and I'll break it down. There's a reference in
2 the report to 1,399,608 persons. Just to be clear, was this the total number of adults,
3 the adult population in Ituri at the time of the study?

4 A. [14:49:08] So this is an estimated number of adults in Ituri and it comes from
5 an election roster of 2006. One of the difficulties in doing surveys in these types of
6 environments is there isn't a definitive, there's not a telephone book, so it makes it
7 harder to get exact estimates or exact numbers of persons. Therefore, you use what
8 you think is the most reliable, in this case it was the voting records from 2006.

9 Q. [14:49:49] Now, you explain in your report that all of the territories of Ituri
10 were sampled for the report. And there's a further explanation that whilst originally
11 the aim was for 21, in the end there were 18 villages. Could you explain the reason
12 for that?

13 A. [14:50:09] So when you're doing sampling you have several levels that you go
14 from. You can go from the biggest which is, in DRC would be the provincial -- well,
15 would be country actually, and then you can go to province and then you can go to
16 district. Now you can go to health zone or territory and then you can go to village.
17 So what you try to do when you do this type of sampling is randomly select from two
18 levels, so you randomly select at the village area and you randomly select the
19 household. But you are trying to get every large block of territory surveyed. In
20 Ituri, despite the fact that we had villages that we couldn't access due to security, we
21 were able to cover every area in Ituri. So unlike the other two provinces in the study
22 where we had missed areas, Ituri is completely covered by the study.

23 THE INTERPRETER: [14:51:11] Message from the interpreters: We are aware
24 everybody is making their best efforts, but if they could just slow down slightly and
25 leave slightly longer pauses, that would be greatly appreciated due to the density of

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1 the material. Thank you very much.

2 MS LUPING: [14:51:29] Thank you to the interpreters. I'm sure Dr Lawry and I
3 will both endeavour to do our best in this regard.

4 PRESIDING JUDGE FREMR: [14:51:38] Ms Luping, I would like to use this short
5 break for two additional questions in this connection.

6 Ms Lawry, the respondents of your survey, they remained anonymous; am I right?

7 THE WITNESS: [14:51:55] Yes, they are anonymous.

8 PRESIDING JUDGE FREMR: [14:51:57] And were they informed about the
9 purpose of the survey?

10 THE WITNESS: [14:52:01] Of course. Yes, of course, all of the studies that I do
11 have an informed consent statement - I do believe we have it in the report - that tells
12 them all of the issues of informed consent so that they can decide whether they feel
13 comfortable participating or not participating, and they have the option of being able
14 to stop at any time or even skipping questions.

15 PRESIDING JUDGE FREMR: [14:52:28] And my last question: Were they
16 informed that it's even some possibility that factor that they would provide could be
17 also used for the purpose of criminal proceedings?

18 THE WITNESS: [14:52:41] No, because at that time the study was a health
19 assessment.

20 PRESIDING JUDGE FREMR: [14:52:46] I just needed confirmation of that. Thank
21 you.

22 THE WITNESS: [14:52:50] Yes.

23 PRESIDING JUDGE FREMR: [14:52:51] Ms Luping, please proceed.

24 MS LUPING: [14:52:53] Thank you.

25 Q. [14:52:54] Now, Dr Lawry, we had an initial discussion, we were talking about

1 the time period and you were asked to provide your analysis for as close to the period
2 2002 to 2003, and you've confirmed that the closest was that period 2000 to 2005.

3 Could you explain why this was and what the time periods were that were covered
4 by the study?

5 A. [14:53:21] I'm a physician, I'm not a lawyer. I'm not doing the survey to bring
6 this to court. So when I'm asking for a survey, the time periods that I ask for are
7 relevant to some health indicator. In the case of looking at mental health issues, the
8 time periods are generally one month because after one month you begin to see
9 post-traumatic stress disorder. If you go more than one month and you're still
10 seeing post-traumatic stress disorder, such as three to five years, your treatment is
11 going to be different. And then again, the further you go out, you're going to see
12 even more consequences.

13 For this study we -- you know, time periods are arbitrary. We opted to look at one
14 month to be able to capture those who would be most needy for mental health or for
15 health issues and then we further subgrouped it to three to five years and five to ten
16 years. So asking me to look at 2002 to 2003 means that I can only give you the data
17 between 2000 to 2005.

18 Q. [14:54:50] And now just turning to the specific conclusions in your report, I'm
19 focussing here on the alleged human rights abuses as perpetrated allegedly by the
20 UPC/FPLC, and could you first of all just explain how many households were
21 surveyed in Ituri?

22 A. [14:55:16] From the sample there were 272 of 998 that were represented by
23 Ituri.

24 Q. [14:55:26] And of these, how many households attributed abuses to the UPC
25 during that period 2000 to 2005 in Ituri?

1 A. [14:55:39] Can you be more specific because I have broken it down by different
2 abuses.

3 Q. [14:55:49] I'm actually -- I'm referring first to your conclusions, your more
4 general conclusions, at -- I'm just going to turn to the page, one moment.
5 I'll just refer you specifically to the passage of your report. At page 43 where you
6 refer to, out of 272 household surveyed in Ituri, 56 reported a human rights abuse and
7 then you conclude that out of the 56, 40 attributed those human rights abuses to the
8 UPC. So that's still during the 2000 to 2005 period?

9 A. [14:56:30] Yes, that's correct.

10 Q. [14:56:31] And we have a calculation here of the Lendu-Ngitis representing
11 30 percent of this figure. Could you explain how this was -- this was calculated?

12 A. [14:56:44] So what you would do is if you have 56 households that had
13 reported an abuse and 40 of those reported that they were due to the UPC, you then
14 look at -- you then subgroup again to look at, out of those 40 households, what
15 percent of those were Lendu-Ngiti. If you look at the pie chart, it's more than the
16 Lendu-Ngiti, it's many different ethnic groups, but the Lendu-Ngiti are still the
17 largest group.

18 Q. [14:57:24] And in the report you state that although they represented less than
19 14 percent of the sample, they reported abuses two times more than they should if the
20 abuses were committed randomly. Could you briefly explain that?

21 A. [14:57:40] Again, if you look at the table above that, which lists all of the
22 different ethnic groups that are in that sample, if you randomly went into the areas
23 that we surveyed and you randomly committed abuses, you should come up with
24 14 percent or less than -- it was 13 point -- 13.6 percent of the Lendu-Ngiti who would
25 report abuses. In this case it was actually 30 percent. So it's just about twice as

1 many Lendu-Ngiti households that reported an abuse, even though they only
2 represented less than 14 percent of the sample.

3 Q. [14:58:27] And now turning to the specific violations and your conclusions, if
4 we turn to physical violations, could you explain here what your conclusions were as
5 to the ethnic groups that were most significantly affected for this type of violation?

6 A. [14:58:49] So on page 44, again looking at the pie chart because visual is
7 sometimes easier than looking at numbers, there's four groups that make up most of
8 the pie chart: That would be the Mbisa, the Lugbara, the Lendu-Ngiti and the
9 Hemba. Again, we're seeing that the Lendu-Ngiti suffer most of the violations
10 compared to all of the other ethnic groups, but also I do have to point out that there
11 are a lot of ethnic groups that suffered violations in these areas, not just these four.

12 Q. [14:59:33] And now turning to sexual violence. Could you again explain
13 what your conclusions were as to the ethnic group or groups most affected by this
14 form of UPC violation?

