

Trial Hearing
WITNESS: UGA-OTP-P-0085

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Raul Pangalangan
6 Trial Hearing - Courtroom 3
7 Monday, 26 February 2018
8 (The hearing starts in open session at 9.31 a.m.)
9 THE COURT USHER: [9:31:26] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE SCHMITT: [9:31:52] Good morning, everyone.
13 Good morning, Mr Witness.
14 WITNESS: UGA-OTP-P-0085 (On former oath)
15 (The witness speaks Lango)
16 THE WITNESS: [9:32:00] (Interpretation) Good morning.
17 PRESIDING JUDGE SCHMITT: [9:32:01] Could the court officer please call the
18 case.
19 THE COURT OFFICER: [9:32:05] Good morning, Mr President, your Honours.
20 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
21 Ongwen, case reference ICC-02/04-01/15.
22 And for the record, we're in open session.
23 PRESIDING JUDGE SCHMITT: [9:32:22] Thank you.
24 And for the appearances of the parties I ask first the Prosecution, Mrs Adeboyejo.
25 MS ADEBOYEJO: [9:32:31] Good morning, Mr President, your Honours.

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1 Benjamin Gumpert, Paul Bradfield, Hai Do Duc, Yulia Nuzban, Julian Elderfield,
2 Pubudu Sachithanandan, Ramu Fatima Bittaye, and myself, Adesola Adeboyejo for
3 the Prosecution.

4 PRESIDING JUDGE SCHMITT: [9:32:44] Thank you.

5 And for the LRVs Mr Cox first.

6 MR COX: [9:32:49] Good morning, Mr President, your Honours. with me

7 Ms Anushka Sehmi, Mr James Mawira and myself Francisco Cox.

8 PRESIDING JUDGE SCHMITT: [9:32:56] And Mr Narantsetseg.

9 MR NARANTSETSEG: [9:32:58] Good morning, Mr President, your Honours, for
10 the common Legal Representative Orchlon Narantsetseg, with me Ms Laura Mahecha,
11 intern.

12 Thank you.

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

14 And Mr Obhof for the Defence.

15 MR OBHOF: [9:33:09] Morning, your Honour. Today we have our counsel
16 Krispus Ayena Odongo; our co-counsel, Chief Charles Achaleke Taku; one of our
17 assistant to counsels, Ms Abigail Bridgman; our case manager, Tibor Bajnovic; our
18 intern, Ms Morganne Ashley; Dominic Ongwen of course is in court; and myself,
19 Thomas Obhof.

20 PRESIDING JUDGE SCHMITT: [9:33:31] Thank you, Mr Obhof.

21 And we note for the record also that Mr Edwards is present as Rule 74 counsel for the
22 witness. Thank you.

23 We can now continue with the questioning by the Defence.

24 Please, Mr Obhof.

25 MR OBHOF: [9:33:50] Thank you, your Honour.

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1 QUESTIONED BY MR OBHOF: (Continuing)

2 Q. [9:33:53] Good morning, Mr Witness.

3 A. [9:33:54] Good morning.

4 Q. [9:33:56] I hope you had a relaxed weekend and I do apologise for this cold
5 weather that we have been having here in The Netherlands.

6 A. [9:34:08] It's fine. It's okay.

7 Q. [9:34:10] Mr Witness, we spoke a little bit about Ocan Nono on Friday.

8 Now, was he a CO in Sinia brigade when you escaped?

9 A. [9:34:29] When I escaped he was in Stockree.

10 Q. [9:34:41] I'm going to read a little bit from your interview with the Prosecution
11 back in 2004. It's at tab 7, 0215-0208, page 0220 and starting at line 314.

12 And just to refresh your memory maybe, Mr Witness.

13 It says: "And do you know what Charles Labongo Nono, what his job is in Sinia
14 brigade?" And you state that he is a battalion CO.

15 Now, Mr Witness --

16 PRESIDING JUDGE SCHMITT: [9:35:27] Perhaps continue just two or three lines.

17 MR OBHOF: [9:35:30] Okay.

18 PRESIDING JUDGE SCHMITT: [9:35:31] I think that will be helpful, perhaps.

19 MR OBHOF: [9:35:32]

20 Q. [9:35:33] And then they asked do you know which battalion and you replied

21 Oka. Does that refresh your memory that maybe Ocan Nono, the Charles Nono also
22 with the nickname of Labongo, because he is from that area, could Ocan Nono when
23 you escaped have been in Sinia brigade, Mr Witness?

24 A. [9:35:59] Ocan Nono was in Sinia brigade, in that battalion. But at the time of
25 my escape he had been moved back to Stockree.

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1 Q. [9:36:18] Now, you also mentioned about how he was a bit rude, that if you
2 did not have the same mind or share common things then you would not get along
3 with him.

4 Now, was it the same for Buk Abudema, Mr Witness, did he get along with people?

5 A. [9:36:52] Abudema got along with people. But he liked issuing orders, orders
6 that were unnecessary.

7 Q. [9:37:05] Could you give maybe one or two examples of the unnecessary
8 orders, Mr Witness, please.

9 A. [9:37:21] An example is orders for violence. For example, if something does
10 not go to plan or if something does not go the way he wants, then he orders you to be
11 beaten. So those are the kind of orders.

12 Q. [9:37:38] Now what about Mr Ongwen, Mr Witness, you must have known
13 him during your time in the bush? What kind of a commander was he?

14 A. [9:38:04] Mr Ongwen was a commander, he was a CO, but as a CO I did not
15 spend a lot of time close to him. I would only -- I only spent time with him when we
16 were still lower ranking officers. But once he was promoted I did not spend a lot of
17 time close, closely with him on a daily basis.

18 Q. [9:38:34] Now when you were lower ranking officers, I'm assuming that's in
19 Sudan, so please correct me if I'm wrong, how did Mr Ongwen act?

20 A. [9:39:00] When we were in Sudan he was in a different battalion, we were both
21 in separate battalions. But I did not -- I did not hear anything regarding his lifestyle
22 in that battalion, especially I did not hear anything bad about him.

