

Trial Hearing
WITNESS: UGA-OTP-P-0172

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Wednesday, 27 September 2017
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:48] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:32:11] Good morning, everyone. Good morning,
13 Mr Witness.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:32:21] Good morning, Mr President, your Honours.
16 The situation in the Republic of Uganda, in the case of The Prosecutor versus
17 Dominic Ongwen, case reference ICC-02/04-01/15.
18 And for the record, we are in open session.
19 PRESIDING JUDGE SCHMITT: [9:32:35] Thank you.
20 I call for the appearances of the parties.
21 Ms Nuzban for the Prosecution.
22 MS NUZBAN: [9:32:43] Good morning, your Honours. For the Prosecution,
23 Yulia Nuzban, Pubudu Sachithanandan, Ben Gumpert, Paul Bradfield,
24 Julian Elderfield, Kamran Choudhry, Ramu Fatima Bittaye, Yya Aragon and
25 Yeasin Khan. Thank you.

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- 1 PRESIDING JUDGE SCHMITT: [9:32:55] And that was without any look behind you.
2 That was very impressive.
3 Mr Manoba, please.
4 MR MANOBA: [9:33:01] Good morning, your Honours. Joseph Manoba and
5 James Mawira for the Legal Representatives of Victims.
6 PRESIDING JUDGE SCHMITT: [9:33:03] Mr Narantsetseg.
7 MR NARANTSETSEG: [9:33:05] Good morning, Mr President, your Honours.
8 Ms Caroline Walter with me, Orchlon Narantsetseg. Thank you.
9 PRESIDING JUDGE SCHMITT: [9:33:13] Thank you.
10 And Mr Obhof for the Defence?
11 MR OBHOF: Good morning, your Honour. Thank you. Today we have our
12 counsel Krispus Ayena Odongo, our co-counsel Chief Charles Achaleke Taku, one of
13 our assistant counsels, Ms Abigail Bridgman, our client Mr Ongwen, of course, and
14 myself, Thomas Obhof.
15 PRESIDING JUDGE SCHMITT: [9:33:31] And you can remain standing because I
16 give you the floor and you can continue with your examination, Mr Obhof.
17 And in case, Mr Witness, you have not heard me in the beginning, I welcome you
18 again in the courtroom, and I hope you had a good night and you could relax a little
19 bit and feel well today.
20 THE INTERPRETER: [9:33:56] There is no sound coming through.
21 PRESIDING JUDGE SCHMITT: [9:33:59] So I think we would have to solve this
22 problem, because when there is no sound coming, there is no interpretation, when
23 there is no interpretation, there is no transcript.
24 I thought, Mr Gumpert, you would solve the problem because you were standing up,
25 but ...

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1 MR GUMPERT: [9:34:27] I have many talents but knocking water jugs over is
2 a particular talent and I just wanted to avoid that.

3 PRESIDING JUDGE SCHMITT: [9:34:44] Okay. So, Mr Witness, there was
4 obviously a problem with the sound. Your answer did not come through. May I
5 ask you if you hear me now? And perhaps you answer and then we get to know if
6 we hear you.

7 WITNESS: UGA-OTP-P-0172 (On former oath)

8 (The witness speaks Acholi)

9 (The witness gives evidence via video link)

10 THE WITNESS: [9:35:01] (Interpretation) Yes, I can hear you loud and clear.

11 PRESIDING JUDGE SCHMITT: [9:35:03] Now, obviously the connection is now
12 okay and we can continue with the examination by Mr Obhof. Please, Mr Obhof.

13 MR OBHOF: [9:35:12] Thank you, your Honour.

14 QUESTIONED BY MR OBHOF: (Continuing)

15 Q. [9:35:17] Good morning, Mr Witness.

16 A. [9:35:24] Good morning.

17 Q. [9:35:27] Now, Mr Witness, as a follow-up question to a set we did yesterday,
18 what was the -- and when we talked about Trinkle brigade, what was the function of
19 Trinkle brigade in the LRA?

20 A. [9:35:42] Trinkle was -- Trinkle brigade was responsible for protecting
21 Control Altar, in particular Joseph Kony himself.

22 Q. [9:36:01] Thank you, Mr Witness.

23 Mr Witness, along with the spiritual aspects of the LRA, were there ever prophecies
24 made by Joseph Kony?

25 A. [9:36:28] Yes, that would happen.

1 Q. [9:36:32] Now, I'm going to read you a few to see if you have heard some of
2 these. Not too many, maybe about four or five.

3 Did Joseph Kony ever predict that Mzee Banya would be captured by the UPDF?

4 A. [9:37:00] Yes, he did. He did. He mentioned that while we were in Palutaka.

5 Q. [9:37:10] Did Joseph Kony ever predict that the Arabs, namely the Khartoum
6 government of Sudan, would turn against the LRA for some time and then start
7 working with the LRA again?

8 A. [9:37:38] Yes, he did.

9 Q. [9:37:39] We will just go with two more. Did Joseph Kony ever state that, like
10 Moses, Kony would not see the promised land and that he would not return back to
11 Uganda?

12 A. [9:38:05] Yes, he said that he is like Moses and he would not go to the promised
13 land and, yes, it's true, he is not going to go back.

14 Q. [9:38:18] Now, with a lot of these -- did a lot of these prophesies that he made
15 come true, Mr Witness?

16 A. [9:38:33] Banya was captured in 2005. I do not recall the exact year. He was
17 captured. The relationship with the Arabs also ended. Kony sent soldiers to attack
18 three Arab detachments. We are also waiting the prediction that he is like Moses. I
19 stated yesterday that things change, and I had this dream and things do change.

20 Q. [9:39:17] Thank you, Mr Witness.

21 Mr Witness, could you explain the significance or the special properties of water in
22 the LRA?

23 A. [9:39:41] It's normal, it's normal water. It's fetched from the stream. It's
24 usually Kony who uses this. He prays over the water. Once he has prayed and
25 blessed it, then he uses it. He pours the water in the glass, he puts his nail, he sticks

1 his nail in the glass and then he makes the sign of the cross, in the name of the Father,
2 Son, Holy Spirit. After praying, the Holy Spirit will come and then he will be
3 possessed by the Holy Spirit. That is the strength of the water, but he did not
4 actually describe to us in detail how that water becomes spiritual.

5 Q. [9:40:25] Mr Witness, we are going to move on a little bit to food in the LRA.

6 Were members of the LRA allowed to eat pigs?

7 A. [9:40:46] No, that was unacceptable.

8 Q. [9:40:51] How about sheep, Mr Witness?

9 A. [9:40:55] No.

10 Q. [9:40:59] Now, was there a reason why sheep were not allowed to be eaten by
11 LRA, Mr Witness?

12 A. [9:41:11] According to Joseph Kony, he would make references to the Bible.

13 And he said that God sent evil on the spirits, so the spirit is not the -- sorry, the pigs
14 are not clean. Pigs are not clean animals, therefore pigs should not be eaten.

15 Q. [9:41:41] One more, Mr Witness. How about gazelles?

16 A. [9:41:58] No. It's another animal. It's not a gazelle. But he did not -- he did
17 not explain -- an antelope, he did not explain why he brought an antelope, a live
18 antelope, brought it and said, "This is an animal that is special. This animal will help
19 people." But he did not explain the reason why that animal was supposed to be
20 special.

21 Q. [9:42:39] Thank you, Mr Witness.

22 Now, Mr Witness, yesterday when you talked with the Prosecution, you -- they
23 discussed the issues of Lukodi. Now, you stated that you were at that time just west
24 of Loyo Ajonga. Now, Mr Witness, if I suggested that Loyo Ajonga is
25 approximately 30 kilometres southeast of Lukodi, does that sound about correct,

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1 Mr Witness?

2 A. [9:43:33] It's very difficult to estimate the distance from Lukodi from where we
3 were because I did not have anything to measure the distance between Lukodi and
4 our position. So it's very difficult for me to estimate the distance.

5 Q. [9:43:48] It's okay. Also during your interview you mentioned about how
6 the -- when the persons who went to Lukodi came back, they mentioned that the
7 UPDF were using the civilians as human shields. Could you please explain more as
8 to what you meant by UPDF using the civilians as human shields?

9 A. [9:44:30] The people who went back from Lukodi stated that the soldiers ran
10 away. They ran away from the battlefield and went behind the civilians, and then
11 they started shooting their guns from behind the civilians and the civilians were
12 caught in the middle. The civilians were in front. The soldiers, the UPDF were
13 behind the civilians and the LRA were on the other side, so the civilians were caught
14 in the middle.

