

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito
4 and Judge René Blattmann
5 Situation in the Democratic Republic of the
6 Congo - ICC-01/04-01/06
7 In the case of The Prosecutor v. Thomas Lubanga Dyilo
8 Monday, 8 March 2010
9 (The hearing starts at 9.31 a.m.)
10 (Open session)
11 THE COURT USHER: All rise. The International Court is in
12 session. Please be seated.
13 PRESIDING JUDGE FULFORD: Good morning. Are we ready for
14 the witness? Good. Witness, please.
15 (The witness enters the courtroom)
16 WITNESS: WITNESS WWW-D01-0006 (On former oath)
17 (The witness answers through interpreter)
18 PRESIDING JUDGE FULFORD: Good morning, sir.
19 Yes, Ms Samson.
20 THE WITNESS: Good morning, Mr President.
21 MS SAMSON: Thank you, Mr President.
22 Questioned By Ms Samson:
23 Q. Mr Witness on Friday you told the Court that you had joined
24 the UPC at the end of May 2002 because you had to in order to defend
25 your community. Was there a call for people to join the UPC to defend

1 their community at that time?

2 A. Please repeat your question.

3 Q. When you joined the UPC in 2002 in order to defend your
4 community, did somebody ask you and others to join the UPC?

5 A. Nobody asked me to join the UPC, but life was difficult,
6 and we were running around and we didn't know where to settle. We
7 didn't know where to settle down. And because of the suffering, we
8 had to defend ourselves; it was therefore because of the conditions
9 and the suffering that I had to join the UPC. Nobody asked me to do
10 so.

11 Q. How did you know to join the UPC?

12 A. About my joining the UPC ... well, there were young people
13 who had fled and who were roaming about, and they were always in a
14 group. It was necessary to join them for military service. And we
15 heard that a training camp had been set up in Mandro, and we left as
16 a group of youngsters in order to follow this training.

17 Q. A part of your answer wasn't captured in the transcript,
18 so I'm just going to ask you about that again. You say that there
19 were young people who were doing something, those who were in a group.
20 What were they doing?

21 A. These were my companions who were travelling to Mandro.
22 We would meet on the road because we were displaced by the war, and
23 we heard that there was a military camp in Mandro; and when we heard
24 that piece of information, we had to go there.

25 Q. And, sir, I'd like to clarify one name that you provided

1 the Court on Friday. You said that you were an escort to Bosco's brother.

2 Was the name of that commander Bin Laden?

3 A. Yes, the name was Binadare. That is Bosco's brother.

4 However, he is deceased.

5 Q. Just to have it clear, was the name Bin Laden or Binladare
6 (phon)?

7 A. The name that we would call him by was Bin Laden. This was
8 because he had a very long beard.

9 Q. Sir, you spoke to us about Madam X. Could you tell us where
10 Madam X was born?

11 A. I'm not in a position to know that. I met her whilst we
12 were completing our military service. It is difficult to answer your
13 question with regard to her place of birth. She told me that her family
14 had resided in Isiro, in the Kisangani region. However, I do not know
15 whether that is where she was born.

16 Q. Is that where she grew up?

17 A. I'm not in a position to know that. I met her when we were
18 in the army, and we met each other a long time ago. Now, what I just
19 told you is something that she told me. I cannot tell you whether
20 she grew up in that place.

21 Q. Sir, on Friday I asked you a question, but the answer was
22 not recorded in the transcript so I have to ask you again. It's right,
23 isn't it, that you are Hema North, also known as Gegere?

24 A. Yes, I answered you by saying that I am Hema North, an ethnic
25 group that is called the Gegere.

1 Q. And you told the Court that you currently live in Mudzipela.

2 It's right, isn't it, that the UPC had a camp in Mudzipela?

3 A. Well, before that time the UPC had a camp in Mudzipela.

4 However, currently there is no camp there.

5 Q. You would agree there are many Hema people living in Mudzipela
6 today?

7 A. These are not only people from the Hema ethnic group who
8 live in Mudzipela; there are also some Nande; there are some Alur;
9 some Lendu, there are some Ngiti and other ethnic groups. All the
10 ethnic groups live there.

11 Q. And you would agree that there are still today some people
12 who live in Mudzipela who support the UPC?

13 A. It is not the UPC that has supporters in Mudzipela alone;
14 there are other parties, such as the MLC, the PPRD, the UPC and others
15 in Mudzipela.

16 Q. So it's true, then, sir, that the UPC does currently have
17 supporters in Mudzipela today?

18 A. In the town of Bunia there are 12 neighbourhoods where
19 supporters of the UPC are to be found. However, in other neighbourhoods
20 there are supporters of other parties, but one should bear in mind
21 that there are supporters of the UPC in other neighbourhoods, so there
22 are supporters of the UPC party in all 12 neighbourhoods; it is not
23 only in the Mudzipela neighbourhood that they are to be found.

