

Confirmation of Charges

(Open Session)

ICC-02/04-01/15

1 International Criminal Court

2 Pre-Trial Chamber II - Courtroom 1

3 Situation: Republic of Uganda

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

5 Presiding Judge Cuno Tarfusser, Judge Chang-ho Chung and

6 Judge Marc Perrin de Brichambaut

7 Confirmation of Charges

8 Friday, 22 January 2016

9 (The hearing starts in open session at 9.30 a.m.)

10 THE COURT USHER: The International Criminal Court is now in session.

11 Please be seated.

12 PRESIDING JUDGE TARFUSSER: Good morning to everybody in the courtroom

13 and the public gallery.

14 As I said yesterday, we should have all the participants here in the courtroom,

15 everybody on the record already. I see only that in the -- there is Mr Manoba is here.

16 I think the problems of Visa are solved so welcome to the hearing.

17 We have now the third -- the fourth session for the Prosecutor, so I'll give you the

18 floor for the continuing of your presentation.

19 MR BRADFIELD: May it please the Court, my name is Paul Bradfield for the

20 Prosecution.

21 Yesterday, your Honours, we left you in October 2003. You heard from

22 Mr Choudhry how Dominic Ongwen played a key role in the attack on Pajule. You

23 heard how civilians were enslaved, beaten, tortured and murdered.

24 This was a familiar pattern for the LRA, and it was a pattern that Dominic Ongwen

25 was to repeat in the months that followed. Fast forward then six months to late

1 April 2004 and to a place called Odek.

2 By this time, Dominic Ongwen was no longer the mid-level major he was in Pajule.

3 He was now the commander of Sinia brigade. He had graduated from being the

4 front line leader he was in Pajule to now being the architect of operational attacks.

5 The attack on Odek marked the start of six weeks of terror inflicted by Sinia brigade

6 under Dominic Ongwen's leadership. Odek in April was swiftly followed by similar

7 attacks in Lukodi in May and in Abok in June.

8 But first what happened in Odek?

9 On 29 April 2004, at around 5 p.m. LRA fighters, under the command of Dominic

10 Ongwen, attacked Odek IDP camp. In the course of this attack, at least 61 civilians

11 were murdered, others were tortured, children were abducted, food was stolen and

12 lives were ruined.

13 In this submission, your Honours, I will first tell the story of this attack on Odek

14 outlining the planning, its purpose and Dominic Ongwen's role in it. I will highlight

15 key evidence relevant to each of the crimes charged.

16 Secondly, I will focus on key evidence relevant to Dominic Ongwen's criminal

17 responsibility specifically an intercepted LRA radio communication.

18 You will hear the voice of Dominic Ongwen on this audio. You will hear the voice of

19 Dominic Ongwen claim responsibility for the Odek attack. And you will hear

20 Dominic Ongwen describe the crimes his troops committed against the civilians of

21 Odek.

22 I will now display on your screens in this next slide a map showing the location of

23 Odek. Situated towards the bottom of the red camp attack triangle Odek is marked

24 by the blue circle. 60 kilometres east of Gulu town the camp was situated around the

25 village of Odek, in Odek sub-county, in Gulu district.

1 In April 2004, the camp was home to an estimated 2600 internally displaced people.
2 The plan to attack Odek was conceived when Joseph Kony gave an order to
3 Dominic Ongwen to attack Odek.
4 Evidence of this order comes from senior Sinia fighter P-245. He states that Kony
5 wanted the civilians of Odek to know "the UPDF cannot protect you in the camp."
6 End quote.
7 Dominic Ongwen then assembled his fighters to prepare for this attack. Fighters
8 from each battalion of his Sinia brigade were present, namely, Oka, Terwanga and
9 Siba. Trinkle brigades also supplied fighters for this attack. Four witnesses, P-54,
10 142, 205 and 245 were senior Sinia brigade fighters. They were all present when
11 Dominic Ongwen assembled his men. They each speak to his commanding role and
12 they personally heard his orders to attack the civilians of Odek. They heard
13 Dominic Ongwen give orders to kill civilians. According to P-245, Dominic Ongwen
14 instructed his troops in these words, quote, "Anyone who remains in the camp should
15 be killed." End quote.
16 P-54 states, quote, "Odomi ordered that civilians should be attacked." End quote.
17 They heard Dominic Ongwen give orders to abduct. P-205 recalled him saying to his
18 troops, quote, "If you find good boys and girls, you come back with them." End
19 quote.
20 They also heard Dominic Ongwen give orders to pillage. P-142 heard him ordering
21 his men in these words, quote, "You go there, you will attack and come back with
22 food." End quote.
23 Thus, your Honours, the aim of the Odek attack was clear: To pillage the food of
24 civilians, to abduct them and to kill them.
25 This was the Odek common plan. Joseph Kony, Dominic Ongwen and the Sinia

1 brigade leadership were co-perpetrators to the Odek common plan.

2 After giving these orders Dominic Ongwen personally led a force of around 200 LRA

3 fighters to attack Odek. The next slide is a sketch of Odek IDP camp as it was in

4 April 2004. This sketch map it drawn by civilian P-218 who lived in the camp. He

5 depicts the presence of the barracks marked in orange. The sub-county

6 administrative headquarters is in black. Odek trading centre is marked in blue.

7 And the main body of the camp itself is marked in green, at the centre of which was a

8 prominent mango tree which is encircled.

9 To describe how the attack on Odek unfolded, I'm using the reference points from this

10 drawing. I will now display on your screens in the next slide a satellite image of

11 Odek IDP camp taken in 2006.

12 As was depicted by P-218, the site of the barracks is visible in the top left. The

13 sub-county headquarters is also visible. The trading centre is on the right. And the

14 main body of the camp outlined in green. The mango tree, a central meeting point

15 for the residents of the camp, is also visible.

16 As your Honours can see, the camp was still in place in 2006.

17 Sinia fighters P-245 and 54 state that the LRA attackers split into two groups. The

18 first group attacked the barracks. The second group moved down into the IDP camp

19 and to the trading centre. There they attacked the civilian population of Odek.

20 I draw your Honours' attention to the white camera symbol now at the northern end

21 of the camp on your screen. To give you a more visual sense of just where this attack

22 happened, I will now play a 360 degree video of the former site of Odek IDP camp.

23 This video will be from the approximate viewpoint of the white camera.

24 It begins by looking southwards over the former site of the camp. Thousands lived

25 here. The view passes to the former site of the barracks where a school is now

1 located. The sub-county headquarters as depicted by P-218 is in view. And the
2 video finishes with a white monument coming into the frame. This monument is a
3 memorial to the murdered civilians of Odek. It stands on the site where they once
4 lived.

5 In the course of this attack, the following crimes, visible on your screen now, were
6 committed: Namely, attack on the civilian population, murder, attempted murder,
7 torture, cruel treatment, other inhumane acts, pillaging enslavement, outrages upon
8 personal dignity and persecution.

9 The supporting evidence of these charges is described at paragraphs 229 to 312 of the
10 pre-confirmation brief. For now I will only summarise key evidence relevant to each
11 of these charged crimes.

12 The first is that of murder and attempted murder. P-252 a young boy, saw an LRA
13 fighter open the door of a hut and shoot dead a lady inside. As they were being
14 abducted P-275 and 268 saw many dead civilians lying scattered throughout the camp,
15 all of them murdered by the LRA.

16 P-309, escort to Dominic Ongwen, describes how in the trading centre he randomly
17 opened fire on civilians. He later saw bodies lying on the ground.

18 On occasion, the crime of murder was also attempted but not completed. For
19 example, camp resident P-274 found a lady on the ground shot in the mouth, her baby
20 still on her back. He helped to nurse her wounds, and she survived.

21 After the attack, P-218 helped bury the victims in graves close to the camp and along
22 the banks of the Odek river. He states that at least 61 civilians were murdered, all of
23 the deceased had gunshot wounds.

24 P-218 buried bodies of all ages, some of them over 80 years old, shot in the back.

25 P-270 described the pain she felt at seeing the bodies collected in a pile, including

1 those of her own children. The murder of civilians in Odek was not confined to the
2 camp itself. P-252 and 275 were two young boys abducted during the attack. They
3 state that nine men were abducted from Odek and first made to carry an injured LRA
4 commander. They were then slaughtered in the bush.

5 Turning to the crime of torture, a crime that is also charged as cruel treatment and
6 other inhumane acts.

7 In the course of the attack, LRA fighters inflicted severe physical and mental pain.
8 They beat civilians. They forced them to carry heavy loads while under constant
9 threat of harm.

10 Compelling evidence of torture comes from Witness P-270. She was trapped in her
11 home by a female LRA fighter who sexually assaulted her with a cooking stick. It
12 was done with such force that she began to bleed.

13 P-270 states, quote, "She put the stick all the way in and blood started coming out of
14 my body. She used a lot of force. I don't know if this was her secret way of killing
15 me." End quote.

16 She goes on to describe the effect that this torture had on her stating, quote: "I felt
17 pain when she did this to me. The pain was inside me, in my body. In my
18 thoughts I also felt pain." End quote.

19 Civilians were also forced to carry heavy loads away from Odek. Among them was
20 P-268. She was made to carry a sack of maize weighing 50 kilograms. She
21 described how civilians were beaten if they walked too slowly, how mothers were
22 beaten with guns by their LRA captors if their babies cried too much.

23 Turning to the crime of enslavement. LRA fighters enslaved civilian women from
24 Odek to carry away the looted food. Most of these women, including P-268 and 269,
25 were kept in captivity for a number of days before being released.

1 Children were also abducted. P-252 and 275, aged 11 and 9, state how they were tied
2 together with ropes and dragged away from their homes.

3 Sinia fighter P-245 and Dominic Ongwen's escort P-309 both saw abductees being led
4 away from Odek. P-245 estimated that 35 civilians were abducted, including seven
5 young girls.

6 Some abductees stayed in the bush for days or weeks, while others such as P-252
7 stayed for over a year.

8 Turning to the crime of pillaging. LRA fighters stole food from Odek. They also
9 stole possessions from the homes of civilians.

10 Women from the camp were made to carry away food such as beans, sugar and posho,
11 which is a local staple food.

12 P-269 carried maize while P-268 carried flour.

13 Your Honours, on your screen now is a satellite image of Odek that I showed earlier.

14 I draw your Honours' attention to the white camera symbol, now in the trading centre
15 area on your screen. I will now show you a 360 degree video of this area taken in
16 November 2015. The video will be from the approximate viewpoint of this white
17 camera symbol.

18 (Viewing of the video excerpt)

19 MR BRADFIELD: The video begins by looking westwards towards Gulu town. As
20 the video pans, you can see a number of dwellings and stores where local traders sell
21 basic amenities.

22 Escort to Dominic Ongwen, P-309, describes how LRA fighters broke into the stores in
23 this trading centre, stealing all of the contents.

24 Sinia fighter P-54 states that he saw Dominic Ongwen himself go to pillage from this
25 trading centre.

1 Unable to cultivate, the displaced civilians of Odek were dependent on food aid. In
2 stealing their food, the LRA robbed them of their basic means of survival.
3 Turning to the crime of outrages upon personal dignity.
4 LRA attackers humiliated the civilians of Odek.
5 P-252 was forced to kill an abducted man with a log. The blood splashed onto his
6 face and mouth, while other abducted men were killed nearby. For three days in a
7 row his LRA captors forced P-252 to look at the decomposing bodies to ensure
8 everyone had died.
9 During the attack, LRA fighters forced mothers to abandon their children on the side
10 of the road. P-268 saw a two-year-old boy left on the roadside. His mother was
11 among those abducted from Odek.
12 These crimes, your Honours, counts 12 to 22, form the underlying conduct for the
13 crime of attacking the civilian population, which is count 11. Civilians were clearly
14 made the object of this attack.
15 Furthermore, counts 11 to 22 form the underlying conduct of the crime of persecution,
16 which is count 23, as the civilians of Odek were targeted on the basis of their
17 perceived support for the Ugandan government. In this regard, I adopt yesterday's
18 submissions by Mr Gumpert on persecution.
19 Turning now to Dominic Ongwen's criminal responsibility. As already described, he
20 planned the attack beforehand.
21 He issued orders to his troops to pillage, to abduct and to kill. His exact words were
22 that "No one should be left alive in Odek."
23 Sinia fighters P-54, 245 and Dominic Ongwen's escort P-309 were all present in Odek.
24 They each place Dominic Ongwen on the ground in a commanding role. They each
25 saw the crimes that resulted from his direct orders.

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1 According to P-245, Dominic Ongwen blew a whistle to signal the start of the attack.
2 His planning, his ordering and his participation were all essential contributions to the
3 Odek common plan.
4 Mr President, your Honours, clear evidence implicating Dominic Ongwen comes
5 from the words of his own mouth.
6 The day after the attack, Dominic Ongwen reported the attack on LRA radio. This
7 report was intercepted and recorded by the ISO in Gulu.
8 It has been enhanced and transcribed by the Prosecution. It was then played back to
9 UPDF and ISO radio operators P-3 and P-59. As Mr Elderfield said yesterday, these
10 two men have a combined experience of 16 years listening to LRA radio
11 communications. They know Dominic Ongwen's voice.
12 Both men state that the voice reporting the Odek attack is that of Dominic Ongwen
13 using his call sign Tem Wek Ibong.
14 Your Honours, I will now play two excerpts of this audio, the first is when
15 Dominic Ongwen initially reports the Odek attack. A third commander, Ocen, is also
16 on air at this time.
17 (Playing of the audio excerpt)
18 MR BRADFIELD: In the excerpt you just heard, Joseph Kony asked Dominic
19 Ongwen if he had cleaned the backside of his mother in Odek.
20 P-3 states that this was a coded question, asking Dominic Ongwen if civilians were
21 killed.
22 A question, to which Dominic Ongwen replied "Kici, Kici" or in English "Completely,
23 over."
24 Kony approved saying "Man ber" or in English "This is good."
25 Your Honours, the attack on Odek was of a symbolic significance as Odek is the birth

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1 place of the leader of the LRA, Joseph Kony.

2 Upon hearing of the attack Kony said, quote, "This has pleased me very much. I

3 wish he had finished them." End quote.

4 Dominic Ongwen said he was being brief and would continue his report later.

5 The second excerpt I will now play is when Vincent Otti later called Ongwen again

6 asking him to finish his earlier report.

7 (Playing of the audio excerpt)

8 MR BRADFIELD: When listening to this excerpt, P-59 heard Dominic Ongwen say,

9 "Let the people wait to hear with the waya, we have shot all of them, over."

10 P-59 states that "waya" was a code word for civilians.

11 The audio finishes with Otti relaying Dominic Ongwen's report that "So many

12 civilians died, he does not know the numbers, over."

13 Mr President, your Honours, this radio report is corroborated by the logbook entries

14 recorded by the UPDF, ISO and the police for the dates 30 April and 1 May 2004.

15 On your screen now is the ISO logbook. On 30 April 2004, the ISO logbook records

16 that "Dominic said he attacked Odek." It further records that Dominic claimed he

17 had killed more than ten civilians.

18 The relevant police logbook entry for 1 May 2004 is on your screen. It records that it

19 was Tem Wek Ibong who led the attack. He said he "was from killing people."

20 The number of civilians was put at "more than ten but he said is expected to rise."

21 Others congratulated Tem Wek Ibong for a job well done.

22 Your Honours, the author of these logbook entries, P-125, the policeman, he recorded

23 a list of fighters he believed to be responsible for the attack on Odek. In this list you

24 will find the name of P-54, therefore corroborating his direct evidence of the attack on

25 Odek.

1 P-125 then recorded the commander he believed to have led this group. On the top
2 of this list the commander that led the Odek attack was "Tem Wek Ibong, Lieutenant
3 Colonel Ongwen Dominic Wanyama."

4 Mr President, your Honours, on the basis of the evidence I have just summarised,
5 there are substantial grounds to believe that Dominic Ongwen is criminally
6 responsible pursuant to Article 25(3)(a) as an indirect co-perpetrator, (b) for ordering,
7 (d) for contributing in any other way, (f) for the attempted commission of murder,
8 and as a commander under Article 28(a) of the Statute.

9 I respectfully submit that the charges in counts 11 to 23 of the DCC be confirmed.

10 This concludes my presentation.

11 PRESIDING JUDGE TARFUSSER: Thank you, Mr Bradfield.

12 Mr Gumpert, who is next?

13 MR GUMPERT: The next set of submissions will be made by Ms Yulia Nuzban and
14 they are on the subject of the attack on the camp at Lukodi.

