

Trial Hearing  
Witness: UGA-D26-P-0027

(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 Judge Raul Cano  
6 Pangalangan  
7 Trial Hearing - Courtroom 3  
8 Monday, 25 February 2019  
9 (The hearing starts in open session at 9.31 a.m.)  
10 THE COURT USHER: [9:31:38] All rise.  
11 The International Criminal Court is now in session.  
12 PRESIDING JUDGE SCHMITT: [9:31:56] Good morning, everyone.  
13 Could the court officer please call the case.  
14 THE COURT OFFICER: [9:32:05] Good morning, Mr President, your Honours.  
15 Situation in the Republic of Uganda, in the case of The Prosecutor versus  
16 Dominic Ongwen, case reference ICC-02/04-01/15.  
17 And for the record, we're in open session.  
18 PRESIDING JUDGE SCHMITT: [9:32:20] Thank you.  
19 I call for the appearances of the parties. Mr Do Duc, please, first.  
20 MR DO DUC: [9:32:26] Good morning, your Honours.  
21 My name is Hai Do Duc for the Prosecution. And here with me today is  
22 Benjamin Gumpert, Colleen Gilg, Adesola Adeboyejo, Grace Goh and  
23 Jasmina Suljanovic.  
24 PRESIDING JUDGE SCHMITT: [9:32:40] And then for the representatives of the  
25 victims, Mr Narantsetseg first.

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1 MR NARANTSETSEG: [9:32:44] Good morning, Mr President, your Honours. My  
2 name is Orchlon Narantsetseg. I'm appearing with Mr Pablo Allendes, our visiting  
3 professional from Chile, and Mr Anderson Dirocie, our intern from Dominican  
4 Republic.  
5 Thank you.

6 PRESIDING JUDGE SCHMITT: [9:33:03] Thank you.  
7 And Mr Manoba.

8 MR MANOBA: [9:33:06] Good morning, Mr President, your Honours.  
9 Joseph Manoba and James Mawira for the victims.

10 PRESIDING JUDGE SCHMITT: [9:33:10] And Mr Obhof or Mr Ayena? Mr Ayena I  
11 see. Mr Ayena, please.

12 MR AYENA ODONGO: [9:33:16] Good morning, Mr President, and your Honours.  
13 Today -- of course, I'm Krispus Ayena Odongo. I am appearing with  
14 Mr Gordon Kifudde, assistant to counsel; Mr Tom Obhof, assistant to counsel; Chief  
15 Charles Achaleke Taku, co-counsel. And our client Mr Dominic Ongwen is in Court.

16 PRESIDING JUDGE SCHMITT: [9:33:42] Thank you very much.  
17 And we welcome also the next witness.

18 Good morning, Mr Witness. On behalf of the Chamber I would welcome you to the  
19 courtroom.

20 WITNESS: UGA-D26-P-0027  
21 (The witness speaks Acholi)

22 THE WITNESS: [9:33:54] (Interpretation) Good morning. My name is  
23 (Redacted)

24 PRESIDING JUDGE SCHMITT: [9:33:59] Please be seated. You can sit down. It's  
25 not necessary to remain standing. Thank you very much.

1 There should be, Mr Witness, a card in front of you with a solemn undertaking to tell  
2 the truth. Would you please be so kind to read this card out aloud.

3 THE WITNESS: [9:34:24] (Interpretation) Well, I cannot read well.

4 PRESIDING JUDGE SCHMITT: [9:34:27] No problem. Then I do it for you. So  
5 listen to me, and I ask you afterwards if you agree to the solemn undertaking.

6 Please listen: I solemnly declare that I will speak the truth, the whole truth and  
7 nothing but the truth.

8 Mr Witness, do you agree to that?

9 THE WITNESS: [9:34:49] (Interpretation) Yes, I do.

10 PRESIDING JUDGE SCHMITT: [9:34:50] Thank you. Then you are now sworn in.  
11 Before we start with your testimony I explain a couple of matters to you.

12 First of all, we have put some measures to protect you in place. We have face  
13 distortion so that no one outside the courtroom can see you.

14 And we will also use what we call a pseudonym. That means we will not address  
15 you with your real name but, as I do at the moment, as "Mr Witness". This is also to  
16 protect your identity.

17 When you answer questions that do not give away your identity we do this what we  
18 call in open session, then the public and the audience can hear that. But if there are  
19 questions asked when the answer would reveal your identity we do it in private  
20 session, and private session means that only we here in the courtroom can hear you.

21 Then one practical matter. Everything we say here is written down and interpreted  
22 and, to allow for the interpretation, we all have to speak at a relatively slow level.

23 Most of us forget this every once in a while. That also doesn't matter. Then  
24 I would tell you please take your time when you answer, don't speak too quickly.

25 If you have any questions yourself, you can raise your hand and then I will give you

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1 the floor and then you can address us. I think you have understood all that.

2 THE WITNESS: [9:36:23] (Interpretation) Yes, I have.

3 PRESIDING JUDGE SCHMITT: [9:36:25] Thank you very much.

4 Then I give Mr Ayena the floor for the questioning by the Defence.

5 QUESTIONED BY MR ODONGO AYENA:

6 Q. [9:36:41] Good morning, Mr Witness. I am sure we know each other fairly  
7 well.

8 And, Mr Witness, you already met some of our Defence team members, and I am sure  
9 they have told you that your simple duty to Court is to come and tell a story about  
10 what you know about the case before Court. And I shall be leading you by putting  
11 some questions to you and you answer them as succinctly as you can.

12 But, Mr President and your Honours, I think we shall begin with a short time --

13 PRESIDING JUDGE SCHMITT: [9:37:40] Of course, of course. I understand.

14 MR AYENA ODONGO: -- in private.

15 PRESIDING JUDGE SCHMITT: [09:37:41] We go shortly to private session.

16 MR AYENA ODONGO: [9:37:46] Yes.

17 (Private session at 9.37 a.m.)

18 THE COURT OFFICER: [9:37:51] We're in private session, Mr President.

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24 (Open session at 9.49 a.m.)

25 THE COURT OFFICER: [9:49:32] We're back in open session, Mr President.

1 MR AYENA ODONGO: [9:49:35]

2 Q. [9:49:39] Mr Witness, by the time of your abduction, were you in school?

3 A. [9:49:53] Yes, I was in school.

4 Q. [9:49:57] (Overlapping speakers) was your level of education?

5 A. [9:50:03] I was in primary 3.

6 Q. [9:50:08] Now, can you please briefly tell Court about the story, I mean the story  
7 of your abduction. How were you abducted? At what time? Under what  
8 circumstances and what were your experiences at the time of your abduction?

9 A. [9:50:35] If I can remember, I was abducted in March 1990. That was when I was  
10 abducted. I was abducted from home. They came and found me, together with my  
11 family members. And from my family, three of us were abducted. The rest of the  
12 people returned, but I stayed with them. When we were abducted, we left and we  
13 moved together and stationed somewhere near our homestead, we spent the night  
14 there. After that, we left and went towards Karamoja area. When we arrived in  
15 Karamoja, we came under attack from a military helicopter and the commander I was  
16 with got injured. After that, we left Karamoja region. We came through Lango  
17 region towards Gulu and then I moved with my commander. He was taken to the  
18 sickbay and I stayed with him, taking care of him.

19 At that time, that was when we went and met Dominic. That was my first time to  
20 see and get to know him from there. We stayed together with him in Gulu around a  
21 place called Te Got Kilak. We stayed together for a while until my commander  
22 recovered. Then we came back to the convoy where we were staying. It was in  
23 Trinkle brigade. I was in Trinkle brigade.

24 I don't know if you want me to go farther than that?

25 PRESIDING JUDGE SCHMITT: [9:52:57] That was, Mr Witness, that was really a

1 very broad and a very detailed narrative. Perhaps I have one question in that regard.  
2 You said you met Mr Ongwen at the time for the first time. Do you recall how old  
3 he was? Perhaps in comparison with yourself.

4 THE WITNESS: [9:53:32] (Interpretation) At that time, well, we were almost of  
5 similar age. If he was older than me, then it could have been just by one or two  
6 years, the way I observed, we were looking like age mates.

7 PRESIDING JUDGE SCHMITT: [9:53:50] I think you will continue with his  
8 impression and relationship with Mr Ongwen. So I won't -- I assume that you will  
9 do that.

10 MR AYENA ODONGO: [9:54:01]

11 Q. [9:54:03] Now, when you first met Dominic Ongwen, for how long did you stay  
12 with him? Do you remember an estimate of time?

13 A. [9:54:23] At that time I think we spent almost one and a half years at the sickbay.

14 Q. [9:54:33] Now, when you met and stayed with Dominic Ongwen for this length  
15 of time, can you tell Court briefly what kind of person Dominic Ongwen was as a  
16 friend and as a task person in the area where you were engaged?

17 A. [9:54:59] The way we were staying with Dominic, well, we were staying like  
18 children because you know, if you met with another person somewhere, you will  
19 become friends. So we were friends with him for the entire period we were together.  
20 You know, in the bush we would follow rules that were given to us and whatever we  
21 were told to do, that would be what we would be doing.

22 Q. [9:55:42] It may be of interest, Mr Witness, for you to be more specific about  
23 Dominic Ongwen's character towards men and -- separately. And then towards  
24 women who were with you there at the time.

25 A. [9:56:16] The way Dominic related with people, well, I would say he's somebody

1 who likes other people, basing on how we were living together, he was  
2 non-discriminatory. He was playful and that was his lifestyle. I don't think his life  
3 changed later on. I believe he still lives the same way because he loves people and  
4 he would keep on communing with each others, he keeps laughing and joking with  
5 others. Even later on when he was already grown up and he was already higher in  
6 rank than myself, but we were still living together just like we started earlier on.  
7 There was no change in his lifestyle. I didn't observe any changes.

8 Q. [9:57:11] And, Mr Witness, you talked about Ongwen being very playful. Can  
9 you briefly describe the kind of games Dominic Ongwen used to play within the  
10 group in which you were.

11 A. [9:57:38] You know, while we were at the sickbay we would not be doing  
12 anything much, we'd only play cards. We would play several games. We would  
13 play different games. We would play draughts and many other kind of games.

14 PRESIDING JUDGE SCHMITT: [9:58:05] May I shortly.

15 Mr Witness, when you were abducted, how did you, if you recall it, cope with the  
16 situation? Because this was something -- you were deprived of your liberty, you  
17 could not go to school any more. How did you cope with the situation yourself, if  
18 you will, psychologically?

19 THE WITNESS: [9:58:33] (Interpretation) When I was abducted, I had to get myself  
20 accustomed to that kind of life because as children, when you are abducted, they will  
21 take you and be taking care of you, they will be telling you the kind of life and the  
22 way of life.

23 So I went there, started living there, started adjusting myself to that kind of lifestyle  
24 because previously I was not leading the same kind of life. They used to tell me that  
25 you need to do this and that, and if you did something wrong, "We are going to kill

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1 you."

2 So personally I felt as if it was possible that I would be killed because I saw many  
3 other people go through the same and I had to adjust slowly and fit into that society.

4 PRESIDING JUDGE SCHMITT: [9:59:34] And, Mr Witness, did you talk with  
5 Mr Ongwen about these matters about that? About the threats and about how  
6 coping with the life in the bush?