15 A. [14:59:48] So we have three groups that report sexual violations more than
16 others: These are the Lugbara, the Lendu-Ngiti and the Hemba. Then we have a
17 huge chunk, 18.7 percent, that did not want to give us their ethnic group who also
18 suffered the same violations of sexual violence. So these would be the largest. And
19 like the other chart, there were other groups involved that suffered sexual violence.
20 Not as many as the previous chart but still, again, it's a number of groups.

21 Q. [15:00:27] And I just note that at page 46 you have the various conclusions
22 relating to rape, killing and movement violations and the ethnic groups that were
23 particularly impacted by that. Just a question: We have here a figure for the
24 Lendu-Ngiti of 27.5 percent and there is another figure for Ngiti at 4.25. Is that
25 simply just a -- like a typographical error? Should we combine those figures?

1 A. [15:01:04] To be transparent, you asked me about Lendu-Ngiti. Ngiti is
2 Lendu-Ngiti. Because they didn't say Lendu-Ngiti, they said Ngiti, I left that as a
3 separate component. However, you could combine it, and if you did combine it,
4 I would feel comfortable saying that this is the same group, that it would be, I think it
5 comes out to 35 percent, actually.

6 Q. [15:01:31] And if we turn to your conclusions regarding rape, that's at page 46
7 and 47 of your report, and at footnote 73 of page 47 there is an explanation of
8 essentially the maths that was done for rape. As an example, could you explain how
9 these calculations are done to provide us with the statistics?

10 A. [15:02:15] Do you want to be a little more specific? I mean, I could read this
11 footnote, but I'm not sure that that is more helpful.

12 Q. [15:02:23] Okay. We have a reference here to five household respondents
13 who reported being raped. Could you explain the weighting that is done in relation
14 to the adults, for example, how you calculated the figure and generalized the number
15 to the general population. How is that -- how is that calculation done? If you could
16 explain the weighting, first of all, what is the weighting that is referred to here?

17 A. [15:02:51] So if I could first describe what weighting is, would that be okay?

18 Q. [15:02:58] Yes, please, if you could.

19 A. [15:02:59] Okay. So, when you go into a village or you go to do a sample, the
20 worst thing that I think you could possibly do is to assume that everything is equal,
21 that everybody has an equal chance to be surveyed, that the populations are equal,
22 et cetera. So one of the ways to make sure that you're not biasing and
23 overestimating your sample is to weight the data. So you give each household and
24 each person who answers the survey a specific weight that takes into account the
25 different numbers of people in the household, the different gender distribution, the

1 response rate, the population for the village, the population for the district, et cetera.

2 In that way you're giving a conservative measure of your estimate of a proportion.

3 Q. [15:03:57] And if we turn to table 5, this is still at page 47, we have a figure that
4 you've set out here of 28 percent in terms of the percent of those amongst all affected
5 adults and then we have a different figure of 35 percent of those affected amongst all
6 affected households. Could you explain the difference, why there's a different figure
7 in relation to adults versus households, when you've previously explained that there
8 would be one adult per household who would be questioned?

9 A. [15:04:47] Can you rephrase that question?

10 Q. [15:04:48] Certainly. I'm looking at your conclusions at table 5 and there's a
11 distinction or a difference drawn between the statistic or conclusion for number
12 of -- total number of adults affected by rape versus total number of households
13 affected by rape, and if you could please just briefly explain why there is this
14 difference.

15 A. [15:05:13] Right. So ideally you would like to interview everybody in an area,
16 but that's feasibly -- that's just not feasible. You can't have the money, you can't have
17 the time to do that. In using the methodology that I used, which is cluster sampling,
18 each person that you interviewed then becomes -- represents a certain proportion in
19 the population as well as a certain proportion of households.

20 The reason that the numbers are different for the adults versus the number of
21 households, each household has more than one adult. So the number of households
22 or the percent of households is a finite number that's based on a weighting scale.
23 The number of adults that that person represents is overall for the number of adults in
24 the population. So it is going to be larger.

25 Q. [15:06:15] And just still turning to the example of rapes and we have -- again

1 turning to footnote 73, there is a conclusion of a figure of 32,523. Could you explain
2 how that calculation is done. You're explained the weighting that is done in terms of
3 each household respondent, but could you explain how the figures are reached, how
4 you come to these different figures for each of the five household respondents, so
5 then how do we get to the 32,523?

6 A. [15:06:55] Again, the way that you weight, the household is given a weight
7 based on a number of factors that is in the annex to the 2010 study. So each adult in
8 that household or each household has a certain weight and represents a certain
9 portion.

10 So, for instance, there were five household respondents who reported rape. If you
11 then use their adult weights, so in the first household that one household respondent
12 represents 8,717 adults. The next household, that respondent, based on the
13 weighting scale that we used, represents only 3,826. Maybe they were different
14 villages or maybe they were different areas, but the populations affect how many
15 people that those -- that each adult represents.

16 Q. [15:07:55] And again, just to understand the methodology, because at page 47
17 of your report, now if we turn to killings, you have a conclusion of 26 percent killed
18 by the UPC, 27 percent of households reporting at least one family member killed.
19 And then similarly for forcible displacement at page 48 you have a conclusion of 54
20 percent of adults attributing their forcible
21 displacement to the UPC and 49 percent of households.

22 Is the same methodology used, Dr Lawry, for all of these types of human rights
23 violations?

24 A. [15:08:35] Yes, it's the same methodology.

25 Q. [15:08:41] And turning to the killings, first of all, what was the ethnic group or

1 groups most affected by killings by the UPC?

2 A. [15:08:59] Sorry, I need to -- in order to give you an estimate I need to
3 find -- ah, okay. You know, I'm not sure I can answer that, I'm not sure we did a
4 similar table for killings, on ethnic groups for killings.

5 Q. [15:09:36] Well, if we turn to forcible displacement, and I refer you to page 48,
6 could you explain what was the ethnic group or groups that were most affected by
7 this form of violation?

8 A. [15:09:47] So here the largest group again was the Lendu-Ngiti, followed by
9 the Hemba and Lugbara. But we have three other groups, as well as the group that
10 did not want to report their ethnic group.

11 Q. [15:10:10] Thank you. Now I'm going to turn to the second part of the
12 opinion, expert opinion that we asked you to provide and that was what was the
13 impact of these crimes on the victims. Could you briefly explain what were the key
14 health consequences that were identified, as briefly as possible.

15 A. [15:10:32] So of course death is a health consequence. We represent that by
16 killings. We have lots of other ones, such as pregnancy, miscarriage, sexually
17 transmitted infections, and then we have a large group of mental health disorders that
18 include clinical depression that we call major depressive disorder, post-traumatic
19 stress disorder, suicidal ideation, meaning they have thought about killing themselves
20 but they don't actually commit the act, and then we have suicide attempts. Again,
21 because we're interviewing live people, we're not going to pick up suicides, successful
22 suicides, so we're not able to report on that.

23 Q. [15:11:32] And I'm now going to refer you to the relevant passages from your
24 report, that's at page 49 and 50, under the heading "Health Consequences".

25 And in that section, Dr Lawry, you've referred to, if you like, bottom-line numbers.

1 There is a reference here, from April 2000 to March 2005, an estimated 299,710 adults
2 estimated to have suffered human rights abuses in Ituri attributed to the UPC.

3 Could you explain if the same methodology was used as you have already explained
4 in relation to rape to come to this figure?

5 A. [15:12:17] Yes, this is a combination of all the different human rights abuses
6 and then extrapolating those to the total population for Ituri at the time, based on
7 2006 numbers.