24 Q. And do you remember that in June 2008, when there was a
25 possibility that Thomas Lubanga could be released, that there were

1 celebrations in Mudzipela?

2 A. Yes, but that was not only in Mudzipela; it was throughout
3 the entire town, also in the market and throughout the entire town
4 the population was jubilant.

5 Q. Sir, you were driving a taxi in Bunia; is that a moto taxi?
6 The answer has not been interpreted. Perhaps I'll ask the question
7 again. Sir, do you drive a moto taxi in Bunia?

8 A. Yes.

9 Q. And the word "ATAMOI" that you referred to on Friday, it's
10 correct, isn't it, that it stands for - now I am going to speak in
11 the French L'association des taximen moto de l'Ituri?

12 A. Yes, and the name is ATAMOI.

13 Q. To your knowledge, sir, isn't it true that a number of the
14 moto taxi drivers are ex-militiamen?

15 A. Well, if you say they are ex-militiamen, Hema, well, that
16 is not true. Those who are taxi drivers, moto taxi drivers, are in
17 general demobilised military men, not only Hema but there are also
18 Ngiti. The ATAMOI association gathers a number of individuals from
19 different ethnic groups. Nande, Hema, et cetera, so they're not only
20 members, and Ngiti, and they are not only members of the Hema ethnic
21 groups who are within the ATAMOI association.

22 Q. So you will agree that some of the taxi, moto taxi drivers
23 in Bunia, are ex-militiamen, some of whom are from the UPC, such as
24 yourself; that's right, isn't it?

25 A. I shall repeat my response. They are not only ex-militiamen

1 who are taxi men or taxi drivers. The association comprises many
2 individuals; generally speaking, most of them are demobilised, not
3 only from the UPC but also from other movements such as the FNI and
4 the FRPI.

5 Q. Sir, I understand that the moto taxi drivers are demobilised
6 from different groups, but my question is: Would you agree, therefore,
7 that some of the moto taxi men are demobilised soldiers from the UPC?

8 A. I'm not in a position to know that.

9 Q. Sir, if I understood your earlier answer, you said that
10 many individuals are, generally speaking, demobilised not only from
11 the UPC, so I'll ask my question again: You're an ex-militia from
12 the UPC and it's true, isn't it, that there are other ex-militia from
13 the UPC who are moto taxi drivers?

14 A. Well, everyone was doing various kinds of work. Demobilised
15 individuals did not constitute the majority of the taxi drivers who
16 belonged to the ATAMOI Association. I wasn't in a position to know
17 all the members. I am a taxi driver myself. There were also some
18 from the FNI. Most were taxi drivers, but that was not their only line
19 of work.

20 Q. Sir, you mentioned a meeting with Dieudonné Mbuna in 2007,
21 where he asked to you meet the lawyers. Was he alone when he spoke
22 to you?

23 A. Yes.

24 Q. And you indicated that Mr Mbuna is a wise man from your
25 village; that's right?

1 A. I said that he hailed from my neighbourhood. I knew him
2 at the time when he was at the ISP Institute, and this is not far from
3 the Mudzipela neighbourhood where I live.

4 Q. And you indicated that he is a wise man?

5 A. Yes.

6 Q. And wise men are respected in the community; are they not?

7 A. It is a man of a certain age from our neighbourhood. All
8 adult gentlemen are respected within our neighbourhood and personally,
9 I respect all my elders, all those who are adults.

10 Q. And it would have been difficult for you to refuse his request;
11 that's right?

12 A. Please repeat your question.

13 Q. It would have been difficult for you to refuse his request?

14 A. If he asks me to do something bad, then I shall refuse.

15 Q. And when you met the lawyers was Mbuna present?

16 A. Yes, he was there.

17 Q. Do you remember when it was that you met the lawyers?

18 A. I've already told you that it was in the year 2007.

19 Q. And did you meet with Mr Mbuna after you met with the lawyers?

20 A. We met each other on the way and I greeted him, and he did
21 likewise, and then we both went our separate ways.

22 Q. You met him on the way to where?

23 A. The town is large, and everyone goes about their own business.
24 Now, when I transport clients, I meet people, and I chanced upon him
25 in that context and greeted him. I greeted him with a sign of the

1 hand and I said hello, and he answered, and then I left and so did
2 he.

3 Q. Have you had any further discussions with Mr Mbuna about
4 Madam X?

5 A. No.

6 Q. Mr Mbuna didn't review or read documents to you, or provide
7 you with information about Madam X?

8 A. He never read a document to me.

9 Q. Did he give you information about Madam X?

10 A. Mr Mbuna did not give me any information on the subject
11 of Madam X.

12 Q. Did Madam X have any medical concerns that you were aware
13 of?

14 A. No, I am not in a position to know that. And when I was
15 with her, I did not know that she had any illness.

16 Q. Did she tell you where her parents were living?

17 A. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 MS SAMSON: Your Honour, that may require a redaction; it's
22 relatively general, but nonetheless to be absolutely certain.