23 Q. [9:39:23] Now, when you first met Mr Ongwen, was he younger than you or
24 the same age or older than you?

25 A. [9:39:44] When we met for the first time I did not ask him how old he was.

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1 But based on my observation I believe we were close together in age, we were not that
2 far apart.

3 Q. [9:40:01] Now when you were in Sudan did you ever notice Mr Ongwen, say,
4 eating with the rank and file, as we would say the enlisted soldiers, instead of eating
5 with the junior commanders?

6 A. [9:40:41] When we were in Sudan there was a way, there was protocol in
7 which people used to eat, depending on people's ranks. If you are promoted or if
8 you are a high ranking officer, you cannot come down and eat with the foot soldiers.
9 Sergeants, going upwards, could not eat with the foot soldiers.

10 Q. [9:41:10] Now, it appears you didn't spend a lot of time with him, but also
11 amongst people they talk. When you said you hadn't heard anything bad about
12 Mr Ongwen, had you heard anything good about Mr Ongwen?

13 A. [9:41:37] The good things I heard, for example, you would hear there
14 was -- you would hear about commanders who did not like punishing their soldiers
15 or beating their soldiers or punishing them on a regular basis. If I hear about that
16 commander, then I know that that commander is actually good to his soldiers.

17 Q. [9:42:02] So in your opinion Mr Ongwen did not beat his soldiers, or at least
18 you did not hear of that; is that correct, Mr Witness?

19 A. [9:42:21] I did not hear of any soldier that he had beaten, but I do not know.
20 Perhaps when they are there he's beaten somebody, perhaps I did not hear about the
21 beatings. Maybe he beat somebody and I did not know about it. But people are
22 punished. When people are punished they do not spread the word around to
23 everybody. For example, if somebody is caned ten strokes they do not inform
24 everybody that, oh, this commander beat his soldier ten strokes or something. But
25 that is his unit and that's his people that he is commanding.

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1 Q. [9:43:06] Thank you, Mr Witness.

2 Now, on Friday you discussed very briefly about how Joseph Kony would brainwash
3 young children and that he would tell people in the LRA that they were going to
4 overthrow the government.

5 Now, Mr Witness, during your approximate 13 and a half years in the LRA how
6 many times did the LRA march to Kampala to attempt to take the capital city?

7 A. [9:43:54] The LRA did not go to Kampala. The LRA was mostly in northern
8 Uganda, they spent most of their time traversing across northern Uganda and when
9 they went to Teso as well. Those are the areas that I know the LRA went to and the
10 furthest was Teso.

11 Q. [9:44:20] Did the LRA ever lay siege or attempt to capture the capital cities of
12 the north, namely places like Arua, Kitgum town and Gulu town?

13 A. [9:44:39] There wasn't any big barracks that the LRA was attacking, for
14 example, the main barracks that are close to towns, the LRA would only attack the
15 smaller barracks.

16 Q. [9:44:59] From what you may have heard or may have seen, do you recall any
17 instance where Joseph Kony sent assassins to attempt to kill Yoweri Museveni, the
18 president of Uganda, in Kampala, Mr Witness?

19 A. [9:45:38] Well, I did not hear of any assassination attempts in Kampala. I did
20 not hear anything to that effect.

21 Q. [9:45:49] And next question, Mr Witness, only if you know, did the LRA ever
22 attempt to overthrow any parts of the government? And by "overthrow" I mean did
23 they attempt to overtake it and instil the political wing in any of the governments no
24 matter how large or how small in Uganda?

25 A. [9:46:29] I did not see any places that the LRA attacked where the LRA

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1 attacked government soldiers and overtook that area and were in charge of that area.

2 It did not happen. I did not see that happen.

3 Q. [9:47:03] Now, Mr Witness, around the time of your abduction, was this
4 so-called plan that Joseph Kony, was this so-called plan that Joseph Kony was
5 propagating about overthrowing the government, was that in the LRA, was that a
6 belief in the LRA at that time of your abduction?

7 A. [9:47:43] Based on my abduction, when I was abducted I was told that they
8 were going to -- they were fighting to overthrow the government, and that even if all
9 the Acholis who have stayed behind do not support him, he is going to continue in
10 the fight until he overthrows the government. And that's what I heard them talking
11 about.

12 Q. [9:48:15] Mr Witness, around that time of your abduction or whenever you
13 first met Mr Ongwen, was he senior enough to help collaborate on this plan? Would
14 he have been somebody who would have been part of the planning when you were
15 abducting -- when you were abducted? Sorry.

16 A. [9:48:51] When I was abducted, Dominic Ongwen was still young as well and
17 he had not -- he did not have any rank whatsoever. He was not a veteran as yet.

18 Q. [9:49:11] Speaking of ranks, when you were abducted, the LRA didn't use
19 ranks when you were abducted, did they, Mr Witness?

20 A. [9:49:28] They did have ranks, but the ranks were only limited to people who
21 had been there for a very long time.

22 Q. [9:49:39] Now, Mr Witness, we spoke a little bit last Friday about some of the
23 positions within the LRA. Who was the, around the time of 2003, who was the army
24 commander of the LRA?

25 A. [9:50:13] The overall commander of the LRA as far as I was aware was Otti,

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1 Otti, Kony's deputy.

2 Q. [9:50:30] And Nyeko Tolbert Yadin, was he the deputy army commander?

3 A. [9:50:44] He was Otti's deputy.

4 Q. [9:50:49] What about Raska, what was his position in '03?

5 A. [9:51:00] At the time they would say that Raska was a brigade general, a
6 brigadier general. But as a brigadier general he would follow Tolbert Yadin, because
7 Tolbert Yadin was in charge of all the brigade commanders.

8 Q. [9:51:28] So as Otti's deputy, Tolbert Yadin would be officially the brigade
9 general; is that correct, Mr Witness?

10 A. [9:51:49] No, he was not a brigade general. But I do not know how to
11 describe his position at the time, because I knew that he was Otti's deputy, but his
12 title or his position, I don't know whether it was a brigade general or not a brigade
13 general, because Raska was brigade general. So I do not know what position
14 Tolbert -- how to describe Tolbert's position other than that he was Otti's deputy.