8 Q. [15:12:36] And if we turn to, again it's page 49 and a reference to physical
9 violence, you've included an estimation here of 180,608 adults in Ituri estimated to
10 have suffered physical violations attributed to the UPC.

11 And footnote 81, we have seem to have another calculation here with adult weights.
12 Again, is it the same methodology that was used for the calculation?

13 A. [15:13:07] Yes, it is the same methodology.

14 Q. [15:13:12] And if we turn to page 50 we have a conclusion here of 23,985
15 persons estimated to have been killed by the UPC, with more than 15,000 households
16 attributing a killing to the UPC. Can you clarify again if the same methodology was
17 used?

18 A. [15:13:32] Yes, the same methodology is used.

19 Q. [15:13:46] Now, I'm just going to ask you to explain a little bit more about this
20 methodology. You have explained a bit about the weighting that was done in terms
21 of the adults and the households. Could you explain what, first of all, what
22 sampling methods were used for the 2010 study that formed the basis of the
23 calculations used for your expert report.

24 A. [15:14:16] Can you be a little more specific, please?

25 Q. [15:14:19] Yes, I want to ask you if you can explain what your sampling

1 methods were when you did the 2010 study. Is it correct, for example, that you used
2 multistage cluster sampling and random sampling?

3 A. [15:14:34] Yes, so as I explained previously we randomly chose areas
4 within -- if you want me to stick just to -- well, if you're asking me about the 2010
5 study, then we include all three areas, so that would be North Kivu, South Kivu
6 province, and Ituri.

7 Q. [15:14:54] If we could just focus on Ituri.

8 A. [15:14:57] Okay. So if you're looking at Ituri, yes, then we randomly selected
9 areas within each territory, randomly selected villages and randomly selected
10 households and randomly selected an adult within each household.

11 Q. [15:15:19] And in terms of your experience as an expert, how common is this
12 method in terms of epidemiological population-based surveys?

13 A. [15:15:37] This is an accepted methodology for this type of study. It's a health
14 study, but it's used in many different sectors in humanitarian aid and development.
15 The World Health Organisation uses this to look at immunisation rates. Most of the
16 countries use this to do demographic health surveys among their population. So it's
17 a well-founded thought out type of methodology.

18 Q. [15:16:07] And in the report there's a reference to the issue of smaller sized
19 samples. Can you explain if there can be any impact on the conclusions when
20 smaller sized samples are used and if so, what adjustments, if any, are needed for
21 that?

22 A. [15:16:27] So when you want to decide how many households you want to
23 survey, you want it large enough that your confidence intervals are smaller and that
24 you're able to make comparisons such as between males and females, or between
25 village to village, depending on what your comparison is is how you decide your

1 sample. The standard is to use what's called a 30 by 30, which is known as, quote,
2 "the gold standard," meaning it's the most acceptable. However, it's 900 households
3 and if you use -- if you have populations such as DRC where nothing is uniform, then
4 you're better off using 90 clusters of 10 households in order to decrease or to control
5 for any variance that you would find because villages are different or populations are
6 different.

7 Q. [15:17:36] And just to break that down a little bit more and just to focus again
8 on the question of smaller size, just first focussing on the fact that smaller sized
9 samples may need to be used, can you just explain can there be an impact on
10 conclusion? Just this question first.

11 A. [15:18:00] There can be an impact on your estimate or how confident you are
12 of your estimate, yes. But basically what a smaller sample size does either it can
13 increase the size of your confidence interval so you may not be -- your confidence
14 interval could be huge and so your estimate, which by convention is usually your
15 midpoint, could be off.

16 Q. [15:18:29] Now, I asked you the question if any adjustments are needed when
17 you're dealing with smaller sized samples and you talked about 30 by 30, you've
18 talked about 90 by 10. Just to explain this in simple terms for us, I assume you're
19 talking about the numbers of villages, because you've explained this in your report?

20 A. [15:18:51] No. It's actually the number of households. So 30 clusters is
21 30 villages with 30 households per village. That's how we determined our
22 clustering.

23 Q. [15:19:07] And can you explain what is this concept of clustering in as simple
24 terms as possible. What do you mean by "clustering"?

25 A. [15:19:17] So in many, many of the areas that I work it's very difficult to

1 sample an entire country or even an entire province. If you decide that you want to
2 use a clustering methodology, basically you're throwing all of the -- whatever you
3 decide is your level of clustering, whether it's village or district or province into a hat
4 and then you can randomly select and say that you're going to have a cluster here, a
5 cluster there, a cluster here.

6 The reason you use clusters is to be able to generalise to a larger population. So you
7 could in a district do a clustering sample that represents the district. Or if you
8 wanted to go larger, you could represent the province. Or in the case of other
9 studies that I've done you can represent the country by using a cluster sample design.
10 It's basically meant to still feel confident that you're getting the correct data, but it's
11 doable, because it's not doable in many cases to interview every person in every
12 household in the country.

13 Q. [15:20:33] And in terms of cluster sampling, how reliable is it viewed as as a
14 method of sampling for these types of studies?

15 A. [15:20:44] It's an acceptable methodology. It's used by other groups and it's
16 accepted through peer review journals that I published in as well as others. It's the
17 way to do it. In fact it's, I would hazard to say that it really is the only possible way
18 to do this because it's just not -- feasibly, it's not feasible to interview everybody in a
19 country.

20 Q. [15:21:11] And just to go back also to the question I had about the smaller
21 sized surveys, what types of surveys are the smaller sized surveys usually used in?
22 Smaller sized samples, sorry.

23 A. [15:21:28] Well, what do you mean by smaller sample size?

24 Q. [15:21:31] Well, in your report you do describe situations where smaller sized
25 samples need to be used and the question I had -- and including in the 2010 study, so

1 the question I have is: Quite apart from this type of survey, are there other types of
2 surveys where smaller sized samples need to be used? And if you could give us
3 examples.

4 A. [15:22:01] Are there other types? If you're in an area that's highly insecure, in
5 the middle of a war zone and you must collect data but it's more dangerous for your
6 data collectors, I mean, you can't put yourself and others at risk for the sake of data,
7 you may need to use smaller sample sizes. But you also need to keep in mind that
8 your confidence intervals will be larger and so your confidence that the estimate is
9 correct may be less than if you had a larger sample size.

10 Q. [15:22:37] Is this form of sampling, is it considered to be a valid form in your
11 field of epidemiology?

12 A. [15:22:46] Yes, it's one of many methods but it is one of the few methods that
13 can be extrapolated to population figures, so using it to assess estimated numbers and
14 estimated percentages.

15 Q. [15:23:05] And you've mentioned now the concept of confidence intervals. Is
16 this the term used by epidemiologists to describe a degree of certainty for their
17 conclusions?

18 A. [15:23:21] Yes. So a confidence interval, if you have a percentage, your
19 confidence interval tells you how precise that estimate is. In general and out of
20 convention, you have an upper level bound and a lower level bound. And by
21 convention, it's usually the midpoint that you present. So if you look at any of the
22 figures that we've presented, there's a confidence interval.

23 Again, you can also change your confidence. If you feel comfortable in saying
24 80 percent, I feel good at saying that 80 per cent is enough, you can do that. I have,
25 in general, used 95 percent. So when I present a number, I'm saying I'm

1 90 percent -- 95 percent confidence that the truth lies between that lower number and
2 the upper number.

3 Q. [15:24:23] And just so that we can understand this concept more easily, if we
4 use the example of killings just as an example, and you gave a figure of I think it was
5 26 percent of adults attributing killings to the UPC, and you've explained that you
6 used a 95 confidence interval, what is the band? When you talk about a band within
7 that you would be 95 percent confident that the estimate lies somewhere within it,
8 what would be the range then? How does the 26 percent figure within this range?

