

Trial Hearing
WITNESS: UGA-OTP-P-0209

(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
- 6 Judge Raul Cano Pangalangan
- 7 Trial Hearing - Courtroom 3
- 8 Wednesday, 28 February 2018
- 9 (The hearing starts in open session at 9.32 a.m.)
- 10 THE COURT USHER: [9:32:31] All rise.
- 11 The International Criminal Court is now in session.
- 12 PRESIDING JUDGE SCHMITT: [9:33:00] Good morning, everyone.
- 13 Good morning, Mr Witness.
- 14 WITNESS: UGA-OTP-P-0209 (On former oath)
- 15 (The witness speaks Acholi)
- 16 THE WITNESS: [9:33:06] (Interpretation) Good morning.
- 17 PRESIDING JUDGE SCHMITT: [9:33:08] Could the court officer please call the case.
- 18 THE COURT OFFICER: [9:33:13] Good morning, Mr President, your Honours.
- 19 The situation in the Republic of Uganda, in the case of The Prosecutor versus
- 20 Dominic Ongwen, case reference ICC-02/04-01/15.
- 21 And for the record, we are in open session.
- 22 PRESIDING JUDGE SCHMITT: [9:33:26] Thank you.
- 23 And we ask now for the appearances of the parties, Mr Choudhry for the Prosecution.
- 24 MR CHOUDHRY: [9:33:33] Good morning, your Honours, Kamran Choudhry, here
- 25 today with Mr Ben Gumpert, Ms Beti, Mr Pubudu Sachithanandan,

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1 Mr Julian Elderfield, Mr Paul Bradfield, Ms Adesola Adeboyejo, Ms Agnese Valenti,
2 Ms Yulia Nuzban and Ms Ramu Bittaye.

3 PRESIDING JUDGE SCHMITT: [9:33:51] And also everything remembered in line,
4 how they are sitting, so there was really a structure in it, Mr Choudhry.
5 And now the LRVs, Mr Cox.

6 MR COX: [9:34:03] Good morning, your Honours. With me Mr James Mawira and
7 myself, Francisco Cox.

8 PRESIDING JUDGE SCHMITT: [9:34:07] Mr Narantsetseg.

9 MR NARANTSETSEG: [9:34:09] Good morning, Mr President, your Honours.
10 With me Ms Caroline Walter, Mr Innocent Mpoko and myself, Orchlon Narantsetseg.
11 Thank you.

12 PRESIDING JUDGE SCHMITT: [9:34:18] Thank you.

13 And for the Defence, Mr Ayena.

14 MR AYENA ODONGO: [9:34:19] (Microphone not activated) Mr President and your
15 Honours, today I am accompanied by Chief Achaleke Taku, Thomas Obhof, Abigail
16 Bridgman, Mr Michael Rowse, and the client Mr Dominic Ongwen is in Court. I am
17 Krispus Ayena Odongo.

18 PRESIDING JUDGE SCHMITT: [9:34:44] Thank you, Mr Ayena.

19 And we have Rule 74 counsel.

20 MR RAIMONDO: [9:34:48] Good morning, Mr President and your Honours.
21 Fabien Raimondo, legal adviser to the witness.

22 PRESIDING JUDGE SCHMITT: [9:34:54] Thank you.

23 And we start now with the questioning by the Defence, and I give the floor either
24 Mr Ayena or Mr Obhof, I would say.

25 But since the microphone of Mr Ayena is on, I have a suspicion and assumption, so to

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1 speak, that you are going to question the witness.

2 MR AYENA ODONGO: [9:35:11] I take the challenge with pleasure, Mr President.

3 QUESTIONED BY MR AYENA ODONGO:

4 Q. [9:35:24] Mr Witness, good morning.

5 A. [9:35:27] Good morning.

6 Q. [9:35:28] Mr Witness, I reckon this is not the first time we are meeting each other.

7 Do I remember it correctly, that we met sometimes back in different circumstances?

8 A. [9:35:46] Yes, I do recall.

9 Q. [9:35:49] Now, Mr Witness, this is an extension of that struggle. This time
10 you are here, like the President explained to you, your role here is to give very
11 unbiased testimony, to tell the truth and nothing but the truth. And in particular I
12 still want to indulge you and say that in this courtroom there are protective measures.
13 You may say anything about anybody, including even the UPDF, without any fear of
14 retribution, so long as it is meant to help Court to establish the truth. So you are
15 fully protected.

16 Now --

17 A. [9:37:00] That's okay.

18 Q. [9:37:02] Mr Witness, at tab 1 -- private, private. I'm sorry.

19 PRESIDING JUDGE SCHMITT: [9:37:11] Yes. Then we go to private session.

20 MR AYENA ODONGO: [9:37:13] Yes.

21 (Private session at 9.37 a.m.)

22 (Redacted)

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19 (Open session at 9.40 a.m.)

20 THE COURT OFFICER: [9:40:54] We are back in open session, Mr President.

21 MR AYENA ODONGO: [9:41:15]

22 Q. [9:41:16] Now, Mr Witness, I want you to think very clearly about that day,

23 about that time when you were being interviewed and how you reached the

24 interview room and tell Court, without mentioning their names, whether you were

25 escorted to the interview room by the colonel and the major?

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1 A. [9:42:09] When -- where I was working, where I was based, I was called that
2 I was being -- that I was needed. When I arrived, like I stated earlier, the
3 investigators told me that I had -- they had been authorised to call me, the colonel and
4 the major had been authorised to call me. So I do not know whether the colonel and
5 the major were also present in the room at the time. But we went together with the
6 major and he stayed behind in the car.

7 Q. [9:43:12] Mr Witness, I am concerned about this part, "and the Major or the
8 Colonel have no issue with that". Now, had the major and the colonel given you the
9 reassurance that you were being given by the investigators? Did they tell you that
10 you don't have to worry, you must -- you can say anything you want?

11 A. [9:43:54] They did not tell me anything to that effect. But when I got to the
12 investigators, I was told that there was no pressure, there was no duress, they are
13 going to ask me questions and if I have any information that I can give them, then I
14 should go ahead and give it to them without any pressure.

15 Q. [9:44:32] Thank you, Mr Witness.

16 MR AYENA ODONGO: A short private session again.

17 PRESIDING JUDGE SCHMITT: [9:44:41] Private session.

18 (Private session at 9.44 a.m.)

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16 (Redacted)

17 (Open session at 9.46 a.m.)

18 THE COURT OFFICER: [9:47:00] We are back in open session, Mr President.

19 PRESIDING JUDGE SCHMITT: [9:47:06] Thank you.

20 And perhaps for the audience who is there, when we go to private session and back to
21 open session, this has the background that we have a protective witness, and when
22 things are discussed that could reveal the identity, this has to be done in private
23 session. Because of that you then don't hear anything.

24 Please continue, Mr Ayena.

25 MR AYENA ODONGO: [9:47:28] I'm sorry about that.

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1 Q. [9:47:29] Now, Mr Witness, I will now go to the very tail end of your stay in the
2 bush. I am going to talk about your escape or attempt, attempts to escape.
3 Yesterday you testified before Court as follows. "What made me decide to
4 leave ..." --

5 MR CHOUDHRY: [9:48:01] Your Honour.

6 PRESIDING JUDGE SCHMITT: [9:48:03] Mr Choudhry.

7 MR CHOUDHRY: [9:48:05] Just it was just Mr Obhof's point yesterday that if we are
8 going to discuss the witness's escape, it might well be done in private session for the
9 reasons Mr Obhof suggested yesterday.

10 PRESIDING JUDGE SCHMITT: [9:48:15] I did not interrupt immediately, because
11 there might be an area which could be discussed in open session. Perhaps, I would
12 think so, but you can contradict me, the area which relates to conversations with
13 Mr Ongwen. When it comes to the specificities of his escape, indeed, they are so
14 special that they would have to be discussed in private session, I would agree with
15 that, Mr Choudhry. But I don't know, of course, your intentions. I have an
16 assumption, but ...

17 MR AYENA ODONGO: [9:48:49] Your assumption is actually more correct than his
18 fears. I was not going to discuss the escape, but what he said about his attempts
19 during.

20 PRESIDING JUDGE SCHMITT: [9:49:02] So we are on the same page.

21 MR AYENA ODONGO: [9:48:04] Yes.

22 PRESIDING JUDGE SCHMITT: [9:48:06] Then perhaps we let it go for the moment.

23 MR AYENA ODONGO: [9:48:07] Yes.

24 PRESIDING JUDGE SCHMITT: But we are vigilant as always of the problem that
25 might arise.

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1 MR AYENA ODONGO: [9:49:10] Yes.

2 PRESIDING JUDGE SCHMITT: [9:49:11] So please continue, Mr Ayena.

3 MR AYENA ODONGO: [9:49:12] Thank you.

4 Q. [9:49:19] This is what you said, Mr Witness. "What made me decide to leave, to
5 escape, rather, is because I had an opportunity to escape at that time. Besides, I
6 realised that even if I escape, the LRA or Kony himself were no longer capable of
7 coming to cause atrocities in my area of origin."

8 Now, Mr Witness, what did you mean by this?

9 A. [9:50:06] There was no specific reason, and other than the fact that I was going to
10 escape.

11 PRESIDING JUDGE SCHMITT: [9:50:18] May I perhaps, Mr Ayena, if you allow me.

12 MR AYENA ODONGO: [9:50:21] Yes.

13 PRESIDING JUDGE SCHMITT: [9:50:23] Mr Witness, I think the counsel refers
14 specifically to the portion where you say they are not, LRA was not capable anymore
15 to cause atrocities to perhaps your home community. And perhaps you can
16 elaborate on that. Was there a time when this was different or had this changed at
17 the time when you thought about escaping? I think this might be of interest.

18 MR AYENA ODONGO: [9:50:48] (Microphone not activated)

19 THE WITNESS: [9:50:51] (Interpretation) All right. Thank you. I would like to
20 ask a request. If you are going to ask me questions, please make it direct, ask the
21 questions direct and clearly so that I am able to understand the questions.

22 In the past you would hear that somebody stayed in the bush for 10 years, 20 years,
23 five years, and they would continue staying in the bush because at the time whatever
24 was happening was unsettling. You are abducted forcefully, and you are told that if
25 you attempt in any way to escape we -- and we reapprehend you, we are going to

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1 kill you.

2 If you are lucky and you are able to escape without being caught again, then they
3 would go to your home area, the area where you were abducted from. If they find
4 you -- whether or not they find you is besides the point, but the people who they find
5 in that area or the people they find at your home are the ones who are going to deal
6 with the consequences of your escape. And that is why you as a person -- for
7 example, myself, I decided that if it's just me personally, then I would rather die in
8 Kony's hands but not sacrifice everybody else and make sure that the people who are
9 at home, people in the village, people back home are safe. And that's the reason
10 why.

11 PRESIDING JUDGE SCHMITT: [9:52:57] I think we could follow and it was exactly
12 what you were heading at, I would assume.

13 MR AYENA ODONGO:

14 Q. [9:53:03] Mr Witness, that was a big heart.

15 Now, I want to find out from you, when you were in Uganda, in particular when you
16 were in the areas of Gulu, was this a very likely thing to happen, if you had escaped
17 at that time?

18 A. [9:53:41] Yes, it was possible, it was likely to happen.

19 Q. [9:53:45] Mr Witness, can you tell Court who actually made this decision about
20 punishment to be meted out to those who escaped?

21 A. [9:54:08] It was Joseph Kony himself. He is the one who issued those
22 instructions.

23 Q. [9:54:18] Mr Witness, that's very important for the purpose of this case. And
24 now without talking about any possible involvement, did you ever witness this type
25 of punishment where an entire village was punished because of one person escaping?

