

1 International Criminal Court

2 Appeals Chamber

3 Situation: Republic of Uganda

4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15

5 Presiding Judge Luz del Carmen Ibáñez Carranza, Judge Piotr Hofmański,

6 Judge Solomy Balungi Bossa,

7 Judge Reine Alapini-Gansou and Judge Gocha Lordkipanidze

8 Appeals Hearing - Courtroom 1

9 Friday, 18 February 2022

10 (The hearing starts in open session at 10.04 a.m.)

11 THE COURT USHER: [10:04:35] All rise. the International Criminal Court is now in
12 session.

13 Please be seated.

14 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:04:57] Good morning. Court
15 officer, please could you call the case.

16 THE COURT OFFICER: [10:05:25] Good morning, Madam President, good morning,
17 Your Honours. This is the situation in the Republic of Uganda in the case of the
18 Prosecutor v. Dominic Ongwen, case reference ICC-02/04-01/15.

19 And for the record, we are in open session

20 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:05:42] Thank you.

21 Before we take appearances, please note that given the unique storm, we will only
22 have one session of about two hours.

23 We will now take appearances, beginning with the Defence team of Mr Ongwen,
24 please.

25 MR TAKU: [10:06:02] May it please, your Honours, honourable Ayena is not well

1 today, but has delegated me to represent him and Mr Ongwen.

2 My name is Chief Charles Achaleke Taku. I appear for Mr Ongwen. With me, my
3 learned friend, Beth Lyons, Mr Thomas Obhof, Kifudde Gordon, Morganne Ashley,
4 Ainembabazi Eunice, Professor Linda Carter, Tibor Bajnovic, Michael Rowse, Abigail
5 Bridgman and Eniko Sandor. Thanks very much, your Honours.

6 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:06:49] Thank you.

7 I note that Mr Dominic Ongwen is also present in the courtroom.

8 Counsel for the Prosecution, please.

9 MS BRADY: [10:06:57] Good morning, Your Honours.

10 Appearing for the Prosecution, we have Ms Meritxell Regue, appeals counsel, beside
11 me. In the second row, Ms Priya Narayanan, appeals counsel, and Mr Matteo Costi,
12 appeals counsel.

13 And in the row behind them, Mr Matthew Cross, appeals counsel. And on screen,
14 your Honours, we have Mr Reinhold Gallmetzer, appeals counsel, Mr George
15 Mugwanya, appeals counsel and Ms Nivedha Thiru, associate appeals counsel.
16 And my name is Helen Brady, and I'm the senior appeals counsel for the Prosecution.
17 Thank you.

18 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:07:42] Thank you.

19 The legal representatives of the two groups of victims, victims' group 1, please.

20 MR COX: [10:07:51] Good morning, Madam President, Your Honours. With me,
21 James Mawira. Also on screen, Priscilla Aling, Listowel Atto, Anushka Sehmi.
22 And lead counsel, Joseph Manoba, who will be delivering the oral submissions today.
23 Thank you.

24 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:08:09] Victims' group 2, please.

25 MS MASSIDDA: [10:08:12] Good morning, Madam President, your Honours. For

1 the Common Legal Representatives's team appearing today, behind me,
2 Mr Orchlón Narantsetseg and Ms Caroline Walter, and I am Paolina Massidda.
3 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:08:23] Thank you.
4 We have taken appearances from everyone. Thank you very much.
5 If the composition of the different teams were to change during the different sessions
6 of today, I would like to ask the parties and participants to inform this at the
7 beginning of the session.
8 Final submissions on the appeals. We will now hear the final submissions on the
9 appeals of the parties and participants.
10 Counsel for Mr Ongwen, you have the floor for 30 minutes, please.
11 MR TAKU: [10:08:55] Good morning, Madam President, your Honours. I will try
12 to economise my time as much as possible in the belief that if I reserve any time, then
13 that time could be used by Mr Ongwen with your permission -- it could be added to
14 his time with your permission.
15 Your Honours, before I make my introductory remarks, permit me to put one point
16 on record. I heard the victims and the Prosecution say Ongwen never showed
17 remorse at any time in this case. But let the record reflect that at the time when he
18 surrendered -- he surrendered, the Prosecution did not take him to a psychiatrist.
19 Nevertheless, he was interviewed. He made a statement over the radio -- the
20 television in Uganda in which he expressed profound regret - the first opportunity,
21 with the UPDF - profound regret to the people of Uganda and victims.
22 The Prosecutor brought that video here and left to Professor Mezey to use that to
23 challenge his mental health evidence. If they didn't see fit to use it for that purpose,
24 your Honours, they should not complain when referring to Mr Ongwen. When he
25 had the opportunity to step his leg in Uganda as a free man, without counsel, he

1 expressed profound regret.

2 And I ask your Honours to look at that audio.

3 Secondly, the two group of victims have expressed their opinion about reconciliation.

4 We take note of what the group number 1 said. That they are not opposed to

5 reconciliation, but provided he serve his sentence.

6 I also take note about victims' group number 2 said that they opposed, but watch her

7 opening statement that she played the video of two victims. One from Lukodi who

8 said -- one of them said they wanted reconciliation, one said we do not. So her

9 victims, the evidence, her own victims who spoke directly to the Court. Not what

10 she's saying. You'll watch it also, your Honour. And by the idea of reconciliation,

11 what do you mean? Mato Oput will address that.

12 Your Honours, the person your Honours are seeing and who you'll be listening to in

13 this case today is not Ongwen who was in the LRA. It will be an error to judge

14 Mr Ongwen from his abduction and the charged period and Mr Ongwen standing

15 before you. The Ongwen before your Honours here, during this appeal, is an

16 Ongwen who is on medication for his mental health illnesses from when he

17 surrendered and was brought to the ICC detention centre.

18 While in the LRA, in particular, during the charged period 20 years ago, he was

19 a different Ongwen who lived in a very very constraining spiritual, military

20 environment designed and dominated by Joseph Kony. During trial and before the

21 Appeals Chamber, the Defence faulted Uganda ... No. During trial and before this

22 Appeals Chamber, the Defence has faulted Uganda for failing to protect Dominic

23 Ongwen from being abducted and forced into armed conflict in violation of its State

24 treaty obligations under the United Nations's Convention on the Rights of the Child

25 and the Optional Protocol to the Convention on the involvement of children in armed

1 conflict, which are within the treaty regime of United Nations's convention on human
2 trafficking.

3 Defence expert, Major Awich, a UN expert on children in armed conflicts, himself,
4 a former child soldier in the NRA, who has done significant work on LRA child
5 soldiers returnees, explained the enduring effect and consequences of the abduction,
6 indoctrination and use of Mr Dominic Ongwen as a child soldier by Joseph Kony.

7 Had Uganda -- as Uganda -- had Uganda not violated its treaty obligations by failing
8 to protect Mr Ongwen and child soldiers generally in Northern Uganda, we will not
9 be here today. Furthermore, Uganda also bears State responsibility to hold UPDF
10 perpetrators to account.

11 The Defence submits that the inability of the Prosecution to find and bring Joseph
12 Kony to justice is the reason for the transformation of this case from seven counts in
13 2005, to 70 counts with eight modes of liability leading to 61 convictions.

14 Mr Ongwen, your Honour, considers that his prosecution is a proxy prosecution.

15 Upon hearing selected excerpts of the confirmed charges, he replied that he
16 understood them to be about Joseph Kony and the LRA. "I am not Joseph Kony, I'm
17 not the LRA."

18 The Pre-Trial Chamber at paragraph 4 of the confirmation of charges decision recalled
19 the following statement of the Prosecution, when it opened investigations in the
20 situation of Northern Uganda, quote:

21 "The Prosecutor proceeded with an investigation, specifying that it would extend to
22 the entire situation in Northern Uganda, regardless of who committed the crimes
23 under investigation." The Prosecutor has failed to prosecute the UPDF despite the
24 fact that many victims who appeared as dual-status witnesses, some victims and
25 Defence victim witnesses presented heart-wrenching testimony about UPDF crimes,

1 before, during and after Iron Fist. The perception conveyed is that Dominic Ongwen
2 is responsible for LRA and Joseph Kony crimes. The multiple modes of liability and
3 multiple convictions attest to this conclusion.

4 Your Honours, very briefly, the basis for complementarity.

5 The legal basis for complementarity in sentencing is that it is a mitigating personal
6 circumstance of the convicted person pursuant to Rule 145(1)(b) of the Rules.

7 The Trial Chamber refused or neglected to conduct a thorough analysis of the
8 evidence related to Acholi traditional justice mechanisms as seen in the sentencing
9 judgment. We submit that complementarity is not confined to Article 17 of the
10 Statute, but inundates the entire Rome Statute because of its important placement in
11 paragraph 10 of the preamble, which two provisions must be read together for
12 context.

13 Complementarity, that's paragraph 10, emphasises that the jurisdiction of the Court
14 "shall be complementary to national criminal jurisdictions".

15 And stated under Article 1 to the effect that, when exercising its jurisdiction, the
16 Court has the power to exercise its jurisdiction "[...] and shall be complementary to
17 national criminal jurisdictions."

18 Nothing to show, your Honours, the personal circumstance.

19 If the Court takes in consideration in imposing a sentence on Mr Ongwen, that it
20 should be such like the sentence will not destroy him outright with sparing conditions,
21 but will -- he will be able to go back and enter into society and reconcile with the
22 people in Uganda and play a meaningful role in order to build a broken society.

