

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Tuesday, 26 February 2019
9 (The hearing starts in open session at 9.34 a.m.)
10 THE COURT USHER: [9:34:05] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:34:15] Good morning, everyone.
13 Could the court officer please call the case.
14 THE COURT OFFICER: [9:34:35] Good morning, Mr President, your Honours.
15 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
16 Ongwen, case reference ICC-02/04-01/15.
17 And for the record, we are in open session.
18 PRESIDING JUDGE SCHMITT: [9:34:50] Thank you.
19 I ask for the appearances of the parties. Ms Hohler, please, first.
20 MS HOHLER: [9:34:55] Good morning, your Honours.
21 For the Prosecution today Ben Gumpert, Colin Black, Colleen Gilg, Pubudu
22 Sachithanandan, Shkelzen Zeneli, Grace Goh, Laura de Leeuw, Natasha Barigye, and
23 myself, Beti Hohler.
24 PRESIDING JUDGE SCHMITT: [9:35:09] Thank you very much.
25 And for the representatives of the victims, first, Mrs Massidda.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

- 1 MS MASSIDDA: [9:35:15] Good morning, your Honour. We will not be so
2 numerous. For the Common Legal Representative team, Paolina Massidda and
3 Orchlon Narantsetseg.
- 4 PRESIDING JUDGE SCHMITT: [9:35:21] Thank you.
5 And Mr Manoba.
- 6 MR MANOBA: [9:35:23] Good morning, your Honours.
7 Joseph Manoba and James Mawira for the other team of legal representatives.
- 8 PRESIDING JUDGE SCHMITT: [9:35:30] Thank you.
9 And for the Defence, Ms Beth Lyons.
- 10 MS LYONS: [9:35:35] Good morning, your Honour.
- 11 PRESIDING JUDGE SCHMITT: [9:35:36] Please, please, microphone.
- 12 MS LYONS: [09:35:38] Thank you. A good start to the morning.
13 Your Honour, I delegate to Mr Obhof to make the introductions of our team.
- 14 PRESIDING JUDGE SCHMITT: [9:35:45] Okay. We appreciate that too, of course.
- 15 MR OBHOF: [09:35:47] Good morning, your Honour.
- 16 PRESIDING JUDGE SCHMITT: [09:35:47] Mr Obhof will do it by heart, I think,
17 without further ado.
- 18 MR OBHOF: [9:35:52] Today we have, of course, Counsel Krispus Ayena Odongo;
19 our two co-counsels, Chief Charles Achaleke Taku, and Ms Beth Lyons; our assistant
20 to counsel Mr Gordon Kifudde; case manager Tibor Bajnovic; and our legal consultant
21 Ms Eniko Sandor; you have myself Thomas Obhof. And our client Mr Ongwen is in
22 court.
- 23 PRESIDING JUDGE SCHMITT: [9:36:16] Thank you very much.
24 And we turn now to the next Defence witness, this is D-133.
25 And this is Mr Awich, I assume, and on behalf the Chamber I would like to welcome

1 you in the courtroom.

2 Mr Awich, there should be a card in front of you with a solemn undertaking.

3 Would you please be so kind - exactly this one, yes - would you please be so kind to
4 read it out loud.

5 WITNESS: UGA-D26-P-0133

6 (The witness speaks English)

7 THE WITNESS: [9:36:44] I solemnly declare that I will speak the truth, the whole
8 truth and nothing but the truth.

9 PRESIDING JUDGE SCHMITT: [9:36:50] Thank you very much.

10 You are now sworn in.

11 Before we start with your testimony, I explain shortly some practical matters that we
12 ask you to follow during your testimony.

13 Everything we say here in the courtroom is written down and interpreted. And
14 because of that, the interpreters, they need a little bit of time to follow what is being
15 said in the courtroom and we have to speak at a relatively slow pace. This is
16 important.

17 If you want to say something yourself, meaning if you want to address the Chamber
18 specifically, for example, you need a break or so, please raise your hand and then I
19 will ask you.

20 I think that's enough for the practical preliminaries and I give now Ms Lyons the floor
21 for the Defence examination.

22 MS LYONS: [9:37:41] Thank you, your Honour.

23 QUESTIONED BY MS LYONS:

24 Q. [9:37:45] Good morning, Major Awich.

25 We will, for the convenience of the Court and the record, refer to you as "Mr Witness,"

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 if that is okay.

2 PRESIDING JUDGE SCHMITT: [9:38:00] That's fine. You can say "Mr Awich".

3 Perhaps not the titles, we don't say the titles.

4 MS LYONS: Okay. All right.

5 PRESIDING JUDGE SCHMITT: [09:38:07] Either "Mr Awich" or "Mr Witness". But
6 since we have a witness here who has no protective measures, we can do it both
7 ways.

8 MS LYONS: [9:38:17] Okay. We'll do it "Mr Awich".

9 Q. [9:38:19] First I would like to ask you, do you have a binder in front of you with
10 documents that we will use in the examination? Yes. And it is also a black binder.
11 There should be a -- no, there should be something that looks like this.

12 A. [9:38:43] Yes, yes, yes. Yes.

13 Q. [9:38:46] Okay. Good.

14 PRESIDING JUDGE SCHMITT: [9:38:48] You know, Mr Awich, in this courtroom
15 sometimes the witnesses even have to work. They have to look up what is in these
16 binders and have to follow it, so that's the reason why, to explain it to you.

17 MS LYONS: [9:38:59] This is a paper labour-intensive exercise for all of us. Let me
18 put that on the record. Okay.

19 Q. [9:39:06] So I will be making reference in my examination to both the binder and
20 also the smaller piece called the transcript excerpts.

21 Now, if you need any time to review, to read, to take a look at the materials with
22 which you are not familiar, please ask me. We -- some of the materials you have,
23 some you may not have. You have the right to read them and to understand them
24 before you answer the question.

25 Now first, to start, I would like you, Mr Awich, to take a look at the document at tab 2

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 of the black binder.

2 Which is, for the record, UGA-D26-0015-1154. One moment, your Honour.

3 Now could you tell the Court what this document is?

4 A. [9:40:45] Your Honour, document 2, I under -- as I see it here, it is biographical
5 data.

6 Q. [9:41:09] Now did you prepare this document, Mr Awich?

7 A. [9:41:15] Yes, I did.

8 Q. [9:41:19] Now turning to the first page of the document, the personal profile,
9 you describe yourself as a former child soldier who was rehabilitated through formal
10 education from primary school, secondary school, high school, up to law school, to
11 become a leading children's rights advocate.

12 What we would like to do in this first section of the questions is go into the details of
13 some of these experiences. I will tell you that later in our testimony you may bring
14 up more of the details or repeat what is necessary to answer the questions, but I want
15 to give you the Court an idea, and all of the parties here, of your areas of expertise.

16 So to start with, could you talk about what your current work is?

17 A. [9:42:40] Currently I'm a legal consultant with Makmot & Company Advocates.

18 Q. [9:42:50] And could you describe briefly --

19 PRESIDING JUDGE SCHMITT: [9:42:53] Microphone please.

20 MS LYONS: Sorry.

21 PRESIDING JUDGE SCHMITT: Mr Bajnovic is from now on responsible for the
22 microphone of Ms Lyons.

23 MS LYONS: [9:43:02] Yes. I appreciate the sharing of -- Ms Lyons is not doing well
24 on logistics. Okay. Thank you for your help, both of you. Okay.

25 Q. [9:43:13] Could you explain what this work entails to the Court? What do you

1 do as a legal consultant?

2 A. [9:43:25] What I do as a legal consultant is that we often get situations or
3 scenarios that ordinarily would need either litigation in open court or legal advice in
4 terms of writing. So when a scenario comes, I do prepare the detailed grounding,
5 legal background and a detailed grounding argument and a way forward for
6 anybody who will therefore pursue in submissions in open court.

7 But the other one also is that if, for example, there is need for legislation in parliament,
8 say, an issue to do with children's law, I do the consultancy in that I do look at the
9 gaps, the lacuna and possible ways of amending, and in doing it, in doing this, I do it
10 in a detailed professional writing.

11 So these are the consultancies that I do.

12 Q. [9:44:58] Now, under your main professional activities on the same page you list
13 general provision of legal services to government. Is this the same as the
14 consultancy, of your consultancy focused on children's law, or is it different or
15 broader?

16 A. [9:45:23] More or less the same because my practice in the country has identified
17 some resource persons who ordinarily would be trusted to give such kind of work, so
18 this is how I generalise it in that way, but it's more or less done through the same
19 writings, the same problem identification, the same procedures.

20 Q. [9:45:54] Now still talking about the issue of children's rights and the law, you
21 state that you monitor the implementation of the children's act, is this done in your
22 capacity as a consultant or is this a separate capacity in which you do this?

23 A. [9:46:15] No, by then I was still with government, so that time I did it as part of
24 government.

25 Q. [9:46:21] Okay, we'll get to that in a moment. Okay, thank you, I wanted to

1 clarify.

2 Now secondly in your CV you have talked about and identified your position as
3 chairman of the executive board of African Network for the Prevention and
4 Protection against Child Abuse and Neglect, and I can't say the acronym, but
5 ANPPCAN, more or less.

6 Could you talk about this position and your role in this capacity, please.

7 A. [9:46:59] Yes. Child abuse and neglect is a global movement. At a global level,
8 it exists. Now at some point, the global movement prevent child abuse and neglect
9 formed the African chapter, which became a continental chapter of the prevention
10 and protection against child abuse and neglect.

11 Now, at the continental chapter, which has its headquarters in Nairobi, in Kenya, it
12 was again decided that each country should have its own chapter. So the Uganda
13 chapter therefore becomes a chapter of the global movement against child abuse and
14 neglect. So this body has a membership of people who set visions and aspirations to
15 protect children from child abuse and neglect.

16 Now the members have a governing law, the constitution, and the members,
17 in consonance with the constitutions, quite often elect their chair or their executive
18 body. So it is in that line, therefore, that I became a chairman of the African chapter,
19 the Ugandan chapter of the network to prevent child abuse and neglect. And of
20 course, as it appears clear, is that we intervene where there is child abuse, where there
21 is child neglect. The definition of child neglect and abuse is broad, but I must say
22 that on our own, we have done quite a lot and we continue to do to meet challenges.
23 So that's what I do in ANPPCAN.

24 Q. [9:49:05] Now for us to understand a little bit better about the key projects or
25 key focal points of the organisation, could you just describe a few of the projects or

1 focal points in which you have been involved?

2 A. [9:49:27] This is an organisation in Uganda which is over 20 years old, it's a very
3 old organisation. So I may have to talk at what it does because even before I became
4 the chairman I was a member of the board, so I'm more associated to what it has done
5 than what I have done myself in a collective responsibility.

6 So what it has always been doing is say from the time of insurgency, children who got
7 themselves in conflict situation and have no care, we would take care -- take those
8 children.

9 The other ordinary and day-to-day challenges that we have, which I must say we
10 have an edge over, an edge over means that even if you -- such an abuse occurred to
11 the police, we have found it, a case reported to the police, the police again turn
12 around and said, "You go to ANPPCAN." Why? Because we have seen to be doing
13 a good job to the extent that even state actors refer to us.

14 And what is this situation? Say, if a step-mother, for example, burns a child in some
15 village and nobody seems to know, the local council, the ordinary administrators,
16 people are not aware, such situation, as I said before, in Uganda, even if you report to
17 police, and the police who ordinarily should have taken criminal procedures, but
18 because of the good work that ANPPCAN has taken in championing this, they would
19 even refer to ANPPCAN. So that is the physical child abuse and child neglect.

20 But as I said, this is an old organisation of over 20 years so it worked even during the
21 insurgency and I was already on the board. I have been on the board for a long time
22 before I was finally elected as the chairman.

23 Q. [9:51:54] Thank you, Mr Awich. For the purposes of the -- for clarity for
24 everyone here and for the record, when you use the term "time of the insurgency," can
25 you be specific as to what you are referring?

1 A. [9:52:11] In common speak in Uganda, much as we have heard various
2 insurgencies, so to say, but in common speak when we talk of "insurgency," we refer
3 to -- or I refer to the northern war between the Lord's Resistance Army mainly. Of
4 course before that there was other war, but the insurgency in ordinary speak is the
5 insurgency where the conflicting parties were the government of Uganda, UPDF,
6 and LRA.

7 Q. [9:52:54] Now if I may ask you another question on this point, could you
8 roughly give us an idea of the time period, roughly?

9 A. [9:53:10] The time period for the ordinary speak of LRA is between -- between
10 1998 to around, I believe, 2000, there. Not 2005, 2000. I don't remember. You see,
11 the problem is that LRA took over from another one so the borderline is not clear.
12 But that is between '98 to put it about basically 18 years.