15 Q. [9:52:33] How about in '03 with Caesar Acellam?

16 A. [9:52:43] At the time Caesar Acellam was initially the director of intelligence.
17 But, you know, in the LRA things are constantly changing. Today you are given this
18 position, tomorrow somebody replaces you and you are given another position. So
19 things were constantly changing. It was not static. But he was the director of
20 intelligence.

21 Q. [9:53:19] Thinking more along the lines of Caesar Acellam, was he injured in
22 November 2003, Mr Witness?

23 A. [9:53:32] Yes, he was injured.

24 Q. [9:53:38] And he spent quite a long time in sickbay. As a matter of fact, he
25 was still in sickbay when you escaped; is that correct?

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1 A. [9:53:54] At the time that I was escaping, yes, he was in the sickbay.

2 Q. [9:54:01] Now, Mr Witness, what is the position of the director of operations in
3 Control Altar? What did that position do?

4 A. [9:54:20] Director of operations, based on my knowledge, the director of
5 operations was somebody who was responsible for getting people together when
6 there is an order, an order for an attack. He would be responsible for ensuring that
7 people, that they select people and place them on standby so that they are ready to go
8 for the attack, and also to ensure that they have the necessary weapons and
9 ammunitions that they are to use during this operation. He would also ensure that
10 there was security or whether the security should be heightened or whether security
11 was okay.

12 Q. [9:55:17] Now, what about this group called Division, that was created in 2003,
13 right, Mr Witness?

14 A. [9:55:35] The Division is a little bit tricky for me to discuss, because at the time
15 that Division was created I was already in the sickbay. So at the time that the
16 Division was set, I just heard people talking about it, saying that the division had
17 been established. But I did not talk to or discuss with anybody in depth the reason
18 for establishing that division.

19 Q. [9:56:15] But the Division was higher than the brigades, correct, Mr Witness?

20 A. [9:56:31] The Division was higher than the brigade, because the Division had
21 three brigades in order for it to be known as a division. So it was bigger, bigger
22 than -- bigger than, bigger than a brigade.

23 Q. [9:56:58] Do you know who was leading Division in 2003?

24 A. [9:57:19] When the Division was established, I heard that the person who was
25 in charge, the division commander was Tabuley, he was in charge of that division.

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1 Q. [9:57:36] Did Lapaico eventually become his deputy?

2 A. [9:57:47] Based on what I heard, Lapaico was not his deputy. But based on
3 what I heard, when the division was established, they formed a battalion, a battalion
4 that was supposed to travel with that division, and Lapaico was the battalion
5 commander of that battalion.

6 Q. [9:58:19] Would that battalion happen to be named Jogo, Mr Witness?

7 A. [9:58:30] I do not know the name of that battalion.

8 Q. [9:58:42] Now, Mr Witness, you mentioned about the director of intelligence,
9 within the brigades and battalions, did the intelligence officers, did they report to
10 their brigade commanders or was their so-called chain of command different and did
11 they report to the director of intelligence?

12 A. [9:59:07] In the brigades the intelligence officer of that brigade would send his
13 report to the director of intelligence, but the brigade commander would be informed
14 beforehand and then he also goes and reports to his -- his commander or the director
15 of intelligence.

16 Q. [9:59:45] Would the director of intelligence give orders to the BIOs and the
17 battalion IOs?

18 A. [10:00:00] The director the intelligence did issue orders based on their tasks
19 and their mandate. If there is something that is supposed to be done in that regard
20 based on intelligence, then he would issue orders.

21 Q. [10:00:21] Now, Mr Witness, last Friday we spoke a little bit about wives in the
22 LRA. Now, if a woman's husband died -- actually, can you just explain to the Court
23 what would happen if a woman's husband died.

24 A. [10:00:56] In the LRA, if a woman becomes widowed, the woman stays for a
25 certain period. After a while or a certain period then Kony would issue orders that

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1 they should be -- they should undergo the smearing ritual. Those people would
2 then be, they would undergo the smearing ritual. Once they have been smeared,
3 then they would be there. The widows would not be given -- would not be
4 distributed. If somebody, for example, sees a widow and decides that he likes her,
5 then you have to enter into a courtship; she will not be given to you as a wife. You
6 talk to her, you enter into a courtship. If she fancies you as well, then the two of you
7 can enter into a relationship.

8 Q. [10:02:05] What happens if she decided she didn't want a relationship, was she
9 allowed to remain single?

10 A. [10:02:27] Well, I have never seen a widow being forced to go to a man, I have
11 never seen that happen.

12 Q. [10:02:38] Do you remember a woman in the LRA by the name of Doctor
13 Agnes, Mr Witness?

14 A. [10:03:04] Yes, I do recall about Doctor Agnes.

15 Q. [10:03:12] And when her husband died she didn't take a new husband for
16 quite some years; is that correct?

17 A. [10:03:25] Yes.

18 Q. [10:03:33] Now let me turn to -- back to Buk Abudema. Do you remember
19 around the time in which you escaped did he have a wife named Adong?

20 A. [10:03:54] A wife called Adong? He had many wives, but I do not recall of an
21 Adong. It's possible that he had a wife called Adong, but I cannot clearly recall that
22 now.

23 Q. [10:04:32] It's been a long time, I can understand.
24 Now you also spoke last week of discreet ways in which a man could refuse a wife.
25 From your time in the LRA and from your experience, what would happen to

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1 somebody if they refused four women, Mr Witness?

2 A. [10:05:06] Well, I have not understood that well. Four women already with
3 him before or you are talking about additional four women?

4 PRESIDING JUDGE SCHMITT: [10:05:36] Indeed, Mr Obhof, I think you would
5 have to clarify.

6 MR OBHOF: [10:05:41] I do apologise, that was worded poorly.

7 Q. [10:05:46] So you talked about how a man could surreptitiously, could secretly
8 decide that he did not want to take a woman and tell the operations room that he was
9 unable to care for her. What do you think would happen if a man did this four times?
10 If four times in a row he went to the operation rooms and said "I cannot take care of a
11 woman. I don't have enough pots and I don't get enough food"?