23 That -- that will be our humble submission.

24 The Trial Chamber was unreasonable in refusing to hear live testimony in charge -- of
25 those in charge of administering the Mato Oput, particularly from the prime minister,

1 Ambrose of Tekwaro Acholi, who had applied to be heard on the same.
2 Your Honours, it's a miscarriage of justice. They need it. I heard, I think it was one
3 of the victims -- several victims saying that cultural sensitivity play no role. That's
4 not the trend in international criminal law as I know. Cultural sensitivity applies
5 also to victim. Their privacy, but it also applies to the cultures of the people
6 (indiscernible). It is one of those living issues in international criminal law for the
7 past 23 years that I have been before international courts. It has been a lively issue,
8 it's (indiscernible) articles, and therefore, your Honours, you will take your
9 (indiscernible), not all the victims or the parties, but that of the Acholi under
10 their -- reconcile -- the -- the mechanism of Mato Oput and the Cen into consideration.
11 Your Honours, we want to address the question of the -- "destroy" -- appreciate the
12 unlawfulness of his conduct.
13 We submit that "destroy" does not mean that the capacity is completely destroyed,
14 but rather that it is destroyed to the extent that he's not able to appreciate.
15 Secondly, we submit that Dominic Ongwen having been abducted and trafficked into
16 slavery as a child soldier at the age of nine and kept there for more than 27 years,
17 never got exposed to any other law except the Ten Commandments. The
18 environment, not only of the LRA, the whole of Northern Uganda, they know, from
19 Alice Lakwena to Joseph Kony, about the Ten Commandments. Everybody knows
20 about this.
21 Standing -- he knew all about the Ten Commandments, those were the laws he knows,
22 standing and periodic orders, indoctrination by spiritualism and coercion that caused
23 him mental disease or defect. Should such a person be fixed to the principle of
24 ignorance is no defence? We say no.
25 To appreciate the nature of his conduct, your Honours, what this Court should

1 consider is whether after his experiences of the spirituality, indoctrination, sordid and
2 coercive environment in the LRA, Dominic Ongwen, when ordered to execute the
3 orders in the charges -- in the charged crimes, he was still left with the capacity to say,
4 "Well, what am I doing?" We submit that he was not. Hence his capacity to
5 appreciate the nature of his conduct was destroyed.

6 And in answer to a very important question -- I take a brief here, from her -- your
7 Honour, Judge Reine Alapini, you see the way Ongwen's brigade was constructed.
8 You find that the internal officer reported directly to Joseph Kony. The number 2
9 brigade commander, Ocen Labongo, who was the chief security of Joseph Kony, so
10 you can understand exactly the circumstances if you know the function of this and see
11 the role they played in the evidence from witnesses.

12 Your Honours, disregarding the evidence on the trial record, your Honours, the
13 Chamber found that Ongwen was never under threat by Joseph Kony when he
14 disobeyed -- when he disobeyed -- without consequences.

15 Here, your Honours, the Chamber disregarded the evidence it analysed at paragraph
16 1048, detailing a communication Joseph Kony had with Otti on 16 April 2003, in
17 which Joseph Kony is recorded in the IOS logbook as blasting Dominic Ongwen.
18 Calling him a weak commander and saying that if Ongwen is not careful, then he will
19 be demoted so that another officer will take charge of his battalion.

20 In view of the unpredictable nature of Joseph Kony, your Honours will know what
21 could happen. Again, your Honours, in the UPDF intelligence report,
22 UGA-OTP-0255 to 0945 at paragraph 945, the intelligence officers from Lira stated
23 that Ongwen missed execution by Joseph Kony for his contact with General Salim
24 Saleh. You'll find it in footnote -- you find it at paragraph 2611 of the trial judgment,
25 footnote 6968 and transcript 160 page 0209 at page 37.

1 The Trial Chamber dismissed this intelligence report on the ground that the source
2 could not be traced. But on the face of it, it's there at the beginning, "Lira". And the
3 name of the intelligence officer is there. And Prosecution witness P-403, their very
4 first witness, stated that Lira was one of the sources of the intelligence, which the
5 UPDF obtained information about the LRA. For the source there, no reason -- no
6 reasonable trial judge -- for seeing that document would have thought, Ah, Lira, and
7 said the source could not be verified.

8 The presiding -- your Honours -- your Honour, now, Witness 209 -- Witness 209
9 testified, your Honours, that he confided to Dominic Ongwen, he confided to
10 Dominic Ongwen at the time that he intended to escape. And the presiding judge
11 asked: Were you not afraid Dominic Ongwen would betray you to Kony?

12 The witness said, your Honours, that they were all aware that Dominic Ongwen was
13 going to be executed by Joseph Kony. And, this, your Honours, corroborates the
14 UPDF report that Ongwen was always ... was always going to be -- corroborated.
15 And I also quoted witness 205, P-205. He is quoted in our trial brief -- in Prosecution
16 brief.

17 Sorry, your Honours, let me get some water.

18 We'll not give you the details because it is in our appeals brief.

19 He was a battalion commander. He testified that pursuant to the contact with Salim
20 Saleh, Kony gave instructions to Okwonga Alero, the commander of Trinkle
21 battalion -- brigade to constitute -- to execute Ongwen. And when they were about
22 to execute Ongwen, he stopped and said instead he will be taking -- as a prisoner to
23 Control Altar. Later questioning the status -- Ongwen, in Control Altar, the
24 Prosecutor and the victims said he was there as a commander. The commander of
25 Control Altar was always Vincent Otti. Not Ongwen. And we will prove very

1 soon the capacity further that he was there also as a sick person incapable of
2 conducting operations.

3 Your Honours, about this injury, the ISO logbook of 17 September 2003, where
4 Vincent Otti -- where Vincent Otti confirmed to Kony about the appointment of
5 Dominic Ongwen as the second-in-command of Sinia brigade with the following note:
6 "but since he is still sick, Lapanyikwara" - that's Lapaico - "should act".

7 The very next day, Kony got back to him to say, "Well, Lapaico" -- who -- are assigned
8 to other duty, but Isaya Laoum will act, because Ongwen is still sick, 18 of September
9 2003.

10 The attack on Pajule was on the 10th of October, merely a few weeks. Kony and
11 Vincent Otti -- Vincent Otti was the commander of the operation in Pajule. They say
12 Ongwen, "Is still ill, some other commander, Isaya Laoum should command -- should
13 take command because Ongwen is still ill." Ongwen is in Control Altar.

14 In the context of very very conflicting evidence of whether Ongwen participated in
15 Pajule or not, the Chamber should even have made an assessment -- base its
16 assessment on reasonable doubt. The Chamber did not.

17 And on the scope of the injury, witness 205, who is one of the star witnesses for the
18 Prosecution in this case, who rescued Ongwen from that injury, he testified that it was
19 a very very serious injury and the effect of that injury -- Ongwen is here, is only at the
20 UN -- at the -- at the detention centre, that they had to give special shoes to stabilise
21 Ongwen. That's why Ongwen never took part in any operations personally. He
22 was handicapped. His leg was shot. And the picture of that injury is in the record
23 of -- for your Honours to see that picture, we request -- and see. That witness said he
24 was there for over nine months. The Prosecutor discounted this eyewitness evidence,
25 but again the Trial Chamber went far. Nobody ever observed Ongwen during the

1 charged period -- that Ongwen suffered from any particular thing that could
2 traumatise him or affect his mental health. Doctor Akena and Professor Ovuga
3 considered this injury (indiscernible), plus 11 bullets in the body of Ongwen, who is
4 sitting here. Plus that extent of the injury, which is confirmed by Joseph Kony
5 himself and Vincent Otti, that he cannot take command.
6 (Indiscernible) Dr Ovuga. The Trial Chamber dismissed the report on the basis of
7 methodology from a psychologist, the reports of the two distinguished psychiatrists
8 who dedicated their time to helping and curing child soldiers in Northern Uganda.
9 Themselves, victims of the war. Akena is Acholi and, of course, Professor Ovuga
10 said that his family died (indiscernible).
11 But being professionals, they kept that aside to do their professional courtesy.
12 They kept it on the basis of pure technicality, not knowing that -- who are
13 distinguished -- different legal cultures in the system of this Court.
14 The variation in methodology are -- all be there. A trier of fact will look beyond that
15 and look at the evidence and give a determination based on the evidence. Not on
16 abstract issues. Your Honours, your Honours, we will now look quickly at Odek.
17 At paragraph -- paragraph 548 of the confirmed charges, they allege that Okwonga
18 Alero was a member of the common plan; that Joseph Kony deployed him and
19 Dominic Ongwen. They were in the common plan with Trinkle brigade.
20 The Trial Chamber found that Okwonga Alero and (indiscernible) were not there,
21 knocking off one of the members of the common plan.
22 In the course of the trial, your Honours, your Honours will also see that the
23 Trial Chamber found that the evidence that Vincent Otti was present, Buk Abudema
24 was present and Raska Lukwiya's present. That their own star witness on the basis
25 of -- would enter a conviction, P-401 that -- he was unreliable in that respect. So key

1 members of the planning were off ...

2 And the Chamber also said, Joseph Kony gave the orders for attack of Odek in an
3 address in Sudan and that Dominic Ongwen was not present but nevertheless, he
4 must have heard about it without justifying the basis of their inference.