15 PRESIDING JUDGE TARFUSSER: Thank you very much.

16 The floor is yours.

17 MS NUZBAN: Lukodi IDP camp was attacked on 19 May 2004. This attack took
18 place just three weeks after the attack on Odek.

19 I direct your attention to the screens now. The Lukodi IDP camp was situated north
20 of Gulu town in Bungatira sub-county, Aswa county, in Gulu district. You can see
21 its location on the map of northern Uganda. This sketch drawn by a camp resident
22 P-60 shows the location of two main civilian areas, military barracks, a school and a
23 trading centre.

24 Before the attack, about 7,000 people lived in Lukodi. There were 30 government
25 soldiers stationed at the barracks.

1 I will use a recent satellite map to illustrate the movement of the LRA before the
2 attack.

3 On 19 May 2004 at around 6 o'clock in the evening, a large group of LRA fighters
4 under Dominic Ongwen's command attacked Lukodi.

5 The attackers approached the camp from the east, having crossed the Unyama bridge.

6 They were dressed in a mix of military style uniforms and civilian clothing. They
7 were armed with firearms, sticks and machetes.

8 Government soldiers withdrew from the camp after a short engagement with the LRA.

9 The civilians were left defenceless and at this point became the sole target of
10 Ongwen's fighters.

11 The attack lasted no more than an hour or two. Nevertheless, the attackers caused
12 chaos in the camp. They burnt, looted, destroyed property, enslaved civilians,
13 injured and killed children and adults alike.

14 By the time the UPDF reinforcements arrived, it was already too late. By then the
15 LRA fighters had left the camp devastated, leaving behind corpses and many
16 wounded and taking with them loot and abductees.

17 In the coming days, the remaining Lukodi residents abandoned the camp.

18 The satellite now on your screen shows a closeup of the aerial view of the camp two
19 years after the attack. The L-shaped building in the centre of the map is the Lukodi
20 primary school. This is the present day view of the Lukodi primary school. It is
21 one of the few structures still standing after the attack.

22 To the southwest and below the primary school is the memorial erected in honour of
23 the victims of the attack. The names of those who were killed are listed on the
24 monument.

25 During the attack, Dominic Ongwen's soldiers committed the crimes as shown on

1 your screen: Attack against the civilian population, murder, attempted murder,
2 torture, other inhumane acts, cruel treatment, enslavement, pillaging, destruction of
3 property and persecution.

4 These crimes correspond to counts 24 to 36 in the Document Containing the Charges.

5 Detailed submissions on these crimes and Dominic Ongwen's responsibility for them
6 can be found at paragraphs 313 to 376 of the Prosecution's pre-confirmation brief.

7 In my submission, I will focus on the core evidence in relation to these crimes.

8 As in Pajule, Odek and Abok, the civilians of Lukodi who fell victim to the LRA were
9 living their day-to-day lives and were not taking active part in hostilities. The

10 number of murdered and wounded civilians, the brutal nature of the crimes, the ages
11 and identities of victims and the extent of destroyed civilian property all demonstrate
12 that Ongwen's soldiers attacked the civilians of Lukodi deliberately.

13 Your Honours can observe this in the video footage taken during a local investigation
14 in the aftermath of the attack. A government pathologist, P-36, exhumed and
15 examined 25 bodies revealing the identities of victims and the manner in which they
16 died. Parts from this video were played to you by Mr Gumpert during his opening
17 submission.

18 On the screen now is the video. I have to warn members of the public that the video
19 fragments I'm about to show are disturbing. You will see bodies of small children,
20 some as young as three.

21 (Viewing of the video excerpt)

22 MS NUZBAN: The LRA fighters killed more than 45 civilians, including 12 children.
23 They were shot, stabbed, strangled, burnt and beaten to death. In contrast, not even
24 one government soldiers was killed in the attack.

25 The LRA attackers did not hide their murderous intent. Abductee P-185 heard LRA

1 attackers say "kill all of them." An LRA commander told another abductee, P-195,
2 that Joseph Kony was very upset with civilians and that the LRA was supposed to kill
3 them all.

4 P-26's eight-year-old daughter was shot in the stomach and bled to death in front of
5 her.

6 P-24 saw how the LRA fighters threw her four-year-old daughter inside a burning
7 house. P-24 also lost her mother, her uncle and her son in the attack. Like many
8 other Lukodi victims, they were shot and killed.

9 The killing of civilians was not confined to the camp itself. As the LRA fighters led
10 the abductees away from Lukodi, they continued their killing. Abductees P-195 and
11 P-187 saw corpses of male and female abductees at a distance from the Lukodi camp.
12 THE ENGLISH INTERPRETER: Message from the interpreters: Could the speaker
13 please be requested to slow down. Thank you.

14 MS NUZBAN: The day after the attack, those who survived buried their dead.
15 Some victims were never found.

16 Many civilians were wounded but survived, despite the attackers' attempts to murder
17 them. It was entirely by chance that they survived.

18 For example, an LRA fighter threw P-196, aged seven, inside a burning hut and left
19 him to die, all because the child was disrupting the movement of other abductees.
20 When the child finally managed to escape the burning hut, an LRA fighter said that
21 he should be shot.

22 P-26 and her two daughters were at home when five LRA fighters started shooting
23 into their house. She and her older daughter were shot and wounded. Her
24 youngest did not survive.

25 The LRA fighters tried to kill another camp resident, P-185. They stabbed him with a

1 bayonet that was on a gun. This did not kill him. They tried to finish him off by
2 shooting at him as he ran away. Against all odds, he survived.
3 The LRA fighters inflicted pain and suffering on Lukodi residents, torturing them,
4 subjecting them to cruel treatment and other inhumane acts.
5 The attackers meant to intimidate and punish them because civilians were perceived
6 to be government supporters.
7 Attackers ruthlessly assaulted civilians, including small children. P-24 saw the LRA
8 beat her daughter and other girls when they tried to escape from a burning house.
9 Abducted civilians, including mothers with babies and elderly people, were forced to
10 carry heavy loot. They were beaten and threatened with death. Those who were
11 not able to carry loot were punished by beating or killing.
12 P-187 was forced to carry two and a half basins of beans on her head, a 10-litre
13 jerrycan of cooking oil in her hand and had a goat tied to her wrist. When she
14 inevitably dropped her heavy load she was kicked and stabbed. She was later
15 beaten for allowing the goat to escape when she tried to hide from the UPDF
16 helicopter gunship.
17 As the LRA fighters marched abductees away from the camp, they forced mothers to
18 abandon their children. The mothers were threatened with death for failure to
19 comply. The children were crying and making it difficult for their mothers to carry
20 pillaged goods. The LRA saw them as a burden to be discarded.
21 They threw small children and babies into the bush. Children that tried to rejoin
22 their mothers were kicked back into the bush and left to die.
23 During the attack, a designated group of LRA soldiers went house to house abducting
24 civilians. Likewise, they grabbed anyone trying to escape.
25 The LRA marched the abductees to the post-attack meeting point under armed guard

1 and with frequent beatings. These abductees, mainly women aged between 20 and
2 50, were used as a short-term slave labour to carry the loot. Most women were later
3 released.

4 For example, P-195 was abducted with her young daughter and later released.

5 Not all abductees were this fortunate.

6 Others were abducted for long-term use. Boys and girls were taken in compliance
7 with Kony's orders to collect fresh soldiers and wives.

8 P-196, his two siblings and other civilians were taken from a hut where they were
9 hiding. The brother of P-196 never returned and his fate remains unknown.

10 P-119, aged 15 at the time, was abducted with six other children when they were
11 trying to flee the attack. He was enslaved in the bush for more than half a year.

12 During the attack, LRA fighters entered civilian houses and shops and looted food,
13 livestock, clothing and household items.

14 P-185 saw the LRA loot sugar, salt, sweets and soap from a shop.

15 The civilians themselves were forced to carry things from their own homes and those
16 of their neighbours.

17 P-195 and her sister-in-law were made to carry beans and maize bags taken from her
18 house.

19 The LRA fighters forced P-24, with a two-week-old baby on her back, to carry two
20 basins of looted beans.

21 Ongwen's soldiers deliberately destroyed any remaining civilian property after they
22 were done looting. They moved throughout the camp setting fire to people's homes.

23 On your screen now you can see burnt civilian homes. You will see that several huts
24 are still smoking.

25 And of course, all these crimes committed in Lukodi amounted to severe deprivation

1 of fundamental rights and were part of the LRA's persecutory campaign to brutalise
2 government supporters.

3 Why is Dominic Ongwen responsible for the crimes in Lukodi? Ongwen planned
4 the attack. He hand-picked leaders. He assigned responsibilities for specific tasks.
5 He briefed the attack group. And he sent them to execute his orders.

6 Former LRA fighters who attacked Lukodi told how Ongwen ordered them to kill,
7 burn and loot.

8 Ongwen told his soldiers, and I quote, "Kill anything that breathes."

9 Ongwen did not go to the attack site himself, unlike in Pajule and in Odek.

10 By the time the attack on Lukodi took place, Ongwen was in the position where he
11 did not have to lead the attackers on the ground. He could issue orders and rely on
12 his subordinates to carry them out.

13 When his soldiers returned from Lukodi, Ongwen received a report from his officers.
14 News of the attack spread.

15 On 21 May 2004, other senior LRA commanders heard of the attack and discussed it
16 over the LRA radio.

17 The ISO intercepted and audio recorded this conversation as it took place. The
18 details were contemporaneously written down in the UPDF and ISO logbooks.

19 The Prosecution obtained a copy of this audio recording. We transcribed and
20 translated it, then we took it to a UPDF radio operator, P-3, to verify its contents.

21 I will show the transcript of this radio communication from 21 May 2004.

22 The beginning of the conversation features Joseph Kony and Vincent Otti discussing
23 the Lukodi attack. The next slide zooms in on the contents in the red boxes.

24 Wat Pa Dano is the call sign of Vincent Otti, Kony's second in command. Layom
25 Cwiny is the call sign of Joseph Kony himself.

1 Otti reports to Kony, "I heard that some group attacked Lukodi. Lukodi seems to be
2 a small centre in Bungatira. I heard that they shot and killed more than 25 people.
3 They burned down more than 100 houses."
4 Later during the same radio communication Dominic Ongwen comes on air. His call
5 sign is Tem Wek Ibong, or simply Tem.
6 The slide I am showing captures a conversation between Vincent Otti and Dominic
7 Ongwen.
8 It seems clear that at the time of this conversation Dominic Ongwen had not received
9 full reports from his subordinates that he had sent to carry out the attack.
10 Otti asks, "Who was responsible for the Lukodi attack? Who hit Lukodi?"
11 Ongwen says, "Me."
12 Ongwen continues, "I heard that they burnt more than 100 houses."
13 Otti replies, "It happened just as you said." Ongwen then goes on to say, "They",
14 meaning his soldiers, "killed more than 25 people."
15 About ten days after the Lukodi attack, Kony promoted Dominic Ongwen from
16 lieutenant colonel to colonel. These promotions were recorded in the ISO and UPDF
17 logbook entries for 30 May 2004.
18 Visible on your screen now is the police logbook entry for 2 June 2004. It
19 summarises a radio communication in which Joseph Kony praises Dominic Ongwen
20 for his good work.
21 It reads: "Kony in particular lauded Col. Ongwen Dominic following his recent
22 performances in Odek and Lukodi. Col. Ongwen Dominic himself informed Kony
23 that he would lay hands in arresting non-performing officers."
24 This is a typical example of Dominic Ongwen's enthusiasm to go the extra mile in
25 promoting the LRA's bloody agenda.

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1 The next page of that same logbook records Ongwen's promotion to colonel. Kony,
2 himself, rewarded Ongwen in recognition of his successes at Odek and Lukodi and to
3 exemplify his performance.

4 The Lukodi attack shows how being the architect of death and destruction for the
5 civilian population of northern Uganda brought Ongwen praise and yet another
6 promotion from Joseph Kony.

7 To conclude, your Honours, the Prosecution submits that charges 24 to 36 should be
8 confirmed.

9 This concludes my presentation. Thank you.

10 PRESIDING JUDGE TARFUSSER: Thank you, Ms Nuzban.

11 I will ask now for the last 20 minutes for this first session, Mr Gumpert tell me who
12 continues. It seems yourself.

13 MR GUMPERT: Your Honour, spot on, it is indeed me. This is about half an hour.
14 Given that, could we go into ten past?

15 PRESIDING JUDGE TARFUSSER: I would think so. Looking at the booth, the
16 Acholi booth. Oh, they can't hear?

17 THE ACHOLI INTERPRETER: It would be -- it would be okay provided the
18 speakers speak more slowly.

19 PRESIDING JUDGE TARFUSSER: Yes. I think they were quite slow.

20 THE ACHOLI INTERPRETER: Not the last speaker.

21 PRESIDING JUDGE TARFUSSER: Not the last speaker. Okay.

22 So Mr Gumpert, please, if you can speak slower, slowly in order to --

23 MR GUMPERT: Got the message, yes.

24 PRESIDING JUDGE TARFUSSER: Okay. Thank you very much.

25 MR GUMPERT: I'll do my very best.

1 PRESIDING JUDGE TARFUSSER: Okay.

2 MR GUMPERT: On 8 June 2004, at about 9 p.m., Dominic Ongwen's Sinia brigade
3 acting on his orders attacked Abok IDP camp.

4 The location is sometimes spelt with an additional letter E on the end, but it's the
5 same place.

6 The attack followed the pattern established at the locations about which the Court has
7 just heard, Pajule, Odek, Lukodi. The crimes committed included attack on the
8 civilian population, murder, attempted murder, torture, cruel treatment, inhumane
9 acts, enslavement, pillaging, destruction of property and persecution; paragraphs 383
10 to 407 of the confirmation brief refer.

11 This body of evidence establishes substantial grounds to believe that Dominic
12 Ongwen is responsible for those crimes committed at Abok as an indirect perpetrator.
13 I want to share the essence of that evidence, focusing in particular upon two victims,
14 P-280 and 282 and the abuse that they suffered at the hands of fighters from Dominic
15 Ongwen's Sinia brigade.

16 Abok is located at the bottom of the triangle on this map. It shows the relative
17 location of the four attacks about which you've heard. It's in Ngai sub-county Apac
18 district, or at the time it was.

19 This is a satellite image showing Abok in January 2014. The camp was built around
20 this crossroads and the nearby locations to the north Lalogi and to the west, Ngai, are
21 marked on this photograph.

22 Almost nothing of the original camp is left today, but there's a satellite image from
23 December 2006 and this gives a better idea of what it looked like.

24 You can see the road structure is the same with a far larger number of dwellings
25 around the crossroads.

1 I want to show now two sketches of the camp as it appeared in 2004. These are
2 drawn by a third Prosecution witness, P-293. He was the leader of the camp. He
3 was present throughout the attack, and he gives a compelling account. You need to
4 be aware that in these sketches the direction north is to the right. You can see that
5 the camp leader has marked the direction of the road to Ngai up to the top, and to
6 Lalogi off to the right.

7 He's also divided the camp into four notional quadrants which he's marked
8 anticlockwise, A, B, C and D.

9 If we look at a more detailed sketch from the same witness, the orientation is the same.
10 There is a curved line which runs from right to left in the upper half of the drawing
11 and circles round towards the marking of the old former barracks. And that is the
12 line that the attackers took.

13 You can see the camp itself again divided into the four quadrants at the centre of the
14 drawing.

15 Going back to the top left-hand corner the witness has marked a swamp a location of
16 some significance in the unfolding of the attack.

17 And in the bottom right-hand quadrant just below and outside the circle indicating
18 the camp itself, the witness has indicated a banana plantation in which he hid and
19 observed during the attack. This is a clean version of the first sketch that I showed
20 your Honours, and I'm going to use it to indicate the major locations and events.

21 There were between 7 and 13,000 people living in the few square kilometres of this
22 camp, and it was defended by a UPDF barracks at this approximate location.

23 LRA activity peaked at Abok in 2003 and 2004, and that had forced civilians to flee
24 their villages to the relative safety of the trading centre at the crossroads. And at this
25 time Abok formally became a camp for displaced persons.

1 With so much life and property packed into a small space, it was hard to avoid the
2 attention of the LRA. LRA fighters were heard describing the camp as a beehive,
3 and they were waiting to go and harvest the honey at the right time.

4 And that harvest fell on the evening of 8 June.

5 During the day, residents and the military defenders of the camp, looking up the road
6 to Ngai, spotted LRA troops crossing the road. They were from Dominic Ongwen's
7 Sinia brigade.

