

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Friday, 5 July 2019
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:40] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SCHMITT: [9:32:05] Good morning, everyone.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:32:13] Good morning, Mr President,
16 your Honours.
17 The situation in the Republic of Uganda, in the case of The Prosecutor versus
18 Dominic Ongwen, case reference ICC-02/04-01/15.
19 And for the record, we are in open session.
20 PRESIDING JUDGE SCHMITT: [9:32:26] Thank you.
21 For the appearances of the parties, Mr Do Duc for the Prosecution.
22 MR DO DUC: [9:32:33] Good morning, your Honours. My name is
23 Hai Do Duc, and with me here today is Ben Gumpert, Yulia Nuzban,
24 Beti Hohler, Jasmina Suljanovic and Grace Goh.
25 PRESIDING JUDGE SCHMITT: [9:32:43] And for the representatives of the

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(Open Session)

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1 victims.

2 MS WALTER: [9:32:46] Good morning, Mr President, your Honours.

3 This morning for the CLRV, myself Caroline Walter.

4 PRESIDING JUDGE SCHMITT: [9:32:54] One person. It's all about the
5 personality that stands behind it, not about numbers.

6 Mr Manoba.

7 MR MANOBA: [9:33:02] Good morning, Mr President, your Honours, Joseph
8 Manoba and James Mawira.

9 PRESIDING JUDGE SCHMITT: [9:33:08] Thank you.

10 And for the Defence, Mr Obhof, please.

11 MR OBHOF: [9:33:11] Thank you, your Honours. Today with the Defence is
12 Gordon Kifudde, Chief Charles Achaleke Taku, Dominic Ongwen is here, and
13 myself Thomas Obhof.

14 PRESIDING JUDGE SCHMITT: [9:33:19] And of course a very warm
15 welcome, Madam Witness. On behalf of the Chamber I would like to
16 welcome you in the courtroom. Good morning.

17 WITNESS: UGA-D26-P-0110

18 (The witness speaks Acholi)

19 THE WITNESS: [9:33:35](Interpretation) Good morning.

20 PRESIDING JUDGE SCHMITT: [9:33:36] Before we start with the
21 undertaking, a short information from the Chamber. We have added to the
22 in-court protective measures voice distortion. That was according to
23 a recommendation by the VWU.

24 I shortly, in a short while explain to you what this means, Madam Witness.

25 Madam Witness, there should be a card in front of you with a solemn

1 undertaking. This solemn undertaking has to be made, given to the Court
2 orally by every witness who comes here to testify. Would you please be so
3 kind to read it out loud.

4 THE WITNESS: [9:34:22](Interpretation) I solemnly declare that I will speak
5 the truth, the whole truth and nothing but the truth.

6 PRESIDING JUDGE SCHMITT: [9:34:29] Thank you. You agree to that?

7 THE WITNESS: [9:34:32](Interpretation) Yes, I agree.

8 PRESIDING JUDGE SCHMITT: [9:34:34] You have now been sworn in and
9 now I explain to you the protective measure that we have put in place for you.
10 We have face distortion. That means that no one outside this courtroom can
11 see your face.

12 We have also voice distortion. That means no one outside this courtroom can
13 hear your voice and identify you by your voice.

14 We are using what we call a pseudonym. This is the reason why I do not
15 address you with your real name but because I -- why I say "Madam Witness".
16 And when you answer questions which would not identify you, we do this in
17 open court. And once there are questions and the answers could reveal your
18 identity, we go to private session, like we call it. That means that no one
19 outside the courtroom can hear you.

20 That's just to inform you. And as you see, to your side you have assistance if
21 anything is that you want -- if you need help, you can turn to her. And also
22 you can raise your hand and then we know that you want to address us.
23 I think that that's enough for the moment. And we start with the examination
24 by the Defence.

25 MR DO DUC: [9:35:51] Your Honour, my apologies and thank you to

1 Mr Obhof, he reminded me that I missed one person, who came a bit later, her
2 name is Suhong Yang for the record. Thank you, your Honour.

