

1 International Criminal Court
2 Trial Chamber II - Courtroom I
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 The hearing starts at 9.05 a.m.
10 (Open session)
11 COURT USHER: All rise. The International Criminal Court is now
12 in session.
13 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
14 Mr. Kilenda, first of all, the Chamber wishes to confirm that
15 we'll have the *ex parte* hearing early in the afternoon at 2.30 but in
16 Courtroom II, that is to say on the fourth floor, and it will not be
17 necessary to wear robes. If you wish to wear civilian clothing, that
18 thereby fine. Feel free to do so.
19 Now, the accused are with us. Yes. Good morning, gentlemen.
20 Madam Court Officer, we will go into private session now -- oh, I
21 beg your pardon.
22 Mr. Garcia.
23 MR. GARCIA: (Interpretation) I'm very sorry, your Honour. Good
24 morning, your Honours. Sorry to interrupt, but I just wanted to make a
25 few remarks to clear up two points for the Chamber. I can do so

1 immediately or after the Chamber has handed down its ruling.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Now, do the
3 two points have to do with the application from Mr. Hooper yesterday?

4 MR. GARCIA: (Interpretation) Yes. One point does have to do
5 with Mr. Hooper's application regarding the use of the photograph of
6 Witness 353.

7 PRESIDING JUDGE COTTE: (Interpretation) If you could make those
8 remarks in open session --

9 THE INTERPRETER: Overlapping speakers.

10 MR. GARCIA: (Interpretation) In light of the importance of the
11 point raised by Mr. Hooper, the Prosecution wishes to respond to the
12 application from Mr. Hooper. We believe this has to do with the security
13 and safety of the witness, and we have scheduled or, rather, planned to
14 respond by Friday at 4.00 in the afternoon.

15 PRESIDING JUDGE COTTE: (Interpretation) That is absolutely
16 impossible, Prosecutor, absolutely impossible. The witness is ready to
17 go, so to speak. Your examination-in-chief will begin today.
18 Cross-examination by Mr. Hooper may begin early next week, Tuesday most
19 likely.

20 Furthermore, you have already explained yesterday your views on
21 the oral application for Mr. Hooper, and an application that was followed
22 up with a written application and also within the general ruling, the
23 framework ruling on the use of photographs, that ruling was made in the
24 past, and there has been an exchange of written observations.

25 For all of these reasons, the Chamber is dealing with this

1 application on an emergency basis, and the Chamber shall rule on the
2 application this morning, immediately.

3 MR. GARCIA: (Interpretation) With your leave, your Honour.

4 PRESIDING JUDGE COTTE: (Interpretation) Please proceed.

5 MR. GARCIA: (Interpretation) Basically, your Honour, from the
6 outset this is an urgent matter that was brought forward by Mr. Hooper.
7 Apparently Mr. Hooper raised the issue at the very last minute from the
8 information I received, and this was received quite lately. The
9 Prosecution did not have an opportunity to argue to the merits regarding
10 the use of photographs.

11 The only thing that the Prosecution said yesterday was basically
12 that we did not have any grounds from the Defence regarding a
13 justification of the use of photographs during investigations.

14 The Prosecution has a number of points to argue regarding the use
15 of such photographs, and these are important points. We are entitled to
16 be heard on this matter, which is of the utmost importance. So I
17 understand that the Chamber is saying that there was an opportunity
18 yesterday, but it was only yesterday evening at 6.00 in the afternoon.
19 That was when we received the application. That was when we were
20 informed of the substance and the grounds of the Defence's application to
21 make use of photographs.

22 The Prosecution is ready immediately to present oral arguments if
23 the Chamber so wishes, but these are not points that will take a great
24 deal of time to flesh out.

25 PRESIDING JUDGE COTTE: (Interpretation) Are you in a

1 position -- are you in a position to speak your -- provide your views
2 immediately?

3 MR. GARCIA: (Interpretation) I am ready to present these points
4 today, this afternoon, if --

5 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, the Chamber
6 wishes to follow its own pace, and the Chamber cannot do so because the
7 parties and participants do bring forward urgent applications.
8 Yesterday, the Chamber stated that last-minute applications were not
9 particularly pleasing to the Chamber, but I suppose this is part of
10 the -- it comes with the territory.

11 Now, we have reviewed the application from the Katanga Defence
12 team, and Professor Fofe made a point a few days ago. He said that often
13 they are working very much at the very last moment. The application from
14 Mr. Hooper must be responded to urgently. It is a pity that was provided
15 so late, but in his application he said that he did not have the
16 information until the very last minute.

17 Now, Prosecutor, we will wait until 10.30, and during the hour
18 and 15 minutes that remain, you or your colleagues will prepare your
19 observations, and we will render a ruling at 10.30. So at 10.15, you
20 will take the floor to provide us with your observations. Mr. Hooper's
21 application is not extremely long. I believe you are aware of the
22 issues. This is a matter that has to do with identification and
23 protection of witnesses.

24 We will begin the examination-in-chief of Witness 0353. At 10.15
25 you will have an opportunity to address the Chamber. We will then

1 suspend and, finally, give a ruling.

2 Court Officer, if we could go into private session to bring in

3 the witness.

4 (Closed session at 9.13 a.m.)

5 (Expunged)

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15 (Open session at 9.17 a.m.)

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

17 your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

19 Court Officer.

20 Good morning, Witness.

21 THE WITNESS: (Interpretation) Good morning.

22 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me?

23 THE WITNESS: (Interpretation) Yes.

24 THE INTERPRETER: But the Swahili booth is having difficulty

25 hearing the witness.

Witness: Witness DRC-OTP-P-0353 (Resumed) (Open Session)
Questioned by Ms. Darques-Lane

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1 PRESIDING JUDGE COTTE: (Interpretation) You can hear me, but,
2 madam, you'll have to speak louder, please. Don't hesitate to speak
3 loudly so that the interpreters can hear what you are saying.

4 Witness, we'll have a hearing for about one hour and 15 minutes,
5 and at 10.30 the Prosecution will discuss another matter, but in the
6 event -- Prosecutor, you may begin your examination-in-chief. Please
7 proceed.

8 MS. DARQUES-LANE: (Interpretation) Thank you, your Honour.
9 Your Honours, good morning.

10 Questioned by Ms. Darques-Lane:

11 Q. (Interpretation) Good morning, Witness.

12 A. Good morning.

13 Q. As you explained -- as was explained to you by the
14 Presiding Judge yesterday, we have to speak slowly because we are working
15 with several languages.

16 A. Yes.

17 Q. Before answering my questions, please take your time so that you
18 can remember the events of the past. If you don't remember something,
19 just say that you don't remember. We are here to hear your account as
20 you remember the events.

21 If one of my questions is not clear, tell me so and I will
22 rephrase the question. From time to time I may need to consult my
23 colleagues here, so I would like to ask you to stop and to observe a
24 pause. Similarly, from time to time I may ask you to go back to a
25 particular point from your account.

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1 Witness, if you need to take a break outside of the usual
2 suspensions of the hearing, please tell the Judge so.

3 As was explained to you yesterday, we are in open session right
4 now. That means that not only do the people in this courtroom hear you,
5 but also the people in the public gallery will be able to hear you, and
6 the people who are listening in, who are listening to the proceedings
7 over the internet.

8 In order to protect you, to protect the identity of people close
9 to you, your family and friends, I will be distributing a sheet of paper
10 with the names of a number of people that you have told us about, and
11 would I like to ask you that each time you wish to make reference to one
12 of these people, that you use the letter that is beside their name on
13 this sheet of paper that I will be giving to you. Do you agree to this?

14 A. Yes.

15 MS. DARQUES-LANE: (Interpretation) Usher, this document was
16 sent by e-mail yesterday to everyone, but I also have hard copies.

17 Q. Witness, this sheet of paper that I have given to you, is it
18 clear to you?

19 A. Yes, it is clear to me.

20 Q. Very well. I will begin. Yesterday in private session, you gave
21 us your name, your place of birth, and your date of birth, so we will not
22 go back to those items of information. I would just like to ask you a
23 question about your personal data. What ethnic origin are you?

24 A. I am from the Hema ethnic group.

25 Q. What language do you speak?

Witness: Witness DRC-OTP-P-0353 (Resumed) (Open Session)
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1 A. I speak the Hema language, Swahili, and a little bit of French.

2 Q. Witness, where did you go to school up until the year 2002?

3 A. Up until 2002, I went to a school in Bogoro.

4 Q. Did you leave Bogoro in 2002?

5 A. No, I did not leave Bogoro in 2002. I was still there.

6 Q. Now, without giving the name of the person that you were living
7 with, could you tell us where you were living at that time in Bogoro?

8 A. In Bogoro, I was living with my sister.

9 Q. Who else lived in that house, without giving their first names?

10 A. I was living in that house as well as my sister, her husband, and
11 their child.

12 THE INTERPRETER: Message from the Swahili booth: In the
13 transcript mention is made of multiple children, but there is only one,
14 actually.

15 MR. FOFE: (Interpretation) Yes, that correction has been made.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
17 Professor Fofe.

18 MS. DARQUES-LANE: (Interpretation) Thank you, Professor Fofe.

19 Q. So at that time, you were living with these people, D, E, O, F --
20 D, E, plus F.

21 A. I'm afraid I didn't understand. Could you repeat your question.

22 Q. Okay.

23 MR. HOOPER: (* Previous translation continues) ... to say this
24 is going to lead to a bit of complication, in our submission, in terms of
25 coming back and reviewing a transcript with just letters in it, and I

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1 well appreciate the reason my friend's approaching it in this way, and
2 indeed it's a useful tool, but it assists, in my submission, if we go
3 into closed session, get the names, then assign the letter to the name.
4 That's the first thing.

5 Now, I haven't raised an immediate objection in respect of this
6 witness. I'm also a bit concerned about a witness being given a list.
7 That's again a difficulty. There certainly comes a time when the list
8 could be provided to the witness, but I think there's a difficulty in
9 providing a sort of almost a shopping list to a witness *ab initio* before
10 the witness herself has introduced the name. But I haven't raised the
11 objection with this witness, but I wouldn't want that practice followed
12 with a subsequent witness.