8 Troops were sent from the barracks to track them. But, in fact, the rest of the day
9 was uneventful, many people thought that the danger had passed. In fact, the LRA
10 had out manoeuvred their pursuers and were hiding in a swamp near the camp and
11 the site of the old former barracks.

12 By this time they had already abducted two residents of the camp. They had been
13 forced to guide the LRA fighters to the barracks, but by mistake, they ended up at the
14 old barracks.

15 The attack itself started just as the camp residents were going to sleep. Dominic
16 Ongwen's men entered the camp in quadrant C, top left-hand corner. They set fire
17 to the people's huts, they were banging on jerrycans and they were firing their guns.
18 They engaged the soldiers at the new barracks, but there were only 15 soldiers left to
19 defend that barracks. So there was almost nothing standing between the Sinia
20 brigade and the civilian population.

21 P-280 was already in bed when he heard gunshots coming from that southwest
22 quadrant, that's the quadrant marked C. He ran outside. He hid in a latrine. And
23 he found his father and his brother already hiding there.

24 An LRA fighter walked by with a torch and saw them and she called out to other
25 fighters, and soon there were about 30 of them surrounding the hole in which P-280,

1 his father and his brother were hiding.

2 P-280 was summoned out of the hole. He rose first, and the attackers placed a sack

3 of beans on his head. But when his father got out of the hole in his turn, he was shot

4 dead. And when his brother got out the last of the three, he was taken away, made

5 to lie face down and shot dead too.

6 In a different part of the camp, Dominic Ongwen's men entered the home of P-286.

7 He wasn't able to get away because he had a wounded foot. The attackers fired

8 three shots at him, and then they presented him with a choice: Either work for the

9 LRA or be killed. He chose to work.

10 So they tied a rope around his waist and commanded him to lead the way to the

11 shops, but his limping pace was too slow, and so one of the fighters solved that

12 problem by stamping on his injured foot so hard that it went numb.

13 P-286 led the fighters to the shops at the centre of the camp. When the second shop

14 was empty, the fighters made it clear, with another beating, that the next empty shop

15 would spell the end of P-286's life. And in the next three shops the attackers packed

16 away whatever they could carry; sugar, cooking oil, salt, soap, biscuits, depriving the

17 civilians in the camp of the basic necessities for survival.

18 When they were satisfied with their loot, the attackers retreated from the camp in the

19 direction of Lalogi. By coincidence at this point, P-280 was walking behind. P-286

20 had been ordered to carry a wounded fighter. So the two witnesses were close by

21 each other at this stage. He was unable to bear the weight of the wounded fighter on

22 his own, P-286. He'd been told that anybody who couldn't move with their load

23 would be killed, but he risked his life to ask for help. And Witness P-280 was

24 assigned to help him. They were threatened that if they dropped the LRA fighter or

25 if they left him during a UPDF attack, they would be killed.

1 Occasionally they fell along the way, and that resulted in beatings with the butt of a
2 gun or with a panga, a machete.

3 Other abductees were not so fortunate. During the march through the bush, P-286
4 saw an elderly female abductee being beaten because she couldn't walk anymore.

5 LRA fighters passed her in single file along the road, each slapping or hitting her until
6 she defecated on herself.

7 P-286 remembered one girl who couldn't stop crying. He saw her taken away from
8 view and she was beaten as he put it "until she wasn't crying anymore."

9 The two witnesses carried the wounded fighter for about two days until they got to
10 an LRA base in the Atoo Hills. P-280 stayed in the bush for about five months, in
11 that time he was forced to kill other abductees, beating them on the head with a club.

12 P-286 was forced to participate in LRA attacks at Opit and at Acet before he escaped.

13 Experiencing the attack through the eyes of the witnesses P-280 and 286, the
14 commission of the crimes which are charged is apparent.

15 They witnessed the murder of close family members. They observed the killings of
16 others as they proceeded out of the camp and through the bush. They experienced
17 torture, cruel treatment and other inhumane acts themselves. They were beaten with
18 guns and struck where they were already wounded. They saw homes on fire.

19 They were forced to participate in the looting of personal property from the camp.

20 And P-286 observed the methodical way in which LRA fighters lit every other house
21 on fire because they knew they were built close enough for the fire to spread to
22 adjacent structures.

23 P-280 and 286 became LRA slaves. They and other civilians were captured and used
24 to carry the looted goods away from the camp under threat of death.

25 P-293 was a leader of the camp. It was he who drew those plans. When the attack

1 started, he hid in a nearby banana plantation rather than fleeing. He was able to see
2 what happened during the attack from that location. And the next day, he and other
3 camp leaders went to document the results.

4 He found at least 28 people had been killed at Abok, 16 from shooting, 6 by being
5 burnt and 6 by being beaten.

6 He said that the cause of death was apparent from inspection of the bodies. A
7 person killed by gunshot wounds had injuries with small entry points and large exits.

8 A person burnt to death had skin turned charcoal black from fire.

9 So what was the role of Dominic Ongwen?

10 In the days immediately following the attack, intercepted LRA communications
11 documented Ongwen speaking about Abok many times. And the reports show that
12 he took ownership of the attack, he took credit for its success and he accepted
13 responsibility for its shortcomings.

14 I'm waiting for an image to appear upon your screens.

15 This is an extract from a logbook produced by the ISO for the relevant day. It reads:

16 "Dominic reported he was the one who attacked Abok Centre killing many people
17 and also burning very many huts. He said "UPDF ran away leaving civilians
18 behind."

19 The original tape recording of this radio exchange provides even more detail. And

20 I'm going to play three separate extracts from a sound recording of that series of
21 communications on 9 June.

22 In this recording, Witnesses P-3 and P-59, the radio operators who were intercepting
23 LRA communications, have verified the voices of Dominic Ongwen and

24 Raska Lukwiya a more consider LRA commander. You will hear Ongwen say that
25 he launched the attack and burnt the camp. Neither man uses the word "Abok", but

1 the logbooks compiled by the radio operators are clear that the conversation you're
2 about to hear concerned that attack.

3 We hear Lukwiya commenting that Ongwen's attack has been well done. Ongwen
4 says that he's just come from the fighting. And he acknowledges clearly that he is
5 the commander who has led the attack. He puts it simply in response to Lukwiya's
6 question, "That's me." And he gives a brief description of what his troops have done,
7 firing at anything at all and they burnt all the houses.

8 (Playing of the audio excerpt)

9 MR GUMPERT: LRA radio intercept evidence also shows that Dominic Ongwen
10 and Joseph Kony discussed attacks -- sorry, the tactics that were used at Abok. Kony
11 told Ongwen that the best way was to establish a camp near the target and then "send
12 soldiers to abduct civilians."

13 Ongwen responded, "I actually did it like that," but he pointed out that once the LRA
14 was spotted, civilians would make an alarm in any event.

15 In other words, the radio exchanges heard by the interceptors clearly show that
16 Dominic Ongwen knew that crimes would be committed and planned the attack as a
17 means of abducting civilians. And afterwards he was conferring with Joseph Kony
18 on how to achieve more effective results in the future.

19 How did Dominic Ongwen control this attack? Witness evidence establishes that he,
20 himself, was based nearby at the Atoo Hills and sent a force to attack under man
21 called Kalalang Okello.

22 After their abductions, P-280 and 286 heard LRA fighters indicate that Ongwen was
23 the overall leader. 286 met Kalalang Okello and saw that fighters obeyed him
24 whenever he gave orders. They called him "Adit" which means boss. And once the
25 fighters and abductees returned to Atoo Hills, Dominic Ongwen was present at a

1 head count of the returning LRA fighters.

2 P-54, a Sinia brigade member, participated in the Abok attack. He describes the

3 association between Dominic Ongwen and Kalalang Okello. Ongwen was the

4 brigade commander, Kalalang one of his battalion commanders.

5 P-293, in the banana plantation during the attack, heard LRA fighters patrolling just a

6 few metres away from him. He heard them discussing an order from Ongwen to,

7 and I quote, "Kill everyone who was not one of them."

8 He heard them say that Kalalang Okello had issued a further instruction: conserve

9 ammunition by beating people to death or abducting them.

10 Dominic Ongwen had control over the crimes committed at Abok. He used

11 Kalalang Okello and other Sinia brigade fighters to carry them out.

12 He gave instructions to his subordinates to commit crimes at Abok. He deployed his

13 troops and he went to the meeting point to await results. This evidence of control

14 over subordinates, knowledge of their conduct and ownership of the results

15 establishes his liability as the indirect perpetrator of the Abok attack or his liability

16 under the alternative modes described in the Document Containing the Charges.

17 Counts 37 to 49 should therefore be confirmed we submit.

18 But before I close I want to present one final intercepted communication from 10 June,

19 it's less than two days after the attack.

20 Recall yesterday morning when I explained how Dominic Ongwen climbed to the

21 highest levels of the LRA. Despite the circumstances which brought him into the

22 LRA, he achieved high status with a personal enthusiasm which set him apart from

23 other LRA commanders. His attacks directed against civilians throughout northern

24 Uganda earned promotions and praise directly from Joseph Kony.

25 This is the intercept that I want to bring to your attention. 10 June: Kony said he

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1 was very happy when he heard over BBC the attack of Abok IDP camp where all
2 UPDF ran leaving civilians behind to suffer in the hands of LRA. He said Dominic
3 did wonders but only that he did not plan very well, otherwise "the death toll would
4 have gone very high."

5 "Dominic did wonders ... but didn't plan very well, otherwise the death toll would
6 have gone very high."

7 The attack at Abok was carried out by Dominic Ongwen at the end of a six-week
8 killing spree: 61 dead at Odek in April, 45 murdered at Lukodi in May, 28 dead at
9 Abok. For Dominic Ongwen the work of killing civilians had become his regular
10 employment.

11 When Joseph Kony came to make a performance appraisal of Dominic Ongwen's
12 work at Abok with just 28 dead the verdict was, "Good, but you could have done
13 better."

14 And those are my submissions on the attack at Abok.

15 PRESIDING JUDGE TARFUSSER: Thank you very much, Mr Gumpert.

16 I think it's now time for our first break of a half an hour.

17 Thanks to the interpreters for their flexibility.

18 Just for housekeeping, I want to recall at this point in time that I would really like
19 very much the Prosecutor to finish today their presentation because then on Monday
20 we have the presentation by the Legal Representatives of Victims, on Tuesday the
21 Defence the whole day, and then on Wednesday the final observations in three
22 fractions, Prosecutor, Legal Representatives and Defence, one hour and a half each,
23 and then we should complete by Wednesday evening, if this is okay.

24 Do you want to say something?

25 MR GUMPERT: That's absolutely our aim. We're actually a little ahead of schedule.

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1 We have, I think I'm right in saying, three more presentations, albeit that a couple of
2 them are not short. It's just possible we may need a little flexibility at the end of the
3 day, but I would doubt it would be more than 10 or 15 minutes and I hope it will be
4 none at all.

5 PRESIDING JUDGE TARFUSSER: Okay. Thank you very much.

6 We break now and we resume at 11.45 sharp. Thank you.

7 THE COURT USHER: All rise.

8 (Recess taken at 11.13 a.m.)

9 (Upon resuming in open session at 11.48 a.m.)

10 THE COURT USHER: All rise.

11 Please be seated.

12 PRESIDING JUDGE TARFUSSER: So we resume the session for the second fraction
13 of one hour and a half. The floor is to the Prosecutor.

14 MR ZENELI: Your Honours, as requested, my name is Shkelzen Zeneli, and I will be
15 making submissions on behalf of the Prosecution for the sexual and gender based
16 crimes.

17 The regime of sexual abuse of girls and women in the LRA is one of its defining
18 features. Although the abduction and rape of girls and women in conflict areas is
19 not exclusive to the LRA, the systemic nature of its conduct and its strict system of
20 rules governing the sexual relations were singular.

21 Abducted women and girls were treated like chattels, allocated to various masters
22 and husbands. There was no genuine consent to any of the sexual activity.

23 The women and girls were punished if they failed in their domestic duties; and if they
24 tried to escape, they were brutally caned or murdered, and some were made to fight.

25 The LRA's rules and strict discipline meant that this experience applied to the

1 overwhelming majority of abducted girls and women.

2 All units of the LRA were involved in the abduction of girls and women and their
3 subsequent subjugation into a forced exclusive conjugal relationship. This
4 submission, however, concentrates on the Sinia brigade, because this was the brigade
5 in which Dominic Ongwen was initially a battalion commander and then the brigade
6 commander.

7 In that position, Dominic Ongwen faithfully carried out the LRA's brutal policy
8 towards girls and women, and he also made sure that this LRA policy was followed
9 by his fighters.

10 From at least 1 July 2002 to 31 December 2005, Dominic Ongwen committed, together
11 with Joseph Kony and Sinia brigade leadership through fighters in the Sinia brigade,
12 the crimes of forced marriage, torture, rape, sexual slavery and enslavement.

13 During my submissions, I will first address the evidence with regard to the sexual
14 and gender based crimes. I will then focus on the common plan and its four facets,
15 and conclude by highlighting the evidence on Ongwen's essential role.

16 With regard to the objective elements of the crimes of forced marriage, torture, rape,
17 sexual slavery and enslavement, we ask the Chamber to draw an inference, one as
18 detailed in paragraph 537 of the Prosecution's brief. It is an inevitable one, one that
19 is based on several facts:

20 First, that women and girls were abducted by fighters in the Sinia brigade.

21 Second, that the LRA had strict rules dictating that these abducted women and girls
22 were forced to marry LRA fighters.

23 Third, that forced marriage meant that they were raped, tortured, sexually enslaved
24 and enslaved.

25 Fourth, that the LRA hierarchy and strict system of discipline ensured total

1 compliance to its rules.

2 The evidence shows that these crimes were committed as a matter of routine, and that

3 Dominic Ongwen is responsible for them.

4 Let us turn to this evidence.

5 First, with regard to forced marriage. All the commanders in the LRA had forced

6 wives. P-99 said that Joseph Kony had about 40 wives. P-226 said that at one point

7 he had about 80 wives, and that Dominic Ongwen himself had about 20 wives.

8 The evidence shows that the initiation of forced marriage was ritualised. Several

9 witnesses speak of such rituals.

10 P-226 said that after such rituals, Joseph Kony and other commanders selected girls to

11 be their forced wives.

12 P-226 and 99 said that the women and girls had no choice in the matter.

13 Several other witnesses also said that the girls and women would be forcibly given as

14 wives and that if they refused, they'll be threatened with death and killed.

15 P-202 was in captivity for five months and saw this happening in Odek.

16 P-142, an officer and subordinate of Dominic Ongwen in the Sinia brigade, said that

17 Dominic Ongwen was in charge of distributing the women and girls to different

18 battalions within the brigade. He and P-198 detail the systems through which

19 Dominic Ongwen did this.

20 P-198 said, and I quote, "I had seen Ongwen give wives to the other soldiers. When

21 a girl was abducted, they would pick her by the hand and give her to the soldier. He,

22 that is Dominic Ongwen, would be the one giving the orders and saying, "This one

23 goes to this one."

24 The extent to which women and girls were victimized through forced marriage

25 within the Sinia brigade is described by P-142.

1 He said, and I quote, "There were about 250 to 300 men in Sinia brigade who had
2 wives. Some had 2, others had 3 wives." "There is no women who voluntarily
3 joined the LRA. I believe they were all abducted."
4 "The women would not refuse marriage or being given to a certain person because
5 they were with people who were armed, and if you are just told to go to someone,
6 you'll definitely go."
7 Several other witnesses give specific names or instances of women and girls
8 victimised in this manner in the Sinia brigade. For the abducted women and girls,
9 forced marriage meant being forced to maintain an exclusive sexual relationship with
10 her husband, have sex with him on demand and perform domestic chores. If they
11 were seen to have failed in their duties, the women and girls were beaten or caned.
12 The exclusive aspect of the marriage was strictly enforced. A telling example is a
13 radio communication between Joseph Kony and Dominic Ongwen. In April 2003,
14 Dominic Ongwen reports to Joseph Kony that one of his soldiers had had sex with the
15 wives of two other commanders, Buk Abudema and Otim Charles and impregnated
16 them. Joseph Kony ordered Dominic Ongwen to kill the soldier. He ordered that
17 the two women be put in jail awaiting their judgments. The next day,
18 Dominic Ongwen reported that he killed the soldier in question.
19 I'd like to turn now to the crime of rape. The LRA fighters in the Sinia brigade
20 forced the women and girls that they abducted to have sex with them.
21 They were ordered to do so. One of the radio intercepts shows that on 4 April 2003,
22 Joseph Kony told his commanders that "with women, those ones got should be
23 captured and raped seriously without mercy."
24 Another striking piece of evidence comes from P-101, and she said, "When young
25 girls are abducted, you are raped while you're still young. If you're 11 years old or

1 12 years old, if there is a high ranking commander who is kind, then they will let you
2 actually mature a little bit, but with the rest of them they will just abduct you and
3 make you a wife at a very young age. Dominic was the worst when it came to young
4 girls. He still has sex with them at a very young age."