23 PRESIDING JUDGE FULFORD: Certainly.

24 MS SAMSON: Thank you.

25 Q. Sir, do you know someone named Cordo?

1 A. I beg your pardon?

2 Q. Have you heard of a person named Cordo?

3 A. Where? I do not know that name, the name "Cordo".

4 Q. Did anyone other than Mr Mbuna and the Defence lawyers speak
5 to you about becoming a witness?

6 A. Nobody else.

7 MS SAMSON: Mr President, may we go into private session
8 for a few questions?

9 PRESIDING JUDGE FULFORD: Yes, certainly, Ms Samson.
10 Private session, please.

11 *(Private session at 9.59 a.m.) Reclassified as Open session

12 THE COURT OFFICER: We're in private session, your Honours.

13 PRESIDING JUDGE FULFORD: Yes.

14 MS SAMSON:

15 Q. Sir, did you know the name of Madam X's mother?

16 A. No, I do not.

17 Q. Do you know the name of her father?

18 A. No, I don't know that name, either.

19 Q. Did you know the name of any of her brothers or sisters?

20 A. Sisters. Well, he did live with one sister; one of them was called
21 (Redacted), the other one was called (Redacted) and the third (Redacted).

22 Those are the only ones I know. There's (Redacted) and (Redacted).

23 Q. And where did she live with (Redacted) and (Redacted)?

24 A. They lived very close to the (Redacted) association.

25 Q. Do you know her ethnicity, Madam X's ethnicity?

1 A. I don't know her ethnicity. I think she was from the south
2 of (Redacted). She told me that she was from the south of (Redacted).

3 Q. Did she tell you what her father did for a living?

4 A. She didn't talk to me about the profession of her father.

5 MS SAMSON: Here, your Honour, we could go back to public
6 session, with your leave.

7 PRESIDING JUDGE FULFORD: Please, public session.

8 (Open session at 10.02 a.m.)

9 THE COURT OFFICER: We are in open session, your Honours.

10 MS SAMSON:

11 Q. Sir, to your knowledge, it's right, isn't it, that the UPC
12 first went to Mahagi in October 2002?

13 A. I beg your pardon?

14 Q. It's right, isn't it, that the UPC first went to Mahagi
15 in October 2002?

16 A. Well, I can't remember all the dates. Perhaps I've forgotten
17 some dates.

18 MS SAMSON: Your Honour, can we go back into private session
19 for a few questions?

20 PRESIDING JUDGE FULFORD: Private session, please.

21 *(Private session at 10.03 a.m.) Reclassified as Open session

22 THE COURT OFFICER: We are in private session, your Honours.

23 MS SAMSON:

24 Q. Sir, on Friday you told the Court that the last time you
25 saw Madam X was in a hospital (Redacted); is that right?

1 A. No, that's not the last time. I met her after she left the
2 hospital, and we continued to meet.

3 Q. And you indicated that in the months (Redacted),
4 that you saw her. That's right, isn't it?

5 A. Please repeat.

6 Q. If I understood your evidence correctly on Friday, you said
7 that (Redacted) in the hospital that you would meet her
8 from time to time in Bunia; is that right?

9 A. We met, and we met at the hospital and (Redacted)
10 (Redacted), I went to see her; and then after
11 that, she called me and she told me that God had helped her and she
12 had had a (Redacted). And after that, we would meet, we began
13 to meet, and she stayed there in the neighbourhood.

14 Q. You're not (Redacted); right?

15 A. It's not me. (Redacted), she told me that
16 it was (Redacted)
17 (Redacted).

18 Q. And sir, correct me if I'm wrong, but did you not say on
19 Friday that you met her from time to time (Redacted)

20 A. Meeting like, do you mean (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted).

24 Q. Sir, that's certainly not what I'm asking you. I'm asking
25 you whether or not on Friday you indicated that you would see her around

1 Bunia from time to time (Redacted). Not intimately, just
2 that you saw her.

3 A. (Redacted), and we didn't see each other all the time
4 because (Redacted). Sometimes I would go by and say "hello";
5 and after, I would go back home. That's all.

6 Q. Sir, isn't it true that Madam X was not living in Bunia
7 in the months (Redacted)?

8 A. Please repeat your question.

9 Q. Isn't it true that Madam X was living in (Redacted) in
10 the months leading up to (Redacted) and that she returned
11 to Bunia only shortly (Redacted)?