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1 A. [9:54:52] That's something that used to happen. At the time that I was
2 abducted, three months after, I was with Kony, this happened somewhere in an area
3 of Kitgum.

4 Q. [9:55:12] Now, Mr Witness, you spent nearly 19 years in the bush.
5 But I think before I go to the next line of questions I will seek for a short private
6 session.

7 PRESIDING JUDGE SCHMITT: [9:55:45] Private session.

8 (Private session at 9.55 a.m.)

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9 (Open session at 10.02 a.m.)

10 THE COURT OFFICER: [10:02:12] We are back in open session, Mr President.

11 MR AYENA ODONGO: [10:02:19]

12 Q. [10:02:25] Mr Witness, as a direct follow up to the questions I have just put to
13 you, yesterday you told Court that you were -- when you first met Dominic Ongwen
14 he looked older than you. I want to know, Mr Witness, because from the way you
15 have explained to Court, there might still be some grey area about your age and the
16 following questions may help Court to properly assess your age which, for our own
17 reasons, is relevant in this case.

18 When you were abducted, Mr Witness, had your voice already changed? Were you
19 already booming like a man?

20 A. [10:03:43] Well, there was no way I could have known whether my voice had
21 changed or not. However, those who were nearby, those I was living with were the
22 ones to be able to know whether my voice had changed or not. But briefly, at the
23 time I was abducted, I was either 19 or 20.

24 Q. [10:04:16] And, Mr Witness, if you say you were 19 years old, would it surprise
25 you that it would place your date of birth even earlier than '75?

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1 A. [10:04:51] Could you please help me and repeat that question.

2 Q. [10:04:59] Mr Witness, by calculation, if you were abducted at the age of
3 19 years in 1994, that would mean --

4 PRESIDING JUDGE SCHMITT: [10:05:19] No, that would mean that it is correct if
5 he was abducted in 1994, so -- but we don't, we cannot put this to the witness because
6 this would be a correct arithmetic operation.

7 MR OBHOF: [10:05:41] Your Honour, because of the lateness of the witness's
8 birthday, he would -- that would put his birthday at '74, not '75. His birthday is not
9 in the beginning of the year, it's at the end.

10 PRESIDING JUDGE SCHMITT: [10:05:52] Okay, good. But this is not a major
11 difference to put it this way. If we only look at the years, it would still fit somehow.

12 MR AYENA ODONGO: [10:05:56] Approximation.

13 PRESIDING JUDGE SCHMITT: [10:05:58] And everything, we had this a lot of
14 times --

15 MR AYENA ODONGO: [10:06:00] Yes.

16 PRESIDING JUDGE SCHMITT: [10:06:01] -- in this courtroom, these dates, and
17 birth dates especially, are not certain. That's absolutely clear and we see that, of
18 course.

19 MR AYENA ODONGO: [10:06:13] Yes.

20 Q. [10:06:16] Now, Mr Witness, when you first met Dominic Ongwen you said he
21 looked older. Did he look much older or just slightly older than you?

22 A. [10:06:49] Well, somebody can look lean and short and yet he would be old.

23 Therefore, at that time I could not clearly establish what age Dominic was. It was
24 difficult for me to estimate that. He was the only one who knew his age. He knew
25 very well that at the time I met with this witness, I was at this age.

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1 Q. [10:07:37] So is it your statement, Mr Witness, that you do not remember the
2 factors that help you to consider that he was older than you?

3 A. [10:08:04] Well, it's a bit difficult on my side to establish whether I was older
4 than him or he was instead older than me. But in my own observation I saw as if at
5 that time he was older than myself.

6 Q. [10:08:32] Okay. Thank you, Mr Witness.

7 Now, yesterday, Mr Witness, you said that you abandoned school in 1985 because of
8 war when Museveni wanted to overthrow the government. Was this the
9 government of Obote's UPC that Museveni wanted to overthrow?

10 A. [10:09:09] It is difficult for me to explain that, because whether it was DP or UPC,
11 segregating between the two was difficult for me at that time. But what I knew well
12 was that the government that he was fighting against was the UNLA government.
13 Later on, I came to realise that the president then was Tito Okello.

14 Q. [10:09:59] Now, Mr Witness, can you help Court to understand whether by 1985
15 the Sudanese soldiers had already reached Gulu?

16 PRESIDING JUDGE SCHMITT: [10:10:14] Mr Ayena, whenever the witness was
17 born, he was a young boy at that time. So he might know something, which is not
18 highly likely that he knows something out of from the time it happened. He might
19 have heard about something later on or talk about it, which would not be of a high
20 probative value in the end. And we had evidence. We have also experts, we go
21 back. We have perhaps experts in the future, I don't know what you are planning.
22 But I would simply not ask you, but like you to consider if we could shorten this.
23 You see, whenever he was born, he was very young at the time. He might not have
24 been a political conscious person at that time, I want to say.

25 MR AYENA ODONGO: [10:11:08] I thank you, Mr President. But you will realise

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1 that he talked about 1985 as the date, as the time he abandoned school. And he
2 specifically said it was because of Museveni's war; so is it too unfair to ask him --

3 PRESIDING JUDGE SCHMITT: [10:11:33] No, no, no, but I would simply ask you to
4 keep this short.

5 MR AYENA ODONGO: [10:11:35] Yes, okay.

6 PRESIDING JUDGE SCHMITT: [10:11:35] And perhaps simply, Mr Witness, you
7 have heard our conversation of course, also it has been translated to you, if you could
8 elaborate on the time when you left school and what you meant by your remark you
9 made yesterday. If you really have something which you vividly recall from the
10 time, what the reason was why you had to abandon school.

11 Is that okay, Mr Ayena?

12 MR AYENA ODONGO: [10:12:03] Yes. Maybe I shall just put a proposition.

13 PRESIDING JUDGE SCHMITT: [10:12:07] But let him answer and then put the
14 proposition. Perhaps we try it this way.

15 MR AYENA ODONGO: [10:12:11] Yes.

16 Q. [10:12:12] Mr Witness, I am sure you heard what the Presiding Judge has said.
17 Can you elaborate on what you told Court yesterday about the time you left school?

18 A. [10:12:39] The reason why I left school was that according to my understanding,
19 first of all, my father was no longer able to provide for my scholastic needs.
20 Secondly, if I can recall, there was already insurgency at that time and what I heard
21 later on was that Museveni started his war in the year 1981 until 1986; that he
22 eventually overthrew the government. That was what stopped me from continuing
23 with my education. That is what I know.

24 Q. [10:14:01] Now, Mr Witness, if you were reminded that the NRA, Museveni's
25 forces actually arrived in Gulu in 1987, would it help you to reconsider whether you

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- 1 actually left school in or after 1987?
- 2 PRESIDING JUDGE SCHMITT: [10:14:39] Perhaps instead of 1985.
- 3 MR AYENA ODONGO: [10:14:42] (Microphone not activated)
- 4 PRESIDING JUDGE SCHMITT: [10:14:43] Yes, to make it clear to the witness
- 5 what -- no, I understand, yes --
- 6 MR AYENA ODONGO: [10:14:47] Instead of 1985.
- 7 PRESIDING JUDGE SCHMITT: [10:14:47] -- instead of 1985.
- 8 THE WITNESS: [10:15:01] (Interpretation) What I know is I left school in 1985.
- 9 MR AYENA ODONGO: [10:15:13]
- 10 Q. [10:15:14] Thank you.
- 11 Mr President, can we go to a short private session again.
- 12 PRESIDING JUDGE SCHMITT: [10:15:21] Private session.
- 13 (Private session at 10.15 a.m.) *(Reclassified partially in public)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted) Mr Witness, can you help Court to understand the factors
- 20 which were always considered for promoting a person in the LRA?
- 21 A. [10:16:40] In regards to promotion, I am not well conversant with that. There
- 22 was -- there were two or three people who were high ranking who would sit and
- 23 agree possibly to promote this witness to this rank, to promote Ayena to the other
- 24 rank, because it was only the three of them, two or three of them who knew the
- 25 criterion they used. You just find yourself being promoted without being

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1 explained to.

2 PRESIDING JUDGE SCHMITT: [10:17:22] But perhaps, perhaps I think it's also
3 interesting, so perhaps we can give it another try, even though he says it was not
4 explained to him.

5 Mr Witness, but did you have for yourself an understanding why you were promoted?
6 Did you have an idea why you were promoted?

7 THE WITNESS: [10:17:46] (Interpretation) No, I didn't understand it.

8 PRESIDING JUDGE SCHMITT: [10:17:51] Mr Ayena.

9 MR AYENA ODONGO: [10:17:54]

10 Q. [10:18:00] And, Mr Witness, I want to reassure you that this question is not in
11 any way meant to implicate you or any other person. But, you know, it is important
12 for Court to understand, I mean, the reasons why somebody would be promoted.
13 And the question that I was putting to you to help Court understand is, could it have
14 been the case that your command ability in battles could have been -- not necessarily
15 yours, I am talking about everybody in the LRA, could it have been the case that the
16 command ability could have been one of the factors considered?

17 PRESIDING JUDGE SCHMITT: [10:19:03] I ask myself if this could be answered in
18 open session, if we don't refer specifically to the role of the witness. What do the
19 parties think about that? I think open session. And I rephrase then the question
20 a little bit and (microphone not activated)

21 (Open session at 10.19 a.m.)

22 THE COURT OFFICER: [10:19:28] We are back in open session, Mr President.

23 PRESIDING JUDGE SCHMITT: [10:19:42] Mr Witness, you can answer the question
24 now, and it was about if one reason for promotion in the LRA could have been
25 command capabilities, so to speak.

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1 THE WITNESS: [10:20:02] (Interpretation) Well, well, even myself I can really think
2 that should be one of the reasons, but I could not clearly establish that as a reason.
3 That is all I can say. But the high-ranking officers who were tasked with these
4 promotions could have seen the individual commanders and establish that this
5 commander has a distinguished performance, and the other commander knows how
6 to deal with these people. But the reasons for the promotions are not given to the
7 people who were promoted. It's kept to them.

8 PRESIDING JUDGE SCHMITT: [10:20:55] Thank you.

9 MR AYENA ODONGO:

10 Q. [10:20:56] That is fair, Mr Witness.

11 In that context, Mr Witness, do you know whether Dominic Ongwen was a good
12 commander, especially against military targets?

13 A. [10:21:49] In regards to fighting against the soldiers, he was a very good
14 commander.

15 Q. [10:21:58] Thank you. And, Mr Witness, you know in workplaces people talk,
16 and especially the rank and file talk about their bosses. Can you therefore describe
17 to Court the character of Dominic Ongwen in the eyes of the LRA soldiers you may
18 have had occasion to talk to about Dominic Ongwen. (Microphone not activated)
19 Sorry, what did they think about him?

20 A. [10:23:02] Well, according to Kony's soldiers, what they would say about
21 Dominic was majorly about his good nature, he was not this person who would
22 unnecessarily punish you. He was this person who would not mistreat his soldiers.
23 Secondly, most times if an operation is organised for him to go and attack
24 government soldiers, his fighters would not suffer a lot of casualties. That was why
25 his soldiers would speak good of him.

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1 Q. [10:24:08] Thank you, Mr Witness.

2 Now, if you were asked in line -- I mean as a follow-up to what you have just said, if
3 you were for instance asked to make a choice between Okot Odhiambo,
4 Buk Abudema and Dominic Ongwen as to who you would prefer, you would have
5 preferred to be your commander, who would you have picked?