12 A. [10:06:29] Well, most times they would not force anyone. But I never heard
13 of such a report concerning somebody who refused to have a woman four times, I
14 never heard of that. But if, for instance, you feel that you have two wives and that
15 they are already enough, you do not want another one and they suggest giving you
16 another one, you could say "Well, I cannot take up another one" and nobody would
17 force you. I never heard of such a report of somebody who rejected a wife.

18 Q. [10:07:23] Now, Mr Witness, do you remember a person named -- in Sinia
19 around the time of your escape, an intelligence officer named Okwee?

20 A. [10:07:51] Yes, I do recall Okwee.

21 Q. [10:07:54] From what you have heard being in the LRA, was Okwee impotent?

22 A. [10:08:13] Well, I didn't get much details about Okwee, because what used to
23 happen was that he would not interest himself in women. But I didn't get to know
24 whether he was impotent or he just never wanted women. It was difficult for me to
25 establish that, because issues surrounding impotence is not something that everyone

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1 talks about easily, if he was impotent, and he never talked about that. You know,
2 most times nobody would want to admit that they are impotent. I never got to know
3 that. But what I could see was that he was not interested in wives.

4 PRESIDING JUDGE SCHMITT: [10:08:56] A fair answer I would say, Mr Obhof.

5 MR OBHOF: [10:09:00] Exactly, he's just saying what he can remember.

6 Q. [10:09:06] Now a bit on to radio calls, Mr Witness. Did you ever have a stable
7 radio call?

8 A. [10:09:31] I didn't have a regular radio call that worked well, but I had a radio
9 call that sometimes would work. But if the weather wasn't good it would not be able
10 to receive communication.

11 MR OBHOF: [10:09:51] Your Honour, I would like to go into private session for
12 one quick question, please.

13 PRESIDING JUDGE SCHMITT: [10:09:56] Private session.

14 (Private session at 10.10 a.m.) *(Reclassified entirely in public)

15 THE COURT OFFICER: [10:10:01] We're in private session, Mr President.

16 MR OBHOF: [10:10:11]

17 Q. [10:10:12] Now, Mr Witness, did you have a call sign or a name in which you
18 used on the radio call?

19 A. [10:10:32] You know, you would be having a call sign that will be given to a
20 signaller, and it's that call sign for that radio that you will be using as the commander.
21 But it will be the signaller who will have that detail.

22 Q. [10:11:01] Then your signaller, what call sign did your signaller use?

23 A. [10:11:15] Well, the call sign that the signaller used I cannot recall now,
24 because I didn't use the radio for a long time and I do not recall the call sign right
25 now.

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1 Q. [10:11:32] One final follow-up, then we can go back into public.

2 Who was your signaller around the last year you were in the LRA?

3 A. [10:11:49] My signaller was a certain boy. I cannot recall the name right now.

4 Maybe if you have the name you could remind me, then I will tell you if it is or not.

5 But, you know, these things that you do not record, it is difficult to memorise on this

6 time. Especially for some of us who do not write things down, it's difficult to recall.

7 PRESIDING JUDGE SCHMITT: [10:12:30] If you have a name simply --

8 MR OBHOF: [10:12:32] No, we don't. We were --

9 PRESIDING JUDGE SCHMITT: [10:12:34] You don't, okay. You cannot put,
10 obviously not put any name to the witness.

11 MR OBHOF: [10:12:41] No.

12 PRESIDING JUDGE SCHMITT: [10:12:43] Back to open session?

13 MR OBHOF: [10:12:45] Yes. I know we have Mike right now looking for it in
14 our -- if we find one in the next hour we will --

15 PRESIDING JUDGE SCHMITT: Open session.

16 MR OBHOF: [10:12:45] Yeah.

17 (Open session at 10.12 a.m.)

18 THE COURT OFFICER: [10:12:52] We are back in open session, Mr President.

19 MR OBHOF: [10:12:55]

20 Q. [10:12:56] Mr Witness, do you remember who used the call sign Latoni?

21 A. [10:13:14] Latoni? Somebody using the call sign Latoni, no, I do not recall.

22 Q. [10:13:35] How about Ayom? I might be mispronouncing that, but it is the
23 Acholi word for monkey.

24 A. [10:13:50] Ayom? Would that be a call sign or just a nickname you would use?

25 Because for a call sign, well, I think it wouldn't be something of that nature.

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1 Maybe if they are trying to use a coded language so that people do not understand,
2 then they could use some nicknames or something like that.

3 Q. [10:14:33] How about if I put a name to you of Thomas Kwoyello? Was he
4 sometimes called Ayom?

5 A. [10:14:51] I never got to know about the name Ayom. I also didn't hear any
6 mention of Ayom over the radio. I didn't get to know that.

7 Q. [10:15:11] Now, Mr Witness, we're going to move on to a different area about
8 collaborators. During your time in the bush were you aware of civilian collaborators
9 with the LRA?

10 A. [10:15:55] Yes, I used to know.

11 Q. [10:15:59] Without saying any names, did you have specific collaborators or
12 informers to whom you would talk to whilst in the bush?

13 A. [10:16:21] When I was still in the bush, yes, there were collaborators, because
14 there were certain items that could not be easily found, so you would have to go and
15 collect them from the towns. We would then use these collaborators to go and
16 procure these items and then they would procure and then provide for the LRA.

17 Q. [10:16:56] What type of items would these be, these hard to find items?

18 A. [10:17:16] They were things like tents, gumboots, which will be used for our
19 movements because it would be very difficult to get adequate supplies of these
20 gumboots, so you would have to send these collaborators to keep procuring these
21 items so that they would be there for us. Other things would include salt.

22 Sometimes you get to a point when it's very difficult to get salt and then you would
23 use these people to procure them. Sometimes you also use them to buy drugs.

24 These were some of the items that were very useful for our lives in the bush.

25 MR OBHOF: [10:18:10] Your Honours, if we can go into private session for two

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1 questions, please.

2 PRESIDING JUDGE SCHMITT: [10:18:16] Private session.

3 (Private session at 10.18 a.m.)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Open session at 10.20 a.m.)