9 A. [15:24:59] So again the -- it's generally the midpoint. So if you look on page
10 47, it says that of the 26 percent, the 95 percent confidence interval is 0 to 53, meaning
11 it's as low as zero - which I need to explain in a minute because it's not really
12 zero - and the highest is 53. So it could be that within -- that the numbers, the
13 percentage of those -- the persons who were killed, the 26 percent of the population of
14 persons that were killed, is somewhere between 0 and 53. Zero is a very -- in this
15 case is not really zero. It's actually .008 or .001. Unfortunately, statistic
16 programmes don't account for this, they automatically spit out zero if it's less than 1.
17 If you look at rape, the column next to it where it's 28 percent, the zero actually is five
18 cases, but it's not zero. There are five cases, but because it's a decimal of the total, it
19 just automatically spits out zero.

20 Q. [15:26:29] And how is it that you get to 95 percent? Like, what is it that you
21 have to do in terms of your methodology? Could you explain that to us that how do
22 you reach this confidence interval of 95 percent? How do you -- is it through, if you
23 could explain, you use weighting? What do you do to get to that 95 percent?

24 A. [15:26:48] No, when you're trying to decide your sample size and what
25 parameters you are going to use, you decide what your confidence interval is. In

1 general, it's somewhere between 80 and 95. I have seen studies that have used less
2 than that. Maybe they don't have as much at stake. But you decide whether your
3 confidence interval will be 90 or your confidence interval will be 95.

4 When you use a formula for figuring out your sample size, based on whatever
5 confidence interval you want, it will tell you how much your sample size needs to be.
6 So you arbitrarily choose that.

7 Q. [15:27:28] So but just so -- just so it's clear, at least in my mind, am I correct to
8 say what you're saying is that you -- if you decide in advance what your confidence
9 interval is, say 95 percent in this instance, the modification you need to make or the
10 modification that's made, say automatically - you can explain exactly how it's
11 calculated - but it's an adjustment effectively to the sample size; is that what you
12 mean?

13 A. [15:27:55] Yes, that's correct.

14 Q. [15:27:56] And what is it or how is it that that sample size is then calculated?

15 A. So the sample size is calculated based on different variables. So, one, you have
16 to choose something that you know existed in the population. For me, it's usually
17 picking what I know would be a health parameter that's common such as, based on
18 studies that I've done over the years, we figure that usually 50 percent of the
19 population in a conflict-affected zone will make criteria for depression. So we use
20 that.

21 Then you use the number of levels of clustering that you have. In ours, it's generally
22 two levels of clustering, i.e., we randomly pick territories and then we randomly pick
23 villages so that adds -- generally, it doubles your sample size. And then included in
24 that is whatever level confidence you want. How sure do you want to be that your
25 estimates lie between whatever your confidence interval is? In my case, I prefer to

1 be 95 percent sure than less than that.

2 Q. [15:29:21] Now, you've referred to this gold standard in your terms of cluster
3 sampling of 30 by 30 and then you mention 90 by 10. In your report you refer to the
4 final number of villages at least that we use or households -- that's 60, 67,
5 67 house -- villages, and then you referred to 272 households. Just so that we can
6 understand what this means in terms of your -- the confidence interval you used, how,
7 if at all, does the number of villages you ended up using, the number of households
8 you ended up using, what did this mean in the end in terms of your confidence
9 interval? Were there any adjustments you needed to make and, if so, can you
10 explain what those adjustments were?

11 A. [15:30:14] So the adjustments that we make are done in the weighting. So if
12 we have missed villages or we have alternate villages or we have a number of
13 households that refused, what we do is put that into a calculation to make sure that
14 we don't over-represent some areas and under-represent others. So all of those
15 factors are put into the weighting formula for making sure that we don't overestimate
16 or underestimate. But keeping in mind that for most violations, particularly sexual
17 violence, you're always going to underestimate because people are not as willing to
18 say that they have suffered sexual violence.

19 Q. [15:31:06] I will ask you a bit more, a few more questions about that
20 under-reporting in a moment, but for now just to stick with the topic of weighting, at
21 page 31, and I'm going to quote here, you say: "Weighting the data results in a
22 conservative estimate." And using rape as an example, you said at page 47, again
23 footnote 76, that the unweighted percentage was 38 percent, but the weighted
24 percentage was 28 percent. Could you explain what you mean by the weighting
25 producing a conservative estimate? What do you mean by that?

1 A. [15:31:50] Remember weighting is used to take into account all the variables
2 that are normal in an area that you're surveying. You know, not everybody,
3 it's -- you're not -- in DRC you're not interviewing in a neighbourhood that has the
4 same number of houses, the same number of streets, has the same number of people
5 in each household. So weighting is used to control for the fact that there are
6 differences in each community that you go into as well as each household.

7 Q. [15:32:22] And now turning to a slightly -- I believe it's a slightly different
8 concept. At page 16, that's 0539 of your report, and when you talk about clustering,
9 you've stated that "An option that counteracts increased error caused by clustering is
10 to stratify the population of interest prior to selection of the sample."

11 My first question, Dr Lawry, is to ask you was stratification used in the study?

12 A. [15:32:53] Yes, because we started at, in the case of Ituri, it was a district or at
13 the province level for South Kivu and North Kivu. Then we stratified to the district
14 or territory. Then we stratified to the village level and then we pick households in
15 there. So, yes, it's stratified, and in doing so, we increase the sample size to account
16 for the fact that we're stratifying at different levels.

17 Q. [15:33:27] Now I'm going to turn to a different topic, which is the interview
18 process. In your report you provide quite some detail about the process. And
19 turning first to the issue of data collectors at page 24, that's ERN 0547, you stated:
20 "We did not allow data collectors to survey home villages and only allowed data
21 collectors in areas in which they were familiar."

22 And then later on you state:

23 "It's essential to work with impartial nonpartisan data collectors in countries that have
24 extremely volatile political issues."

25 My first question is this, Dr Lawry: To what extent was the ethnicity of the data

1 collectors taken into account when you selected which data collectors would be used
2 in the different areas to collect the data?

3 A. [15:34:23] We did not take into account ethnicity. Again, this was a health
4 study. We're asking health questions and therefore it's -- the only -- there are very
5 few places that I've surveyed where I take into account ethnic group of the data
6 collectors. In general, it's, you know: What is their education level? Can they
7 read? Can they translate into other languages? Can they be sympathetic and
8 empathetic and able to ask questions in such a way that put people at ease?

9 Q. [15:35:00] And in your report you refer to the fact that there was -- that it was
10 also taken into account any potential issues with data collectors, for example, in terms
11 of any influence that they may have had with the respondents that they met with.
12 Could you explain a little bit more how that was taken into account in the final
13 calculations?

14 A. [15:35:23] So we do this on a daily basis. We look at every single survey,
15 every single answer after a village. If we notice that a data collector is consistently
16 recording something that's out of range from the other data collectors, then we first
17 want to make sure that, A, they understand what they're asking, and then try and
18 understand if for some reason they have a view that is inhibiting their ability to be
19 unbiased. But this is done on a daily basis in the field and then again it's done when
20 we look at all of their data.

21 I have had to let data collectors go in other surveys. DRC, that was not the case.
22 But in other surveys, because people had political views and wanted to represent
23 their own data versus the data of the people they were interviewing, they did have to
24 be let go.