7 THE WITNESS: [9:59:58] Well, we will talk about the threats when we are together,  
8 but we did not have any way out.

9 PRESIDING JUDGE SCHMITT: [10:00:06] Mr Ayena.

10 MR AYENA ODONGO: [10:00:13]

11 Q. [10:00:15] Mr Witness, upon your abduction, how were you introduced into the  
12 system? Were there any specific things that you were told or were done to you to  
13 make you a member of the group?

14 A. [10:00:48] You know, when you are abducted, when the LRA abduct you, you  
15 are smeared with the oil. The oil is known a shea butter and there is a white clay.  
16 It's ashy and they referred to it as camouflage. They also smear you with that white  
17 clay substance. If you -- if they have not yet performed this ritual then you are not  
18 allowed to eat with the people who are already there, so you have to be smeared  
19 before you are able to eat communally with everybody else.

20 Q. Why --

21 PRESIDING JUDGE SCHMITT: [10:01:31] Mr Ayena, not so -- not so quick. I think  
22 the interpreters cannot follow otherwise. So please wait; not 5 seconds, because 5  
23 seconds are very long if we have to wait for every question 5 seconds, but at least 2 or  
24 3 seconds.

25 MR AYENA ODONGO: [10:01:49]

1 Q. [10:01:50] Mr Witness, were you told why these rituals were performed on you?

2 A. [10:02:04] Based on the explanation I received from my commander, we were  
3 told that it is the spirit which has instructed that this ritual be performed.

4 Q. [10:02:16] And if this was a directive from the spirits, how was it supposed to  
5 act on you? How was it supposed to affect you, if any?

6 A. [10:02:42] In order to become a member of that group, you first have to be  
7 smeared in order for you to become a member. Well, with regard to changes to your  
8 life, there is no specific changes to your life, but in order for you to become a member  
9 of that group, you have to be smeared.

10 Q. [10:03:07] Now, Mr Witness, can you tell Court whether, after the performance  
11 of those rituals on you, you felt like you were a changed person or you still remained  
12 the same?

13 A. [10:03:39] You know, personally, when you are smeared, you know, it's based  
14 on how you think, it's based on your thought process. Because when you are  
15 smeared then you gain some kind of strength, you gain some kind of bravado like  
16 somebody who is already in the bush.

17 Q. [10:04:06] (Overlapping speakers) lead you to believe that you had become a  
18 soldier of the LRA and that you must therefore do everything that you were directed  
19 to do, directed or ordered to do?

20 A. [10:04:32] Yes. When you go through that ritual, that means you follow the  
21 rules. But it's not necessarily the rituals that they perform that would make you  
22 follow the rules, because the rules already exist and you have to follow those rules  
23 anyway.

24 Q. [10:04:52] And, from your point of view, did you believe in the rituals and did  
25 you believe that they actually contained some kind of mystic power, since they were

1 coming from the spirits?

2 A. [10:05:21] Yes, I did have such belief. Because there are certain things that I  
3 witnessed that Kony would tell us, and I would witness those things happening, so I  
4 did believe.

5 Q. [10:05:43] And, Mr Witness, you earlier told Court that you discussed some of  
6 these things with Dominic Ongwen. Did -- in your view, did others, other than  
7 Dominic Ongwen with whom you discussed these matters, know or did they also  
8 have the same feelings that you had about the rituals?

9 A. [10:06:12] Yes. I know that anybody who was a member of the LRA had the  
10 same kind of belief that I did.

11 Q. [10:06:31] And these rituals, Mr Witness, was it a one-off performed only at the  
12 beginning of your initiation, or were there other times later in the course of your  
13 being in the bush that these -- some other -- these or some other rituals were also  
14 performed?

15 A. [10:07:05] The rituals were not only performed once at the initiation stage.  
16 When he says that the spirit has given certain instructions, people are convened and  
17 people are smeared with the same oil and ashes. This happens from time to time.  
18 Perhaps after every two or three months the ritual is being performed.

19 Q. [10:07:33] Can you cite to Court circumstances under which these rituals were  
20 performed. During which occasions, for instance.

21 A. [10:07:47] Sometimes when we are going on operations or missions, then people  
22 have to be smeared. Or sometimes he would say that there is a particular kind of  
23 ailment or illness that is going to befall people and then he says that people have to be  
24 smeared. If he says there is a particular kind of illness coming, then people have to  
25 be smeared so that people are not affected. I recall during the time of Ebola he told

1 us there was an illness coming to Uganda and people have to be smeared so that  
2 people, LRA members are not affected by Ebola. This happened. People were  
3 smeared, they went through the ritual and people were not affected by Ebola.

4 Q. [10:08:53] And the other circumstance you talked about, you referred to was  
5 when you were going to work, when you were on a mission to work. Can you tell  
6 Court what kind of work this would entail?

7 A. [10:09:16] When we are going on operations, if we have been instructed to go on  
8 a particular operation, you are smeared, you are given instructions and rules, and told  
9 that the operation has to be conducted in accordance with what the spirit has said.

10 Q. [10:09:42] And, Mr Witness, when you talk about operation, that seems to be a  
11 very heavy military term. What exactly would you mean by "operation"? What  
12 kind of operations would you be going on?

13 A. [10:10:07] You know, when we were there, we did not have everything. For  
14 example, sometimes when we are going to collect food, we would go and collect food  
15 from people in homesteads. When you are going to collect food, you also have to be  
16 smeared. When you are going to collect food you are instructed, go and collect such  
17 and such and such, bring these items. You are smeared and then you go and collect  
18 those items that you have been instructed to go and collect.

19 Q. [10:10:43] From what is now evident is that you are -- the group that you joined  
20 was a military group. Were there times when you went on military operation  
21 against some enemy forces?

22 A. [10:11:14] Yes, we did.

23 Q. [10:11:19] And when you were in the bush, who were you told were your  
24 enemies?

25 A. [10:11:39] We were told that the Ugandan government was the enemy.



1 Q. [10:11:48] And how about those who were believed by Joseph Kony to be allies  
2 of the government of Uganda? Especially those who were armed, maybe militias,  
3 and such other persons.

4 A. [10:12:21] I did not quite get your question.

5 PRESIDING JUDGE SCHMITT: [10:12:24] Yes, you did not want to direct him too  
6 much, I understood, yes.

7 Mr Witness, you have already said that you have been told that the enemy was the  
8 Ugandan government, especially which people from the Ugandan government?  
9 Whom did you fight against, to be a little bit more specific?

10 THE WITNESS: [10:12:57] (Interpretation) We fought against the Ugandan  
11 government army.

12 PRESIDING JUDGE SCHMITT: [10:13:05] Yes, against the Ugandan government  
13 army. And were there - I think this is what Mr Ayena wants to know - were there  
14 other people who were perhaps not part of the army but fought alongside the army?  
15 Other people perhaps that you were also being told to fight against?

16 THE WITNESS: [10:13:36] (Interpretation) Yes. There were other soldiers that were  
17 supporting the government. But, as far as we were concerned, concerned anybody  
18 who bore weapons was the soldiers. So there were LDUs who were the militia, local  
19 militia that were there to help government soldiers.

20 So if we encountered them they would fight against us. And we would do the same,  
21 we would fight against them as well.

22 PRESIDING JUDGE SCHMITT: [10:14:07] I think, Mr Ayena, that was what  
23 you -- so please move on.

24 MR AYENA ODONGO: [10:14:11] I'm indebted to you, Mr President.

25 Q. [10:14:28] Mr Witness, when you were in the bush did you ever think of

1 escaping? If you did, why didn't you escape earlier?

2 A. [10:14:57] Well, I made some remarks earlier, and I had no intention of staying  
3 in the bush. But because of the rules that existed, and the things that I witnessed  
4 while I was in the bush, those deterred me from escaping because, if you escape, there  
5 are certain repercussions that might face the people from your homestead or from  
6 your home area. And that was one of the reasons why I decided not to escape,  
7 because I did not want the responsibility of having the people from my home area or  
8 from the area where I was abducted killed. And that is one of the things that  
9 actually deterred me from escaping.

10 Q. [10:15:53] Yes. You, Mr Witness, you have described what would happen if  
11 you managed to escape. But what would happen if in the event of attempting to  
12 escape you were captured?

13 A. [10:16:19] If you attempt to escape and you're not successful, if you are  
14 re-apprehended, there is nothing other than the punishment of death. There was no  
15 prison in the LRA. There was nowhere where you could be detained. But, as far as  
16 they were concerned, you do not want to stay in the bush, you do not want to follow  
17 the rules, so the only thing that would happen was death.

18 Q. [10:16:51] Did you -- can you tell Court whether you ever saw this happen.  
19 And if you may remember, without going into details, about how many times you  
20 experienced this?

21 A. [10:17:23] This happened on several occasions. Not just once, on several  
22 occasions. Because I spent a long time in the bush I did not only witness it once, I  
23 witnessed it on several occasions.

24 Q. [10:17:38] And if somebody who was attempting to escape was captured, who  
25 was told to mete the extreme penalty on him?

1 A. [10:18:04] There is only one person who issues such orders, and that is Joseph  
2 Kony. If -- he issues the order that anybody who escapes or attempts to escape  
3 should be killed if they are re-apprehended. So the order exists. It's an order that is  
4 within all the units, so each and everybody has to follow those orders. If you do not  
5 follow those orders, you know, sometimes people would split up, there were splinter  
6 groups and people would go in separate direction, but whenever we met up, then  
7 there would be punishment. The person who was responsible for the escapee would  
8 also be punished.

9 Q. [10:18:55] Now, you said this was a directive policy from Joseph Kony, but you  
10 also said it was executed at the level of all units. Supposing a unit commander  
11 refused or avoided to do it and it came to the knowledge of Joseph Kony, what would  
12 happen to him?

13 A. [10:19:45] The person would either be killed, because in the bush there is  
14 nothing different from death. The one thing that we did not have in the bush was a  
15 prison, so there was nowhere where you could be imprisoned. If it comes to their  
16 attention that somebody escaped from your command, you did not re-apprehend that  
17 person and kill them, you would be in problems, because as far as they are concerned  
18 you would be encouraging this kind of thing to happen, which means that you also  
19 have to be killed.

20 Q. [10:20:33] Now, Mr Witness, when you were in the LRA, did you understand  
21 the term "splinter groups"? If you did, what were they?

22 A. [10:21:04] Could you please repeat that question?

23 Q. [10:21:13] I am talking about splinter groups. There is one huge group and  
24 then maybe out of these groups --

25 PRESIDING JUDGE SCHMITT: [10:21:27] I think, as I have understood it from the

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1 interpretation, Mr Witness, you used yourself - if it was interpreted, if I heard it  
2 correctly - the expression "splinter group". If that is so, what do you mean by  
3 "splinter group"?

4 THE WITNESS: [10:21:57] (Interpretation) You know, in the LRA there are  
5 different -- people are put in different brigades. We do not all stay in one location.  
6 In a particular brigade there is a commander who is in charge of that brigade.

7 PRESIDING JUDGE SCHMITT: [10:22:19] I think we have understood it how the  
8 witness meant it. The whole LRA did not always stay at one group together. There  
9 were different groups with different tasks and they were in different places at  
10 different times. I would simply interpret it like that.

11 MR AYENA ODONGO: [10:22:35] Yes.

12 MR TAKU: [10:22:36] Just one minute, your Honours.

13 PRESIDING JUDGE SCHMITT: Yes.

14 MR TAKU: [10:22:39] He used "splinter groups" in a particular context that he  
15 knows when there are splinter groups. For me, I understood to mean that, from the  
16 brigade, there's a time that some groups may split for some reason. So we were  
17 trying to pursue to know exactly within the context he used that. Sometimes there  
18 are splinter groups and, if somebody tried to escape from the splinter group, it was in  
19 that context that we wanted to know. Because that word has come up so many times  
20 in this case about splinter groups going to different places without an explanation.  
21 And this is an opportunity, since he volunteered to talk about it.