15 Q. [9:45:06] Now, Mr Witness, were you ever personally told what the objective of
16 the attack on Lukodi was?

17 A. [9:45:29] First, as I stated yesterday, the first thing I heard was that Tulu should
18 prepare a standby because the world is claiming that Kony is dead. So he wants to
19 show the world that he is still alive. That was one of the things that I heard.

20 Q. [9:45:56] Thank you, Mr Witness.

21 Now you mentioned along with being a medic, or sort of a doctor of the LRA, you
22 were also a teacher. Could you explain your general duties as a teacher in the LRA,
23 Mr Witness.

24 A. [9:46:22] Most times, as a medic, I would teach people who were injured, people
25 who were in the sickbay with me. I did not train a group of soldiers who were

1 convened together, but I would teach the people or train the people who were in
2 sickbay with me. And it's the people who left the sickbay who started referring to
3 me as lapwony because I used to teach them how to treat people, how to treat people
4 who were injured. Because if you are in this world, unless something really happens
5 to you, you have to bear it. But those are the kind of things that I used to do and
6 that's why they called me lapwony.

7 Q. [9:47:05] So you weren't a teacher of military, you were an educator of, of health,
8 you were an educator of reading, would that be an apt summation?

9 A. [9:47:22] I was teaching the sick and the injured.

10 Q. [9:47:27] Now, Mr Witness, when you were teaching these people, did you ever
11 teach these people about the Geneva Conventions?

12 A. [9:47:47] No. I did not know anything about those rules. But people do know
13 international laws. They know that you should not hurt your -- you should not hurt
14 your neighbour, you should not do anything bad about your neighbour. Everybody
15 knows these rules. All over the world everybody knows these rules. On occasion I
16 would tell these people that, you know, even if we are in the LRA we should know
17 that there are rules and we should know that these rules have to be abided by.
18 Those are the kind of things I would tell them.

19 Q. [9:48:25] And, Mr Witness, referring to the context in which you say thou shalt
20 not kill thy neighbour, it sounds more of a rule of the Ten Commandments; wouldn't
21 that be correct, Mr Witness?

22 A. [9:48:54] I would also talk to them about the Ten Commandments that were
23 established by Moses, because the international rules are based on these rules as well.
24 The international rules are based on the rules of the -- on the commandments because
25 it's from these commandments that we do have all these international rules.

1 Q. [9:49:26] Now, Mr Witness, in reference to Lukodi how specifically was
2 Joseph Kony going to show the world that he was still alive and well?

3 A. [9:49:47] If he wants to do something he would send soldiers and once the
4 soldiers have carried out that task, once they have fought, if there is a battle, once they
5 have fought, then the world hears about this battle, the world hears about the attack
6 and then they will discuss it because the journalists will not keep quiet about any
7 attacks, the journalists would report that such-and-such an attack has taken place at
8 such-and-such a location. And these things would spread. They would talk about
9 it over the phone. They would talk about it over the radio and it would become
10 public knowledge.

11 Q. [9:50:35] Now, Mr Witness, a little bit about your escape from the LRA. Now
12 before you escaped you -- your wife had been sent home; is that correct, Mr Witness?

13 A. [9:50:54] That's correct, I'm the one who released her.

14 Q. [9:51:00] Now, Mr Witness, is it also correct that you knew it was safe to come
15 home because your wife went on to Dwog Paco and gave you an encoded message or
16 a secret message saying that it was safe for you to come home and that in fact
17 Joseph Kony was lying about what UPDF would do to returning escapee LRAs?

18 A. [9:51:36] That's correct, because we had an agreement. We had a password,
19 a coded message. I told her, "When you get back home, when you go to the radio,
20 use the code and I will know that everything is okay." So when we went to the radio
21 and Lacambel sent the message saying, lapwony, I have heard that this person is okay
22 and he used the coded message, then I knew that there was nothing wrong.

23 Q. [9:52:08] And you also had this type of coded message for Mzee Banya when
24 you came home so that he would know that it was okay; is that also correct,
25 Mr Witness?

1 A. [9:52:29] Most occasions I spoke to Banya, to those of Banya over the radio.

2 When I left the bush I was not close to Banya. We were not at the same position or
3 same location.

4 Q. [9:52:50] Now, Mr Witness, when you left the bush, even though it was, as you
5 state, about five weeks before you left the bush and when you last saw Mr Ongwen,
6 did you tell Mr Ongwen any secret code that you would say over the radio to let him
7 know that it was okay and that the UPDF was not killing people that came back?

8 A. [9:53:23] When I left the bush I hadn't met Ongwen. The last time I saw him
9 was when they went to attack Lukodi and when I spoke to him at Opit. When I met
10 him at Opit I told him, "Look, we are here, we are with people from home, your wife
11 is at home." But despite the advice that I had given him, other people were telling
12 him something different so he was extremely afraid as well. But I had made the
13 decision to go and talk to him and let him know that we're okay. But the fear that
14 had been instilled in Ongwen was so great that it was difficult for him to make
15 a decision to leave.

16 Q. [9:54:11] Now, Mr Witness, Dwog Paco was also operated, even though
17 Lacambel had the radio show, it was operated by the UPDF. Did people in the bush
18 know that Dwog Paco was operated by UPDF?

19 A. [9:54:39] No. There is nothing that was in secret. Everything was discussed
20 openly. People would speak to people from the bush, people in the bush would
21 speak to people at home and these people would discuss things with them. So
22 everything was open.

23 Q. [9:55:02] Now, Mr Witness, on to when you discussed about talking to
24 Mr Ongwen over the phone while he was in Opit. Do you remember if Mr Ongwen
25 discussed the peace talks with you when you spoke on the phone?

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1 A. [9:55:33] At the time they were going to, they were heading to Sudan for the
2 peace talks, I also know that they were going to leave Opit and go because orders had
3 been made that they should go and meet in Sudan at the time the peace talks were
4 ongoing and they were heading to Sudan for the peace talks.

5 Q. [9:55:58] During your conversation with Mr Ongwen, did Mr Ongwen tell you
6 that he felt the peace process was going to work and that he was going to be home
7 soon anyway?

8 A. [9:56:28] I cannot recall every single thing that we discussed, but I heard him say
9 something that I do recall is that he is afraid of the ICC.

10 Q. [9:56:43] Now, Mr Witness, from your experience in the bush and from your
11 knowledge of the man, would Joseph Kony have been upset if Dominic would have
12 escaped during the peace talks?

13 A. [9:57:17] He would have been extremely, extremely aggrieved by this. He
14 would have been very, very angry.

15 Q. [9:57:31] Mr Witness, do you remember anybody by the name of lieutenant
16 colonel -- sorry, Mr Witness, we are getting some strange feedback.

17 PRESIDING JUDGE SCHMITT: [9:57:43] That is a new sound, so to speak. So I
18 think we, this is a sound --

19 MR OBHOF: [9:57:52] Is it raining there?

20 PRESIDING JUDGE SCHMITT: [9:57:53] I don't know what's going on there. But,
21 you know, we are relatively indulgent and we are -- really, we know how to endure
22 sounds, but this would, I think would have to stop before we continue.

23 According to my information that I got there is a drilling going on, obviously, there
24 and they have been told to stop it while we are examining the witness, which makes
25 sense, because otherwise we would have to wait until the drilling had stopped. But

1 at the moment it seems to be -- there seems to be silence, which is very comforting.

2 But of course without -- if we stay silent and remain silent we can't go forward.

3 Please, Mr Obhof.

4 MR OBHOF: [9:58:59] Thank you, your Honour.

5 Q. [9:59:02] Mr Witness, do you remember people in the LRA by the names of
6 Lieutenant Colonel Acaye Doctor and Major Adjumani?

7 A. [9:59:22] I do remember Acaye and Adjumani as well.

8 Q. [9:59:28] One at a time. Who was Acaye Doctor?

9 A. [9:59:40] Acaye Doctor was -- lived in Kony's household.

10 Q. [10:00:03] Was he somebody who Kony trusted?

11 A. [10:00:09] Yes. He was somebody that Kony trusted.

12 Q. [10:00:16] And the second person, Major Adjumani, who was Major Adjumani?

13 A. [10:00:25] Adjumani, I do not know him very well, because most times I did not
14 stay with the, with the fighters. I did not usually go for battle, so, yes, I do not know
15 most of the fighters in great detail.

16 Q. [10:00:48] Mr Witness, during your time in the bush, did you ever come to learn
17 of Joseph Kony strategically placing trusted people within the groups to spy on its
18 leaders and report back directly to him?

19 A. [10:01:14] Well, that could happen and I came to know of that.

20 Q. [10:01:25] And, Mr Witness, after you spoke to Dominic in 2006 at Opit, did you
21 hear that Joseph Kony immediately dispatched Acaye Doctor and Major Adjumani to
22 Opit to ensure that he did not escape and that he return to Sudan?