5 But the Trial Chamber went further, again, to say it doesn't matter whether Ongwen
6 had or not -- whether Joseph Kony gave orders to Ongwen or not, it doesn't matter.
7 In accepting his responsibility, they will not consider any order from Joseph Kony.
8 Your Honours, Joseph Kony is knocked off. What becomes of the common plan in
9 this context as a pleading issue? Those that were pleaded are -- are not found on the
10 evidence. But nevertheless, there is -- they also made the finding that Joseph Kony
11 talked to Ben Acellam. Ben Acellam was one of the commanders -- and I know the
12 finding of the Trial Chamber that Joseph Kony could give orders to anyone.
13 Whether you're a brigade commander, he could -- he could ignore you because in the
14 LRA, what mattered was not rank. It was function. It was command, the
15 function. And Joseph Kony had the power. He made that distinction when to
16 order and also to go on operations and when to talk to any commander. He
17 made -- but you saw that he talked to -- to Ben Acellam. You saw Ben Acellam
18 (indiscernible) he organised a group to go to Odek. And you found the
19 Trial Chamber here saying that Mr Ongwen, Mr Ongwen, paragraph 1472, that
20 Ongwen was not commanding or coordinating the forces during attack.

21 But you also find evidence that Ocan Labongo, who was brigade commander 2 of
22 Sinia brigade, he was there. And the information is found in the UPDF intelligence
23 report, which the Chamber discounted. The intelligence report was prepared by the
24 chief of military intelligence on the basis of all the reports received from multiple
25 sources, from (indiscernible) Lira, Achol Pii, Sudan, Kampala and from all the

1 intelligence unit -- for war operations. It was not for this case. And that report said
2 the person who made that report about the attack was Ocan Labongo. And
3 Prosecution witness P-03 in his initial report, which is before this Court, he said it was
4 Ocan Labongo. He only changed to say it was Ongwen when the Prosecutor went to
5 interview him, without any basis.

6 Your Honours, with regard to Lukodi, your Honours, hidden behind the pseudonyms
7 are people, actual people. You find that P-205, whom the Chamber relied on in
8 part -- the Chamber also said that he was unreliable with regard to the attack on Odek
9 to conceal his own criminal involvement.

10 THE COURT OFFICER: [10:34:30] Counsel has five minutes.

11 MR TAKU: [10:34:32] Just to conceal his own criminal involvement. They also
12 said the same with Lukodi. But he told Ongwen after Lukodi -- Ongwen had sent
13 them and said to people, "Go to Gwendia", as the witness showed. On the way to
14 Gwendia, they heard there were so many soldiers, they went on their own to Lukodi.
15 Ongwen when -- over the radio, that (indiscernible) had been killed in Lukodi. He
16 asked 205, who was the battalion commander. He said nobody died. 101, one of
17 Ongwen's so-called wives was present and said Ongwen was very very angry to hear
18 that people died.

19 So where is the *mens rea* that he -- ordered to -- to go and kill? From the
20 Prosecution's own evidence to say Ongwen was very angry, the Prosecution's own
21 evidence saying that Ongwen was never informed.

22 And your Honour let me just quickly -- again, to child soldiers and the wives.

23 Your Honours, we insist Ongwen did not become commander of Sinia brigade until
24 the 4th of March 2004. So to charge and convict him for all the crimes that happened
25 in Sinia brigade from the 2nd of July 2002, your Honours, is also unfair. What

1 happens to Buk Abudema who was a brigade commander? What happens to all the
2 other battalion commanders? What happened to Joseph Kony?
3 Your Honours, it's grossly unfair. And even with the wives, how many of the
4 women -- identified women came here to testify that Ongwen abducted them? How
5 many of the children came here to say that Ongwen abducted them?
6 On the contrary, the evidence shows that when the people transported the food, they
7 were released to go back. Not even Ongwen, but the people who had gone there to
8 (Indiscernible). Ongwen was not even there, in any of this. And,
9 your Honours -- we urge your Honours that in order to determine this case properly,
10 your Honours should order that the note -- the report -- the medical report of Ongwen
11 in detention centre should be brought to your attention.
12 In the ICTR, before judgment, the judges always ask for a report from detention.
13 The judges did not want -- rule -- did not order or want the file. You can order
14 detention centre to produce all the medical reports on Ongwen in order to
15 comprehensively determine the issue in this case, your Honours.
16 With that, your Honours, that concludes our submissions.
17 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:36:57] Thank you, Counsellor.
18 Counsel for the Prosecution, please, you have the floor for 30 minutes, starting now.
19 MS BRADY: [10:37:08] Your Honours, this week we've discussed many issues in this
20 case. We've examined the case from all angles. As has been already observed
21 during the week, some of these issues may at first blush sound pertinent in the
22 abstract, yet they are much less so when considered - as they must be - on the facts of
23 this case.
24 Indeed, your Honours, we all appreciate the need for caution when considering
25 cultures with which we are not familiar, or kinds of traumas that we have not

1 suffered. But it is precisely this caution which underlines the importance of putting
2 our assumptions to one side, and instead considering the actual evidence that was
3 collected, that was heard by the Trial Chamber and that was assessed by it.

4 For this reason, we commend the judgment to your Honours, which sets out the
5 evidence exhaustively, as well as the Trial Chamber's detailed reasoning on it, and we
6 ask that you consider it carefully when reflecting on some of the things that you've
7 heard this week.

8 We must end these proceedings where we began. At the forefront of your minds
9 must be the criminal responsibility of Dominic Ongwen as established in the evidence.
10 No less important the brutal crimes that he committed and the many victims who
11 suffered from his crimes.

12 If anything, the crimes themselves - and their grave consequences - may not have
13 been discussed this week as much as those who have been viewing these proceedings
14 might have expected. So, we should remember the numerous, distinct crimes for
15 which Mr Ongwen was responsible. Committed in four distinct attacks on different
16 IDP camps, and against women and children in Mr Ongwen's own household and
17 within the LRA, over months, over years. These crimes include attacks on civilians,
18 killings, rape, forced pregnancy, forced marriage as an inhumane act, torture and
19 enslavement and sexual slavery. Some victims were taken from their homes and
20 forced to become child soldiers. Others, forced to become his so-called "wives" or
21 those of other Sinia brigade members.

22 The Trial Chamber heard that Mr Ongwen acted cruelly. Some victims described
23 him as forcing them to try and beat another person to death. Two victims said this.
24 He subjected many to repeated sexual violence. Yet other witnesses remember that,
25 at times, he showed them kindness. He was known to play with the younger ones.

1 To like a joke. To look after his men. He distinguished between right and wrong,
2 and he could show mercy. But in the crimes that came before the Court, he did not.
3 At appropriate times in these proceedings, Mr Ongwen's victimisation was
4 recognised by both the Prosecution and the Trial Chamber. But Mr Ongwen cannot
5 be defined solely by his own victimisation. He was, and is, more than that. And so
6 we should guard against any assumptions that we may harbour about what his
7 capacities might have been. Like the Trial Chamber, we too must be guided by the
8 evidence. Nothing that your Honours have heard this week can change that. None
9 of us in these appeal proceedings - whether as parties or amici - is here to give
10 evidence. We are not witnesses. Your Honours must decide this appeal only in
11 light of the evidence discussed before, and heard by, the Trial Chamber -- applying, of
12 course, the appellate standard of review for factual error.

13 And the evidence, it's all there. Each and every evidentiary issue which has been
14 raised this week was also raised at trial. Each was adjudicated by the Trial Chamber
15 reasonably and correctly.

16 Your Honours, I don't propose to rake over all the arguments that we've heard this
17 week. But I will just touch on a few key points, which only underscore the
18 correctness of the Trial Chamber's approach throughout the proceedings and in its
19 final decision.

20 On the first day of the hearing, we showed that the Trial Chamber was both
21 reasonable and correct in finding that Mr Ongwen's criminal responsibility could not
22 be excluded under Article 31(1)(a) or (d). To determine the absence of these grounds
23 beyond reasonable doubt, and contrary to the Defence's suggestion, it was only
24 necessary for the Chamber to have found that one of these elements of these grounds
25 for excluding criminal responsibility was not reasonably possible. And the Chamber

1 rightly so found.

2 Mr Ongwen was in full possession of his mental faculties and did not act under
3 a threat of imminent death or of continuing or imminent serious bodily harm.

4 Your Honours should of course review the submissions, the evidence in question and
5 the Trial Chamber's reasoning to satisfy yourselves that the Trial Chamber was
6 thorough, reasonable and correct in its approach. Having done so, there is simply no
7 need or basis to reassess this evidence de novo.

8 Mr Ongwen's behaviour -- own behaviour speaks volumes. The evidence shows
9 that he was a self-confident and effective commander, who exercised his own
10 judgment based on what he thought was right or wrong. Not only did the evidence
11 show that there was no such objective threat against him, but also that he did not act
12 as if he believed himself to be so threatened. Furthermore, his criminal conduct was
13 neither necessary nor reasonable, but can only have been intended to exceed, and,
14 vastly so, any harm that he could possibly have faced.

15 Your Honours, we don't doubt that there may be circumstances when it is
16 appropriate not to convict victims of trafficking for crimes directly resulting from
17 their trafficking. But even if this rises to the level of a principle, it is not one that is
18 squarely addressed to the mandate of this Court. Indeed, it may not be addressed to
19 the most serious crimes at all. It cannot be seriously argued that it is designed to
20 excuse multiple murders, rapes, and enslavements, repeated over years, committed
21 by high-ranking commanders. In any event, Article 31(1)(d) is the sole vehicle by
22 which the Statute reconciles the competing human rights concerns at stake. And its
23 elements ensure that it can only be applied in appropriate cases.