22 PRESIDING JUDGE SCHMITT: [10:23:13] Okay. Then perhaps we should not  
23 interpret too much and simply continue, continue asking.

24 So perhaps, Mr Ayena, you, exactly what Mr Taku has addressed now, you can  
25 explore this further; if it made a difference if someone tried to escape from such a

1 splinter group, I understood it.

2 MR AYENA ODONGO: [10:23:38]

3 Q. [10:23:39] Mr Witness, I think from what the Presiding Judge has said and what  
4 my learned friend has said, it would appear like there were circumstances when the  
5 bigger groups, for one reason or the other, might split. Now, if this is what we  
6 understand, can you tell Court whether this was a usual occurrence that groups  
7 would split sometimes?

8 A. [10:24:21] Yes, this was something that would happen regularly. Because, you  
9 know, there was -- we were many at the time so they could not keep everybody in  
10 one group and people would be split into different groups. And of the groups that  
11 have been split are in different places, the same rule still applies. So if, for example,  
12 you split up from other groups, after each month or after two months you come back,  
13 meet and join together. But you have to apply the same rules. So if somebody  
14 escapes from that small group that you are commanding at that time, if anything  
15 happens, then when you come back and join the bigger group, then you have to face  
16 the repercussions. You come back, you will be arrested, you will be killed.

17 PRESIDING JUDGE SCHMITT: [10:25:16] I think that answers the question.

18 MR AYENA ODONGO: [10:25:19] Yes, but a follow-up, Mr President.

19 Q. [10:25:22] Mr Witness, in a situation like the case of a brigade, when a group -- I  
20 mean, would the commander, the brigade commander have direct control over  
21 groups that had separated from the main group, say for one month, as you said?

22 A. [10:25:56] Yes, the brigade commander would still have command over that  
23 group. He would have command over the members of his brigade because it would  
24 have been that brigade commander who has sent his group on mission, so if you  
25 come back and rejoin that brigade, then he still has the command over you. But

1 within the bush overall we all had to obey one person's order, and it is this person or  
2 person's orders that we had to follow. People had radio calls, all brigades had radio  
3 calls. If there is something new, especially, you know, when people were split up,  
4 people would not talk. But all communication would be done through radio call and  
5 everybody would be informed of any new developments through radio call.

6 Q. [10:27:00] Now, Mr Witness, I dare say the situation you are describing is a  
7 normal split by way of assignment. You are talking about a split by way of  
8 assignment, different units are sent on different missions. Supposing there was a  
9 situation where the brigade was attacked and some unit disappeared for, say, two  
10 months without trace, was that a possibility? To begin with.

11 A. [10:27:43] Yes. There could be, for example, if there's an attack and you are  
12 attacked, yes, the group might split up. But usually there is an assigned place where  
13 people have to meet up after that.

14 Q. [10:28:00] And if it took, for instance, one month before you discovered where  
15 you were, circumstances made it impossible even for you to meet at the rendezvous,  
16 would the brigade commander or the battalion commander have control over those  
17 that have disappeared in the wilderness?

18 A. [10:28:37] You know, at the time, if you are not with somebody, you still have to  
19 follow the same rules. If you have split up from your group and you haven't  
20 actually left it, that means you are still under the same rules that apply to that unit.

21 PRESIDING JUDGE SCHMITT: [10:29:00] I think we move to the next point,  
22 Mr Ayena, because these are abstract hypothetical considerations and the witness has  
23 answered it.

24 MR AYENA ODONGO: [10:29:17]

25 Q. [10:29:17] Now, Mr Witness, you talked very eloquently about rules established

1 by Joseph Kony in regard to escape. Can you tell Court whether there were any  
2 other rules in the LRA, and who made them?

3 A. [10:29:50] In the LRA the rules, as I stated earlier, for example, the smearing  
4 rituals, all the rules in the LRA are instituted by one person and that is Joseph Kony.

5 Q. [10:30:13] Now, we are talking about rules regarding conduct of people in the  
6 bush. Can you help to cite a few of them to Court which were established and made  
7 known to the forces of the LRA?

8 A. [10:30:42] You know, for us who stayed there, we were following rules that were  
9 supposedly coming from the spirits. And that would happen routinely and that  
10 depended on what he was talking about. Sometimes he would say, within this  
11 period of time, if you go out to the villages, do not abduct anyone. That would be  
12 the rule at that time. Then he could also say, during this period -- you know, there  
13 are certain kind of foods that we would eat from the bush and then they would say  
14 you are not allowed to eat this and that kind of food. We would have to follow that  
15 one strictly.

16 Q. [10:31:46] Mr Witness, did any commander at any level have an option to  
17 disobey these rules?

18 A. [10:32:10] No commander could disobey these rules.

19 Q. [10:32:17] And you said, Mr Witness, that there was no prison in the bush. But  
20 was it possible for somebody to be put in what you would call a virtual prison? You  
21 are not confined in a room but, nevertheless, you have been detained because you  
22 cannot perform certain duties?

23 A. [10:33:02] Well, that was possible, but it was not quite often and that also  
24 depended on the kind of infraction that you committed. For instance, if you were a  
25 commander, they would demote you and then they remove your powers and you

1 will be staying like a prisoner.

2 Q. [10:33:30] And what normally happened to such commanders? Would they  
3 still be in control of the troops that were originally under them?

4 A. [10:33:57] No. Another person would be in charge.

5 Q. [10:34:03] Now, Mr Witness, since you were in the bush for a long time, did you  
6 come to know about a person, a commander who was called Otti Lagony and Okello  
7 Can Dano? If you do, can you tell Court what happened to them?

8 A. [10:34:41] Yes, I know them. That was from Jebellin. He's called Can Odonga  
9 and he was with Otti Lagony. Can Odonga, the -- Can Odonga wanted the people to  
10 come back to Uganda because we were in Sudan. And the way Kony viewed that,  
11 Kony felt that Can Odonga's plan was contrary to what he himself thought. He  
12 arrested Can Odonga, together with Otti Lagony, and had them killed.

13 Q. [10:35:34] Did you know their rank or positions in the LRA then?

14 A. [10:35:43] Can Odonga was a brigade commander. Lagony was -- well, at that  
15 time he was the second-in-command to Joseph Kony. Because at that time Omona  
16 Field was sick and he had travelled to Khartoum. Therefore, he was the  
17 second-in-command. Otti Lagony was the second-in-command.

18 Q. [10:36:28] And did you get to know somebody called James Opoka? And if  
19 you do, do you know when he joined the LRA and what finally happened to him?

20 A. [10:36:44] I don't know much about James Opoka, because at the time he joined  
21 the bush he went to Sudan, while I was in Uganda. Then what happened to him,  
22 according to what I was told, was that because he joined after a general election, that  
23 was in the year 1996, that was when he went to the bush. But at that time I was in  
24 Uganda. What I was told was that he was advising Kony on several things about  
25 what needed to be done to help the forces, but when they were travelling back Opoka



1 was eventually killed.

2 Q. [10:37:37] According to your understanding, since you say he was advising  
3 Kony on the best way forward for LRA, why would he kill him?

4 A. [10:38:06] Just like I have been telling you, Kony would say he does not use  
5 advice from people, his messages come from the spirits. If you're coming out with  
6 some messages that do not necessarily fall in line with what the spirits say, then he  
7 thinks you are going to sway his people away from him. For that reason, if you are  
8 trying to do that, they would have you killed.

9 Q. [10:38:44] Mr Witness, let's turn to another topic. We are now going to talk  
10 about appointments and positions in the LRA.

11 Who was responsible for appointments to positions in the LRA?

12 A. [10:39:17] The leader of the movement, who was Joseph Kony, was the one who  
13 would select people or appoint people to various positions.

14 Q. [10:39:28] And when he made those appointments, did he consult anybody  
15 or -- I mean, do you know whether he consulted anybody?

16 A. [10:39:47] I lived with Kony very closely. He would not consult with anyone.  
17 Sometimes he would say, for instance, today they say I am coming to the court, he  
18 would say people would have to gather together, and then would be having a list.  
19 He would then read out the names on the list. He would say such-and-such a  
20 person becomes this and that. But he would not consult with anybody to be able to  
21 do that.

22 Q. [10:40:32] And since he made a lot of references to the spirits, did he ever  
23 suggest that some of those appointments were dictated by the spirits?

24 A. [10:40:56] Yes, that's what he used to say.

25 Q. [10:41:07] Now, once you are given an appointment to a position, did it mean

1 that you would stick to the hierarchy and exercise those powers without reference to  
2 Joseph Kony himself again?

3 A. [10:41:38] If you are given an assignment, you still have to coordinate with  
4 Joseph Kony. Because I mentioned earlier that they had radio calls and, if you are  
5 given an assignment to go somewhere, you needed to consult with him on each and  
6 every thing you needed to do.

7 Q. [10:42:09] Now, Mr Witness, having been in the forces, I'm sure you must have  
8 thought about -- or tried, you must have tried to understand the way the normal  
9 military operations are carried out. Am I correct?

10 A. [10:42:44] Yes.

11 Q. [10:42:47] I want us therefore to talk about chain of command. In the case of  
12 the LRA, if you were given an appointment, say you were a battalion commander,  
13 was it always the case that you will have to report through your brigade commander,  
14 maybe division commander, before you got to Joseph Kony? Or was it possible for  
15 Kony to reach out to you directly without going through the hierarchies?

16 A. [10:43:37] It would happen just like you said. For instance, if you are the  
17 battalion commander, you will have to report to the brigade commander; the brigade  
18 commander would communicate to the division commander. In that order, up to  
19 Joseph Kony.

20 Q. [10:43:57] Can you tell Court, Mr Witness, whether it was possible in some  
21 circumstances for Kony to issue orders directly to units or to any person within the  
22 hierarchy, and without necessarily going through the chain of command, if he so  
23 chose?

24 A. [10:44:32] Sometimes Kony could issue his orders specifically or strictly to the  
25 person he selected to go and carry out an operation. He wouldn't have to necessarily

1 go through the division commander or brigade commander, but he had the powers to  
2 issue his orders directly to the person he wanted to carry out a task.

3 Q. [10:44:59] Exercising that power or such power, let's recast our minds to the  
4 splinter groups we were talking about. Was it possible for Kony, if he discovered a  
5 splinter group from a brigade somewhere within the vicinity of a place he wanted an  
6 operation to take place in, was it possible for him to order such a splinter group  
7 directly without going through the brigade commander or even the battalion  
8 commander?

9 A. [10:45:55] If that group is in possession of a radio call, then yes, he would issue  
10 that order. But if the group does not have, then it would have to be routed through  
11 the brigade commander, because it was really the brigade commanders who all had  
12 radio calls. The order would now come to the brigade commander and then  
13 subsequently moves down to the person.

14 Q. [10:46:22] We are talking about orders from Joseph Kony. Can you tell Court  
15 what would happen, for instance, if you are sent to attack a position and you defied  
16 that order?

17 A. [10:46:52] I know what I told you earlier today was that if you are given an  
18 order to go and carry out some task and you do not do that, one thing Kony could do  
19 to you would be, well, nothing else, he would just arrest you; and if he felt the  
20 infraction was kind of major, they would have to kill you then.