23 A. [10:01:52] Well, I didn't come to hear of that because -- it's possible that that
24 could have happened, because personally that similar thing happened to me. Such
25 things could happen to most of the commanders. It happened to Sam Kolo. Even

1 Otti Vincent went through the same.

2 Q. [10:02:14] Now, Mr Witness, because we want everything on the record, we
3 discussed some issues yesterday and there's one specific issue that I would like to
4 bring back up. Now, you were talking about the punishments for escapes and
5 escape attempts. Who was it that told you of the punishments for attempting to
6 escape and for people who escaped?

7 A. [10:02:52] I mentioned this well yesterday, that Bunia's wife tried to escape and
8 she was killed. I saw that with my own eyes.

9 Q. [10:02:59] Yes, but who told you what type of punishment to receive -- would be
10 received?

11 A. [10:03:14] Kony himself would tell the people directly that, "If you try to escape,
12 I will kill you." It was Kony himself saying that.

13 Q. [10:03:25] Thank you, Mr Witness.

14 Mr Witness, you have spoken a little bit about your -- about the torture you went
15 through where you received your 300 lashes. Was there anybody else who was
16 arrested at that time, around 2000 or 2001, with you when you received the 300
17 lashes?

18 A. [10:03:59] Those who were arrested included Ocan Bunia, Oyat Lapaicho,
19 Abonga Papa, Okwonga Alero. Those were the people who were arrested after me,
20 but they were also given similar severe punishment.

21 Q. [10:04:24] So there were about how many people, would you estimate?

22 A. [10:04:32] Those who were arrested? I did not understand your question well.

23 Q. [10:04:39] Yes, the number of people that were arrested during the incident
24 where you received 300 lashes?

25 A. [10:04:48] Abonga Papa, Ocan Bunia, Oyat Lapaicho and Okwonga Alero.

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1 There were four.

2 Q. [10:05:03] Only a few final questions, Mr Witness. Mr Witness, did anybody
3 want to be in the LRA?

4 A. [10:05:24] During the time I was there, nobody could ever think of that, because
5 he would plant his people in all the strategic locations to try and hear or listen to what
6 people are talking about. Everyone was scared, everyone was frightened and
7 nobody would even leave on their own.

8 Q. [10:06:01] Thank you, Mr Witness.

9 MR OBHOF: [10:06:08] Just a few questions from counsel, your Honour.

10 PRESIDING JUDGE SCHMITT: [10:06:13] So this means that your examination is
11 finished and then I give Mr Ayena the floor?

12 MR OBHOF: [10:06:18] Yes.

13 QUESTIONED BY MR AYENA ODONGO:

14 Q. [10:06:28] Good morning, Mr Witness.

15 A. [10:06:34] Good morning.

16 Q. [10:06:36] Mr Witness, I want to begin by thanking you very much because,
17 from your narrative, I think you really helped to save the lives of so many people in
18 the bush, and because of your seniority and your age, you encouraged many of the
19 children who were in the bush.

20 Now, Mr Witness, it would appear you were also very spiritual. Am I right?

21 A. [10:07:30] You have said it well, because even back home I was a practising
22 Christian, even when I used to drink and get drunk. But I was a very good religious
23 person.

24 Q. [10:07:52] Well, sometimes people use that during that wedding occasion.
25 Even Jesus turned water into wine. So I suppose not -- within -- at least it's Catholic

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1 denomination, it's not a very strict prohibited practice.

2 Now, Mr Witness, having understood -- or as somebody who understands spirituality,
3 we want you to really help this Court to understand the impact of the knowledge that
4 Kony had special spiritual attributes on the LRA soldiers. What impact did it have
5 on the LRA soldiers?

6 A. [10:09:06] The issue about Kony possessing holy spirit made people fear him
7 a lot, because the spirit is an equivalent of God. If he says this has been said by the
8 spirit, you will just know, you would feel, really feel, that this is a message from God
9 and you will have to follow it. You will not even think about anything else. You
10 will be scared, you will feel weak and you will strictly adhere to what he says,
11 because the spirit comes from God. And if there is a mention of the word "spirit",
12 you -- it's so heavy that if you know God so well, you will have to listen to that.
13 In the LRA people were forced to believe in God and they were told that God is
14 everything. And if there is a message coming and it is said that it is coming from the
15 spirit, you will say, "Well, this is coming from God and God is in control." Everyone
16 would talk about God and everyone believed in that way.

17 If you begin talking like Mr Ayena, who is talking there, nobody would believe in
18 him because he is not speaking using the spirit of God.

19 Q. [10:10:32] Now, Mr Witness, at 67 I am sure you know the ways of the Acholi
20 and your neighbour, the Langi. Can you tell Court whether a child -- I mean
21 anybody in -- and even children who were abducted into the LRA will have known
22 about spiritualism even before they are abducted? Is it a common belief in Lango
23 and Acholi, or in Africa for that matter?

24 PRESIDING JUDGE SCHMITT: [10:11:27] Mrs Nuzban is rising.

25 MS NUZBAN: [10:11:30] Your Honour --

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1 THE WITNESS: [10:11:32] (Interpretation) People know about the spirits.

2 PRESIDING JUDGE SCHMITT: [10:11:33] Just wait a moment, Mr Witness. We
3 have just the -- Madam Prosecutor wants to object.

4 MS NUZBAN: [10:11:39] Your Honour, we -- yes, we object to the formulation of
5 this question. The witness is not called as an expert. He cannot testify to the entire
6 populations, entire regions of Africa. Perhaps the question can be reformulated to
7 reflect his knowledge.

8 PRESIDING JUDGE SCHMITT: [10:11:55] Yes, but I think -- but I think it's clear that
9 the witness can say something about his experiences with his people, with the Acholi
10 people, and, yes, he can answer that. Although he is, strictly speaking of course, not
11 an expert, but nevertheless we had many instances here in this courtroom where we
12 ask witnesses such questions and whatever probative value this has in the end. But
13 this is a person who has, as Mr Ayena correctly pointed out, has a certain age, he had
14 a certain function in the LRA, and I think we can let him answer at least - and I
15 assume even that he will not go beyond that - what his knowledge is about the Acholi
16 people.

17 MR AYENA ODONGO: [10:12:45] I'm indebted to you, Mr President.

18 Q. [10:12:50] So, Mr Witness, you have heard my question and you have heard the
19 comment of the Presiding Judge. Can you help Court to understand that, you know,
20 that as a background to the people who ended up in the LRA?

21 A. [10:13:14] Even back home, people know about spirits. Even you, Mr Ayena,
22 you know very well that during burials, people would converge together and they
23 would revoke the spirit, they would invoke the spirit to come and talk to the people.
24 That happens in Lango and even in Acholi. During that process, children will also
25 be there to listen to that and they will grow knowing that spirits exist. I grew up

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1 knowing that spirits exist.

2 Q. [10:13:51] Now, Mr Witness, you were abducted already couth in spiritual
3 matters, aware of spiritualism, and then you went to the bush and you -- of course
4 you had also --

5 A. [10:14:20] When --

6 THE INTERPRETER: [10:14:25] Your Honour, could the witness be requested to
7 repeat that response.

8 PRESIDING JUDGE SCHMITT: [10:14:29] Mr Witness, just there was a little bit of
9 a problem with the communication. Perhaps first you listen to Mr Ayena finishing
10 the question, and then you, then you start and answer again. That would be very
11 kind of you. Thank you.

12 MR AYENA ODONGO: [10:14:46]

13 Q. [10:14:47] The question is: Like in your case when you were abducted you
14 were aware of spiritualism. Perhaps you had also heard about the Holy Spirit and
15 the spiritual attributes of Kony and then you get into the LRA and you are told that
16 Kony had set regime of orders, the dos and don'ts which were given by the spirit.
17 Did you believe them?

18 A. [10:15:38] I mentioned this earlier that it is mentioned that this is coming from
19 God, there is no way you can fail to believe because you fear God and it's being
20 attributed to God, spirits come from God, and if the message is attributed to God
21 there is no way you can fail to believe. You will actually be scared as well.

22 PRESIDING JUDGE SCHMITT: [10:16:02] May I shortly, Mr Ayena.

23 MR AYENA ODONGO: [10:16:05] Yes, please.

24 PRESIDING JUDGE SCHMITT: [10:16:06] Mr Witness, did you ever question the
25 spirits that came from Kony? What I mean is did you ever question that Kony really

1 was possessed by spirits?

2 THE WITNESS: [10:16:26] (Interpretation) If you try to do that you will be
3 sacrificing your life because you cannot question that, you will be killed.

4 PRESIDING JUDGE SCHMITT: [10:16:37] Then my, my question was not clear
5 enough. I did not mean did you question it openly, but in your mind did you think
6 yes or did you believe this, or did you have your doubts, so to speak?