12 A. That's not true. That's a lie.

13 MS SAMSON: The Court's indulgence for one moment, please.
14 (Counsel confer)

15 MS SAMSON:

16 Q. Do you know the religion of Madam X?

17 A. I don't know her religion. In our part of the world, people
18 who would pray for us in the camp were Protestant or Catholic, but
19 I don't know what her religion was.

20 Q. And, sir, you didn't verify Madam X's age by looking at
21 particular records, did you?

22 A. I don't know her age. We were doing military service together
23 and the rebellion was strong. I wasn't in a position to know what
24 her age was.

25 MS SAMSON: Thank you. Your Honour, I have no further

1 questions.

2 PRESIDING JUDGE FULFORD: Thank you very much indeed,
3 Ms Samson.

4 Ms Massidda, at one stage you had indicated that there may
5 be questions I think depending on the matters dealt with by Ms Samson.
6 What is the position this morning?

7 MS MASSIDDA: Thank you, your Honour. I have no further
8 questions for this witness. Thank you.

9 PRESIDING JUDGE FULFORD: Thank you very much, indeed.

10 Mr Biju-Duval? And we're in private session. Can we go
11 back into public session, Mr Biju-Duval?

12 MR BIJU-DUVAL: (Interpretation) Yes, your Honour. I have
13 just one question. I beg your pardon, your Honour. I believe it would
14 be preferable to remain in private session.

15 PRESIDING JUDGE FULFORD: Okay, thank you.

16 Questioned by Mr Biju-Duval: (Interpretation)

17 Q. Yes, Witness. A few moments ago the Prosecutor asked you
18 whether you knew any sisters of Madam X and you mentioned the names
19 of (Redacted) and (Redacted). My question is as follows. Who introduced
20 these two girls - these two young women - (Redacted) and (Redacted),
21 to you as the sisters of Madam X?

22 A. Thank you. She herself introduced her sisters to me. At
23 that time they were living together and she told me that they were
24 her sisters. I don't know whether they were the sisters of the family.
25 I said to myself that they were her sisters, because they were young

1 girls, the young girls she was living with, so I said that they were
2 really her sisters.

3 MR BIJU-DUVAL: (Interpretation) Thank you very much,
4 Mr Witness. I have no further questions.

5 PRESIDING JUDGE FULFORD: Thank you very much, indeed,
6 Mr Biju-Duval.

7 Sir, that then concludes your evidence before us and I'm
8 sorry that we've had to bring you back this week.

9 Public session, please.

10 (Open session at 10.13 a.m.)

11 THE COURT OFFICER: We are in open session, your Honours.

12 PRESIDING JUDGE FULFORD: This Court can only function
13 properly, in the sense of being put in a position where the Judges
14 are able to arrive at the truth, if people such as yourself are prepared
15 to cooperate with the Court and to come the very great distance in
16 order to give evidence before us.

17 We are, therefore, extremely grateful to you for your time
18 and the effort that you have expended in coming to The Hague in order
19 to give evidence. You, therefore, leave now with the sincere thanks
20 of the Judges for your assistance and your cooperation.

21 Usher, could you please now show the witness back to the
22 witness waiting room.

23 (The witness is excused)

24 PRESIDING JUDGE FULFORD: Mr Biju-Duval, as I understand
25 it, because of difficulties with arrangements the next witness, who

1 is Defence Witness 16 I think, is not going to be able to commence
2 his - I think it's him - evidence until 2.45 this afternoon. Is that
3 correct?

4 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.

5 PRESIDING JUDGE FULFORD: Right. Well, I think that then
6 means that we have run out of evidence this morning, but I've got a
7 feeling that Ms Samson may be about to get to her feet.

8 MS SAMSON: Thank you, your Honour. It's just a matter of
9 ensuring that the transcript is accurate. The last question and answer
10 exchange that I had with the witness is captured as all being part
11 of my question and I want to ensure that it is carefully separated
12 when the corrected version is made. For the sake of reference, it's
13 page 13 and the question and answer combination is at lines 17 to 20.

14 PRESIDING JUDGE FULFORD: Thank you for bringing that to
15 our attention, Ms Samson. I think history reveals that mistakes of
16 that kind are invariably corrected during the process of perfecting
17 the transcript, but you're quite right to bring it to our attention.

18 Right. What we will do, then, is this trial will not sit
19 again until 2.45 today. There will, however, be a status conference
20 with a differently constituted Bench, which will commence at half past
21 11.

22 Thank you all very much.

23 (The hearing ends at 10.17 a.m.)

24 RECLASSIFICATION REPORT

25 Pursuant to Trial Chamber I's email instruction dated 7th December

1 2011, the transcript is reclassified as public after the indicated
2 redactions have been implemented as ordered by the Chamber . All private
3 and closed sessions (*) are now available to the public with the exception
4 of the portions of the transcript that have been redacted.

5