20 THE COURT OFFICER: [10:20:29] We are back, we are back in open session,

21 Mr President.

22 MR OBHOF: [10:20:37]

23 Q. [10:20:40] Now, Mr Witness, still with collaborators, did you ever hear of the

24 Acholi chief Rwot Oywak performing these services for the LRA?

25 A. [10:21:06] Well, the issue of Rwot Oywak, yes, I heard of it, but I thought

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1 because he was a chief, an Acholi chief, and I also saw him during the peace
2 negotiations in 1993, he was part of the delegation that engaged in the peace talks.
3 So I could see him interact with the LRA very well, so I thought maybe because of the
4 peace negotiations that he had engaged in, that was why he had a good relationship
5 with the LRA.

6 Q. [10:22:11] This is really a stab in the dark, I'm sorry, I should have asked this
7 earlier, you mentioned 1993 and it popped into my head. Mr Witness, when Pope
8 John Paul II came to Uganda in the '90s, did the LRA send a delegation to meet him?

9 A. [10:22:36] Well, I don't know whether that happened, I never heard of it. I
10 never heard whether there was a delegation that was sent to him.

11 Q. [10:23:05] Mr Witness, last week you testified that you escaped on 24 May 2004.
12 But when you were interviewed by the Office of the Prosecutor within months after
13 your escape you told them that you entered Pajule on 24 April 2004. Can you
14 explain the difference between today and what you said 13 and a half years ago to the
15 Prosecution?

16 A. [10:24:10] Well, the disparity is because, you know, at the time I was escaping,
17 when I arrived back I thought it was April, but after some time I realised that it was
18 not April, rather, it was May 24. That was why I mentioned it here the previous day
19 that it was on 24 May. Because, you know, sometimes when you are caught
20 unawares you are not prepared for something and then they ask you, you will begin
21 talking about things that you may not have concentrated on, you might be thinking
22 about something else and then you are mentioning this or that, thinking that is what
23 they require you to say.

24 MR OBHOF: [10:25:33] Your Honour, about the next 7 to 10 minutes will have to
25 be in private, please.

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1 PRESIDING JUDGE SCHMITT: [10:25:40] Can you indicate perhaps in more
2 general terms what it's about.

3 MR OBHOF: [10:25:44] The exact location of where he was at and certain
4 discussions which anybody with --

5 PRESIDING JUDGE SCHMITT: [10:25:53] Yes. Private session.

6 (Private session at 10.25 a.m.)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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13 (Open session at 10.32 a.m.)

14 THE COURT OFFICER: [10:32:45] We're back in open session, Mr President.

15 MR OBHOF: [10:32:57]

16 Q. [10:32:59] Now, Mr Witness, around the time of your escape, place 1, that we
17 just discussed in private session, it had a good amount of food, didn't it?

18 A. [10:33:18] There wasn't sufficient amount of food because in order for us to
19 have sufficient food, you must have both the sauce and the bread or the rice or the
20 millet, but we did not have the -- we did not have the sauce. We did have the grains
21 or the millet or whatever, but we did not have sauce.

22 Q. [10:33:45] In fact, Mr Witness, while you were there, there were a bunch of
23 empty Irish and tomato patches, were there not? Where somebody had come and
24 picked them.

25 A. [10:34:05] There was no Irish potatoes because they do not cultivate it there.

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1 They do cultivate the local potatoes as well as cassava, those are the kind of things
2 that are cultivated there and those were the things that were readily available.

3 Q. [10:34:32] So they don't cultivate tomatoes there, Mr Witness?

4 A. [10:34:39] It is possible to cultivate tomatoes, but tomatoes are usually grown
5 along water sources, for example, along the springs or along the river, so you really
6 have to look for a location where tomatoes have been grown.

7 Q. [10:35:02] But as we just discussed, the location where you were at was rather
8 close to a -- without saying the name, was close to a river, which means tomatoes
9 could have been grown not too far away from place number 1; is that right,
10 Mr Witness?

11 A. [10:35:26] It is possible that tomatoes could be cultivated, but there was no
12 nobody to plant the tomatoes. There was nobody to cultivate and plant those
13 tomatoes because most of the people had already left the area and gone closer to the
14 centres. Some people were in the camps, so it was not possible for people to come
15 and harvest or plant crops along the river.

16 Q. [10:35:57] But it was possible for them to plant millet, cassava, the local
17 potatoes?

18 A. [10:36:13] There was cassava and potatoes, but the distance where the cassava
19 and the potatoes were grown was not very far from the centre.

20 MR OBHOF: [10:36:28] Right now would be the opportune time to take a break.
21 My estimate --

22 PRESIDING JUDGE SCHMITT: [10:36:34] Quarter past 11.

23 MR OBHOF: [10:36:36] Sounds good to me. My estimate is maybe about
24 25 minutes when we get back.

25 PRESIDING JUDGE SCHMITT: [10:36:41] So we have now a break until quarter

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1 past 11, as I said.

2 (Recess taken at 10.36 a.m.)

3 (Upon resuming in open session at 11.16 a.m.)

4 THE COURT USHER: [11:16:57] All rise.

5 PRESIDING JUDGE SCHMITT: [11:17:13] Mr Obhof, you have still the floor. And

6 thank you very much for the copies now that are here on the desk for everyone.

7 And perhaps I would suggest that you simply start the process all over again, so to

8 speak. And you can put it literally to the witness what is written down here.

9 MR OBHOF: [11:17:32] Yes.

10 PRESIDING JUDGE SCHMITT: [11:17:33] And perhaps provide him also with a

11 little bit of background information that he can put it into perspective.

12 MR OBHOF: [11:17:39] And of course, these next five minutes or so will be in

13 private session.

14 PRESIDING JUDGE SCHMITT: [11:17:44] Indeed, private session.

15 (Private session at 11.17 a.m.) *(Reclassified partially in public)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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1 Q. [11:27:49] Now, Mr Witness, what does it mean to be without an office in the
2 LRA?