7 THE WITNESS: [10:16:57] (Interpretation) That kind of thinking came later when I
8 had already stayed in there for quite a while. I would see the way he would speak to
9 the people, I would see the way he would behave. I saw his actions were not
10 measuring with these words. That was why I started thinking differently and I
11 started talking to other people differently.

12 PRESIDING JUDGE SCHMITT: [10:17:26] Mr Ayena, please.

13 Q. [10:17:42] Now, Mr Witness, Kony had commanders. He would send them to
14 lead battles. I want you to help Court to understand, if you were a commander and
15 you were put in charge of a group of people, say in charge of a brigade, was it
16 possible that you also knew that the spirit was all the time with you watching over
17 you, what you did and what you did not do?

18 A. [10:18:39] That was in the minds of several commanders, but for me later on, as I
19 mentioned earlier, I broke off from that kind of thinking because I would even tell
20 people that if there is any such spirit, then it's an evil spirit because it's only evil
21 spirits that can do wrong things. Holy Spirit would do correct things or right things.

22 Q. [10:19:12] So, Mr Witness, would I be correct to say in the minds of commanders
23 if you went to lead battle, although you are the commander you knew that actually
24 there was a superior commander and you were only second-in-command because
25 there was always a spirit hovering over you?

1 A. [10:19:46] You have said it correctly.

2 Q. [10:19:59] Mr Witness, let's talk about Lukodi. You said according to
3 Joseph Kony, the attack on Lukodi was a reminder, was meant to remind the world
4 that he is well and alive. I want you to tell this Court when those people went and
5 attacked Lukodi what was to be the target, what was the target? Because I know
6 that it was, you know, an IDP camp, there were also barracks there. What was the
7 specific target, the objective to be achieved?

8 A. [10:21:19] Mostly if Kony is giving instructions, he gave instructions to go and
9 attack the soldiers, these people had gone to attack the soldiers, but the soldiers fled.
10 The people who went to attack the soldiers found when the soldiers were already
11 running away they fled, they had gone to attack the army.

12 Q. [10:21:47] Now, Mr Witness, can you tell this Court how people were feeding in
13 the bushes for the time you spent there. Where were they getting their supplies from?
14 Was government giving them supplies? Were the NGOs being allowed to give
15 supplies to the children, or government, for that matter, was there an arrangement
16 where government would drop food in a specific area and the LRA encouraged to go
17 and pick them?

18 A. [10:22:38] There were two or three ways of getting food. When we were in
19 Sudan the government of Sudan was providing food, but when we returned to
20 Uganda, wherever you find food would you have to get that and use for daily
21 survival. But sometimes when there is no foodstuff you would have to eat wild
22 yams and some vegetables called ladidi. You would eat only that because that
23 would be a time when you do not have any food rations.

24 Q. [10:23:21] Mr Witness, do I understand it that at certain times the LRA soldiers
25 would be at the brink of starvation because there was no food?

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1 A. [10:23:43] There was no way they could starve to death because they had wild
2 yams. They would be able to uproot these yams and then they would also get some
3 wild plant called ladidi.

4 Q. [10:24:04] Apart from the yams, especially in the areas where there were -- I
5 know that wild yams can only be found in the bushes, in the forests and places which
6 have not been cultivated for a long time. In situations where you were -- maybe
7 where people have for a long time been cultivating, would you -- would I be correct
8 to say that there would be absolute necessity for you to go and look for food from the
9 population?

10 A. [10:24:51] That's correct.

11 Q. [10:24:57] And lastly, Mr Witness, when the peace talks was in progress, and
12 you were already out of the bush, what was the general mood in the population in
13 Acholi and Uganda? Were they expectant that finally the war would end?

14 A. [10:25:40] I kept on moving about, moving in the villages and I saw people were
15 really optimistic, they felt finally peace was returning to northern Uganda. We were
16 ourselves feeling optimistic because we knew if these peace talks went on well, then
17 peace would finally return.

18 Q. [10:26:07] Now, Mr Witness, if you had still been in the bush you would have
19 been there for more than 20 years by that time. And here was an opportunity for
20 what you had fought for to be finally negotiated. If you had been in the bush, would
21 you have decided during the peace talks --

22 MR GUMPERT: [10:26:46] Your Honour, I am going to object already. This is
23 speculative.

24 PRESIDING JUDGE SCHMITT: [10:26:49] Yes, that's correct, Mr Ayena. I sustain
25 this objection. Even before you have finished, because this is really very speculative,

1 I would say. Perhaps you go to another point or what -- rephrasing would be
2 difficult when I look at the purpose of the question.

3 MR AYENA ODONGO: [10:27:10] I am sure rephrasing would be especially
4 difficult for Mr Gumpert, but for me I would find a way around it.

5 PRESIDING JUDGE SCHMITT: [10:27:18] I am sure with your language skills you
6 would find a way around it. You can give it a try, but then the next objection would
7 perhaps arise, but we don't have to -- now we are starting to speculate, but --

8 MR AYENA ODONGO: [10:27:32] That makes two of us.

9 PRESIDING JUDGE SCHMITT: [10:27:35] Yes, yes, exactly. But like you have
10 phrased it I would not allow the question.

11 MR AYENA ODONGO: [10:27:41] I am much obliged, your Honour.

12 Q. [10:27:44] Mr Witness, you said when you met Dominic Ongwen, and we have
13 heard in this Court from other people that there was an attempt to ask him to
14 surrender, in your opinion, would he surrender, and given your answer that Kony
15 would be terribly aggrieved if he had surrendered, would it have affected the peace
16 process, in your opinion?

17 PRESIDING JUDGE SCHMITT: [10:28:37] I think we can allow him to answer that,
18 whatever the probative value of this answer will be.

19 THE WITNESS: [10:28:49] (Interpretation) Could you please repeat that question.

20 MR AYENA ODONGO: [10:28:52]

21 Q. [10:28:52] If Dominic Ongwen had surrendered at the time when you asked him
22 to surrender when you met him at Opit, in your opinion, and given your answer that
23 Kony would be terribly aggrieved, in your opinion wouldn't it have affected the peace
24 process?

25 A. [10:29:33] It would have ruined everything. I am very sure the process would

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1 collapse.

2 PRESIDING JUDGE SCHMITT: [10:29:42] But, Mr Witness, nevertheless you
3 undertook this, so nevertheless you talked with Mr Ongwen.

4 THE WITNESS: [10:29:54] (Interpretation) Yes, I did talk to him.

5 PRESIDING JUDGE SCHMITT: [10:29:58] Please, Mr Ayena.

6 MR AYENA ODONGO: [10:30:01]

7 Q. [10:30:02] When you talked to Dominic Ongwen about this, can you tell Court
8 whether you had been encouraged to talk to him by the government of Uganda as an
9 elder and somebody they knew Ongwen respected?

10 A. [10:30:28] I mentioned in my statement that Lacambel came and collected me
11 and Banya because Lacambel had connections with the UPDF and it's possible that it
12 was priorly arranged by the UPDF.

13 Q. [10:30:48] And, Mr Witness, as somebody who was elderly at the time when you
14 were captured, at about the age of 38 you were a mature person, you lived in Sudan,
15 you interacted or at least saw the relationship between the Arabs and the LRA. Did
16 you also understand that there was a relationship between the government of Uganda
17 and the SPLA?

18 A. [10:31:36] Yes, I did.

19 Q. [10:31:42] So, while the LRA was fronting for the government of southern Sudan,
20 the SPLA was fronting for the government of Uganda; is that correct?

21 A. [10:32:10] That's correct.

22 Q. [10:32:16] I can only thank you, Mr Witness. You have been so useful. And I
23 wish you very well.

24 That's the end of cross-examination of this witness.

25 PRESIDING JUDGE SCHMITT: [10:32:26] Thank you, Mr Ayena.

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1 Mr Apire, you have heard that the questioning of the Defence has finished. This also
2 concludes your examination.

3 On behalf of the Chamber I would like to thank you that you have made yourself
4 available as a witness in these proceedings and that you helped the Court to establish
5 the truth.

6 Thank you very much.

7 THE WITNESS: [10:32:59] (Interpretation) Thank you.

8 (The witness is excused)

9 PRESIDING JUDGE SCHMITT: [10:33:00] I think for further scheduling or planning
10 it makes sense now not to wait until half past 12 but simply have a prolonged coffee
11 break until 11.30, and then come back and see how far we get.

12 I think I understand for P-47 the direct examination would be an hour, or something
13 like that, Mr Choudhry?

14 MR CHOUDHRY: [10:33:27] Your Honour, I suspect even shorter than that.

15 PRESIDING JUDGE SCHMITT: [10:33:32] Even shorter than that. That would
16 mean that we would not need the afternoon session, obviously.