5 P-250, another fighter in the Sinia brigade said that LRA commanders and fighters
6 abducted and raped women and girls of 14 to 17 years and turned them into their
7 wives.

8 Several other witnesses provide evidence of specific instances where sex occurred and
9 children were born.

10 Your Honours, the only realistic appreciation of the sexual intercourse that took place
11 between LRA fighters in the Sinia brigade and their abducted forced wives is that it
12 took place by force or threat of force, or in circumstances where any purported
13 consent by them was vitiated by the coercive circumstances in which these women
14 found themselves.

15 With regard to the crimes of sexual slavery and enslavement, the evidence shows that
16 the LRA fighters in Sinia brigade, to whom abducted women and girls were given as
17 forced wives, acted as their owners. They turned them into their slaves and sexual
18 slaves. They caused them to engage in acts of a sexual nature, including sexual
19 intercourse, and forced them to perform domestic duties.

20 They confined them after they were abducted, and they did so to force them into
21 labour and servitude.

22 The LRA's system of distributing women and girls to husbands is one way in which
23 they demonstrated their power over the abducted women and girls. The women
24 were treated as chattels or spoils of war, awarded as prizes without any more say in
25 the matter than if they had been animals or inanimate objects.

1 P-235 describes Dominic Ongwen's central role in the distribution of abducted women
2 and girls as well as his communication with Joseph Kony on it. Several other
3 witnesses also recall his role in this distribution.

4 The evidence of P-226 is striking in showing how Dominic Ongwen treated women as
5 objects to be possessed, traded and disposed of.

6 Another way that the LRA fighters in Sinia brigade exercised their power over them
7 was to force them to perform domestic chores. The husbands of abducted women
8 and girls made them cut grass, collect firewood, cook, make up beds, take care of
9 children and do laundry.

10 An example of how these fighters and Dominic Ongwen viewed this as critical to
11 their survival is a radio communication between Dominic Ongwen and
12 Buk Abudema on 11 July 2004.

13 Dominic Ongwen reports that the wives of a subordinate officer had escaped. He
14 reports that he had ordered the subordinate officer to abduct other young girls
15 because "There is no way he," Dominic Ongwen, "can survive in the bush without
16 women."

17 P-142, P-202 also speak about the distribution of the young girls as ting tings and the
18 performance of their domestic chores, including working like house girls and looking
19 at commanders' children.

20 I'm advised I need to slow down, so I will be cautious of that.

21 A third way that they exercised such powers was to prevent them from escaping by
22 killing them or threatening to kill them if they escaped or tried to do so. Several
23 witnesses speak about this.

24 P-233, another LRA fighter in the Sinia brigade, saw women executed for trying to
25 escape. He provides the name of one of them, the wife of a commander or captain.

1 P-101 said that she had seen attempted escapees being killed without mercy.

2 A fourth way that LRA fighters in Sinia brigade exercised their powers over the
3 abducted girls and women was to forcibly marry them. As their husbands, they had
4 total control of their lives.

5 With regard to torture the evidence shows that the LRA fighters inflicted severe
6 physical and mental pain or suffering on the abducted women and girls in their
7 custody or control. And they did so by: One, having sexual intercourse with them
8 by force, coercion or by taking advantage of the coercive environment of the LRA;
9 two, making them perform cruel and unusual acts, including for the purpose of
10 intimidation; and three, beating or caning them for the purpose of punishment for
11 perceived wrongdoing, for refusal to follow instructions or if they tried to escape.

12 Women and girls in Sinia brigade were made to perform cruel and unusual acts.

13 P-200, a member of the Sinia brigade, said that shortly after the attack on Barlonyo
14 IDP camp Dominic Ongwen forced young abductees under his control to hack a
15 middle-aged woman to death, boil her in a pot and eat her.

16 P-226 described how after an attack on Patongo, Dominic Ongwen ordered the recent
17 female abductees to beat a captured soldier to death and threatened that anyone who
18 refused would themselves be killed.

19 Dominic Ongwen watched while his orders were carried out.

20 From their first days in the LRA, women were tortured by brutal beating and caning.

21 Anyone abducted, young or old, was put through this initiation by way of caning.

22 P-250 saw such beating.

23 The evidence from several other witnesses speaks of the beating and punishment of
24 abducted women and girls.

25 P-202 saw girls heavily beaten many times. She said that no girl ever refused an

1 order to be a ting ting because they will be beaten. P-250 said that abducted girls
2 and women were tortured a lot.

3 The most serious beatings were reserved for those who tried to escape this miserable
4 situation. And P-236 spoke of women being caned for such attempts. P-99 said
5 that if you tried to escape, you were badly beaten.

6 Now, your Honours, I'll want to explain how Dominic Ongwen is liable for the acts
7 that I just described.

8 From at least 1 July 2002 to 31 December 2005 in northern Uganda, Dominic Ongwen,
9 Joseph Kony and the Sinia brigade leadership implemented a common plan. What
10 was this common plan?

11 It was to abduct girls and women to serve as domestic servants, forced exclusive
12 conjugal partners and sex slaves in the Sinia brigade.

13 The implementation of this common plan also resulted in the commission of rape and
14 torture.

15 Although the co-perpetrators were geographically distant, they implemented this
16 common plan in a coordinated manner through the high frequency radios.

17 Joseph Kony as the LRA commander-in-chief provided the strategic directions to the
18 common plan and he relied on his commanders to implement it.

19 Dominic Ongwen did so without hesitation. He benefited from the common plan.
20 He made statements propagating the aims of it. The common plan, your Honours,
21 had four facets.

22 The first was to abduct women and girls. This is demonstrated by Joseph Kony's
23 orders. Several witnesses speak of such orders. P-142 heard this order in as early
24 as 1997 and 1998. He said that Joseph Kony ordered LRA commanders in words
25 such as, "You're going to Uganda. If there are some big boys among you there, you

1 go and abduct girls as wives."

2 P-233 recalled that orders to abduct girls between 13 and 15 were passed over the

3 radio from Joseph Kony to his commanders. It was not a secret, he said.

4 P-138, a sergeant in Sinia brigade and later in Control Altar heard Joseph Kony give

5 the order on the radio to abduct boys and girls aged 11 to 15 because they were easy

6 to teach.

7 The most senior LRA commanders publicly acknowledged the existence of this facet

8 of the common plan.

9 Joseph Kony and Vincent Otti's statements on Mega FM radio in December 2002 are

10 striking examples of such. In it Joseph Kony acknowledges the abduction of women

11 and girls. Vincent Otti also said, "I want to assure you that the girls whom we collect

12 and sent to the bush are our mothers. We always collect the young ones who are not

13 infected with HIV."

14 His reference to HIV acknowledges that the women and girls were abducted for sex.

15 The second facet of this common plan was the forced marriage of women and girls

16 after they were abducted. And many other witnesses provide evidence establishing

17 this facet.

18 P-142 said that typically Joseph Kony issued an order to abduct on the radio. When

19 the order was carried out, the women and girls were brought to Sinia brigade

20 headquarters, and the brigade commander informed Joseph Kony of the number and

21 kinds of girls abducted. Joseph Kony then ordered them to be distributed.

22 The third facet of this common plan was for women and girls to submit to rape and

23 sexual slavery by the LRA fighters with whom they were paired and perform

24 domestic duties for them. The co-perpetrators intended these sexual relations to be

25 exclusively between husband and wife. The evidence I referred to regarding the

1 crimes of rape and sexual slavery is demonstrative of this facet.

2 The fourth facet was to coerce girls and women when they refused or failed to submit
3 or perform as ordered, by beatings and threats of beatings or death.

4 Joseph Kony's orders referenced in the radio intercepts of 17 and 18 December 2002
5 are another telling example. He ordered that abductees who were deemed difficult
6 to control, specifically those that do not submit to orders of the commanders, be killed
7 or beaten.

8 P-245, another senior officer in the Sinia brigade subordinated to Dominic Ongwen,
9 observed that a merciful commander was one who, when he captures the escapees,
10 would only cane them.

11 How did Dominic Ongwen coordinate his actions with the other co-perpetrators?

12 Well, he regularly communicated on the radio about the common plan. He received
13 orders. He reported on what he had done in furtherance of this common plan and
14 expressed his support for it.

15 In addition to the evidence that I've cited, the exchange between Dominic Ongwen
16 and Joseph Kony of 10 March 2004 is another striking example. Joseph Kony
17 complained to Dominic Ongwen that he had let all the senior LRA women with him
18 escape. Dominic Ongwen replied that he had many female recruits who could
19 replace them.

20 Another escapee -- another example is the exchange on 10 July 2005. Omona, an
21 LRA senior commander, asked Dominic Ongwen if he had abducted ting tings for
22 Kony. And Dominic Ongwen said, and I quote, "Not yet, but Kony should not
23 worry because he is going to work on that himself." End of quote.

24 Why was Dominic Ongwen's contribution to the common plan an essential one?

25 First, Dominic Ongwen ordered fighters under his command to implement it.

1 Several witnesses speak of this. They provide specific instances, locations and
2 abductions carried out on Dominic Ongwen's orders.

3 P-205, a senior subordinate commander of Dominic Ongwen in the Sinia brigade,
4 recalled an occasion when Dominic Ongwen asked him whether he had abducted
5 anyone. He confessed that he had not yet. Dominic Ongwen ordered him to go
6 back, organise his unit and do so, go and abduct.

7 P-245 instanced an occasion in which about 20 girls between ages of 14 to 16 were
8 abducted from a school in Atanga to become LRA wives in 2002. He said that it was
9 Dominic Ongwen who had given the command to carry out that raid.

10 P-200 described Dominic Ongwen as an active and brutal LRA commander. He also
11 speaks of Dominic Ongwen's role in the abduction and distribution of girls to be sex
12 slaves for LRA commanders.

13 Second, Dominic Ongwen made an essential contribution by his operational control
14 over the implementation of the common plan in Oka battalion and then the Sinia
15 brigade. Several witnesses provide evidence on this.

16 P-205 speaks of a specific instance in which Dominic Ongwen decided on how to
17 distribute the girls abducted under his orders.

18 P-205 recalls "Kony sent a message to Dominic, as the brigade commander in Sinia ...
19 that he wants 10 girls. And Dominic relayed that same message to the"
20 commanders -- "commanding officers. And that same information is what we used
21 to go and abduct the girls."

22 He adds: "When we brought the girls" back, "we brought some to the brigade
23 headquarters. He", Dominic Ongwen, "told us that the ones that had remained with
24 us we should divide them."

25 P-250 said that Dominic Ongwen was the second in command at the attack on

1 Amuria. Dominic Ongwen was in charge of taking the abductees back to Tabuley.
2 The girls were divided among the commanders in Katakwi.
3 Third, leading by example, Dominic Ongwen demonstrated his approval of the
4 crimes committed by his fighters.
5 Fourth, Dominic Ongwen ensured strict discipline in Oka battalion and then Sinia
6 brigade. This prevented women and girls from misbehaving or escaping so that
7 commission of the crimes could continue.
8 Dominic Ongwen's own words demonstrate his requisite knowledge and intent.
9 Dominic Ongwen's essential role makes him criminally responsible for these crimes
10 as an indirect co-perpetrator pursuant to Article 25(3)(a) of the Statute.
11 In the alternative, his orders to commit crimes make him responsible under 25(3)(b) of
12 the Rome Statute.
13 Dominic Ongwen held a position of authority as a commanding officer. He
14 routinely issued orders to his subordinates, including to abduct women and girls and
15 to distribute them to Dominic Ongwen and other LRA fighters. His orders had a
16 direct effect on the crimes committed.
17 In another alternative, his contribution to the commission of these crimes by a group
18 of persons acting with a common purpose makes him criminally responsible under
19 Article 25(3)(d) of the Rome Statute.
20 And in a further alternative, your Honours, as an LRA commander, Dominic Ongwen
21 is responsible under Article 28(a) for the crimes committed by fighters under his
22 effective command and control.
23 The evidence shows that the women and girls were abducted by the LRA fighters in
24 the Sinia brigade to serve as their forced exclusive conjugal partners, thereby
25 submitting to sexual intercourse without their consent, the performance of domestic

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1 and other duties and to punishment when they refused or failed to submit or perform
2 in this way.

3 The evidence also shows that Dominic Ongwen played a crucial role in the
4 commission of these crimes and that, therefore, Dominic Ongwen should stand trial
5 for all the charges listed in counts 61 to 68 of the Document Containing the Charges.
6 This, your Honours, concludes my submission.

7 PRESIDING JUDGE TARFUSSER: Thank you very much, Mr Zeneli.

8 I will now ask Mr Gumpert who is next?

9 MR GUMPERT: The next speaker, your Honour, is Ms Adesola Adebeyejo.

10 Looking at the clock, I know that her presentation is of some duration.

11 PRESIDING JUDGE TARFUSSER: (Microphone not activated). Sorry. I think we
12 should not break now. No, no, we have another -- we should finish at 1.15. So we
13 have nearly an hour, 50 minutes.

14 Yours is the floor.

15 MS ADEBOYEJO: Mr President, your Honours, before I proceed with my
16 submissions, may I request, your Honours, that we go into closed session because of
17 the submissions that I'm going to be making? We have already --

18 PRESIDING JUDGE TARFUSSER: Yes, my question is closed or, I would say, that
19 private session is sufficient, I think, and I ask, of course? I ask first, but I think, so,
20 on one side, and is it the whole -- for the whole period?

21 MS ADEBOYEJO: Yes, your Honour, it is for the whole period. We had filed an
22 application --

23 PRESIDING JUDGE TARFUSSER: Yes, yes, I know --

24 MS ADEBOYEJO: -- for your Honours.

25 PRESIDING JUDGE TARFUSSER: -- but I think that private session would be no.

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1 MS ADEBOYEJO: No.

2 PRESIDING JUDGE TARFUSSER: Closed session?

3 MS ADEBOYEJO: Yes, your Honour.

4 PRESIDING JUDGE TARFUSSER: Okay. So we have to go in closed session,
5 please, court officer. Thank you.

6 (Closed session at 12.25 p.m.)

7 THE COURT OFFICER: We are now in closed session, Mr President.

8 PRESIDING JUDGE TARFUSSER: Thank you very much.

9 The floor to the Prosecutor.

10 MS ADEBOYEJO: Thank you, Mr President, your Honours.

11 Your Honours, I will now focus our presentation on the sexual and gender based
12 crimes directly committed by Dominic Ongwen.

13 The Chamber has received evidence from eight women who have given sworn
14 testimony that they were the victim of sexual and gender based crimes, which
15 Ongwen physically perpetrated.

16 Much of that testimony was disturbing. There were graphic descriptions of rape and
17 torture, which were difficult to listen to. I will not for the most part repeat those
18 descriptions. They are in the record. But it is important, at least once, to hear the
19 full horror - there can be no other word - of what happened to these women.

20 Witness 227 was one of the eight direct victims of Ongwen's crimes. I will now read
21 an excerpt of her testimony.

22 "He shut the door ... He asked me to undress... He undressed as well. He asked me
23 to spread open my legs. He ... took hold of his penis ... he put it in my vagina and he
24 started forcefully ... having sex with me. I started crying. I was screaming and my
25 voice was really loud. He asked why I was crying ... He told me that if I continued

1 crying, he showed me his gun. The gun had something sharp on top of it like a
2 bayonet ... I felt like my whole body was being torn apart ... he was actually having
3 sex with me in the anus as well ... for a very long time." End quote.

4 What is the Prosecution alleging?

5 That Dominic Ongwen committed four different types of sexual and gender based
6 crimes against these women: Rape, forced marriage, sexual slavery and forced
7 pregnancy. For his acts of enslaving, torturing, humiliating and degrading these
8 women, the Prosecution is also charging him with enslavement, torture and outrages
9 upon personal dignity.

10 These charges are listed as counts 50 to 60 in the Prosecution's Document Containing
11 the Charges against Dominic Ongwen and are described in detail in paragraphs 428
12 to 536 of the Prosecution's pre-confirmation brief.