13 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, to
14 the extent that the management of this list, which is not overly lengthy
15 but is somewhat lengthy, can be complex in nature, I believe that we
16 might briefly go into private session for the witness to be able to
17 confirm the identities of the individuals with whom she was living and
18 the identities will then be assigned a letter, and subsequently, we can
19 use these letters. I believe that the witness would be -- would feel
20 better about this. I don't know whether we want to go into too many
21 private sessions, but I think we should do this for now.

22 We should go into private session now, please, Courtroom Officer,
23 and then we can ascribe the various letters to the correct witness -- the
24 correct names and we can move on from there.

25 (Private session at 9.31 a.m.)

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13 Page 10 Expunged – Private session

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- 19 (Open session at 9.36 a.m.)
- 20 COURT OFFICER: (Interpretation) We are in open session,
- 21 Mr. President.
- 22 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
- 23 Madam Prosecutor, please proceed.
- 24 MS. DARQUES-LANE: (Interpretation)
- 25 Q. Madam Witness, in the year 2002 you were living in a house in

1 Bogoro. Where was this house located with respect to the centre?

2 A. This place was located very near the church, the * CECA 20 church
3 in Bogoro.

4 Q. And in 2002 in Bogoro, were there only townspeople living there?

5 A. Yes. Townspeople were living there. There were also children.
6 There were adults. There were many people living there in Bogoro.

7 Q. And was the village protected?

8 A. What do you mean by "protected"? I do not understand you very
9 well.

10 Q. Were there any soldiers present who were protecting the village?

11 A. Yes, there were soldiers.

12 Q. Where did they live?

13 A. They lived in a camp.

14 Q. And where was this camp located?

15 A. This camp was located not far afield from the school in Bogoro.

16 Q. And who were these soldiers?

17 A. These were Ugandan soldiers. We were in the habit of calling
18 them the Ugandans.

19 Q. And how were they clad?

20 A. It is difficult for me to describe their military uniform to you,
21 but they were wearing a green coloured uniform. They did not have any
22 camouflage uniform. They had a uniform that was of one uniform colour.

23 Q. And how long did you live in Bogoro at your sister's house?

24 A. It is difficult for me to tell you how long I lived in Bogoro.

25 All that I do know is that I lived there in 2002. However, I would not

1 be in a position to tell you how many months or days I lived there. I

2 did not have the time to count the number of days or months that I spent

3 there.

4 Q. Did you leave Bogoro at any moment in time before the year 2003?

5 A. I did not leave Bogoro. However, when war broke out, we fled,

6 and at that moment in time I left Bogoro.

7 Q. When you mention the war, are you referring to the attack in

8 February 2003?

9 A. Yes.

10 Q. Madam Witness, could you tell us what happened on the day of this

11 attack? On the 24th of February, 2003, that is. What did you hear

12 first?

13 A. This was during the morning. We were asleep. I can't -- I do

14 not know what time it was. It was before day broke. We heard gunshot

15 whilst we were asleep.

16 Q. And what did you do at that point in time when you heard the

17 gunshot?

18 A. When I heard the gunshot, I took fright. And everyone was

19 afraid. We got up, my sister and myself and the others, and we went

20 outside to see what was going on. Day had not yet broken, and we went

21 back into the house. My sister said to me, "We can't stay at home

22 because there are enemies who have infiltrated. I think it's better for

23 us to go towards where the soldiers are." And I said, "No, I can't go to

24 where the soldiers are to be found. I want to stay here at home." My

25 sister said, "No. I am going to go to where the soldiers are, because

1 enemies can infiltrate, and they can hurt us. They can kill us." Her
2 husband said, "I am not going to flee. Everyone will hide as best they
3 can." And he said, "If we all hide in the same place, we will all be
4 killed together." And this is how she went to the camp located next to
5 the school.

6 Q. You just told us that you went out of the house at a given moment
7 in time. What did you see?

8 A. When we went out, it was still dark. Visibility was not good.
9 However, we did hear some people shouting, and when we heard shouts, we
10 thought that this might be the enemy, and this is why I went back into
11 the house. But my sister said to me, "No. I'm not going to go back into
12 the house. I'm going to the camp."

13 Q. Madam Witness, who was the enemy?

14 A. We thought that it might be even -- either the Hema or the Lendu,
15 because they were enemies. But when we heard the gunshot, we thought
16 that it might be Lendus who were the enemy of the population of Bogoro.

17 Q. And before going back into the house, were you able to see the
18 enemy?

19 A. On the first occasion when I went into the house, I did not see
20 them. Then I came out on a second occasion, and it was clear, day had
21 broken, and we could see people who were wearing leaves and who were
22 dressed in leaves, and they were also wearing -- they were also carrying
23 bladed weapons, and we thought that they were Lendus.

24 Q. And where were they wearing these leaves?

25 A. They wore them around their hips and all over their body, in

1 fact. They were also wearing a red band around their head.

2 Q. You made mention of bladed weapons. Could you describe them to
3 us?

4 A. I would not be in a position to tell you the type of weapon that
5 it was, because I do not know anything about the types of weapons, but I
6 just noted that they were carrying guns like those carried by the
7 soldiers.

8 Q. When I refer to bladed weapons, we're talking here about a blade,
9 that is to say, a machete or a knife or even a spear. Did some of the
10 assailants -- were some of them carrying this type of weapon?

11 A. I was not able to see. I just simply saw that some of them were
12 carrying spears. Others were carrying machetes, but I am not in a
13 position to know how many.

14 Q. On the second occasion that you came out of the house, could you
15 see where the assailants were coming from?

16 A. Yes. They came from up the hill from our house, and also they
17 came from below our house.

18 Q. Are you in a position to be able to identify those villages that
19 are in the directions you have just stated?

20 A. No, I am not able to identify the villages that they came from.
21 We noted that they were on their way. We could see that they were coming
22 from above the house, but we could not see where they were coming from.

23 Q. Were you able to hear what the assailants were saying?

24 A. Are you talking about the enemy?

25 Q. Yes.

1 A. No, I did not hear what they were saying, because they were not
2 close to us. We merely noted that they were singing aloud. We heard
3 them singing aloud.

4 Q. And in which language were they singing?

5 A. I was not able to identify the language they were singing in. As
6 we were not able to understand what they were singing, we thought that
7 they were singing in their mother tongue.

8 Q. And when you were outside, were you able to observe what the
9 enemy was doing? That was on the second occasion that you came out of
10 the house.

11 A. On the second occasion when I came out of the house, I was too
12 afraid. I thought to myself that were I to remain outside, I might be
13 killed. I saw other people fleeing, and we went into a house, and we
14 locked ourselves inside that house.

15 Q. And could you see what was going on, that is to say, in respect
16 of those individuals who were fleeing?

17 A. And who do you mean?

18 Q. You have just told us that some people were fleeing. What was
19 happening whilst they were fleeing?

20 A. I told you that our neighbours were frightened of staying in
21 their house. (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged).

2 MS. DARQUES-LANE: (Interpretation)

3 Q. You say that you hid because you were frightened of being killed.

4 Why were you afraid? Why did you have that feeling?

5 A. I was afraid because the assailants were carrying spears, they
6 were carrying machetes, and, you know, the enemy was in the habit of
7 killing with those weapons.

8 Q. When you say that they were in the habit of killing using those
9 weapons, could you explain this a little further to us? Could you tell
10 us what you mean by that?

11 A. In so saying, I mean the following: During our childhood, our
12 parents always told us that the Lendu killed the Hema, and they told us
13 that the Lendu and the Hema did not like each other, that they would kill
14 each other with spears, with arrows, and with machetes. So when I saw
15 them, I thought to myself that those individuals who were carrying spears
16 and machetes might kill us, and this is why we took the decision to flee
17 and to hole ourselves up inside our house.

18 Q. You told us that your neighbours did not want to stay at home,
19 that they preferred to hide in your house?

20 A. Yes.

21 Q. Were these the neighbours from just one house or from several
22 houses who came to seek refuge at your house?

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 Q. Did those neighbours live in one house alone or were these
2 neighbours from various houses who came to yours?

3 A. These were neighbours who lived in several houses. Those
4 neighbours came to us from different houses.

5 Q. So this means that there were many people, a number of families,
6 does it not?

7 A. Yes.

8 Q. And when you came out of the house on the second occasion, were
9 you alone or were you with somebody else?

10 A. No. When I came out of the house for the second time, I was not
11 alone.

12 MS. DARQUES-LANE: (Interpretation) Mr. President, can we please
13 move into private session.

14 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
15 please move into private session for a moment.

16 (Private session at 9.58 a.m.)

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12 (Open session at 10.00 a.m.)

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

14 your Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.

16 Prosecutor.

17 MS. DARQUES-LANE: (Interpretation)

18 Q. When you were outside the second time, did your sister and

19 brother-in-law -- or had your sister and brother-in-law already left the

20 place?

21 A. They were no longer there.

22 Q. They left with their child?

23 A. My sister had fled with her child.

24 Q. And leaving, she said that she was going to the military camp; is

25 that right?

- 1 A. Yes, that's what she said.
- 2 Q. Your brother-in-law, did he say where he was going?
- 3 A. My brother-in-law, he didn't say where he was going, but he said
- 4 that we could hide in a place, but he was going elsewhere.
- 5 Q. You, Witness, where did you hide?
- 6 A. I hid in the house, in a room.
- 7 Q. How many rooms were there in this house?
- 8 A. The house had two rooms.
- 9 Q. Was there a lounge or dining-room in addition to bedrooms?
- 10 A. We don't have a dining-room or a lounge, but the lounge was also
- 11 a dining-room, so it just had, if you like, one lounge and two bedrooms.
- 12 Q. The lounge, was that separated from the bedrooms by a corridor?
- 13 A. Yes, there was a corridor.
- 14 Q. And in the bedroom you were hidden. Were you alone?
- 15 A. No, I wasn't alone. There were a few of us. There were people
- 16 who were hiding in the lounge, others in a bedroom, and myself in another
- 17 bedroom with other persons.
- 18 Q. The people who were hiding with you, were they neighbours from
- 19 different houses who had come to take refuge with you? Is that correct?
- 20 A. Yes.
- 21 Q. Was there a window in the bedroom you were hiding in?
- 22 A. Yes, there was one.
- 23 Q. What could you see from this window?
- 24 A. From the bedroom I had drawn the -- well, when I drew the
- 25 curtains I was looking outside, and I could see above there was a group.