13 Q. [9:54:03] Okay. Now so that we are all clear, you said LRA took over from
14 another one. What was that "another one" so the record is clear on this?

15 A. [9:54:12] Before LRA, there was UPDA, that was another rebellion and led by
16 another one. I mean, led by another person, not Joseph Kony. But even after that
17 one, there was another rebellion led by Alice Lakwena. So you are now talking of
18 three successive rebellions in connection.

19 PRESIDING JUDGE SCHMITT: [9:54:42] And just a remark by the Presiding Judge,
20 we have heard about that before, but it is now also today on the record. So I think
21 we can go forward.

22 MS LYONS: Absolutely, your Honour.

23 PRESIDING JUDGE SCHMITT: [9:54:53] It's clear that this witness is going to talk
24 about the LRA and not about UPDA or Alice Lakwena. Please.

25 MS LYONS: [9:55:04] No, no. Yes. Thank you, your Honour, for the clarification.

1 Q. [9:55:08] Now I'm going to stop for a moment, because I speak and then I don't
2 pause two or three seconds, so bear with me. I tell that to myself.
3 Now still going to the main professional activities on your first page a little bit here,
4 could you talk about the other work you have done in terms of children's law or legal
5 aid on juvenile cases or dispute resolution so we have a full picture of your work.

6 A. [9:55:58] Can I get the question again?

7 Q. [9:56:00] Yes. Take a look at the main professional activities. I wanted you to
8 talk a little bit more about the other points you raise here: Alternate dispute
9 resolution, the children's act, research on particular areas missing in children's laws,
10 human rights issues and education for children's laws, and the provision of legal aid
11 for juvenile cases.

12 A. [9:56:42] Okay, let me start with drawing up programmes for children's rights.
13 No, let me start up with research areas in lacuna. The children's act was passed in
14 Uganda and as usual, a piece of legislation may look beautiful and effective, but when
15 put to its operation, gaps appear. So some time back I was asked by the relevant
16 ministry to look at this document and see since its operation what were the gaps. I
17 did it. I didn't present the findings, but worth mentioning here is that the act itself
18 provided for instruments that were supposed to be passed by the line
19 ministry -- minister to operationalise this act. My finding was that most of these
20 instruments were not in place and therefore the act could not be operationalised.
21 This was one other gap in the lacuna that I did.
22 The other thing of course is monitoring the implementation itself because, as I said,
23 you have passed a beautiful law and you expect it to work. Does it work? Who is
24 the ombudsperson to see that it is working? Again, at some point I was asked to
25 have an overview on this and also to be part of the monitoring team to see that this

1 law was not actually idle and redundant.

2 The other thing that I will do -- I did is research. I think I could put it together with
3 the other one. The provisions of alternative dispute resolution is that through
4 ANPPCAN we monitor matters before children's court and we often get to parties as
5 ANPPCAN where I am the chairman. And we see possible areas that we could
6 actually help out to fasten children's matters before court by way of alternative
7 dispute resolutions to avoid the long system of judicial procedures.

8 So I think those are some of the few comments I can make about that.

9 PRESIDING JUDGE SCHMITT: [9:59:43] I think that will do for the moment.

10 MS LYONS: [9:59:45] That's fine. Thank you, your Honour.

11 Q. [9:59:47] And thank you, Mr Awich.

12 Now could you briefly talk about your work. You mention it in your resume, but
13 briefly talk about your international advocacy for children's rights.

14 A. [10:00:04] My international advocacy for children's rights has been done in
15 many ways.

16 One, as I already said, ANPPCAN is a global move, a continental chapter. I have
17 done much of my presentation and much of my writing and much of my talking
18 through that, globally.

19 The other advocacy that I have done is one time there was a United Nations
20 resolution to write about violence against children. I was also co-opted on this body
21 and I did move, I think one presentation I did was in Jo'burg in South Africa, so it was
22 also one avenue that I have been able to do my children's rights advocacy.

23 Again, without going to the specifics of my United Nations particular role is that, in
24 advocacy, I would have to also move around the world to advocate for a particular
25 thematic area. And I think I mentioned somewhere that around 2006 or so I was at

1 The Hague here, where I also came for similar advocacy.
2 So my advocacy globally made me move and share my concerns and share my
3 experiences.
4 I forget, I also should say I have been to Colombia, again, also for similar advocacy to
5 talk to these actors that we think, when we share our views, and my views and my
6 concerns and my experiences, could help in the protection of children. So I have also
7 been to Colombia.

8 Q. [10:02:27] Now, for the record, could you please discuss or let us know what
9 your role was as an elected member of the UN committee on the rights of children
10 and when this occurred?

11 A. [10:02:46] Okay. A member of the UN Committee on the Rights of the Child is
12 a creature of the convention, it's a creature of the convention Article 43.

13 Article 43 of the UN Convention on the Rights of the Child - we commonly call it
14 CRC - provides that for purposes of seeing compliance by the State Parties, at that
15 time was 1993 or 1992, for purposes of saying -- for purposes of seeing the compliance
16 by the State Parties to the convention, there shall be a committee of experts elected to
17 do -- to see that compliance.

18 So it is under the provision of Article 43 of CRC that I was elected, and the election is
19 done by State Parties. The 1993 I said was done in New York. I have been elected
20 twice to this body. Each mandate is four years, so it's a total of eight years.

21 Now, as provided for in Article 43, my role was to oversee or to see that the State
22 Parties who have ratified the Convention on the Rights of the Child, and its two
23 optional protocol by then, are really complying.

24 How it is done are many ways. One, we provide a reporting guideline on which
25 States must tell us what they have done in compliance to specific provisions, from

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 Article 1 to the end, and the optional protocol as well. The other -- so that is one area
2 of seeing -- my role, to see my work in the committee.

3 The other role that I did was that, since experts may not have clear ideas about
4 pertaining conditions in a particular country, like say Sweden, I'm from Uganda, I
5 interact with the civil society of a particular country coming to report so that the civil
6 society acquaints me with the condition in that country. Again, I also get what is
7 called alternative report from the civil society, or sometimes we call it shadow report.
8 These are the reports that are given in confidence to us, or to me as a member of the
9 committee, so that it helps in examining the States in as far as how they are complying
10 with the convention. The other thing I did as a member of the committee is, because
11 of my background as having been a child soldier, I was more or less the focal person
12 in interfacing with agencies that had thematic concern on children and armed conflict.
13 For example, you have the Child Soldiers International, you have the Red Cross, you
14 have Buddhists whose thematic concern is children and armed conflict. So I was
15 also a focal person, focal point member of the committee in doing that, and I helped to
16 gather useful informations that would help the committee to foster protection.

17 PRESIDING JUDGE SCHMITT: [10:07:19] I think that that is enough in that regard, I
18 would say. And you can I think proceed now to, perhaps, more to the content of
19 what you want to ask the witness.

20 MS LYONS: [10:07:32] Okay. I have no more questions on this point.

21 Q. [10:07:37] Two questions: First, could you - so we get it, get it on the
22 record - could you just discuss what your current military status is and explain to the
23 Court what your military status is and how you got there.

24 PRESIDING JUDGE SCHMITT: [10:07:56] Fine of course. That's okay.

25 THE WITNESS: [10:08:01] Say it again?

1 MS LYONS: [10:08:04]

2 Q. [10:08:05] Yes. Could you explain your current military status to the Court?

3 A. [10:08:10] My military current status is that I am a retired army officer, retired at
4 the rank of a major.

5 Q. [10:08:19] Now, could you tell us when you retired and the conditions under
6 which you retired, if any?

7 A. [10:08:31] I retired in 2014. The condition under which I retired was normal. I
8 asked to retire, and I was allowed, and I retired with honours. What do I mean? I
9 mean here that my retirement was not a desertion, my retirement was the retirement
10 ceremony was done in public, we had lunch with the top army authority, and the
11 army band marched me with a marching band to the gate and the gate was open, and
12 I left the army ceremoniously.

13 Q. [10:09:44] Thank you. Now were you ever involved in politics, Mr Awich?

14 A. [10:09:50] Yes. I was involved and I think I am still involved. I have often
15 told my friends when they ask me whether I am involved or I want to be involved, I
16 have always told my friends that there are two types of people, there is one who will
17 find John and Peter fighting on the roadside and he will pass, and there is one who
18 will find John and Peter fighting on the roadside and he will stop and say, "Hey,
19 gentlemen, what are you doing? Can we listen to this? What is the problem?"
20 I am in the second category, so it makes me political. In other words, I want to solve
21 problems in society.

22 Q. [10:10:40] Thank you.

23 Now on your resume, the last point, you mention your work with child soldiers and
24 you mention specifically research requested by the OAU in 1995 and the mentoring of
25 LRA, former LRA, and National Resistance Army, NRA, child soldiers.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 We will discuss this in detail in your testimony, but I give you the opportunity to
2 make any brief comment on this now before we move into the substance of your
3 testimony.

4 A. [10:11:31] Yes, the research that I mention was done.

5 As you might have read in my CV, I was part of the child soldiers. Now around that
6 time, it was visible that children had been involved in the conflict and a lot of body,
7 many bodies wanted to know the situation, and one way they could know was by
8 research.

9 Now, this research was commissioned to a senior government official, but the senior
10 government official relied on me because I was kind of the de facto leader, I was the
11 capable leader among the child soldiers, so my work was to distribute questionnaires,
12 my work was to ensure that questionnaires are filled, my work was to gather them
13 and bring them back, and then there forward help in management of that system, if
14 any.

15 So that was a research that was then done by then OAU, which I helped to do.

16 Q. [10:13:01] Thank you. Now you will have the opportunity to talk in detail
17 about your mentoring of former LRA and NRA abductees. Is there anything you
18 want to put on the record now about this? You don't have to, but I want to give you
19 the opportunity.

20 PRESIDING JUDGE SCHMITT: [10:13:24] But that is a little bit too generic, I would
21 say.

22 MS LYONS: Okay.

23 PRESIDING JUDGE SCHMITT: [10:13:26] I would suggest now that you simply go
24 over to the, from you, expected content of the testimony. And I also understand that
25 it's a Rule 68(3) witness.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

- 1 MS LYONS: Yes, that's the next page.
- 2 PRESIDING JUDGE SCHMITT: [10:13:40] That would be the next step, I would
3 suggest.
- 4 MS LYONS: [10:13:43] Thank you, your Honour. I will take your advice and I'm on
5 the Rule 68(3) page. Okay.
- 6 Q. [10:13:52] Now, Mr Awich, could you turn to tab 3 of your binder.
7 For the record, this is UGA-D26-0015-1022.
8 Do you recognise this is and what is this document at tab 3?
- 9 A. [10:14:24] I recognise this. This document in tab 3, if my folder corresponds to
10 yours, is a paper that I wrote about the enduring impact of being a child soldier.
- 11 Q. [10:14:43] Now the document has nine pages. Is that your signature at the
12 bottom of each page?
- 13 A. [10:14:54] Yes, your Honour, it's my signature.
- 14 Q. [10:14:57] Now, you signed this document on 21 September 2018. It is now
15 January 2019. Are there any corrections or amendments you want to make to this
16 report?
- 17 A. [10:15:17] Not -- it's nine pages. I don't think I can see it straightaway, but if
18 there are any typing errors --
- 19 PRESIDING JUDGE SCHMITT: [10:15:38] No, we are not talking -- it's simply I
20 think a bit of a formality.
- 21 MS LYONS: Yes, formality, okay.
- 22 PRESIDING JUDGE SCHMITT: [10:15:44] You can ask him directly now, you know
23 the typical question, you have to put it to him.
- 24 MS LYONS: [10:15:51] Yes, I know, the next one.
- 25 Q. [10:15:51] Now, do you have any objection to your expert report being

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 submitted into evidence?

2 A. [10:15:56] No, I have no objection.

3 MS LYONS: [10:15:59] Your Honour, pursuant to Rule 68(3) of the Rules, the
4 Defence moves the expert report be accepted into evidence.

5 PRESIDING JUDGE SCHMITT: [10:16:07] Yes, I think that is what you have
6 established now. The witness fulfils the requirements of Rule 68(3).

7 Before we go now into the questioning on the report, I would say, in more details. I
8 would like to remind everyone in the courtroom, and especially Ms Lyons, since you
9 are going to question the witness, about the exchange that has been done in advance
10 on the report. So I would ask you to refrain from asking the witness to interpret the
11 law simply. I say this from the outset and also I think the witness, the expert, will
12 understand that the interpretation of the law is up to the Judges and we never
13 allowed that, so simply when you are now going into the questioning, I would like to
14 ask you not to question the witness on the law. Yes, you understand what I mean.