3 PRESIDING JUDGE SCHMITT: [11:27:57] Open session I would say.

4 MR OBHOF: [11:28:00] This is the one thing where I said the next follow-up
5 question would be asked.

6 PRESIDING JUDGE SCHMITT: [11:28:04] If you know that the follow-up question
7 (Overlapping speakers)

8 MR OBHOF: [11:28:06] And this question can be unredacted easily, but it's the
9 follow-up question afterwards.

10 PRESIDING JUDGE SCHMITT: [11:28:11] Okay.

11 MR OBHOF: [11:28:16]

12 Q. [11:28:17] What does it mean to be without an office, Mr Witness, in the LRA?

13 A. [11:28:26] Being without an office in the LRA happens in a situation where there
14 is a commander who does not have -- who is just staying in the bush, but not having
15 any commanding responsibilities and not holding any position. He will just be there
16 as an officer, but without any specific tasks.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

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8 (Open session at 11.31 a.m.)

9 THE COURT OFFICER: [11:31:27] We're back in open session, Mr President.

10 MR OBHOF: [11:31:31]

11 Q. [11:31:32] Now, Mr Witness, if commanders were in sickbays with serious
12 wounds, would they retain their command?

13 A. [11:31:50] Well, you would not retain your role because at that time you're
14 considered as a sick person and, therefore, you do not have the authority to
15 command.

16 Q. [11:32:05] So similarly on that same tab, they listed as you mentioned the other
17 day in Pajule, Dominic was coming out of sickbay from a serious injury. It also lists
18 Mr Ongwen without an office in Sinia. Would that sound -- would that appear to be
19 correct, Mr Witness?

20 A. [11:32:44] Following what I mentioned the other day, I said that I heard that at
21 that time he had just left the sickbay where he was because he was sick. He had just
22 returned from the sickbay. And following the issue of office, I remember I didn't
23 mention anything about him bearing an office at that time, because I was not sure
24 after returning from the sickbay whether he had been given back his role or he was
25 still being taken as a sick person. I only knew that he had already left the sickbay

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1 and returned. I didn't get to know whether immediately from the sickbay he was
2 given back his role.
3 You know, sometimes you can leave the sickbay because of the difficulties of the life
4 there. It's very difficult to live with the sick people. Sometimes you're not yet
5 feeling very okay but you have the capacity to walk and then you feel that you have
6 to leave the sickbay and come and live with people who are mobile so that your life is
7 a little more easy instead of getting stuck at one position. That is sometimes one of
8 the reasons where people can leave the sickbay. You can leave the sickbay and yet,
9 when you cannot yet carry out your commanding tasks.

10 Q. [11:34:21] Thank you, Mr Witness.

11 Now, Mr Witness, do you remember the escape of a person by the name of Otto
12 Sunday?

13 A. [11:34:39] I can recall that Otto Sunday escaped, but the period and then the
14 location where he escaped from, I cannot recall now. But what I can remember is
15 that he eventually escaped.

16 Q. [11:35:07] Do you remember if he escaped before or after you, Mr Witness?

17 A. [11:35:13] I remember he escaped prior to my escape. He came out before me.

18 Q. [11:35:32] Do you remember if somebody by the name of Odong Cow escaped
19 before or after you?

20 A. [11:35:48] Odong Cow escaped before me.

21 Q. [11:36:04] Now, the other day you mentioned that you saw Mr Ongwen after the
22 Odek attack. Was Odong Cow with Mr Ongwen that day when you met him?

23 A. [11:36:22] The day I met with Dominic Ongwen, I do not recall having seen any
24 other commander other than himself because we just bumped onto each other. We
25 had not planned to meet with him. So I did not meet any other officer who was

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1 there. I didn't have the time to do that. And for that reason I never saw any other
2 officer at that spot on that day.

3 Q. [11:37:14] Now, Mr Witness, during that same time frame in 2003 and 2004,
4 what would happen if a captain or a major or even a lieutenant, if they escaped and
5 then came back to the LRA, if they went back to the LRA after escaping and after
6 everyone knew that they had escaped, what would happen to that person?

7 A. [11:38:00] If you escaped from the LRA and then you return to the LRA, well, I
8 never saw anybody who escaped from the LRA and then eventually returned. I did
9 not see that. But what I think is that if you escaped from the LRA and then you
10 come back to the LRA, I think there won't be anything else they will do to you except
11 kill you, if you escaped and then you come back.

12 MR OBHOF: [11:39:28] Your Honour, that's it for me. I believe our counsel has a
13 few questions, a few follow-up questions.

14 PRESIDING JUDGE SCHMITT: [11:39:33] Thank you, Mr Obhof.
15 Mr Ayena, I give you the floor.

16 MR OBHOF: [11:39:38] Let me say my thanks to the witness.
17 I'm sorry you had to be here at such a cold time.

18 MR AYENA ODONGO: [11:39:48] Thank you very much, Mr President and your
19 Honours.

20 QUESTIONED BY MR AYENA ODONGO:

21 Q. [11:39:52] Mr Witness, welcome. And although my colleague Thomas Obhof
22 seems to be apologetic about you coming here during this cold weather, I thought it's
23 a good experience. This is what it is in this part of the world. You'll have a story to
24 tell.

25 Now, Mr Witness, I reckon that you come from Lango; am I right?

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1 A. [11:40:31] Correct.

2 Q. [11:40:34] Now, on Friday you talked about cattle rustling which happened both
3 in Lango and in Acholiland, and you stated that it was the case that cattle that was
4 rustled was by the Karamojong. Is that still your statement?

5 A. [11:41:17] In regards to that issue, during the period when there was cattle
6 rustling, what I knew, basing on my age at that time, was that I would hear them talk
7 about Karamojong. And because at that time they wouldn't only rustle cattle, they
8 would also kill you. That therefore meant that you could not stay back to watch and
9 see who exactly was coming to loot your cattle. But that was what I would hear;
10 they would mention the name Karamojong.

11 Q. [11:42:15] Now, Mr Witness, can you inform Court whether, like in the past, the
12 cattle rustling was confined to the eastern part of Lango or it spread throughout
13 Lango?