1 When I pulled back the curtains, there was a group who were carrying
2 spears and who were coming down.

3 Q. And this group, in your opinion, were they part of the enemy
4 group which you described a moment ago?

5 A. Yes. When I saw them, I assumed that they were the enemy,
6 because there were no other people who could come from there. So I was
7 afraid when I saw them, and I drew the curtains.

8 Q. Did they come from the road? Did they come from a hill? Did
9 they come from a plain?

10 A. They came from the hill. I don't know if they got to the road,
11 but when I drew the curtains, I saw that they were coming from above. I
12 was afraid, and I didn't continue looking at them anymore.

13 Q. Which road was it, the road that you could see from your bedroom?

14 A. From the bedroom I saw them from above. They were on my right
15 when I left the house, the group that was coming from Bunia, from the
16 road -- the Bunia road to Kasenyi.

17 Q. The hill that you could see from your bedroom, did you see the
18 enemy there coming, or did that hill have a name?

19 A. No.

20 Q. Thereafter, what happened?

21 A. Thereafter, after some time, we heard people who came. They
22 banged on the door where we were hiding, and people who were in the
23 house, they were screaming out, saying, "We are going to die." I was
24 also afraid, and we prayed. And the ones who were banging on the door
25 then broke the door down.

1 Q. The entry door or the door to your bedroom that you heard being
2 broken?

3 A. It was, firstly, the door -- the entry point to the house. It
4 wasn't the bedroom door.

5 Q. Once the entry door was broken down, what did you hear then?

6 A. I heard people who were praying. They were asking God for had
7 help. And the people outside were saying, "Don't continue praying. The
8 person to whom you're praying every day, you're going to see that person
9 today." And it's at that time they broke into the house, and they
10 started killing people, and people were saying, "We're going to die."

11 THE INTERPRETER: The interpreter points out that the witness is
12 speaking extremely fast.

13 MS. DARQUES-LANE: (Interpretation)

14 Q. Witness, the interpretation booth has pointed out to us that you
15 are speaking too fast, so please take your time when you tell us the
16 facts.

17 A. I'd like to say the following: The people who were banging on
18 the door, they were telling those who were in the house -- they were
19 saying the following: "The God that you're praying to is someone you're
20 going to see face-to-face," and then they broke down the door, and they
21 started to kill people. And then I heard people crying out, "My God.
22 I'm going to die. Why are you killing me?" These are people who were in
23 the lounge.

24 Q. In what language were the attackers speaking?

25 A. They were speaking Swahili. They were talking -- or they were

1 addressing the people in Swahili.

2 Q. From your bedroom, what did you hear after the prayers and the
3 words stated by the attackers?

4 A. I didn't hear any more noise from the lounge, but I heard people
5 screaming on the other side, that is to say, in the second bedroom, but
6 there was complete silence from the lounge.

7 Q. The complete silence, this came after having heard the shots; is
8 that right?

9 A. Could you please repeat your question.

10 Q. You told us that you heard people who were in the lounge. They
11 were hiding. They were praying. They were begging that the attackers
12 who broke down the door answer them. And if I can just interpret your
13 remarks, saying that they were going to meet the God to whom they were
14 praying to. Is that correct?

15 A. Yes.

16 Q. And after, after these exchanges between the attackers and the
17 people who were hiding, what did you hear?

18 A. Afterwards, I heard the attackers break down the door of another
19 bedroom.

20 Q. Were there people hiding in the other bedroom?

21 A. Yes.

22 Q. What happened when the attackers broke down the door of the other
23 bedroom?

24 A. At that time, I heard people who were screaming. They were
25 saying, "We're going to die. Why are you killing us? You're killing us

1 for no reason." Those were the cries that I heard.

2 Q. And after that, what happened?

3 A. Afterwards, they came into the bedroom that we were -- they broke
4 down the door, and they killed people. There were two children,
5 4-year-old. These children were cut up with machetes. And we were
6 screaming out. We were crying. We were praying. And they told us,
7 "You're -- we're not Hema. You're killing us for no reason." And they
8 killed people. And they said, "All those who recognise themselves as not
9 being Hema should leave." That was their words.

10 Q. When you tell us that all the people -- or they killed those
11 people, are these the people who were with you in the same bedroom? Is
12 that correct?

13 A. Yes. In the bedroom in which I was, they killed people. They
14 also killed people in the second bedroom as well, but also the people in
15 the lounge. From my bedroom, there were only three girls, as well as
16 myself, who were saved, and we said that we weren't Hema, and they
17 answered, "If you are not Hema, then you have to go out," so we left.
18 But other people who were in the bedroom with us died there.

19 Q. Were you a witness to the killing of these people who were with
20 you in the bedroom?

21 A. Yes. I saw that with my own eyes.

22 Q. And these people were killed with machete, with bullets?

23 A. They used machetes to kill them, but before killing them, they
24 withdrew -- they cut their arms off and told the victim to walk, and then
25 they cut their ears off as well. They made the victim suffer.

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1 Q. So, Witness, you've just told me that four of you escaped. You
2 stated to the attackers that you were not Hema. What did you tell them?

3 A. We told them the following: "We are not Hema. Don't kill us."
4 So they said, "If you are not Hema, tell us who you are then." We said,
5 "No, no. We're not Hema. We are Nande." And then they continued to
6 say, "If you're not Hema, get out."

7 Q. What happened at that time, Witness?

8 A. Afterwards, we left. They took the objects that were in the
9 house such as suitcases and told us to carry them. At that time, there
10 was a young person who we were with at school. He was among the
11 fighters. He recognised me, and he said, "You say that you're Nande, but
12 you're Hema," and at that time he mentioned --

13 Q. Witness, I would like to stop you there so that we can go into
14 private session.

15 MR. FOFE: (Interpretation) Professor Fofe has a question (* as
16 interpreted) as to interpretation on the page on which we find ourselves.
17 I think it must be the first line thereof. There is a problem with
18 regards to the answer of the witness. It's not very serious, but twice
19 it was repeated "Hema" instead of the other ethnic group. I can say it?

20 MS. DARQUES-LANE: (Interpretation) If you want. Just before
21 the -- I'm sorry.

22 PRESIDING JUDGE COTTE: (Interpretation) This point of
23 interpretation, does that require a private session? Okay.

24 Page 28 of the French transcript.

25 MR. FOFE: (Interpretation) Yes, your Honour. It should be the

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1 first line or the second line. The first line.

2 PRESIDING JUDGE COTTE: (Interpretation) Yes. I can see that on
3 page 28, line 1. You have to go back to line -- page 27, and it says
4 that "We told them, 'No, we are not Hema. We are Hema. We are
5 teachers,'" and then there is a risk of ambiguity there.

6 Perhaps you could, quite simply, Prosecutor, have a precision in
7 this regard, and then we'll go into closed session or private session for
8 the other questions that you want to ask.

9 Thank you, Professor Fofe.

10 MS. DARQUES-LANE: (Interpretation)

11 Q. Witness, perhaps there was a mistake in the interpretation.
12 Could you repeat what you said to the attackers.

13 A. When we left, they said to us, "You say you're not Hema. Who are
14 you?" So we answered them, "We aren't Hema. We are Nande." And one of
15 them, a young person, recognised me.

16 THE INTERPRETER: Your Honour, the Swahili booth would like to
17 point out that in the English transcript the ethnic group was mentioned.
18 So it may be a transcript error in French and not an interpretation
19 error.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
21 Interpreters. Thank you, Witness. I think that things are now clear
22 anyway.

23 MS. DARQUES-LANE: (Interpretation) I think that it is now
24 necessary to go into private session.

25 PRESIDING JUDGE COTTE: (Interpretation) Registrar, please take

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- 1 us into private session.
- 2 (Private session at 10.22 a.m.)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
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- 17 (Expunged)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Open session at 10.23 a.m.)
- 25 COURT OFFICER: (Interpretation) We are in open session,

Witness: Witness DRC-OTP-P-0353 (Resumed) (Open Session)
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1 your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
3 Court Officer.

4 Before giving the floor back to you, Prosecutor, could
5 Prosecutor Garcia indicate how much time he would need to provide us with
6 his observations on the issue that we were discussing at the very start
7 of this hearing so that we can interrupt at the appropriate moment,
8 bearing in mind that there will be a break to be taken at 11.00.

9 MR. GARCIA: (Interpretation) If you would allow me,
10 your Honour.

11 (Prosecution counsel confer)

12 MR. GARCIA: (Interpretation) Your Honour, I'm going to be quite
13 brief in my pleadings. I would just say it would take me about a quarter
14 of an hour approximately.

15 PRESIDING JUDGE COTTE: (Interpretation) Okay.
16 Madam Prosecutor, please continue until 10.45. That gives you about
17 20 minutes - well, not quite - to continue with this witness.

18 MS. DARQUES-LANE: (Interpretation) With your leave,
19 your Honour, would I just ask a few more questions of the witness, and
20 before taking up a totally different subject, I shall give the floor to
21 Mr. Garcia. This means we'll finish probably five or ten minutes before
22 the usual hour because I think it would be preferable for the witness to
23 have a rest before going into the next block of questions.

24 PRESIDING JUDGE COTTE: (Interpretation) Understood, so please
25 continue for the moment.

1 MS. DARQUES-LANE: (Interpretation) Thank you very much,
2 your Honour.

3 Q. Witness, you told us that you left the house, but before leaving
4 the house, could you indicate to us what you saw before leaving, in your
5 bedroom and in the lounge.

6 A. When I left the house, I didn't look at what was in the other
7 bedroom, but what I saw were bodies and blood of people who had died, and
8 at that time we were leaving the house.

9 Q. You spoke to us about suitcases which the attackers found and
10 certain things that the attackers took. These suitcases, who were they
11 taken by? Who were they -- what were they filled with, and who did that?

12 A. They were our suitcases. They were -- the other suitcases
13 belonged to other people who had fled and were taking refuge in our
14 house.