24 Whether or not we call Mr Ongwen a "trafficked person", what is clear is this: At the
25 time of the charged crimes, he was not subject to the domination of another. Nor did

1 his crimes result from his prior circumstances howsoever labelled.

2 To the contrary, in all material respects and at all material times, Dominic Ongwen
3 had agency and acted with sufficient autonomy for culpability. The Trial Chamber
4 rightly looked at the key facts and drew reasonable conclusions. It cannot be faulted
5 simply for not using terminology that some might prefer.

6 On Tuesday, the second day of this hearing, we showed that the Trial Chamber
7 properly convicted Mr Ongwen of all 19 counts of sexual and gender-based crimes.
8 It carefully assessed the evidence of victimisation, including relevant evidence outside
9 the temporal scope, as may be -- as it may, rather; and correctly interpreted the legal
10 elements. And indeed, it is only by recognising the distinct protective interests of
11 these distinct crimes in our Statute that we can give life and meaning to what the
12 drafters intended.

13 It could not also be more timely, your Honours, as the ICC celebrates its 20 years of
14 existence, this Court must lead the way in interpreting these crimes consistently with
15 its Statute, internationally recognised human rights and its core mandate.

16 We also showed that the Trial Chamber was correct to enter cumulative convictions.
17 Although some of his convictions may have related to partially overlapping conduct,
18 each conviction entered by the Trial Chamber represent a different protected interest
19 and a different facet of Mr Ongwen's criminality, and thus a genuinely distinct crime
20 that he committed.

21 For the complex set of crimes charged in this case, this is essential to ensuring clear,
22 accurate findings. It fairly labels the conduct and creates a basis for accountability
23 and paves the way for reparations.

24 The materially distinct elements test is consistent with the Statute. Article 78(3)
25 ensures, in turn, that sentences remain just and fair. It is consistent also with

1 internationally recognised human rights. And it is the only appropriate way to
2 assess this issue in the Court's unique context, reflected also in the wisdom of the
3 professional international judges of this Court and of the ad hoc international
4 tribunals, for over 20 years now.

5 During the week, we also demonstrated that the Chamber conducted the trial
6 proceedings in a fair and expeditious manner with full respect of Mr Ongwen's rights.

7 All of the related matters that Mr Ongwen raised during this appeal were correctly
8 adjudicated by the Chamber.

9 As for his 25-year sentence, this was just and proportionate to his crimes and his
10 culpability. The Trial Chamber did not err. Mr Ongwen's failed grounds for
11 excluding criminal responsibility did not justify mitigating his sentence. The
12 evidence presented by the Defence for this purpose was essentially the same weak
13 evidence that did not succeed at trial.

14 And, in any event, the Trial Chamber recognised much of the same factual
15 background to those failed defences by taking into account as mitigating his sentence,
16 his childhood experiences of abduction into the LRA and what followed in and of
17 themselves. It reduced each of the individual sentences by about one-third and
18 reduced his joint sentence from what would have been a sentence of life
19 imprisonment to one of 25 years. The Trial Chamber was not blind to Mr Ongwen's
20 circumstances. Far from it. It simply took care to account for those experiences
21 when sentencing him properly, according to the law.

22 Your Honours, we don't deny that Mr Ongwen has seen hardship, and that in many
23 ways his story is a sad one, but this does not excuse him for inflicting great suffering
24 on his numerous victims. It is true that this Court must act consistently with
25 international human rights law and we have shown that the law applied in this case

1 met that standard.

2 It is also equally true, however, that Mr Ongwen's rights are not the only ones at stake.

3 Within the framework of a fair trial, the victims also have the right to see effective

4 prosecutions of those responsible for such egregious violations of their rights.

5 This is just what the Trial Chamber did in this case.

6 Mr Ongwen's legal responsibility is not extinguished by his experiences. He is not

7 defined solely by what happened to him. And, therefore, he should be held

8 accountable, even if he may also deserve some recognition of his experiences in his

9 sentence, as he duly received.

10 Your Honours, Dominic Ongwen was properly convicted by the Trial Chamber. His

11 sentence of 25 years is commensurate with the gravity of his crimes and his

12 culpability as an offender, and we respectfully ask you to dismiss his appeals, and to

13 confirm his convictions and his sentence.

14 Thank you.

15 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:55:19] Thank you.

16 We have now the intervention of the representative of victims' group 1. Please, who

17 will give the submissions?

18 MR COX: [10:55:31] Your Honour, Joseph Manoba will give the submissions.

19 Thank you.

20 PRESIDING JUDGE IBÁÑEZ CARRANZA: [10:55:41] Counsellor Manoba, you

21 have the floor for 15 minutes, please.

22 MR MANOBA: [10:55:48] Thank you, Madam President and your Honours.

23 During the last couple of days, you have heard submissions on various issues that

24 this Chamber identified and others raised by the Defence for which you invited the

25 parties and participants and the amici curiae to address you upon. Your Honours, it

1 is well established by the Statute and jurisprudence of the Appeals Chamber that this
2 Chamber can only exercise its jurisdiction of appellate review to set aside the findings
3 of the trial chamber in a few occasions.

4 In the present case, the Defence of Mr Ongwen has alleged errors of law and fact as
5 well as procedural errors in the decision of the Trial Chamber.

6 We have addressed you on the relevant standard of appellate review both in our
7 written briefs and oral submissions respectively. It is worthwhile to note, and, we
8 submit, that in their submissions in support of the appeal, the Defence for
9 Mr Ongwen has failed to demonstrate and show that the
10 Trial Chamber misinterpreted the law, and, if at all, that the alleged errors materially
11 affected the decision finding Mr Ongwen guilty.

12 They have also failed to show that the Trial Chamber clearly misappreciated the facts
13 or took into account irrelevant facts or failed to take into account relevant facts. The
14 Defence for Mr Ongwen has similarly failed to show and demonstrate that the
15 Trial Chamber procedurally erred in its decision, perhaps because it allegedly based
16 its decision upon an erroneous interpretation of the law; or that the decision was
17 based upon a patently incorrect conclusion of fact; or that the decision amounts to an
18 abuse of discretion.

19 Your Honours, allow me to address you then on salient areas that we think that
20 your Honours will be -- will need to consider. The first is the applicability and use of
21 the defences as -- in Article 31(1)(a) and (d) respectively.

22 The Defence for Mr Ongwen at trial invoked Article 31(1)(a) and (d) arguing that he
23 should be acquitted owing to the cumulative effect from the combination of lack of
24 capacity to appreciate the unlawfulness of his conduct at the material time as a result
25 of mental disease or defect and the alleged extensive threats and spirits of Joseph

1 Kony under which he lived and acted.

2 We submit that it defeats logic that on the one hand, Mr Ongwen is alleged at the time
3 material to the charged conduct to have been labouring under multiple forms of
4 mental disease or defect, which had the effect of destroying his capacity to appreciate
5 the unlawfulness of his conduct, whilst at the same time he had the capacity to
6 appreciate that he was under a threat of imminent death or of continuing or imminent
7 serious bodily harm against him or another person, and that he only acted necessarily
8 and reasonably to avoid the threat.

9 We invite your Honours to confirm the Trial Chamber finding that - and, I quote --
10 "[...] that the two grounds for excluding criminal responsibility cannot coexist even in
11 the abstract, given that one is premised on a destruction of the person's capacity to
12 appreciate the unlawfulness or nature of his or her conduct, or capacity to control his
13 or her conduct to conform to the requirements of the law, and the other on
14 a conscious choice to engage in conduct which constitutes a crime based on an
15 evaluation of the harm that is caused."

16 This is found at paragraph 2671 of the trial judgment.

17 Your Honours have heard similarly in these proceedings what the Defence argued at
18 trial, that Mr Ongwen suffered indoctrination at the hands of Joseph Kony and the
19 LRA.

20 Mr Ongwen's abduction, indoctrination and childhood -- alleged indoctrination and
21 childhood experience have been presented as a reason for excluding his criminal
22 responsibility. As we have submitted, this issue is not relevant to the determination
23 of the issue whether a threat under Article 31(d) existed at the time of the conduct
24 relevant to the charges.

25 There is no evidence as a matter of fact that the alleged indoctrination and/or

1 childhood experience had the effect of bringing about the circumstances identified in
2 Article 31(1)(d). Indeed, we invite the Chamber to follow and to confirm the
3 findings of the Trial Chamber to the following effect, and, I quote:

4 "Even if the threat to Dominic Ongwen were to start at the time of his abduction, that
5 threat would have to express itself at the time of his conduct during the period of the
6 charges – and be discernible from the abundant evidence which relates to that time.

7 Also, as concerns Dominic Ongwen's mental development and status, the Chamber
8 recalls that, as discussed above, no mental disease or defect at the time of the conduct
9 relevant to the

10 Charges was identified in Dominic Ongwen." End of quote.

11 The next issue that I want to address you, your Honours, is the question relating to
12 masking and the resilience of Mr Ongwen. The Defence for Mr Ongwen - again at
13 trial and before this Chamber - has maintained and relied upon the Defence experts'
14 testimony that Mr Ongwen was masking and exercised resilience with regard to the
15 diagnosed multiple forms of mental disease or defect.