25 Q. [15:36:25] Turning now to the questionnaire that was used for the interview,

1 could you clarify who developed the questionnaire?

2 A. [15:36:32] The questionnaire was developed by myself and Jana Asher, the
3 statistician.

4 Q. [15:36:41] And at page 14 of your report you refer to the fact that, before
5 developing the questionnaire, that this "requires extensive background research that
6 includes a thorough understanding of the political and cultural context on the ground,
7 including cultural sensitivities and an assessment of risks." End of quote

8 My question, Dr Lawry, is were these various factors taken into account when you
9 developed the questionnaire? And from whom did you obtain input to have this
10 background research done before developing the questionnaire?

11 A. [15:37:17] So part of this is based on the fact that I've worked in Congo for
12 more than two decades. The other -- it also comes from interviewing people in the
13 health setting about some of these health issues, and then it comes from also
14 interviewing colleagues to pilot, basically, the questions to say: "Is this
15 understandable? Does this make sense? Will it put people off if we ask the
16 question this way? Is there a better way to ask the question?" To ensure that what
17 we're trying to ask, in the results that we get back are -- meet the question that we're
18 trying to ask.

19 Q. [15:38:04] Now a separate issue, just as a question on consent, I'm going to
20 refer you to page 26. It states here: "Participants did receive any material
21 compensation and were informed of this in the consenting process." End of quote.
22 But I would refer you, Dr Lawry, to your 2010 study where there appears instead to
23 be a reference to the fact that participants did not receive any material compensation.
24 Is this simply a typographical error?

25 A. [15:38:36] Yes, my apologies, that is a typographical error. It is they did not

1 receive any compensation.

2 Q. [15:38:43] And now turning to a different topic and that's the issue of the data
3 analysis that you did. You've already explained who was involved in the inputting
4 and the processing in relation to the Excel sheet that was produced. Could you
5 explain who was involved in the calculations, the extrapolations, if you like, for the
6 figures in your expert report for that period 2000 and 2005 that was taken from the
7 original data which covered, obviously, a longer period of time? Who isolated that
8 information?

9 A. [15:39:20] So this was done by another statistician, was not the same
10 statistician who worked with us on the 2010 study. His name is Jerzy -- I always
11 mispronounce his name.

12 Q. [15:39:38] I have the reference here, if it helps, and I'm probably
13 mispronouncing it. Is that Jerzy Wiecek?

14 A. [15:39:46] Yes.

15 Q. [15:39:46] And that's, for the record, spelt J-E-R-Z-Y, and then a separate name,
16 W-I-E-C-Z-O-R-E-K; is that correct?

17 A. Correct. Sorry.

18 Q. [15:40:00] No apology needed. And could you just explain how was this
19 information for 2000 and 2005 extrapolated from the information from the broader
20 study that was done from 1993 to 2010?

21 A. [15:40:13] So the 2010 study has all of the data for South Kivu, North Kivu and
22 Ituri. So first we pull out Ituri and then we've broken down the violations to one
23 month, three to five years, five to ten years. So then we again take out the subset
24 that deals with five to ten years. And just for anyone who is interested, it's just a
25 simple sort mechanism in the Excel sheet.

1 Q. [15:40:44] And I had also a question about how you were able to identify the
2 specific estimates that you had for rape. Now the Office of the Prosecutor had asked
3 you to provide your estimates in relation to that specific form of violation. How is it
4 that you were able to identify rape from, you know, amongst the data you generally
5 had in relation to sexual violence?

6 A. [15:41:13] In the survey there is a chart that the data collectors are taught to fill
7 out, that chart asks the who, what, when, where, why and also specifics. So if they're
8 asked a general question about have they experienced any of the following, they then
9 say "yes" and then in one of the columns in that chart it asks specifically what
10 happened and they can say "rape", they can say "molestation", they can say "I was
11 shot." Any of those in the survey are listed, so we could only pull out those who
12 stated rape.

13 Q. [15:42:00] And turning to another topic, Dr Lawry, I'm now going to turn to
14 the issue of limitations of the study that you identified, and that was from page 33 of
15 your expert report, so that's from ERN 0556.

16 Now at page 33, I'm going to quote here, you state that:

17 "This study's findings represent the adult household-based population of Ituri
18 district" and then you refer to the other provinces:

19 "The results cannot be generalised to the entire population (eg, children) of those
20 populations or the entire eastern region of DRC. Therefore all counts of abuses are
21 likely underestimated as they do not take into account children who may have
22 suffered human rights abuses." End of quote.

23 My first question is: Why was the focus only on adults and why were children not
24 included?

25 A. [15:43:00] I personally do not feel comfortable that when you consent a child

1 that that child really can consent, even if the parent consents with them. And I am
2 uncomfortable, particularly when asking about human rights abuses, to involve
3 children in telling their story. So I just don't do that. I will get secondary accounts
4 to say something simple such as, to the adult, "Was there a child in your household
5 that suffered an abuse?" In the 2010 study, we limited that quite -- to a very minimal
6 amount because we wanted to focus on the adults.

7 Q. [15:43:43] And that actually brings me to another question, a related question.
8 At page 37, and I quote, you stated:

9 "Nine percent of the households reported violations against children during this same
10 time period." End of quote.

11 So my question, it's been partly already answered by your response just now, but
12 could you explain then to what extent the results relating to children were reflected in
13 your conclusions?

14 A. [15:44:13] They're not reflected fully at all. Again, just to clarify, it's
15 households reported at least one abuse against a child. Since we didn't ask about
16 every child in the household, I'm not comfortable extrapolating to all of the children
17 in those households. But I can tell you that 9.4 percent of households that were
18 interviewed, the respondent reported that at least one child and one abuse had
19 occurred in that household.

20 Q. [15:44:47] And so to be clear, even though children were not specifically
21 included in this study, this figure of 9 percent, do you think, in your expert opinion,
22 would this reflect the likely number of children that would be affected by abuses, or
23 not, and if so if you could explain?

24 A. [15:45:07] No, it doesn't, it doesn't reflect it at all. Again, we're not counting,
25 we're not asking them to report on every child in the household. We're just simply

1 asking: In the household can you report that at least one abuse occurred among a
2 child? So it's not specific enough to get to that number.

3 Q. [15:45:32] Right. And turning to a different topic now, a different example of
4 limitations, you've already explained the issue of population numbers and how the
5 data was explained, so I shan't ask you any further questions in relation to that. But
6 the dropped villages, you've also provided a bit of an explanation about the change
7 from 21 villages to 18 in Ituri and some of the adjustments that were made. Could
8 you explain in more detail how you adjusted to take into account the dropped
9 villages?

10 A. [15:46:13] So all of these studies are somewhat dynamic, you can say that
11 you're going to interview a thousand households, or 900 households, but your
12 clusters may change based on how many villages you begin having to drop because
13 of the realities on the ground. The way that we dealt with this was, one, to make
14 sure that we kept those numbers so that we could weight, we could weight the data
15 that we were able to get. And then to also increase the number of households in
16 those villages to account for the numbers needed in Ituri.
17 So if we drop two villages, which would be -- they were ten households, it's 20 -- you
18 then need to distribute those 20 households that you wouldn't be able to get within
19 the rest of the sample to make sure that you're not under-sampling.

20 Q. [15:47:14] And now turning to a topic, it's a limitation as you described it in
21 the report, you've touched on it briefly already and you've mentioned this issue of
22 under-reporting in relation to sexual violence. I'm going to refer to page 11 of your
23 report where you state, and I quote:

24 "Furthermore, people who experience sexual violence often do not readily admit to
25 having been abused when directly screened, and estimates of the rate of

1 under-reporting range as high as 70 percent in conflict settings and around 50 percent
2 in other non-conflict medical settings." End of quote.