17 Does the Defence already at least have an estimate for further planning so that we
18 really can finish tomorrow?

19 Mrs Bridgman, can you tell me?

20 MS BRIDGMAN: [10:33:47] Yes, Mr President. We are considering about two
21 sessions for the witness.

22 PRESIDING JUDGE SCHMITT: [10:33:52] So then what we do today is we
23 reconvene, so to speak, at 11.30, have a direct examination; if there are any questions
24 by the legal representatives, these questions, and then only tomorrow start with
25 the Defence.

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- 1 So a break until 11.30.
- 2 THE COURT USHER: [10:34:09] All rise.
- 3 (Recess taken at 10.34 a.m.)
- 4 (Upon resuming in open session at 11.29 a.m.)
- 5 THE COURT USHER: [11:29:49] All rise.
- 6 PRESIDING JUDGE SCHMITT: [11:30:13] I don't think that the teams are
- 7 unchanged, so I'm not sure whether Prosecution, you are unchanged, you are just
- 8 sitting in different order, so to speak. Mr Gumpert has moved a little bit.
- 9 But on the Defence bench I see not new faces, but perhaps just for the record we can
- 10 introduce them, Mrs Bridgman.
- 11 MS BRIDGMAN: [11:30:41] Thank you, Mr President. We are joined by
- 12 Ms Salma Khamala and Tibor Bajnovic.
- 13 PRESIDING JUDGE SCHMITT: [11:30:49] Thank you very much.
- 14 And we have the next witness Mr John Lubwama at the video link.
- 15 Mr Lubwama, do you hear me?
- 16 THE WITNESS: (No interpretation)
- 17 PRESIDING JUDGE SCHMITT: [11:31:08] I did not get the interpretation.
- 18 WITNESS: UGA-OTP-P-0047
- 19 (The witness speaks Swahili)
- 20 (The witness gives evidence via video link)
- 21 THE WITNESS: [11:31:13] (Interpretation) Yes, I can hear you, your Honour.
- 22 PRESIDING JUDGE SCHMITT: [11:31:17] We have -- I know the situation is a little
- 23 bit different. Now it's -- I think I can follow. So I have to look to the left side. This
- 24 is a little bit -- I'm not used to it, but I will get used to it.
- 25 This is Prosecution Witness P-47 and this is the next witness that the Prosecution calls.

1 Mr Lubwama, on behalf of the Chamber I would like to welcome you at the
2 video-link location and thank you that you have been coming there. There should
3 be a card in front of you, Mr Lubwama, with a solemn undertaking to tell the truth.
4 Would you please be so kind to read out loud this card.

5 THE WITNESS: [11:32:00] (Interpretation) I solemnly declare that I shall tell the
6 truth, the whole truth and nothing but the truth.

7 PRESIDING JUDGE SCHMITT: [11:32:25] Thank you, very much, Mr Witness.
8 You have now been sworn in.

9 Before we start with your testimony, I would like to explain some practical matters
10 that you please have in mind when giving your testimony. As you are aware of,
11 everything we say here is written down and interpreted. It is therefore important to
12 speak clearly and at a slow pace. This is especially important because we have the
13 situation here as, if I have understood it correctly, that your testimony is first
14 translated into French and then into English. So it takes a little while, so everybody
15 has to be -- has to keep that in mind that we are really especially clear and really take
16 our time and don't speak too quick.

17 To allow for the interpretation, everyone has to wait a few seconds before starting to
18 speak and, as I said, this is especially important.

19 Mr Lubwama, if you have any questions yourself you can raise yourself so we know
20 that you wish to say something.

21 I assume that you have understood all that; is that correct?

22 THE WITNESS: [11:33:52] (Interpretation) Yes, I have understood, your Honour.

23 PRESIDING JUDGE SCHMITT: [11:33:55] Thank you very much. We will then
24 start your testimony.

25 And I give Mr Choudhry the floor for the Prosecution.

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1 QUESTIONED BY MR CHOUDHRY:

2 Q. [11:34:09] Good morning, Mr Witness.

3 Mr Witness, before I start, I would just like to check that you have a binder in front of
4 you, please.

5 A. [11:34:43] Could you repeat?

6 Q. [11:34:55] Mr Witness, do you have a binder like this in front of you?

7 A. [11:35:13] No.

8 PRESIDING JUDGE SCHMITT: [11:35:17] Do we have staff and colleagues from
9 the Registry at the video-link location that could help us perhaps in this situation.

10 THE COURT OFFICER: [11:35:30] (Via video link) Yes, sir, we have a laptop here
11 with -- we can present the witness with all the evidence that needs to be.

12 PRESIDING JUDGE SCHMITT: [11:35:39] So there is obviously no binder there,
13 may I ask you?

14 THE COURT OFFICER: [11:35:44] (Via video link) No.

15 PRESIDING JUDGE SCHMITT: [11:35:45] No. No binder, so then it, perhaps
16 what we can do, we can display it for the witness. And I assume that you will refer
17 to the first page and go on from there. So we will do it this way, or we give it a try
18 this way, Mr Choudhry.

19 MR CHOUDHRY: [11:36:03]

20 Q. [11:36:04] Mr Witness, can you please tell the Court your full name.

21 A. [11:36:16] My name is John Lubwama.

22 Q. [11:36:21] What is your date of birth?

23 A. [11:36:32] On 10 March, 10 March 1962.

24 Q. [11:36:50] Where were you born?

25 A. [11:36:54] I was born in Namayumba in the district of Busiro -- or, rather,

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1 Wakiso district.

2 Q. [11:37:18] Which country is that in?

3 A. [11:37:22] It's in Uganda.

4 Q. [11:37:31] What is your current occupation?

5 A. [11:37:42] I'm a soldier.

6 Q. [11:37:46] Now, Mr Witness, before coming in to court today I understand that
7 you've had the opportunity to read through your statement and look at a sketch that
8 you drew in relation to this case; is that correct?

9 A. [11:38:13] That's right.

10 Q. [11:38:16] In that case, I would ask the court officer where you are to open
11 tab 1, and that is ERN UGA-OTP-0027-0177.

12 PRESIDING JUDGE SCHMITT: [11:38:33] I assume it will be displayed for the
13 witness on the screen, so this is of course not -- it's as good as to have it in a binder,
14 of course.

15 MR CHOUDHRY: [11:38:50]

16 Q. [11:38:50] Mr Witness, do you see a document on a screen in front of you?

17 A. [11:39:08] Not yet.

18 Q. [11:39:14] Can you please let us know when you see a document in front of
19 you.

20 A. [11:39:36] I'm facing my screen. I'm looking at the screen.

21 Q. [11:39:51] And on the screen that you are looking at can you see a document
22 with the heading "Witness Statement"?

23 A. [11:40:10] Yes.

24 Q. [11:40:13] Now, underneath the heading "Witness Information" do you see
25 your name on the front page?

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- 1 A. [11:40:33] Yes, I see my name.
- 2 Q. [11:40:35] And if you look on the bottom right there are two letters, JL. Do
3 you see that?
- 4 A. [11:40:58] Not yet.
- 5 Q. [11:41:05] Mr Witness, I'll just point --
- 6 A. [11:41:11] Oh, I can see it now.
- 7 Q. [11:41:16] Whose initials are they?
- 8 A. [11:41:26] I am the one who initialled the document.
- 9 Q. [11:41:35] Thank you. Can you please turn the page to page 2 of that witness
10 statement.
- 11 Your Honours, that is at 0027-0178.
- 12 Mr Witness, do you recognise any of the signatures on that page as being your
13 signature?
- 14 A. [11:42:18] Yes, I do recognise my signature.
- 15 Q. [11:42:23] And there's a date next to your signature. Do you see that, it's
16 19 November 2004?
- 17 A. [11:42:39] Yes, I do see the date.
- 18 Q. [11:42:43] Please can you now turn to page 20 of that statement. And that is
19 ERN 0027-0196.
- 20 Do you recognise your signature on that page, Mr Witness?
- 21 A. [11:43:19] Yes.
- 22 Q. [11:43:25] And again the date there is 19 November 2004, do you see that?
- 23 A. [11:43:37] Yes, I can see it.
- 24 Q. [11:43:41] Mr Witness, is this your witness statement?
- 25 A. [11:43:55] Yes, it is my statement.

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1 Q. [11:43:59] Please can you now turn to page 8 of that statement. And that is
2 ERN 0027-0184.

3 Mr Witness, I am just going to read something that you've written in your witness
4 statement at paragraph 41. You wrote:

5 "I was asked to draw a map of where Pajule military barracks is located in relation to
6 the two internally displaced persons camps of Pajule and Lapul and the Pajule
7 trading centre. The map that I drew for the investigators is attached as annex A to
8 this witness statement."