16 The Trial Chamber considered these arguments and, indeed, in dismissing these
17 arguments related to masking and resilience as proffered by the Defence experts,
18 considered the evidence before it, particularly the failure of the appellant's experts to
19 consider other corroborative sources, on the one hand and the evidence of the
20 Prosecution experts to the effect that masking of symptoms of severe mental health
21 disorders over a long period of time is not possible, on the other.

22 As explained by Professor Weierstall-Pust and accepted by the Chamber, in cases of
23 severe mental health disorders, the person suffering the disorder cannot control his
24 thought processes, behaviours and feelings on the one hand, and the fact that the
25 person lacks insight in the problem with their feelings and behaviour and therefore

1 cannot control them.

2 The same explanations by Professor Weierstall-Pust in the context of the other
3 evidence on record confirm that it was impossible to mask the same symptoms or be
4 resilient if the appellant suffered any mental disease or defect.

5 We invite this Chamber to confirm the findings of the Trial Chamber in this regard.

6 Next, I address you, your Honours, on the ordinary LRA members who lived with
7 Mr Ongwen in his household.

8 The evidence, your Honours, of the LRA members who lived with Mr Ongwen in his
9 household is very relevant for the determination -- or in the determination by this
10 Chamber of any alleged errors by the Trial Chamber in its decision to rely upon the
11 Prosecution experts and not the Defence experts.

12 The Trial Chamber heard first-hand, the testimonies of witnesses who were asked to
13 comment about the personality of Mr Ongwen during the charged period. None of
14 the witnesses identified any behaviour that would suggest to the
15 experts - Prosecution experts, that is - that during the charged period, Mr Ongwen
16 laboured under a mental disease. The Defence experts on their part did not, and
17 suspiciously avoided investigating this area.

18 Your Honours, the Chamber in relying on the testimonies of persons who lived in
19 Mr Ongwen's household in its decision, considered particularly the
20 testimony -- testimonial accounts of P-142, P-231, P-205, P-264, Daniel Opio, one
21 Joseph Okilan, D-26, D-27, D-118, D-32, P-99, P-101, P-214, P-226, P-227, P-235, and
22 P-236. Your Honours, four of these were Defence witnesses who had lived closely
23 and associated with Mr Ongwen -- with Mr Ongwen. Moreover, the latter seven
24 were his so-called "wives" and were therefore in a position to positively notice if any
25 behavioural change or mannerisms symptomatic of mental ill health manifesting in

1 Mr Ongwen.

2 The fact that there was none identified by these witnesses, goes to support the
3 conclusions of the Chamber and we invite this Chamber, the Appeals Chamber, to
4 follow the findings of the Trial Chamber and dismiss Mr Ongwen's arguments on
5 these grounds.

6 The other item, your Honours, that I would like to address you on is the question
7 relating to escaping or otherwise leaving the LRA.

8 The Defence for Mr Ongwen has argued that Mr Ongwen could not escape from the
9 LRA because of the threats posed by Joseph Kony. We submit that the Chamber
10 rightly found that there was a realistic option for Mr Ongwen to escape. The
11 conclusions drawn by the Trial Chamber about the realistic option of escape from the
12 LRA of Mr Ongwen were well founded. In fact, the Chamber assessed and
13 considered the evidence of LRA fighters with status in the LRA, including P-70, P-440,
14 P-85, and P-209 and the evidence of other LRA senior commanders like, Onen
15 Kamdulu and Sam Kolo who escaped without any consequences.

16 This was considered - and the backdrop also - of the evidence of persons of low
17 hierarchy in the LRA; moreover who were under much severe control than Mr
18 Ongwen could have been under.

19 For these reasons, your Honours, we invite you to be guided by the findings of the
20 Chamber on the question of escape from the LRA in this regard and dismiss any
21 arguments that Mr Ongwen has presented before you.

22 I will now address the evidence pointing to commanders who successfully defied
23 Mr Kony's (Overlapping speakers)

24 THE COURT OFFICER: [11:09:20] Counsel, counsel has one minute and 30 seconds
25 left.

1 MR MANOBA: [11:09:26] Thank you.

2 The Chamber in resolving -- the Trial Chamber in resolving the issue whether Kony's
3 spiritual powers contributed to the threat of death or harm on Mr Ongwen and thus
4 prevented him from escaping from the LRA, examined overwhelming evidence from
5 the witness testimony of both the Prosecution and Defence witnesses.

6 The evidence points to the fact that the belief in Joseph Kony's spiritual powers held
7 strongly in newly abducted recruits who were impressionable. However, the same
8 was not true for individuals who had long served in the LRA, like Mr Ongwen.

9 Moreover, the Chamber also relied on the evidence of the appellant's relationship
10 with Joseph Kony - in which the former was -- in which Mr Ongwen was praised and
11 singled out as an outstanding commander - for the conclusion that these events are
12 incompatible with the proposition by Mr Ongwen that he was under fear of death or
13 harm.

14 Your Honours, on behalf of the victims that we represent, we ask you in this regard
15 then to dismiss Mr Ongwen's appeal and confirm the findings of the Trial Chamber.

16 Thank you very much.

17 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:10:50] Thank you.

18 Now the victims' group 2, Mrs Paolina Massidda, you have the floor for 15 minutes,
19 starting now.

20 MS MASSIDDA: [11:11:01] Thank you, Madam President.

21 Madam President, your Honours, you have to decide whether the judgment issued by
22 Trial Chamber IX against Mr Ongwen has to be confirmed together with the sentence
23 imposed upon him. The victims submit that the judgment and the sentence should
24 be upheld by this Chamber in their entirety. During this hearing, the Defence has
25 proposed arguments not corroborated by evidence in the record of the case, has

1 attempted new, many factual, but also legal arguments never pleaded before the
2 Trial Chamber, nor proposed as grounds of appeal, and, therefore, not open for
3 review by this honourable Chamber.

4 The Defence has also tried to convince this Chamber that Mr Ongwen is a child,
5 a victim and a disabled person, but building fictions disrespectful for the victims of
6 these crimes. As mentioned yesterday, the Defence is de facto pleading for impunity
7 in lieu of accountability by arguing that the case of Mr Ongwen has been used as
8 a puppet example of prosecutions of the LRA, when it simply was the trial of one
9 man, who, despite being abducted by the LRA, became one of its most powerful and
10 cruel commanders.

11 None of the arguments presented by the Defence shows that the Trial Chamber
12 misinterpreted the law or the facts of this case. Nor that the Trial Chamber did not
13 correctly appreciate and applied the standard of proof required by the legal text of
14 the Court, namely beyond reasonable doubt.

15 The Trial Chamber's reasoning is not only correct in law, but also adequately
16 supported by the evidence in the record of the case as analysed by the Trial Chamber
17 in reaching its conclusion about the guilt of Mr Ongwen.

18 The record of the case shows that the Trial Chamber carried out a holistic evaluation
19 of the evidence in relation to the facts at issue, meaning that they assessed the
20 evidence in a connected way, weighing all relevant evidence taken together.

21 The Trial Chamber also evaluated all factual findings in deciding that Mr Ongwen's
22 guilt was established beyond reasonable doubt. The Trial Chamber's findings were
23 correct and reasonable in the particular circumstances of the present case. In
24 particular, on the issue of the defences raised by the accused, the Trial Chamber's
25 evaluation was consistent with logic, common sense, scientific knowledge and

1 experience, and, more importantly, took into consideration all relevant and connected
2 evidence mindful of the pertinent principles of law applicable before this Court.

3 Therefore, your Honours, there is no need for the Appeals Chamber to disturb the
4 findings in the judgment and in the sentence against Mr Ongwen and both decisions
5 should be confirmed.

6 Madam President, your Honours, in confirming the judgment, this Chamber will also
7 confirm the findings about the extent of the victimisation as recognised by the
8 Trial Chamber. Indeed, the duty to establish the truth is not limited to establish the
9 guilt or innocence of an accused. Part of the truth to be determined by a chamber is
10 also the victimisation, the suffering and harm caused to the ones directly affected by
11 the crimes committed, notably, by the recognition of the adequate qualification for
12 said crimes.

13 Throughout these proceedings, victims made an extensive contribution on all matters
14 of facts and law, explained what happened to them and how the events had an
15 impact on their lives and their communities.

16 Throughout the entire proceedings, victims expressed their expectation for justice,
17 and satisfaction when the liability of Mr Ongwen Was established by the Trial
18 Chamber because their quest for justice was heard in a court of law.

19 The affirmation and further acknowledgment by the Appeals Chamber of the
20 tremendous effects of the crimes upon the victims will contribute to the healing
21 process, and, ultimately help victims to turn the page, and try to rebuild their lives.

22 Victims are confident that this Chamber will confirm in toto the findings of the
23 Trial Chamber so that justice will be ultimately done and reparations implemented.

24 This concludes, your Honours our submissions.

25 On behalf of the victims both teams represent, allow me to thank you very much for

1 listening to their views and concerns. Thank you.

2 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:17:12] Thank you. Thank you,
3 Counsellor.

4 Thank you. And now applying discretionary Rule 141(2) of the Rules of Procedure
5 and Evidence *mutatis mutandis*, I will now give the floor to the Defence to present its
6 last remarks. Counsel, you now have the floor for 10 minutes for your last remarks.