21 Q. [10:47:25] Do you have any examples you could cite for Court to understand the  
22 extent to which Kony went to enforce his orders?

23 A. [10:47:53] I remember earlier you asked me about people like Can Odonga,  
24 Lagony and the likes. These are examples of orders that were not being followed  
25 and the people were killed. You have to strictly adhere to the rules that he has put

1 forward.

2 Q. [10:48:18] Still dealing with appointments, did Kony, Joseph Kony have an  
3 intelligence department, intelligence system that would inform him about the goings  
4 on in all the units of the LRA?

5 A. [10:48:46] Yes, they had intelligence unit.

6 Q. [10:48:52] And this intelligence system, who were they answerable to?

7 A. [10:49:04] The intelligence unit would report to the head of the intelligence unit,  
8 who was Vincent Otti at that time while we were still there. So the different levels of  
9 intelligence unit would report to Otti Vincent. Others would go directly to Kony to  
10 go and report about things that were happening.

11 Q. [10:49:41] Were there intelligence operatives in the brigades and perhaps even  
12 battalions?

13 A. [10:50:02] Yes, they were there.

14 Q. [10:50:04] Were they answerable to the brigade commanders or still they were  
15 answerable to their boss and ultimately Kony or ultimately or alternatively to Kony?

16 A. [10:50:30] At the battalion they would report -- because in a battalion there is a  
17 battalion IO and that moves up to the brigade commander and eventually to Vincent  
18 Otti.

19 PRESIDING JUDGE SCHMITT: [10:50:53] I think the witness -- perhaps I give it a  
20 try.

21 Mr Witness, intelligence can go I think as Mr Ayena understands it two ways. First  
22 of all, intelligence can mean intelligence towards the outside world, towards a  
23 perceived enemy. I think I had the impression you were talking about that. Was  
24 there also intelligence inside certain units of the LRA which reported about the  
25 internal affairs, so to speak, of the unit to Kony personally?

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1 MR AYENA ODONGO: [10:51:37] Well put.

2 THE WITNESS: [10:51:45] (Interpretation) Yes, we also had that category of  
3 intelligence. They were together with the people and they would try and establish  
4 how the people were living internally. You remember we were talking about the  
5 rules, and if you were not following the rules that are in place, there were those  
6 people who would monitor that and then report directly to Kony on how you are  
7 behaving or if you are not following the rules.

8 PRESIDING JUDGE SCHMITT: [10:52:16] Then perhaps one question that suggests  
9 itself, in these units you were talking about, did everyone know who the informant  
10 was to Mr Kony? Or was this a secret?

11 THE WITNESS: [10:52:38] (Interpretation) They would be known by the people.

12 PRESIDING JUDGE SCHMITT: [10:52:51] Please move on.

13 MR AYENA ODONGO: [10:52:54]

14 Q. [10:52:54] You said -- not to contradict what you're saying, I want to give an  
15 empirical example. If, for instance, there was a reason for Kony to suspect a  
16 battalion commander of interest to escape, was it always the case that that particular  
17 battalion commander would know the person or persons who may be put by Kony to  
18 surveil him?

19 A. [10:53:47] Well, sometimes could be that the commander knows because that  
20 person is placed in that position and the battalion commander would also be aware of  
21 that, that such and such a person is an intelligence operative. But that wouldn't stop  
22 him from carrying out what Joseph Kony instructed him to do. If you had any plans,  
23 he would be able to report back to Joseph Kony that right now Mr Ayena is planning  
24 to do this and that.

25 Q. [10:54:30] Now, Mr Witness, in view of the intelligence system, was it, I mean

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1 put around units, was it easy for a person to escape? Did it make it easier or more  
2 difficult for a person to escape?

3 A. [10:55:09] It made it very difficult for somebody to plan to escape because if  
4 anybody became aware of that, it would be a big problem.

5 Q. [10:55:25] Did their presence make it any easier for a unit commander to deviate  
6 from the specific instructions or order of Joseph Kony?

7 A. [10:56:03] That's why the rules would not be broken.

8 MR AYENA ODONGO: [10:56:09] Your Honours, looking at the clock I think this  
9 is --

10 PRESIDING JUDGE SCHMITT: [10:56:13] Indeed, it is. So we have the coffee  
11 break, as I always word it, until 11.30.

12 THE COURT USHER: [10:56:24] All rise.

13 (Recess taken at 10.56 a.m.)

14 (Upon resuming in open session at 11.33 a.m.)

15 THE COURT USHER: [11:33:20] All rise.

16 PRESIDING JUDGE SCHMITT: [11:33:31] Mr Ayena, you still have the floor.

17 MR AYENA ODONGO:

18 Q. [11:33:48] Mr Witness, good afternoon, again. Is it afternoon? It's not  
19 afternoon but it's still morning. But I hope you had a good break of coffee.

20 Mr President, I will begin with a private session, a short private session.

21 PRESIDING JUDGE SCHMITT: [11:34:20] Then we go shortly to private session.

22 (Private session at 11.34 a.m.)

23 THE COURT OFFICER: [11:34:28] We are in private session, Mr President.

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Open session at 11.37 a.m.)
- 20 THE COURT OFFICER: [11:37:42] We are back in open session, Mr President.
- 21 MR AYENA ODONGO: [11:37:48]
- 22 Q. [11:37:54] (Redacted)
- 23 (Redacted)
- 24 A. [11:38:17] Yes.
- 25 MR AYENA ODONGO: [11:38:29] That should have been in private, I'm sorry.

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1 PRESIDING JUDGE SCHMITT: [11:38:33] Please move on. I don't see a problem  
2 here. Please proceed. We can fix it.

3 MR AYENA ODONGO: [11:38:41]

4 Q. [11:38:42] And by that time, Mr Witness, what was your rank, the last rank you  
5 held in the LRA?

6 A. [11:38:58] I was major.

7 PRESIDING JUDGE SCHMITT: [11:39:05] And in what year was that? Do you  
8 remember that?

9 THE WITNESS: [11:39:11] (Interpretation) That was in 2006.

10 PRESIDING JUDGE SCHMITT: [11:39:19] Thank you.

11 MR AYENA ODONGO: [11:39:20]

12 Q. [11:39:23] Do you remember the responsibilities that this rank carried?

13 A. [11:39:44] Most times you are assigned as battalion commander, if you are  
14 a major.

15 Q. [11:40:02] Now let's talk about attacks. Of course, in the morning, earlier in the  
16 morning we talked about the chain of command. Can you tell Court whether it was  
17 open to any commander wherever he was to decide to go and attack without clearing  
18 with Kony?

19 A. [11:40:40] No, that was not possible.

20 Q. [11:40:45] I'm sure we are talking about offensive attack, where you just go and  
21 attack, there is an enemy there and you as a commander, you decide that your unit  
22 should go and attack. But how about a situation where you know suddenly you are  
23 ambushed, for instance, by the enemy forces, was it possible for you to order your  
24 troops to defend your position?

25 A. [11:41:31] Yes, that is possible because in those circumstances you are protecting



1 yourself.

2 Q. [11:41:46] Now when or if -- when and if a commander of his own volition,  
3 without getting clearance, without getting order or clearance from Kony, decided to  
4 attack a position, what would happen to him?

5 A. [11:42:13] I know that most people in here have not been in the army, but the  
6 army has rules. You as an army officer cannot go and do something at your own  
7 initiative without the orders coming from your commander.

8 Q. [11:42:42] And in this case, when you talk about the person in charge of you, are  
9 you referring specifically to Kony or could it be some -- any other high-ranking  
10 person?

11 A. [11:43:01] Kony. He was the overall commander. He was in charge of the  
12 movement that we were in.

13 Q. [11:43:14] Now, Mr Witness, again, earlier this morning, we were talking about  
14 virtual prison which you said, yes, it existed when you were, so to speak, put on  
15 *katebe*. Do you remember Dominic ever being arrested at any one time?

16 A. [11:43:48] Yes, I do recall that he was arrested, but at the time we were not  
17 together, but I was informed that he was arrested and that he was imprisoned.

18 Q. [11:44:04] So you got to know from your colleagues that he was arrested and  
19 kept in prison?

20 A. [11:44:16] Yes.

21 Q. [11:44:19] If you were ever told or if you ever got to know, can you tell Court  
22 why he was arrested?

23 A. [11:44:37] I do not have all the information, all the details as to why he was  
24 arrested. I do not know why. At the time that Dominic was arrested, I believe I  
25 was in Nairobi at the time that he was arrested and imprisoned.

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1 Q. [11:45:09] Mr Witness, did you come to learn about some incident or any  
2 incident relating to Dominic talking to somebody in a high position in the UPDF?

3 A. [11:45:42] No, I wasn't aware of that.

4 Q. [11:45:51] Have you heard the name of General Salim Saleh?

5 MR GUMPERT: [11:46:03] This is about the third suggestive question.

6 PRESIDING JUDGE SCHMITT: [11:46:06] No, no, I think also the witness clearly has  
7 stated -- I agree. The witness has clearly stated that he doesn't know of such an  
8 incident, and I think it is not very promising to continue in that way simply. He  
9 doesn't -- he simply doesn't know about the incident. You put it, you put it correctly,  
10 first in a more generic manner, and he said no, he doesn't have any knowledge, and  
11 now to put a name to him I think does not lead to anything. And by the way, it is  
12 also procedurally objectionable.

13 MR AYENA ODONGO: [11:46:44] But, Mr President, that is assuming that you  
14 peered in my mind and thought I was going to canvass the same information. I am  
15 talking about a specific person, not necessarily the person referred to in general terms.  
16 That's why I -- the question is completely different.

17 PRESIDING JUDGE SCHMITT: [11:47:09] Then try to circumscribe it first and then  
18 we see how far we get.

19 MR AYENA ODONGO: [11:47:15] Much obliged.

20 Q. [11:47:18] So, Mr Witness, when you were in the bush, did you learn about some  
21 commanders -- top commanders in the government, UPDF?

22 A. [11:47:36] Yes. Salim Saleh, who you just mentioned, there is some information  
23 that I heard about him. I recall when I was in Nairobi, there are some people who  
24 went and met with him in Mombasa. When they met with him, it brought some  
25 kind of confusion in the bush. Because when I was in Nairobi I went back to the

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1 bush. When the delegation was there, they asked me about it, they asked me about  
2 the meeting of the delegation with Salim Saleh, and I told them that I did not have all  
3 the details of the reason for their meeting with Salim Saleh.

4 Q. [11:48:38] Now, we were talking about escaping or attempts to escape. Did  
5 you come to know at all whether some top commanders in the UPDF or the  
6 government of Uganda ever tried to talk to some people in the bush?

7 A. [11:49:13] No, I am not fully aware of that kind of information.

8 Q. [11:49:23] Thank you, Mr Witness.

9 PRESIDING JUDGE SCHMITT: [11:49:33] Although I did not correctly predict what  
10 you had in your mind, but the outcome that I envisioned I think was quite correct.

11 MR AYENA ODONGO: [11:49:42] Mr President --

12 PRESIDING JUDGE SCHMITT: [11:49:44] That is a comment. It's nothing, nothing  
13 to take too serious.

14 MR AYENA ODONGO: [11:49:49] Mr President, you are at the highest table in this  
15 Court and sometimes it is only right that you should guide us better, you should  
16 possess that speculative attribute to guide us properly. I am indebted.

17 PRESIDING JUDGE SCHMITT: [11:50:03] Indeed, there was a bit of speculation in it,  
18 but sometimes you are even right when you speculate. So please proceed.