6 A. [10:24:49] I would select all of them.

7 PRESIDING JUDGE SCHMITT: [10:24:57] This is not, strictly speaking, a pick then,
8 no. But we have to take the answer as it is.

9 MR AYENA ODONGO: [10:25:05] Okay.

10 Q. [10:25:14] Now, Mr Witness, according to the case before Court there were
11 always military as well as civilian targets. Now, during your stay in the bush, did
12 you witness or hear people talk about the targets Dominic Ongwen was reputed for
13 attacking? Was it military targets or civilian targets?

14 A. [10:26:00] Dominic mostly targeted the soldiers, but you know in Uganda we
15 have a problem. Because the army or the military do not stay on their own, most
16 times you find them close by the centres, and that was important because they needed
17 to provide protection to the civilians. Therefore, whenever Dominic would go for an
18 attack to go and fight the soldiers, the civilians would be in the vicinity, and because
19 of the crossfire, most time you will find that at the end of the day the civilians were
20 the most affected. And in that process it's very difficult to establish who exactly is
21 responsible for the civilian casualties. But what I know is Dominic most times
22 targeted his assault on the army.

23 Q. [10:27:07] That is a very fair answer, Mr Witness. Now, in that frame of things,
24 would you say that Dominic was ever engaged in widespread attack on civilians,
25 civilian population anywhere?

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1 A. [10:27:43] Excuse me, could you repeat the question?

2 Q. [10:27:47] The question is - am following from the answer you have
3 given - could it be said that Dominic was involved in widespread attack on civilian
4 populations?

5 PRESIDING JUDGE SCHMITT: [10:28:11] No, I don't allow the question. There is,
6 there are too many legal terms in it. It is -- you cannot ask the witness in a manner
7 that incorporates the legal terms that we have to establish. You would have to
8 rephrase it in a way that he might provide a factual basis to then assess if the legal
9 terms are fulfilled to put it this way.

10 MR AYENA ODONGO: [10:28:39] I'm much obliged, Mr President.

11 PRESIDING JUDGE SCHMITT: [10:28:43] Thank you.

12 MR AYENA ODONGO: [10:28:44]

13 Q. [10:28:45] Mr Witness, I am guided by the Presiding Judge and I put the
14 question in this form: Was Ongwen ever involved in direct attack on the civilian
15 population?

16 A. [10:29:04] No. Not only Dominic, most of the senior commanders in the LRA,
17 they would organise their operations to go and attack the soldiers, to seize some
18 military items like uniforms, ammunition, and weapons. But most times the soldiers
19 are stationed where the civilians are also.

20 Q. [10:29:39] Thank you, Mr Witness. Now yesterday you told Court that you
21 were one time transferred to the Control Altar where most of the senior LRA were.
22 Can you tell Court the ranks and the positions held in the LRA by the following
23 persons I am going to mention as at the year 2003: Number 1, Joseph Kony, what
24 was his rank and position?

25 A. [10:30:30] According to him, Joseph Kony used to tell us that he was a general.

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1 His position in the high command was that he was the leader, the overall leader of the
2 rebellion.

3 Q. [10:31:00] So to speak, he was the chairman?

4 A. [10:31:06] Yes.

5 Q. [10:31:07] Vincent Otti?

6 A. [10:31:12] Vincent Otti was a lieutenant general. He was the chairman's
7 deputy.

8 Q. [10:31:31] Nyeko Tolbert Yadin?

9 A. [10:31:40] Nyeko Tolbert, in terms of his rank, I am not very sure. But his
10 functions and his role within the high command were as a record officer.

11 Q. [10:32:12] Can you repeat that again, Mr Witness. Records officer?

12 A. [10:32:17] Yes. That's based on my knowledge.

13 Q. [10:32:27] Was he a brigadier or a major general?

14 A. [10:32:36] He was a brigadier. Yeah, now I do recall, he was a brigadier.

15 Q. [10:32:43] Lakati, who was Lakati?

16 A. [10:32:54] Lakati was also a brigadier, but I am not very sure of his roles and his
17 functions.

18 Q. [10:33:12] Raska Lukwiya?

19 A. [10:33:14] Raska Lukwiya, he was a major general, and I do not know his
20 function.

21 Q. [10:33:26] Could he have been the army commander at that time?

22 A. [10:33:35] No, I do not know, I am not very sure.

23 Q. [10:33:42] Fair. Caesar Acellam?

24 A. [10:33:48] Caesar Acellam, he was a brigadier. And in the past he was the
25 coordinator between the LRA and al-Bashir's army.

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1 Q. [10:34:17] Could he have been director of intelligence?

2 A. [10:34:30] No, I am not -- I cannot confirm that.

3 PRESIDING JUDGE SCHMITT: [10:34:35] But may I?

4 MR AYENA ODONGO: [10:34:37] Yes, please.

5 PRESIDING JUDGE SCHMITT: [10:34:39] I think it might be of significance or not,

6 we don't know yet. When you say he was the coordinator between the LRA and

7 al-Bashir's army, could you tell us more about that or is this information that you

8 have with no specifics?

9 THE WITNESS: [10:35:02] (Interpretation) I cannot give you any further in-depth

10 information on this, but what I do know is that with respect to weapons, food ...

11 PRESIDING JUDGE SCHMITT: [10:35:24] I understand, Mr Witness.

12 So Mr Ayena.

13 MR AYENA ODONGO: [10:35:29]

14 Q. [10:35:31] How about Charles Tabuley?

15 A. [10:35:35] Charles Tabuley, I do not know his exact rank, but he was a brigade

16 commander.

17 Q. [10:35:56] Was he also one time division commander?

18 A. [10:36:05] You know, in the bush ranks change constantly, you are one rank or

19 one position at one time and the next you are in a different position and different rank.

20 But at the time that he died, that's when we heard. But it was very difficult to meet

21 because he was a division commander.

22 Q. [10:36:29] Okay. How about Acel Calo Apar?

23 A. [10:36:37] Acel Calo Apar was a colonel. With respect to his functions,

24 he -- they would alternate. Sometimes he was the director of intelligence and

25 sometimes he was the director over operations, him and Opoka.

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1 Q. [10:37:07] Okot Odhiambo?

2 A. [10:37:13] Okot Odhiambo was a major general. He was the army commander.

3 Q. [10:37:30] Mzee Kenneth Banya.

4 A. [10:37:35] Mzee Kenneth Banya, in the past when we were still in Sudan he was
5 the camp commandant.

6 Q. [10:37:57] Camp commandant?

7 A. [10:38:00] Yes.

8 Q. [10:38:10] How about Sam Kolo?

9 A. [10:38:14] Sam Kolo was a brigadier, and he was a political officer.

10 Q. [10:38:22] Political commissaire? How about --

11 A. [10:38:29] That's correct.

12 Q. [10:38:32] -- Opoka Pum?

13 A. [10:38:35] Opoka Pum, as I stated earlier, sometimes he was the director of
14 intelligence and on other occasions he was the director of operations.

15 Q. [10:38:51] Ocan Bunia?

16 A. [10:38:58] Ocan Bunia, he was a brigadier, he was in charge of Gilva brigade, but
17 around 2003, 2004 he was in Control Altar.

18 Q. [10:39:28] And last but not least, Dominic Ongwen?

19 A. [10:39:38] Dominic Ongwen, as I stated earlier, his rank and his functions were
20 constantly being changed. And we, the lower-ranking officers, could not keep up
21 with that and were not aware of the reason why. So at the time he was a brigade
22 commander. Afterwards we heard that he was in the high command, but we do not
23 know what his exact functions were at the high command.

24 Q. [10:40:31] Mr Witness, we are talking about 2003. And would it surprise you,
25 Mr Witness, if you were told that Dominic Ongwen became brigade commander only

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1 in 2004?

2 A. [10:40:58] Most of the things that you are asking me with respect to these
3 commanders, there are certain ranks and certain functions that they -- those were
4 their ranks and functions at a time. But at that particular time, Dominic was not
5 a brigade commander. At the time he had been moved to the high command. But I
6 do not know his office and his functions in the high command.

7 Q. [10:41:31] And would it surprise you, Mr Witness, if you were told that as a
8 matter of fact at that time Dominic Ongwen was actually a major, by 2003 he was
9 a major and OC Oka battalion?

10 A. [10:42:04] Well, I do not know who made a statement to that effect. It is a little
11 bit surprising.

12 Q. [10:42:17] (Microphone not activated) Now, Mr Witness, during your interview
13 with the Prosecution investigation, they told you at --

14 And, Mr President, and your Honours, I'm referring to tab 1, UGA-OTP-0273-0692 at
15 page 0697, lines 698 and then --

16 PRESIDING JUDGE SCHMITT: [10:42:51] It must be another line.

17 MR AYENA ODONGO: [10:42:52] No, no, sorry, sorry, 166, lines 166 to 178, and I
18 quote: "I also want you to understand that we completely understand and recognise
19 the command structure or the command-and-control in the military and what that
20 means when people are given an order. We also understand what it means to carry
21 out an order" --

22 PRESIDING JUDGE SCHMITT: [10:43:31] Not "to carry out", "to fail to carry out".

23 MR AYENA ODONGO: [10:43:35]

24 Q. [10:43:37] -- "to fail to carry out an order, particularly for middle-level
25 commanders and below".

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1 You remember this being told to you by the investigators, Mr Witness?

2 A. [10:43:57] Yes.

3 Q. [10:44:01] Now I will put a few questions to you. What did you make of the
4 above statement? Did you, for instance, understand it to mean that the command
5 structure or the command-and-control in the LRA or they were talking about the
6 military generally?

7 A. [10:44:35] Based on my understanding of that question, that relates to the whole
8 army, not necessarily the LRA only.

9 PRESIDING JUDGE SCHMITT: [10:44:58] But did you understand it also to extend
10 to the LRA, not only the military?

11 THE WITNESS: [10:45:08] (Interpretation) Yes, that could also be about the LRA,
12 because the LRA was also functioning as an army unit.

13 MR AYENA ODONGO: [10:45:22]

14 Q. [10:45:23] Now, Mr Witness, can you tell Court or explain to Court how that
15 statement, if at all, influenced your subsequent answers about the command structure
16 or the command-and-control in the LRA?

17 A. [10:45:50] Could you please repeat that question.

18 Q. [10:45:54] When you were told this statement and according to your answer you
19 told Court that you understood it to extend also to the LRA.

20 When you were answering their subsequent questions, did you have to answer in
21 a manner that would conform to the command structure as given in that statement?

22 A. [10:46:37] That's correct.

23 Q. [10:46:45] And, Mr Witness, since they told you that they were talking to you in
24 relation to Dominic Ongwen, did you tell them where Dominic Ongwen belonged in
25 the hierarchy of the LRA at that time and his role in meetings of top commanders?

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1 A. [10:47:17] Well, I did not state anything like that, because at the time I could not
2 guess where Dominic was or what his functions were.

3 Q. [10:47:34] Mr Witness, was that because they already told you that they
4 understand the command structure or command-and-control of LRA, so it was not
5 necessary for you to tell them about where Dominic fell in the hierarchy?

6 A. [10:48:09] In that respect, that's not correct. At the time people were not in one
7 place. For example, right now we are in this room, and people are in different
8 positions. And sometimes it takes a time, a while before people meet up. It's to
9 state something that you are not aware of or something that you do not know is
10 difficult, and that's why I did not tell them the exact position and exact function of
11 Dominic.