13 The crimes charged are not the same for each witness. Not all the women became
14 pregnant. So the charge of forced pregnancy has not been brought in some cases.
15 Not all were forcibly married or raped within the two and a half year period of the
16 charges which the Prosecution brings. The Prosecution has looked at the evidence of
17 these witnesses carefully and puts before this Chamber the appropriate charges
18 arising in each case.

19 These eight women, with the pseudonyms 226, 227, 101, 99, 214, 236, 235, 198, testified
20 over the course of several days in September and November 2015 during the Article
21 56 hearings.

22 I will now remind you of the evidence of these women in the order of their testimony
23 and conclude with our submissions on the individual criminal responsibility of
24 Dominic Ongwen.

25 I'll start with 226. 226, your Honours, testified on 15 and 16 September 2015. When

1 she was abducted, she was 7 years old. She was transported to Sudan. Her
2 abductors forced her to carry a bag of salt and march a distance of approximately 450
3 kilometres, a seven-year-old child.

4 The map on your screen highlights in red the approximate journey between the two
5 locations that 226 had to travel.

6 In Sudan, 226 and other abductees aged between 10 to 15 years were initiated and
7 selected to become wives of commanders. In her case, she was sent to Ongwen's
8 household.

9 The witness stated that if she had refused to go to Ongwen's home, quote, "I would
10 have either been killed or beaten." End quote.

11 Both 99 and 214 corroborate this.

12 In Ongwen's home, 226 was a ting ting. Ting tings are prepubescent girls assigned
13 to commanders for the purpose of helping them run their households and care for
14 their children. As a ting ting, 226 was made to carry out domestic chores such as
15 fetching water, collecting vegetables for cooking. 205 and 214 corroborate this.

16 The first time Ongwen summoned 226 to have sex with him, she was 10 years old.
17 She refused. As she said, she thought, quote, "disgusted" her. End quote.

18 Ongwen ordered his escorts to beat her, and they flogged her continuously for a week
19 until she succumbed to Ongwen's demands. The beatings caused her buttocks, her
20 hands to be swollen until she could not sit or walk properly.

21 This was not the only time she was beaten. On at least two other occasions on the
22 orders of Ongwen, his escorts beat her until she fell unconscious.

23 As you will hear in the course of this presentation, Witnesses 198, 227, 235, 236 all
24 corroborate 226 on the beatings that they received to force them to succumb to sexual
25 intercourse with Ongwen.

1 Although 226 was just 10 years old and prepubescent, Ongwen raped her. It was
2 against LRA rules. Girls were supposed to be menstruating before they could be
3 taken as wives. In fact 226 was so small Ongwen had to carry her on the bed, onto
4 the bed in order to rape her. In the aftermath of the rape the witness states, quote, "I
5 could not get up. I went and I had a bath because I was bleeding. I was bleeding a
6 lot." End quote.

7 To further humiliate her, 226 later heard Ongwen boasting to other commanders that
8 he had, quote, "torn a polythene bag," end quote, and heard their collective laughter
9 at his comment. By this he meant he had deflowered a virgin. The rapes did not
10 stop but continued.

11 226 was not allowed to have any sexual interest in anyone but Ongwen, otherwise she
12 would have been beaten or killed.

13 Other Ongwen wives, such as 236 and 227, corroborate this notion of exclusivity.

14 The beatings were not the only physical suffering inflicted by Ongwen on 226.

15 Ongwen forced her and other abductees to march across the Imatong Mountains, a
16 mountain range sometimes reaching heights of 3,000 metres with no food or
17 sustenance, such that the abductees were forced to eat sand and drink their own
18 urine.

19 Your Honours, the picture of this mountain range is inset on the upper right corner of
20 the map on the screen.

21 Ongwen also forced 226 and other girls to beat a UPDF soldier captured during an
22 attack on Patongo in northern Uganda to death. Other witnesses such as 205 and 309
23 corroborate this account.

24 I will now move to Witness 227.

25 227 was 19 when she was abducted. LRA fighters under Ongwen's command

1 abducted her on or about April 2005 from Pageya in northern Uganda. She was also
2 taken to Sudan. She travelled a distance of approximately 260 kilometres on foot.
3 The map on your screen highlights in blue the approximate journey between the two
4 locations.

5 214, 235 and 236 all corroborate 227 that she was part of the Ongwen household.

6 Once assigned to Ongwen's household, she had to carry out domestic duties. She
7 was closely guarded and she could not escape. When it was thought that she had
8 attempted to escape, she was brutally beaten. The witness herself describes being
9 beaten so badly that, quote, "all my hands were swollen so I couldn't press the ground
10 to lift myself up. My buttocks were heavily swollen and the back of my arm was
11 heavily swollen." End quote.

12 Other Ongwen wives such as 99 and 235 confirm this fact that it was impossible to
13 escape. All the witnesses who are the direct victims of Ongwen's sexual violence
14 talk about the injuries they sustained after being raped by Ongwen. In the aftermath
15 of the rape, Ongwen considered 227 to be his wife. He referred to her as his wife. It
16 was a status she did not consent to, but she could not change it. The other wives also
17 regarded her as a wife.

18 226, 214, 235 all list 227 as one of Ongwen's wives.

19 227 testified that Ongwen exercised exclusive sexual rights over her. When
20 questioned about this, 227 responded, quote, "I did not have sexual intercourse with
21 anyone else apart from Ongwen. If you did that, you would be beaten and perhaps
22 flogged to death." End quote.

23 227 had seen this happen at close quarters. Ongwen ordered the flogging of his wife
24 236 because of the suspicion that she had slept with one of his escorts. She had also
25 seen this happen to Aciro, a wife of Kony, who was accused of sleeping with a boy

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1 and they were both shot. Ongwen continued to force 227 to have intercourse with
2 him. These continuous rapes by Ongwen led to 227 conceiving and giving birth to a
3 son, although she was, quote, "not yet ready to have a child." End quote. She had
4 no choice in respect of the matter.

5 I will now move to 99.

6 99 was abducted from Purongo village in February 1998. She was 15 years old when
7 this attack took place. Ongwen participated in the attack. She also made the long
8 march from Uganda to Sudan, a distance covering approximately 300 kilometres as
9 highlighted in purple on the map on the screen. She was chosen by Kony and lived
10 in his house as a ting ting carrying out domestic duties.

11 After seven months she was told she was mature enough and ready to become Kony's
12 wife. She rejected him and chose Ongwen instead. The very day 99 joined
13 Ongwen's household, she was forced to have sex with him. She did not want to, but
14 Ongwen went ahead and raped her anyway. As a result of Ongwen forcing her to
15 have sex with him, 99 had a son in June 2002.

16 Even when Ongwen was not physically there, the conditions imposed on 99 deprived
17 her of her liberty and made it impossible for her to escape. She continued to be
18 confined as his first wife.

19 I will now move to P-101.

20 101 was abducted in August 1996 from Gulu by Ongwen and other LRA fighters.

21 She was a schoolgirl 15 years old when she was abducted. She also did the long
22 march to Sudan covering a distance of approximately 650 kilometres as highlighted in
23 green on the map on the screen.

24 On the very day she was abducted, while still wearing her school uniform, Ongwen
25 brutally raped her. He used his escorts to hold her down while he raped her. The

1 witness testified that she cried and bled a lot and described the incident as, quote,
2 "extremely difficult." End quote.

3 For the eight years she was in captivity, Ongwen continued to force 101 to have sex
4 with him. She could not refuse. If she did, she would have been beaten. At no
5 time also was she able to escape.

6 As a result of Ongwen's repeated rapes of 101, she became pregnant, and she gave
7 birth to three children fathered by Ongwen.

8 Again I quote 101: "When I became pregnant with my three children to Ongwen, I
9 did not think I had a choice as to whether I would become pregnant or not." End
10 quote.

11 Your Honours, on the screen is a picture of Ongwen between two women. On the
12 left is Prosecution witness 99, and on the right is Prosecution witness 101. Both
13 witnesses confirmed during their testimony that they were the ones in the picture
14 with Ongwen. You can also see 101 carrying her first child fathered by Ongwen.
15 Your Honours, this image brings me conveniently to the issue of forced pregnancy. I
16 want to explain how the Prosecution puts its case in respect of this offence, which has
17 not previously been charged at this Court.

18 The Prosecution alleges that Dominic Ongwen is responsible for the crime of forced
19 pregnancy of three of its witnesses, 101, 198 and 214.

20 Mr President, your Honours, the crime of forced pregnancy as set out in

21 Article 8(2)(e)(6) of the Rome Statute requires that the Prosecution prove the
22 following:

23 One, the perpetrator unlawfully confined a women.

24 Two, the woman had at the time forcibly been made pregnant.

25 Three, in confining the woman, the perpetrator had the intent to affect the ethnic

1 composition of any population or to carry out other grave violations of international
2 law.

3 The actus reus of the crime of forced pregnancy includes both enforced impregnation
4 and enforced maternity, by which I mean being forced to carry the pregnancy. The
5 act causing the enforced pregnancy need not have occurred during the period of the
6 woman's unlawful confinement, nor need be attributed to the perpetrator of the
7 confinement. The use of force in the actus reus encompasses not only violence, but
8 all other forms of coercion.

9 As required by Article 30 of the Statute, the actus reus elements must be carried out
10 with intent and knowledge. It must be presumed that this includes the knowledge
11 of the accused that the woman confined has been forcibly made pregnant.

12 In addition to the general mens rea required for the crime, forced pregnancy is a
13 crime of special intent.

14 The special intent relates to the act of confinement, not to the act which forcibly
15 impregnated the woman.

16 It is also important to recall in this respect that emphasis on confinement in the actus
17 reus reflects the fact that the essence of the crime is the forced experience of
18 pregnancy and not the result of the forced pregnancy in the form of giving birth.

19 There is no requirement for the woman to be confined for the full term of the
20 pregnancy. What is simply required is that she be confined for a period of time
21 while she is pregnant.

22 The special intent required for forced pregnancy contains two alternate specifications.
23 The first specification is simply that the perpetrator intended to affect the ethnic
24 composition of the population. The alternate specification requires that the
25 perpetrator confine a woman forcibly made pregnant with the intent to carry out

1 other grave violations of international law.

2 The Prosecution alleges in this case that Dominic Ongwen confined these three
3 women, who had been forcibly made pregnant - in this case they were made pregnant
4 by him - with the intent to carry out other grave violations of international law. That
5 is because it was Dominic Ongwen's intention to confine these women to carry on
6 committing acts of rape, torture and sexual enslavement against them even after he
7 had forcibly impregnated them.

8 The evidence of the confinement of the three women is established in two separate
9 ways: Not just by the physical confinement of 101, 198 and 214 in a physical or
10 geographical space; in other words, the various camps where they lived with Ongwen,
11 but also by Ongwen imposing conditions on the women that made it impossible for
12 them to escape or return to their homes.

13 Evidence of the facts related to the forced pregnancy of these three women were not
14 challenged by the Defence during their testimony in the Article 56 proceedings.

15 I will now turn to the evidence of P-214.

16 214 was abducted in June 2000 from Laliya by LRA fighters and also taken to Sudan.

17 She travelled a distance of approximately 260 kilometres, highlighted in orange on the
18 map on the screen. Kony distributed 214 to Ongwen in or about September 2002.

19 226, 227, 235 and 236 confirm that 214 was one of Ongwen's wives.

20 Ongwen raped 214 for the first time about one month after she became his first wife.

21 The witness said she was threatened with a beating if she did not submit. After the
22 rape, the witness said she cried. On that first occasion and every other occasion after
23 that, 214 had no choice whether to have sexual intercourse with Ongwen. On no
24 occasion could she escape. Ongwen's armed security guards watched her.

25 Ongwen also beat 214. 235 recalls Ongwen beating 214.

1 As a result of the rapes, 214 became pregnant and had three children fathered by
2 Ongwen. During her first forced pregnancy in Uganda in 2005, Ongwen confined
3 214 by guarding her constantly and by instilling a fear in her of the consequences of
4 escaping.

5 At the end of Defence cross-examination, the witness testified that Ongwen was a
6 good and caring man. The Chamber will want to consider the significance of this
7 statement with care. It is difficult to accept that a man who forces a woman to have
8 sex with him, who threatens her, who beats her and continues to have sex with her
9 irrespective of her wishes is either good or caring.

10 The Chamber may consider that 214's statement is representative of the conflicted and
11 psychologically damaged state in which Ongwen's actions left the women who were
12 the victims of his sexual and gender based violence.

13 I will now turn to 236.

14 236 was abducted by LRA fighters from Pajule in September 2002. She was 11 years
15 old. In her case, she travelled a distance of approximately 320 kilometres, as
16 highlighted in pink on the map before your Honours.

17 236 was distributed to Ongwen's group. 214, 226, 227 and 235 all confirm that 236
18 was one of the wives of Ongwen.

19 236 was beaten often. She was whipped 10 times shortly after abduction as part of
20 her initiation. She was also beaten in 2004 after she had crossed with Ongwen into
21 the Democratic Republic of Congo because she purportedly had an affair with a man
22 named Nyeko. Kony ordered Nyeko to be shot and 236 to be flogged a hundred
23 strokes.

24 227 and 235's accounts are similar regarding this event.

25 In Uganda, 236 was a ting ting who had to wash, to cook, and to do laundry.

1 Ongwen treated her as his property.

2 227 corroborates 236 account that she was subjected to forced labour and servitude by

3 Ongwen. He's first charged with enslavement in relation to this witness.

4 It was in the Democratic Republic of Congo and outside of the two and a half year

5 period of the charges in this case that Ongwen first raped 236 and made her his wife.

6 While this conduct cannot therefore be a crime for which Ongwen can be charged and

7 convicted, it is highly relevant and persuasive evidence which can establish a pattern

8 of evidence -- of behaviour, I beg your pardon, and thus corroborate the accounts of

9 other witnesses.

10 With 236 Ongwen followed the same pattern that I've previously highlighted in this

11 presentation.

12 236 was a virgin. She didn't have a choice. She was under his authority.

13 Ongwen's security forces were sleeping just a few metres outside his tent reinforcing

14 the coercive nature of the relationship.

15 Because of the repeated sex that Ongwen forced 236 to have, she gave birth to two

16 children. She was confined during her pregnancy. She was unable to escape from

17 Ongwen. She had seen that other people who tried to escape got arrested and were

18 caned or killed.

19 I will now move quickly to 235. She was abducted from Kitgum in September 2002.

20 She was forced to carry pillaged items away from her home and walk the long

21 distance to Pader and later to Sudan. In her case the distance she covered was

22 approximately 280 kilometres, highlighted in yellow on the map on the screen. Her

23 feet got swollen as a result of the long march. She didn't try to escape for fear that if

24 she tried, she could be killed. She was constantly watched by soldiers under

25 Ongwen's command. The only time she tried to escape she was caught and Ongwen

1 ordered his escorts to beat herself severely. She was distributed to Ongwen's
2 household as a ting ting, carrying out duties like cooking, fetching water, washing
3 and collecting firewood.

4 Both 214 and 227 confirm this.

5 Once again, it was not until the Sinia brigade moved to the DRC and until a period
6 outside the 30 months covered in the Prosecution's charges that Dominic Ongwen
7 raped 235 and made her his wife. It is for this reason, your Honours, that these
8 crimes are not charged.

9 The whole period that she had been with him she had to perform domestic duties,
10 including carrying luggage for long distances, fetching water, doing his laundry.

11 She had no freedom of movement. Like other captives of the Sinia brigade, if she
12 had attempted to escape, she would have been beaten or murdered.

13 Ongwen eventually raped her and declared her to be one of his wives. After that
14 occasion, 235 kept submitting to his demands for sex because she feared she might get
15 into trouble if she refused. As a result of the repeated rape 235 became pregnant and
16 gave birth to three children fathered by Ongwen.