15 Q. Were they filled?

16 A. Yes.

17 Q. So the attackers, did they take these suitcases?

18 A. Yes, they took them. They put them next to us, and they told us
19 to carry them.

20 Q. Did they take other things from within the house?

21 A. No. They took suitcases and a few objects from the house, but
22 apart from that, I didn't see anything else they took.

23 Q. What were these objects?

24 A. There were suitcases, there were plates which were wrapped up. I
25 don't know what else they took.

Witness: Witness DRC-OTP-P-0353 (Resumed) (Private Session)
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1 Q. At that time, you were before the house, and there were three
2 other young women with you.

3 A. Yes, that is correct.

4 MS. DARQUES-LANE: (Interpretation) Your Honour, we should go
5 into private session just for a moment.

6 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you'd
7 be so kind.

8 (Private session at 10.30 a.m.)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 10.32 a.m.)

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

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

10 MS. DARQUES-LANE: (Interpretation) Thank you, your Honour.

11 Q. Witness, could you tell us how many people -- well, how many
12 assailants were in the house when you left the house?

13 A. There were many of them. I couldn't count the number.

14 Q. Do you remember who asked you or told you, rather, to leave the
15 house?

16 A. All of them. They yelled. They said, "Those of you who are not
17 Hema, you must leave." It wasn't one person in particular. They were
18 all saying that people who were not Hema were to leave the house.

19 Q. And once you were in front of the house, what did you see around
20 you, in front of you?

21 A. When we left the house, there were people who had been killed on
22 the road beside our house. There were some people who I didn't
23 recognise, but I saw bodies outside. We were outside, and we were told
24 to carry their suitcases and follow them, and we were to follow them
25 only.

1 Q. Had the fighting ended when you went out of the house or was the
2 village quiet?

3 A. Well, as for the fighting, I couldn't tell you that the fighting
4 was over because we were still hearing gunfire, but -- but it wasn't as
5 intense as the time when they arrived in the morning.

6 Q. Did you see people running away?

7 A. When we left -- when we went outside, I didn't see any people
8 running away.

9 MS. DARQUES-LANE: (Interpretation) Your Honour, I would now
10 like to give the floor to Mr. Garcia, if I may.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you. But first
12 of all, we will have the witness leave the courtroom.

13 Witness, we are going to suspend the hearing as far as you are
14 concerned. After giving testimony this morning you will have an
15 opportunity to rest for a few moments.

16 Court Officer, if we could go into closed session so the witness
17 can leave the courtroom, and then we will hear oral arguments from
18 Mr. Garcia.

19 (Closed session at 10.36 a.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 10.37 a.m.)

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

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

8 Prosecutor.

9 MR. HOOPER: Before Mr. Garcia raises his matter, can I just
10 mention one very brief matter touching on this issue? It's been said,
11 and it was said also in the context of the identity of the previous
12 witness issue, that I've raised these matters at the last moment, and
13 that is how it might appear, but I'd rather say that I raised these
14 matters at the first opportunity.

15 The Prosecution referred to an extract of my cross-examination
16 some months ago, and this was to do with the previous issue of
17 identification with the previous witness, as some indication that, in
18 fact, I wasn't being frank with the Court, that was the implication, and
19 that, in fact, I had embarked on a cross-examination mentioning names.
20 I'd like to assure the Court that was not the case, and if you look at
21 that cross-examination, you can see where that name came from. The name
22 didn't come from me. It came from the witness, and we blundered into
23 that. I wouldn't say "blundered into that." I was on a fishing
24 expedition, and I got a fish. And that's what happened.

25 So I would like to assure my friend, with all the natural,

1 perhaps, credulity that arises in these situations, that when I say I've
2 raised this matter or these matters at the first opportunity, I mean it.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
4 Thank you for that update.

5 Yesterday, or the day before that, the Chamber reminded everyone
6 that motives were not to be impugned and that it is true that last-minute
7 applications that you may not be responsible for do make our proceedings
8 more difficult, because we immediately must turn our attention to them
9 and provide a reply within the appropriate time-frame, but we are
10 certainly aware that everyone is ensuring that the proceedings run in an
11 impeccable manner from the point of view of ethics.

12 Prosecutor.

13 MR. GARCIA: (Interpretation) Your Honours, just on another
14 matter. I wish to confirm to the Chamber that Witness 0317 will be in a
15 position to testify on the 10th of -- the 6th --

16 THE INTERPRETER: Overlapping speakers.

17 PRESIDING JUDGE COTTE: (Interpretation) 6th of December.

18 MR. GARCIA: (Interpretation) I will be rather brief. I only
19 have a few points to raise before the Chamber regarding the use of
20 photographs as a means of identifying Witness 0353 for investigative
21 purposes.

22 Here are my main arguments: First of all, with all due respect,
23 your Honour, the Prosecution would argue that if one reads the filing
24 from Mr. Hooper and the grounds that he provided in this filing to
25 justify the use of photographs to identify the person, we are of the

1 opinion that these grounds are insufficient in light of the principle and
2 the criteria that were set out by the Chamber in its ruling. I am making
3 reference to ruling -- ruling 2148 of the Chamber, and I believe that was
4 the first ruling in this regard, as well as ruling -- the oral ruling
5 from the Chamber that was provided and is found in transcript T-192.

6 From the very outset, your Honour, I wish to raise an issue that
7 is essential and indeed determining when one must decide whether or not
8 to grant Mr. Hooper's application, and I would argue that Witness 0353 is
9 highly vulnerable. This is not just something that the Prosecution has
10 raised. The same point and comment was made by the Chamber itself in
11 ruling 2148 and also in the transcript when the oral ruling was handed
12 down.

13 In light of the vulnerability of this witness, we believe that
14 any decision taken regarding this witness must be taken with great care,
15 with great care, and I merely point out to the Chamber that this witness
16 is not protected. She is not in the Court's protection programme. And
17 as well, this is a point that considerable importance must be attached to
18 when one makes a decision that would allow the Defence to act in this
19 manner. When one examines and analyses the two rulings from the Chamber
20 in this regard, namely the use of photographs, it clearly can be seen
21 from the rulings, and the Chamber or the Defence may correct me if I'm
22 mistaken, but the use of photographs for investigative purposes is
23 basically a last resort, and this is in light of the observations that
24 were made by the Victims and Witnesses Unit concerning the fact that the
25 use of photographs increased the risk to the witness in question.

1 Allow me to reiterate. These are in cases where the Defence has
2 already exhausted other investigative tools at their availability that
3 such a thing should be allowed. So it would be an exception. It would
4 be a very exceptional measure in and of itself, and that is the position
5 of the Prosecution.

6 We must ask ourselves the following question: Has the Defence
7 shown and argued in its filing that this is an exceptional case in which
8 the Defence should be allowed to use a photograph for identifying
9 purposes? I have the filing here. Some redactions are to be found
10 within the filing, and I do believe that the redactions concern only
11 information that the witness may have given about 0353, and in these
12 redactions -- these redactions do not have anything to do with the
13 investigative tools that were used. We concede, of course, that
14 initially Mr. Hooper is setting out a specific situation, and the Chamber
15 criticised the Defence in the past of not identifying a very specific
16 situation.

17 In this case, we are speaking of a witness, apparently a person
18 by the name of (Expunged), and this is a person who was identified by the
19 person interviewed, and the Defence is asking whether this person is
20 Witness 0353.

21 MR. HOOPER: Are we in open session or closed session?

22 PRESIDING JUDGE COTTE: (Interpretation) We are in open session,
23 Mr. Hooper.

24 MR. GARCIA: (Interpretation) I apologise. I noticed that and
25 we will do what needs to be done.

1 PRESIDING JUDGE COTTE: (Interpretation) Very well. If you
2 could speak very slowly given the little amount of time that we have to
3 take as many notes as possible. If you could do that, we would be most
4 grateful.

5 Please proceed.

6 MR. GARCIA: (Interpretation) Thank you, your Honour.

7 Your Honour, in the Chamber's ruling, ruling 2148, mention was
8 made of Witness 0249, and the Chamber raised the point that in this case
9 and with this regard the Defence had not exhausted all investigative --
10 correction, identifying tools. I won't go into the details, but that
11 information is found at paragraph 13 of the ruling. And I would draw a
12 parallel with the case at hand, namely, Witness 0353.

13 As far as I can see in the filing, no mention is made of the fact
14 that use was made of the name of the member of the family -- the members
15 of the family of this witness, namely, her sister, her brother-in-law, to
16 attempt to exhaust all means at their disposal. They were not redacted,
17 so the Defence does know those names, and judging by the filing, no
18 mention is made of attempting to use those tools to carry out the
19 identification. They merely say that there is a problem, a difficulty,
20 and that is the only justification to be found in this filing I have
21 before me.

22 Basically, your Honour, in light of the fact that Mr. Hooper
23 clearly, and his team, did not exhaust all means at their disposal, I'm
24 of the opinion that on the basis of that point immediately the Chamber
25 should refuse to grant Mr. Hooper's application.

1 Secondly, your Honour, and this is very much on a secondary note,
2 although not taking away from the importance of the first point that I've
3 just raised, if the Chamber comes to the conclusion that despite all the
4 points that were raised by the Prosecution that Mr. Hooper and his
5 investigative team may have use of the photograph of Witness 0353 to
6 conduct their investigation, the Prosecution would like and strongly
7 wishes to have access to the photo board, this line-up of photographs,
8 before it is used. And the legal basis for that request is an argument
9 that is rather general in nature, your Honour.

10 Given that the witness, Witness 0353, is not in the Court's
11 protection programme, her safety is the responsibility of the Office of
12 the Prosecutor in a way. Consequently, since we want to ensure that the
13 photo board was prepared properly -- and I'm not saying, your Honour,
14 that things were done incorrectly, but I think we remember in the case of
15 Witness 0323 some details were settled before we went ahead with the
16 showing of the photographs to the witness. The Prosecution merely wishes
17 to ensure that such problems do not occur with the photo board that may
18 be shown if the Chamber decides that it is appropriate for it to be used.