19 MR AYENA ODONGO: [11:50:09] You are very right. Yes.

20 Q. [11:50:18] Mr Witness, when you were in the bush, did you sustain injuries on  
21 different occasions?

22 A. [11:50:39] Yes, I did.

23 Q. [11:50:42] Can you tell us about the first of those injuries, only the first, if there  
24 were more.

25 A. [11:50:56] On the first occasion, it was on my arm.

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1 Q. [11:51:05] How did that happen, Mr Witness?

2 A. [11:51:09] It happened while we were in the Kalongo area. We went on mission  
3 to Kalongo centre. While we were on mission, on the way back, the UPDF followed  
4 us and attacked us. And that is when I sustained the injury.

5 MR AYENA ODONGO: [11:51:46] Can we go in a short private session.

6 PRESIDING JUDGE SCHMITT: [11:51:49] Yes, I understand. For the second injury,  
7 yes, private session.

8 (Private session at 11.51 a.m.)

9 THE COURT OFFICER: [11:51:54] We are in private session, Mr President.

10 (Redacted)

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9 (Open session at 11.58 a.m.)

10 THE COURT OFFICER: [11:58:32] We are back in open session, Mr President.

11 MR AYENA ODONGO: [11:58:34]

12 Q. [11:58:34] Now, Mr Witness, were you ever promoted while in the sickbay?

13 A. [11:58:43] Yes, I was. I was promoted.

14 Q. [11:58:48] And once in the sickbay -- sorry, did I? -- did you ever meet

15 Dominic Ongwen?

16 A. [11:59:02] Yes, we met.

17 Q. [11:59:06] Now, Mr Witness, having recounted the incident when, you know,

18 you were injured and many others were injured, presumably as a result of disobeying

19 or failing to stick to the strict edict of Joseph Kony about the rules regarding battles,

20 did this enforce your belief and the belief of others about the spiritual attributes of

21 Joseph Kony?

22 A. [12:00:03] Yes, people who were in the bush did have that kind of belief that

23 Kony was possessed by spirits, or that he had some kind of power or there was

24 something supernatural that would talk to him and inform him of things because he

25 was aware of things before.

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1 Q. [12:00:31] And with that belief, Mr Witness, did you also believe that, even out  
2 of sight, Joseph Kony would still know what you are doing using his spirits?

3 A. [12:00:55] Based on, based on what we would observe from Kony, yes, we did  
4 believe that he would know what is happening, whether you're in his presence or  
5 whether you are absent or not in his presence. Because there are certain things that  
6 would happen in certain brigades and he would tell us, he would talk about it  
7 through the radio call or he would talk about it when people meet, he would say  
8 such-and-such a thing was happening in this and that brigade. So we were always  
9 mindful that, yes, this could happen.

10 Q. [12:01:43] So, in your belief, Joseph Kony was omnipresent all the time?

11 A. [12:02:11] In my belief, yes.

12 Q. [12:02:13] And according to your observation, was this belief shared by your  
13 other colleagues in the group?

14 A. [12:02:28] Yes, the people with whom we were in the bush had the same belief.

15 Q. [12:02:44] Let's now jump to another topic, relationships between men and  
16 women in the bush. Incidentally, did you have a wife or wives while in the bush?  
17 And please don't mention their names.

18 A. [12:03:18] Yes, I had wives. More than five.

19 Q. [12:03:39] Can you tell Court how you acquired them? Were you given them,  
20 were they distributed to you, or did you abduct them yourself and attribute them to  
21 you?

22 A. [12:04:02] They were distributed to me.

23 PRESIDING JUDGE SCHMITT: [12:04:10] By whom?

24 THE WITNESS: [12:04:19] (Interpretation) The order would come from Kony for  
25 women to be distributed to men and there were periods where he would order for the

1 abduction of girls. After the abduction, the girls are brought together and he is the  
2 person who chooses who should be given to which commander.

3 MR AYENA ODONGO: [12:04:45]

4 Q. [12:04:45] Were there times when you were given a chance for courtship?

5 A. [12:05:04] They would allow for courtship for only women who have lost their  
6 husbands in the bush. She is allowed to identify a person she is interested in living  
7 together with. But a girl who has just been abducted who has not had any man  
8 before in the bush is not allowed to engage in courtship. She is given out to a man  
9 and the order normally comes from Kony.

10 Q. [12:05:44] Mr Witness, since you were so close to Joseph Kony for a considerable  
11 amount of time, I'm sure you would be useful to Court to help Court to understand  
12 this institution of marriage. What exactly happened? How was it done? And  
13 how did somebody end up with such-and-such a woman or women for that matter?

14 A. [12:06:25] I know, just like I said earlier, when you go for an operation and then  
15 you abduct girls, the girls are brought and eventually distributed to different people.  
16 That also depended on the number of girls who were abducted. They -- they would  
17 begin distributing the girls basing on the ranks of the commanders available and that  
18 was how we eventually came to have women in the bush because if girls were  
19 brought, then they will pick a girl and if today they are saying this one has to be given  
20 to Ayena, she will be given to you.

21 Q. [12:07:27] Mr Witness, I think it would be of great interest to Court to  
22 understand whether either the man or the lady had a choice in the matter. Did  
23 you -- if you, for instance, you gave me as an example, if I was given somebody to be  
24 my wife, did I have a choice to refuse?

25 A. [12:08:01] You don't have a choice. Whether you are a man or a woman, even if



1 you are given to somebody you are not interested in staying with, you are forced to  
2 stay with that person.

3 Q. [12:08:17] I want to understand this a bit, I mean, I want you to help Court to  
4 understand this a bit further. Two people, according to what you have just said, two  
5 people find themselves in a situation where they have no choice in the matter. They  
6 find themselves now in a hut, in a bedroom. Was it always the case that the man  
7 had to impose himself on the lady, or once you were in your private rooms, you had  
8 to find a way of, you know, building a relationship between you?

9 PRESIDING JUDGE SCHMITT: [12:09:16] I think the witness cannot say was it  
10 always the case since this might have been --

11 MR AYENA ODONGO: [12:09:23] Your Honour, I'm still asking him specifically --

12 PRESIDING JUDGE SCHMITT: [12:09:26] Yes, he can speak --

13 MR AYENA ODONGO: -- and then --

14 PRESIDING JUDGE SCHMITT: Exactly. But he cannot speak -- in that matter, I  
15 think it would be difficult to speak for others.

16 MR AYENA ODONGO: [12:09:33] Yes.

17 Q. [12:09:35] Did you -- in your case, how did you relate and start the relationship  
18 of man and woman between the different wives you were given?

19 A. [12:09:52] You know in the bush, you would live with women, and a girl who is  
20 given to you -- I told you earlier today that we use the rules that were in place. If  
21 a girl is given to you -- but before the distribution, you are all brought together and  
22 then they give instructions to the girls. They will be giving the instruction to the  
23 ladies when even the men are there. They will tell you that "You as a woman, that is  
24 your husband from now on." And when you have been assigned to a commander,  
25 or when a lady is assigned to you, you can now go and meet her and begin talking to

1 her. Personally I would go to her and tell her that "You see, now you have been  
2 given to me and me and you will have to live as husband and wife. There is nothing  
3 I can do, there is nothing you can do, so we just have to accept that and live together."  
4 That was what would happen with me.

5 Q. [12:11:09] Mr Witness, although the Presiding Judge was guided about asking  
6 you general questions about it, did you ever -- did this form some form of discussion  
7 between peers, you know, between you and other friends who were in the same  
8 group with you about these relationships? Did you ever discuss them?

9 A. [12:11:38] Yes, we would talk about that, but we would not really have powers  
10 to change anything. We will talk about it but without any powers to change  
11 anything.

12 Q. [12:12:06] Did you come to appreciate that the conduct of affairs was more or  
13 less the same as you have described in your particular situation?

14 A. [12:12:33] Well, it was happening in the same manner because all these women  
15 were being given out, so I do not expect a lot of differences in the way the things were  
16 done.

17 Q. [12:12:48] In your experience in the bush, did you ever experience -- did you  
18 ever witness anybody rejecting a donation of a woman to him?

19 A. [12:13:11] That was unacceptable. I did not witness anybody rejecting  
20 a woman given to them. You know, while we were there in the bush, everyone was  
21 very mindful of their own lives. If you are given a woman, you do not have any  
22 ways of objecting to that.

23 Q. [12:13:39] Now, Mr Witness, as you stated earlier, you estimate  
24 Dominic Ongwen's age to be around the same as yours. Can you help the Court  
25 understand growing up in the bush, because if you were abducted in 1990, you stayed

1 through to 2006, that's about 16 years. Can you help the Court to understand how  
2 you grew up in and the guidance you got in the bush, how you related with different  
3 persons, with your commanders, with a lady, and you know, experiences in the bush,  
4 the hardships you went through and so on and so forth?

5 A. [12:14:36] I was abducted, just like I mentioned earlier, I think I was about 11  
6 years old. I stayed in the bush as an escort, taking care of a commander to whom I  
7 have been assigned. I know my entire life in the bush I was being an escort to one or  
8 the other person and it's that -- it's my task to make a lot of things for the commander.  
9 For instance, while we were moving about, I will have to take care of his beddings, I  
10 would have to carry his beddings. My life in the bush was not peaceful. It was  
11 really difficult with lots of problems. As I was coming of age, I eventually was  
12 promoted and I started having a fairly different and better life because I had already  
13 gotten accustomed to that kind of life. So many things happened in my life while I  
14 was still young until when I eventually came of age.

15 Q. [12:16:22] In those circumstances, did you ever have hope in life? Did you live  
16 a purposeful life hoping that tomorrow might be better?

17 A. [12:16:46] Well, when I was mature enough and basing on the things that we  
18 were being told, I kept on reflecting and thinking that there is some hope for the  
19 future, that was what I was thinking. That was because they kept on telling us  
20 a couple of things, they would tell you this and then you see that happening, and we  
21 thought maybe eventually in the future the things were going to happen, basing on  
22 what he used to tell us.

23 Q. [12:17:26] And as you stated, you were most of the time in state house around  
24 Joseph Kony. The kind of treatment that you described you got, was it about the  
25 same type of treatment a person who, like Dominic Ongwen, who was not around

1 Joseph Kony received?

2 A. [12:18:00] Well, it could have been different because, you know, a person who is  
3 closer to another person, and then another person who is staying a bit far, the two  
4 people will not have the same kind of life.

5 Q. [12:18:35] As a member of the security of Joseph Kony and, in particular,  
6 when performing those functions of ADC and that kind of thing, were you constantly  
7 exposed to battle experiences?

8 A. [12:19:05] Before I got injured, I used to stay close to him. But during periods  
9 of operation, they would also select me and take me for operations. I engaged in  
10 a number of battles. That's why I eventually got injured here and there.

11 Q. [12:19:41] Now, we have already established that you did not stay with  
12 Mr Ongwen for long after you were abducted. If you can remember, when was the  
13 next time that you met Dominic Ongwen?

14 A. [12:20:02] The last time we met was in the year 2007, during the peace  
15 negotiations. That was the last time we met, in Garamba.

16 Q. [12:20:33] I want you to recast your mind to the statement about that one-year  
17 spell when you stayed together with Dominic Ongwen around Kilak hills. After that  
18 he went his way and you went your way. If it was one year between -- I mean, after  
19 1990, I would want to believe that you parted your ways in 1991. Is it the case that  
20 from 1991 you met Dominic Ongwen only in 2007?