12 Q. [10:48:57] Now, Mr Witness, again at page -- I mean at the same page, I mean at
13 the same tab, pages 702 and 703, lines 334 to 338, the Prosecutor told you, "In
14 fact" -- I am quoting again what they told you: "In fact, we understand that most
15 soldiers were abducted as children. We understand you were under orders and we
16 understand what the implications are if you don't follow those orders."
17 Do you remember that statement, Mr Witness?

18 A. [10:50:06] Yes, I do.

19 Q. [10:50:10] And can you tell Court, Mr Witness, what those implications would
20 be if you don't follow orders?

21 A. [10:50:27] Okay. This does not only relate to the LRA. I believe that it relates
22 to the whole army. If you are issued, if your commander issues instructions, if you
23 do not follow those instructions -- for example, with Kony, Kony would tell us that he
24 does not have a prison. His prison is death. Or if you know that something like
25 that is going to happen, then escape and surrender to the UPDF.

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1 But he would also tell you, if you surrender to the UPDF, the UPDF would also kill
2 you. So as far as I'm aware, that's what happened within the LRA. But in the
3 whole army structure there are orders to that effect, whether it is the UPDF,
4 regardless of whatever army it is, if your commander issues instructions and you
5 breach those instructions, then you will be punished for it.

6 Q. [10:51:48] Now, Mr Witness, now that you are in the UPDF, if you were found
7 escaping or absconding, would you also be killed like you would be killed in the
8 LRA?

9 A. [10:52:15] The UPDF have rules. They also have their own court, army court.
10 So based on your question, if you attempt to leave the army without discharge, you
11 are brought before the army court and then the court makes a ruling. If the court
12 decides, you could be imprisoned. But in the LRA, as I just stated earlier, Kony
13 would say that he does not have a prison. His prison is death.

14 Q. [10:53:10] Thank you, Mr Witness.

15 Now, you have already talked about, when you are talking about the structure, the
16 command structure of LRA, you already talked about the Control Altar, you have
17 talked about division, you talked about brigade, you talked about battalions. Were
18 there any other units below the battalion?

19 A. [10:53:50] There were units under the battalions, these were known as coys and
20 platoons.

21 Q. [10:54:03] Now, Mr Witness, after a stint in the UPDF, would you say the
22 command and control in the LRA is the same as in the UPDF?

23 A. [10:54:47] The LRA was a smaller group. It cannot be compared to the
24 government army. So there was a difference between the two. But there are more
25 structures within the UPDF.

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1 Q. [10:55:15] Now, Mr Witness, when Kony -- I mean in relation to the command, I
2 want now to talk about the chain of command, would you say that the chain of
3 command in the UPDF is the same as the chain of command in the LRA, and that
4 people follow it religiously?

5 A. [10:56:02] There is no difference. In the LRA, if you have a problem you start
6 downwards and then go up. When I am talking about you start at the bottom, you
7 start with your section commander and eventually go up to the OC, then it goes to
8 your CO.

9 PRESIDING JUDGE SCHMITT: [10:56:42] And, Mr Witness, the other way around,
10 for example, when we speak of chain of commands, this means from the top, one
11 level lower, next level lower, so it trickles down one after the other. Was this also
12 the case in the LRA? I think that.

13 THE WITNESS: [10:57:16] (Interpretation) Yes. At times, because Kony would
14 gather everybody together, when we are all in one place he would gather everybody
15 together, he would pray, based on his religion he would pray. And then after that
16 he would issue instructions. He would say, "I want you to do this, I want you to do
17 that". And he would issue these instructions to the whole gathering.

18 But also based on hierarchy and office, he would give the instructions to his deputy
19 and then those instructions would trickle down.

20 PRESIDING JUDGE SCHMITT: [10:58:06] I think looking at the time we have the
21 break now. But if you want to follow up on that, you can pick it up again after the
22 break.

23 MR AYENA ODONGO: [10:58:14] Mr President, you can see I picked a red pen --

24 PRESIDING JUDGE SCHMITT: [10:58:15] Yes.

25 MR AYENA ODONGO: [10:58:16] -- to underline where we stop.

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- 1 PRESIDING JUDGE SCHMITT: [10:58:19] I did not see that it was a red pen, but I
2 saw that you picked a pen at this.
3 So we have a break now until 11.30.
4 MR AYENA ODONGO: [10:58:33] Much obliged.
5 THE COURT USHER: [10:58:36] All rise.
6 (Recess taken at 10.58 a.m.)
7 (Upon resuming in open session at 11.32 a.m.)
8 THE COURT USHER: [11:32:41] All rise.
9 PRESIDING JUDGE SCHMITT: [11:33:03] Mr Ayena, you have the floor. Do you
10 have an estimate? You not only have the floor, you have perhaps also an estimate.
11 MR AYENA ODONGO: [11:33:15] Yesterday I think I was too ambitious, but I will
12 try still to stick to the time frame.
13 PRESIDING JUDGE SCHMITT: [11:33:20] Okay, so then perhaps, when it comes
14 close to 1 o'clock, I ask you again.
15 MR AYENA ODONGO: [11:33:25] Yes.
16 PRESIDING JUDGE SCHMITT: [11:33:23] We do it this way.
17 MR AYENA ODONGO: [11:33:23] But let me try.
18 PRESIDING JUDGE SCHMITT: [11:33:28] Yes, okay. Please continue.
19 MR AYENA ODONGO: [11:33:30]
20 Q. [11:33:31] Now, Mr Witness, before we broke off for the break, tea, we were
21 talking about the command structure and the chain of command and comparing
22 between the LRA and the UPDF. Now, Mr Witness, is it possible for, for instance,
23 President Museveni as the commander-in-chief of the UPDF to issue an order directly
24 to a lieutenant? Or to a private, for that matter?
25 A. [11:34:27] That cannot happen.

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1 Q. [11:34:32] How about in the case of the LRA, was it possible for Joseph Kony
2 to pick anybody he wanted to execute his order and communicate to him directly?

3 A. [11:35:02] For Kony, if he has all his people gathered within the same place, it
4 depends on the chain of command, but if he is not with everyone, if they are
5 separated and -- with the rest of the commanders, and because the UPDF soldiers
6 normally do not give the LRA rebels time to station at one point, everyone together at
7 the same place, for that reason the LRA commanders normally go split themselves
8 into smaller numbers. And in that case, he uses the commander with whom he is at
9 that time, regardless of the rank. Whether it is a 2nd lieutenant, whether it's a
10 captain or anyone else, he would just give the order directly to the person who is near
11 him at that time.

12 Q. [11:36:10] How about when he was in Sudan and some or most of the fighting
13 forces were in Uganda, did he necessarily follow chain of command all the time?

14 A. [11:36:43] Well, he does follow the chain of command. For the people who
15 would be in Uganda, there would still be somebody who would be the overall
16 commander of the forces in Uganda, and whatever he would want the people in
17 Uganda to do, he will send the instruction to the overall commander of the forces that
18 are in Uganda. And it's that person who'll there then trickle down the message to
19 the rest of the people with whom he is in Uganda. But sometimes he would also
20 give instructions directly to specific commanders on what should be done and he
21 would do that without following the chain of command.

22 Q. [11:37:40] Thank you very much for that answer. Now, Mr Witness, when
23 Kony wanted an attack carried out or, so to speak, when he wanted to declare war,
24 did he first summon and consult all the senior staff officers in the Control Altar, all
25 the division brigade and battalion COs?

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1 A. [11:38:22] In as far as I am concerned, because I was at a lower rank it was
2 difficult for me to know that, but at times I would see the brigade commanders and
3 the other people who are with him at the high command, they would converge, they
4 would sit together and have a discussion, and then they would come back to us and
5 tell us that "These are the plans that we've come out with."

6 Q. [11:38:55] Yesterday, or the day before, you talked about the spirits. If Kony,
7 for instance, received -- allegedly received instructions from the spirit, did he have to
8 consult his commanders before he issued orders for the implementation of what the
9 spirit had instructed him to do?

10 A. [11:39:45] It's difficult to know how Kony operates. Let me put this way:
11 It's difficult to know whether Kony has spirits or not, but in terms of what he says,
12 every operation that he has, sometimes he would say that the spirits have rejected or
13 the spirits have outlawed certain activities, and even if his commanders have planned
14 to carry out some operations, he would tell them not to go ahead with that because
15 the spirits have not consented. There are times he would also say the spirits have
16 given a go ahead for certain activities to be conducted and it's only these messages
17 that his commanders would follow.

18 Q. [11:40:41] And once he issued an order for attack, for instance, did it matter
19 how its implementation was planned and executed?

20 A. [11:41:21] Well, I don't know whether he really cares about that in as far as if
21 his commanders would conduct their or execute their operations in the proper
22 manner. I don't know whether he thinks about that or not.

23 Q. [11:41:36] In other words, Mr Witness, is it the case that once Kony issued an
24 order, for instance, to attack, it was up to the officer to whom the order was issued to
25 see how he planned how to implement it?

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1 A. [11:42:07] That's correct.

2 Q. [11:42:10] Was it possible for any officer of whatever rank to intervene and
3 exercise restraint on -- or even stop the execution of such an order, say, "No, no, no,
4 no. We are not going to do it." Was it possible?

5 A. [11:42:30] When I was with Kony, if you objected to his instructions he will not
6 take -- it will not take long before you are killed.

7 Q. [11:42:57] Thank you. Now, Mr Witness, you remember, you will appreciate
8 that you see we want to go together and, therefore, I will keep on reminding you
9 about some of the things you either said or you were told by the investigators. At
10 tab -- in this case I'm referring to tab 1. I think I have already the ERN --

11 PRESIDING JUDGE SCHMITT: [11:43:33] I think the ERN is on record.

12 MR AYENA ODONGO: [11:43:34] Yes.

13 PRESIDING JUDGE SCHMITT: [11:43:35] Simply tell us the lines and the page.

14 MR AYENA ODONGO: [11:43:37] Page 705, lines 413 to 417. And with your
15 permission, Mr President, I'll read it.

16 PRESIDING JUDGE SCHMITT: [11:43:52] Of course, yes. Please continue.

17 MR AYENA ODONGO: [11:43:55]

18 Q. "When Vincent Otti had plans" -- incidentally, I want to draw you squarely,

19 Mr Witness, to the Pajule attack, let us now focus on the Pajule attack.

20 "When Vincent Otti had plans to attack Pajule ..." and I want you to remember that,
21 when he "... had plans to attack Pajule he summoned our brigade, which was Trinkle.

22 And thereafter, there was a selection of forces that was done, and the forces ... the
23 force that were selected came from Vincent Otti's group and our group as well.

24 There were ... some commanders present, and these commanders included Raska

25 Lukwiya, Buk Abudema, Dominic Ongwen and Opoka."

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1 Now, Mr Witness, does this mean that by the time your brigade was summoned

2 Vincent Otti already had a plan to attack Pajule?

3 A. [11:45:27] That was the reason he summoned us. He already had a plan to go
4 for the attack, and I think in my own guess he didn't have enough strength, so he
5 called us to come and combine efforts so that we can go and carry out the operation.

6 Q. [11:46:03] You are right, Mr Witness.

7 Now, did you know or did you finally get to know where the plan to attack Pajule
8 had come from or with whom Vincent Otti had planned the attack?

9 A. [11:46:37] I didn't get to know that. But while we were going to Vincent, we
10 did not know what we were going to do. But when we arrived there, that was when
11 we were told what to do and this information came to us by the brigade
12 commander -- from the brigade commander. He told us that we were summoned to
13 go and carry out an operation in Pajule.

14 Q. [11:47:20] Is it therefore possible, Mr Witness, that maybe he could have
15 planned with or received orders from Joseph Kony?