7 MR TAKU: [11:17:40] Your Honours, I will just -- I'll ask my colleague, Beth Lyons,
8 to address you. But just one minute to correct something about Mr Ongwen whether
9 he believed -- he still believed in spirituality of Joseph Kony. The Chamber's
10 analysis at paragraph 2910, confirms this in the sense that he said before they went for
11 the attack at Odek, he performed the rites, including prayers, shea butter. So at that
12 point in time, you see Ongwen in action according to the Trial Chamber performing
13 those rites, meaning he believed very strongly in those spiritual images of Kony.
14 Also with regard -- whether anybody saw him acting in a manner which would
15 suggest that he had a mental state, yes, Rwot Oywak, P-009, who went to see Joseph
16 Kony, and saw him running up and down. The transcript, transcript, T-81 and
17 T-83 -- saw him running up and down with a gun saying, "You've destroyed my
18 education. You've destroyed my life."
19 And they ask him, "What did you" -- the judges asked him. If you see
20 your child -- you see a child acting that way, actually (indiscernible) a child, this is
21 during the charged period. And P-205, who rescued him from that attack -- and he
22 said, "Kill me, kill me." And eight suicide attempts, which is on the record, while he
23 was there at the time -- charged period, and the suicide attempt at the detention
24 centre where they placed him on 24-hour surveillance, probably on (indiscernible) or
25 its continuing.

1 Beth Lyons, please, you -- can you take over. Thanks.

2 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:19:16] Thank you.

3 Counsel Beth Lyons, you have the floor for the remaining time, please. Thank you.

4 MS LYONS: [11:19:23] Thank you, your Honour.

5 I would like to start out by addressing particularly the comments of Counsel Manoba
6 in relation to the Defence experts and the issues of masking.

7 First of all, I want to lay to rest the fiction to use a word that Ms -- that Counsel
8 Massidda has been using a lot during these hearings, lay to rest the fiction that the
9 Defence experts did not corroborate any of their findings by -- by interviewing others
10 who had some relationship to Mr Ongwen or were in his household.

11 I would direct the Chamber to look at the four reports that are at the end of the first
12 Defence expert report that was submitted for that information. So it's wrong to
13 say -- it is an error to say that our experts avoided seeking corroborative information.
14 It's simply not true.

15 Again, I refer you to the record as well.

16 Secondly, I want to lay to rest the fallacy or the fiction that lay witnesses - according
17 to the Chamber and apparently according to the victims' representatives - can assess
18 whether a person has a mental illness. This is not possible. It is illogical, but more
19 important, lay people -- people in this room, for example, excluding any psychiatrists
20 who may be observing, cannot look at somebody and make an assessment of
21 a symptom as a symptom of mental illness. It doesn't happen. It's totally
22 unscientific -- sorry, it's totally unscientific, it's totally unreasonable.

23 Now, if the Chamber had accepted the sentencing report of Professor Ovuga - and it
24 did not, it rejected this - he had evidence there of someone who is observing
25 symptoms in Mr Ongwen from which one would conclude that Mr Ongwen was

1 acting irrationally. This is in addition to other corroborative material that he
2 presented.

3 Thirdly, and I refer the Chamber to paragraphs 355 and 356 of our brief, I want to
4 discuss this issue of masking. Masking is a way to hide what is really going on.
5 Right? We've talked a lot about indoctrination in the LRA. We've talked about
6 how abductees were forced to make a break between themselves in the LRA and
7 reject everything, forget everything that was going on at home. This was a final
8 break that they were supposed to make, according to Joseph Kony's indoctrination
9 and his policies.

10 Now this meant that, one, that LRA abductees and those growing up in the LRA, like
11 Mr Ongwen, were trained not to show their true feelings. Now there's a word for
12 this. Professor Ovuga talked about the concept of -- I'm sorry, the concept of
13 reaction formation. What that means -- and he explains it at the transcript in
14 our -- highlighted in our brief, what this means is, that someone represses or
15 suppresses his or her own feelings to such a degree that what may come out as
16 a feeling is the opposite.

17 Here's an example. Someone may appear, quote, happy, but in reality, the -- the way
18 reaction formation works is, that in fact that person is the opposite, that person is sad.
19 That person is unhappy, but that person is unable due to the circumstances to show
20 what his or her true feelings are.

21 So these are points that I think are important.

22 And lastly, in terms of lay witnesses, I would -- I would repeat what I said a day or
23 two ago, which is that even if someone in the household or close to or -- or next to
24 Mr Ongwen observes something that didn't appear exactly right, that appeared
25 strange or odd, it's very likely that this person would think, "Something is happening

1 with the spirits." Because this is based on the cultural context and beliefs in terms of
2 the Acholi, but particularly within the LRA.

3 Now, for these reasons, you know, we totally reject the analysis of the victims'
4 representative.

5 The last two points I want to make very quickly is that this is a case, your Honours, of
6 firsts. It's a first prosecution of a mentally disabled defendant who is asserting an
7 affirmative defence under 31(a) and (d). That's complete defences.

8 It's the first case, your Honours, where culture and spiritualism played a prominent
9 role in the duress defence. And it's the first time in the ICC that a single defendant is
10 convicted of 61 crimes and two modes of liability in a 1077-paged judgment, the
11 longest in history.

12 Lastly, I would like to end with a quote, taken from the separate opinion of Justice
13 Wyngaert and Morrison in the Bemba appeals judgment.

14 In their separate opinion, the justices write, quote:

15 "Justice can only be done when the right person is held responsible for the right
16 charges, after a fair trial and on the basis of robust evidence."

17 It's the Defence's position that the wrong person is sitting in the dock. It should have
18 been Mr Kony, not Mr Ongwen. Secondly, as we've litigated and expressed in our
19 appeal, that the trial has been -- starting from the illegal plea, has been grossly unfair.

20 I will not -- I don't have time to discuss all of the pieces, but it's in our appeal in the
21 beginning.

22 And lastly, we would say that the evidence has been dealt with in an unreasonable
23 manner requiring the intervention of the Appeals Chamber (Overlapping speakers)

24 THE COURT OFFICER: [11:27:14] Counsel, counsel has one minute.

25 MS LYONS: [11:27:16] I'm sorry?

1 THE COURT OFFICER: [11:27:17] Counsel has one minute.

2 MS LYONS: [11:27:20] Okay.

3 And that the Trial Chamber erred in its unreasonable assessment of the evidence,
4 particularly the evidence on the affirmative defences, and part of the incorrect
5 assessment was their failure to apply in practice the correct standard of the burden on
6 the Prosecution to disprove the elements of the affirmative defences beyond
7 a reasonable doubt.

8 Thank you.

9 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:27:56] Thank you.

10 We have concluded the legal debate in this appeals hearing, having received the oral
11 submissions of the parties and participants, and discussed also and included the
12 amici submissions and the last remarks of the Defence. We have concluded then, as
13 I said, the legal debate.

14 We understand that Mr Ongwen intends to personally address the Court. If this is
15 still the case, Mr Ongwen, you may now address the Appeals Chamber. You have
16 30 minutes to do so, starting now.

17 MR ONGWEN: [11:28:51](No interpretation)

18 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:29:17] Please, please, stop --

19 MR ONGWEN: [11:29:18](Interpretation) I would like to thank --

20 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:29:19] -- we have a problem. We
21 don't have the translation.

22 THE INTERPRETER: [11:29:20] My apologies.

23 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:29:21] Please, now.

24 You can continue. You can continue.

25 MR ONGWEN: [11:29:22](Speaks English) Okay.

- 1 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:29:23] Thank you.
- 2 MR ONGWEN: [11:29:24](Speaks English) Yeah, thank you.
- 3 (Interpretation) With everybody else who is listening to these proceedings around the
- 4 world today, this is the second time that I present myself before (Overlapping
- 5 speakers)
- 6 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:29:50] Please stop.
- 7 MR ONGWEN: [11:29:50](Interpretation) -- before the Chamber.
- 8 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:29:51] I don't have the translation.
- 9 Please, interpreters.
- 10 Court officer, please check it.
- 11 THE INTERPRETER: [11:29:59] Can you hear me, it's on? Can you hear me?
- 12 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:30:11] Thank you. You can go
- 13 ahead.
- 14 Mr Ongwen.
- 15 MR ONGWEN: [11:30:13](Speaks English) Okay.
- 16 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:30:13] Please, give the facilities to
- 17 Mr Ongwen.
- 18 Mr Ongwen, you can continue.
- 19 MR ONGWEN: [11:30:20](Speaks English) Okay.
- 20 (Interpretation) First of all, your honourable presiding judge and members of the
- 21 panel, I would like to ask you respectfully if you could add an additional 10 minutes
- 22 to the time -- to the 30 minutes allocated to me? I don't know if that is possible.
- 23 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:30:50](Overlapping speakers) I'm
- 24 afraid it's not possible, especially because the current circumstances with the storm,
- 25 Eunice.

1 Please try to stick to your 30 minutes, Mr Ongwen. Thank you.

2 MR ONGWEN: [11:30:53](Speaks English) Okay.

3 (Interpretation) Thank you very much.

4 Firstly, I'm going to talk about how I was abducted because I do not have time to talk.

5 Well, right from the beginning of these proceedings, I was not able to fully

6 understand the proceedings. At the beginning, I understood approximately 40 per

7 cent of the proceedings. I did not understand up to 60 per cent of the proceedings.