9 Do you see that?

10 A. [11:45:18] Yes, I can see this passage.

11 Q. [11:45:22] I would now ask you to please turn to another document.

12 It's tab 4 in your Honours' binders and ERN is UGA-OTP-0027-0198.

13 Can you please tell us when that document is in front of your screen.

14 A. [11:46:07] I can already see the document on the screen.

15 Q. [11:46:12] Do you recognise your signature anywhere on this document,
16 please?

17 A. [11:46:32] I can recognise my signature here at the bottom, and it's written
18 annex A at the bottom, yes.

19 Q. [11:46:42] And if you could just confirm who drew this sketch?

20 A. [11:46:49] I did.

21 Q. [11:46:59] Is this the sketch that you drew and referred to in your statement?

22 A. [11:47:21] Yes.

23 Q. [11:47:21] Thank you. Mr Witness, when you gave your statement and drew
24 this sketch, were you telling the truth?

25 A. [11:47:39] Yes, it was the truth.

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1 Q. [11:47:42] And when you gave your statement and drew this sketch, was the
2 information you provided to the best of your knowledge and recollection?

3 A. [11:48:03] Yes, the information was correct.

4 Q. [11:48:08] Now, Mr Witness, the Judges can use your statement and sketch
5 when they make up their minds in this case. Do you object to that?

6 A. [11:48:34] I have no objection to that.

7 PRESIDING JUDGE SCHMITT: [11:48:37] Mr Choudhry, this, I think you would
8 assume it yourself, this sufficiently I think establishes the procedural requirements for
9 Rule 68(3).

10 MR CHOUDHRY: [11:48:48] Thank you, your Honour.

11 Q. [11:48:50] Mr Witness, I have some questions for you and what I would like to
12 do is ask you to focus your mind on an attack that occurred at Pajule IDP camp on
13 Independence Day, 10 October 2003 and my questions will relate to four areas. The
14 first area are your duties at the time of the Independence Day attack.

15 MR AYENA ODONGO: [11:49:31] Your Honour.

16 PRESIDING JUDGE SCHMITT: [11:49:32] Mr Ayena.

17 MR AYENA ODONGO: [11:49:35] I think for the records, I think it's instructive to
18 know that Independence Day is actually on the 9th of October.

19 PRESIDING JUDGE SCHMITT: [11:49:43] Okay. You know, I would not and
20 I cannot object to what you are saying, so we just have it on the record now, 9 October.
21 And I think we have heard it before, but I cannot confirm. But I think it will be very
22 easy to establish what the Independence Day -- it's always the same day, I would
23 assume, like in most other countries too. Okay.

24 So please continue, Mr Choudhry.

25 So we have lost the connection, obviously. It must be reestablished. But that can

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1 happen. That's not a problem.

2 As I always say, I'm surprised that things go so well technically, frankly speaking, in
3 general.

4 I see younger people in the courtroom smiling a little bit, but yes, it perhaps has to do
5 with not being so acquainted with these technical matters.

6 So I'm told that it will last about two minutes, and I think we will be able to go over
7 these two minutes, if need be, also in silence. We have even music to entertain us.

8 Perhaps I can ask in the meantime, to fill the gap, do the Legal Representatives of
9 Victims envision to question this witness?

10 MR MANOBA: [11:51:45] Mr President, we don't intend to put any questions.

11 PRESIDING JUDGE SCHMITT: [11:51:49] Mr Narantsetseg.

12 MR NARANTSETSEG: [11:51:50] Mr President, yes.

13 PRESIDING JUDGE SCHMITT: [11:51:52] So you can prepare yourself to do this
14 during this session, I would assume.

15 MR NARANTSETSEG: [11:51:57] Yes, thank you, your Honour.

16 PRESIDING JUDGE SCHMITT: [11:52:00] Okay.

17 Is the video link established again? Yes, okay.

18 Mr Witness, there was a short problem, a technical problem. We had to reestablish
19 the video link, but I am informed that things are going well now again.

20 And, Mr Choudhry, please continue.

21 MR CHOUDHRY: [11:52:21]

22 Q. [11:52:22] Mr Witness, I would like to ask you some questions about an attack
23 which in your statement you wrote occurred at Pajule IDP camp on 10 October 2003.

24 Do you understand that?

25 A. [11:52:51] Yes, I understand.

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1 Q. [11:52:53] And there are four areas that I would like to ask you questions
2 about. The first are about your duties on the day of that attack. The second are
3 things that you saw after the attack at the Pajule trading centre. The third are in
4 relation to reports that you drafted about that attack. And finally, I would like to ask
5 you about a person named Rwot Oywak, okay?

6 And if I could just ask the court officer --

7 A. [11:53:37] All right. I was the commander of the forces that were at that place.
8 I'm speaking of Pajule. Could you repeat your second question, please?

9 PRESIDING JUDGE SCHMITT: [11:54:14] This was -- yes, I think simply take over
10 and put one question after the other. But the first question is quite sufficiently
11 answered, I would say.

12 MR CHOUDHRY: [11:54:27]

13 Q. [11:54:28] Mr Witness, as the commanding officer, what were your specific
14 duties on the day of that attack?

15 A. [11:54:59] I was to monitor the locality of Pajule and the people who were in
16 the IDP camp. So I was to ensure that these people not be attacked by the enemy.

17 Q. [11:55:31] When you say "these people", who are you referring to?

18 A. [11:55:48] I mean the members of the population who were in the IDP camps,
19 Pajule and Lapul.

20 Q. [11:56:05] Mr Witness, I'm going to read something to you that you've written
21 in your witness statement.

22 Your Honours, that's at page 6, paragraph 26. The ERN is 0027-0182.

23 Mr Witness, you wrote:

24 "The attack lasted for one hour. Afterwards, we cross-checked the area. We went
25 to crosscheck the area around the barracks and also the two IDP camps of Pajule and

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1 Lapul, which include Pajule Trading Centre."

2 My question is: Can you please describe what you saw when you went to the
3 trading centre after the attack?

4 A. [11:57:20] When I went to the centre after the attack, I saw what the enemy had
5 done. They had broken down the doors of the shops and abducted some members
6 of the population. They took those people as hostages. That's what I was able to
7 see when I got to the centre.

8 Q. [11:57:53] Thank you. I would now like to ask you to look at tab 2, if that
9 could be shown on your screen.

10 And, your Honour, the ERN for that is UGA-OTP-0037-0261.

11 Can you please let us know when that image is on your screen?

12 PRESIDING JUDGE SCHMITT: [11:59:07] I think you can continue. I would
13 assume that he has it on the screen.

14 MR CHOUDHRY: [11:59:13]

15 Q. [11:59:14] Mr Witness, do you recognise this photograph?

16 A. [11:59:26] I don't see the photograph yet on my screen.

17 PRESIDING JUDGE SCHMITT: [11:59:35] My assumption was obviously wrong.

18 THE WITNESS: [12:00:02] (Interpretation) I see the photo well on the screen.

19 MR CHOUDHRY: [12:00:05]

20 Q. [12:00:07] Whose photograph is this?

21 A. [12:00:22] These are bodies of the enemy of the LRA who came to attack my
22 military camp. It is those troops who were killed on that day.

23 Q. [12:00:45] Who took this photograph, please?

24 A. [12:01:03] The photo was taken by the journalist of the monitor and Rupiny.
25 They came to investigate the situation, the fighting.

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1 THE INTERPRETER: [12:01:34] They were journalists from Rupiny, corrects the
2 interpreter.

3 MR CHOUDHRY: [12:01:37]

4 Q. [12:01:37] Mr Witness, in your statement at page 7, paragraph 33, that's ERN
5 0027-0183, you wrote, "The journalist who gave me" -- this photograph -- "was from
6 Rupiny."

7 Is this the photograph that you were referring to?

8 A. [12:02:07] Yes, it's the same photograph.

9 Q. [12:02:14] I would now like to ask you about reports, Mr Witness, and ask the
10 court officer to show you document UGA-OTP-0037-0282.

11 MR CHOUDHRY: [12:02:30] That, your Honours, is in tab 3. And, your Honour,
12 whilst the court officer is showing the witness this document, just to alert the Bench
13 that this document in fact contains two reports. It was mistakenly bunched together
14 when they were inputted into Ringtail, but I shall try and distinguish between the
15 two.

16 PRESIDING JUDGE SCHMITT: [12:02:54] That's no problem. I think it's also
17 easy to recognise.

18 MR CHOUDHRY: [12:03:09]

19 Q. [12:03:09] Can you please let us know when that document is in front of you,
20 Mr Witness?

21 A. [12:03:33] You're speaking about a document? Could you ask your question
22 again, please?

23 Q. [12:03:45] Mr Witness, you should have in your document a handwritten
24 report on your screen. Do you see that?

25 A. [12:04:00] Yes, I can see the document in question.

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1 Q. [12:04:06] What is this handwritten report?