16 A. [11:47:46] The way they used to share ideas, for instance, whenever Vincent
17 was in Uganda and Kony was in Sudan, I think they must have shared this idea and
18 eventually they came out with the plan to go and carry out an operation in Pajule.

19 Q. [11:48:11] Now, did anybody tell you whether the commanders who were
20 there were just told about the plan for the attack or whether their opinions were
21 sought first as to whether or not the attack should be carried out?

22 A. [11:48:53] I did not get that information. But because I was a soldier, and
23 what I know is some of the commanders with whom Vincent was, whenever Kony
24 gave instructions to Vincent, I know he must have put these commanders down and
25 told them the instructions that had come from above and they could have discussed

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1 this. That is what I think happened.

2 Q. [11:49:30] Just as you have said, Mr Witness, if the plan for the attack had
3 come from Kony, was it possible for Vincent Otti or even necessary for that matter for
4 him to seek the opinion of the commanders who were there or any of them whether
5 or not to carry out the attack?

6 A. [11:50:09] Well, whenever Kony gives instructions to Vincent, at times they can
7 discuss the plan and Vincent can also report back to him. This is only what I am
8 thinking. Vincent would tell him that in my own opinion, the operation that you've
9 instructed us to carry out might be a failure. And this only happens when Vincent
10 has received information or ideas from those who were around him.

11 But if the people around him are in support of the planned operation, he would then
12 report back to Kony that I think the operation that you want us to carry out is feasible
13 because, first of all, the reason I'm saying he can report back to Kony in as far as the
14 feasibility of an operation was determined by his -- the strength of his forces, in terms
15 of the weapons that they had and then the number of people that he had. If they
16 discuss all this with all these commanders, then Vincent would then report back to
17 Kony on a planned operation.

18 Q. [11:51:42] So in other words, it was not about whether they accept the order,
19 but it was about whether they had the capacity to implement the order?

20 A. [11:52:19] Could you please repeat that question?

21 Q. [11:52:22] My question was, Kony has already given an order and perhaps
22 planned with Vincent Otti, Vincent Otti has now brought it to his commanders. The
23 question is was it for them to say "No, we don't want to carry out the order" or for
24 them to say "We have what it takes" or "We don't have what it takes to carry out the
25 order"?

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1 A. [11:53:08] Well, I don't know. At the time Kony gave the instruction for the
2 operation, I don't know what exactly they talked about. But most times whenever
3 Kony gives out instructions to Otti, and then Otti together with his people discuss the
4 instruction, Otti would inform the lower-ranking officers to talk about the operation,
5 but as they are discussing, they are not discussing about whether or not to carry out
6 the operation.

7 PRESIDING JUDGE SCHMITT: [11:53:52] Microphone, please.

8 MR AYENA ODONGO: [11:53:54]

9 Q. [11:53:57] Mr Witness, according to the hierarchy of the LRA at that time,
10 which we have just gone through before the break, would it be possible for
11 Dominic Ongwen, particularly if it is established that he was just a major at that time,
12 was it possible that he would have a voice in planning any attack, I mean that attack?
13 There were major generals. There were brigadiers in numbers. There were
14 colonels. And if it were to be agreed that he was a major, would he have a voice,
15 and especially if he was a prisoner?

16 PRESIDING JUDGE SCHMITT: [11:55:13] There are a lot of propositions and
17 uncertainties in it. I let it pass, the question, but it has some hypothetical elements in
18 it, frankly speaking.

19 So, Mr Witness, first of all perhaps, do you have any concrete knowledge if
20 Mr Ongwen had a say in the planning of this attack? First of all this.

21 THE WITNESS: [11:55:48] (Interpretation) Well, I'm not aware of that because
22 when we were summoned, we came and we found when they had already planned.
23 And my brigade commander was only told about the operation. Therefore, at the
24 time when they were planning for the operation, we were not yet there. It was
25 difficult for me as well to know who the people were who sat together to plan for the

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1 operation.

2 PRESIDING JUDGE SCHMITT: [11:56:26] And perhaps the next question which

3 leads towards what Mr Ayena has already asked you and has a little bit of

4 speculation in it: You have told us which commanders were present at the time,

5 including Mr Ongwen. What would you think from your knowledge of the

6 hierarchy at the time, who would have the say in such a meeting? Perhaps like that.

7 THE WITNESS: [11:57:09] (Interpretation) Most of the people who were at the time

8 high command with Vincent at that time had voices that could be heard. I used to

9 hear that -- I heard that at that time they said Dominic was a major. I don't know

10 who said that or who wrote down that.

11 PRESIDING JUDGE SCHMITT: [11:57:38] I think we move to another point.

12 MR AYENA ODONGO: Yes.

13 PRESIDING JUDGE SCHMITT: Because he does not have a concrete knowledge,

14 but of course he can tell us something about with a background of his knowledge of

15 hierarchies who would normally speak up, so to speak.

16 MR AYENA ODONGO: Yes.

17 PRESIDING JUDGE SCHMITT: So please, Mr Ayena.

18 MR AYENA ODONGO: [11:57:54] I think he has said as much as can help.

19 PRESIDING JUDGE SCHMITT: [11:57:58] Yes, yes. I think that that could help us.

20 Yes.

21 MR AYENA ODONGO: [11:57:59]

22 Q. [11:58:00] Now, when you said Otti Vincent had a team from his high

23 command, and I'm referring to page 744 of the same ERN. I mean tab 4, tab 4, rather.

24 Tab 4. Tab 4, page 744.

25 PRESIDING JUDGE SCHMITT: [11:58:27] I think it must be tab 3 then and we

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1 would have to mention the (Overlapping speakers) because I have it in front of me,
2 UGA-OTP-0273-0732 at page 744.

3 MR AYENA ODONGO: [11:58:41] Yes.

4 PRESIDING JUDGE SCHMITT: [11:58:42] Yes.

5 MR AYENA ODONGO: [11:58:43]

6 Q. [11:58:45] You mentioned Dominic Ongwen in the line of officers from the
7 high command. By the way, is the high command the same as the Control Altar?

8 A. [11:59:14] Control Altar is the high command. Where the senior LRA
9 commanders are stationed.

10 Q. [11:59:26] You confirm that at that time Dominic Ongwen was part of the high
11 command?

12 A. [11:59:36] Are you talking about the attack on Pajule, that period?

13 Q. [11:59:49] Yes, Mr Witness.

14 A. [11:59:53] I say so. He was part of the high command because we came and
15 found them there.

16 Q. [12:00:01] Now, just in case you had just forgotten, would you remember
17 whether the following commanders were also present at the RV: Yadin Tolbert?

18 PRESIDING JUDGE SCHMITT: [12:00:25] I think we went through these names.

19 I think I understand where you're heading at, but I think you can be more directly
20 I would assume. I think we went through all the names yesterday --

21 MR AYENA ODONGO: [12:00:36] Yes.

22 PRESIDING JUDGE SCHMITT: [12:00:37] -- who were present at the time, and he
23 has confirmed. And there were a lot of commanders and I might, I think I recall that
24 I also asked about one who was not mentioned during the questioning by
25 Mr Choudhry. So I have them all in mind, he has confirmed that they all were

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1 present. And from there please continue.

2 MR AYENA ODONGO: [12:00:57] Yes.

3 PRESIDING JUDGE SCHMITT: [12:00:58] And directly if you want.

4 MR AYENA ODONGO: [12:01:00] I'm obliged for your kind indulgence,

5 Mr President.

6 Q. [12:01:08] In view of the number, the array of commanders, the ranks much
7 higher than Dominic Ongwen at that time, would it still be your testimony that
8 Ongwen could have had a say in the proceedings of whatever meeting took place
9 there?

10 A. [12:01:45] That's correct. As I stated earlier, we were not there. But it's -- it's
11 very difficult for me to explain or tell the Court right now that Dominic was also part
12 of the plan. It's difficult because -- but based on my knowledge, the commanders
13 starting from major upwards, all these commanders who are with Vincent would be
14 present at that meeting. They would always be present at a meeting for any
15 operation.

16 PRESIDING JUDGE SCHMITT: [12:02:50] I think, Mr Ayena, we move to another
17 point. He also cannot confirm --

18 MR AYENA ODONGO: Yes, he cannot --

19 PRESIDING JUDGE SCHMITT: -- as a direct witness that he has knowledge about
20 any involvement. He cannot confirm that. So we, now if we continue we are in a
21 circular of speculation. So we get a circular of speculation a little bit.

22 MR AYENA ODONGO: [12:03:12] You are right, Mr President, we are going in a
23 vicious circle. I shall now move to another point.

24 Q. [12:03:18] Now, Mr Witness, yesterday you testified that Buk was at the RV. I
25 want to read to you something from the UPDF 5th division intercept notes from

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1 9 October 2003.

2 Your Honours, this is at tab 19, UGA-OTP-0255-0034. It is page 34, page 34.

3 And this is what the intercept said, Mr Witness:

4 "Abudema changed course during the night and passed via Ladere for Olyelo Widyer.

5 Abudema changed course during the night and passed via Ladere for Olyelo

6 Widyer."

7 And then again, Mr Witness, on 10 October 2003 -- your Honours, this is now tab -- in

8 tab 17, UGA-OTP-0242-0775, page 777. It is reported that the -- I mean, it is said the

9 UPDF reported that Abudema told Kony that he attacked Adilang trading centre

10 when he sent a squad to go and collect for them food.

11 Mr Witness, in view of the above notes and intercept report by the UPDF about where

12 Abudema was, is it still your testimony that you saw Buk Abudema at Pajule RV?

13 A. [12:06:13] You know, the information that came from the UPDF lacks some

14 truth. With regard to matters pertaining to operations, with regard to Kony's

15 operations, the information that they release is not wholly truthful.

16 Q. [12:06:52] Are you suggesting, Mr Witness, that the UPDF was lying?

17 A. [12:07:21] I do not know whether they were lying or not, but it's difficult to

18 determine the truth in what was being said. Sometimes we would hear them say, for

19 example, if something happened to you, for example -- let me use myself as an

20 example. If something happens to me, something else that -- something else is

21 announced on the radio, so they would say such-and-such a thing happened to this

22 person, whereas I personally know that that has not happened to me.

23 PRESIDING JUDGE SCHMITT: [12:08:00] So, Mr Witness, so I understand from

24 your answer that you saw Buk Abudema at this RV, simply that you stick to that?

25 THE WITNESS: [12:08:20] (Interpretation) Yes, I confirm that.

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1 PRESIDING JUDGE SCHMITT: [12:08:21] Thank you. Mr Ayena.

2 MR AYENA ODONGO: [12:08:24]

3 Q. [12:08:25] Now, before you saw him as an -- I mean, at the Control Altar, had
4 you known him to belong to some other unit? I'm talking about Dominic Ongwen.

5 A. [12:08:37] Dominic was in a different unit before that. At the time when we
6 were at that place we found that he had been transferred to Control Altar.

7 Q. [12:09:16] Mr Witness, did you get to know about Odomi's serious injury in or
8 around November 2002 when he was an -- on an expedition to Karamoja, Abim in
9 Karamoja?

10 A. [12:10:02] Yes, I heard about this.

11 Q. [12:10:06] And did you get to know that he was put in the sickbay, where he
12 nursed his injury for nearly one year?

13 A. [12:10:30] Yes, I also heard about this.

14 Q. [12:10:33] Did you also know or did you hear that while in the sickbay
15 Dominic Ongwen got in touch with General Salim Saleh, the brother of President
16 Yoweri Museveni?