17 I will now move to the final witness, 198.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
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- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

1 Your Honours, I'm mindful of the time. I will now briefly discuss Ongwen's
2 individual criminal responsibility for his direct participation in the crimes.
3 Dominic Ongwen physically carried out the objective element of each of the charged
4 crimes. For each of these crimes, Ongwen acted with intent and knowledge
5 pursuant to Article 30. He meant to engage in and knew about or was physically
6 aware of the consequences of his conduct against 99, 101, 198, 214, 226, 227, 235 and
7 236. Of course he did. These were not remote acts carried out by his subordinates.
8 He was the rapist. He was the one who made them his forced wives. He was the
9 one who sexually enslaved them. He was the one who ensured their confinement
10 after forcibly impregnating them.
11 Dominic Ongwen inflicted severe physical and mental pain and suffering on them by
12 raping them, torturing them, ordering them to be beaten, or in the case of 198, beating
13 them himself.
14 In relation to the charges of forced pregnancy, Ongwen also satisfies the specific
15 subjective element required by the crime of forced pregnancy as already submitted.
16 When he kept his forcibly impregnated wives in confinement, under the continuing
17 threat of beatings or death if they tried to escape, he did so with the intention of
18 continuing to perpetrate crimes such as rape, torture and sexual slavery.
19 Finally, Ongwen knew or intended that his conduct be part of a widespread or
20 systematic attack directed against a civilian population. He and his Sinia brigade
21 were some of the principal protagonists in the attack. He was also aware of the
22 factual circumstances that established the existence of an armed conflict.
23 Mr President, your Honours, based on the evidence I have just presented and for all
24 the evidence detailed in paragraphs 428 to 536 of the pre-confirmation brief, there are
25 substantial grounds to believe that Dominic Ongwen is criminally responsible

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1 pursuant to Article 25(3)(a) as a direct perpetrator of rape, forced marriage, torture,
2 sexual slavery, enslavement, forced pregnancy and outrages upon personal dignity.

3 Your Honours, the charges in counts 50 to 60 of the Document Containing the
4 Charges should therefore be confirmed.

5 Thank you, your Honours.

6 PRESIDING JUDGE TARFUSSER: Thank you, Ms Adeboyejo.

7 I think we should go in open session. And while going into open session and before
8 closing, I really do not understand -- well, please explain me why we got in closed
9 session as opposed to private session, because I think there was no reason to go in
10 closed session, I insist. But I mean, I don't think there are lots of lip-readers around,
11 because I think that the rule is the open session, right?

12 MS ADEBOYEJO: Yes.

13 PRESIDING JUDGE TARFUSSER: Then if we go -- there is merit to of any kind of
14 protection, we should just do it limiting gradually the open session, before going into
15 closed, we should evaluate if private session is not enough. But I think it would
16 have been enough.

17 But thank you very much.

18 MS ADEBOYEJO: Thank you very much. I'm guided by your Honour.

19 MR GUMPERT: Your Honour, when the matter is next in public session, I know
20 your Honour has already explained at the beginning of yesterday why this session
21 would not be heard by the public, but though I've been in contact with those who are
22 part of the listening audience in Uganda, and it is highly probable I think that some of
23 that audience may not have been listening at the very beginning of the session, I'd ask
24 your Honour to consider repeating in very brief form the explanation your Honour
25 gave for this last session being not made public.

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1 PRESIDING JUDGE TARFUSSER: You ask me to --

2 MR GUMPERT: Well, I would be happy to do it, but I think it comes with most
3 authority and best from your Honour.

4 PRESIDING JUDGE TARFUSSER: Yes, I can, I can just read again what I said
5 yesterday on this topic.

6 MR GUMPERT: Yes. That's exactly what I had in mind.

7 PRESIDING JUDGE TARFUSSER: Yes, yes. Yes, okay.

8 MR GUMPERT: It was a passage which read "Chamber has the ultimate
9 responsibility on security" and so on.

10 PRESIDING JUDGE TARFUSSER: Yes.

11 Yes, we go to open session, yes.

12 (Open session at 1.19 p.m.)

13 THE COURT OFFICER: We are now in open session, Mr President.

14 PRESIDING JUDGE TARFUSSER: Thank you very much.

15 Now we are in open session. And before breaking for lunch, I just want to explain
16 briefly why we had this 50 minutes about in closed session. This was requested by
17 the Prosecution, agreed by the Defence, and accepted by the Chamber and it was -- it
18 concerned the charges charged from number 50 to number 60.

19 The Chamber, who is the ultimate -- who has the ultimate responsibility on security
20 issues and protective measures, agrees, as I said, on the security assessment of the
21 Prosecutor and has accordingly accepted the filing of a public version of the
22 Document Containing the Charges, wherein all references to charges 50, from 50 to 60
23 have been redacted.

24 The Chamber also have accepted, and that's why we were in closed session, that the
25 submissions of the parties and participants at this hearing concerning these charges

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1 from 50 to 60 be made in closed session, this to avoid any possible risk that would be
2 unwarranted at this, at the stage in which it is yet to be determined whether there will
3 be a trial on these charges.

4 However, I can confirm that should the Chamber decide to confirm charges -- can
5 inform that should the Chamber decide to confirm charges from 50 to 60 it will be the
6 Chamber itself in its decision under Article 61(7) of the Statute to make these charges
7 public whether in its entirety or with the appropriate redactions to the identities of
8 the individuals. We have to decide upon that.

9 So this said just to explain the 50 minutes of closed session we had, I will now, we will
10 now have the break, the lunch break, and I would say we resume at 3 o'clock sharp.

11 Thank you.

12 THE COURT USHER: All rise.

13 (Recess taken at 1.22 p.m.)

14 (Upon resuming in open session at 2.59 p.m.)

15 THE COURT USHER: All rise.

16 Please be seated.

17 PRESIDING JUDGE TARFUSSER: So good afternoon. We are approaching the last
18 session for the Office of The Prosecutor.

19 Mr Gumpert, here's the floor and then whoever you want to give it.

20 MS HOHLER: Thank you, Mr President. For the record my name is Beti Hohler and I
21 will address the final two charges against Dominic Ongwen, counts 69 and 70, the war
22 crimes of conscripting children under the age of 15 years into an armed group and using
23 them to participate actively in hostilities.

24 I will tell you how small children, some younger than 10 years old, were snatched from
25 their homes and turned into LRA fighters and I will tell you how Dominic Ongwen, once

1 himself a victim of the LRA's policy on child soldiers, was now an advocate and executor
2 of that very policy.

3 The Prosecution's cases that Dominic Ongwen is criminally responsible for conscription
4 and use of child soldiers in the LRA's Sinia brigade between 1 July 2002 and
5 31 December 2005.

6 The crimes took place throughout northern Uganda. Dominic Ongwen was a key
7 figure in Sinia throughout this time. First as a battalion commander, then as brigade
8 commander.

9 The Prosecution relies on the intercepted LRA radio communications and 36 witnesses.

10 The majority of these witnesses were members of Dominic Ongwen's Sinia brigade
11 during the period charged. They observed and had direct contact with child soldiers in
12 the brigade for months and years. Four of them were themselves child soldiers.

13 This evidence is set out in detail at paragraphs 617 to 666 of the pre-confirmation brief.

14 I will highlight some of it in my presentation today.

15 I start with count 69, conscription of children under 15 years into Sinia brigade.

16 Conscription is a method of recruitment. It means incorporating the child into an
17 armed force or group. In contrast with the crime of enlistment, it requires an element of
18 compulsion, such as brute force, threat of force or psychological pressure amounting to
19 coercion.

20 Conscription of child soldiers is a continuous crime. It is committed the moment a
21 child is forced to join the armed group and ends only when he or she reaches 15 years of
22 age or leaves the armed group, whichever comes first.

23 Large-scale abduction of children by the LRA is, your Honours, a matter of public record.

24 By 2002, abduction was virtually the only method of recruitment for the LRA. The
25 targets were children, preferably those younger than 15.

1 Joseph Kony issued standing orders to his brigade and battalion commanders to abduct
2 children. Records of intercepted LRA communications contain numerous examples.
3 Kony on one occasion told his commanders that without child recruits, the LRA would
4 be nowhere.

5 An ISO logbook entry of 21 November 2002 records as follows, I quote: "Kony said no
6 LRA should abduct people from 15 years old and above because they are problems."
7 End of quote. A few days earlier, Kony was even more specific: LRA should abduct
8 boys of 10 years and below.

9 The LRA battalion and brigade commanders were responsible for carrying out these
10 orders across northern Uganda. Dominic Ongwen's Sinia brigade was no exception.
11 Witness P-224, Dominic Ongwen's signaller in Sinia brigade, confirms that child soldiers
12 were all abducted and had been forced to join the group.

13 Witness P-205, a Sinia brigade officer, describes abduction of children under 15 that took
14 place in the brigade under Dominic Ongwen. He remembers Ongwen telling him they
15 are free to abduct and that it is the discretion of each individual to increase the number
16 of his forces. This witness also says that children between 12 and 14 years old were
17 present in all three battalions of the Sinia brigade, Oka, Siba, Terwanga, as well as in the
18 brigade's headquarters. This is corroborated by P-54, another Sinia brigade fighter,
19 who states there were many children under 15 in Sinia.

20 THE ENGLISH INTERPRETER: Message from the interpreters: Could the speaker
21 please be required to slow down. Thank you.

22 MS HOHLER: Abductions took place every day. P-224 explains how the troops
23 abducted children not just from their homes but also from the side of the road in the
24 middle of normal traffic in broad daylight. He says, I quote, "You line up along the
25 road. You will just pick a child, take them to the bush ... tie their hands and just push

1 through." End of quote.

2 Two officers in Sinia brigade explained that boys were abducted as long as they looked
3 healthy and able to fight, even when they were only ten years old.

4 Witness P-233 describes boys between 13 and 15 years of age abducted in Acet on
5 Ongwen's orders and subsequently conscripted into Sinia brigade.

6 And you will also recall from this morning that Dominic Ongwen, prior to the attack on
7 the Odek IDP camp on or about 29 April 2004 instructed his troops to bring "good boys
8 and girls." Several young children were abducted from Odek and conscripted into
9 Sinia brigade on that day. Among them were Witness P-252, aged 11 and
10 Witness P-275, aged 9.

11 Witness P-200, a Sinia fighter in 2003 and 2004, describes most soldiers in Ongwen's
12 group as younger than 18 years. He estimates that a large majority of those were
13 between 13 and 15 years old. The youngest child soldiers he saw were 10 or 12 years
14 old.

15 A fighter who served under Ongwen in the Oka battalion describes children as young as
16 10 joining the battalion. Similarly, P-205 remembers that escorts to Oka battalion's
17 intelligence officer were between 12 and 14 years old and participated in operations.
18 The same witness names another boy also under 15 who served in the Terwanga
19 battalion.

20 Several Prosecution witnesses, Sinia officers, describe children under 15 as their direct
21 subordinates. Take the example of P-245, Ongwen's second in command in Oka
22 battalion. He told the Prosecution about his armed escort who fought at least since
23 2002. In autumn 2003, this escort was 13 or 14 years old. P-54 also had a recruit
24 under 15.

25 Witness P-280, excuse me, was abducted in Sinia brigade's attack on Abok IDP camp.

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1 When he was brought to the brigade's temporary base, he saw young boys who looked
2 10 or 11 years old. These boys were so small that when they held a gun they had to
3 drag it.

4 Let me now take you to how some of those young children describe their experiences in
5 Sinia and with Ongwen. Witnesses P-97, P-198, P-252 and P-275 were all conscripted
6 into Sinia brigade during the charged period. They were between 9 and 12 years old.
7 They give some of the most compelling evidence of the crimes committed.

8 Your Honours, before I continue, I would request that the following slides are not shown
9 to the public. I will be displaying photographs of some of the former child soldiers,
10 Prosecution witnesses; therefore, these slides must be restricted to the courtroom.

11 PRESIDING JUDGE TARFUSSER: Obviously this is authorised and I ask the court
12 officer to do everything necessary for it. Thank you.

13 MS HOHLER: I may proceed? Thank you.

14 First, Witness P-97. He was 12 years old when abducted from his village home in
15 February 2005. He escaped nine months later in November 2005.

16 You can see the witness pictured on your screens now. This photograph was taken by
17 the ICC investigators in December 2005, a month after the witness escaped from the
18 hands of the LRA.

19 P-97 was abducted by soldiers from Dominic Ongwen's group. Ongwen was his
20 commander the entire time and it was Ongwen who sent him to gather food a number of
21 times.

22 Witness P-275 was abducted from Odek IDP camp on or about 29 April 2004 and he was
23 forcibly integrated into Sinia brigade. He was only 9 years old. He remained in the
24 bush approximately 3 months before he escaped, still in 2004 and still 9 years old.

25 This is him on your screens now, on a photograph attached to a certificate letter from a

1 rehabilitation centre taken soon after his return from the LRA.

2 P-275 recalls that he was wearing his school uniform when he was abducted. He
3 referred to his commander as "lapwony" which in Acholi means teacher. This was
4 common practice in the LRA. But instead of teaching this 9-year-old to read and write,
5 his commander taught him how to carry a gun. Here is what he said:

6 "During the time I was held captive by the LRA, I saw children younger than me being
7 trained to fire weapons. I could tell they were so young because the muzzles of their
8 AK47 rifles would drag on the ground as they carried them on their shoulders."

9 This, your Honours, also marks the end of the restricted slide show.

10 I move to the next witness, another former child soldier, witness P-252, who was also
11 abducted by Sinia brigade in the attack on Odek IDP camp in April 2004. He was 11
12 years old and stayed in Sinia brigade for approximately 18 months until he managed to
13 escape. He was placed in the group of Dominic Ongwen's escorts in Sinia brigade.
14 There were other children in the brigade, some smaller than him. P-252 was trained
15 and fought with Sinia. He was often injured. He escaped at the end of 2005 or early
16 2006.

17 Witness P-198 is a girl, abducted in June 2003, when she was about 10 years old. She
18 was on her way to school when three men grabbed her and tied her up. One of the
19 commanders of the group that abducted her was Ongwen. P-198 joined Dominic
20 Ongwen's unit in November 2003 and remained with him until her escape in late
21 December 2005. She was trained, armed and forced to abduct and kill people. P-198
22 also describes other small children in the unit. They were her age or younger. She
23 gives a chilling account of how small children were used to measure the depth of
24 marshes where the soldiers were moving. She says, I quote:

25 "The smaller boys were put in front of the battalion. They would walk ahead and if

1 they fell into a swamp and drowned, it meant the soldiers were in a muddy area and had
2 to avoid the way." End of quote.

3 So why did the LRA target children? Because they were easy to control. Because they
4 adapted more quickly to the life in the bush. Because they were less likely to escape.

5 In the words of one Sinia fighter, children were easily indoctrinated because they did not
6 know life.

7 If caught trying to escape, children were heavily beaten or killed, often by other children.

8 This was to instill fear in them. Child soldier P-198 is adamant: "If you tried to run
9 away, they would come and kill you."

10 Soon after they were abducted, the children were trained. P-205, Sinia fighter, explains
11 that children were trained on the front line. He says:

12 "First you tell them - you who have been abducted, you should not escape. Then they
13 are taken where there is work. If the child is brave, we go and attack patrols. If the
14 child is brave he will get his gun."

15 This is also how he, P-205, an officer under Dominic Ongwen's direct command, taught
16 the children who were his responsibility.

17 P-200 gives a similar account. He explains children in Sinia were trained whenever the
18 UPDF soldiers were not following and not attacking. The children were taught how to
19 march, how to attack, how to use weapons.

20 Another witness says that if one did not train well, the punishment was death.

21 P-252, an 11 year old, was first taught how to parade and then how to respond during an
22 attack. Two months after abduction he was trained to use a gun. Here is what he says,
23 I quote:

24 "I was taught along with many children who were already in the bush. I also learnt
25 what was required from a soldier and the rules of the LRA. When I did the wrong

1 thing I would be beaten with the machete and sticks. Some of the scarring is still here
2 today. I was told this was to beat the civilian out of me to become a soldier." End of
3 quote.

4 P-198, a girl child soldier, recalls Dominic Ongwen himself training her. "Ongwen
5 trained me how to use a gun. He used to train other people. I saw this myself," she
6 says.

7 She describes another instance of training with Dominic Ongwen. She says:

8 "There were about 20 children who received training. All of them were boys except me.

9 Among the smaller children some were around 9 years old. Ongwen was the one who
10 gave the orders during the training. When you receive training they would bring you
11 to combat and they would give you a gun to take care of yourself. Children who
12 received training participated in attacks later on. When I went to work I would go with
13 a gun. They would give me the small one. I could use it effectively."

14 This brings me to column 70, your Honours. Having heard about children forcibly
15 integrated into Sinia brigade, I now turn to how the brigade used those small children to
16 participate actively in hostilities.

17 Dominic Ongwen and the Sinia brigade used children under 15 to participate actively in
18 hostilities between 1 July 2002 and 31 December 2005. Children under 15 were used in
19 combat as well as in activities linked to combat.

20 Children were used to fight against the UPDF, to kill and abduct civilians, lay ambushes,
21 burn houses and pillage during attacks against civilians. They also acted as escorts,
22 porters and scouts.