2 A. [12:04:27] It's a situation report. That's what we call it in the army.

3 Q. [12:04:35] Who wrote it?

4 A. [12:04:44] I did, myself.

5 Q. [12:04:49] And does this situation report refer to the attack at Pajule on
6 10 October 2003?

7 A. [12:05:09] Yes.

8 Q. [12:05:12] If you could just turn to the second page of the document in front of
9 you, please, and the ERN for that is 0037-0283.

10 Do you recognise this document, Mr Witness?

11 A. [12:05:55] Yes.

12 Q. [12:05:57] What is it, please?

13 A. [12:06:03] This is a report, it's a monthly report that is prepared each time.

14 Q. [12:06:25] Who wrote it?

15 A. [12:06:33] I did.

16 Q. [12:06:40] If you could just look on the final page of this report, there is the
17 name John Lubwama with a signature above it. Is that your signature?

18 A. [12:07:05] Yes, it is my signature.

19 Q. [12:07:09] Does this report refer to the attack at Pajule on 10 October 2003?

20 A. [12:07:29] Yes, it does.

21 Q. [12:07:33] Now, Mr Witness, I want to ask you a question about one sentence
22 in this report. It is on the final page just above the heading "Recommendation", and I
23 shall read what you've written.

24 In this report you wrote: "In conclusion, Pajule sector should be noted as one with a
25 lot of LRA collaborators whose activities need close monitoring."

1 Do you see that?

2 A. [12:08:32] Yes.

3 Q. [12:08:33] Why did you write that, please?

4 A. [12:08:50] I wrote that given that I was the commander in the field and I knew
5 the situation that prevailed, as well as the living conditions among the members of
6 the population.

7 Q. [12:09:21] Who was alleged to be a collaborator?

8 A. [12:09:39] People who were found among the members of the population who
9 were there in that locality.

10 Q. [12:09:54] Do you remember the names of any of those people who were
11 alleged to be a collaborator?

12 A. [12:10:22] According to what was said they spoke about Rwodi. It was said
13 that members of the population were complaining because that person was
14 collaborating with the enemy.

15 Q. [12:10:48] When you used the name Rwodi, do you mean Rwot Oywak?

16 A. [12:11:05] Yes.

17 Q. [12:11:10] When did people make these allegations?

18 A. [12:11:33] At any time the members of the population were complaining that
19 he had a satellite phone. We arrested him and we asked him the question. He said
20 he received it when he was in a religious committee within the Acholi peace initiative
21 committee. Others thought that he had received it from the enemy camp.

22 Q. [12:12:41] Was he arrested before or after the attack at Pajule on
23 10 October 2003?

24 A. [12:12:50] Before.

25 Q. [12:13:07] How long was he arrested for?

1 A. [12:13:27] He was in detention for a short period, about an hour. We
2 questioned him, we told him we had information according to which he was
3 collaborating with the enemy, but he denied that. We told him that people thought
4 that he had a satellite phone which he received from the enemy, but he said it was the
5 Acholi peace initiative committee who had given it to him because he was responsible
6 for coordination between the government and the enemy camp. We therefore saw
7 there was no evidence which would prove that he was a collaborator and we
8 therefore decided to release him.

9 Q. [12:14:29] Mr Witness, did you ever learn what happened to Rwot Oywak in
10 the attack on 10 October 2003?

11 A. [12:14:57] Yes. He was among the people who had been taken hostage by the
12 enemy camp.

13 Q. [12:15:15] Did you ever learn anything about his release from being a hostage?

14 A. [12:15:31] Yes. When he was released he came to see me and he told me that
15 when the enemy had taken him hostage he himself discussed with Vincent Otti, who
16 was the commander of that group, he asked him to let him go. He also said that he
17 was part of a group made up of approximately 100 persons.

18 Q. [12:16:30] Mr Witness, in your statement at page 18 at paragraph 120, that's
19 ERN 0027-0194, you've written as follows: "The chief said that he spoke to
20 Otti Vincent, and that he was the one to convince Otti to release them and to return
21 with around 50 people."

22 Can you please explain that comment or that statement.

23 A. [12:17:12] I'm sorry, could you put your question again? I think, I think given
24 that he was a member of this peace initiative committee he was brave enough to
25 discuss with Vincent Otti, the leader of the enemy camp, and he accepted to release

1 him as well as the 50 persons who were being detained.

2 MR CHOUDHRY: [12:18:18] Your Honour, I have no further questions.

3 Thank you.

4 PRESIDING JUDGE SCHMITT: [12:18:21] Thank you, Mr Choudhry.

5 And then I give Mr Narantsetseg the floor.

6 MR NARANTSETSEG: [12:18:25] Thank you very much, your Honour.

7 QUESTIONED BY MR NARANTSETSEG:

8 Q. [12:18:35] Mr Witness, hello there. My name is Orchlon Narantsetseg and we
9 represent about 1,500 victims in this case. And many of our victims are from Pajule
10 so I would like to put some questions to you related to the harm personally suffered
11 by these victims. I hope you hear me.

12 So first I would like to ask some questions about --

13 A. [12:19:12] Yes, I'm following you.

14 Q. [12:19:13] First I would like to ask some questions about the pillaging and also
15 the destruction of property that took place in Pajule. Mr Witness, did the rebels loot,
16 pillage things from the Pajule IDP camp?

17 A. [12:19:48] Yes.

18 Q. [12:19:51] What were those things that got looted and pillaged by the rebels?

19 A. [12:20:04] Generally they pillaged articles that they found in shops, like sugar,
20 clothing, foodstuffs, everything that could help them in the life they were carrying out
21 in the bush.

22 Q. [12:20:32] Right. Besides the shops, did they also loot those items from the
23 civilian homes?

24 A. [12:20:47] Yes. They pillaged in shops and they also pillaged articles from
25 among the population.

1 Q. [12:21:11] Thank you very much, sir.

2 Sir, given the nature of these IDP camps, what those things like you describe, the flour,
3 clothes and anything that's needed to live, what those things mean to the residence of
4 these camps? Pajule, of course, I mean.

5 A. [12:21:37] These were important items which they used in their daily lives,
6 foodstuffs, for example, clothing. They needed all of that in their daily lives.

7 MR NARANTSETSEG: [12:22:03] Excuse me. I'm not sure when the translation is
8 finished and --

9 PRESIDING JUDGE SCHMITT: [12:22:07] Yes. But this of course, there is a little
10 bit uncertainty because of the fact that I've already described that we have the double
11 interpretation, so to speak. That that can happen.

12 MR NARANTSETSEG: [12:22:19] Thank you very much for your understanding,
13 your Honour.

14 Q. [12:22:21] Sir, is my understanding correct then that these items constituted
15 their means of survival, I mean the civilians?

16 A. [12:22:43] Yes.

17 Q. [12:22:47] Thank you very much, sir.

18 My next question is this, sir: Were the shops you said, also the civilian houses, were
19 they set on fire or destroyed in any way?

20 A. [12:23:19] Yes. They set houses alight and destroyed them.

21 Q. [12:23:29] Were those houses completely burned or partially? Could you tell?

22 A. [12:23:49] The IDP camp was quite big, but they didn't set all the houses alight.
23 They burnt down some houses and destroyed some houses. That's to say that not all
24 houses were affected.

25 Q. [12:24:16] Right. Sir, I'm not asking for a specific answer, but could you

1 please tell us maybe approximately, you know, what percentage of the camp was
2 burned, approximately how many houses, for example?

3 A. [12:24:33] I don't remember very well. But I would say that not more than 10
4 houses were burnt down.

5 Q. [12:25:22] Fair enough, sir. Sir, as someone who witnessed firsthand these
6 events, were -- were these fires, setting these houses on fires and destroying them,
7 was it necessary at the time?

8 PRESIDING JUDGE SCHMITT: [12:25:37] That is a little bit strange question,
9 Mr Narantsetseg, was it necessary to destroy the houses? What you can ask perhaps
10 the witness is if he came to know if he saw how these houses were set on fire and how
11 they were set ablaze.

12 MR NARANTSETSEG: [12:25:57] I'm guided, your Honour.

13 Q. [12:25:59] Mr Witness, if you heard Mr President, we are asking you do you
14 know if -- how these houses were set on fire?

15 A. [12:26:26] You know, these were straw houses. I can't say that I was an
16 eyewitness to the incident. It was only afterwards that I noted that the houses had
17 been burnt down. For example, a bullet can hit a house and set it alight. It could be
18 an arson attempt done deliberately. That's what I can say. They can be burnt down
19 in an exchange of fire, for example.