3 PRESIDING JUDGE SCHMITT: [9:36:07] Thank you very much.

4 So, Madam Witness, that had nothing to do with you, simply one person sitting
5 here in the courtroom had been forgotten and we don't want to do that.

6 Thank you, Mr Obhof, for reminding Mr Do Duc. And you have the floor.

7 MR OBHOF: [9:36:22] Thank you, your Honour. I think every person in this
8 courtroom has done that at one time or the other.

9 And for those watching, I do apologise, we are going to need about 10 to
10 15 minutes inside of a private session to start off.

11 PRESIDING JUDGE SCHMITT: [9:36:39] That happens and that's absolutely
12 understandable.

13 Private session.

14 (Private session at 9.36 a.m.)

15 THE COURT OFFICER: [9:36:50] We are in private session, Mr President.

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- 19 (Open session at 9.45 a.m.)
- 20 THE COURT OFFICER: [9:45:34] We are back in open session, Mr President.
- 21 MR OBHOF: [9:45:39]
- 22 Q. [9:45:40] And just as a reminder, we are not going to use names here. So,
- 23 Ms Witness, can you please explain to Court what it was like in Sudan before
- 24 you were brought to Uganda?
- 25 A. [9:46:17] We just live in large groups. We had grass-thatched houses

1 where we used to live.

2 Q. [9:46:26] When you lived in Sudan, did you always live in the same house,
3 in the same place?

4 A. [9:46:42] No, we would keep moving, but there are places where we
5 stayed for long and we would only flee if something happened in that place.
6 We were always on the move.

7 Q. [9:47:03] Considering you were a child, why would you always be on the
8 move?

9 A. [9:47:25] Sometimes we were being pursued by soldiers, and that's why
10 we would flee.

11 Q. [9:47:32] And where were these soldiers from?

12 A. [9:47:38] My mother told me that those were our enemies, so every time
13 they come, the enemies would come from Uganda and they would pursue us
14 every time they come.

15 Q. [9:48:00] How were you eventually caught by the UPDF?

16 A. [9:48:20] One time, my mother had just given birth. We were moving,
17 relocating from the old place to a new place under some hills. Then, while we
18 were on the move - we were actually fleeing - we came across an ambush of the
19 soldiers. My mother had just given birth and was not able to flee. She didn't
20 have the strength to flee. I remained with her and we split to a different
21 direction and we entered into the ambush of the army. Other people went
22 another direction.

23 Q. [9:49:06] If you feel comfortable with this, could you explain how the
24 army took control of you and your mother, how they captured you and your
25 mother, specifically?

1 A. [9:49:26] Some people who were there who had been shot, my mother
2 was also shot, but it only -- the bullet only touched her clothes. Their
3 intention was probably to kill all of us, but among the soldiers one was my
4 mother's cousin. When he saw my mother, his colleague wanted to shoot my
5 mother. Other people had already been shot. Me, I was lying down, and
6 even the child who was young was down and then that person said, "Stop.
7 Don't shoot. That is my sister." And that's how we survived. But all the
8 people who were near us were all shot.

9 Q. [9:50:19] During those first, that first part of your life while in Sudan,
10 what kind of person do you remember your father being?

11 A. [9:50:48] When I was with him, he was someone who liked to talk a lot, to
12 make jokes. Every time people -- every time he comes home only women
13 would come near him and he would tell them jokes and people would laugh.
14 He did not want his children to be punished. If my mother beat me or any of
15 the women beat a child, he would quarrel and tell them not to beat children
16 again.

17 Q. [9:51:21] Ms Witness, after you were captured by the UPDF, where did
18 they take you to?

19 A. [9:51:42] They took us to a barracks belonging to them, but I do not know
20 where the barracks was located. I think it was still within Sudan. I don't
21 know the name of the place.