14 A. [11:42:50] Well, whatever was happening in other areas, I was not aware of.
15 But the area that I knew was suffering from such cattle rustling included places like
16 Patongo, Kalongo, coming to Pajule, and you move up to Minakulu, Iceme, Otwal
17 and, yeah, what I know was it came up to around Minakulu, that was the catchment.
18 But other areas in Lango, such as Amolata, Dokolo and other areas, I'm not sure
19 whether they also came through the same.

20 Q. [11:43:57] Mr Witness, can you also tell Court whether before the NRM
21 demonstration, this level of cattle rustling which you have just described, forget about
22 Dokolo and Amolata and other parts, I suppose of course that even your home area
23 (Redacted) was affected. Is it the case -- was this the case before the NRM
24 government came to take stewardship of the country?

25 A. [11:45:02] You know, during the period when there was cattle rustling, there

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1 was a lot of conflict and because I was still young, I could not clearly define what kind
2 of conflicts or attacks were going on. At that time, the LRA was -- insurgence was
3 starting. There was Lakwena and remnants of Obote's soldiers who had lost the
4 government was there. There was also the NRA. Therefore, there were so many
5 different categories of soldiers. It was difficult for me to distinguish between them
6 and I didn't know which one was doing what at that time.

7 Q. [11:45:50] In that case, Mr Witness, would you agree with me that the cattle
8 rustling was beyond the capacity of the Karamojong?

9 A. [11:46:08] It's very difficult for me to determine what kind of assistance was
10 given. It's very difficult for me to explain.

11 Q. [11:46:35] And, Mr Witness, if I were to tell you that most of the cattle rustling,
12 the identification where animals were, were done by helicopters, would you still
13 believe that the cattle rustling was done by the Karamojongs?

14 PRESIDING JUDGE SCHMITT: [11:47:14] I let it pass, but with a little bit of a
15 stomachache because it really asks a little bit for speculation. Perhaps you reword it.
16 Mr Witness, do you have any information that it could have been other people
17 responsible for this cattle rustling?

18 MR AYENA ODONGO: [11:47:36] I was making a proposition.

19 PRESIDING JUDGE SCHMITT: [11:47:37] Yes, but --

20 MR AYENA ODONGO: [11:47:39] I was making a proposition. And this is very
21 crucial because evidence has been led in this Court on the root causes of the conflict in
22 northern Uganda.

23 PRESIDING JUDGE SCHMITT: [11:47:52] But I think also we are at what point of
24 time? "In" time, better worded. Where are we now? We are in the 1990s or --

25 MR AYENA ODONGO: [11:48:02] Yes.

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1 PRESIDING JUDGE SCHMITT: [11:48:03] Yes.

2 MR AYENA ODONGO: [11:48:04] This was between 1986 up to about 1995.

3 PRESIDING JUDGE SCHMITT: [11:48:15] My problem is simply that the witness
4 might not know anything about helicopters identifying cattle herds or something like
5 that. It would be difficult for him. So even if he answers to your proposition, let
6 me put it this way, for example, if this was so, then I might change my mind. But
7 this is more. If he doesn't have any knowledge about that, it's difficult for him to
8 answer, you see?

9 If the Prosecution does not mind, obviously if there is no objection by the Prosecution,
10 then let the witness answer.

11 MR AYENA ODONGO: [11:48:53] Yes.

12 PRESIDING JUDGE SCHMITT: [11:48:53] And we put it into perspective.

13 MR AYENA ODONGO: [11:48:56] Yes.

14 Q. [11:49:01] Mr Witness, my proposition was that supposing I were to tell you that
15 the cattle rustling in Lango and Acholi and parts of Teso were actually guided by
16 helicopters, would it still be your testimony that it was the Karamojongs who rustled
17 the cattle?

18 MS ADEBOYEJO: [11:49:34] Objection from the Prosecution, because it's entirely
19 speculative. It's calling for speculation on behalf -- from the witness.

20 PRESIDING JUDGE SCHMITT: [11:49:43] I agree. Simply we are too far away
21 from a factual basis. You know the witness even, as I have understood, has no own
22 knowledge about the entity, so to speak in a more general manner, who might have
23 been responsible for this cattle rustling. So I understood he has heard about it and
24 has himself conjectured a little bit about it and then to ask him, "If there is any other
25 hypothesis, would you change then your mind?" would, in my opinion, in the end,

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1 have no probative value also. That is perhaps the main -- the main problem.

2 We can let him answer the question, but the probative value will be very, very low, if
3 at all. So I would ask you to move to another point. It's too speculative in my
4 opinion.

5 MR AYENA ODONGO: [11:50:34] In that case I'm guided, your Honour, but maybe
6 I recast the questions.

7 PRESIDING JUDGE SCHMITT: [11:50:41] If you do it, in a manner that -- let's listen
8 to you.

9 MR AYENA ODONGO: [11:50:46] Yes.

10 Q. [11:50:48] Mr Witness, did you ever hear people in your environment or even
11 when you were in the bush talk about helicopters being used to identify where
12 animals were?

13 PRESIDING JUDGE SCHMITT: [11:51:10] Okay.

14 THE WITNESS: [11:51:11] (Interpretation) Well, with regard to the cattle, as far as
15 I'm concerned, or when these things were taking place, the names that I heard were
16 that of the Karamojong. But when the LRA abducted me and took me to the bush,
17 that's when I heard from Kony that we are fighting and we are supposed to fight to
18 take over -- overthrow the government, because the government has taken the wealth
19 from the hands of the Acholi as well as the Langi and other tribes as well in that
20 region.

21 And when he said that, he did not go into detail about whether they used helicopters
22 to source out where the cattles are or whether to find out where the herds of cattle
23 were; he did not actually go into depth about that. Because when these things
24 happened in '86 and '87 to 1988, we did hear, we heard about the Karamojong.
25 When we heard that the Karamojong were coming, we'd run.

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1 In the area, in my home area, I did not see any helicopters at the time. At the time I
2 did not know any helicopters and I did not see any helicopter. So to confirm
3 whether or not it was helicopters that would come and source the whereabouts of the
4 herds of cattle is very difficult for me.