17 A. [12:10:59] No, I did not get any information to this effect.

18 Q. [12:11:05] Did you get to know that he nevertheless had received some mobile
19 phone and some money, about 10 million shillings, from somebody around this time
20 when he was in the sickbay?

21 A. [12:11:34] No, I did not hear about this.

22 Q. [12:11:40] Did you get to know that around this time, for one reason for
23 another, he got into problems with Joseph Kony who instructed that he should be
24 arrested by Vincent Otti?

25 A. [12:12:03] No, I did not hear about this.

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1 Q. [12:12:11] What would you say, Mr Witness, if I told you that when you saw
2 Dominic Ongwen -- first of all, I want to remind you about what you told Court
3 yesterday, that sometimes somebody would be at the Control Altar, either as a matter
4 of transfer, or he has been asked to go and rest, or alternatively he may be under
5 arrest. Do you remember saying this yesterday, Mr Witness?

6 A. [12:13:08] Yes, I do recall that.

7 Q. [12:13:12] Now, in view of that, Mr Witness, what would you say if I told you
8 that when you saw Dominic Ongwen in the Control Altar during the pre-Pajule attack,
9 he was actually a prisoner?

10 A. [12:13:38] It's -- well, it's difficult for me to confirm whether Dominic Ongwen
11 was at the high command as a prisoner. But as I explained yesterday, there are three
12 ways in which somebody can be removed from where they are and transferred to
13 Control Altar.

14 PRESIDING JUDGE SCHMITT: [12:14:04] I think also a fair answer I would say,
15 yes.

16 MR AYENA ODONGO: [12:14:08] Very fair answer.

17 PRESIDING JUDGE SCHMITT: [12:14:10] Absolutely.

18 MR AYENA ODONGO: [12:14:12]

19 Q. [12:14:14] And a short private session?

20 PRESIDING JUDGE SCHMITT: [12:14:29] Private session.

21 (Private session at 12.14 p.m.)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Open session at 12.16 p.m.)
- 11 THE COURT OFFICER: [12:16:22] We are back in open session, Mr President.
- 12 MR AYENA ODONGO: [12:16:33]
- 13 Q. [12:16:37] Do you remember the COs who were assembled by Kapere?
- 14 A. [12:17:01] Yes, I do.
- 15 Q. [12:17:02] Can you mention their names?
- 16 A. [12:17:09] Bogi, Opio Sam.
- 17 Q. [12:17:25] Only those two COs, Mr Witness?
- 18 A. [12:17:34] Oh, I had forgotten about one person, Okwang Olero.
- 19 Q. [12:17:45] Now, you also mentioned Opoka. How did Opoka come in?
- 20 A. [12:17:58] Could you please repeat that.
- 21 Q. [12:17:59] In your testimony yesterday you also mention the name Opoka.
- 22 Now, how did -- what role did Opoka play?
- 23 A. [12:18:24] When we got to that place we found Opoka working there, and he
- 24 was the one who was responsible for preparing all the soldiers that were supposed to
- 25 go on the mission.

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1 Q. [12:18:45] Do you remember whether Opio Makas was also there?

2 A. [12:18:59] No, I do not remember that one.

3 Q. [12:19:08] Now, between Opoka and Dominic Ongwen, who was senior to the
4 other?

5 A. [12:19:20] You know, in the past Opoka was senior to Dominic in rank. But at
6 the time people were far in between. It was very difficult to get to know what was
7 happening in, in other groups. For example, in Vincent's group it was very difficult
8 to know what was happening.

9 Sometimes messages would be sent to the brigade commander, but the brigade
10 commander would not pass this information on. The brigade commander, it is
11 within his own right to receive information and keep quiet with it sometimes. So it
12 was very difficult to know whether within that week Dominic was senior to Opoka or
13 Opoka was senior to Dominic.

14 But in terms of preparing the army, the army that was going to Pajule, the soldiers
15 that came from Vincent, it was Opoka who was responsible for this task.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [12:22:45] Now, Mr Witness, although we, according to the other intercept, it
2 was being suggested that Sinia brigade may have been in Adilang with Buk just in
3 case they were there. How many were selected from them, from that brigade?

4 A. [12:23:14] As I stated yesterday, I stated clearly yesterday, the number of
5 fighters from other people is not known to me. But what I had to do, with regard to
6 what I personally had to do, that's the number that I have given you.

7 Q. [12:23:51] Now, after each group had selected their soldiers for the mission, do
8 you remember, Mr Witness, whether and when they were assembled together before
9 being divided into the three groups?

10 A. [12:24:24] I recall that that happened because in any mission, any preparation,
11 if they tell somebody take 10, take -- somebody else would take 15 or another unit
12 would take a certain number, they are all collected together, and they went and they
13 gathered together.

14 Q. [12:24:55] Do you remember the commander under whom they were
15 assembled?

16 A. [12:25:12] Are you talking about the commander that led the mission to
17 Pajule?

18 Q. [12:25:21] Let's begin from the premise that you said after each unit
19 contributed to the number that were going to the mission, they were assembled
20 together, mixed up and then divided into three groups. I'm talking about that
21 assembly point where they were divided into three groups before they went for the
22 attack in Pajule.

23 A. [12:25:59] At that particular moment, because when I brought my people, I
24 sent them to, to the location where they were selecting people or where people had
25 gathered and I went back to my place, so it's very difficult for me to know who was in

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1 charge of those people at the time. But the person who was preparing for the
2 mission, the person who was preparing the soldiers for the mission would have been
3 the leader and at that particular moment it was Opoka.

4 Q. [12:26:48] When you led your group to that assembly point, did you see
5 Dominic Ongwen being appointed to command one of the groups?

6 A. [12:27:09] I did not see that happened as I stated yesterday, but I said that my
7 brigade commander, who was also invited for the meeting, was the one who told us.
8 So he came back and informed us that a mission has been planned. Three -- there are
9 three separate teams going on this mission, Dominic, Bogi and I cannot remember the
10 third person's name.

11 But the overall -- he did not know the overall leader of the mission at that particular
12 moment. But afterwards, when he went back for the meeting, for the last meeting,
13 he came back and reported to us and said that the person who is going to be the
14 overall commander of this mission would be Raska Lukwiya. He would be in
15 charge of all the three separate missions, all the three separate teams that were going
16 for this particular mission.

17 Q. [12:28:15] Did you see somebody called Labwone or Onyee?

18 A. [12:28:33] You know, when you're in the bush, people are referred to by
19 different names sometimes. So when you talk about Labwone, I do not know the
20 person, and when you talk about Onyee, I also do not know that person, but I do
21 recall that there was somebody, a chief escort of Vincent who was known as Onyee.

22 Q. [12:29:05] Now, at these assembly points or at the RV, I know you have said
23 there were so many people and you may not have seen others, but did you see
24 Oyenga, Commander Oyenga? Was he called Vincent Oyenga?

25 A. [12:29:32] Oyenga was not there or I did not see him, but his group was also

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1 present.

2 Q. [12:29:50] Who in his group did you see?

3 A. [12:30:01] People from Oyenga's group, the people that I saw, well, at this
4 particular moment I cannot remember their names. But the group that Oyenga was
5 in, which is also known as Sinia, was present.

6 Q. [12:30:22] Did you see Okello Pokot?

7 A. [12:30:33] I did not see Okello Pokot there, but he was also in Sinia, his group
8 was Sinia.

9 Q. [12:30:45] Did you see Celestino Akuri?

10 A. [12:31:01] I do not know anybody by that name. I know somebody by the
11 name Okuri.

12 Q. [12:31:12] How about Akuri? Maybe I may have mispronounced, Akuri?

13 A. [12:31:23] Akuri?

14 Q. [12:31:24] Yes, Akuri.

15 A. [12:31:25] Akuri, I didn't see him there. Because while we were there we
16 didn't gather as if like we are sitting right now in this room. We sat in different and
17 far-off places. We had some good distances between ourselves and the only thing
18 you would know or you would be required to do is to possibly leave your location
19 and then go to your commander. That was what I did, simply because people were
20 stationed in various and far-off locations.

21 Q. [12:32:06] How about Icaya Loum?

22 A. [12:32:13] I didn't see him either.

23 Q. [12:32:25] But do you reckon, Mr Witness, that the people whose names I have
24 mentioned actually belonged to Sinia brigade?

25 A. [12:32:48] You know, in the bush people get transferred randomly. For

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1 instance, for us in Trinkle, we would not know whether somebody has been
2 transferred back to Control Altar or another person has gone to Stockree. You
3 would only get to know that if you eventually converge in one place, which was in
4 Sudan. That was the only time you would be able to know who has gone where.
5 The people whose names you have read out, while we were still in Sudan and we
6 were leaving Sudan to come back to Uganda, most of them were in Sinia brigade.

7 Q. [12:33:34] Mr Witness, can you help Court to understand who around this
8 time was responsible for making one transfer to another? I mean, transfer from one
9 group to another?

10 A. [12:34:18] The mandate to carry out transfer, for instance, for those who were
11 in Uganda, whenever Vincent was in Uganda he would then carry out the transfers.
12 But that would only be on condition that he has coordinated with Kony and then
13 Kony would give him the authority that, "The way you prefer it, please, go ahead and
14 do it."

15 And then within the brigade a brigade commander can also carry out some
16 adjustments, but not in as far as moving people to different brigades; he would only
17 reorganise his people within his brigade. For instance, I could be removed from the
18 1st battalion to the 3rd battalion or to the 2nd battalion, or even to the brigade
19 headquarters.

20 Q. [12:35:29] Mr Witness, would you agree with me that if all these people whose
21 names I mentioned belonged to Sinia and they were all transferred around this time,
22 the transfer would have been really massive?

23 A. [12:36:11] Excuse me, I didn't understand that clearly. Could you please
24 repeat it?

25 PRESIDING JUDGE SCHMITT: [12:36:16] I think you can move on. It's more a

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1 statement of course that would be a lot, let me put it this way, but the witness simply
2 doesn't know --

3 MR AYENA ODONGO: [12:36:23] Okay.

4 PRESIDING JUDGE SCHMITT: [12:36:24] -- who might have been transferred or if
5 any, he has no knowledge. And he has said, also, has determined quite a number of
6 people whom he knew that belonged to Sinia. So we -- I think we have every
7 information that we can get with regard to this issue from this witness.

8 MR AYENA ODONGO: [12:36:46] I totally agree with you, Mr President.

9 Q. [12:36:49] One last issue about Pajule. This is an alleged report from the radio
10 call on 9 October 2003.

11 And, Mr President and your Honours, this will be found at tab 18,
12 UGA-OTP-0242-0780 at page 0781, at the bottom of the page.

13 And with your permission --

14 PRESIDING JUDGE SCHMITT: [12:37:30] Please proceed.

15 MR AYENA ODONGO: [12:37:31]

16 Q. [12:37:34] "Otti said government keeps singing on the radio that Kapere and
17 Onen are moving with Tabuley to kill people in Teso. He said the government just
18 talks things anyhow to show people that they are struggling enough to protect the
19 people from LRA."

20 Then the next day, on 10 October 2003 at 11 hours, this is at tab 17, page 77 -- 777, I'm
21 sorry.

22 Mr President, it is reported:

23 "He", Okello Akuri, "said he didn't get anything good apart from what he has sent
24 above. Kony instructed that one of the batteries should be kept for him. He said
25 Kapere who is preparing to move and meet him should move with the battery."

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1 Now, in view of those statements, Mr Witness, are you sure that Kapere was at Pajule
2 at the time of the Pajule attack?