21 A. [12:21:28] We met several other times. Not that from the year '99 until 2007 we  
22 never met, not that. We were together in Sudan with him. And in 1997, when I  
23 was transferred to Kony, we were supposed to have been transferred together to  
24 Kony. Dominic was in Stockree brigade -- rather, Sinia brigade, and I was in  
25 Stockree, and his brigade commander was called Abudema. And Abudema did not

1 allow Dominic to be transferred to provide security to Kony. But I was transferred  
2 and I went to Kony, together with other people who were transferred from the same  
3 brigade. It's not that I stayed away from him for all that time, we kept on meeting  
4 several times.

5 Q. [12:22:53] It is interesting that Buk Abudema would refuse Dominic being  
6 transferred from his brigade. Did you come to learn the reason why he wanted to  
7 stick around with Dominic?

8 A. [12:23:21] According to what Buk used to say, he said, Dominic could not be  
9 transferred to become an escort to Kony. He is going to identify other people and then  
10 move them to Kony to take up the role. That was because, in the brigade, it was  
11 acceptable for people to be identified or selected to be taken to Kony to provide  
12 security for him. That was acceptable. He identified a different person to do that  
13 work. But from Control Altar it was Dominic's name that was written and the  
14 request was made for him to be taken, in the same way I was also identified to go  
15 from Stockree.

16 Q. [12:24:23] You said you met Dominic Ongwen many times until when you last  
17 met him in 2007. In between, when you kept on meeting him from time to time, did  
18 you witness any change in his personality? Because this morning you said he was  
19 very playful, he liked to play pranks and that kind of thing; had he changed?

20 A. [12:24:58] I did not witness any changes in him.

21 Q. [12:25:10] Being in the Control Altar, did you come to know whether or not  
22 Dominic Ongwen was a popular commander in whatever unit he was assigned?

23 A. [12:25:29] Well, it was, knowing that Dominic was famous or his name was  
24 resounding everywhere was a bit difficult. But he was first in the Control Altar as an  
25 escort and then he was taken to Sinia. He was the escort to Nyeko Yadin. And then

1 he was removed from there and taken to Sinia brigade. So while Dominic was in  
2 Sinia brigade, his name was not widely known.

3 Q. [12:26:25] Actually, I am not talking about people singing praises of him, I am  
4 just talking about his relationship with colleagues. Was he liked by people under  
5 him, liked by people at the same rank with him, and even his bosses?

6 A. [12:26:48] Yes, Dominic was liked by so many people. And just like I told you  
7 earlier, his lifestyle didn't change. He was easily likeable, everyone liked him, the  
8 young, the old. Even personally, when I met him the last time, he was a bigger  
9 commander. But when I met him we stayed together, we chatted and spent a lot of  
10 time together, we talked about so many things. And what I know is his life didn't  
11 change, his lifestyle didn't change. He loved people and people liked him as well.

12 Q. [12:27:42] And, Mr Witness, you told Court that your enemies were clearly  
13 defined to you. Did you come across any information about Dominic Ongwen  
14 attacking positions other than military installations?

15 A. [12:28:17] I never got any such reports.

16 Q. [12:28:27] Did you come to know whether he was a good fighter who gave  
17 impetus and encouragement to the men and officers under him during battles?

18 A. [12:28:49] You know, if you're assigned as a commander, you will have to work  
19 very hard using the rules that you've been given, so much so that the soldiers you are  
20 commanding do not get into trouble. So Dominic was operating just like any other  
21 commander who was.

22 Q. [12:29:27] On a scale of judgment, was he such a commander many men and  
23 officers would want to work under?

24 A. [12:29:47] People would listen to his messages. Just like I told you earlier, he  
25 was not discriminatory, people liked him, so many people liked him, and very many

1 people accepted to stay and work with him because he would follow the rules the  
2 way they were.

3 Q. [12:30:31] It was often said that there were so many brutalities, there were  
4 commanders in the LRA who were very brutal. Would you say that Dominic  
5 was -- I mean, compared to other commanders that you may have known of, was he  
6 a brutal man to his soldiers? And also to, you know, the population, the civilian  
7 population, for instance?

8 A. [12:31:10] No, Dominic was not a brutal person. I know that Dominic would  
9 obey the rules to the dot.

10 Q. [12:31:33] Now during your time in Sudan - and in this case we are looking at  
11 the time when you were in Jebellin, and later, and much later - how did  
12 Dominic Ongwen act when compared to other commanders?

13 A. [12:31:54] When we were in Sudan, when people were in Jebellin, and then we  
14 moved from Jebellin to Uganda, at the time, Dominic was not yet a high-ranking  
15 officer and there was no difference between his lifestyle or the way he was with other  
16 people. I believe that when we were in Jebellin, Dominic was a lieutenant and he  
17 was not yet high ranking. And there was no difference between what he did and  
18 what everybody else did.

19 Q. [12:32:42] And from your description of Dominic, you said he was a bit -- he had  
20 child-like behaviour. Did this change when he was promoted gradually over the  
21 years? And can you give Court an example or two of what remained as an indelible  
22 mark on your mind about the playfulness of Dominic Ongwen even when he became  
23 a commander?

24 A. [12:33:28] Dominic, I stated earlier that those of us who were with him, when we  
25 were, for example, in Jebellin, people were together at the time, Dominic was playful.

1 If you are a commander, then you usually -- well, some of the soldiers who were in  
2 the coy or in the platoons, as a commander you do not associate with them, but  
3 Dominic would go, he would socialise with them, he would play with them. I recall  
4 there was a time when he was actually braiding his hair, like women's hair. He liked  
5 those kind of things, he liked those joke-ful kind of things.

6 Q. [12:34:31] There was firefighting, you know, in the LRA where people used to  
7 throw -- we understand. Did Dominic also get involved in this, children getting  
8 kind of ...

9 A. [12:34:58] As I stated, Dominic was playful. Wherever people are, as I said  
10 earlier, where there are children or the lower-ranking officers, he would go and he  
11 would socialise with them. He would not actually separate himself from the lower-  
12 ranking officers or from the children because he is a higher-ranking commander.  
13 Because when we were there, we had time, we had time to spend as we liked. He  
14 was not someone who was a show-off. He did not show off his ranks.

15 Q. [12:35:50] Now let's go back to the - touch a little bit on - we are about to  
16 end - the spiritual beliefs in the LRA and especially belief in Kony's spiritual  
17 attributes. From what you witnessed or you were told, what was Dominic's  
18 mentality or beliefs towards the spiritual prowess of Joseph Kony? Did he believe it?  
19 Did he, like many, I mean, did he appear to believe that -- I mean that Kony was as  
20 powerful and spiritually possessed, as, for instance, you and many others may have  
21 believed?

22 A. [12:36:49] I know that Dominic had such belief because there was no member of  
23 the LRA who did not believe that Kony was possessed and that his spirits were  
24 actually as he said they were, because I had this belief, Dominic had this belief. And  
25 even if you did not have such belief, you would at least believe that there is



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1 something; that Joseph Kony possesses some powers that can actually predict things.

2 MR AYENA ODONGO: [12:37:36] Mr President and your Honours, just a few

3 questions, as you know, parting shots, but it should be in private.

4 PRESIDING JUDGE SCHMITT: [12:37:46] Then we go to private session.

5 (Private session at 12.37 p.m.)

6 THE COURT OFFICER: [12:37:50] We are in private session, Mr President.

7 (Redacted)

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23 (Open session at 12.39 p.m.)

24 THE COURT OFFICER: [12:39:54] We are back in open session, Mr President.

25 PRESIDING JUDGE SCHMITT: [12:40:08] Mr Witness, you wanted to address us?

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1 THE WITNESS: [12:40:11] (Interpretation) I wanted to take a break.

2 PRESIDING JUDGE SCHMITT: [12:40:15] Yes, we will have immediately the break  
3 now. So this is where we will pick up.

4 But first one short question. Mr Do Duc, how long will your examination last? Do  
5 you have an estimate?

6 MR DO DUC: [12:40:28] Your Honour, it depends on the witness's answers, but I  
7 estimate that it will take about an hour.

8 PRESIDING JUDGE SCHMITT: [12:40:33] Okay. Then we have the break until, I  
9 think 2 o'clock will be enough. Yes, twenty to one. At 2 o'clock we reconvene.

10 THE COURT USHER: [12:40:42] All rise.

11 (Recess taken at 12.40 p.m.)

12 (Upon resuming in open session at 2.01 p.m.)

13 THE COURT USHER: [14:01:59] All rise.

14 PRESIDING JUDGE SCHMITT: [14:02:23] Good afternoon, everyone. It's now time  
15 for the Prosecution's questioning.

16 Mr Do Duc, you have the word.

17 MR DO DUC: [14:02:30] Thank you, your Honour. Before I start, I would like to  
18 put on the record that we are joined by Sanyu Ndagire.

19 PRESIDING JUDGE SCHMITT: [14:02:38] She has already joined in the morning,  
20 but nevertheless, it's not too late, never too late.

21 QUESTIONED BY MR DO DUC:

22 Q. [14:02:46] And good afternoon, Mr Witness. You and I met last week so now  
23 I am going to ask you a few questions on behalf of the Prosecution.

24 Mr Witness, after your second injury in 1999 you say you were taken to a sickbay; is  
25 that correct?

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1 A. [14:03:14] After my injury in 1999, I first went to Khartoum and thereafter when  
2 I came back from Khartoum I went to the sickbay, but I was already feeling a little  
3 better.

4 Q. [14:03:39] So when were you taken to your sickbay?

5 A. [14:03:50] When I was taken to the sickbay I was taken as a commander for the  
6 sickbay, and that was in the year 2002.

7 Q. [14:04:04] And what was the name of your sickbay?

8 MR OBHOF: [14:04:06] Your Honour, this might actually lead to the identification of  
9 the witness. We'd ask that it be asked in private session.

10 PRESIDING JUDGE SCHMITT: [14:04:13] I'm not sure if this is really necessary, but  
11 for security's sake, shortly private session and then the witness may answer.  
12 Private session then.

13 MR DO DUC: [14:04:23] Your Honour, may I skip that kind of question and then  
14 I can move on to another question.

15 PRESIDING JUDGE SCHMITT: [14:04:28] That would be, I think, a good idea here,  
16 so simply move on.

17 MR DO DUC: [14:04:35] Thank you, your Honour.

18 Q. [14:04:37] And where was your sickbay located then?

19 A. [14:04:46] The sickbay was in Gulu.

20 Q. [14:04:51] You were a commander in the sickbay for a very long time, and can  
21 you please very briefly talk about, tell us about your roles and duty as a commander?

22 A. [14:05:11] I was the commander of the sickbay and I was in charge of everyone  
23 who was in the sickbay.

24 Q. [14:05:23] So you were very aware, well aware of how your sickbay functioned;  
25 is that correct?

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1 A. [14:05:37] Yes. I knew how it was functioning, because when I was taken there,  
2 I was taken there and I was using the orders that were given to me on what to do.

3 Q. [14:05:51] And other LRA commanders also stayed at your sickbay; is that also  
4 correct?

5 A. [14:06:06] Yes.

6 Q. [14:06:06] And the LRA commanders still kept their radios while they were in  
7 your sickbay; is that correct?

8 A. [14:06:25] When I was at the sickbay there were no senior commanders who had  
9 radio calls at the sickbay.

10 Q. [14:06:43] Mr Witness, you met with the Defence investigators for I think at least  
11 two times at the end of 2015 and the beginning of 2016; is that correct?