5 PRESIDING JUDGE SCHMITT: [11:53:05] But nevertheless, Mr Ayena, there was
6 something new into it now in the answer.

7 MR AYENA ODONGO: [11:53:12] Yes.

8 PRESIDING JUDGE SCHMITT: [11:53:12] So -- and you know what I am referring to.
9 Especially the attitude of Kony towards the issue.

10 MR AYENA ODONGO: [11:53:20] Yes.

11 PRESIDING JUDGE SCHMITT: [11:53:20] So perhaps you move to another point
12 now.

13 MR AYENA ODONGO: [11:53:22] Yes. One small follow-up question.

14 Q. [11:53:25] Mr Witness, when -- now when you became of age and you returned
15 home, did you hear people talk about cattle rustling and the people they think were
16 behind it?

17 A. [11:53:42] When I came back home, and I am mostly stationed in the barracks,
18 when I go home on leave, I go home for about a week. If I have any chores or tasks
19 that I have to perform at home, then I spend that week actually doing that. I do not
20 have the time to sit, chat and converse with other people. So I would just go,
21 perform the specific task that I'm supposed to do and go back. So it's very difficult
22 for me to respond to that because I did not hear anything about that.

23 Q. [11:54:34] Thank you very much, Mr Witness.

24 Now, let's talk about your -- the spirits atmosphere in the LRA. On Friday,
25 Mr Witness, you told Court that, you know, when you were abducted, they

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1 performed certain rituals on you. And you were told that it would confuse and
2 make -- you cannot escape, you can move round and round and round.

3 And you also said that they would perform certain rituals on you when you went to
4 battle and that this was supposed to protect you against enemy bullets. Is that a
5 correct rehashing of what you said, Mr Witness?

6 A. [11:55:49] That's what I stated with respect to what I heard as well, as well as my
7 first-hand observations, something that I personally went through and something that
8 I saw happen to other people.

9 Q. [11:56:06] Now, in that case, Mr Witness, whenever you went to the battle front,
10 did you believe that you were in the company of spirits to watch over you, to protect
11 you as a result of those rituals?

12 A. [11:56:27] You know, when you go to the battle front, the only thing that you
13 focus on other than fighting, there is nothing else that you can focus yourself on other
14 than fighting. So when we go to battle we are not thinking about spirits surrounding
15 us, spirits above us, or spirits around us protecting us from bullets.

16 We go, when we have to go to fight, we go, and we continue with the battle. The
17 thought that whether you're being protected by the spirits or whether you have spirits
18 around you is not something that comes to your mind first-hand. The most
19 important task at hand is for you to go and fight and finish the battle the best way
20 that you possibly can, and that's the only thing that's on your mind.

21 Q. [11:57:29] Mr Witness, you stayed in the bush for a fairly long period of time.
22 There were two, normally two targets, the military targets as well as civilian targets.
23 From what you may have witnessed or learnt what was Dominic Ongwen renowned
24 for, attacking military targets or attacking civilians?

25 A. [11:58:20] Civilians, the civilians were not targeted in their homes. Civilians

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1 would stay in their homes, but they did not have a base where they could go and stay.
2 But they were mobile. They would always go to locations where you would find
3 civilians. But it's not something that was prearranged. It was never prearranged
4 that go and attack civilians. Except the times when civilians moved to the camps,
5 that's when they would go and attack the army barracks. But the army barracks and
6 the civilian camps were in the same location, so once they get to that place, you know,
7 once you start firing bullets, bullets do not discriminate. Bullets will not decide only
8 to head towards the barracks. Bullets will go in any direction. So sometimes
9 bullets, civilians would be caught in the crossfire as well.
10 So based on your question, Dominic was -- whether Dominic was renowned for
11 attacking civilians or whether he was renowned for attacking soldiers, I did not hear
12 about him attacking civilians because they do not make any arrangements or any
13 plans that go and attack civilians, target civilians.
14 Civilians are not targeted in isolation unless soldiers are in the vicinity. So I did not
15 hear of any attack that Dominic went and attacked civilians without attacking the
16 army.
17 And the other thing that I also know, I heard when Dominic went he sent his people
18 to attack -- the only place I heard is Odek. And the other things that I heard on the
19 radio, but I'm not very familiar with, because sometimes when you hear things over
20 the radio that are actually not -- or half-truths. For example, they could say
21 somebody went and attacked a place whereas it's somebody else, so I cannot give you
22 any information on that.
23 But the one that I heard over the radio and that I discussed personally was him was
24 Odek. But I did not hear of him going to attack civilians.
25 But, you know, the UPDF, we -- wherever we were located we were mobile. We did

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1 not have any base so we were constantly moving from one place to another. And
2 the UPDF were constantly pursuing us, so everywhere we go the UPDF would be
3 pursuing us. Everywhere we go they would be pursuing us. So when they find us
4 we fight, we fight against them. If they don't want to fight, we run and go away.
5 We don't fight.

6 But that's something that happened a lot when the UPDF came, when they came and
7 attacked us then we would attack them back, because if somebody comes to attack
8 you have to defend yourself against them. That's what I know.

9 Q. [12:01:59] Thank you very much, Mr Witness. You have been so kind to help
10 Court to establish the truth. When you go home send my regards to the people.
11 Mr President and your Honours, this will end my follow-up cross-examination.

12 PRESIDING JUDGE SCHMITT: [12:02:13] Thank you very much, Mr Ayena.

13 And, Mr Witness, I would like to follow up on what the Defence counsel said. Also
14 on behalf of the Chamber I would like to thank you that you came to this Court, into
15 this courtroom, and to help us to establish the truth. And we wish you a safe trip
16 back to your home.

17 THE WITNESS: [12:02:37] (Interpretation) Thank you.

18 (The witness is excused)

19 PRESIDING JUDGE SCHMITT: [12:02:39] That concludes the hearing for today.

20 We resume tomorrow at 9.30 with Witness P-209. Thank you.

21 THE COURT USHER: [12:02:48] All rise.

22 (The hearing ends in open session at 12.02 p.m.)

23 RECLASSIFICATION REPORT

24 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July
25 2016, the public reclassified and lesser redacted version of this transcript is filed in the

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1 case.