3 A. [12:39:16] You know, what I am saying is what I personally -- what I was
4 personally involved in together with Kapere. What you have read out here is a
5 recording of a communication that was made on radio, according to what you said.
6 But some of the information is not correct because, as you mentioned, the movement
7 of Kapere as it was recorded in the -- in what you read out, I can tell you that I was
8 there.

9 Q. [12:40:27] You know, Mr Witness, I want you to appreciate that when I say this
10 to you it is not meant to reproach you, it is just that we are aware that there were two
11 attacks on Pajule. It could well be that the attack -- I'm just suggesting, I may be
12 wrong, but in view of some of these statements we are saying that it might well be
13 that the attack you are talking about could have been a different one. Could that be
14 possible, Mr Witness?

15 MR CHOUDHRY: [12:41:12] Your Honour.

16 PRESIDING JUDGE SCHMITT: Mr Choudhry.

17 MR CHOUDHRY: [12:41:13] I would just ask my learned friend to clarify which
18 attack he is speaking of when he talks about a different one, otherwise the witness has
19 no idea or frame of reference.

20 PRESIDING JUDGE SCHMITT: [12:41:24] Yeah, I think we have enough
21 information about other potential attacks that you can mean. Perhaps you can
22 provide this information. I would agree. The information about potential
23 alternatives, so to speak.

24 MR AYENA ODONGO: [12:41:40] Well, you know, Mr President, I thought it was
25 common knowledge, but just for --

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1 PRESIDING JUDGE SCHMITT: [12:41:46] No, no, I think for the -- simply, as

2 Mr Choudhry put it, simply for the benefit of the witness.

3 MR AYENA ODONGO: [12:41:53] Yes. For the benefit of the ...

4 Q. [12:41:55] Mr Witness, for instance, there was an attack on Pajule on

5 23 January 2003. Are you aware of this?

6 A. [12:42:14] No, I am not aware of that. What I'm aware of is the attack on

7 Pajule that was organised by Vincent.

8 Q. [12:42:26] Thank you. Now, the thread that runs throughout the organisation

9 and conduct of war by the LRA is the spirits and the religious attributes of Joseph

10 Kony. And I'm glad that you were at the Control Altar for a pretty long time and,

11 therefore, you must have observed quite a number of things which you can use to

12 help Court to understand.

13 I'll put a few questions. Let's focus. Let us now focus on the spiritual and religious

14 aspects of the LRA.

15 Let me ask you, before your abduction, Mr Witness, had you ever heard about the

16 way the LRA used spirits in their operations?

17 A. [12:44:05] Before my abduction, yes, I heard of that.

18 Q. [12:44:11] Now, did that information dawn on you when you were finally

19 abducted and you were faced with those rituals that were performed on you?

20 A. [12:44:32] Yes, it did.

21 Q. [12:44:42] Now, Mr Witness, can you tell Court whether those rituals that were

22 performed on you ever had any effect on your thinking?

23 A. [12:45:17] When I was abducted, what I saw was performed on me was

24 smearing my forehead with shea butter and doing the same on my chest. They

25 would mark the sign of a cross and then sprinkling water all over my body and then

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1 continuing with prayers, singing, and all that. And that didn't change my life. And
2 sometimes he mentions that these rituals are performed so that whenever you go for
3 an attack you will be bulletproof. However, I kept on seeing all these things not
4 happening necessarily, because my friends were injured, I was also injured myself.

5 Q. [12:46:48] Apart from the promise of being bulletproof during battles, were
6 you told that it would have any effect in terms of your ability to escape?

7 A. [12:47:30] Not really. Only that, according to what I came to understand,
8 I was told that whenever you go for an attack against the UPDF you will be glowing
9 and shining in the eyes of the UPDF.

10 Q. [12:48:00] Were you also told that it was meant to attach you to the community
11 of LRA in a manner that if you tried to escape you would just get confused, move
12 round and round until you are recaptured.

13 A. [12:48:30] It's not that way. What I know about having to escape and then
14 you are moving in circles, that would only happen when you lose your way. It's not
15 necessarily true that it's the ceremony or the ritual that was performed against you
16 that would really stop you from escaping. That would not happen. The only thing
17 that was stopping people from escaping was whatever was implemented or done
18 against people who tried to escape and are recaptured. However, the people who
19 had taken long in the bush would tell you that whenever you tried to escape you
20 would get confused and you would move in circles. But as a person I knew that that
21 ritual would not necessarily confuse me and stop me from escaping. The only thing
22 that stopped me from escaping was the fact that whenever you are captured they
23 would kill you. That was the only reason why I could not.

24 But the reason why somebody would move in circles would just be because they have
25 lost their way, and not that it's the confusion being brought about by the ritual.

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1 Q. [12:50:05] Mr Witness, I want us to be clear about this. There is what you
2 experienced and you believed and what you were actually told during the initiation
3 ceremony. I am asking about what you were told during the initiation ceremony.
4 Were you told that this was likely also to be the effect, although your experience was
5 otherwise?

6 A. [12:51:01] It doesn't have any impact on anyone.

7 Q. [12:51:09] They didn't tell you?

8 A. [12:51:17] No, they did not.

9 Q. [12:51:22] Now, according to what was widely believed, it was believed that
10 Kony had some spiritual attributes which would make him prophesise, would make
11 him predict events that were to come, especially about military attacks on his
12 positions. Did you ever hear Kony make those predictions?

13 A. [12:52:11] Yes, I heard. But basing on what I know, it's possible that there
14 were spirits. But I think he could have received information from somewhere else,
15 then he comes and then disguised that he received information from the spirits when
16 he's talking.

17 PRESIDING JUDGE SCHMITT: [12:53:03] Mr Ayena, I have a question about the
18 time frame of your questioning, of course.

19 MR AYENA ODONGO: [12:53:10] If I was given 30 more minutes it would finish.

20 PRESIDING JUDGE SCHMITT: [12:53:15] But I think we should perhaps then
21 make the break now and come back at 2.30.

22 MR AYENA ODONGO: [12:53:23] For 30 minutes. The alternative would be to
23 persevere. Oh, he is telling me that they stop serving food at a certain time, so.

24 PRESIDING JUDGE SCHMITT: [12:53:39] So, you see, you have always objective
25 arguments for anything. But I have no strong views about it. But, you know, then

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1 it would be 1.30 and it would also put you under pressure I think a little bit. I think
2 it's better to simply say we reconvene at 2.30 and then you take the time that you need
3 and then we finish.

4 MR AYENA ODONGO: [12:54:02] I am guided. I am guided, your Honour.

5 THE COURT USHER: [12:54:06] All rise.

6 (Recess taken at 12.54 p.m.)

7 (Upon resuming in open session at 2.30 p.m.)

8 THE COURT USHER: [14:30:20] All rise.

9 PRESIDING JUDGE SCHMITT: [14:30:40] Good afternoon.

10 Mr Ayena, you still have the floor.

11 MR AYENA ODONGO: [14:31:52]

12 Q. [14:31:53] Mr Witness, before we went for lunch we were asking you about the
13 spiritual attributes of Joseph Kony. But if I got you correct, you actually did not
14 believe in Kony's so-called spirits. Did I get you right?

15 A. [14:32:14] That's correct.

16 Q. [14:32:23] You actually did not believe that at certain times Kony would be
17 possessed by spirits?

18 A. [14:32:39] I did not believe in that. But the one thing that I can -- that I possibly
19 believe is that in our traditional culture and based on my observations, Kony and
20 whatever possessed him could be a chief, perhaps, because when it speaks, it happens
21 as he predicts or as he says, and that's based on my observation.

22 Q. [14:33:19] Are you saying, therefore, Mr Witness, that from the Acholi
23 perspective it is possible that there are certain things that used to appear to him?

24 A. [14:33:44] It wasn't visible. It was not visible on him personally. But the
25 things that he said would lead somebody to guess perhaps that he was possessed by,

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1 by something. And as I stated, in the Acholi traditional culture perhaps it was a
2 chief, because in the Acholi traditional, when a chief says something, or a chief can
3 actually foretell something.

4 Q. [14:34:33] Can you explain further to Court whether Kony actually behaved in a
5 chiefly manner, in a manner that even in the ordinary Acholi tradition a chief would
6 easily have the capacity to foretell certain things, for instance, rainfall?

7 A. [14:35:16] Yes, that's correct.

8 Q. [14:35:19] Those things you say about Acholi traditions, are they different in
9 nature from what would be called spirits? Forget about Holy or whatever spirits.
10 For instance, what we have been told here in the Acholi language cen.

11 A. [14:35:57] Whatever possessed Kony is, it is difficult to explain, because I cannot
12 exactly call it cen and I cannot call it a holy spirit. So it's difficult. When you look
13 at it from the context of the army, and based on my observation on the way army
14 commanders are bright, the things that he tells his junior commanders are based on
15 information that he has received from somewhere, and then he will come and tell his
16 officers that the Holy Spirit said this, whereas he's received the information from
17 elsewhere.

18 Q. [14:36:46] Mr Witness, would I therefore be right to assume that some of these
19 things done by Kony was just meant to play with the minds of the soldiers?

20 A. [14:37:10] Even I personally, that was based on my personal observation. He
21 used to do that, he used to act in that manner so that people do not leave him.

22 Q. [14:37:24] And according to your observation, did some people actually believe
23 him and were either motivated or restrained by that belief?

24 A. [14:37:43] Well, that depends on each individual. I do not know whether every
25 single individual believed that. But I personally, as I stated, the reason why I did not

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1 escape was witnessing the things that were done to people who tried to escape, and
2 that's what actually stopped me from escaping.

3 Q. [14:38:18] Now, you said something very important, that according to your
4 observation the world over, military commanders like to play with the minds of
5 people. They would get information and then make it appear like they have been,
6 they have received some, I mean received it from maybe some spirits out of spiritual
7 possession.

8 Would it therefore be the case that Kony actually strategically placed some of his most
9 trusted persons around different brigades and battalions to spy on people and report
10 any suspicious activity directed at him?

11 A. [14:39:22] I do not know whether he did that. I do not know whether he placed
12 spies. But, personally, the people that he assigns as brigade commanders or as CO
13 are people who are placed there to stop his own people from escaping so that he is
14 not left alone.

15 Q. [14:39:51] You know, Mr Witness, we really want to understand the mind of
16 Kony, because there seemed to be a belief that Kony would even know what people
17 were thinking about him. If you wanted to harm him, you were planning to kill him,
18 he would somehow get to know. That is why I am putting a simple question to you.
19 Could it be the case from what you have explained to Court that maybe Kony had
20 planted spies everywhere to report people who were thinking that way about him?

21 A. [14:40:47] That is something that is worldwide in every single army, not just
22 Kony's army. But with respect to Kony, he also had his own spies, and sometimes
23 you would hear these people being referred to as director of intelligence, brigade
24 intelligence, battalion intelligence, and so on, till the lowest unit, company IS. And
25 those, those are people that I know coordinate whatever is happening within their

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1 different brigades and unit. With Kony, they inform him of everything, good or bad,
2 anything that relates to him.

3 Q. [14:41:51] Nevertheless, were there some spirits who were normally named
4 allegedly being responsible for certain activities in the LRA? For instance, directing
5 war, spirits about protection, spirits about this and so on and so on. Did you get to
6 know about that?

7 A. [14:42:37] Yes, okay, I get what you're referring to. When I was abducted and
8 taken to the bush, the people who -- the founders of this rebellion were there, and I
9 heard them talking, as well as Kony himself. I heard him say he had spirits known
10 as Who Are You, Salindi, and those are some of the spirits that possessed Kony.