3 You then refer to two articles in the footnotes, that's at tab 11 and at tab 12. My first
4 question is this: Can you explain in more detail the issue of under-reporting from
5 your own experience?

6 A. [15:48:16] Can you clarify which setting you mean?

7 Q. [15:48:19] In a conflict setting, first of all.

8 A. [15:48:23] You know, under-reporting in a conflict setting sort of is understood,
9 it's generally it has political undertones. It has other factors that may not be
10 understood, which could be stigma, it could be fear of losing your family, it could be
11 losing your inheritance. There are so many factors that go into why people don't
12 want to report. Or simply that some people feel that it's their fault that it happened.
13 So the tendency is that they may or may not report. It depends on what type of
14 relationship you make with the person that you're interviewing, how comfortable you
15 make them feel. But I've also found that in some cases it can also be why report if
16 there aren't services available? Which is another reason that people won't report.
17 But in general people reporting sexual violence is under-reported, people that are
18 willing to report is high compared to other things, if you ask if someone was killed in
19 your family.

20 Q. [15:49:39] And again based on your expert experience, in a non-conflict
21 situation what factors can arise as to under-reporting, that can lead to
22 under-reporting?

23 A. [15:49:52] It depends on which country you're talking about and it depends on
24 what services are available and whether there's a functioning legal system as to
25 whether they will report. It also depends on the issues that affect, such as

1 inheritance issues, stigma issues, religious issues. There are all types of factors
2 which will either make people report or not report.

3 Q. [15:50:19] And just referring to the article that's referred to at footnote 17 of
4 your expert report, and I refer to the document at tab 12, that's DRC-OTP-2099-0319,
5 entitled "Violence against women: global scope and magnitude". Could you explain
6 what the relevance of this article was to your report?

7 A. [15:50:48] Actually, this report is, now that there's a new UN global report, it
8 just gives you an idea of what the rates are globally to be able to look at, you know,
9 how Ituri or DRC falls in the scope of sexual violence. And basically what it shows
10 is that there's a lot of different forms of sexual violence and it's in many places, and
11 that's what I just was trying to be able to impart.

12 Q. [15:51:23] Are you familiar at all with the background to the writing of this
13 particular report? Any of the methodology used, for example, to come to the
14 conclusions.

15 A. [15:51:37] No. I think a lot of this has to do with demographic health surveys.
16 Again, demographic health surveys are the same methodology. The difference is
17 that they focus on women 15 to 49, reproductive age women, and they generally focus
18 on intimate partner violence or violence that happens in the home and in the
19 community and, you know, it doesn't really cover conflict-related violence. So it's a
20 similar -- they probably -- that's the data they probably used was the -- the
21 demographic health survey data.

22 Q. [15:52:19] And the demographic health survey data, is that something that
23 you're familiar with?

24 A. [15:52:26] Yes, the demographic health survey data is what almost all of the
25 countries use on a periodic basis to measure all types of health status within the

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country, including what they would call gender-based violence, but it really only covers reproductive age intimate partner violence among women in the country.

Q. [15:52:49] And similarly, turning to the report at, that was tab 11, that's 2099-0309, referred to at footnote 18 of your report, that's "Missed Opportunities: Emergency Department Visits by Police-Identified Victims of Intimate Partner Violence," what was the relevance of this article to your expert report?

A. [15:53:11] So this paper just gives an example of women that come to the emergency room. Of course it's western -- it's Michigan state so it's a western study, but basically it's women will present to the emergency room with all types of illnesses. They don't necessarily come and say, "By the way, I was beaten up by my husband." They come and they say, my -- you know, "I have an injury," but they won't readily admit, and even with screening tools sometimes they will not readily admit either, and this was just to show the proportion of when this happens.

Q. [15:53:52] And were you familiar with the study, this study that was done in Michigan?

A. [15:53:58] No. This is simply a history reference.

Q. [15:54:03] And what was the extent to which you relied on both of these articles for the conclusions in your report?

A. These don't help my conclusions, they just support statements that I've made about under-reporting and that, you know, women -- on this one I can only talk about women, but women will not readily admit, even if they're showing up at a healthcare centre, which is not necessarily the case in DRC where you show up at a healthcare centre.

Q. [15:54:34] Thank you, Dr Lawry.

MS LUPING: At this stage, Mr President, your Honours, the Prosecution would

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1 seek to have these two reports -- articles, rather, entered as additional Prosecution
2 exhibits. I referred already to, that's 2099-0319 and 2099-0309.

3 Dr Lawry, although not the author of these two articles, has explained how these
4 exemplify the statements made relating to under-reporting which is also based on her
5 own expert experience. These provide further detail regarding the phenomenon that
6 the Prosecution submits would be of use.

7 PRESIDING JUDGE FREMR: [15:55:23] Defence?

8 MR GOSNELL: [15:55:24] I was about to say we've lost the transcript, but I see it's
9 coming back.

10 Mr President, we, of course, object. I think the witness's testimony actually speaks
11 for itself in terms of the peripheral role of these documents in relation to the opinions
12 expressed in her report, her lack of direct knowledge of the studies in which they're
13 based, the different contexts in which they're based, and I think that the opinions in
14 her report are what matter for your Honours, not the articles that are cited in her
15 footnotes.

16 PRESIDING JUDGE FREMR: [15:56:00] Ms Luping, anything else?

17 MS LUPING: [15:56:03] Just simply, your Honours, also to refer to the approach
18 taken with a not too dissimilar witness, Dr Yuille, when certain articles that were not
19 written by Dr Yuille were admitted into evidence as they provided simply further
20 exemplification of points that he was making. It's just an issue of consistency, your
21 Honours, as well.

22 PRESIDING JUDGE FREMR: [15:56:24] If I remember, there was some difference
23 and in this case there was no objection from the Defence part.

24 MS LUPING: [15:56:31] Not for my -- Defence counsel can correct me if I'm wrong,
25 and maybe it is my own recollection, I do not recall that all of these particular articles

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1 that we were seeking to have admitted relating to Dr Yuille had -- I believe some but
2 not all were without objection, but I may stand to be corrected.

3 PRESIDING JUDGE FREMR: [15:56:54] Mr Gosnell, could you --

4 MR GOSNELL: [15:56:56] I would have to go back to check, but I do recall that
5 there was at least one major article that we didn't object to and that document did go
6 in. I must say I cannot recall in respect of some of the others. It is even possible
7 that the Defence tried to tender some documents, some reports, that were written by
8 other experts, and if I recall correctly, the Prosecution objected and they were not
9 admitted.

10 PRESIDING JUDGE FREMR: [15:57:17] I will consult my colleagues.

11 (Trial Chamber confers)

12 PRESIDING JUDGE FREMR: [15:57:43] So our decision after brief silent
13 deliberation is that the objection is sustained, which means that the Chamber don't
14 admit those two articles since we consider as substantial is the report and the
15 testimony and we don't see any need also to add those two articles.

16 MS LUPING: [15:58:03]

17 Q. [15:58:04] Dr Lawry, still remaining with the topic of the various limitations
18 that you dealt with in your expert report, one final limitation that you deal with in
19 some detail is the issue of recall of the respondents. Could you explain to the
20 Chamber how the issues relating to recall were taken into account?