8 And I will continue. On the basis of my abduction.

9 When I was on my way to school with my cousin, we met the LRA. At the time,

10 they were not yet known as the LRA. They were known as the Holy Spirit. When

11 we encountered them, they asked us, "*Kadogo*, where are you going?" "*Kadogo*"

12 means young person or young child, it's a Kiswahili word.

13 We told them, "We are going to school." And they asked us, "Who told you that

14 there's education in Northern Uganda? What I'd like to tell you is that throw down

15 your books and join the line."

16 I started crying. At the time -- I asked my uncle, I'd spoken to him because my

17 children were asking -- were asking me about my age. So when I was talking to my

18 kids, they asked me, "Dad, how old you?"

19 So I said, "Hold on, let me ask my uncle." I asked my uncle and I was informed that

20 at the time, I was three months and three weeks into being -- turning to nine years old.

21 So at the time that I was abducted, I was eight month -- eight years, and, maybe,

22 seven months, eight years, seven months old.

23 So when we threw down our books and joined the line, one of the very first things

24 that they did was give us luggage to carry. I was given food to carry, and that is

25 how we joined the LRA.

1 But when you are abducted by the LRA, they do not refer to it as an abduction. They
2 actually tell you that you joined the spiritual army, you joined God's army. So that is
3 how we joined the LRA.

4 I stayed in the LRA, and when -- at that time, I was separated from my parents. So I
5 want everybody in the world to know, if going to school was a bad thing, was such
6 a bad thing for the international community, then that is something that God will
7 judge.

8 If going to school was the preparations for me joining the LRA, then that is something
9 that the international community will have to -- to assess. If -- that was it. If I was
10 merely abducted, that would be okay. But there were preparations to go and attack
11 my village, the village from which I came from.

12 On the very day that I was abducted, my parents encountered problems. At the time,
13 I felt lucid -- I didn't feel so well, but that was an indication that something bad had
14 happened to my parents. And that is what happened.

15 The attack against my village started from us, the people who had been abducted. It
16 also affected my parents and affected other people who also live in the village.

17 Moreover, I'm not happy -- I'm not happy about the discussions that I was part of
18 a plan to go and abduct people. How can I make a plan to abduct myself? How
19 can I be part of a plan to kill my family?

20 In addition to that, all the attacks that happened in Northern Uganda, all the
21 abductions that happened in Northern Uganda, am I the one? Dominic Ongwen?
22 Am I the one who planned this?

23 The Court should be ashamed of holding -- holding it this way. I was a prisoner. I
24 know that I'm a prisoner for life because even if I served the 25-year sentence that
25 have been -- has been imposed, I would have been in prison for the whole of my life.

1 If you accepted evidence from the witnesses, why are you still going ahead to -- to
2 imprison me?

3 What all the witnesses in these proceedings said, that the problems that people
4 encountered in the LRA was extreme. Once you're a member of the LRA, it's
5 equivalent to being a prisoner. So if you do not listen to what these people are
6 saying, then how about me? Why aren't you taking into account my circumstances?
7 Am I different from everybody else?

8 The abductions that the LRA were conducting in Northern Uganda, they were
9 abducting young children. But I, Dominic Ongwen, was the youngest person, the
10 first youngest person that was abducted into the LRA.

11 When Joseph Kony abducted me, when apparently the spirits sent them to abduct
12 a young child, to carry his -- his materials, the materials that he would use for his
13 spirituality, the materials that he would use for performing his duties -- what was that?

14 There are so many things that happened to me. There are so many people that
15 were -- that were smeared. I was one of those people who they performed so many
16 different rituals on. Even now, when I say it sometimes, it feels as if I'm drunk. I
17 have never had a drop of alcohol in my life, but I do feel as if I'm drunk. Then, the
18 international community is now imposing a further burden on me.

19 Further to that, the things that happened to me, if I'm to ask you, if I'm to ask
20 everybody here, everybody present, you all grew up with your parents, and I'm
21 grateful to God that you grew up with your parents. I did not grow up with *my
22 parents. I'd like to -- someone to ask, someone to ask anybody who was -- who is
23 a lecturer or a professor in international law, up to now, I do not know what
24 international law was. I did not know what international law was. I did not know
25 what peace was. What is peace? Everybody talks about peace. Everybody talks

1 about peace. But what is peace? Let somebody explain to me what that concept
2 means so that I can understand.

3 I remember I asked one of the traditional leaders who came for the peace talks, and I
4 asked them, "What is the concept of peace?" And they looked at me as if I was a
5 crazy person. But the only thing I wanted to find out was what the concept of peace
6 was.

7 When I joined the LRA, Joseph Kony told me, "Your life is a gun. Your father is a gun.
8 Your mother is the gun. And especially you, Dominic, you should know that your
9 parents no longer exist. I am your parent. I am like your father." And that is how I
10 started staying in Kony's hands.

11 I was -- at the time when I was young, I was put among the women and -- the women
12 to take care of me. But unfortunately, I was actually abused. I was actually
13 sexually abused by those women. When Kony found out that those women were
14 sexually abusing me, I was 11 years old, and that was the time when I was actually
15 taken away from the group of women and transferred to Kony's home.

16 There was a time when plans were made to escape and some of the older people took
17 two of us. Well, we left and we kept on walking. We walked in circles and we
18 found ourselves back within the LRA barracks. When we were -- when we arrived
19 back, they were saying -- we were told to -- we were called and they said, "Come,
20 we'll show you something."

21 The two adults were given to us and they told us, "You have to beat these two adults."
22 We were asked to disembowel those adults, put their intestines around our necks and
23 drink some of the blood. When we were told to do these things, I started to cry.
24 And I do still have the scar to date. And that is one of the things that happened.
25 After drinking -- after drinking the blood, to date, you can even go to the detention

1 centre and ask, I do not eat meat because it's constantly in my mind. It's constantly
2 in my mind that I drunk blood, a human -- that I drunk human blood, and I do not eat
3 meat for those reasons.

4 If you as a child encounter such a bad thing at the start of your life, I know
5 that -- yeah, there are some people who practice cannibalism, but in Acholi, we do not
6 practice cannibalism. There are different people who practice that, but in Acholi we
7 do not.

8 If something like that happens to you in Acholi, that is one of the most terrible things
9 that can happen to a person in Acholiland. Even if they bring a doctor or a
10 psychiatrist to help treat you, get rid of that -- that trauma, that is something that
11 nobody can get rid of from you.

12 If you encounter such thing at the beginning of your life, what can you do? You're
13 told to -- to do bad things. You're told to drink blood. You're told to cook human
14 meat and eat it. You're beaten severely. What is the outcome? What would be the
15 outcome of that?

16 You are all educated. Please, respond. Tell me, if you encounter such things in
17 your life, are you going to be normal? Are you going to remain normal for the rest
18 of your life or are bad things going to happen to you?

19 I want the whole world to answer this question.

20 In addition to that, I know that everybody has rights. I look -- when I watch TV,
21 trees have rights, fish in the sea have rights, birds have rights, children have rights.
22 Everything. Even humans, adults, men, women, all of them have rights. I'm the
23 only person who does not seem to have any rights in this world. Everybody in this
24 world has somebody who represents them. I do not have anybody representing me.
25 I'm the only one in this person who does not have anybody representing me because

1 whatever it is that is being said, does -- is not an indication that I am a person with
2 rights.
3 Everything that has happened is being blamed on me.
4 When they're talking about orders, orders within the LRA, there were so many
5 witnesses who came in and talked -- spoke about giving orders in the -- in the LRA.
6 If you could call as witnesses people who are well versed or who are knowledgeable
7 in the army, you should have invited them and asked them, "How are the orders in
8 military -- in the military issued? Are the orders issued depending on rank?"
9 But in the LRA, anybody can be given ranks. In the LRA, ranks are not -- ranks are
10 nothing. A UPDF soldier came here and gave -- gave testimony, and said in the LRA
11 ranks are nothing. They were monitoring us. They were telling us that -- nobody
12 follows the rules of the army in the LRA. Kony does not follow the rules of the army
13 in the LRA. Kony is the only one who issues orders. Once Kony issues orders,
14 everybody has to follow those orders.
15 This UPDF was -- was more knowledgeable about things that were happening in the
16 LRA than I -- than I, who was in the LRA. But what I know based on the testimony
17 that some of the -- the witnesses were saying in -- the LRA is different. I do not
18 know whether there were two LRAs in Northern Uganda, that is something that I still
19 ask myself about.
20 They were talking about attacks, attacks that happened in all these various places.
21 First of all, when we talk about Pajule, if you are shot in the knee and your knees are
22 shattered, you are immobile, and there are people who are in -- who are -- I'm at the
23 level of a battalion commander, someone who is a prisoner within the high command.
24 How can that somebody have the power to make orders with somebody who is in the
25 high command as a prisoner? How can a battalion commander who is in the -- as