11 Q. [14:43:21] How about Juma Oris?

12 A. [14:43:28] Yes, as well as Juma Oris.

13 Q. [14:43:30] And in the context of those spirits, Mr Witness, was the date 7 April of
14 significance in the LRA?

15 A. [14:43:44] Yes, that day was a celebrated day.

16 Q. [14:44:00] We know that there are days which are celebrated in Uganda, like
17 Uhuru Day, like Christmas Day. Can you tell Court in what context that day was
18 celebrated in the LRA?

19 A. [14:44:11] It's very difficult for me to explain in depth, but the way Kony would
20 tell us, he told us that that is a day that he was possessed by the spirit.

21 Q. [14:44:50] Mr Witness, is it true that that was a day of battles during which,
22 whatever the case, every year that day there would be some form of battle, one way
23 or the other?

24 A. [14:45:08] At times there was battle, but at times there was no battle.

25 Q. [14:45:19] Thank you, Mr Witness.

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1 Now, did you get to know somebody called Ocan Nono, sometimes called

2 Ocan Nono Labongo?

3 A. [14:45:40] Yes, I do know him.

4 Q. [14:45:51] Can you describe his character, and in particular tell Court whether
5 you got along with him well?

6 A. [14:46:01] Ocan Labongo and I, we got on. I got on as well with him as I got on
7 with other people within the LRA.

8 Q. [14:46:22] Was he a former escort, chief escort to Joseph Kony?

9 A. [14:46:30] Ocan Labongo, well, the chief escort of Kony was known as Lamola.
10 Ocan Labongo was an ADC.

11 Q. [14:46:58] In other words, at a certain point he was part of Kony's security?

12 A. [14:47:09] Ocan Labongo was part of Kony's security.

13 Q. [14:47:19] In that regard, Mr Witness, or maybe even from your own direct
14 knowledge, was Ocan Labongo close with Kony?

15 A. [14:47:33] Based on my knowledge, Ocan Labongo was close to Kony as part of
16 his security detail, and that's how close he was to Kony. But in terms of a
17 relationship, whether there was animosity between them or whether they had good
18 relations is something that you need to clarify. Maybe you can ask, you can clarify
19 that for me.

20 Q. [14:48:23] You know, Mr Witness, I am not interested in about his personal
21 friendship to Joseph Kony. But I was just trying to establish whether in that, in the
22 context of his work, which you have actually stated very well, he was part of the
23 security detail of Kony. Would he in that context be responsible for reporting or
24 coordinating a spy network for Kony?

25 A. [14:49:03] No. That's not what he did. Ocan was part of the security. He

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1 would take care of Kony, protect Kony so that nobody would attack and kill Kony.
2 But with respect to other duties relating to security, Kony had his own intelligence.
3 Those intelligence officers were the ones who would coordinate with the other -- with
4 the director of intelligence as well as the other intelligence units that were in the
5 brigade levels to the lower units.

6 Q. [14:49:58] Mr Witness, roundabout 2004, did you get to know that Ocan Nono
7 Labongo held joint command of Sinia brigade with Dominic Ongwen?

8 A. [14:50:34] Ocan Labongo was in Sinia, but by his virtue of being in Sinia, I was
9 not aware of what his functions were or what his duties were. But he was in Sinia
10 brigade.

11 Q. [14:50:54] That is fair enough, Mr Witness.

12 Mr Witness, we are just about to end. But there are a few questions I want to put,
13 you know, ask you to help Court to understand. The political policy objectives of
14 the Lord's Resistance Army, Mr Witness, you discussed and testified to Court that
15 Kony would tell people in the LRA that they were going to overthrow the
16 government of Uganda.

17 Now, during your 19 years in the LRA, can you remember how many times LRA
18 attempted to walk towards Kampala, to overthrow the government?

19 A. [14:52:13] That is something that I did not see. All the movements were
20 between Kitgum, Teso and different other areas. And when all those movements,
21 wherever they moved in those areas, Kony would say that all those roads would lead
22 to Kampala.

23 Q. [14:52:43] Thank you. Now, Mr Witness, by the time you went -- you were
24 abducted, of course, you did not go by your free will, did you discover whether or not
25 this policy objective had already been put in place?

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1 A. [14:53:12] When I was abducted and taken to the bush, I was taught and
2 informed that we are going to fight to overthrow Museveni's government.

3 Q. [14:53:33] And perhaps my last question on that. At the time when you first
4 met Dominic Ongwen in the bush, did it appear to you like he was of the capacity to
5 have been part of the formulation of the political policy objective of the Lord's
6 Resistance Army?

7 A. [14:54:11] When I first started seeing Dominic, the same problems that I went
8 through that I experienced being abducted forcefully was something that I thought
9 happened to him as well. I did not actually ask him, but when I saw him, I thought
10 this person has also been abducted just as I was.

11 But later on I did hear that he was also abducted. *But the people who had the
12 knowledge about the LRA cause are different from Dominic.

13 Q. [14:55:14] Thank you for that conclusion, Mr Witness.

14 Let's look at wives in the LRA. Mr Witness, did you get to know about the system of
15 how girls who were abducted became wives?

16 A. [14:55:49] That would happen.

17 Q. [14:55:56] Within the LRA, Mr Witness, was there a standing order about how
18 girls would be distributed as wives?

19 A. [14:56:13] In the LRA, there are rules in that regard, regarding the distribution.

20 Q. [14:56:32] Do you know who put these rules in place?

21 A. [14:56:38] Most of the rules in the LRA were established by Kony personally.
22 Based on my knowledge, I know that he is the one who established this rule and then
23 informed his commanders. There is nobody else who establishes rule while he is the
24 overall commander of that -- of the LRA.

25 Q. [14:57:15] Now, Mr Witness, following from your statement that you think Kony,

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1 like any other military commander, relied on information, although he pretended like
2 this was a revelation from above, did you get to know whether the LRA had
3 informers or collaborators within the population that would let Joseph Kony and LRA
4 get information about what is happening or what is about to happen?

5 A. [14:58:40] Yeah, that's correct.

6 Q. [14:58:58] Let's talk about this one incident of attack on Pajule. Did you get to
7 know whether some information about the set-up of Pajule had been gathered from
8 members of the community who were informers or collaborators for that matter?

9 A. [14:59:29] Yes, that's what happened based on my understanding.

10 Q. [14:59:50] Can you hazard information about some of them? Put simply, can
11 you mention any of them?

12 A. [15:00:18] Well, the collaborators that worked with Vincent Otti, who I
13 eventually came to understand were also working in the same manner with plans to
14 kill Vincent, are Lapolo, Rwot Oywak.

15 Q. [15:01:07] Thank you, Mr Witness. Now, about information, you said that you
16 got to know that it became evident that Kony was going -- was planning to kill
17 Dominic Ongwen. How did you get to know this, Mr Witness?

18 A. [15:02:06] You cannot, when you are with Kony, you do not find out
19 information from somebody else. You actually see what he's doing or his reactions
20 based on what you've gone through. And you can, like you can guess that whatever
21 happened to this person in the past is also going to happen to me. And the reason
22 why I said that was the way he was treating Dominic made it apparent that he was
23 not going to survive in Kony's hands, and that's based on my observation and things
24 that I witnessed that happened to Otti Lagony and Otti Vincent.

25 Q. [15:03:01] Can you tell Court one compelling incident that made it clear to you

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1 that he was planning to kill Dominic Ongwen?

2 A. [15:03:13] Based on my observation and what happened to the other two
3 commanders that I've just mentioned, Otti Vincent and Otti Lagony, if Kony does not
4 want you, if Kony sets his sights on you, he will no longer respect you. And he no
5 longer respected Dominic. Things that should have been discussed among
6 themselves as high-ranking officers were now being discussed in public in the
7 presence of women, children, foot soldiers and other officers as well.
8 He would collect everything, all those people together and then start talking about
9 Dominic.

10 Q. [15:04:44] Do you remember, Mr Witness, whether at one point he actually
11 arrested Dominic and punished him?

12 A. [15:05:01] No, I do not recall.

13 Q. [15:05:14] Last but not least on that topic, Mr Witness, do you -- can you suggest
14 the reason why all of a sudden or was it over a long period of time Joseph Kony
15 started turning against Dominic Ongwen?

16 A. [15:05:47] It's difficult for me to guess that, but I think for Joseph Kony it would
17 just come all of a sudden, whatever he thinks about his senior commanders. But also
18 sometimes I think he could have got some information about such senior commander.

19 PRESIDING JUDGE SCHMITT: [15:06:12] Mr Ayena, before the break you said 30
20 minutes. I just wanted to remind you of that. We have now 36, so to speak.

21 MR AYENA ODONGO: [15:06:27] About 15 more minutes or less.

22 PRESIDING JUDGE SCHMITT: [15:06:29] Please continue, but I just wanted to
23 remind you.

24 MR AYENA ODONGO: [15:06:33] I'm grateful.

25 Now let's go to a short private session.

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1 PRESIDING JUDGE SCHMITT: [15:06:36] Private session.

2 MR AYENA ODONGO: [15:06:43]

3 Q. [15:06:44] Mr Witness, you told Court yesterday that you were --

4 PRESIDING JUDGE SCHMITT: [15:06:47] That was my fault. I put you under
5 timely pressure and because of that you were too quick now.

6 (Private session at 3.06 p.m.)

7 (Redacted)

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12 (Open session at 3.21 p.m.)

13 THE COURT OFFICER: [15:21:52] We are back in open session, Mr President.

14 MR AYENA ODONGO: [15:21:57]

15 Q. [15:21:57] Now, Mr Witness, you finally received amnesty from the government
16 of Uganda; is that correct? When you came back home, did you receive an amnesty
17 certificate from the government of Uganda?

18 A. [15:22:22] Yes, I did.

19 Q. [15:22:30] And that was besides the brainwashing by Joseph Kony and
20 notwithstanding some of the things you may have committed when you were still in
21 the bush? Of course, on being forced to commit or ordered to commit.

22 A. [15:23:10] That is it.

23 Q. [15:23:12] Now, in your opinion, Mr Witness, do you think Dominic
24 Ongwen -- first of all, if Dominic Ongwen was not brought to the ICC, but he went
25 back to Uganda, would he have been given amnesty, in your opinion?

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1 PRESIDING JUDGE SCHMITT: [15:23:36] I don't allow the question. I don't allow
2 the question. The witness cannot have information about that. That's speculative.
3 You can draw your conclusions from what the witness said already.

4 MR AYENA ODONGO: [15:23:47] Okay.

5 PRESIDING JUDGE SCHMITT: [15:23:48] But it's speculative.

6 MR AYENA ODONGO: [15:23:57] It might be safe to stop here so that I don't get
7 drawn into speculations.

8 PRESIDING JUDGE SCHMITT: [15:24:04] But you take it at least relatively lightly,
9 in good manner.

10 MR AYENA ODONGO: [15:24:09] Yes.

11 PRESIDING JUDGE SCHMITT: [15:24:10] So thank you very much, Mr Ayena.

12 MR AYENA ODONGO: [15:24:12] Yes.

13 PRESIDING JUDGE SCHMITT: [15:24:13] This concludes the testimony of you,
14 Mr Witness. On behalf of the Chamber, I would like to thank you for coming to this
15 Court and helping us to establish the truth.

16 We wish you a safe trip back, Mr Witness.

17 THE WITNESS: [15:24:27] (Interpretation) Thank you.

18 (The witness is excused)

19 PRESIDING JUDGE SCHMITT: [15:24:30] And this concludes also the hearing for
20 this witness block. Next witness will be on 19 March, 9.30, P-446.

21 THE COURT USHER: [15:24:41] All rise.

22 (The hearing ends in open session at 3.24 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

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 case.