23 Child soldier P-252, 11 at the time, participated in battles with the government army.

24 He describes one such instance at Binya, as follows:

25 "I was part of this battle and responded to the commands and fired at government forces

1 with the AK I was carrying."

2 He also says he laid an ambush at a place called Layoko and fired on government forces.

3 P-245, a Sinia fighter, describes how his escort, a 12 year old, fought alongside adopting
4 in Acholi Pii.

5 Witness P-275, who was 9 years old, saw LRA soldiers younger than him returning from
6 an attack in 2004. I quote:

7 "I saw them return from the attack on Pabbo carrying guns and some had injuries. I
8 cannot estimate how many children I saw, but I can say some looked as young as six
9 years old and up to thirteen or fourteen years old. Most of them were boys but some
10 were girls."

11 Former child soldier P-198 describes Ongwen ordering the killing of civilians and how
12 she participated in these killings. "We would chase them and capture them and then
13 kill them," she says.

14 Children under 15 participated in attacks against civilian IDP camps and villages, either
15 armed or unarmed. Children participated in the attacks on the four IDP camps

16 Dominic Ongwen is charged with in this proceedings.

17 For example, resident of Abok IDP camp, Witness P-293, saw 12 to 15-year-old boys set
18 huts on fire in the attack on or about 8 June 2004. He knew they were young children
19 because they were short in height and their sizes were those of children. Another camp
20 resident, abducted in the attack, confirms this. He saw boys of about 10 or 11 years old
21 at Abok. They were guarding the abductees.

22 Witness P-218 saw children amongst the rebels that attacked Odek IDP camp. He could
23 tell they were children because of their small size. P-252, a child soldier abducted in the
24 attack, heard children in the group that lead him away talking about the attack and
25 saying they were beating jerrycans together to make noise to scare the government

1 soldiers away. P-275, who was just 9, had actually seen children beating the cans in the
2 attack. Some of them were younger than him.

3 A Sinia brigade fighter who was at Odek says there were many children who joined in
4 the attack with Ongwen. Witness P-18, who participated in the attack on Lukodi, says
5 boys of 10 years and older burned houses. Two witnesses enslaved in that attack both
6 describe young children amongst their captors.

7 Children under 15 were also used as escorts and bodyguards of the more experienced
8 Sinia fighters. They accompanied these fighters closely, carrying out their escort and
9 bodyguard activities in an active conflict zone.

10 Many witnesses say that Dominic Ongwen's group of escorts included children younger
11 than 15. Child soldier P-252 was one of them.

12 P-252 states that the role of escorts was to take care of Ongwen's immediate security.

13 This meant protecting him when he was under attack. When not moving, the escorts
14 would patrol the area and would ensure that whatever the commander requested was
15 done.

16 P-205 describes one of Ongwen's escorts who was 12 years old in 2002 and accompanied
17 Ongwen wherever he went. This particular escort was killed in a battle in 2004 when
18 14 years old.

19 Prosecution witnesses, Sinia officers such as P-245 and P-54 had escorts who were
20 under 15.

21 I now turn to Dominic Ongwen's criminal responsibility for conscription and use of child
22 soldiers in the Sinia brigade.

23 As the Prosecution has shown over the course of the last two days, Dominic Ongwen
24 held a prominent position in Sinia throughout the period charged. He was first a
25 battalion commander and then the brigade commander.

1 During this entire period, he was at the forefront of these crimes being committed. You
2 will remember the accounts of witnesses stating how small children were present in
3 Sinia during the period charged and how Ongwen ordered abductions of children, had
4 escorts as young as 9 and trained child soldiers. As mentioned in the beginning,
5 Dominic Ongwen, once himself a victim of the LRA's policy on child soldiers, was now
6 its faithful follower and effective executor.

7 His own words demonstrate this. On 18 September 2004, when receiving a report from
8 his subordinate about newly abducted recruits, Ongwen is recorded saying that
9 abduction should be at its peak because it is the LRA's future.

10 The Prosecution says that at least between 1 July 2002 and 31 December 2005,
11 Dominic Ongwen was part of a common plan to abduct children across northern
12 Uganda and conscript them into Sinia brigade in order to ensure a constant supply of
13 fighters. This was not random abduction and recruitment: The scale of the crimes
14 itself clearly demonstrates that they were planned. Dominic Ongwen's co-perpetrators
15 were Joseph Kony, from whom the standing orders came, and the Sinia brigade
16 leadership. These co-perpetrators plainly intended that children under 15 should be
17 conscripted into the brigade and used to participate actively in hostilities or were aware
18 that this would occur in the ordinary course of events when implementing the common
19 plan.

20 What was Dominic Ongwen's contribution to these crimes?

21 Dominic Ongwen lead by example. He used children under 15 in his entourage and as
22 his escorts. He ordered abductions, sometimes explicitly articulating that children
23 under 15 be abducted. He encouraged and endorsed conscription of children into Sinia
24 brigade. He supervised and took part in military training of children under 15. He
25 planned, coordinated, ordered and deployed troops for military attacks and attacks

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1 against civilians in which children under 15 participated. As a battalion and brigade
2 commander, he had effective command and control over troops who conscripted and
3 used children under 15 but failed to take any steps to prevent or repress the crimes.
4 Dominic Ongwen also knew that children conscripted into Sinia brigade and used to
5 participate in hostilities were younger than 15. He saw and interacted with these
6 children every day. Witness P-99 says that Dominic Ongwen would sometimes
7 actually play with the children who were his escorts. Most of these children were, by
8 their very appearance, under 15. Some were obviously way under that age.
9 Mr President, your Honours, Dominic Ongwen's essential role makes him criminally
10 responsible for these crimes as an indirect co-perpetrator pursuant to Article 25(3)(a) of
11 the Statute.
12 Dominic Ongwen's orders to commit crimes make him responsible under Article 25(3)(b)
13 of the Statute.
14 His contribution to the commission of the crimes by a group of persons acting with a
15 common purpose makes him criminally responsible under Article 25(3)(d) of the Statute.
16 Dominic Ongwen is also criminally responsible as a commander for crimes committed
17 by his subordinates under Article 28(a).
18 On the basis of the evidence summarised and for reasons detailed in its pre-confirmation
19 brief, the Prosecution invites the Chamber to confirm counts 69 and 70 against
20 Dominic Ongwen.

21 This, your Honours, also concludes the Prosecution's presentation of evidence at this
22 hearing. Thank you.

23 PRESIDING JUDGE TARFUSSER: Thank you very much.

24 But it concludes it completely now, Mr Gumpert?

25 MR GUMPERT: Sorry. I was listening in French. It took a little time to complete.

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1 Yes.

2 PRESIDING JUDGE TARFUSSER: This is well appreciated by my colleague I would
3 say.

4 MR GUMPERT: Well, I get about every third word, but it helps me to judge the pace of
5 the presentation. Enough of that.

6 We've completed, we have concluded our submissions. Of course we'll have the
7 opportunity to respond on the last day briefly to various other things, but that's our
8 primary submission all done.

9 PRESIDING JUDGE TARFUSSER: Well, this surprises me because you said that it
10 might take you a little bit longer than the time, the one and a half hours, but I'm very
11 happy.

12 MR GUMPERT: Never trust a barrister when he gives you a time estimate.

13 PRESIDING JUDGE TARFUSSER: No. Really no.

14 So this means that we have another hour. We could start with the Legal Representative
15 of Victims and I would start with the Legal Representative of Victims. I think it's like in
16 school where, you know, where everybody looks a different place saying, well, it's not
17 me.

18 MS MASSIDDA: Good afternoon, your Honour. It's just that in the order I
19 understood that my learned colleague will start and we will conclude. That's the
20 reason why I was looking at the other bench.

21 PRESIDING JUDGE TARFUSSER: Yes. So it's not the school syndrome, no? No.
22 Good.

23 MS MASSIDDA: I hope not.

24 PRESIDING JUDGE TARFUSSER: Yeah. I think for the Bench, it is -- it makes no
25 difference who starts, so I think it's up to you, to both of you to decide who starts, but I

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1 would be happy if we would, as we have one hour nearly, to start today; otherwise, we
2 might come in a little bit of a schedule conflict. Yes, please.

3 MS MASSIDDA: Your Honour, with your indulgence, can I have just two minutes to
4 consult with my colleague because she will also take the floor.

5 PRESIDING JUDGE TARFUSSER: Absolutely. Of course.

6 MS MASSIDDA: Thank you.

7 (Counsel confer)

8 MS MASSIDDA: Your Honour, if your Honours will allow us, we will be ready in five
9 minutes. It's just that we have some material in our offices that we need to take. It
10 will not take more than five minutes and then we will be ready to start.

11 PRESIDING JUDGE TARFUSSER: So we suspend six minutes until 45 and we will be
12 back.

13 MS MASSIDDA: Much obliged. Thank you.

14 PRESIDING JUDGE TARFUSSER: Just we have a break of five minutes. Thank you.

15 THE COURT USHER: All rise.

16 (Recess taken at 3.39 p.m.)

17 (Upon resuming in open session at 3.52 p.m.)

18 THE COURT USHER: All rise.

19 Please be seated.

20 PRESIDING JUDGE TARFUSSER: Well, first of all, thank you very much for accepting
21 to start today. It's very helpful also because it gives us a little bit of time in the next two
22 or three days.

23 We have to know that there is a problem with the transcript. We were thinking to hold
24 this -- there was a suggestion to hold this next session in private session, but I think
25 absolutely we should not. We should hold it in open session and the speaker,

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1 obviously, as we can't make any redactions, the speaker should be aware of this and
2 eventually try not to say things which might be subject to redactions. So just to have
3 this in the -- bear this in mind because I think it's necessary for potential security issues.
4 But still I would go in open session because this is our main -- the main purpose of a trial
5 also in this proceedings.

6 Ms Paolina -- Ms Massidda, sorry, yours is the floor.

7 MS MASSIDDA: Thank you very much, Mr President. Considering the time, what we
8 have decided to do for the information of the Chamber, we will start our presentation
9 with the first part, which concerns the background and the political situation, and then I
10 will continue the presentation on Monday on the legal issues pertaining to the case.

11 PRESIDING JUDGE FREMR: Perfect. Then there should not be any bigger issues of
12 redactions. Thank you.

13 MS MASSIDDA: Mr President, your Honours, 30 years have elapsed since the
14 inception of the atrocities perpetrated by the Lord's Resistance Army in northern
15 Uganda. Victims have been waiting for the proceedings to start before this Court for 13
16 years.

17 An important number of victims communicated with the Court and requested to
18 participate in the proceedings many years ago.

19 In the course of the years, they expressed a lot of frustration regarding the long lasting
20 non-execution of the warrants of arrest issued in 2005 against the most senior
21 commanders of the LRA. Some victims also articulated a disbelief and loss of trust in
22 the proceedings before this Court. Some victims have died.

23 Nonetheless, the transfer of Mr Ongwen to the Court has restarted a process of trust
24 towards the Court, and victims have expressed relief and hope to contribute to the
25 search for the truth about the events at the origin of their victimisation and to have

1 finally their voice heard in these proceedings.

2 At the time of the surrender of Mr Ongwen, this relief came with concerns and queries in
3 relation to the exact scope of the charges alleged against the accused -- sorry, the suspect.

4 Indeed, victims expressed concern regarding the limited crimes included in the then
5 warrant of arrest which were, in their words, not representative of the extent of the
6 victimisation they have suffered from.

7 Despite the fact that the choice of a Prosecutor to extend the scope of the charges and to
8 include gender based crimes and crimes against children has provided some responses
9 to the victims' legitimate query for justice, victims still consider that their interests are
10 not fully taken into account and that the extent of their victimisation is far from being
11 fully addressed in these proceeding.

12 While victims' interest are to some extent common or coincident with ones of the
13 Prosecutor, they, undoubtedly, have an independent role and voice in the Court's
14 proceeding.

15 Indeed, the very interest of a Prosecutor before this Court, as before any other Court, is
16 to bring evidence with the aim to prove that the suspect has to be committed for trial
17 because there are reasonable grounds to believe that he is criminally responsible under
18 the Rome Statute for the crimes charged. In contrast, the core interest of victims of a
19 proceedings is to effectively exercise the right to truth and justice.

20 The participation of victims in the proceedings before this Court is an effective
21 manner -- is a necessary mechanism to implement their right to justice and is an essential
22 element of the full realization of the other elements of a right, name, to have the truth
23 established and to obtain reparations.

24 The possibility for victims to tell their story and to share their difficult and painful
25 experience with the Judges constitutes one of the ways whereby they can positively

1 contribute to the search for the truth.

2 For the absolute majority of victims, except a very limited number enjoying a dual status
3 of victim and witness, the process of application for participation appears to be the only
4 way to provide an account of an experience which might be of relevance for the search
5 for the truth.

6 Our presentation, Mr President, your Honours, will focus on the interest of the victims
7 we represent in presenting first their understanding of the origins of the conflict and of
8 the facts underlining the charges and then some legal considerations.

9 My colleague, Ms Jane Adong, will address now the historical and political context at the
10 origin of the conflict and the impact of the conflict upon the victims and the community.
11 Subsequently, I will address some legal matters relevant to the interest of the victims we
12 represent.

13 MS ADONG: Mr President, your Honours, the armed conflict between the government
14 of Uganda and the Lord's Resistance Army in northern Uganda, once described as the
15 worst forgotten humanitarian crisis in the world, was one amongst many to affect
16 post-independence Uganda, but was exceptionally protracted and brutal in its impact on
17 the civilian population.

18 Until 1921, therefore, the area called "North" was under military occupation by the
19 northern garrison. After World War I the Acholi were used as part of the British
20 divide-and-rule policy. When the British were seeking to pacify the north by pitting the
21 Nubians -- the Nubian are an ethnic tribe in Southern Sudan which had been employed
22 to carry out punitive expeditions against the Langi, an ethnic group close to the Acholi.
23 So they were pitting the Nubians and the Baganda - an established kingdom in the south
24 of Uganda - against the Banyoro. The Banyoro, a strong Luo dynasty organically linked
25 to the Acholi.

1 The unsubstantiated myth created by the British of the Acholi people in the north as
2 being a martial tribe dates from that time. It was based entirely on prejudice and
3 misrepresentation of facts and was used for political reasons. Previously, the Acholi
4 had been considered as enemies and not martial enough to fight British wars. However,
5 they began to feature in British military recruitment. Their numbers in the army
6 dropped markedly in 1950s when large numbers of recruits came from the Lango and
7 the Iteso. The Iteso are a Nilo-Hamitic ethnic group in the east of Uganda.
8 The continuation of the British-created myth of the Acholi as a martial tribe and the
9 perceived divide-and-rule policy of the British authorities are partly responsible for
10 setting the stage for the turmoil that later engulfed the region. The post-colonial
11 political elites took advantage of the arguments used to support these myths and ethnic
12 divisions based on them and cynically started using them as a means of political
13 manipulation for their own ends. The result of this political game plan was the upsurge
14 of the many armed conflicts the country has experienced to date.
15 The origins of armed conflict in northern Uganda can be traced to the deeply rooted
16 ethnic mistrust instigated by the colonial rulers. The British colonial administration
17 recruited many from the northern region as labourers in plantations in central and
18 southern Uganda and later into the armed forces, while many civil service jobs went to
19 individuals from the central and southern regions of the country.
20 These events created a division between the northern and southern regions, with the
21 latter becoming more developed while the former remained poorer with this population
22 relying on cattle keeping and agriculture as the main source of livelihood.
23 Since independence, subsequent governments have also contributed to the country's
24 ethnic divisions.
25 After the independence from the United Kingdom in 1962, the country experienced five

1 years of multiparty democracy under President Milton Obote before his regime began a
2 violent dictatorship. During Obote's first regime from 1962 to 1971, the Acholi and the
3 Langi were the majority in the armed forces, as well as in political offices, and Obote
4 relied upon them to stay in power.

5 Obote was ousted in 1971 by an army officer, Idi Amin Dada, whose coup d'état was
6 initially welcomed with widespread enthusiasm.

7 Amin, however, quickly dissolved parliament and altered the constitution, granting
8 himself absolute power and eliminating all opposition.

9 His eight-year rule was epic in its violence. It is estimated that hundreds of thousands
10 of people were killed during his regime. Amin particularly targeted the Acholi people
11 of northern Uganda, partly because of their support for his predecessor, but also because
12 they traditionally composed the bulk of the army, and thus pose a potential threat to his
13 reign. Acholi became a target of mass killings: Military personnel, civilians, politicians,
14 and intellectuals were all targeted. Thousands of Acholis were killed and many fled the
15 country.