21 A. [15:58:26] There is a standard understanding that most people can recall
22 events that happen ten years prior when you're asking them to recall. However,
23 there is evidence that -- well, not more -- it's evidence. There is, if you look at
24 post-traumatic stress disorder survivors, people that had an event in World War II
25 will remember that event till the day they die and can report very clearly the details of

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1 that event.

2 In the case of human rights violations, we believe that more than ten years is
3 acceptable. However, if you look at the survey, to be fair, we limited it to ten years
4 before the survey so that we fell within what would be -- what would be considered
5 acceptable recall.

6 Q. [15:59:28] Now, Dr Lawry, I'm going to just take you briefly --

7 MS LUPING: And I will also ask actually just to confirm exactly how much time I
8 have left, Mr President.

9 PRESIDING JUDGE FREMR: [15:59:39] According to my counting, something like
10 12, 13 minutes, but court officer could correct me.

11 THE COURT OFFICER: [15:59:49] 14 minutes, actually.

12 PRESIDING JUDGE FREMR: [15:59:51] Even 14.

13 MS LUPING: [15:59:54] Thank you, court officer. Thank you, Mr President.

14 Q. [15:59:58] Dr Lawry, now turning to other articles that you have written, and
15 I'd ask you first to turn to, it's tab 3 -- sorry, tab 4, and it's DRC-OTP-2080-0723 and it's
16 an article entitled "The Use of Population-Based Surveys for Prosecutions at the
17 International Criminal Court: A Case Study of Democratic Republic of Congo."
18 Could you confirm who wrote this article?

19 A. [16:00:39] Again, this is a litany of other authors, but it was primarily written
20 by myself, Anne-Marie de Brouwer and Alette Smeulers.

21 Q. [16:00:53] And what was the study that was the basis of this article?

22 A. [16:00:58] Again, this is another analysis of the 2010 study in DRC but on a
23 different -- a different time scale to adjust to a UN report.

24 Q. [16:01:16] And what was that time scale?

25 A. [16:01:22] Let me just make sure that I'm not doing this from memory. So the

1 UN report used March 199 -- or 1993 to 2000, 2000 to 2007, 2008 to 2010.

2 Q. [16:02:01] And just to clarify, what was your role in the writing of this specific
3 article?

4 A. [16:02:07] I was the primary author. In this case I was the first author as
5 opposed to the senior author.

6 Q. [16:02:17] And which parts of this article were your contributions as it were?

7 A. [16:02:25] All parts.

8 Q. [16:02:28] And who dealt with or who provided the contribution in terms of
9 the analysis of ICC prosecutions in this article?

10 A. [16:02:42] That would be Anne-Marie de Brouwer and Alette Smeulers.

11 Q. [16:02:51] And just to clarify then, if these two other coauthors focussed on the
12 analysis of proceedings before the International Criminal Court, were your
13 contributions more related to the 2010 study conclusions?

14 A. [16:03:08] Yes, but in any report it includes editing and making sure that the
15 paper makes sense as well as it being correct, so all of us edited as well.

16 Q. [16:03:22] And was any sort of specific or single perpetrator group singled out
17 in this article?

18 A. [16:03:33] There are no groups that are singled out. I mean, we have large
19 groupings of different combatant groups that are listed in the figures and within the
20 paper.

21 Q. [16:03:49] In your own words, what would you say was the purpose of this
22 article?

23 A. [16:03:56] The purpose of the article was to look at what was being brought
24 before the Court and what was the reality on the ground for many of the survivors.
25 There are many groups in Congo or in the eastern part of Congo that have committed

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1 human rights violations, some that -- even more than the ones that are in the cases
2 here. So it was basically to show that, you know, there are a lot of groups that are
3 committing violations, not just the ones that are at the Court.

4 Q. [16:04:36] And would it be fair to say, Dr Lawry, that there is a more detailed
5 analysis of the various combatant groups and the violence perpetrated by these
6 different combatant groups within the body of this article?

7 A. [16:04:56] Yes, that would be the case.

8 MS LUPING: [16:04:59] Mr President, your Honours, the Prosecution would seek
9 to have this admitted as a further Prosecution exhibit. The witness has confirmed
10 she authored this, she's confirmed that this article also contains some of the
11 conclusions relating to the 2010 DRC study. There is a more detailed analysis with a
12 breakdown of combatant groups by combatant groups that, in our submission, may
13 be of use in your later assessment of this witness's testimony.

14 PRESIDING JUDGE FREMR: [16:05:30] Mr Gosnell.

15 MR GOSNELL: [16:05:30] No objection to admission, Mr President.

16 PRESIDING JUDGE FREMR: [16:05:36] Frankly saying, I have some doubt that
17 really comparison of the groups we have involved in conflict in our case and, for
18 example, comparison with Mai-Mai or Interahamwe would really bring something
19 really important to our case, but all right, there is no objection so it means that
20 we -- the Chamber admit. Moreover, we know that our witness was the main author,
21 so also it's relevant, so we admit this article into evidence as a further Prosecution
22 exhibit.

23 MR GOSNELL: [16:06:20] Mr President, may I just say of course not objecting does
24 not mean we support its admission and it does not mean we --

25 PRESIDING JUDGE FREMR: [16:06:27] You are too late. You are too late.

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1 MR GOSNELL: [16:06:29] But we -- I'm just saying that we don't necessarily agree
2 with its weight or relevance but --

3 PRESIDING JUDGE FREMR: [16:06:34] Mr Gosnell, I guess I also expressed some
4 reservation from the Chamber so I think it's clear.

5 Ms Luping, you still have some time. Please.

6 MS LUPING: [16:06:45] Yes.

7 Q. Dr Lawry, I'm now going to refer you to document at tab 6, that is 2080-0740.
8 It's an article entitled "A mixed-methods assessment of sexual and gender-based
9 violence in eastern Democratic Republic of Congo to inform national and
10 international strategy implementation." My first question is this: Can you confirm
11 who wrote it?

12 A. [16:07:11] Like my other papers, this is written by a group of authors. The
13 first author, primary author, was Jennifer Scott. Again, I served as senior author.
14 So it was written by a large group of people.

15 Q. [16:07:27] And this article is -- or, sorry, yes, this article is referred to at page 33
16 of your expert report. Could you explain how it is relevant to the expert report,
17 what its significance is?

18 A. [16:07:41] It's relevant in that it shows other methods that are used in
19 surveying populations. First, I should state that this article was a way of looking at
20 the strategies for dealing with gender-based violence in DRC were being written and
21 we were trying to understand whether victims understood that there were strategies
22 to try and help them versus what was really going on on the ground. Its relevance is
23 that we talk about focus groups, we talk about clinical data and we talk about the
24 differences between, how there are differences in those types of strategies versus
25 using a population-based study.

1 Q. [16:08:35] And in addition to what you have just described in terms of
2 different methods of assessment of SGBV violence in the DRC, to what extent is this
3 article also relevant in providing additional information regarding the impact of
4 human rights abuses, in particular health consequences, to the DRC population?

5 A. [16:09:04] I don't think this one is as helpful for determining impact. I think
6 the 2010 study is more helpful as well as the expert report. This one goes more into
7 what's available at clinics for survivors and what's not available.

8 Q. [16:09:24] And just looking at this article, is it correct that certain of the results
9 from the 2010 study are also reflected?

10 A. [16:09:34] Yes, the study included two other -- actually, more than that, three
11 other studies. It included focus groups, it included a health facility assessment and
12 it included qualitative interviews. So it goes through almost all of the methods that
13 you could possibly use to determine any type of analysis.