19 Finally, one last point on these matters having to do with the
20 preparation of photo boards, I would merely remind the Chamber that in
21 accordance with ruling 2148, the preparation of the photo board is the
22 responsibility of the VWU. I am well aware, of course, that after, in
23 the oral ruling from the Chamber that is to be found in transcript 192,
24 that the Chamber did state that the photo board could be prepared by the
25 parties, but the preparation must be monitored or supervised, so to

1 speak, by the VWU, and that it is entirely normal and even reasonable, I
2 would say.

3 If I've understood correctly, and the filing for Mr. Hooper says
4 no more, but I believe there is some kind of agreement, and I believe
5 this is an important point, namely, did the VWU take part in the
6 preparation of this board?

7 The preparation of a photo board is not a simple task, and I
8 believe we all have experience with this with Witness 0323. Many details
9 have to be taken into account. That is the main reason why the
10 Prosecution would like to know who is to be found -- other than 0353, who
11 else is shown on the board? How many other photographs are present? Are
12 they all the same? Is the background of the photograph the same for all?
13 So those are our concerns on this second point, your Honour.

14 To conclude, your Honour, I would say Mr. Hooper has not
15 satisfied the criteria set by the Chamber; and secondly, even if this
16 tool were to be used, the Prosecution would like to first view and ensure
17 the conformity of this photo board. These arguments are, of course,
18 provided with all due respect.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you. You have
20 six minutes.

21 MR. HOOPER: I will just use a minute or two of them. Mr. O'Shea
22 may have some comments following what I have to say.

23 Can I just correct the impression the Prosecution have. It is a
24 misapprehension, I think, in terms what this photo board is. We saw a
25 photo board with the last witness. That's not what we're talking about.

1 We're not engaging on an identification parade as such. What we have is,
2 after extensive discussions with VWU, we have a number of photographs
3 amongst which we would put the photograph of, for example, this
4 particular witness.

5 The Prosecution can't see that, those photographs, for the simple
6 reason that we've included as part of the camouflage, in a way, Defence
7 witnesses or potential Defence witnesses, so that anyone seeing this
8 won't see -- won't immediately, if they know the story and so they see
9 various pictures, some of whom perhaps they will also recognise, they
10 won't jump to the conclusion we're showing them a photograph of a
11 Prosecution witness. So that's the nature of it, and it's been done, as
12 you know, with the -- with the agreement and discussion with the VWU. It
13 would be quite impossible for us to show the Prosecution this. And it
14 doesn't serve the purpose that the Prosecution may be under the
15 misapprehension is its objective.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea for the last
17 four minutes.

18 MR. O'SHEA: (* Previous translation continues) ... three points
19 so a minute per point. The first point of my learned friend that there
20 has not been sufficient motivation in the document we filed. First of
21 all, in my submission, there are, on the basis of what have we informed
22 the Chamber, sufficient indicia of reliability of the information that
23 we've received, that is to say, sufficient to justify an inquiry. And
24 secondly, on the issue of motivation, one must consider the result of not
25 being able to take this course of action. The result would be potential

1 injustice, which I'm sure my learned friend does not want.

2 The second point, the point of vulnerability, the vulnerability
3 of this witness does not come from any danger, actual or perceived, from
4 the accused. It is not a classic protective measures situation. Neither
5 can it come from a danger with respect to the person to which the
6 photograph is being shown. There is information in the hands of the
7 Chamber but not in the hands of the Prosecution which makes that clear.
8 That person would not have a motive on the basis of the information we
9 provided to cause any difficulties.

10 And the nature of vulnerability that there is with this witness
11 is simply with regard to the nature of the crime which has been committed
12 against her. That is the type of vulnerability we're dealing with here,
13 and the psychological effects on this witness of that crime.

14 The third point is the issue of this being the last resort. And
15 I have one minute left, I think. Your Honours have indicated quite
16 clearly in your oral decision of the 24th of September that with regard
17 to this particular witness, our previous approach did not demonstrate any
18 specific difficulty. And, your Honour, I'm assuming that your Honour has
19 the reference, to save my minute.

20 Your Honour -- your Honours pointed out that the Defence had not
21 demonstrated any particular difficulty in identification in the field.
22 That is my English translation of the expression used by you,
23 Mr. President, at that time. And your Honours invited us to come back to
24 the Chamber if such difficulty arose. And we have, in a sense, fulfilled
25 the conditions of that particular oral decision, because we have

1 demonstrated a very real difficulty. And in our submission, and
2 particularly in light of the fact that the witness in the witness box,
3 there is, in fact, no other reasonable way for us to assure ourselves of
4 what's been brought to our attention, because we cannot put something to
5 the witness if we've not assured ourselves. And it is wrong, in our
6 submission, to label this procedure as exceptional per se. It may very
7 well be that there is a question mark over using this procedure and that
8 one should try and find other methods.

9 We have tried, and we have essentially failed, so we are in last
10 resort.

11 Thank you.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you all for
13 providing fulsome arguments to the Chamber in a record period of time.

14 We will now suspend and resume at 11.30. The hearing is
15 suspended.

16 Recess taken at 11.01 a.m.

17 On resuming at 11.36 a.m.

18 (Open session)

19 COURT USHER: All rise.

20 PRESIDING JUDGE COTTE: (Interpretation) Court is in session.
21 Please be seated.

22 The accused are with us. Court Officer, we shall go into private
23 session in order to read the confidential decision by virtue of the
24 information it contains which are relevant to the Defence investigations
25 on the one part and to the protection of a witness on the other.

- 1 (Private session at 11.37 a.m.)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
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9 (Closed session at 11.48 a.m.)

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18 (Open session at 11.49 a.m.)

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

20 Mr. President.

21 PRESIDING JUDGE COTTE: (Interpretation) I thank you,

22 Court Officer.

23 Madam Witness, we meet again for a further nearly two hours of

24 hearing. Madam Prosecutor will be continuing with her questioning, and

25 we thank you for having answered the questions as you did this morning in

1 a very precise manner. Please do not forget to speak audibly and slowly.

2 Madam Prosecutor, please proceed.

3 MS. DARQUES-LANE: (Interpretation) Thank you, Mr. President.

4 Q. Madam Witness, I would like to hark back to point we were

5 covering before we suspended, notably the time at which you came out of

6 the house in the company of three other young women whose names you

7 stated, and you saw an individual who recognised you. Could you please

8 tell us what happened at that moment in time?

9 A. I took fright when this individual recognised me. I thought that

10 this person was going to kill me. The individual asked me why I had

11 lied, saying that I was Nande rather than saying that I was Hema. I had

12 said that I was not Hema, that I was living with a Hema.

13 Q. And what happened then?

14 A. Then an individual who was a member of that group told the other

15 person to leave me alone, saying that I wasn't a Hema, that I was Nande.

16 So that is how the person who recognised me let me free. And the

17 person -- those individuals, well, two of them started to talk. One said

18 that I was going to become his wife, and the other person said the same

19 thing. So there was a little quarrel between the two people in question.

20 Q. And how was this quarrel resolved?

21 A. Then the two individuals said that I was going to become the wife

22 of both those people.

23 Q. Had you already seen those two individuals who were arguing about

24 you? Can you not hear the translation?

25 A. I have never seen them again since I left that place.

1 Q. What I would like to know is whether those two people who were
2 arguing about you as to whether you were going to become their wife,
3 well, were they in the house before, beforehand?

4 A. No. Those people were part of the group, the enemy group. I do
5 not know whether they were in the house, but what I do know is that they
6 were part of the group of people who made us come out of the house.

7 Q. And the individual who intervened in order to tell the young man
8 who had recognised you to leave you alone, had he been inside the house
9 beforehand or not?

10 A. I do not know whether that person had already entered the house
11 or not. There were many people, and I was not able to note whether that
12 person had entered the house or not, but I did note that that individual
13 was -- seemed to be giving orders, that people paid more attention to
14 that person than to others.

15 Q. Could you please describe that individual who was giving orders
16 and who seemed to be -- to whom people seemed to be paying more attention
17 and listening to more than others?

18 A. It is difficult to describe this individual. A lot of time has
19 passed, and I have not thought back over those episodes of late.

20 Q. Was this person wearing a uniform or not?

21 A. This person was wearing ordinary clothing and had a Motorola
22 radio in their hand.

23 Q. When you say "ordinary clothing," do you mean civilian clothing?

24 A. Not civilian clothing. He was wearing a pair of shorts.

25 Sometimes I see soldiers wearing clothing of this type. There were also

1 young people who were wearing civilian clothing. I would not be able to
2 tell you whether this type of clothing was military.

3 Q. And this individual who was giving orders and who had a Motorola
4 in their hand, was this person armed?

5 A. Yes. He was carrying a gun.

6 Q. And once this person had spoken to the young man who had
7 recognised you, what did -- what happened?

8 A. After having spoken to him and told him to leave me alone, the
9 person he spoke to obeyed, and we were allowed to leave in the direction
10 of our school.

11 Q. I would just like to come back to the moment before your
12 departure. I would like to come back to the subject of the other
13 individuals in your company, that is to say, the three young women who
14 had come out of the house at the same time as yourself.

15 A. Yes.

16 Q. What happened to them?

17 A. When we all left, each person would identify their prey, saying
18 that they would become their wife.

19 Q. So those young women had also been chosen by soldiers to become
20 their wives; is that correct?

21 A. Yes.

22 Q. And then what happened?

23 A. The group ordered us to carry the cases that we had taken from
24 the houses. I was given two suitcases to carry, and then we were told to
25 go towards the school, to follow them there, and to follow them wherever

1 they went.

2 Q. I'm just going to go back over one point. Before you left, when
3 the two people who were arguing about you were there in front of the
4 house, the one who was giving orders, was that person also present during
5 the argument?

6 A. Yes, he was present.

7 Q. What did he do or say?

8 A. He gave them the order to leave us, because we said we were
9 Nande, and these people to whom the order was given obeyed it.

10 Q. Where it concerns the fact that the two men had chosen you to be
11 their wife, the person who gave the orders, did that person intervene on
12 that point or not?

13 A. He did not intervene in that matter. He prevented them from
14 killing us.

15 Q. You told us that afterwards, you left in the direction of the
16 school. Were you accompanied by the attackers or not?