12 A. [14:07:02] Yes.

13 Q. [14:07:03] And the purpose of the meetings is an interview; is that correct?

14 A. [14:07:17] Yes, they were asking me some questions.

15 Q. [14:07:21] And at the time of the interview you stated that you would give an  
16 answer to the investigator to the best of your knowledge and recollection; is that  
17 correct?

18 A. [14:07:43] Yes.

19 PRESIDING JUDGE SCHMITT: [14:07:45] I think, Mr Do Duc, you can simply go  
20 to -- I assume at least, you want to put part, some sentences of the former statement to  
21 the witness. Simply do it, I would say. And then any contradiction, if, if it exists at  
22 all, will be solved or whatsoever.

23 MR DO DUC: [14:08:07] Thank you, your Honour.

24 Q. [14:08:10] In your statement, and I am going to read to you that you said, there  
25 was --

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1 PRESIDING JUDGE SCHMITT: [14:08:15] The reference, please, for the record.

2 MR DO DUC: [14:08:18] For the record, the statement, the ERN of the statement is

3 UGA-D26-0010-0521 and your Honour can find the statement at tab 1 of the Defence

4 binder. And I am going to refer to page 8, paragraph 16.

5 Q. [14:08:42] And you said that:

6 "If there were senior commanders in sickbay, his orders could still be carried out from

7 the sickbay. If there were an order to be given out, it would still go to him. But

8 those orders would come from Kony because commanders kept their radios, and

9 received radio calls in sickbay."

10 What I have just said, did it change your mind? Did it change your statement?

11 A. [14:09:28] What you have said does not change my statement, because when

12 I was at the sickbay I, I did not have any senior commander who had radio call. But

13 the people who took me to the sickbay and left me there had a radio set.

14 Q. [14:09:57] And a few days ago you were given this statement by the court officer;

15 is that correct?

16 A. [14:10:16] Yes.

17 Q. [14:10:18] And if -- and if there was a significant change, why didn't you inform

18 the people that the statement --

19 PRESIDING JUDGE SCHMITT: [14:10:28] No, no, you don't have to object because

20 you could reconcile what the witness said today in the courtroom with this

21 paragraph 16, if you want to.

22 Please listen, Mr Witness, if at least I have understood it this way correctly. When

23 you were at the sickbay, you did not have senior commanders there who had a radio

24 set, but in general, then this is exactly what you said formerly, yes, in the paragraph,

25 generally it was possible when senior commanders were there that they still had their

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1 radio, radio -- radios with them. Did I understand it correctly?

2 Because here it says, "Whilst I was at sickbay, there were senior commanders", you  
3 said only and then later and "If there were senior commanders ..." and then there  
4 could be radio calls. But when you were at the sickbay, there were only junior  
5 commanders or did I understand you not correctly?

6 THE WITNESS: [14:11:34] (Interpretation) Yes.

7 PRESIDING JUDGE SCHMITT: [14:11:36] So please move on. So there is no  
8 contradiction.

9 MR DO DUC: [14:11:44]

10 Q. [14:11:44] Mr Witness, you stayed in the LRA for a very long time, and non-stop,  
11 from 1990 until 2006; is that correct?

12 A. [14:11:58] Yes.

13 Q. [14:12:01] And you also said that you saw many things happen to the LRA  
14 commanders; is that correct?

15 A. [14:12:19] Yes.

16 Q. [14:12:20] During your 16 years with the LRA you were well aware of many  
17 LRA commanders who managed to leave the bush, weren't you?

18 A. [14:12:45] Well, I came to understand that so many people did the same.  
19 Personally, I also thought about escaping, but if you listen to my statement today  
20 earlier, one of the things we feared was the fact that if you escaped they could go and  
21 punish your family or even the entire family, the entire area where you are coming  
22 from. But also if you are apprehended, they would kill you. For that reason, very  
23 many people could not think of escaping.

24 Q. [14:13:25] Mr Witness, I understand that very well. But my question was that  
25 whether you knew about any LRA commanders who managed to escape from

1 the LRA?

2 A. [14:13:51] Well, that did not only involve commanders or only the soldiers who  
3 escaped from the bush. For instance, in a place called Palabek, people escaped from  
4 there and a lot of havoc was caused on the people of Palabek because they escaped  
5 from there. But when -- what we saw was that as an individual, if you are to escape  
6 and then they will go and punish or kill people in your own home, that was really  
7 discouraging people from escaping, because there was fear of retribution. We  
8 wanted to take care of our own people in our various areas by not escaping.

9 Q. [14:14:45] But you were aware of some commanders' escape from the LRA; is  
10 that correct or do I understand you correctly?

11 A. [14:15:01] Yes. There were some commanders who escaped. But there  
12 was -- that time when people started escaping was the time when they had instituted  
13 the amnesty law. Then, a couple of people escaped to go back and benefit from it.  
14 And you know, this happened several times in different areas where they'd go and  
15 punish the people. Even if a commander escapes from the bush, their own people  
16 would really suffer because they will go and punish them.

17 Q. [14:15:45] I understand the part of punishment. And you mentioned about the  
18 term of "amnesty," so now I would like to please focus on the years 2002 and 2005  
19 when you were in your sickbay. Which LRA commanders successfully escaped  
20 from the LRA, as far as you were aware of?

21 A. [14:16:25] Well, very many people escaped and I knew them. For instance,  
22 there was a commander named Onen Kamdulu, and many others. I cannot  
23 recall -- I cannot mention all their names here, but so many who escaped.

24 PRESIDING JUDGE SCHMITT: [14:16:44] I think you can move to another point  
25 now.

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1 MR DO DUC: [14:16:47] That was my plan. Thank you, your Honour.

2 And, your Honour, I would like to move to the private session for about 10 to  
3 15 minutes and for the next set of questions. I refer to the Defence filing 1333.

4 PRESIDING JUDGE SCHMITT: [14:17:00] It's quite long, 10, 15 minutes, is it  
5 absolutely necessary in private session?

6 MR DO DUC: [14:17:07] Well, because first this filing was filled ex parte,  
7 confidential ex parte and there's a public redacted version, that's the portion that I am  
8 referring to, is not available in the public redacted version.

9 PRESIDING JUDGE SCHMITT: [14:17:21] We go first to private session and we look  
10 how it evolves, so to speak.

11 Yes, private session.

12 (Private session at 2.17 p.m.)

13 THE COURT OFFICER: [14:17:35] We are in private session, Mr President.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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19 (Redacted)

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21 (Redacted)

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1 (Redacted)

2 (Open session at 2.30 p.m.)

3 THE COURT OFFICER: [14:30:19] We are back in open session, Mr President.

4 MR DO DUC: [14:30:27]

5 Q. [14:30:30] Mr Witness, this morning you mentioned several times about the  
6 implementation of Kony's orders and you said, and I quote exactly from what you  
7 said this morning:

8 "If you are given an order to go and carry out some task and you do not do that, one  
9 thing Kony could do to you would be, well, nothing else, he would just arrest you,  
10 and if he felt the infraction was kind of major, then they would have to kill you then."  
11 And I refer to the real-time transcript page 33, lines 13 to 20.

12 Now my question to you is this: If Kony gave the LRA commanders, for example, he  
13 gave you and Dominic Ongwen an order to go and kill civilians, you must implement  
14 his orders; is that correct?

15 A. [14:31:32] Just like I told you, we would play by the rules. If I am instructed to  
16 go and carry out a task, I would have to go and do what the commanders said,  
17 because if I do not follow that I would have to be killed. I will have to do that so that  
18 I can preserve my life.

19 Q. [14:31:54] And, Mr Witness, according to you, in the LRA people did not  
20 question Kony's orders because they came from the Holy Spirit; is that correct?

21 A. [14:32:11] Yes.

22 Q. [14:32:13] Now this morning in the context of the LRA punishment for the  
23 people who escape or attempts to escape you said that the person would be killed  
24 because in the bush there is no -- there is nothing different from death. And if  
25 a commander did not punish the person who escaped from his command, he would

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1 also be killed. You also mentioned the other forms of punishment and you state the  
2 punishment "depended on the kind of infraction that you committed. For instance,  
3 if you were a commander, they could demote you and then they remove your powers  
4 and you would be staying like a prisoner".

5 That I refer to the real-time transcript, page 28, lines 17 to 21.

6 And, Mr Witness, you spoke of death punishment for disobeying orders, Kony's  
7 orders, and you also spoke of the other forms of punishment. Now, do you agree  
8 that the punishment depends on the persons and depends on the circumstances in  
9 which the rules were broken? Would you agree with that?

10 A. [14:33:38] Well, it all depends, it depends on the infraction that one has  
11 committed. It also depends on the rule that was given at the time that you  
12 committed that infraction.

13 PRESIDING JUDGE SCHMITT: [14:33:57] And this is exactly what the witness has  
14 said this morning.

15 MR DO DUC: [14:34:08] May I have one minute, your Honour.

16 PRESIDING JUDGE SCHMITT: [14:34:10] Of course.

17 MR DO DUC: [14:34:11] Thank you.

18 (Counsel confer)

19 MR DO DUC: [14:34:21] Your Honour, for your reference, the next set of my  
20 questions, I refer to the document provided by the Defence and the ERN is  
21 UGA-D26-0022-0001. And I refer to the pages 0008, 0009 at tab 6 of the Prosecution  
22 binder.

23 Q. [14:34:54] Mr Witness, I want to talk to you about treasons in the LRA. For  
24 example, if there were commanders who tried to cause a mass defection from the  
25 LRA, what would happen to them?

1 A. [14:35:19] I did try to explain earlier and I gave an example using Otti Lagony.  
2 And, well, it was Otti Vincent lastly. If you do something that is considered treason,  
3 then you are going to be killed. And that's what happened. The last person that  
4 was killed who was accused of treason or he was accused of trying to leave the LRA  
5 with soldiers is Otti Vincent. So if you commit a certain infraction, there is nothing  
6 other than death. There is no imprisonment, but death.

7 Q. [14:36:08] And if there were commanders who complained about LRA killing  
8 civilians, what would happen to them?

9 A. [14:36:28] Earlier on I did state the rules that we had to follow. We were told  
10 that these rules came from the spirit. So if you are told to do something, you do not  
11 ask "Why am I supposed to do it in this matter?" If you are given an order, you  
12 follow that order.

13 Q. [14:36:52] And while you were in the LRA did you know a man called  
14 Ray Apire?

15 A. [14:37:12] Yes, Apire Ray was in the LRA. I know him.

16 Q. [14:37:19] And do you know what his rank was?

17 A. [14:37:35] Well, I am guessing, but I believe perhaps it was captain.

18 Q. [14:37:52] Do you know a man called Hillary Lagen?

19 A. [14:38:07] No, I do not know a Hillary.

20 Q. [14:38:12] Do you know someone called Livingston Nyeko?

21 A. [14:38:21] Yes, I do know Nyeko Livingston.

22 Q. [14:38:29] And do you know his rank?

23 A. [14:38:36] You know, it's been such a long time since these events happened, but  
24 to the best of my recollection I believe it's colonel.

25 Q. [14:38:50] I understand very well that it happened a long time ago and the

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1 testimony is not a memory test for you, but do you agree with me that Livingstone  
2 Nyeko, he was an LRA commander?

3 MR OBHOF: [14:39:04] Your Honour, it just might help the witness if they used the  
4 full name, not just two of the names. He also went by Lubul.

5 PRESIDING JUDGE SCHMITT: [14:39:16] Yes, why not. And we don't go through  
6 every name and the rank of everyone now. It is perfectly clear I think where you are  
7 heading at and you could head there, perhaps, a little bit quicker.