14 MS LUPING: [16:09:57] Mr President, your Honours, with the limited time, we
15 didn't seek to ask the expert to explain the different types of sampling methods and
16 the benefits and so forth of the different types of methods and why certain methods
17 were used in the context of the 2010 study. This article does provide that further
18 explanation. It was authored by the expert. It draws upon the conclusions of the
19 relevant 2010 study. For those reasons, the Prosecution would also ask that this be
20 admitted as a further Prosecution exhibit.

21 PRESIDING JUDGE FREMR: [16:10:32] Mr Gosnell.

22 MR GOSNELL: [16:10:33] I feel obliged to object, Mr President, and the basis of the
23 purported admission of this document, as I understand it, is this is another article in
24 which the original study is described, but that's the purpose of the witness's expert
25 report. And if there's some reason why that is not adequately set forth in the expert

1 report, then that's too bad for the Prosecution, we submit, and we submit that this
2 document should not be admitted.

3 PRESIDING JUDGE FREMR: [16:11:03] Ms Luping.

4 MS LUPING: [16:11:04] Yes, Mr President, your Honours. The purpose of this is
5 not simply to duplicate setting out relevant excerpts from the 2010 study. The
6 purpose is to provide a further explanation and understanding of different methods
7 for sampling that can be used. This article does go into some detail providing that
8 explanation. In the limited two hours that the Prosecution has had, we've not sought
9 to ask the expert to provide this detailed explanation. It just provides a greater
10 understanding, your Honours, of the actual methods that were used in this instance,
11 and it's for this reason we're seeking this document's admission.

12 PRESIDING JUDGE FREMR: [16:11:45] All right. In this case I find
13 argumentation of Ms Luping persuasive, so this article is admitted into evidence as a
14 further Prosecution exhibit.

15 And allow me to enjoy the fact that I have the floor. I would like to correct transcript.
16 When I made my last comment there are two important words missing. I said -- I
17 named two groups also included in Dr Lawry's survey, Mai-Mai and Interahamwe.
18 So please add it the transcript.

19 Now, Ms Luping, you have the last three minutes.

20 MS LUPING: [16:12:31] Thank you, Mr President.

21 Q. [16:12:34] Now, Dr Lawry, just to refer to one last document which is a visual
22 presentation at tab 10, 2080 -- sorry, 2084-0282, and this does contain various images,
23 for example. Could you explain who prepared this visual presentation?

24 A. [16:13:00] This was prepared by myself.

25 Q. [16:13:03] And what was the purpose of this visual presentation?

1 A. [16:13:08] This was to give a very visual and short summary to donors,
2 implementers and persons who had interest in the DRC issues as well as the study. I
3 should note that this was done prior to the publication of the 2010 study in the
4 Journal of the American Medical Association, so it was prior to peer review. So there,
5 I can't pinpoint if there are different rates or if there are things that are different in the
6 study, I can't -- truthfully, I just can't remember. But, again, this was just meant as a
7 summary for donors and other implementers.

8 Q. [16:13:55] I'd like you to turn to page 0292 and that is under the heading
9 "Sampling" and there's a reference to the type of maps or ways in which random
10 sampling was conducted, what types of maps, et cetera, were used. You have here a
11 satellite map, you have maps in the sand. There's a reference here to areas broken
12 down by main or secondary roads. Were these all methods that were also used in
13 the random sampling conducted in the 2010 study?

14 A. [16:14:32] I'm sorry, where are you referring? Ah, I'm sorry, I have it.

15 Q. [16:14:37] 0292, it's just an image -- images of the actual maps, et cetera that
16 were used for the purpose of the report.

17 A. [16:14:43] No, this is actually just an example. This is for teaching purposes.

18 So it's an example of how sampling can be done with these type of studies.

19 Sometimes you have -- a satellite map is the one you see we used in Iraq. Sometimes
20 you have maps that are drawn by a chief, and it was drawn in the sand in Sudan.

21 And then other times you draw your own, which is shown below. So this was just a
22 way of explaining how sampling can be done and what is available to you to do that.

23 Of course, this was before Google Earth, so ...

24 Q. [16:15:21] And just to clarify, what were the maps or references that were used
25 for the purposes of the 2010 study?

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1 A. [16:15:26] For the 2010 study, we had to use the UN maps that they had and
2 then we verified those with the chief for each village to ensure that they were correct.

3 Q. [16:15:44] And then there are -- I'm just going to refer to photographs that are
4 contained in 0301 to 0303. Can you just confirm that these are all photographs that
5 were also relevant to the 2010 study?

6 A. [16:16:01] I'm sorry, all the photographs or a certain photograph?

7 Q. [16:16:12] I referred to a range. I'll refer to the page numbers again, that's
8 0301 to 0303.

9 A. [16:16:23] Yes, all of those are from the 2010 study.

10 MS LUPING: [16:16:28] Mr President, your Honours, I realise of course that the
11 content of this visual presentation is already contained in the expert report. The only
12 reason why the Prosecution would seek to admit this is it just provides just some
13 additional visual images from the process. We do have as an annex, annex 4 to the
14 expert report, some of the photographs but not all of which are reflected. And it's
15 only on that basis that we would seek to have this admitted. We do note also that
16 the visual presentation does provide a very user friendly explanation of some of the
17 key terminology as well that is used in the report.

18 PRESIDING JUDGE FREMR: [16:17:12] Thank you.

19 Mr Gosnell.

20 MR GOSNELL: [16:17:14] And some of the photos would be from North and
21 South Kivu, which is beyond the scope of what your Honours have said is relevant to
22 this case, but in any event, Mr President, with that caveat, no objection.

23 PRESIDING JUDGE FREMR: [16:17:29] Again, I am sure that those pictures are
24 interesting. I'm not sure that they are really relevant for our criminal case, but all
25 right. Also those pictures as specified by Ms Luping are admitted into evidence as a

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1 further Prosecution exhibit.

2 So now your time is over, Ms Luping.

3 MS LUPING: [16:17:49] Mr President, just one question for clarification: You just
4 referred to the photographs. Do you mean the presentation?

5 PRESIDING JUDGE FREMR: [16:17:55] You are right, the presentation.

6 MS LUPING: [16:18:00] Thank you.

7 And I have no further questions for you, Dr Lawry. So that happily coincides with
8 me running out of time. But thank you very much.

9 PRESIDING JUDGE FREMR: [16:18:08] I would also like to thank you, Dr Lawry,
10 for today. You are clear that we will continue tomorrow, 9.30, with
11 cross-examination conducted by Defence.

12 At this moment I know it's rather premature but still, Mr Gosnell, because we
13 received information, first one, that you will need roughly one and a half, then we
14 received correction. So in the light of the examination-in-chief, could you be at this
15 moment a bit more specific what is your estimation for tomorrow, just for the sake of
16 planning?

17 MR GOSNELL: [16:18:44] I think I can say that, safely, that we would be done
18 before the end of the second session, possibly substantially before that. But I cannot
19 be sure at this stage, Mr President.

20 PRESIDING JUDGE FREMR: [16:18:58] Anyway, thank you for this rough
21 estimation.

22 And Dr Lawry, it's my duty, legal duty, to remind you, it's according to our Rules,
23 that you must not discuss in the meantime till tomorrow your testimony with
24 anybody else. Is it clear to you?

25 THE WITNESS: [16:19:15] Yes, it's clear.

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- 1 PRESIDING JUDGE FREMR: [16:19:16] Very well.
- 2 So now we break and we will reconvene tomorrow, 9.30.
- 3 THE COURT USHER: [16:19:24] All rise.
- 4 (The hearing ends in open session at 4.19 p.m.)