17 A. We were with them, and they asked us -- or they told us to go to
18 the school.

19 Q. Did they say anything else to you?

20 A. No. They told us not to be afraid and that we were going to
21 become their wives. We carried the cases to the school, and when we
22 arrived there, we found bodies there. There was blood everywhere, and I
23 was afraid to look in the classrooms. And the person who had asked for
24 us not to be killed called his colleagues and asked them to go.

25 Q. From where you were, could you see inside the school?

1 A. No, I couldn't see inside. I was afraid when I saw bodies
2 outside. I had seen blood. I was afraid of looking into the classrooms.

3 Q. So once at the school, what happened there?

4 A. When we arrived at this school, he called his colleagues and
5 asked them -- and told them to leave. When we saw the bodies, we were
6 afraid. There was also other young girls they had taken. They started
7 to get the cows and goats, and they told us to carry the cases, and we
8 left.

9 Q. I'll just go back to some parts of your account. You said he
10 called his colleagues. Who are you talking about when you say "he"?

11 A. The person who called his colleagues was the person who had a
12 Motorola radio, and he asked the others to come together and then to go.

13 Q. Was that the person who had given the orders in front of the
14 house? Is that correct?

15 A. Yes, that is correct.

16 Q. You have just told us that you saw other young girls who were
17 taken because they seemed to be soldiers. Could you give us more details
18 in that regard?

19 A. I don't understand your question. Please could you repeat it.

20 Q. Of course. You have just told us that when you arrived at the
21 institute, at the time that the person who was giving orders had called
22 on his colleagues, you saw young girls who had been taken. Where were
23 these young girls?

24 A. When we arrived at the school, we were with those who were in the
25 house, and there were other girls who we found at the school. There

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1 were, rather, boys who were at the school, and we asked these boys to --

2 THE INTERPRETER: The interpreter corrects: Those boys were
3 asked to get the goats and the cows.

4 MS. DARQUES-LANE: (Interpretation) If I could just have a
5 moment, your Honour.

6 (Prosecution counsel confer)

7 MS. DARQUES-LANE: (Interpretation)

8 Q. Witness, I'm going to ask you certain questions again, because I
9 have the impression that there is perhaps a problem with regards to the
10 translation.

11 Apart from the three young girls who were with you and who were
12 walking in the direction of the institute, a moment ago you said that you
13 saw young girls near the institute or at the institute, and thereafter --
14 I'm just reading -- or I just heard that they were young boys who got
15 together the cows and the goats or who seemed to be getting those
16 animals. Could you please go back into your account with regards to
17 those points in order to shed some light thereon.

18 A. Yes. I said that when we went to the institute or the school,
19 there were young girls who were with me in the house, and when we arrived
20 at the school there were bodies. I was afraid to look inside the
21 classroom, because I was afraid. And later I noted that there were cows.
22 I don't know where they had taken these cows from. They asked young boys
23 who were there to go with these cows and goats.

24 Q. And the young boys who were there, were they from the village or
25 were they fighters?

1 A. These young boys were villagers from there, but I didn't identify
2 them. They were asked to leave with the cows, and these young people
3 were not soldiers.

4 Q. So these young people, did they accompany you on your journey?

5 A. Yes.

6 Q. With the cattle?

7 A. Yes.

8 Q. So your group, after going to the school, where did it go? Where
9 did your group go?

10 A. We left the school, and we were asked to leave, but I don't know
11 the destination we went down, and we left the route towards Kasenyi. We
12 took the road going to the right. We went towards the right and we went
13 down, but I don't know the destination, the final destination. We went
14 on this journey. We walked for hours, and we arrived at a village. It
15 was a centre, a commercial centre, but I can't remember the name of the
16 village. I think it was Geti. And we had a long trip. So I left with
17 one group, but my friends went with another group, so we were separated.
18 I don't know where they went to, but we went to a village. I heard it
19 was called Geti.

20 PRESIDING JUDGE COTTE: (Interpretation) Witness, please try to
21 speak more slowly if you could. Even if you have a lot of things to say,
22 please speak slowly.

23 Prosecutor.

24 MS. DARQUES-LANE: (Interpretation) Thank you, your Honour.

25 Q. So I'll just go back into your account. You left the

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1 institute --

2 MR. HOOPER: Sorry, the witness has never used that word.

3 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, in the
4 French transcript, on page 60, 19, "We left the school, and we were asked
5 to leave, but I didn't know the destination." So perhaps there has to be
6 some difference in the translation between the word "institute" and
7 "school," but I think that we know what establishment it is.

8 Prosecutor, please continue.

9 Mr. Hooper.

10 MR. HOOPER: Well, it's not been established, and the witness has
11 only referred to the word "school." And my friend acknowledges that.

12 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, if that is
13 considered necessary. So it's the word "school." Line 19, where it
14 concerns the provisional French transcript.

15 Please continue, Prosecutor.

16 MS. DARQUES-LANE: (Interpretation)

17 Q. Witness, I shall go back to the beginning of your journey. So
18 you were with these three -- well, there were three young girls who were
19 with you in the house, there were soldiers, fighters, young men from the
20 village, as well as cattle. So this column of persons or cattle went
21 towards a destination which was unknown to you at the time; is that
22 correct?

23 A. Yes.

24 Q. You've just said that this group or column split into two; is
25 that correct?

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1 A. Yes.

2 Q. Could you tell us if the three young girls -- or three young
3 women who were with you in the house, if they stayed in your group, or
4 did they go with the other group?

5 A. When it was split, these young people went with the other group.
6 I was alone in this group. These young women were not there.

7 THE INTERPRETER: The interpreter points out that he did not hear
8 the end of the witness's statement from the Swahili booth.

9 PRESIDING JUDGE COTTE: (Interpretation) Witness, please could
10 you take up the end of your sentence. The interpreter did not manage to
11 understand what you were saying towards the very end. In the French
12 transcript, just to remind you of that, "When it split, these young women
13 went with the other group. I was alone in the group." Please could you
14 add whatever needs to be added from there.

15 THE WITNESS: (Interpretation) I stayed in the group and we
16 left, but later I found again one of these young women.

17 MS. DARQUES-LANE: (Interpretation)

18 Q. Was it a long trip?

19 A. The journey was very long.

20 Q. What happened during this journey?

21 A. During this journey I thought that they were going to kill me
22 where we were going, perhaps. I was wondering what our fate would be.
23 They told us that they were going to take us as their wives. Perhaps
24 this was a lie from them. What I imagined, well, I was thinking that
25 could be the case, that they kill us.

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1 Q. Witness, do you know somebody by the name of Kisémbu who lives in
2 Bogoro?

3 A. Please could you ask your question again.

4 MR. HOOPER: Yes. I'm just a little concerned. I --

5 Ms. Darques-Lane has been leading pretty consistently this morning, and
6 we haven't intervened or complained, but, you know, there are ways to do
7 it which are less -- less leading than that.

8 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, please
9 continue, but please ensure that the questions you ask do not require
10 interventions from the Defence. Please go ahead.

11 MS. DARQUES-LANE: (Interpretation)

12 Q. Witness, on the way, did you stop anywhere before arriving at
13 your destination?

14 A. No, we didn't have the time to stop. We didn't have the time to
15 rest. We walked without stopping. We didn't stop to rest.

16 (Prosecution counsel confer)

17 MS. DARQUES-LANE: (Interpretation)

18 Q. Witness, what happened when you arrived in Geti or the village
19 that you thought was Geti?

20 A. When we arrived in Geti, we stayed in a house, and they said that
21 we had come to the destination, and they said, "Do not be afraid." This
22 is the two men. And they said, "Don't be afraid. You are going to
23 become our wives." And I said that perhaps they're going to kill me.
24 And I stayed there, and later I thought that maybe they're not going to
25 kill me.

1 And then one of them saw me, and they said, "You're going to
2 become my wife." And he asked me, "Do you understand the sense of that?"
3 And I said no. Then he said, "Well, enter into the house." I entered
4 into the house, and he said, "From now on you're my wife." And I said,
5 "But -- what's your wife?" And he said, "Well, how do you want me to
6 explain? You don't understand what this word means?" And I said that I
7 thought perhaps he wanted to kill me. And he said, "Go into the
8 bedroom," and I asked him the question, "To do what?" And he said, "I
9 want your body," and I said, "But how do you -- what do you mean you want
10 my body? Show me." And he dragged me towards the bed and I started to
11 cry. And he said, "If you want to die, continue crying," and he
12 undressed me. And then he had sexual relations with me.

13 MS. DARQUES-LANE: (Interpretation) Your Honour, I would like to
14 know *if we can avoid asking the witness to go into details of what she
15 continues (* as interpreted) to be sexual relations with regards to what
16 happened, *if the Defence is prepared to accept that a rape took place.

17 MR. HOOPER: Can I, for our part, assume the same position I did
18 with an earlier witness, and I accept that this witness will complain, if
19 asked, of penile penetration per vaginam, and I don't need details.

20 THE INTERPRETER: The interpreter corrects: It was actually
21 asking to avoid going into the details of it.

22 PRESIDING JUDGE COTTE: (Interpretation) Counsel Kilenda, what
23 do you say in this regard?

24 MR. FOFE: (Interpretation) Thank you, your Honour. I think
25 that we understand what it is about. It is therefore not necessary to

1 spend further time on the details thereof.

2 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, do you wish
3 to be more precise, or do you think that the answers from Counsel Hooper,
4 as well as Professor Fofe, make it possible for you to consider that the
5 witness has talked about full sexual relations.

6 MS. DARQUES-LANE: (Interpretation) If I've understood the
7 position of my colleagues from the Defence well, rape as described -- or
8 the relations as described by the witness satisfy the definition of rape
9 under the Rome Statute. Can we stay with that?

10 MR. HOOPER: Yes.

11 PRESIDING JUDGE COTTE: (Interpretation) We will therefore
12 continue.

13 Professor Fofe was very clear, I think, but if he would like to
14 repeat that.

15 MR. FOFE: (Interpretation) I'm sorry, your Honour. If you
16 could give us one minute, please.

17 (Defence counsel confer)

18 PRESIDING JUDGE COTTE: (Interpretation) Professor.

19 MR. FOFE: (Interpretation) Your Honour, thank you very much.
20 We have understood the question of the Prosecutor. We are in a position
21 of difficulty, because we -- she is inviting us for a shortening with
22 regards to the legal facts or legal classification. The facts, even if
23 they are not detailed, can be classified as rape. That is the question
24 that's being asked.