8 MR DO DUC: [14:39:27] Thank you, your Honour. And I am going to go very fast.

9 Q. [14:39:31] And Mr Witness, the full name of Livingston Nyeko, he is Livingston  
10 Nyeko Lubul, do you know him?

11 A. [14:39:53] Livingston, I know a different Lubul, but it's different from Nyeko  
12 Livingston. Lubul was a captain and it's different from the Nyeko you were  
13 speaking about earlier.

14 PRESIDING JUDGE SCHMITT: [14:40:16] Mr Do Duc, you said you are referring to  
15 tab 6, this is a document provided by the Defence and it contains a summary, so to  
16 speak, of religious beliefs of the LRA and there are mentioned two contributors  
17 inter alia the Ray Apire you mentioned already with the witness and there on  
18 page 0008 and 0009 there is some information that I at least assume you want to put  
19 to the witness and perhaps to challenge him with that. So if you did this, it would be  
20 a little bit quicker and perhaps if he recognises the names that are mentioned there or  
21 perhaps not, then we have an answer and can go on.

22 MR DO DUC: [14:41:05]

23 Q. [14:41:05] Mr Witness, I want to take you back to 2001. Kony ordered the arrest  
24 of 29 LRA officers. As an insider, you were very aware of this incident, weren't you?

25 A. [14:41:31] Yes, I do know that.



1 Q. [14:41:36] And the 29 commanders were charged with treason because they  
2 tried to cause a mass defection from the LRA and also they complained about the  
3 LRA killing civilians. But, at the end they were only demoted and arrested for  
4 a month and in fact, Mr Witness, none of those commanders were killed. Were you  
5 also aware of it?

6 A. [14:42:13] The events that you are referring to are not correct events. It's not  
7 the -- it's not true. Because people attempted to escape. They were planning to  
8 escape with a number of people, and, well, I do not know -- I did -- I did not hear  
9 about that. I did not hear about any such event; that there was an attempt for a mass  
10 escape and that people were arrested and people were demoted.

11 Q. [14:42:51] I just remind you that earlier on you said, you answered to my  
12 question, you said that you do know that event. Now you said you don't know that  
13 event. Which version should I believe you?

14 A. [14:43:12] I stated that the names, the names of the people you refer to, yes, I do  
15 know them, I know those names. But the people that you are talking about, those  
16 who attempted to escape or those who were attempting a mass escape, those are the  
17 people that I'm not -- I -- I do not know about. Because I know that with  
18 Joseph Kony, if you are attempting a mass escape, there is no other punishment that  
19 he is going to give you. He is not going to give you a demotion or any other  
20 punishment.

21 I can give you an example of one major when, at the time we were in Sudan, they sent  
22 a large number of soldiers after him. The chap was referred to as "Ocii"; he killed  
23 people. They sent people to follow him and there was a shoot-out. In the event, he  
24 managed to escape. But I do not know of any other person who attempted a mass  
25 escape and the person was merely demoted. I am not aware of that.

1 Q. [14:44:28] I am asking you about the event in which 29 LRA officers or  
2 commanders were arrested. And I am asking you the reasons why they were  
3 arrested by Kony.

4 MR OBHOF: [14:44:39] Your Honours, it's been asked and answered. The witness  
5 says he knows the people; doesn't know of the event.

6 PRESIDING JUDGE SCHMITT: [14:44:44] Yes. I think I tend to agree. But you  
7 could simply read -- why don't you read this out and put it to the witness as  
8 a complication, so to speak, which has been put together by people he knows. He  
9 says he knows this Ray Apire so this -- and there's another contributor here  
10 mentioned in this document and simply read some phrases to him and if he recalls,  
11 then it's okay. And if not, we have no right that he confirms.

12 So then we simply have to, like I always say, the Chamber in the end has to assess this.  
13 But we can't -- we have to take, at one point in time, simply the answer as it is.

14 MR GUMPERT: [14:45:29] Your Honour, I'm sorry to intervene but I believe that my  
15 learned friend Mr Obhof has misspoken. In your Honour's transcript, you will find  
16 this exchange; it's at page 79, line 7:

17 Mr Do Duc asked: "Mr Witness, I want to take you back to 2001. Kony ordered the  
18 arrest of 29 LRA" -- it should be officers. "As an insider, you were very aware of this  
19 incident, weren't you?"

20 Answer: "Yes, I do know that."

21 PRESIDING JUDGE SCHMITT: [14:46:00] Yes, and then we have -- yes, we have  
22 heard that and we are aware of that. And then the narrative might have changed  
23 a little bit and now it would be time simply to put the document perhaps  
24 word-by-word, perhaps, five or six sentences to him and ask him again. And then  
25 we have to take the answer as it is and then, in the end, the Chamber has to put this

1 together and has to draw any conclusions that are to be drawn from that.

2 MR GUMPERT: [14:46:32] Your Honour, I accept that is an appropriate procedure,  
3 but it is also, I respectfully submit, appropriate for my learned friend Mr Do Duc to  
4 ask the question he did, what is it those 29 officers were arrested for? We don't have  
5 an answer from the witness on that yet.

6 MR OBHOF: [14:46:47] Your Honour, the simple answer was: I didn't hear  
7 correctly and I misspoke, which people say all the time, I didn't hear that. Because  
8 directly after the quote my learned colleague Mr Gumpert gave, he gave the full  
9 explanation which he said: I didn't hear about that. This, what you're saying, is not  
10 correct.

11 PRESIDING JUDGE SCHMITT: [14:47:04] What we are doing, or shall I read it now.  
12 Really. I think it has not this significance that we should entertain here a lot of time  
13 in the courtroom on that.

14 So I'm reading it now, partly, to the witness.

15 So, Mr Witness, again, and for the third time now, I am quoting now from  
16 a document that has been put together by Mr Apire and by a Major Acama Jackson.  
17 Do you know this Acama Jackson? Do you know this person?

18 THE WITNESS: [14:47:40] (Interpretation) You know, there were two Acamas.  
19 One Acama --

20 PRESIDING JUDGE SCHMITT: [14:47:49] (Overlapping speakers) A technician. A  
21 technician, an LRA technician.

22 THE WITNESS: [14:48:05] (Interpretation) There was no Acama who was an LRA  
23 technician.

24 PRESIDING JUDGE SCHMITT: [14:48:13] Okay. Then please listen to me. I am  
25 referring now and, as I already said and stated, this is a document submitted by

1 the Defence. We are here on page 0008 and 0009:

2 "In 2001 Kony ordered the arrest of Jackson, Ray, Hillary Lagen, Livingston Nyeko  
3 Lubul" -- one name, Livingston Nyeko Lubul -- "Elia, Kalambit, and others for a total  
4 of 29 officers. They were put in a small house, tied hand and foot with attachments  
5 to their testicles. They went for three days with no food or water and were beaten.  
6 Ray was beaten with 300 strokes. Their wives were given to other commanders.  
7 They were charged with treason for trying to cause a mass defection of the LRA, and  
8 complaining that the LRA was killing civilians. Banya pleaded for them and they  
9 were spared, but they were all demoted to the rank of private. Their wives returned  
10 to them, but they remained under house arrest until Operation Iron Fist, April 2002."

11 Mr Witness, it would be really a strange accident if this was something different,  
12 because it is exactly the 29 people you stated earlier on this page 79, line 7. That you  
13 heard of the event. It would be strange if it would be a different event. So when  
14 you hear this now, does your recollection come back and what can you say else about  
15 it?

16 THE WITNESS: [14:50:02] (Interpretation) Yes. The matter regarding Lubul, Elia,  
17 this is something that did happen. I was not there; I was in Uganda at the time.

18 And I went and found out that they were arrested. But I did not know the reason; I  
19 did not know that they were arrested because of an attempted mass defection.

20 First of all, as commanders they did not have soldiers under them. And as was -- as  
21 it was stated that it was during Operation Iron Fist that their ranks were reinstated,  
22 when Operation Iron Fist started, I was with Lubul. Lubul was captain and I was  
23 a lieutenant, which means that Lubul was not demoted. I was with him in sickbay;  
24 he lost his life while we were -- while we were in sickbay together.

25 PRESIDING JUDGE SCHMITT: [14:51:14] Please continue, Mr Do Duc.

1 MR DO DUC: [14:51:16]

2 Q. [14:51:16] Mr Witness, you stayed in the LRA for a very long time, you were a  
3 commander in Trinkle brigade. You were a major, and moreover, you said this  
4 morning people had radio calls, all brigades had radio calls. If there's something  
5 new, all communication would be done through radio call and everyone would be  
6 informed of any new developments through radio call. You said that exactly and  
7 isn't it reasonable to believe that you -- no one spoke to you about the reason why 29  
8 people were arrested?

9 A. [14:52:02] You know, there are certain things that, for example, if they are not  
10 too detailed and it does not -- it's not in compliance with the rules, then it's not  
11 necessary to discuss these things.

12 PRESIDING JUDGE SCHMITT: [14:52:17] But I think Mr Do Duc wants to refer to  
13 that if we take this as an event that really happened with these 29 people, then this  
14 might not have been an ordinary event in the LRA, and therefore it might be plausible  
15 that anyone who has any function in the LRA at the time would have gotten notice  
16 of it.

17 This, I think, was what you were heading at.

18 And my question would be to you, if you would agree with me and if you have  
19 gotten notice of it?

20 THE WITNESS: [14:52:56] (Interpretation) Your Honour, as I stated, I said at the  
21 time I was in Uganda, I heard that these people had been arrested, but the reasons for  
22 their arrest, the reasons why those of Apire Ray were arrested and the ranks, the  
23 ranks they allege that they were demoted, that's not true. Because I just gave an  
24 example of someone who was a captain. I was with this person in the sickbay  
25 during the Operation Iron Fist and the details of the events are not something that I

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- 1 know about. Because if it's not something that is particularly very, very important,  
2 it's not necessary that everybody in the movement should know about this.
- 3 PRESIDING JUDGE SCHMITT: [14:53:58] I think we move on. We don't always  
4 get the answer. Not we, not you or the Defence does not always get the answer that  
5 you would perhaps want to.
- 6 MR DO DUC: [14:54:10] Thank you, your Honours.  
7 We have no further questions.
- 8 PRESIDING JUDGE SCHMITT: [14:54:14] Thank you very much.  
9 I ask Mr Narantsetseg, do you have any questions?
- 10 MR NARANTSETSEG: [14:54:18] We have no further question. Thank you.
- 11 PRESIDING JUDGE SCHMITT: [14:54:22] Mr Manoba?
- 12 MR MANOBA: [14:54:24] We have no other questions.
- 13 PRESIDING JUDGE SCHMITT: [14:54:25] I don't assume that the Defence has  
14 further questions.
- 15 MR OBHOF: [14:54:29] For the record, no, your Honour.
- 16 PRESIDING JUDGE SCHMITT: [14:54:31] Yes, thank you very much.  
17 So, Mr Witness, this concludes your testimony. On behalf of the Chamber, I would  
18 like to thank you that you have come to this courtroom, to The Hague, in this  
19 far-away country. We wish you a safe trip back home.  
20 (The witness is excused)
- 21 PRESIDING JUDGE SCHMITT: [14:54:48] And this concludes also the hearing for  
22 today. We resume tomorrow at 9.30 with D-133 I think it is.
- 23 THE COURT USHER: [14:55:00] All rise.  
24 (The hearing ends in open session at 2.55 p.m.)