15 MS LYONS: [10:17:07] Okay. One moment, your Honour.

16 PRESIDING JUDGE SCHMITT: [10:17:09] That is out of caution. I don't, I don't
17 assume that you will -- I didn't assume that you will ask the witness to teach, so to
18 speak, the Chamber on matters of law. This is simply just an advice that I ask you
19 on that.

20 (Counsel confer)

21 MS LYONS: [10:17:42] Your Honour, I heed your warning but would ask that I have
22 no -- I have no intention of asking for a legal conclusion or conclusions on guilt or
23 innocence, and if there is a problem, I assume your Honour will let me know in my --

24 PRESIDING JUDGE SCHMITT: [10:17:58] Absolutely. I'm absolutely fine with
25 that.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 MS LYONS: [10:18:01] On a case-by-case basis.

2 PRESIDING JUDGE SCHMITT: [10:18:02] Yes. As we always did. And also as an
3 explanation to everyone, this is the approach by the Chamber. Imagine if we, for
4 example, for the Prosecution especially, if we had an expert report where you thought
5 we should strike out, so to speak, on each page one or two phrases. In the end
6 nobody has any overview anymore what has been admitted and what has not been
7 admitted. You understand what I mean?

8 There is a problem with such an approach. It might be different in a case where you
9 can simply say the last two pages or so, but if you look at it with a more abstract view,
10 so to speak, with a more general view, this shows the problematic here. And since
11 Ms Lyons has already indicated she is not going to entertain such questions and she
12 will provide us with the questioning and with the answers of the witness, a factual
13 basis for the legal conclusions that the Chamber has to draw, then I'm fine with it.
14 And the Chamber, by the way, discussed this before that I shortly address this. But
15 please proceed and I don't see any problem, and if one arises, we have Prosecution
16 here, and I will perhaps also intervene. Okay. Please proceed.

17 MS LYONS: Thank you. I will --

18 PRESIDING JUDGE SCHMITT: [10:19:23] And we have of course an expert witness
19 here on legal matters who has fully, I think, fully understood what this conversation
20 was about. Thank you.

21 Please, Ms Lyons.

22 MS LYONS: [10:19:34] Thank you. I will proceed and trust that we will get
23 through the expert report, which has been accepted, okay, into evidence. Let me
24 start in the expert report at tab 3.

25 Q. [10:19:55] Now could you explain the choice of title of this report?

1 A. [10:20:07] The choice of this title, that is, The Enduring Impact of Being a Child
2 Soldier, the choice of this title is that with my personal experience, the experience I
3 have had at the UNCRC, I have come to conclude there is a unique impact that a child
4 who finds himself in a conflict situation as a child soldier undergoes and that that
5 experience is unique and special.

6 Q. [10:21:09] Could you explain what you mean, Mr Awich, by "unique and
7 special"?

8 A. [10:21:18] What I mean by unique and special here is, here is a child, Awich,
9 who is a child soldier, here is Awich, who is ordinarily supposed to be protected by
10 many actors, the international community, the government, the traditional customary
11 people and even the non-state actors who are involved in conflict, here is Awich who
12 is not protected. That is unique in itself. And here is Awich who loses all his rights
13 or his rights are violated, and the same Awich does not on his own choose to violate
14 somebody else's rights but is used to do a wrong. I find it unique.

15 Q. [10:22:39] Could you comment, Mr Awich, on the issue of enduring. What do
16 you mean by "enduring," please?

17 A. [10:22:53] Enduring here, my diction or my choice of word here is that it lacks
18 the will of Awich, the child soldier. It's not wilful. It also has the ingredients of
19 pain, it is painful. It also has the ingredients of time frame, it is continuous. So this
20 is why I say enduring, meaning a painful, non-wilful, progressive subjection to
21 a particular situation. In this case, to a situation of being a child soldier.

22 Q. [10:23:48] Now I wild like to ask you briefly about your methodology in
23 preparing this report, please.

24 A. [10:24:02] As I said, the methodology of writing this paper was first and
25 foremost from my inner thinking and recollection of my experience; and also, on my

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 experience of work-related issues about children and particularly children affected
2 with armed conflict; and also, the discussions that I have had. So this - because of
3 over and again participation of these activities - enabled me to kind of now have
4 a desk work method. But I also referred to -- I also read other reports and other texts
5 there too. So this is the methodology that I used.

6 Q. [10:25:05] Thank you. We are going to deal with the first section of your report:
7 Abduction, Initiation and Training. But I think it would be helpful to the Court if
8 you explain, firstly, your own experiences, how and when you were abducted so that
9 we understand the basis on which you are giving your response to the questions.

10 A. [10:25:45] Well, as I said before, that Uganda has had sets of wars, but the one I
11 referred to was an earlier -- I mean, the later one. There was even an earlier one that
12 took place now -- or, can I say 38 years ago, between 1981 and 1985, that was another
13 war and that is the one I got involved in.

14 Now, I was in a place called Nakaseke and one night, the rebels then took a group of
15 people from that place. I was one of them. I found myself a child soldier. The
16 war continued over years, three years to be in specific terms, and then the then rebel
17 captured power and became the government.

18 Q. [10:27:02] Now for our understanding --

19 PRESIDING JUDGE SCHMITT: [10:27:04] Microphone, please.

20 MS LYONS: [10:27:06] Yes, sir.

21 Q. [10:27:08] Now for our understanding, you talked about the rebels, could you
22 say specifically in this war between '81 and '85, who are the rebels? Into what rebel
23 movement or army were you abducted?

24 A. [10:27:25] The then rebel was the National Resistance Army against the
25 government of Uganda.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [10:27:35] If I may shortly, Ms Lyons.
- 2 MS LYONS: [10:27:37] Yes, please.
- 3 PRESIDING JUDGE SCHMITT: [10:27:39] Mr Awich, if I have understood you
4 correctly, you have been abducted; is that correct?
- 5 THE WITNESS: [10:27:44] Yes.
- 6 PRESIDING JUDGE SCHMITT: [10:27:44] At the age of 13?
- 7 THE WITNESS: [10:27:47] Yes.
- 8 PRESIDING JUDGE SCHMITT: [10:27:48] Could you -- I think since you have
9 recalled the situation many times, perhaps you can try to explain to us a little bit the
10 mindset which you have found yourself when you are abducted, how did you feel?
11 I know this is always difficult after a lot of years, but I assume you would be perhaps
12 a person who could try to explain this in a manner that we as Judges, and all the other
13 parties and participants, can picture it.
- 14 THE WITNESS: [10:28:22] If I can reflect on the mindset then, was that, personally,
15 at first I didn't even know the gravity. Around the area, of course, there were
16 fighting going on. You could hear that there was attack here, there was attack there,
17 but we were not personally in contact.
- 18 So the first night looked like normal. I probably thought that the following day we
19 are going back. But the following day and thereafter, life changed. And that is
20 when I started having the effect. What is the effect? No parents around. Not a
21 home setting anymore. Food. Walking. Exposure now to fatalities. So in other
22 words, the feeling came to me gradually, but at that time, at that age, that night, I
23 thought it was a normal thing, but it later on came to feel it with time.
- 24 PRESIDING JUDGE SCHMITT: [10:29:48] I assume your education was also
25 interrupted.

1 THE WITNESS: [10:29:54] Yes. Education, yes, that is part of what was interrupted.
2 Because we had to go back later, after the war, back to school under another
3 rehabilitation programme that I thought you would want to come to it later. But
4 education was disrupted.

5 PRESIDING JUDGE SCHMITT: [10:30:14] Yes. That's clear. Perhaps I was a little
6 bit too quick here. But since I was enquiring about the immediate effects, I think it
7 was a good thing to address it here.

8 Have you also been trained in military matters?

9 THE WITNESS: [10:30:28] Yes, at some point I was trained in the middle of
10 education. For example, we could sit for senior -- the higher school certificate in
11 March, and you would join university in November. So that long period I did
12 military training.

13 PRESIDING JUDGE SCHMITT: [10:30:54] No, I think I have not expressed myself
14 correctly. I mean at the time when you have been abducted at the time of 13. And
15 then the question would be: When did -- or did, did at all, if at all, did military
16 training start immediately or shortly afterwards?

17 THE WITNESS: [10:31:12] Oh, my Honour, I think it is me who didn't get you.

18 PRESIDING JUDGE SCHMITT: [10:31:15] It was perhaps I did not express it. It's
19 okay. But now you have understood.

20 THE WITNESS: [10:31:20] Yes, there was training. There was training -- well, not
21 structured training. There was training in the rebel speak, gun handling and small
22 parades. But mainly combat there was training. So I did training at that age.

23 PRESIDING JUDGE SCHMITT: [10:31:44] And perhaps the last question at that
24 stage, and you mentioned the expression: And there was also combat --

25 THE WITNESS: [10:31:50] Oh, yes.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [10:31:50] -- in which you participated?

2 THE WITNESS: [10:31:52] There was combat.

3 First of all, it's a mobile situation. You are not stationed. So you are either getting
4 to the enemy or the enemy will get you. So it was such a mobile situation that often
5 running battles are there. Many, many, many battles that we were involved in.

6 PRESIDING JUDGE SCHMITT: [10:32:20] This was, Ms Lyons, simply to establish a
7 little bit the own experiences, which might be also a basis for his findings and what he
8 wants to tell the Court. So please continue.

9 MS LYONS: [10:32:32] Thank you. And I appreciate. Thank you, your Honour,
10 for the clarifications and help.

11 Q. [10:32:35] Now I want to go back a little bit to the abduction. I want to go, sort
12 of go back to comments, to points that your Honour has raised. The abduction.
13 Could you tell us from where were you abducted, what place or what situation, so we
14 understand where you were abducted from. What were you doing at the time?

15 A. [10:33:00] Nakaseke was a hospital, and that is where my family was at that time.
16 I was ordinarily school going, I was a child, but my parents were the ones working
17 there.

18 Q. [10:33:18] So you were abducted from the hospital where your parents --

19 PRESIDING JUDGE SCHMITT: [10:33:23] Mr Bajnovic. No.

20 THE WITNESS: [10:33:25] Not as a patient.

21 MS LYONS: [10:33:27]

22 Q. [10:33:28] No. Not as a patient. Okay. All right. But you were abducted
23 from the hospital not as a patient. Okay, that's fine.

24 Now could you tell us why you think children were abducted by the NRA at that
25 time?

1 A. [10:33:52] At that time, basically there was a need for manpower, I think,
2 because of the involvement that I later saw my other friends and myself doing, so that
3 served as a manpower itself. But also, the explanation ordinarily given in the war
4 times was that it was for our safety, the explanation given was that it is safer to be
5 with the rebels than with the government. So this was at least the version that we
6 had through our political education, but the roles that was played in there of course
7 would go more than the security roles that was said.

8 Q. [10:34:49] When you were abducted, were there other children abducted with
9 you?

10 A. [10:34:56] Yeah, there were children, there were.

11 Q. [10:34:59] Do you remember how big or how small the group was? How many,
12 10, 20?

13 A. [10:35:07] No, for that particular our incident, there was less than 10.

14 Q. [10:35:14] Thank you. Now I will get into the political education soon but one
15 question first. When you were abducted, were there any initiation processes in the
16 NRA?

17 A. [10:35:34] Apart from the training that I've said, there were no initiations in the
18 sense of say, spirits or otherwise, but you were trained and a part of training, if it
19 would amount to initiation, were the dos and do nots which were still, I could say,
20 grounded under the training.

21 Q. [10:36:03] You mentioned dos and do nots. Could you give us some examples,
22 if you remember, of the dos and do nots?

23 A. [10:36:11] Not to escape, not to shout, not to go outside command area, not
24 to -- to do what you are not told to do -- not to do.

25 Q. [10:36:27] Now when the dos and don'ts, do not escape, for example, was told to

1 you, was there any kind of punishment also explained if you broke that "do not
2 escape" rule?

3 A. [10:36:46] Yeah, there was punishment. Punishment included detention.
4 Detention, for example, this was a bush area, the detention facilities was actually
5 underground, the underground or were dug and that acted as the detention facilities.
6 Plus, of course, beating.

7 Q. [10:37:11] Now, you talked about, a little bit about political education and you
8 mentioned this in your report. It's at page ending, the ERN ending 1024. And I'm
9 going to quote here and ask you to explain a little bit more about this: "These
10 classes" referring to political education classes "were meant for all combatants but
11 children, with their young, formative and developing minds, reiterated the
12 propaganda and acted ... without question. *Kadogos* like me believed in the ultimate
13 and superior commander of the NRA, General Yoweri Kaguta Museveni."
14 Could you explain a little bit more in detail about this, please?