25 Well, we are somewhat in a position of difficulty in that regard,

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1 but we do understand at the end of the day that is the objective. That
2 is the end, but this is what puts us in a position of difficulty, on the
3 one hand. On the other hand, there is the question of the identification
4 of the perpetrators, and this takes us into exchanges which are quite
5 complicated, and we find this very awkward. Perhaps it might be
6 necessary to go into the detail.

7 MS. DARQUES-LANE: (Interpretation) Mr. President.

8 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, I
9 think that to avoid any later difficulties, there is no question of
10 asking the witness for excessive detail that we do not require.

11 Witness, please listen to me for a moment. You have told us a
12 few moments ago about the conditions in which this person took you into a
13 bedroom, and you said that then you had sexual relations with this person
14 after. This is a very sensitive issue. We are very aware of that. We
15 do not want to dwell on the matter. I would just like to ask you a very
16 simple question, and I ask you to be courageous and to reply.

17 When you say that you had sexual -- complete sexual relations,
18 were you penetrated by this person into your body as you said? Don't
19 say -- it is important for us to know exactly what happened. You can
20 say, "Yes," or, "No."

21 THE WITNESS: (Interpretation) Yes. He did exactly what you
22 just said.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Thank you,
24 Witness.

25 Madam Prosecutor, please continue.

1 MS. DARQUES-LANE: (Interpretation)

2 Q. Now, the first combatant did that to you, and did the second
3 fighter do that to you as well, who decided that he, too, would be --
4 would be your husband?

5 A. Yes, after. After he gave me some water to wash myself. I
6 washed myself. After I washed myself, I wanted to rest for a little bit.
7 And the second person came, and he did exactly what the first person did.

8 Q. And what the two men did, did they do the same thing other times?

9 A. They did it every day.

10 Q. Did these men threaten you?

11 A. No, they didn't threaten me. They wanted to tell me that I
12 should know each time that they came close to me that I should guess what
13 they wanted.

14 Q. You said that what they did to you they did to you every day.
15 How long did this last for, weeks, months? Could you tell us, give us
16 some idea of how long?

17 A. It lasted for months. It took many days, a great deal of time.
18 And then after that, one stopped and the second one kept on for a long
19 time.

20 Q. You said that you were in a house. Could you describe the house
21 to us, please?

22 A. Well, judging by the Swahili that we use in my part of the world,
23 these houses are called *manyatas*.

24 Q. How many rooms do they have? How many rooms were there in this
25 house?

1 A. The house was separated by way of a curtain. The curtain
2 separated the two rooms, the bedroom and the lounge.

3 Q. And what could you see from this house? Could you describe the
4 village to us?

5 A. It is difficult for me to describe it to you. It's difficult. I
6 did not travel around. From the time that they took me, I remained
7 there. I couldn't even leave the house because someone might recognise
8 me. So that is why I am saying that it is difficult for me to describe
9 the village to you.

10 Q. What do you mean when you say that someone might have recognised
11 you?

12 A. I was afraid of being recognised. Someone might recognise me and
13 eliminate me. So that is why I was afraid to move around.

14 Q. You were afraid of being eliminated because you were Hema?

15 A. Yes.

16 Q. The people who lived in the village were of which ethnic group,
17 the village where you found yourself?

18 A. I couldn't tell you what ethnicity the people belonged to, but
19 generally speaking we do know that Geti is inhabited by Geti people. It
20 is an --

21 THE INTERPRETER: Correction: By Ngiti people.

22 THE WITNESS: (Interpretation) It is an Ngiti village.

23 MS. DARQUES-LANE: (Interpretation)

24 Q. The two men who took you as their wife, were they Ngiti?

25 A. I couldn't tell you. They were among the assailants, the

1 attackers who caught us in Bogoro.

2 Q. Was there a military camp in the place where the attackers were,
3 those attackers who had taken you to Geti?

4 A. The place where I was, I saw people very close to the house. I
5 was told that it was a camp, but I wasn't sure whether it was a camp or
6 not. Some people were seen in the morning. They would get up, wake up,
7 and begin singing. And I said to myself, Perhaps it is their home.
8 Perhaps it is a camp.

9 Q. Did they do anything else other than sing?

10 A. What I saw was that they would sing. One day they brought a
11 young man, and they slit his throat. That disgusted me.

12 MS. DARQUES-LANE: (Interpretation) Your Honour, perhaps we
13 could suspend for a few moments.

14 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, we will
15 stop for a few moments so you can regain your composure. Please take
16 some time.

17 Witness, do you think you can go on?

18 THE WITNESS: (Interpretation) Yes.

19 PRESIDING JUDGE COTTE: (Interpretation) We will go on, ma'am,
20 but you must realise that it is entirely legitimate to cry. If you need
21 to cry from time to time because you cast your mind back to things that
22 are difficult for you, the Court and everyone here certainly understands
23 that. So if it happens again, we will stop for a moments so that you can
24 take some time and then feel better.

25 Thank you. Prosecutor, please resume.

1 MS. DARQUES-LANE: (Interpretation)

2 Q. Witness, can we go on regarding this event that occurred with
3 this young man, or would it be better to come back to this event later?
4 I'd prefer to ask you the question.

5 A. We can go on. It is necessary. I must tell you my story. I
6 remember many things that happened, but I'm asking for us to keep on
7 going.

8 Q. Very well. Could you tell us, do you remember about this young
9 man who was killed? Could you give us the circumstances surrounding the
10 event, the time, and how he was killed.

11 A. I was in the house. I heard the people call out, and they were
12 saying, "There's a Hema who has been brought in," and I said to myself, I
13 am going to see this Hema person who they have brought, and when I got
14 there I recognised a young person, and I said to myself, I know this
15 young man. I stepped back, and I heard the young man call out, "Why are
16 you killing me? Don't kill me, please." And the others say, "Kill him.
17 Take out his heart so we can eat his heart. The Hema are a proud people.
18 They are rich. Kill him. Take out his heart so we can eat it." That is
19 what the people were saying.

20 Q. Then what happened?

21 A. After that, I went to the house. I was very afraid. I didn't
22 want to go anywhere when I remember what happened to this young person
23 and the way he was killed.

24 Q. Did you see him being killed?

25 A. No, I didn't see when they finished him off, but I heard the

1 cries as he was saying, "Why? Why do you want to kill me?" And then I
2 was afraid, and I decided to go back to the house.

3 Q. Where did this event occur within the village?

4 A. The event occurred at the place where I was. It was beside the
5 place where they were singing, where they used to sing, and that is the
6 place where they killed that young man.

7 Q. In relation to your arrival at the village, when did this happen?

8 Long time after you arrived there, shortly after you arrived in the
9 village?

10 A. No, it did not take a long time. It was just after my arrival.
11 It was days after my arrival. That was when the young man was brought to
12 that place.

13 Q. Earlier you spoke about a man who was giving orders and who had a
14 Motorola. Was that man present when the young man was killed?

15 A. No, I didn't see him at that time.

16 Q. Did you see him at some other time during your stay at the Geti
17 camp?

18 A. No, I didn't see him. I was very much afraid. I did not travel
19 about.

20 Q. You have told us that you were very much afraid and you did not
21 move around much within the village. At one particular time were you
22 able to move around the village?

23 A. No, I did not move around the village. The young people that we
24 stayed with were not in agreement with my doing that. They thought that
25 if I did so, I would escape. However, after one day --

1 THE INTERPRETER: After one month, correction by the interpreter.

2 THE WITNESS: (Interpretation) I went out to look around, and I
3 saw the other person that I had been taken with.

4 Q. Could you give us the letter that corresponds to the name of the
5 person who was abducted with you?

6 A. It is the letter J.

7 Q. One piece of information, please. The letter J or G? Could you
8 be more specific?

9 A. It is the name that begins with K. That is the person I am
10 speaking of.

11 MS. DARQUES-LANE: (Interpretation) I think for the purposes of
12 the case file we can say that it is the letter G, because that name
13 matches that letter.

14 Q. Were you able to speak to that person?

15 A. Yes, I was speaking with that person.

16 Q. What was said?

17 A. Our conversation had to do with our abduction. She said to me,
18 "How much time are we going to spend here?" I said to her, "I don't
19 know." And she went on to say, "Let's look for a place where we can get
20 away. I was taken as the wife of someone I didn't love." And I said,
21 "Two of them took me as their wife." She said, "This is something
22 serious. That is why we have to find some way to escape."

23 Q. Were you able to see this person several times?

24 A. No. I did not see that person again. That day I said to her,
25 "There's no way to get away. If we do that, they will catch us and they

1 will kill us. We must stay. God only knows when they will release us."

2 Q. Did you have any contact with the villagers of Geti?

3 A. No. I was very much afraid, very afraid to speak to them.

4 However, one day I did meet a woman, one of the inhabitants of Geti, who

5 asked me, "Where do you come from?" I said to her, "I come from Bogoro."

6 She went on to ask me questions. "What is your name?" I said to her,

7 "You don't need to know my name." She asked what ethnic group I was from,

8 and I said that I was a Nande, but I didn't want to keep on having a

9 conversation with her.

10 Q. What language did people speak in the village, the people who
11 lived in the village?

12 A. They would speak in their dialect but also in Swahili.

13 Q. Could you tell us what that dialect was?

14 A. It's difficult for me to tell you which dialect it was. Ngiti
15 and Lendu are two similar dialects. It's difficult to recognise them.

16 Q. Now, in the village were you assigned tasks or duties?

17 A. No. I was not given any tasks. These young men didn't want me
18 to do anything but sleep with them. That was my job.

19 Q. In this village you said that there was something that looked
20 like a camp, a military camp. Was it close to the house where you were
21 living?

22 MR. HOOPER: I think -- may I stand corrected if I'm wrong, but I
23 don't think the witness did identify it was a camp. She thought it might
24 be a camp and it might not be a camp.

25 PRESIDING JUDGE COTTE: (Interpretation) Indeed. The witness

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1 was very careful in her wording.