1 a prisoner in Command Altar make such an order?
2 None of you are in the army, but if you are in the army, you would know that things
3 like this do not happen. If you knew that, you would know that I was not at Pajule.
4 The people in Pajule were mad at somebody. One person, who called Vincent Otti,
5 he telephoned Vincent Otti and told Otti, "Come, there are so many people. There
6 are girls, who are back on holiday, people are celebrating independence, people are
7 drunk. So come, come and attack Pajule. But my brother, if you come and attack
8 Pajule, please remember me, because I'm there."
9 But I myself, I'm not telling lies because I'm a Christian, my parents were Christians,
10 and I do have three priests that I do pray with from time to time. So I do not tell lies.
11 I do not know what plans were made with relation to Pajule, but based on
12 my -- based on my observation, yes, the LRA abducted people in Pajule. But these
13 things have all now been dumped on me to make -- to strengthen the allegations
14 brought against me. If the allegations were brought against me in the correct way,
15 that would be okay. But they should not do that in order to ruin my life further.
16 My life has already been ruined. I don't have any new life to start. I've already
17 been in the bush for 27 years in the LRA, and now I have another 25 years to serve in
18 the ICC prison. Doesn't that -- isn't that an indication that I'm in prison for the whole
19 of my life?
20 So yeah, there's nothing else to add. You cannot think about any life -- any other life
21 in imprisonment than what I've already been through.
22 I'm going to talk about the issue of rights. When I was came to the LRA, I was like
23 an animal. I -- I did not even like the sight of huge buildings because -- let me just
24 give you an example.
25 I -- I was like an animal that people of Europe went and abducted from Africa and

1 then brought to Europe.
2 I did not like anything that I saw. Even the lights, the lights irritated me.
3 Everything. Almost everything irritated me because -- yeah, everything irritated me.
4 I remember on the second day -- one of the second days that we're coming to the
5 Court, I asked the drivers, "Could you please stop so that I can look at these trees?"
6 Because for me, I'd grown up among the trees. That's all I knew. I knew trees.
7 The drivers actually laughed at me because they thought I was just joking.
8 But when I came here, I wasn't like a human being and I asked the Court - and I asked
9 the international community to help me rehabilitate my life.
10 Now, let me talk about going to Uganda.
11 The amnesty that was given to people in -- in Uganda, what was that? They gave
12 people amnesty, why? They knew that the people who had been in the bush, people
13 who returned home, it was -- they weren't in the bush because of their own will.
14 They were there because of duress, and that is why the government decided to give
15 people amnesty.
16 If people are talking about amnesty here, and they're not familiar with what is
17 happening on the ground in Uganda, it is important that such inquiries are made.
18 It's also important to realise that there are a lot of LRA people - children, who were
19 abducted - were also part of the plan from the civilians who were still within -- within
20 the communities, because they were like chameleons. They would tell the LRA -- go
21 and tell the LRA, such-and-such a person has escaped, they would tell the LRA
22 whatever it is that was going on. So on the other hand, they're -- you know,
23 pretending that they're righteous people. So why are you -- why are these same
24 people looking at me and saying Ongwen is a bad -- people, whereas, they're ignoring
25 the bad things that they did?

1 People are sad. People cry about the names of the people back home. And the
2 Ugandan government knows. The Ugandan government knows about what
3 happened.

4 Even Kony is sad. And Kony laments against his own tribe because he says it's his
5 own tribe that actually sent him in the bush to fight.

6 One of the things that stopped me, Tabuley, *Opiro Winston and Okello Lawoko, who
7 is also from Pajule, to escape, these same chief told us, "Do not escape." These same
8 chief told us, "If you do escape, the government has plans to kill you. The
9 government has plans to send you to prison."

10 I remember when Salim Saleh prepared plans for us to escape, I do not know how
11 Kony found out about these plans, the very same day, Kony sent people to arrest me
12 and I was taken and kept in prison and that was the first time that I was in prison. If
13 you're somebody who is not afraid or -- shouldn't you actually protect yourself?

14 I remember there was one time when I want -- when they wanted to -- there was
15 a hearing and I did not feel like coming to court. I was forced to come to court.
16 And the judge said I would be forced to come to court.

17 On that day when I was sitting in the courtroom, I did not follow the proceedings
18 whatsoever. The only thing that was going on in my head was sounds of gunfire.
19 Whenever I hear, for example, fireworks, I start looking for my -- for my gun because
20 it all sounds like fire -- like -- like firearms to me.

21 The only thing that I know -- the only thing that I knew, the only thing that I was
22 taught about was guns. When I dream, I dream about guns. The only person who
23 instructed me from an early age was Kony. Nobody taught me anything else other
24 than Kony.

25 You, the international community, you're accusing me of doing bad things. But why

1 don't you just teach me? Why don't you teach me instead of trying me. Teach me.
2 Teach me right from wrong. It is as if you're impeding -- you're accusing a young
3 child, a young child who was uprooted from the bosoms of his mother. A young
4 child who was uprooted from the bosoms of his family.
5 But I would like the Court to know that I do have a family; that I do have a clan.
6 And the issue about me liking to play with kids, yeah, I do like playing with kids
7 because when I was young, that was destroyed.
8 It's important to play as a child. I still play when I -- when I have to play, I have to
9 play because as a child, I did not get that opportunity to play. All of you here got
10 that opportunity to play, so it's important for me to have that opportunity to play.
11 So I do ask you, I sincerely ask you to help me. Rehabilitate me and teach me the
12 right things to do. Teach me the good things to do because I would like at some
13 point in my life, at some opportunity in my life to be somebody who also teaches
14 other people about their human rights.
15 At this point, I don't think clearly, I do not have the same thought pattern that you
16 have. Someone may be looking up, I'll be looking in the opposite direction.
17 Somebody may be looking to the right, I may be looking to the left. I do not have the
18 same thought pattern with other people.
19 And another example, which, you know, they've been saying, "Oh, Ongwen has not
20 done anything to help other people." Look, the -- when I was -- during -- when we
21 were having the peace talks, I was one of the person -- one of the few people who
22 helped save the life of the delegation that came for the peace talks. And, this was
23 something that one of the delegates told me. You know, they were telling me about
24 the right thing to do, and, yes, so they told me -- they told me about these things.
25 And it was at the time I knew that maybe there's a difference between the life outside

1 of the LRA to the life that we had in the LRA, and it was from that time that I actually
2 started disobeying Kony and not following his orders.

3 Kony had actually instructed people to kill the delegation because he said the food
4 had been poisoned. The people who had eaten at that time started vomiting, they
5 started throwing up. But I personally was not sick. But some of the other people
6 seemed to have been affected by that food. Even he himself, Joseph Kony did not
7 throw up. He did not vomit. So Kony said that it seems as if the delegation or the
8 people who had come for those peace talks had the intentions to kill him.

9 So when people came for the peace talks, there was the former president of
10 Mozambique, there was Riek Machar. There were members of parliaments, there
11 were traditional elders, there were religious leaders, a number of people who were
12 part of delegation. Kony instructed that all of these people should be killed.

13 And, on that day I actually said, "Okay, if you want to kill those people, then
14 you'd -- rather kill me. If we kill those people, what do you think the world would
15 think of us?"

16 And it was at that time that I said no, you cannot kill me.

17 And soldiers at that time came and there was -- there was going to be a shoot-out.
18 Nobody would stand against Kony. Nobody would disobey Kony. And when you
19 want to escape from the LRA, we do not have an application form that you fill, saying
20 I want to escape from the LRA. It's in the same way that you're abducted. The
21 same way that you leave the LRA, because, you know, you leave there by God's grace.
22 And that was how I left, and that was how I am here today.

23 To summarise, with respect, Madam President, your Honours, I'm very sad. I'm
24 very very sad. I do not have a way to express the amount of sadness that I feel.
25 The people who -- those people, for example, the people who took the guns, the guns

1 came from Europe. The guns came from the -- from these countries. All these guns
2 that were being used in the -- in Northern Uganda, were being used. Was every
3 commander in the LRA, me, was I the one who actually told Kony, "Let's go to
4 the -- leave home and go and join the bush so that we can fight against Northern
5 Uganda?"

6 Was I the one who abducted myself? Killed my parents and committed all the
7 atrocities? If that is the case, then yes. But if it was because people were fighting for
8 power, if people were fighting for -- for other -- to take over, and, if, for example, we
9 did not have the guns, people would've had to fight like dogs. Let them bite each
10 other. Bite each other and see who is going to win the war of becoming a leader.
11 The -- when I was abducted, what I was taught is what I knew.

12 To complete, I am like a guinea fowl *that was plucked out of the bush and put to live
13 among chicken. I was like a caterpillar and now I'm turning into a butterfly.

14 I would like to thank you. I would like to thank, your honourable president, and I
15 would like to thank you, judges. Thank you.

16 PRESIDING JUDGE IBÁÑEZ CARRANZA: [11:59:57] Thank you, Mr Ongwen.

17 (Interpretation) Against the backdrop of these last remarks by the Defence and
18 Mr Ongwen (Microphone not activated)

19 THE INTERPRETER: [12:00:19] Microphone, please.

20 PRESIDING JUDGE IBÁÑEZ CARRANZA: [12:00:22] Sorry.

21 (Interpretation) Against the backdrop of these last remarks by the Defence and

22 Mr Ongwen, these five days of hearings now come to an end. During these hearings,
23 the judges, the parties, the participants and the amici have had fulsome discussions of
24 the grievances raised in these appeals of the conviction and the sentence. The
25 fundamental issues raised during these hearings will be useful during our

- 1 deliberations concerning these appeals.
- 2 I wish to thank the parties, participants and amici.
- 3 (Overlapping speakers)
- 4 (Speaks English) We have reached the end of the five-day hearing. I would like to
- 5 thank everyone, especially all the court officers, interpreters, security as well as the
- 6 technicians for their assistance in making this hearing possible.
- 7 I thank you all.
- 8 The hearing is now closed.
- 9 THE COURT USHER: [12:01:33] All rise.
- 10 (The hearing ends in open session at 12.01 p.m.)