15 A. [10:38:30] Yes. As I said before, the political education, one idea was to
16 conserve the manpower that was there, not to -- to stop desertion. So as I said, we
17 would be told many things, for example, the belief in the superior command, as you
18 quoted, and I said that whenever -- whatever problems that I would be faced with,
19 that, say, would think that that problem wouldn't occur if I was a child soldier then,
20 the impression given to us was that "No worry, the big man will sort it out."
21 Now, why I said we believed and agreed to it is that I later on learned that
22 commanders would question and it would bring their conflicts. But for us, we
23 would believe it. Even if there is no food today, we would know it will be brought
24 some day. Or even the school that we had left, we thought -- we were told, "No
25 worry, it will come." So that is why I am saying that whatever was told to us, I find

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 we believed more than they had done it. We never -- we didn't question like that.

2 Q. [10:40:10] Now could you talk a little bit about the tasks of child soldiers or, as
3 you used the word, *kadogos*, in the NRA?

4 A. [10:40:27] Well, the task first and foremost is the general involvement. As I
5 said, there is a lot of movement and you are attacked and you fight, so the general
6 role was participation in the main group. But the other role was to help superiors in
7 terms of cooking or other chores. So that was the biggest part of the role of the
8 children.

9 Q. [10:41:02] In your experience as a child soldier, as a *kadogo* in the NRA, did
10 children face the same risks as the adult members of the NRA?

11 A. [10:41:20] Yes, the same risk because you are together. In case of attack, in case
12 of movement, in case of lack of food, it's basically the same risk.

13 Q. [10:41:30] Were there any efforts in the NRA to give protections to children?
14 For example, if there was not very much food, were the children given the food first
15 and then the adults?

16 A. [10:41:48] Not that I remember about food, but I know on some excursions of
17 long-distance missions, sometimes children were left behind because there are times
18 when mission would be long distance and children would be left behind. But food, I
19 don't remember.

20 PRESIDING JUDGE SCHMITT: [10:42:09] Ms Lyons, just shortly.

21 Judge Pangalangan has a question.

22 MS LYONS: [10:42:15] Sure, sure. Thank you.

23 JUDGE PANGALANGAN: [10:42:17] Thank you. Thank you, Mr President.

24 Mr Witness, you said earlier, and I quote, "there was a lot of movement and you are
25 attacked and you fight, so the general role was participation in the main group" so

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 that means as a child soldier you took part in direct -- you took a direct part in armed
2 hostilities?

3 THE WITNESS: [10:42:47] Yes.

4 JUDGE PANGALANGAN: [10:42:49] Okay, thank you.

5 MS LYONS: [10:43:02]

6 Q. [10:43:04] Now, you mentioned that when rules were broken there were
7 punishments and you described the detention as one of the punishments. Were
8 there punishments and beatings? Was there ever a punishment more severe, for
9 example, death or threat of being close to death as a punishment?

10 A. [10:43:31] Not that I remember about a child.

11 Q. [10:43:38] Thank you. Now you described also that as a child of 13, a child
12 soldier, you believed in the power of the leader essentially. Did you observe the
13 same belief in the other child soldiers who were with you?

14 A. [10:44:07] Yes, all my colleagues were very loyal and obedient and believed it.

15 Q. [10:44:18] Now this -- this may sound as if I'm not listening, but I'm listening to
16 you and I have to ask, do you know of instances where abductees, while you were in
17 the NRA, tried to escape?

18 A. [10:44:37] No, I don't remember.

19 Q. [10:44:40] Okay. Now if I may go back again to the food issue, I just want to
20 ask one specific -- if you remember. Do you know if child soldiers were given the
21 same food as the adults? Were they served meat and chicken? Do you remember
22 those details? If you don't, it's fine, but I want to ask you that.

23 A. [10:45:19] But I think commanders eat better.

24 Q. [10:45:23] Okay. That would make sense. It's a good answer. Okay, we're
25 done with chicken and meat. Okay.

1 PRESIDING JUDGE SCHMITT: [10:45:31] This is really an answer that does not
2 allow any interpretation, I think.

3 MS LYONS: [10:45:39] Absolutely, it speaks for itself.

4 Q. [10:45:43] Now in your report at page 6, which is the ERN number ending in
5 10 -- 1027, you write about, at the last paragraph:

6 "After the capture of state power, [the] NRA" -- after they captured state
7 power -- "NRA leaders decided on education for *kadogos* as a rehabilitative measure."
8 Could you say more about this and if this had a personal effect on you?

9 A. [10:46:35] Yeah, 1986, when we captured power, I think the high command,
10 which was the highest decision making or is still the highest decision-making body in
11 the army, decided that children be taken back to school. It was a good move;
12 although, I must say some of us received it with mixed feelings because in state
13 power we were now cooking in good kitchens and some children were enjoying it.
14 So going back to school was like a bit of a problem but be as it is, that decision was
15 reached at, that children be taken back to school and arrangements were quickly
16 made.

17 Personally, I participated in mobilising children to go back because, as I said, not
18 many were willing to go. The effect on me was very ominous because I started now
19 picking from the way the normal life is and it is at this point that I realised that we
20 actually had dead years in full-time service in the armed -- in the conflict and the
21 army. Because my mind started to be free, my mind started to be relaxed and I
22 started to do well in class and I felt at peace with my fellow children; so the decision
23 and the effect on me was very good.

24 Q. [10:49:04] Now, in your paper, you describe that you studied at Ntare secondary
25 school and you were not alone. There were seven of you in a group. Could you

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 talk about the group of children and what happened.

2 A. [10:49:30] Yeah, what used to happen was that the secondary education in
3 Uganda is paid; it's not a state secondary school. So for us, we were the child
4 soldiers, the *kadogos*, you would go to a school depending on the grade that you have
5 got. So that is why not all of us went to the same school because some schools have
6 higher grade point; some schools have lower.

7 So in that particular school where I was, which was I think taking a higher grade at
8 that time, is that our parent, our parent was the army. In other words, the army
9 would send one cheque to pay for that -- for all of us and in the event that there was
10 a parents' meeting, they commander of the *kadogo* school would come as a parent.
11 Actually, he used to make a joke that he's the only parent with the biggest number of
12 children because he would have, like us, the seven that you say; then he would have
13 another school, 30 children, 30 child soldiers. In some schools, there were over 100
14 child soldiers.

15 So this commander was the parent with the biggest number of children around, and
16 of course in schools which he had over 100, his cheque alone would change the school.
17 So we were in this school, we went on well but shortly thereafter I had come to realise
18 that nearly all my friends fell off the way, died in such a mysterious way that it left
19 me wondering whether it is where we are coming from that led to this because nearly
20 all of them died now.

21 PRESIDING JUDGE SCHMITT: [10:51:52] So I have understood you correctly, you
22 said that for yourself, for you personally, the rehabilitation measures, especially the
23 schooling, went well. But not for everyone. Is this correct?

24 THE WITNESS: [10:52:05] Yes.

25 MS LYONS: [10:52:08]

1 Q. [10:52:09] Picking up on that point, which your Honour has focused on and you
2 are talking about, take a look at your report, the bottom of page 6, which is
3 ERN number ending 1027 and the top of the next page, 7, where you describe what
4 happened to some of your friends in school. Could you talk about this a little bit
5 more for the record, please.

6 A. [10:52:48] Of course, as I said, many friends within a short time died. I know
7 they would have died anyway, but my worry is the time spent that we were in school
8 or out of the conflict. One friend, who was my roommate, all of a sudden ran mad
9 and was eating in a dustbin. He died. Another one locked himself in a room, I
10 don't know whether by other external people, but he was burnt. We could smell
11 petrol. Another, who had already become an engineer and he was a captain, sent his
12 escort to go and buy something in a shop, just a nearby shop to buy either a soda of
13 something. By the time the escort came, he had shot himself, and he was an
14 engineer. Another disappeared from us and then later on we heard he was dead.
15 So this is what worried me that all the deaths were so mysterious and useless that I
16 kind of feel is connected to some kind of ancient history.

17 Q. [10:54:30] Connected -- I'm sorry, connected to some kind of?

18 A. [10:54:33] I mean the conflict that we had been from.

19 MS LYONS: [10:54:43] Your Honour, I have one or two follow-up questions to end
20 this section. It will extend a little bit beyond 11. I'm wondering if -- I will
21 remember them. I'm wondering if it will be possible to end now and then start with
22 those follow-up questions and then we'll end this section.

23 PRESIDING JUDGE SCHMITT: [10:55:06] I think that will be no problem.

24 MS LYONS: [10:55:08] Is that okay?

25 PRESIDING JUDGE SCHMITT: [10:55:09] I think that's okay with the Chamber also.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

- 1 MS LYONS: [10:55:12] Is that all right?
- 2 PRESIDING JUDGE SCHMITT: [10:55:13] Then we have a break until 11.30.
- 3 MS LYONS: [10:55:16] Thank you.
- 4 PRESIDING JUDGE SCHMITT: [10:55:17] Thank you, Ms Lyons.
- 5 THE COURT USHER: [10:55:14] All rise.
- 6 (Recess taken at 10.55 p.m.)
- 7 (Upon resuming in open session at 11.32 a.m.)
- 8 THE COURT USHER: [11:32:24] All rise.
- 9 PRESIDING JUDGE SCHMITT: [11:32:47] Before we continue, Ms Lyons, a short
- 10 announcement, so to speak.
- 11 The next witness is D-108, and for logistical reasons I have been informed that it is
- 12 better to start with this witness on Monday, not this week. It's for everyone, that you
- 13 have enough time to adjust to the situation.
- 14 This does of course not mean that we necessarily would have to need all the time in
- 15 the world, so to speak, to finish this witness. It is simply an announcement so that
- 16 everybody knows how the next days will unfold.
- 17 Please, Ms Lyons, you have the floor.
- 18 MS LYONS: [11:33:27] Thank you, your Honour.
- 19 Q. [11:33:32] Good morning still, Mr Awich.
- 20 Okay. Before the break you talked about what had happened to the others who
- 21 were with you in the secondary school. You talked about one person running mad,
- 22 another person dying under mysterious circumstances. And you said, "It left me
- 23 wondering whether it is where we are coming from that led to this because nearly of
- 24 them died now."
- 25 My question to you is, given these set of facts which you lived, but looking at it now

1 as an expert on child soldiers, what would you conclude from the conduct that you
2 described?

3 A. [11:34:43] I think what I would conclude is related to what I said earlier about
4 the diction enduring, and now in this particular case it is actually about the impact.
5 What I can conclude is that being a child soldier impacts on your mind, on, I mean on
6 the mind of the child soldier.

7 It makes your mind be in a situation of not a normal person, a right-thinking person.

8 Of course, as I said, it reacts differently on others. For me, I thought I have over -- I
9 have overcome that, but who knows? Maybe tomorrow it will reveal that the impact
10 is on me.

11 So the set of facts proved to me that while we were child soldiering or while anybody
12 is child soldiering, the impact is so grave that it makes you be in a mental situation
13 that it's difficult to have command over yourself.

14 Q. [11:36:35] Thank you. I want to delve a little bit further on your phrase
15 "command over yourself". In your report at page 7, ending in 1028, you have
16 described what happened to these people we have talked about, and you say, and I'm
17 quoting, it's the first paragraph on the top of page 7, -1028:

18 "The reality is that a child in the ranks of a rebel group is in total captivity of both the
19 mind and the body. Even on attaining the age of 18, such a person is not in
20 command of his or her will and actions."

21 Do you want to explain this a little bit more or make any comment on this conclusion?

22 A. [11:37:58] Yes. What I mean here is that, as a child soldier, and both in the
23 situation that I experienced and in my interface with other child soldiers is that the
24 process that you go through, whether you call it -- whether it is in our case the
25 political education or in the other cases of other rebellion which use other methods to

1 capture the mind, like spirituality, a child soldier is just what I would call a biological
2 person. Is he thinking he is from what I would call the corporate person, which is
3 the organisation commanding him. So he has no command over himself such that
4 even what you do or what I do as a child soldier at some times I am doing it as
5 a biological person, but the actual thinking person for my actions, it is actually
6 another entity, what I would actually call like a corporate person.

7 So that is what I meant by saying, because of this situation, and remember this
8 situation, me as a child soldier at 13 or any other, I have undergone it by those who
9 set my mind to that deliberately, they did it deliberate to make my mind not think.
10 It was done over a long period of time. It is not a one day off. And it involved
11 working on the mind like the spirituality or the political education and done with
12 pain.

13 So you find that a child soldier is actually a moving biological person, but actually not
14 a thinking person. And that is why I am saying that possibly that is why my
15 colleagues who could pass exams in the class but ended up not managing their own
16 life.