20 PRESIDING JUDGE SCHMITT: [12:27:11] That's indeed what you also said,
21 Mr Narantsetseg. That's fair enough and I think we can move to another point.

22 MR NARANTSETSEG: [12:27:19]

23 Q. [12:27:20] Sir, I'm moving to another area.

24 Sir, you have testified this morning, also we can see from your statement that you met
25 the survivors of the attack on the same day. And did you observe the state of mind

1 those survivors of the attack, were they shocked and traumatised? Could you please
2 tell us?

3 A. [12:28:02] You could see that these people were very tired because they had
4 walked a lot and they had been carrying quite heavy objects. These people thought
5 that they were going to die. You will understand that it was a very difficult situation
6 these people were going through because they have been taken hostage.

7 Q. [12:29:01] Right. Mr Witness, did they tell you if they were injured or
8 harmed in any other way?

9 A. [12:29:33] No. When those people refused to walk, they were asked to stride,
10 well, to walk fast carrying heavy loads and sometimes they were actually beaten.

11 Q. [12:30:02] Right. Sir, did these people, did these survivors receive any urgent
12 medical assistance once they were back?

13 A. [12:30:26] Yes. Once they were back there was an NGO called Caritas and
14 they took care of these people. Caritas would receive them and treat them, as well as
15 providing some other kinds of assistance.

16 Q. [12:31:02] Thank you very much, sir.

17 Now I will move on to my last session of my questioning.

18 Sir, I would like you to focus on the attack that took place around Pajule and
19 especially on the trading centre.

20 Sir, given that the attack took place next day of the Independence Day, could you tell
21 us what were the residents doing at the time on that morning?

22 A. [12:31:38] Very well. The attack occurred early in the morning and some
23 people were still sleeping, and because at that time of day people are still usually in
24 bed.

25 Q. [12:32:25] Right. Sir, how the residents of the camp, how did they react to the

1 arrival of the attackers?

2 A. [12:32:43] Could you kindly repeat your question?

3 PRESIDING JUDGE SCHMITT: [12:32:52] I think the question is little bit -- how
4 did they react is very unspecific, so it is also difficult to answer because there might
5 be a lot of different reactions when things like that happen.

6 MR NARANTSETSEG: [12:33:09] Your Honour, I'll move on.

7 Q. [12:33:12] Mr Witness, as a military man who was at the scene of this attack,
8 could you tell us what kind of weapons did the rebels use during the attack?

9 A. [12:33:35] They had AK-47s, 82 millimetre recoilless guns and -- well, those
10 were the weapons that they had. They also had 12.7 millimetre antiaircraft machine
11 guns.

12 Q. [12:34:10] Sir, please forgive me, I'm not a military man like you. Could you
13 please help us to understand what these weapons actually do. Let's go one by one.

14 MR OBHOF: [12:34:24] Objection, your Honour, this is outside the scope of the
15 victims' purview.

16 PRESIDING JUDGE SCHMITT: [12:34:29] I also think so. We won't need that, Mr
17 Narantsetseg.

18 MR NARANTSETSEG: [12:34:32] Your Honour, if you let me explain, your
19 Honour, I would like to stress on the destructive effect of these weapons that had of
20 course direct implication on the physical suffering of those victims who were at the
21 scene.

22 PRESIDING JUDGE SCHMITT: [12:34:46] Mr Obhof.

23 MR OBHOF: [12:34:46] Well, your Honour, this is part of the job for the
24 Prosecution and Defence and this in no way really does affect the concerns of the
25 victims.

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1 PRESIDING JUDGE SCHMITT: [12:34:55] And by the way, perhaps to take the
2 tension out of it, I think how, for example, an AK-47 functions, how these other
3 weapons function, we have already discussed this before. These are matters that
4 I think can be -- we can refer to common sources, so I don't think we need to dwell on
5 that, Mr Narantsetseg. I simply don't think that we need it.

6 MR NARANTSETSEG: [12:35:24] Your Honours, I respect your ruling of course
7 and I'll move on.

8 Q. [12:35:39] Mr Witness, during this attack were children and women or the
9 elderly, were they spared or was everyone a potential target?

10 A. [12:36:11] Everyone was a potential target because during the war one does
11 not choose one's target. Everyone who was there was a potential target.

12 Q. [12:36:23] Sir, you have witnessed dead civilians. Could you please tell us
13 how many civilians were killed during the attack?

14 PRESIDING JUDGE SCHMITT: [12:36:34] No, I don't allow that because we have
15 the statement which has been -- I don't allow it for reasons that we otherwise would
16 repeat and would make the Rule 68(3) procedure void, so to speak. So we should
17 not elicit information that we can take out of the statement which has been -- the
18 witness has said he does not object to being introduced, and furthermore we have
19 looked into the reports during the Prosecution examination by Mr Choudhry. So
20 this would be repetitive and it's, for procedural reasons, not necessary.

21 MR NARANTSETSEG: [12:37:12] Thank you, your Honour. I'll move on to my
22 next question.

23 Q. [12:37:16] Mr Witness, could you please tell us how these civilians were killed,
24 on what part of their body they got shot?

25 MR TAKU: [12:37:25] Your Honour --

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1 PRESIDING JUDGE SCHMITT: [12:37:29] No, this -- I think we should really come
2 soon to an end with this questioning. This, I think -- I have read the statement.
3 This is not part of the statement you can ask that. So if the witness has seen how
4 concretely the civilians, if he saw them, have been killed, I would allow this question,
5 yes.

6 You can repeat it, the question.

7 MR NARANTSETSEG: [12:37:59] Yes.

8 Q. [12:38:00] Mr Witness, could you please tell us how these civilians were killed?

9 A. [12:38:10] They were killed during the fighting. Some were caught in the
10 cross-fire.

11 Q. [12:38:35] Mr Witness, were you able to tell -- could you please tell us,
12 Mr Witness, the extent of the fatal wounds that they received?

13 A. [12:39:00] I couldn't tell you about the injuries of the civilian victims. I was
14 not able to see them myself. But I can talk about the injuries of the soldiers who
15 were under my command.

16 PRESIDING JUDGE SCHMITT: [12:39:36] Perhaps, why not? This is -- we
17 are -- we have also Judges who are perhaps interested. It might not be the victims
18 that are represented, but, Mr Lubwama, how were your soldiers be killed? When
19 you say you saw their wounds, what kind of wounds were they? Can you explain
20 that to us, if you saw that?

21 THE WITNESS: [12:40:05] (Interpretation) The ones who were injured, the
22 ones -- and who were killed were killed during the fighting. During fighting there
23 are victims on all sides. It's not that there were injured people or deaths just on one
24 side. There was shooting in various directions and so there were casualties on all
25 sides.

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1 PRESIDING JUDGE SCHMITT: [12:41:01] Yes, and we have also seen the picture
2 of the dead bodies of the killed LRA fighters.

3 Please continue, Mr Narantsetseg.

4 MR NARANTSETSEG: [12:41:11] Thank you very much, sir.

5 Q. [12:41:13] Mr Witness, I'm almost going to -- coming to the end of my
6 questioning. Mr Witness, could you please tell us, in your opinion was the attack on
7 Pajule IDP camp, was it brutal in your opinion?

8 PRESIDING JUDGE SCHMITT: [12:41:31] This is also too unspecific. Excuse me,
9 Mr Narantsetseg. Was it brutal? What can the witness answer about that? You
10 know, brutal is a conclusion that somebody perhaps takes if he has all the facts on the
11 table. But the witness is not here to give sort of conclusions. It might be like that,
12 but it's too unspecific, the question.

13 MR NARANTSETSEG: [12:42:02] Your Honour, let me simply ask my last
14 question then.

15 PRESIDING JUDGE SCHMITT: [12:42:06] Please do so.

16 MR NARANTSETSEG: [12:42:08]

17 Q. [12:42:09] Mr Witness, could you please tell us what was the overall impact of
18 this attack on the civilian population at the Pajule IDP camp?

19 A. [12:42:41] The members of the population were very much affected,
20 particularly some people who had been abducted. Others were injured and some
21 lost their possessions. So the impact was negative.

22 Q. [12:43:05] Mr Witness, thank you very much for answering my questions.

23 MR NARANTSETSEG: [12:43:08] This concludes our questioning, your Honour.
24 Thank you very much.

25 PRESIDING JUDGE SCHMITT: [12:43:12] Thank you, Mr Narantsetseg.

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- 1 This concludes the hearing for today, Mr Witness. We resume tomorrow at 9.30 here
- 2 in the courtroom and until then we abate the proceedings.
- 3 THE COURT USHER: [12:43:27] All rise.
- 4 (The hearing ends in open session at 12.43 p.m.)