2 Prosecutor, please continue, but perhaps it might be a good idea
3 to rephrase the question.

4 MS. DARQUES-LANE: (Interpretation) In the English transcript I
5 quote: "I was told there was a camp," so I will move on from that basis.

6 MR. HOOPER: In fairness, can you read through the rest of what's
7 said. "I was not sure if it was a camp. Some people woke up and were
8 singing. I thought perhaps their home, perhaps a camp."

9 PRESIDING JUDGE COTTE: (Interpretation) Yes. From memory I
10 think that there was -- that the witness deduced this fact.

11 MS. DARQUES-LANE: (Interpretation) I'm talking about the
12 transcript here, page 62, line 1. "I was told about the camp."

13 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,
14 Madam Prosecutor.

15 MS. DARQUES-LANE: (Interpretation)

16 Q. So you told us previously, Madam Witness, that you were told that
17 this was a camp. Who told you that, and were you provided any further
18 detail?

19 A. I could see this myself. They were singing there and everything
20 was done there. I thought that this place might be the place where they
21 were staying, because we were used to calling the place where they stayed
22 a camp.

23 Q. You say they were staying, they were singing. Can you explain
24 to us who these people were, who the "they" were?

25 A. Those who were singing were the assailants, those who had brought

1 us from Bogoro to Geti. Those were the ones who were singing there a
2 great deal.

3 Q. And amongst those assailants who were singing and who were in a
4 camp, were there any children in their midst?

5 A. Yes, there were children.

6 Q. You say that everything happened there. Apart from the singing,
7 what precisely happened there?

8 A. Apart from singing, well, it's difficult to tell you what else
9 they got up to, because I was not near that location. I stayed a long
10 way away. I was afraid. I do not know what else they did there.

11 Q. Were the assailants armed when they were in the village in the
12 camp?

13 A. Yes, they did have weapons.

14 Q. And the children who were in their midst, were they also armed?

15 A. Yes.

16 Q. Do you know where the assailants' weapons were kept?

17 A. They kept them in the same location where they used to sing, but
18 I did not know which house they used to keep them in. They kept them
19 there, because even the young man who was with me did not go home with
20 his weapon. All the weapons would remain there in that location.

21 Q. Did you see the location where the weapons were kept?

22 A. No, I did not see that place, but I do know that the weapons
23 remained there, because every time they sang, they would sing whilst
24 carrying weapons. And when the young man came to see me, he no longer
25 had a weapon. But where they did sing, the place where they sang, they

1 had weapons. They used to keep those weapons in the location where they
2 sang, to my mind.

3 Q. When you say that there were children in their midst, can you
4 tell us whether these were children aged under 15 or not?

5 A. I am not in a position to tell you with any certainty what age
6 they were. I do not know. But going by their appearance, I would say
7 that they were children. I was older than they were. I could see that
8 they were children, but I cannot tell you with any certainty what their
9 age was, because I do not know that fact.

10 THE INTERPRETER: Message from the English interpreter:
11 Overlapping of microphones and channels. The English interpreter did not
12 get the question.

13 MS. DARQUES-LANE: (* No interpretation)

14 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed.

15 THE INTERPRETER: Message from the English booth. There's still
16 overlapping of channels. We cannot hear Prosecution, the Prosecution
17 counsel.

18 PRESIDING JUDGE COTTE: (Interpretation) For the time being, I
19 can only hear the Swahili coming through. I think that things will come
20 back to order.

21 MS. DARQUES-LANE: (Interpretation) Yes. I can also hear the
22 interpretation in the Swahili language.

23 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,
24 Madam Prosecutor.

25 MS. DARQUES-LANE: (Interpretation)

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1 Q. At that moment in time, Madam Witness, how old were you?

2 A. At that moment in time I was 17 years of age.

3 Q. And who was the head of the camp?

4 A. I do not know who was in charge at the camp, because they would
5 call each other Afande (* phon). I do not know who was in charge of the
6 camp.

7 Q. During your stay, the individual whom you had seen previously who
8 was giving orders to the assailants and who was carrying a Motorola, did
9 you see this individual during your stay in Geti?

10 MR. HOOPER: (* Previous translation continues) ... been asked.

11 Earlier you said a man was giving orders with a Motorola. Was that man
12 present? No, I didn't see him at that time. Did you see him at another
13 time. No, I didn't see him. I was very much afraid. I didn't travel
14 about.

15 MS. DARQUES-LANE: (Interpretation) Just one moment, please. It
16 was -- Mr. Hooper, thank you. I wanted to put this question again,
17 because at the time when the question was put to the witness, it was
18 within a particular context. So this is outside of this context.

19 PRESIDING JUDGE COTTE: (Interpretation) So this is a new
20 context.

21 MS. DARQUES-LANE: (Interpretation) Yes.

22 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, you
23 may proceed.

24 MS. DARQUES-LANE: (Interpretation)

25 Q. During your stay, Madam Witness, the man that you saw on the

1 occasion of the attack on Bogoro, the man who was giving orders and who
2 had a Motorola, did you see him at a later stage in the village of Geti
3 during your stay?

4 A. I did not see him again.

5 Q. Did any other individuals arrive at the camp subsequently --
6 rather, at the village subsequently?

7 A. Which individuals are you referring to? Could you please repeat
8 your question.

9 Q. During the months of your stay in Geti, did anybody come to visit
10 the village?

11 A. Yes. One day I heard it said that the leader had arrived. I do
12 not know who the leader was. He was quite often referred to as the
13 president. So when the president arrived, the people would run around
14 helter-skelter. They would take up their weapons. They said the
15 president would be arriving. I do not know who that individual was.
16 They just referred to this individual as the president.

17 Q. What happened on the day when the president arrived?

18 A. On that day when he arrived, I saw the population running around.
19 The assailants went there. They gathered together. They shouted. They
20 were happy. I do not know why they were so happy, but subsequently I saw
21 them singing aloud, and when I saw that, I took fright, and I went into
22 the house and I remained there.

23 Q. Did you see the president arrive?

24 A. Upon his arrival, I did not see him. I heard the people saying
25 that the president was arriving, and I heard -- I heard car horns. I

1 think that's what it was. I think I heard car horns going off.

2 Q. How long did he stay?

3 A. I do not know. He stayed some time. I saw -- the person who was
4 staying with me came to see me and said, "We went to welcome the
5 president, the president who has arrived." I asked what the president's
6 name was. He said, "No. It's not necessary for you to know that fact.
7 He is our leader. He is the leader of everybody. There is nobody else
8 who has orders to give. He is the person who is our leader." So I said,
9 "Fine." He said, "Why did you not go see him?" I said, "No. I did not
10 want to go and see him." He said, "Well, he has now come back from where
11 he was." And I said, "Where was he?" And he said, "He came from Bunia."
12 And I said, "Well, that's great." And that is how things occurred.

13 Q. Did he spend the night in the village?

14 A. No, he did not spend the night there. He went back on the same
15 day.

16 (Prosecution counsel confer)

17 MS. DARQUES-LANE: (Interpretation)

18 Q. Madam Witness, what did the president do when he was there at
19 that location?

20 A. When he arrived there I do not know what he was doing, but I saw
21 the entire population gather in order to listen to what he had to say,
22 but I was not able to hear what he had to say.

23 Q. Were you told what he did and whom he met?

24 A. Nobody told me. I asked or tried to ask the young man who was
25 living with me, but he refused to tell me.

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1 Q. The president's visit, did this occur near the time of your
2 arrival in Geti, or had you already been there for quite some time?

3 A. I had already spent quite some days there.

4 Q. Were there any other visits on the part of personalities such
5 as -- or figures of authority such as the president and who might have
6 gathered members of the population at the camp?

7 A. No, I did not note that. Apart from this individual, I saw no
8 others.

9 Q. With the exception of yourself and other young women who were
10 detained at the camp, did you see any other prisoners at the camp?

11 A. With the exception of myself and the other girls who were there
12 with me, I did not see any other prisoners.

13 Q. Did you see any other people from Bogoro who might have been
14 captured during your stay?

15 A. With the exception of those girls, I did not see any other
16 people.

17 Q. Could you describe the village of Geti to us and the camp. Was
18 it located close by to the village's houses?

19 A. It is difficult to describe it to you. All that I can say is
20 what I saw. I was not far from the camp, and the houses of the villagers
21 were located not far afield. I could just see hills. That's all I could
22 see there.

23 MS. DARQUES-LANE: (Interpretation) Mr. President, before moving
24 on to another subject, I believe it might be a good idea for us to
25 suspend at this juncture, with your leave, Mr. President.

1 PRESIDING JUDGE COTTE: (Interpretation) We shall suspend the
2 hearing for now. I thank you, Madam Witness, for your contribution
3 during this morning's hearing. We shall meet again on Monday at the
4 beginning of the afternoon.

5 Court Officer, might we please move into closed session for the
6 witness to be shown out of the courtroom.

7 Good-bye, Madam Witness.

8 (Closed session at 1.22 p.m.)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Open session at 1.23 p.m.)

17 COURT OFFICER: (Interpretation) We are now in open session,
18 Mr. President.

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

21 Madam Prosecutor, in approximate terms could you give us an idea
22 of the time you will require in order to finish your examination.

23 MS. DARQUES-LANE: (Interpretation) I can assure you that we
24 shall be finishing off our examination during the very first session on
25 Monday.

1 PRESIDING JUDGE COTTE: (Interpretation) Monday. Very well.

2 This is important for Maitre Gilissen and for Maitre Luvengika and
3 probably for Mr. Hooper as well.

4 The Chamber would like to thank all those taking part in the
5 hearing, and also the individual accompanying our witness and who is
6 making sure that they are psychologically in a good state, but we shall
7 meet again on Monday at 2.00. We will shall be meeting with the team of
8 Mr. Kilenda this afternoon. Thank you.

9 The hearing ends at 1.24 p.m.

10 CORRECTIONS REPORT

11 The following corrections have been made to the transcript.

12 * On page 12 line 2: "CK20 church" is corrected by: "CECA 20 church".

13 * On page 58 line 14: "if we can ask the witness" is corrected by if we can avoid
14 asking the witness".

15 * On page 58 line 16: "if she's –" is corrected by: "if the Defence is prepared to accept
16 that a rape took place."

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