17 So it is a protracted system right from the child soldiering period in the -- incapacity
18 not to have command over yourself and even thereafter. So that is what I mean.

19 Q. [11:41:01] In your estimation does this, as you called it, protracted system, is
20 there ever an end to it?

21 A. [11:41:18] I have tried to consult. As I said, since I came out of school, I have
22 tried to consult because of my continuous involvement in this area. I have been told
23 that the impact is enduring, but with counselling, with other social interaction, it can
24 go. But it also varies on individual impact. Some persons can last, some person can
25 endure. So the ending varies. It is relative and circumstantial, depending on the

1 person and also the exposure.

2 Q. [11:42:13] Now would it be accurate for me to summarise your point now, that
3 the mind of a child soldier is not one's own?

4 A. [11:42:30] Exactly.

5 Q. [11:42:32] Okay. Now one of my colleagues raised a question, it still deals with
6 you and the NRA, and I want to raise it now so that you can have an opportunity to
7 answer before I move to the next session.

8 The question is this: When the war ended and you rejoined your community, could
9 you tell us whether you could fit in with the same age groups of children, especially
10 children who may not have been abducted or may not have joined the war effort in
11 some way. What was your integration like, if you could tell us a little bit, please?

12 A. [11:43:29] Our integration was fairly good. But I must say that the first reaction
13 was that the population were not sure about us. Actually, if I remember well, I
14 raised less questions on the community around me than the community raising more
15 questions whether I was the right person to be with them.

16 But slowly in our case we fitted because, I think part of it because we were kind of
17 living under two legal regimes. We had the legal regime of the school regulations
18 and we also had the legal regime of the military. In other words, if I made a mistake
19 in school and say I got a suspension, the military would also discipline me when I
20 come back, because my parent was the military.

21 So it kind of made us, either by law, try to be behave well, to fit. But my colleagues,
22 of course, the civilian children doubted us and also later we also doubted them,
23 because we didn't find them easily following the rules. For us, we're already used to
24 rules and command, and they were not. So the fitting in the society, in the school
25 particularly, was that.

1 But the village was rare to study, because for us we were not demobilised into the
2 civilian population. We kept on in school and under the military. So the civilian
3 population was once in a while interaction. So my experience is more at the school
4 level than the ordinary, say, village community, although we would visit home and
5 people would be happy to see us.

6 Q. [11:45:47] Thank you.

7 Now I am going to move on so that you know where I am going and the Chamber
8 knows and the parties to questions about the Lord's Resistance Army and the
9 ex-abductees with whom you have interacted and worked over a period of time.
10 We have heard in this Chamber a lot of testimony from ex-LRA abductees. Feel free
11 to summarise what you want. If we need more information, we will ask. But I
12 would like to have your conclusions, your observations as an expert.

13 Now, can you just remind us, briefly, what the basis of knowledge is that you have
14 about ex-LRA abductees.

15 A. [11:47:07] The basis of my knowledge about ex-LRA abductees is that, some
16 time I was in a deployment over that area, that was fifth division. And then it is that
17 time that I was in the political department, call it -- we call it commissariat that made
18 me have access to them, because the political commissariat was the one mandated to
19 receive these children.

20 So I was in fifth division, which covered the districts, by then Kitgum and Lira, which
21 was the eastern access of the rebellion. So I got in touch with the children.

22 The rule was that when the military recovers the children, they should hand them
23 over to civil organisations within not more than 72 hours. But within the 72 hours
24 they would basically be in the hands of political commissaires to talk to them, to make
25 them feel at home. But as I said earlier also, in my other intervention later in

1 ANPPCAN, I also got in touch with the L -- or with the ex-LRA.

2 So, in more than one way, including some research, specifically some papers that we
3 had to write, in more than one way I got the knowledge of ex-LRA child soldiers.

4 Q. [11:49:22] Thank you.

5 Now based on your work and observations, could you briefly tell us the purposes of
6 abduction of child soldiers in the LRA?

7 A. [11:49:39] Say it again.

8 Q. [11:49:41] Yes. What was the purpose of abducting child soldiers --

9 A. [11:49:45] The purpose?

10 Q. [11:49:46] -- in the LRA?

11 A. [11:49:48] The purpose?

12 Q. [11:49:50] Yes.

13 A. [11:49:51] Oh, well, the purpose, I would not talk like the people who did the
14 abduction, because they knew the purpose, but my interaction with them is that the
15 purpose was to swell the ranks, the fighting forces.

16 To the extent that LRA believed that the mature community, the Acholis, were the old
17 Acholis, so the idea was to bring new ones, and in their opinion new ones was the
18 young ones, and in their opinion young ones were the ones who can fight.

19 So the purpose, basically, of this recruitment was to swell the ranks for the fighting.

20 Even if there were talks of, say, the God wanting it to be the way they were doing it or
21 the way they are abducting, but my interface and my cross discussion -- close
22 discussion with them is that the purpose of abducting children was just to increase
23 the number of fighting forces.

24 Q. [11:51:32] Thank you. Now could you also very briefly tell us what your
25 understanding of the tasks or roles of child soldiers in the LRA were?

1 A. [11:51:55] The task for these children in LRA were many. One is that they were
2 directly involved in hostilities, they were fighting.

3 Two is that they also were supporting their superiors in cooking and other things.

4 And then three, on gender basis, the young girls also ended up being wives to other
5 commanders.

6 So the role to big extent was combat, and to some -- at some point the fighting forces
7 of LRA had about 80 per cent who were people you could define as children, below
8 18, below 18. So the biggest task itself was the direct involvement in hostilities.

9 Q. [11:53:09] Thank you. Now the Trial Chamber has heard extensive testimony
10 about the initiation rituals for abductees - I know, I am looking at your face. Let me
11 finish my sentence - for abductees in the LRA. I am not -- okay, I am not going to
12 ask you to --

13 PRESIDING JUDGE SCHMITT: [11:53:41] No, This was a mixture of affirmation and
14 apprehension.

15 MS LYONS: [11:53:46] Okay. Okay. I am not going to revisit that. I understand
16 the substance and the -- I understand the issue.

17 Q. [11:54:01] However, what I want to do is focus, I want to focus a little bit, we are
18 talking about the LRA, on a point in your report about how the abductees felt based
19 on your interactions with them. Now on page 4 of your report at 1025 you write:
20 "On abduction, children were told to forget about home and that escape was not
21 possible and for trying, one could be executed."

22 We also have in your transcript chart a number of examples from witnesses who have
23 talked about this. I would like you to first comment on the point in your paper and
24 then I will ask you to comment on sections from the transcripts. So please -- now
25 probably you forgot the question, I'm forgetting the question.

1 The question is: Could you comment about this point of forgetting about home and
2 escaping. What were your observations from the ex-LRA abductees with whom you
3 worked?

4 A. [11:55:33] My observation is that LRA knew that children would leave them and,
5 therefore, this -- there is always a moment they have had to create an impression in
6 you that you should only live in LRA. And as the Trial Chambers have heard, the
7 process is so painful, so dehumanising, and so inflicting damage, to the extent that in
8 many cases it actually succeeded in removing the thinking mind of a child soldier.
9 And therefore you wouldn't even think of trying to escape to go home.

10 As you said, the process has been elaborated here before, but I would like to
11 emphasise that the deliberate attempt to remove the thinking element of a child was
12 so well done to the perpetrators that it worked.

13 In my day-to-day advocacy about child rights, we talked to a friend who went to
14 Canada for a workshop, so he was asked to explain to the school about this process,
15 and he thought he was doing a good job, but when he explained it, it was so painful
16 that the class had to be cancelled again and yet he thought he was explaining.

17 So this element, that painful element to make you forget about going home is the
18 element that exactly removes the thinking element of a child and from then on a child
19 moves without the capacity of thinking. So whatever he does thereafter, he is just
20 a mere biological person.

21 Q. [11:58:19] Thank you.

22 Now, for the record, I would like you to take a look at the transcript chart. I am
23 holding it up, so it's the little, it's the smaller one. Okay.

24 And the bolding, for the Court and for the parties, was done by me, by the Defence, as
25 I say here, okay.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 Take a look at number 1, page 1, the bolding part, "it will remove any feelings or
2 thoughts about returning home."
3 And for the record, this is in transcript T-191, page 7, lines 20 to 25, page 8, line 1,
4 5 November 2018.
5 And also take a look at the second one, which is from transcript -- it's D-24 from
6 transcript T-192, 6 November, page 8, lines 21 to 25 and 9, lines 1 to 8. The bolded --
7 PRESIDING JUDGE SCHMITT: [11:59:32] Has the witness -- Mr Awich, did you
8 have the opportunity to look into this material before?
9 MS LYONS: [11:59:40] It was given to him yesterday, yes.
10 PRESIDING JUDGE SCHMITT: [11:59:42] Then it's fine. So then (Overlapping
11 speakers)
12 MS LYONS: [11:59:41] No, no, no, that's --
13 PRESIDING JUDGE SCHMITT: [11:59:43] No, no, that's good. So perhaps step
14 after step.
15 MS LYONS: [11:59:47] Yes. He had 24 -- sorry, 24 hours. Almost, whatever.
16 Q. [11:59:55] Okay. So look at 1 and 2 at the bolded parts. Number 2 says "You
17 just stay amongst them like that, because you have no option, you have no way of
18 living, you have no voice, you have no say in what goes on."
19 And I would like your comments on this, if you have anything you want to say on
20 these points, please.
21 A. [12:00:34] Well, the first one on page 1, it's true, it's what I have been labouring
22 to explain that these processes, right from the beginning, is meant to remove any
23 thinking from you, including the thinking of going home. So I think I don't have
24 much to add.
25 It's the one page 8, which says "What I know is that", the bolding, that bolding

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 at page 8?

2 Q. [12:01:21] I'm sorry, at page 2 in transcript (Microphone not activated)

3 PRESIDING JUDGE SCHMITT: [12:01:28] Ms Lyons said that she is looking at
4 page 2, so she is going one after, one after the --

5 THE WITNESS: [12:01:36] I have seen it, yes.

6 PRESIDING JUDGE SCHMITT: One after the other.

7 MS LYONS: [12:01:38] Yes.

8 PRESIDING JUDGE SCHMITT: [12:01:39] And I think we can do it simply this way,
9 that Ms Lyons directs you to the position that you perhaps kindly look at. And then,
10 if you want to add something or to comment on it, you do it or you simply say "this
11 confirms what I have said" or whatsoever, or does not confirm. Yes?

12 THE WITNESS: Yes, your Honour.

13 PRESIDING JUDGE SCHMITT: Okay.

14 MS LYONS: [12:01:58] Thank you, your Honour. Okay. We are only dealing now
15 with page, sorry, page 2, transcript 2.

16 PRESIDING JUDGE SCHMITT: [12:02:04] And that is the "You just stay amongst
17 them like that" that is this one.

18 THE WITNESS: [12:02:11] Yes, that's true.

19 MS LYONS: [12:02:13] Thank you.

20 Q. [12:02:17] Now I am going back to your report. On page 4 of your report at the
21 ERN number ending 1025, you write about how former LRA child soldiers were
22 made to beat their friends and relatives to death for various offences.
23 Based on your work with these ex-child soldiers from the LRA, in your opinion as an
24 expert, was it possible that a child could have refused and said, "No, I'm not going to
25 do it"?

1 A. [12:03:14] Not at all. You can't. Actually, if you talk to some of them that I
2 have done, if you can't do it the way you are told, it is done to you. So you can't
3 refuse. If you are told to beat somebody 300 canes and you can't, then the canes is
4 given to you. So there was no way of refusing.

5 Q. [12:03:48] Let me ask - perhaps it's a hypothetical - if a child who was asked to
6 beat somebody said no, the person is caned, would another child soldier be forced to
7 beat or -- to beat that person?

8 A. [12:04:15] Yes. If the command is that a child soldier should beat the person
9 and that child soldier refuses to beat, another child soldier would be picked to beat
10 the one who has refused to beat.

11 Q. [12:04:43] Thank you. If you know, when these ex-LRA child soldiers returned
12 home, let's say it was a child soldier who had beaten or punished somebody who is at
13 home now, were grudges held against him or her, if you know?

14 A. [12:05:15] No, not that I know of, but -- not that I know in person, but I have, in
15 my intercourse or in my interview and discussions with them, I have heard situations
16 where children were forced to commit atrocities in their home area. And of course it
17 has had some impact. But somehow the population also understood that they were
18 told to.

19 So in cases where known actions are taken by known children, queries are raised, but
20 it has been settled.

21 Q. [12:06:00] If you know, based on your discussions or observations of these
22 ex-LRA child soldiers, did the community engage in particular processes to address
23 the problem of a returnee coming home who had in fact, for example, beaten or
24 punished a member of the community?