22 Q. [9:51:58] To where did you go after being brought to this base? Or to
23 where did they take you in Uganda?

24 A. [9:52:21] From there, they told us that my sister, who had disappeared
25 from the bush, they told my mother that some of the children were in the

1 barracks with them. They deceived my mother that that sister of mine who
2 had disappeared was also there. We were waiting so that they bring her so
3 we see her also. We waited in vain. They brought her the children but she
4 was not among them. Then they carried us and brought us to Uganda. My
5 sister was not among them.

6 Q. [9:52:56] When you arrived to Uganda, did they take you to
7 a rehabilitation centre?

8 A. [9:53:10] Yes.

9 Q. [9:53:14] Which one?

10 A. [9:53:17] It was in GUSCO.

11 Q. [9:53:24] How did the GUSCO -- or, the people in GUSCO treat you and
12 your mother?

13 A. [9:53:37] They treated us well, because we found other people who had
14 also been abducted and they were also back. Other brothers and sisters of
15 mine were there and they took care of us well. My mother became a leader
16 among the girls and women who were there.

17 Q. [9:54:05] Now, how were you treated when you moved away from
18 GUSCO to your uncle's home? How did people treat you there?

19 A. [9:54:25] We were welcomed well when we had just arrived. My uncle
20 loved us and he wanted us to be comfortable, he told us he would take care of
21 us. But his wife did not love us, and then some people around starting
22 stigmatising us.

23 PRESIDING JUDGE SCHMITT: [9:54:51] If we go into more detail we can
24 discuss this in private session, I would suggest.

25 MR OBHOF: [9:54:57] I have a section for that later to follow up with that.

1 PRESIDING JUDGE SCHMITT: [9:55:00] I thought that.

2 So you can feel -- we understand as a Chamber, and I think everyone in the
3 courtroom, that it is a difficult situation for you to be here in this huge
4 courtroom in this foreign country, but you can feel comfortable and we will all
5 take into account your situation. And I think you also can sense that a little
6 bit while sitting here.

7 Mr Obhof, please continue.

8 MR OBHOF: [9:55:29] Actually, just for the flow of the transcripts, maybe we
9 will go in for one question for about two minutes just to ask the follow-up, and
10 then come back out, if that's okay?

11 PRESIDING JUDGE SCHMITT: [9:55:42] (Microphone not activated) Private
12 session.

13 (Private session at 9.55 a.m.)

14 THE COURT OFFICER: [9:55:57] We are in private session, Mr President.

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- 23 (Open session at 10.13 a.m.)
- 24 THE COURT OFFICER: [10:13:03] We are back in open session, Mr President.
- 25 PRESIDING JUDGE SCHMITT: [10:13:10] Thank you.

1 Mr Do Duc.

2 MR DO DUC: [10:13:14] Thank you, your Honour. And from what we have
3 just heard, the Prosecution has no questions for this witness and we wish her
4 good luck (Redacted)

5 PRESIDING JUDGE SCHMITT: [10:13:24] Thank you.

6 Ms Walter.

7 MS WALTER: [10:13:27] Thank you, your Honour. No questions.

8 PRESIDING JUDGE SCHMITT: [10:13:29] Mr Manoba.

9 MR MANOBA: [10:13:30] No questions for this witness.

10 PRESIDING JUDGE SCHMITT: [10:13:33] Thank you.

11 Madam Witness, this concludes your testimony. On behalf of the Chamber I
12 would like to thank you that you came to this court to help us establish the
13 truth. Also on behalf of the Chamber we wish you all the best for your future
14 and of course we wish you, on a short notice, a safe trip back home. Thank
15 you.

16 THE WITNESS: [10:14:00](Interpretation) Thank you.

17 (The witness is excused)

18 PRESIDING JUDGE SCHMITT: [10:14:04] This concludes also the hearing for
19 today. We continue, because we have next week a confirmation hearing
20 where a judge of this Bench is not only participating but is in a major position,
21 so we can't sit next week. But the week after, I think Monday, the 15th, at 9.30,
22 with Witness D-100.

23 Thank you.

24 THE COURT USHER: [10:14:33] All rise.

25 (The hearing ends in open session at 10.14 a.m.)