16 Amin's government devastated the country and its development, its developing
17 economy, in part by expelling all Asians from Uganda and essentially destroying a
18 growing merchant class.

19 Idi Amin was overthrown in 1979 and forced to flee into exile by a Tanzanian-backed
20 rebellion that included Museveni.

21 General elections were organised in 1980 which were won by Milton Obote and his
22 Uganda's People's Congress. But widespread irregularities and political tensions
23 undermined the legitimacy of the elections. A number of armed groups rejected
24 Obote's victory, including Museveni's National Resistance Army/Movement. Fighting
25 was particularly intense in the Luwero triangle where the mostly Baganda population

1 was targeted for their perceived support to the rebel groups. Many innocent civilians
2 were tortured and murdered by the Ugandan National Liberation Army. Although the
3 UNLA was a national and multi-ethnic army, the NRM/A held the Acholi exclusively
4 responsible for the atrocities committed and this disputed perception was to shape
5 subsequent attitude towards the conflict.

6 In July 1985, conflict between some Langi's and Acholi soldiers lead to the overthrow of
7 the Obote regime. The coup, which brought General Tito Okello to power, shattered
8 military alliance between the Acholi and the Langis and escalated ethnic violence. The
9 Okello regime invited all fighting groups and political parties to join the military
10 government. Every armed group and political party, with the exception of the NRA,
11 joined that administration. The NRA, however, engaged the regime in protracted peace
12 negotiations held in Nairobi. In December 1995 the Nairobi agreement was signed
13 under the chairmanship of President Moi of Kenya. However, the agreement was
14 never implemented. The Museveni -- and Museveni seized power on 26 January 1986.
15 With the takeover of power by the National Resistance Movement/Army, the
16 ethnicisation of politics continued. Soon after power Museveni's NRA/M was accused
17 of committing human rights abuses in the name of crushing rebellions in the north and
18 hostility towards the government resulting from those military campaigns grew up
19 amongst many communities in northern Uganda.

20 The concentration of wealth and political power in the south laid the foundation of
21 economic and political exclusion, while the military responses by the government to
22 unrest in the north further cemented the grievances that still define the north-south
23 relations today.

24 In fact, the government of Uganda, in the Juba Peace Agreement, accepts the
25 marginalisation of the north, the economic disparity and the need for reform.

1 Beginning in 1986, several rebel movements sprung up in the economically and socially
2 marginalized north of the country. Alice Lakwena formed a Holy Spirit Movement.
3 By the end of 1986 she had recruited nearly 18,000 soldiers. Lakwena's movement was
4 rooted in mistrust fostered among the Acholi against President Museveni and the
5 National Resistance Movement/Army.

6 In October 1987, Lakwena left Acholi region with some 10,000 followers and lead them
7 south in a looting crusade. They were finally defeated east of Jinja some 80 miles from
8 Kampala. Her father, Severino Lukoya, tried to continue from where Alice had left, but
9 did not last long.

10 Simultaneously, to the decline of the Holy Spirit Movement, the Lord's Resistance Army,
11 a violent mystical movement, lead by Joseph Kony emerged.

12 While claiming to define the right -- to defend the rights of the Acholi people, the LRA's
13 extreme brutality against fellow Acholi in northern Uganda included murder, torture,
14 mutilations, rape, and widespread children as well as adult abductions. The first LRA
15 operations were largely failures because popular support was considerably less than for
16 the previous military uprising in the north and for Alice Lakwena's movement.

17 As a result, Kony increasingly turned against the local population, accusing people of
18 aiding the government in seeking his defeat. A notable example came in 1991 when the
19 LRA attacked the towns of Kitgum and Gulu in retaliation for their forming a
20 government sponsored civil defence force, the "bow and arrow" militia.

21 The civilian population of the north was caught in the crossfire between the government
22 and the LRA and increasingly became alienated from both.

23 Over the years, the LRA had few genuine political objectives and has relied heavily on
24 the Sudanese government for military support. The LRA has published at least three
25 manifestos dated 1996, 1998 and 1999. The latter built on the previous two but added a

1 number of issues.

2 The 1996 manifestos had ten objectives: The restoration of multiparty politics; the
3 introduction of constitutional federalism; the promotion of human rights; nationwide
4 economic balance; the establishment of nationwide peace and security; an end to
5 corruption; free and fair elections; goods relations with neighbouring countries; the
6 separation of military from the judicial and executive arms of government; and the
7 reform of parliament to empower it to deal with the critical political and economic issues
8 in the country.

9 On 28 December 2003, Brigadier Sam Kolo, chief political commissar of the Lord's
10 Resistance Movement in an interview on a local FM radio station called Radio Rhino in
11 the town of Lira in northern Uganda, alluded to the fact that the LRM/A perceives the
12 conflict in northern Uganda as part of a protracted people's war to remove the dictatorial
13 government of Lieutenant General Museveni from power and to restore the rule of law.
14 In an effort to prevent attacks, looting and abductions, the government created protected
15 villages. Sadly, these were often overcrowded, in appalling conditions -- sanitary
16 conditions and dangerous camps for the internally displaced and most were forced by
17 the government to enter these camps against their will.

18 In 2002, Uganda launched Operation Iron Fist in an attempt to definitively defeat the
19 insurgency, but the operation sparked more intense and violent attacks by the LRA and
20 instigated the LRA's return from South Sudan to northern Uganda. The unsuccessful
21 operation dramatically increased the number of internally displaced people and failed to
22 end the war.

23 Mr President, your Honours, it is a history of unrest, disorder, lost chances and
24 opportunities which had, still have and will have an impact on generations. Uganda's
25 war has destroyed any semblance of ordinary life in the northern districts.

1 What has been the impact of the conflict on the victims?

2 Prior to the LRA insurgency, people in northern Uganda lived a peaceful life. When
3 community members are asked about their lives before the conflict broke out in 1986,
4 they described it as very pleasant. Life was peaceful and they were free to go about
5 their daily business. People in northern Uganda lived their lives with a comfortable
6 reassurance that they knew what tomorrow would look like.

7 According to research by Justice and Reconciliation Project, a resident of Lukodi said,
8 "People were friendly to one another, would drink, stay up late and could even decide to
9 sleep in the market. There were no land wrangles; people loved themselves as brothers
10 and sisters. Issues of defilement were unheard of and there was no HIV/AIDS."

11 Suddenly all this changed when the LRA started raiding villages and IDP camps.

12 Victims of the attacks generally recall their experience as follows: "All around there
13 were killings going on and so much fire burning, that the entire place became so bright
14 as though it was broad daylight. By the time they left, the whole camp was littered
15 with dead bodies as if they had been on a hunting spree. They killed people as if they
16 were hunting animals and not human beings."

17 After completing their operation, usually the rebels departed taking with them an
18 unspecified number of men, women, children, foodstuff and other valuables.

19 I quote again from the recollection of one of the victims: "Some women and children
20 who had been captured were being prepared for departure. Some rebels were checking
21 the houses which had not been burnt to ensure that nothing was left. They were also
22 checking to ensure that all the dead people were actually dead. They were checking to
23 make sure that no stone had been left unturned. The barracks had also been burnt up.
24 As for the civilians, if you were caught you would simply be killed. The rebels would
25 push you and your children into your house and burn you all alive."

1 Nearly 2 million northern Ugandans representing 90 percent of the affected population
2 in Acholi were forced to abandon their often self-sufficient homesteads for a life confined
3 to the squalid internment camps commonly known as internally displaced persons
4 camps, dependent on food assistance, a situation described by UN Under-Secretary
5 General for Humanitarian Affairs, Jan Egelad, in a widely reported address to the United
6 Nations as "the forgotten humanitarian crisis." A survey report released in July 2003
7 revealed that at least 1,000 people, mainly children, were dying in the camps every week.
8 The high concentration of people in the IDP camps made the population more
9 vulnerable and harder to protect from the LRA incursions. The protection of IDPs
10 remain precarious and life became a daily struggle for survival.
11 The LRA frequently attacked the camps, partly because Kony perceived the victims as
12 loyal to or supporting the government, due to the fact that they were confined in areas
13 under the protection of the UPDF, and partly because he needed to recruit soldiers and
14 wives for his army.
15 The attacks were well-planned and well-executed following a standard modus operandi
16 which aimed at targeting the UPDF on one side, and the civilians on the other side.
17 Killings of civilians were widespread. Men were forced to lie on their stomach, and
18 their heads were smashed. Women were forced to lie on their backs, and their throats
19 were cut. Many attacks were conducted at night when the LRA raided villages or IDP
20 camps for food or other supplies.
21 An estimated 30,000 children mainly from the Acholi subregion have been abducted and
22 conscripted as child soldiers and rebel wives. Many have suffered gross violations of
23 their human rights, being abducted, beaten, maimed, tortured, raped and murdered on a
24 daily basis. Up to 40,000 children were forced to become night commuters to spend
25 their nights on verandahs in town centres, churches or hospital compounds in order to

1 avoid abduction. In spite of these efforts to secure their protection, they often became
2 vulnerable to attack by different security personnel or local vagabonds.

3 The LRA's method of warfare has had a prolonged psychological impact on the local
4 population. LRA rebels use extreme violence, especially against civilians, to instill fear
5 and maintain control. The severity of attacks appeared to come in waves, with major
6 massacres interspersed across an ongoing campaign of low-intensity, small-scale
7 assaults.

8 LRA's rebels mutilated, abducted children and adults, and committed rape and other
9 acts of sexual violence against girls and women. The LRA routinely cut off lips, ears,
10 and breasts, gouges eyes and amputated limbs. The many of these mutilations were
11 carried out to prevent betrayals. Adults were abducted to help carry looted goods, but
12 usually released after a short period.

13 Mr President, I'm informed that I'm running short of time. And I would need me about
14 10 minutes to conclude my presentation. I don't know whether the Court would bear
15 with me?

16 PRESIDING JUDGE TARFUSSER: I ask the booth, the booths. Yes, for French and yes
17 for Acholi. And I'm happy and I'm grateful. Please continue, but try to limit during
18 the 10 minutes promised. Thank you.

19 MS ADONG: Most grateful.

20 The LRA favoured 9 to 12 years old because that age group is malleable. Once
21 abducted, children were conscripted as soldiers, porters and sexual slaves. Children
22 were often forced to commit atrocities as soon as they were abducted in order to make a
23 clean break. The porters were used mainly to carry stolen loot and have been
24 characterised as disposable.

25 The LRA favoured preadolescent girls because they are believed to be free of sexually

1 transmitted diseases. The younger girls were subjected to long hours of exhausting
2 domestic work, walking long distances to fetch water and firewood, cooking, cleaning
3 and working in the fields.

4 The horrific and prolonged consequences of the war had an impact, not only on the
5 individuals, but devastated the society and eroded the solid and rich culture of the
6 Acholi social structure.

7 The right reverend Macleod Baker Ochola II summarised some of the effects of the war
8 on the Acholis as follows:

9 "Violent deaths of our people in the hands of various armed groups; arson perpetrated
10 on mass scale in our land; rape and defilement of our women and girls; abduction of our
11 young people; forced recruitment of our people into rebel ranks; the prevalence of a
12 general atmosphere of fear and disenchantment amongst our people; mass displacement
13 of our people; creation of protected villages which have become breeding grounds for
14 malnutrition and deaths resulting from cholera, measles and other preventable diseases
15 amongst our people; and destruction of our infrastructures and continuous decline in
16 socio-economic growth."

17 Mr President, your Honours, the extent of the prejudice suffered by the civilians in
18 northern Uganda is tremendous. Experience of forced conscription into the LRA varies
19 in scope and intensity but is considered to be traumatic. Children and youth, some as
20 young as 7 and 8 years old, have been forced to mutilate and kill civilians, including
21 members of their own families and communities. LRA abductees have had violence
22 inflicted upon them, typically beatings, imprisonment, forced labour and witnessing of
23 killing.

24 Several studies indicate that former abductees who have committed or experienced high
25 levels of violence show substantial increases in emotional distress as well as poorer

1 family relations.

2 Reports also show that women experience a longer average stay in captivity than men.

3 Women age 19 to 30 years of age average four and a half years in abduction, more than

4 the average of any other gender group. The findings reflect the LRA practice of

5 abducting girls and women to serve as sexual partners and servants of the LRA

6 commands. This finding is further supported by evidence from some reception centres

7 documenting the systematic use of women for sexual encounters.

8 As the people from the IDP camp returned from the displacement and tried to rebuild

9 their lives, they had to struggle with daunting settlement challenges in addition to

10 complex questions on how to approach issues of reconciliation between victims and

11 alleged perpetrators within the community.

12 People in northern Uganda are still waiting for justice, but at the same time they attach

13 great importance to reconciliation and peace.

14 This dichotomy cannot be understood if it is not placed in the context of the

15 tradition-based practices in the Acholi region.

16 In Acholi, there's no contradiction between accountability and reconciliation. Indeed,

17 the two are aligned.

18 Above all, impunity is never accepted. The principle of conflict resolution among the

19 Acholi is to create reconciliation which brings the two belligerent sides together through

20 the intercession of elders, leading to the acceptance of responsibility and an indication of

21 repentance.

22 A body of traditional practices are still evoked by victims when they are asked about

23 their views on ICC proceedings. While traditional approaches are still meaningful and

24 important to the Acholi, they are less relevant for young people who have grown up

25 during a time of war with restricted opportunities to experience or participate in such

1 practices.

2 According to the Greater North Women Voices for Peace Network, a women's network
3 advocating for justice for the victims of the LRA conflict, since the beginning of the
4 conflict 30 years ago and throughout the peace process, women from the greater north
5 have said they want peace. Peace with justice, peace with reconciliation, peace with
6 forgiveness, peace with reparation, peace with truth-telling and peace to restore their
7 communities.

8 The traditional mechanism is, in some way, akin to the formal mechanism practised
9 before this Court, but it goes a step further. Under the traditional mechanism, the
10 perpetrator voluntarily confesses the offence he has committed, shows remorse, and asks
11 for forgiveness and compensate the offended person.

12 Once the traditional ritual of mato oput is performed, the matter is closed and is never to
13 be mentioned or repeated, thus guaranteeing non-reoccurrence. For this reason, the
14 perpetrators appearing before the ICC or the domestic formal court might well request
15 to undergo the traditional mechanisms. Under the formal mechanism, this could be
16 seen as double jeopardy. In the Uganda case it would be seen as compliance with
17 cultural belief and a system that fosters reconciliation and ends impunity. Never again.
18 Never again would the Acholi and other tribes of northern Uganda want a repeat of the
19 LRA atrocities.

20 Mr President, that marks the end of my submission. Thank you.

21 PRESIDING JUDGE TARFUSSER: Thank you. Thank you very much.

22 Do you want to say something, Ms Massidda? Yes.

23 MS MASSIDDA: Thank you very much, your Honour. We will continue our
24 representation on Monday. We will continue --

25 PRESIDING JUDGE TARFUSSER: Yes.

Confirmation of Charges

(Open Session)

ICC-02/04-01/15

1 MS MASSIDDA: I have the microphone on, so --

2 PRESIDING JUDGE TARFUSSER: No, no.

3 MS MASSIDDA: Thank you very much, your Honour. Much obliged for your
4 patience. We will continue our submission on Monday with the legal matters. Thank
5 you.

6 PRESIDING JUDGE TARFUSSER: Thank you very much.

7 It is me who say thank you to your availability. The Chamber has very much
8 appreciated that you have jumped in on such a short notice, also given that we
9 have -- you would have had the weekend to even prepare better if -- but you're very well
10 prepared.

11 So the same thing I expect, obviously, of the Defence should the Legal Representatives of
12 Victims finish their presentations, say, reasonably earlier than the 4 o'clock -- the end of
13 the third session next week. So just to be prepared that, if the Legal Representatives
14 altogether finish at a reasonable time before the end, I will give you the floor to start with
15 your presentation so that we might finish a little bit earlier on Tuesday, and so have
16 maybe a little bit more time to -- to prepare all of you for the final observations on
17 Wednesday.

18 So therefore, I adjourn this hearing to Monday, 9.30. Have a good weekend.

19 The hearing is adjourned.

20 THE COURT USHER: All rise.

21 (The hearing ends in open session at 4.37 p.m.)

22 REPORT

23 Pursuant to Pre-Trial Chamber II's Order, ICC-02/04-01/15-420, dated 23 March 2016,
24 the public redacted version of this transcript is filed in the case.