25 A. [12:06:34] There was general mobilisation by the government and also by civil

1 society to welcome back children. Attempts were made, radio announcement were
2 made and all that were told that "leave the children, let them come". Of course, there
3 were also attempts made through traditional justice processes to see that those who
4 were involved were accepted. So all these attempts were made, but to its success,
5 I can't quantify it now. But efforts were made to say, okay, we understand what
6 happens, these children were forced into this, please welcome them back. That was
7 the mobilisation by government, by civil society and also by traditional justice process.
8 In other words, the community quite understood that whatever actions that the
9 children did were not actually their actions.

10 Q. [12:07:57] You said they are not actually their actions. What was their
11 understanding of why the action happened?

12 A. [12:08:08] Their understanding was that the children were under the command,
13 and the children through the rebel processes were removed -- their minds were
14 removed from thinking. They actually believed, the community believed that these
15 children were acting by the power of the spirits.

16 So both in terms of the command exercise over the children and in terms of the spirit,
17 the community really understood and that is why all the attempts were made to
18 welcome the children.

19 Q. [12:09:03] Taking off on your last comment, I want to move to the next section,
20 which deals with spiritualism and superstition.

21 In your paper you talk a little bit about superstition and its role in the NRA. In this
22 court we have heard extensive testimonies from fact witnesses and from an expert on
23 spiritualism and how it cements and maintains Kony's control.

24 Now my question is this: Can spiritualism in the LRA and the role of spirits in the
25 LRA, can it be compared to the role of superstition in the NRA? Is it the same or

1 different, and how?

2 A. [12:10:19] No, it can't be compared. The superstition that existed in NRA
3 existed between the commander and the local population. That is why I said that the
4 commander himself says that some group of elders came to him and said "Slaughter
5 this chicken. When you jump over this chicken, the war will progress very well."

6 But some of us didn't even know. We knew it later when he was saying.

7 But the spiritualism or in LRA is amongst the recruited children. It's not between the
8 leader Kony and the community. The spiritualism here is a deliberate effort to
9 remove the thinking capacity of the child and let them obey the commands of LRA.
10 So the effect is different. The effect is more pronounced in LRA, because it is done
11 on the abducted children, while in NRA it was between the commander and the
12 elders who were advising him so to say. And some of us never felt, never got to
13 know it until much later.

14 Q. [12:11:57] Thank you, because that clarifies it.

15 Let me ask you another question. On page 6 of your report, which is at ERN - 1027,
16 you write about in the first paragraph on the top, you are talking about the LRA, you
17 write about how "Young adults ... have an unwavering belief in the powers of the
18 spirits and in Kony as their" -- I will mispronounce it -- "as their laor." Laor, laor?

19 A. [12:12:45] Laor.

20 Q. [12:12:48] Laor. Thank you. Okay. All right.

21 "These young adults believe that what kept them alive in the bush was a strict
22 adherence to the rules and regulations of the spirits and total obedience to the orders
23 of Kony."

24 Tell us more about what you mean, "unwavering belief"?

25 A. [12:13:15] What I mean here is, even at the time of discussing or interviewing an

1 ex-LRA child who you ordinarily have assured him that he is now free, he is now
2 okay, these children still believed that indeed Kony had the power, even when he is
3 out.
4 If you sit with such a person, he will still tell you how a stone would turn into
5 a grenade. And that is why some even say they would come for operations from all
6 the way from Sudan up to, let's say, River Nile, which is the southern part of the area
7 they were operating in.
8 Even when such a child gets lost from the main group of the rebels, he still struggles
9 to go back. Why? Because he believed that Kony had such a long arm that he
10 could stretch it 400 kilometres and get you.
11 So the children were really properly, their thinking capacity was properly removed if
12 to the extent -- because we would ask them, "Did you ever come for operations?"
13 "Yes." "When was that?" "This." And then he describes properly.
14 I said, "Why didn't you then escape?"
15 "That, no, we were told that Kony has a long arm that he can stretch from southern
16 Sudan to the middle of Uganda and pick you back if you ever tried to escape."
17 So this thinking really worked, and that is why I repeatedly said that they were not
18 thinking. This is what they thought. Even when a child is out and free and you are
19 talking to him, he still believed that. So it would take a long, long time, if at all, that
20 thinking was to be removed.
21 Q. [12:15:33] You used the term "the long arm of Kony". Can you talk about that?
22 What do you mean --
23 A. [12:15:42] What I mean here is that they actually did not mean like the common
24 talk of the long arm of the law, no. This one actually meant the biological arm, that
25 as you are trying to escape, say, to run to your home, you would see an arm coming

1 to grab you. And of course they would be told stories of how it happened to a
2 certain child soldier who tried to escape, he was picked like that, another one tried to
3 escape, he was picked like that. So this became convincing stories and they believed
4 it.

5 So the long arm is actually not the long arm like we say in the law. It is the
6 biological long arm that is watching you, is watching whatever step you take, and it
7 will pick you.

8 Q. [12:16:39] Let me ask you another question, because you mention also this,
9 you've talked about escape, and here you are talking about the deterrence to escape.
10 Did any of the children with whom you worked talk about the punishments by Kony
11 in the LRA against villages, the collective punishments against the village of someone
12 who escaped?

13 A. [12:17:17] Yes. I, in my discourse with them, I discovered, especially those who
14 were thought to be valuable. Like, for example, a child whom they had seen like
15 good to be kept there, if such a person escaped, there was collective punishment in
16 the village, thinking that it's -- why did he escape? So it happened.

17 Q. [12:18:02] Can you give us, if you know, any specific examples of villages that
18 were targeted for collective punishment and suffered under this policy of Kony?

19 A. [12:18:18] The one that I got to know is deep western part of Acholi. I can't
20 remember the village now. But it is the deep western part of Acholi.

21 Q. [12:18:38] Did there ever come a point that you noticed in your work where an
22 ex-abductee maybe stopped believing?

23 A. [12:18:57] Well, right now the ex-abductees I saw integrated into the society, I
24 have not redrawn the debate again whether they still believe. But I know for a fact,
25 as I said, that when they first come out, they believe it, they believed it. So I have not

1 yet come across the contrary, where they have changed this position since we last
2 discussed and he believed, even when he was free. So I don't know whether they
3 have changed their position.

4 Q. [12:19:36] Thank you. Now, as a child soldier expert, have you observed the
5 same phenomenon, this unwavering belief in the leader in child soldiers outside
6 Uganda?

7 A. [12:19:56] Say it again.

8 Q. [12:19:59] Yes. Have you observed this unwavering belief, for example, the
9 way the LRA abductees had an unwavering belief in Joseph Kony as the leader, okay,
10 have you observed that in child soldiers in countries outside Uganda? If you have
11 any information.

12 A. [12:20:23] The child soldiers group that I interfaced with closely was the
13 Colombian one. The Colombian one, attitude towards leadership was more or less
14 like the NRA. So they believed in their commanders, they believed in it. Even
15 those I talked to in Bogotá believed that they had a cause which their commander was
16 telling them, but of course they said they had already come out, and they are willing
17 to go back to school. Their preoccupation was school and health activities. But I
18 still felt their mindset really believed in what they were told.

19 Q. [12:21:25]. Thank you.

20 Now, Mr Awich, I would like to turn your attention to transcript chart number 3,
21 which was the testimony of D-150, an *ajwaka*. And for the record it is from transcript
22 182, confidential, but this was in open session, 4 October 2018, page 56, lines 22 to 25,
23 page 57, lines 1 to 2. And it is in your handout, it is number 3 on page 3. And I call
24 your attention to the section in bold:

25 "... when he is being controlled by some ... spirit, he would be acting in the belief ... he

- 1 will be guided by the spirit and will be helped by the spirit ... he trusts."
- 2 Could you have any comments about this in light of your analysis about spiritualism
- 3 and its role in the LRA?
- 4 A. [12:22:42] My interaction with them proved that this statement is right, this is
- 5 what they believed. This is what the children believed.
- 6 Q. [12:23:07] Thank you. Now, I would also like you to look at the statement
- 7 number - transcript excerpt 3(a) on page 4, from the same witness, the same transcript,
- 8 T-182. And the section in bold is the last line saying:
- 9 "You don't think anymore and you use -- the spirit that is in you would be the one to
- 10 guide you instead."
- 11 Do you have any comment on this?
- 12 A. [12:23:47] Yeah, as I said earlier, my interface with these children is that they
- 13 were just mere biological persons without the thinking capacity. And they really
- 14 believed that the spirit which was, of course from Kony, would work. So they
- 15 believed in it.
- 16 Q. [12:24:17] Thank you. (Microphone not activated)
- 17 Now I want to move on to another section now.
- 18 May I just confer with my client to make sure? Thank you.
- 19 PRESIDING JUDGE SCHMITT: [12:24:32] Of course you may.
- 20 (Counsel confer)
- 21 MS LYONS: [12:24:58] Thank you. Thank you, your Honour.
- 22 Q. [12:25:00] Now the next set of questions deal with your comments in your report
- 23 on page 5, which is at ERN number ending -1026.
- 24 Now you discuss what you describe as a, quote, "seen" and "unseen" structure of the
- 25 LRA.

1 Could you explain to the Court what you mean? To what are you referring with
2 these terms?

3 A. [12:26:04] What I am referring here is that LRA had the normal formal structure
4 of leadership, which is headed by Joseph Kony. Now, under that, Joseph Kony, you
5 have the structures, like the military formations, the brigades and the rest. But there
6 was also the unseen structure, the spiritual one and this one I would like to emphasise
7 that it is actually this unseen one which kept child soldiers into the system. Because
8 the way the unseen works is such that, even if you were in the high rank, you were
9 always watched. So any temptation or any attempt to escape, the unseen, which
10 formed the part of the intelligence network, was so strong such that you are at any
11 one time being watched. And this is a strong force that actually help to held
12 together -- to hold together even children who had climbed up to higher ranks.
13 Children who were promoted, in other words.

14 So this unseen structure I'm talking about is that, yes, you have the formal command,
15 but the persons that you're seeing in the name of Joseph Kony, but you have the
16 spirits like with names like Juma Oris, who was the chief of the spirits, then you have
17 one called Sili Silindi, then you have names that were given like Jink Brickey.

18 Now these were ordinarily believed or people were made to believe to think that even
19 when you are not there with the body of Kony, these persons are watching you.

20 And as I said earlier, it is this part that held many people, including the commanders.

21 Because you would never tell -- even if you're in the -- in the far distance
22 commanding your troops, you didn't even consider escaping, because these unseen
23 persons are seeing you.

24 Q. [12:28:54] Thank you. You mentioned intelligence and surveillance. Was
25 there a, quote, "seen" network of intelligence and surveillance in addition to the role

1 the spirits played in this network?

2 A. [12:29:16] Yeah, there was a physical intelligence. Every structure had their
3 intelligence officer, like formations. But as I said, it was repeatedly told to them that
4 even while you have intelligence, there is still the spirit called Jink Brickey, who is the
5 chief of intelligence. So ordinary formations would go on, and what was the effect of
6 this? The effect of this was that even if you are the intelligence officer, you would be
7 made to know your own monopoly of information; so even you yourself, you're being
8 watched and even you yourself, you can't escape. So that is now the formal persons
9 who were intelligence and the spiritual intelligence.

10 Q. [12:30:12] So the formal intelligence was being watched by the unseen spiritual
11 intelligence; is that right?

12 A. [12:30:20] Yes, and they were made to believe so.

13 Q. [12:30:23] Corrected, "made to believe so."

14 So you have described a structure of many layers and you talk about this in your
15 report. Let me ask you, did the ex-LRA abductees talk openly about this network to
16 you? If you can remember any instances.

17 A. [12:30:49] Yeah, they talked about it. You see, when you interact with the
18 Lord's Resistance Army returnees, you would interact with a lot of anxiety, with
19 wanting to know, with curiosity, because sometimes the information they're telling
20 you is funny. So you engage them and you ask them, and they tell you.

21 For example, I repeatedly ask, "How do you ever think that Kony would make bullets
22 bend and move around?" Or, "How do you ever believe that a stone you throw
23 would turn into a grenade?"

24 So these questions always come and you ask them and they talk about it.

25 Q. [12:31:38] May I ask, what were some of the answers that you got to these

1 particular questions?

2 A. [12:31:49] About the spirit?

3 Q. [12:31:50] For example, you asked them, "How could you believe that a stone
4 would turn into a grenade?" What were the kinds of answers or what were the
5 specific individual answers you may have gotten from these people?

6 A. [12:32:05] Oh, some of them would tell you, "You know, in a particular battle we
7 were surrounded, we didn't have any weapon. And when so-and-so and so-called
8 lapwony so-and-so decided -- threw a stone, it turn into a bomb and that is how we
9 were saved." Such stories.

10 Q. [12:32:29] In your discussions with the ex-LRA abductees about the surveillance
11 and intelligence networks, did they describe if it affected the trust between the
12 abductees, the trust among each other?

13 A. [12:32:53] Yeah, it did. Because everybody else knew he was being watched.
14 It affected, because everybody else knew he was being watched so you wouldn't
15 consider your own escape, for example. And, by the way, even commanders who
16 tended to have different views, they were murdered. So this also sent serious signals
17 to whoever was there that, "Don't attempt. You are being watched and you have
18 seen it."

19 So the punishment as we discussed was not only meted on children, the punishment
20 or the attempt to escape was meted even on the adults. And senior commanders, it's
21 on record, of having been murdered for any attempt to think of even escaping. So
22 you are really watched and you are kept being watched.

23 Q. [12:34:06] Could you, for the record, give us the names of the senior
24 commanders to whom you are referring?

25 A. [12:34:15] I think there was a, there was -- Opoka was one of them; there was

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 Otti Lagony was one of them; there was a -- and other small ones, but these are very,
2 very senior commanders who were almost next to Kony. Otti Lagony was almost
3 number two. So even when Otti Lagony himself contemplates, you see, they had the
4 feeling that even mere thinking, you would be seen, thinking that, if you think of
5 escaping, you'd be seen. And of course when people like these were, the senior
6 commanders who were killed, they were told that they thought about escaping. So
7 you're given the impression that even in your mind, it can be read. So this rendered
8 majority now helpless.

9 Q. [12:35:28] Let me ask you specifically about what happened to Vincent Otti, if
10 you know, and who he was for the record?

11 PRESIDING JUDGE SCHMITT: [12:35:40] No, we don't have to talk about who
12 Vincent Otti was. We have, I think --

13 MS LYONS: [12:35:46] Sorry (Microphone not activated)

14 PRESIDING JUDGE SCHMITT: [12:35:48] -- and also what happened to him, only if
15 the witness has firsthand knowledge, because we had people here who were very
16 close to the incidents and I think we don't have to repeat that. Yes.

17 MS LYONS: [12:36:03] I am guided, your Honour.

18 Q. [12:36:05] (Microphone not activated) Now on page 5 of your report, it's ending
19 in ERN 1026, you write that spirits topped the organisational chart of the LRA.
20 Is this what you just explained to us?

21 A. [12:36:33] Yeah --

22 Q. [12:36:35] (Overlapping speakers)

23 A. [12:36:35] -- why I said the spirit topped it is that, on many occasions, Kony
24 himself would say he's acting on the instruction of the spirit, meaning that he himself
25 is subordinate to the spirit. And I think the idea of having the spirit be in charge is

1 also to give the impression to others that don't dare, because the spirit is in Kony's
2 control. Because Kony would say he's a laor. A laor means a mere medium of
3 communication; the spirit is the one communicating through him. So, in effect, the
4 spirit is above. But my conclusion there is that the idea on the emphasis of spirit is
5 to control the mind. Of course, whatever Kony would do he would say "Not me.
6 It's the spirit. I am just a mere messenger, I am a laor". So in effect he is saying "On
7 the topmost, it's the spirit, not me."

8 Q. [12:37:55] Thank you. Now, on the same page you discuss -- we are on page 5,
9 ending in 1026, ERN ending in 1026, you mention the structure of Control Altar
10 headed by Kony. You talk about the operations room, the controllers, technicians.
11 If you know, what role, if any role, did each of these categories of persons play in the
12 surveillance and intelligence network you have described?

13 A. [12:38:42] The technicians basically were people doing communication work.
14 Because this body had communications, radio calls. So to the effect of the
15 technicians is that they would monitor in the field where you are going, especially
16 senior commanders, where you are going, where you are, or if you have escaped. So
17 that is the part that the technician did in intelligence. But the spiritual part was to
18 still keep sending warnings that we are watching you, everybody is being watched,
19 the spirit is everywhere. So that is, to that extent, in as far as intelligence is
20 concerned. But it did work because the fear of escape were basically believed to
21 have been controlled from the top, that wherever you are, even the control point is
22 watching you.

23 Q. [12:40:09] Now this may be a hypothetical, but let me ask the question. Could
24 the seen part of this structure, hypothetically, challenge orders from the unseen part,
25 if that's clear?

1 A. [12:40:28] It was not possible, because at the top it was intertwined into one,
2 because the top spirit was talking through the seen body. So, in other words, the
3 unseen was talking through the seen, so meaning that the seen body, even if the spirit
4 was talking, he could edit it. But the point there is that it's one and the same.
5 Meaning that the seen body is just a laor, is a messenger. So the seen -- the unseen is
6 talking through the seen.

7 Q. [12:41:11] Thank you for the clarity.

8 Now on page 6, at the same page, ERN ending 1027, you write that Kony, quote,
9 "managed to create an aura of fear and mysticism around himself." Is there anything
10 more you want to explain about this conclusion?

11 A. [12:41:40] Not nothing more, but just to say that this management that he
12 managed to create, it worked to the disadvantage of the child soldiers, to the extent
13 that it kept them held there, because the children believed it. It worked. It worked
14 and that is why I am saying that even when they come out, many still believed in that.
15 So the only thing I can add for purposes of clarity is that this creation held many
16 children who were in captivity who could have escaped, but who stayed there and
17 later on stayed from childhood of 14 years, 15, 16, 17, to 18, adult, into these
18 captivities, because of these feelings. So it captured the children.

19 Q. [12:43:16] As we end this section I want to ask you to make some comments on
20 two testimonies related to this issue of seen and unseen and the fear that the
21 abductees felt.

22 I would ask you to look at your transcript chart, number 4. This is from transcript,
23 for the record, T-182, confidential transcript but in open session, page 26, lines 1 to 25,
24 27, lines 1 to 5, October 4.

25 The witness, who spoke openly, was an elder in the community and regarded by

1 many in the community as a cultural chief.

2 Some parts of this are in bold and I will read them quickly for the record, as

3 the witness follows.

4 He is talking about a discussion with somebody who has come to him talking about,

5 the person talks about an example of fear of one's bodyguards. What he says is:

6 "But when he was free, I was able to speak to Okuti and he told me that the way he

7 escaped makes him actually fear even the soldiers who have been assigned to guard

8 and protect him."

9 Later: Okuti tells me that it is not easy to escape because he had to even escape his

10 own bodyguards. This showed me that he feared his own bodyguards.

11 So the point here is testimony about bodyguards and their role in the surveillance spy

12 network and role in preventing escape. Do you have any comment about this?

13 A. [12:45:34] Yes, I have a comment, which maybe I had said before. I just want to

14 reiterate that, in the system of LRA, commanders considered valuable or commanders

15 were always watched. You were a commander, but even your own bodyguards are

16 watching you, on top of the spirit so that you don't consider escape.

17 The problem with keeping -- or the point of keeping commanders were many.

18 One, they feared that the commanders would go with information.

19 Two, they relied on these commanders' capabilities. So, even escorts kept watch.

20 And remember, the escorts are still the lower ranks who strongly believe that they

21 would be punished for the escape of the commander. So even if you were to escape

22 as a commander you would actually have to escape from your bodyguards, who

23 ordinarily are supposed to guard you. So the watchful eye was very, very strong in

24 this respect.

25 Q. [12:46:56] Thank you. One moment.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 (Counsel confer)

2 MS LYONS:

3 Q. [12:47:07] Now I would also like to call your attention to the next excerpt. It's
4 on page 6 of this handout, it's number 4(a). Again, this is, this is a different witness.
5 This is Witness D-24 and it is from transcript T-19 -- I'm sorry, T-192, confidential
6 version, English, 6 November 2018 in open session, page 45, lines 15 to 23.

7 And the bolded part is the second to last sentence: "But when you are escaping, you
8 should escape alone without anyone knowing."

9 What, if anything, is the significance of this testimony based on your observations
10 and discussions with the abductees?

11 A. [12:48:17] This simply means that you can't trust anybody, everybody is being
12 watched. So if you ever try to think of escaping, then you should do it alone without
13 anybody knowing.

14 Q. [12:48:43] Thank you.

15 MS LYONS: [12:48:48] Your Honours, I am now moving on to another section,
16 which I will -- I am happy to do part of it now and part of it after. It's up to you.
17 I am not trying to -- I will do whatever your Honours want.

18 PRESIDING JUDGE SCHMITT: [12:49:07] It depends a little bit. Do you have
19 already an estimate how long your questions will last?

20 MS LYONS: [12:49:13] Yes. I mean, I know that we asked for a day plus one more
21 session. I will definitely be here today asking questions. I hopefully will finish, but
22 I don't --

23 PRESIDING JUDGE SCHMITT: [12:49:27] But under this circumstance we should
24 really preserve this expectation. Simply please start with the next section.

25 MS LYONS: [12:49:35] You want me to start?

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [12:49:36] Yes, until 1 o'clock. And then we simply
2 try to finish in the last section without pushing you.
- 3 MS LYONS: [12:49:42] Okay.
- 4 PRESIDING JUDGE SCHMITT: [12:49:43] But we try it at least.
- 5 MS LYONS: [12:49:45] That's fine. Because I understood that in looking ahead we
6 had asked for one, two, three, four sections on --
- 7 PRESIDING JUDGE SCHMITT: [12:49:54] No, no, absolutely. But this is of
8 course -- these are estimates and --
- 9 MS LYONS: [12:49:57] Right, I know.
- 10 PRESIDING JUDGE SCHMITT: [12:49:57] -- we always consider things evolving
11 and --
- 12 MS LYONS: [12:50:00] Right, okay.
- 13 PRESIDING JUDGE SCHMITT: [12:50:01] -- it seems that you are going faster than
14 envisioned, I have at least the impression, and the witness gives, gives concise
15 answers. So we might have the hope that we can finish in the last session.
- 16 MS LYONS: [12:50:16] I won't waste any more time on the logistics.
- 17 PRESIDING JUDGE SCHMITT: Yes, please.
- 18 MS LYONS: Let me move on. Okay.
- 19 PRESIDING JUDGE SCHMITT: [12:50:21] Yes.
- 20 MS LYONS: [12:50:21] If that's okay.
- 21 Q. [12:50:23] All right. I'm moving on to a section on the issue of the rules and
22 regulations in the LRA.
- 23 Based on your discussions with the ex-LRA abductees and your knowledge about the
24 Lord's Resistance Army, can you give just a very few examples of what happened
25 when a rule or regulation was broken.

1 PRESIDING JUDGE SCHMITT: [12:50:54] And you can also, perhaps, differentiate
2 between different rules, if you have the knowledge about it. There might be
3 different, let's say, repercussions, punishments with regard to different infractions, if
4 you have knowledge about it.

5 THE WITNESS: [12:51:13] Okay. Rules, for example, like don't escape. Rules like
6 don't throw a weapon. Rules like walk fast, walk very fast. So the rules vary in
7 degree of punishment. Some slight rules, depending on the -- your fate may be
8 resulted into death, like attempting to escape. Some were beaten, but others were
9 killed. So rules like walking slowly, you would be very punished.
10 So these are some of the rules and they would vary from time to time. Like
11 sometimes he would come up and say that the rule is that nobody should eat pork
12 and it became a big, big thing and in almost every village pigs have to be killed
13 whenever you see.

14 So the rules varied, but all I can say is that any slightest deviation of a rule attracted
15 very, very bad or very, very terrible punishment.

16 PRESIDING JUDGE SCHMITT: [12:52:43] Who established the rules?

17 THE WITNESS: [12:52:46] The rules were always communicated by the spirit.
18 They said the spirit has said this. The spirit has said this.

19 PRESIDING JUDGE SCHMITT: [12:52:53] And let me put it this way, a concrete
20 punishment in a concrete instance, who would decide on that?

21 THE WITNESS: [12:53:04] The commanders administered. It was never
22 centralised.

23 PRESIDING JUDGE SCHMITT: [12:53:08] Please move on.

24 MS LYONS: [12:53:11]

25 Q. [12:53:20] Now I want to ask you, you have talked about rules and you have

1 talked about punishments, we have heard testimony about this.

2 A little different question is: Could you describe how the threat of punishment
3 worked in the LRA, based on your conversations with the ex-LRA abductees, the
4 threat of punishment, how this functioned.

5 A. [12:54:00] The threat of punishment worked because if you know that if I try to
6 escape I will be killed, then you won't try. Or if you know that if I think - thinking,
7 not even escaping - if I think of escaping, I will be beaten, then you will try to restrain
8 your mind from thinking. So the threat of punishment worked, it held the -- the
9 fighters because they fear for the punishment. And in any case they have seen the
10 punishment being meted. Not only do they fear that it will be done to them, but
11 they were done to many that they have seen.

12 Q. [12:55:01] When you listened to and worked with ex-LRA abductees, could you
13 tell us your -- let me -- I will rephrase, withdrawn. Let me rephrase that.
14 Were the threats that you heard about, were they constant? Were they present all
15 the time? That's the first question. Or did they come and go?

16 A. [12:55:35] No, it wouldn't. Actually, this makes me go back to NRA, to where
17 I was involved. To a big extent, because of the political education, NRA held many
18 fighters in the hope that they were doing a right thing or maybe the hope for a better
19 future. But in the case of LRA, they are held together by threats of what will happen.
20 It's a constant and it worked, it made the organisation look like it is cohesive, but not
21 a cohesive organisation in terms of hope for the future, or better things to come. But
22 the cohesion was built on threat that, should you do this, it will be done to you like it
23 was done to so-and-so.

24 Q. [12:56:44] A follow-up question on this: Did you reach any conclusions about
25 whether the abductees were afraid of bodily harm or severity of threats? Was there

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 something particular about the threats or a threat that they -- that an abductee would
2 fear more or less?

3 A. [12:57:16] Yes. The particular form of threat was, say bodily harm, 200 canes,
4 or the fear that actually your village or your clan would be harmed or would be killed.
5 Remember, harming in this case is not just hurting your leg, harming means killing.
6 So the fear for your body for the canes, the fear for your family home, because it was
7 well known that you would be followed, and the fear of death, so these were constant
8 repercussions of a fear in case, I mean, you break the rules, the penalties, the sanctions
9 so to say.

10 PRESIDING JUDGE SCHMITT: [12:58:09] I think that might be a good moment now
11 to have the lunch break.

12 And this will last until 2.30. We meet them.

13 THE COURT USHER: [12:58:20] All rise.

14 (Recess taken at 12.58 p.m.)

15 (Upon resuming in open session at 2.33 p.m.)

16 THE COURT USHER: [14:33:32] All rise.

17 PRESIDING JUDGE SCHMITT: [14:33:54] Now the microphone is activated. Good
18 afternoon, everyone.

19 And, Ms Lyons, you still have the floor.

20 MS LYONS: [14:34:06] Thank you, your Honour.

21 Q. [14:34:08] Good afternoon, Mr Awich. Here we are again. Let's continue.

22 When we left off before the lunch break we were talking about how the threat of
23 punishment worked in the LRA, and I want to finish up that section with a few more
24 questions to you.

25 I want to start with transcript chart number 5 on page 7.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 This is a transcript from T-112, confidential, but I believe it was open session,
2 September 25, page 49, lines 6 to 13. And the witness is a Prosecution witness, P-223,
3 an LRA abductee who describes an incident recounted by a person in the UPDF
4 named Ocora. And what I would like you to comment on for number 5 is the section
5 in bold which says:

6 "I heard [about] his beating --" and he's talking about a beating of Dominic Ongwen
7 here -- "I heard [about] his beating from a person called Ocora who said he was
8 beaten to a point I think he was about a die."

9 Do you have any comment on this section?

10 A. [14:35:49] My comment is that I wouldn't be surprised if a commander or a
11 person in LDA -- I mean, in LRA is a beaten to a point of death, because this is a
12 common occurrence to whoever dares to deviate. But in this particular incident, I
13 can't say, I wasn't privy to know whether he was beaten or not. But what I can say is
14 beating is not a new occurrence, especially for whoever attempts or thinks of
15 deviating with the dos or the do nots in LRA.

16 Q. [14:36:43] Thank you.

17 Now I would like to call your attention to the page 8, transcript excerpt, number 5(a)
18 in open session. This was another witness, P-0016. And I would ask you to look at
19 the transcript, it's T-34, for the record, T-34, confidential, open session,
20 25 January 2017, pages 82, lines 13 to 25, and page 83, sorry, lines 1 to 13.

21 Take a look at the bolded section. Let me say, it discusses what does it mean to be
22 jailed, and I would like you to read through this and comment on the punishment of
23 jailing in the LRA, if you have any comment about this or any information.

24 A. [14:37:59] The jailing system that I got to know in LRA is that once you are
25 declared a prisoner, you are tied. And if it is in a mobile situation, they move with

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 you as a prisoner, but move with you from position to position because there are
2 times when they are mobile.
3 I'm not so sure about the jailing system, like for example I said in ours, you would be
4 detained underground. I don't know in their case. But in -- I wasn't privy to that
5 information. But all I know is that they have many mobile forms of prisoners, where
6 you are a prisoner, you are tied, and they move with you from place to place as. For
7 example, if the government troops is chasing them or if they want to locate to another
8 place, but you are moving with them but you are a prisoner.

9 Q. [14:39:07] Thank you. One moment.

10 (Counsel confer)

11 MS LYONS: [14:39:16]

12 Q. [14:39:18] Now looking at the same transcript section excerpt, number 5(a), there
13 is a second part I wanted to ask you to focus on. It's in bold, it says:

14 "What I know is that when Kony gives you an instruction ... you don't implement,
15 you are arrested and detained. You are demoted ... you are punished. You are
16 beaten. If I recall well what Dominic went through, when Dominic had split away
17 from the main group, Kony was not happy."

18 Do you have any comment on this section or parts of it?

19 A. [14:40:00] I think it is pretty true that is what happens in LRA. You are given
20 instruction, as they said; you don't implement it, you are definitely severely punished.
21 My only comment is that this was more of an understatement, because what happens
22 is always more grave than this. But pretty this is what happens.

23 (Counsel confer)

24 MS LYONS:

25 Q. [14:40:46] Now, I was just consulting. I asked a question maybe earlier, I'm

1 consulting with my colleague here, but I want to ask you again in this context in case
2 there's anything you want to add. My memory is not top-notch here. Okay.
3 The question is this: Going back to your paper, page 6, which the ERN number is
4 ending in 1027, and it was a section we I think touched on before where you say that
5 young adults believe what kept them alive in the bush was the strict adherence to the
6 rules and regulations of the spirits and total obedience to the order of Kony.
7 In light of the testimony you've given about punishment, and the transcript references,
8 is there anything more you want to add?

9 A. [14:41:47] Yes. Of course, as I said, the young believed, believed it. And on top
10 of believing in what they were indoctrinated to believe, coupled up with punishment,
11 my only comment here is that it would keep them held on there.

12 Q. [14:42:28] Now, is there anything -- you talk in your report about the rules of
13 bush. You've given evidence about rules from the NRA and also, in the last session,
14 for the Lord's Resistance Army: Do not escape. Walk fast. You know, there are a
15 number of dos and don'ts.
16 My question is: Did this provide a framework of, quote, "normality" for abductees in
17 the bush?

18 A. [14:43:12] What it ended up creating, what you called the "normality" in quotes,
19 unquotes, is that the children got to be used to these rules and the way of life to the
20 extent that they believed it. And all that they would do at some -- in most cases now,
21 was that they would actually mimic what the adults would do, not being themselves.
22 Because these -- remember that many children were taken at that extreme age, 14, 13,
23 or others seven. So these deliberate move actually made them to believe that, so as
24 they grow up, as I said, they actually only would mimic what the adult do, not what
25 they think should be done.

1 PRESIDING JUDGE SCHMITT: [14:44:09] I think you meant something -- you were
2 heading at a little bit something different.

3 What you could do, for example, would be let Mr Awich read through page 9, and
4 this part, because I understood it that this is about the bush as a natural environment
5 and with regard also to the spirits. Is there a connection? Is there anything that
6 influences the behaviour?

7 MS LYONS: [14:44:37] Thank you, your Honour. You move faster than I. That
8 was the next question. But I think I should have connected it. I got it. Thank you.
9 I appreciate.

10 PRESIDING JUDGE SCHMITT: [14:44:49] And since this is a longer quotation,
11 I think you simply put on the record where it comes from.

12 MS LYONS: Perfect.

13 PRESIDING JUDGE SCHMITT: And we had it already on the record. And then
14 Mr Awich can read it, and if he wants to comment on it or has any information that he
15 wants to provide us with, he can do that.

16 MS LYONS: [14:45:05] Fine.

17 Q. [14:45:06] But, however, before we get to that question, I just want to raise one
18 point about your answer about children mimicking and the influence of factors on
19 children, young children, 7, 12, 13, whatever the ages of abductees. You often talk in
20 your report about young, formative minds. Could you connect up these two ideas?
21 Is there a connection here?

22 A. [14:45:36] The connection there is that you have these young minds, 7, 8, 9, 10,
23 11 and around that, clean, open, virgin minds ready to receive information and
24 assimilate it. So this is a mind that is brought into this wilderness with these rituals
25 and initiations and threats and the beatings. So the mind is open, captures what it is

1 and makes this child know what he is told.
2 He actually doesn't now know what you would call an average mind that has that
3 moral authority to decide wrong and right, because all that is put in his mind is not
4 like a child who has been grown up with a mother to say, when a child is starting to
5 cry, he is told "Don't"; when a child is, say, hitting a pet, it's said "Don't, don't do that."
6 So the dos and don'ts here are deliberately and intentionally put that way, and that is
7 why it has, it has an effect on a child soldier in this particular case like this.

8 Q. [14:47:36] Now just one follow-up question on this: What you just described,
9 does this have a long-term effect on a child growing into his or her adulthood, if you
10 know?

11 A. [14:47:53] It has, it has, a lot. It has a lot. And that is why I have tried to
12 interpret in my context, in my friends which I was with in our situation, the friends
13 that I went with to secondary school and to university, that's why I've been trying to
14 see this effect.
15 And yet the effect in the LRA with the spiritual domain was even, the spiritual and
16 violence domain was even more stronger. So it is true it has an effect. And in my
17 other discourse with experts, of course, I came to believe that it has such a big, a
18 strong negative effect that sometimes you really have to take serious note of this child
19 who was moved from seven years with this kind of mental impact through the
20 childhood stages, the formative stage that I mentioned, going with it through the
21 adulthood, he is still moving in that mind that actually he is not himself.
22 And as I said, I tried to -- the impact is long, and I have tended to link it with our
23 situation where my friends, I have already explained, got into this mysterious death.
24 But as I repeat, ours was not even grave. So this one is even more grave and,
25 therefore, it has a much, much long effect to the extent that even if such a child attains

1 majority, he's attaining a majority with an empty mind or with a mind that actually
2 should benefit from what I think as the exception of the general rules, because the
3 general rule is that me as Awich, I'm presumed to know what is good and right. But
4 how about when I grow up from childhood not told what is good or I was told the
5 opposite of what is good and wrong and the violence and the spirit. So it has that
6 long effect.

7 Q. [14:50:31] Just so that we're clear, when you say majority age, what age are you
8 talking about?

9 A. [14:50:37] Well, I'm talking of the age 18 and above.

10 And I have kept on wondering, as I deal with children and armed conflict in my
11 day-to-day intercourse, I've always wondered how this child who is completely
12 under violent and spiritual effect kept moving from that age, as I said, to 18, and then
13 the community tells me that, okay, below 18 you are a child, we can understand; and
14 then 18 I am made to say, okay, fine. Now there's a gap now, you must understand
15 what you -- I can't or they don't. They don't.

16 So still the same mind, the same mind. So the majority age I'm talking about is 18
17 and above, which the child would have gone with that kind of mental exposure.

18 Q. [14:52:08] So would it be fair to say, if I may, that the majority age does not end
19 the mental issues, the mind issues you are talking about?

20 A. [14:52:28] It does not end. And moreover, while it does not end in
21 psychological or in medical terms even at this stage, remember that even this former
22 child soldier of yesterday who has just passed the age in biological terms is still even
23 under the command. So even if he has passed the majority age, with that mindset,
24 even after passing that, he's still being watched.

25 So I find myself really in a very serious situation with dealing on a day-to-day matter

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 with child soldiers, because I find I'm handling such a complicated situation where
2 this child who has been fighting, who has been exposed to violence, he has seen death,
3 he moved through to 18, and now 18, all of a sudden, we expect him to understand.
4 And even again he's not even free, he's not himself. Still he's watched, he's ordered,
5 he's captured in the mind and he's captured by intelligence network. So the child is
6 there, although he has become adult today.

7 Q. [14:54:02] Thank you. I'm going to just -- I would like now to raise a question
8 that the Judge pointed to and then we will go back to this theme. I mean, all of these
9 themes overlap. We're trying to elicit whatever expertise you have for us on it.

10 PRESIDING JUDGE SCHMITT: [14:54:19] But I think the last issue has been covered
11 really thoroughly and extensively now.

12 MS LYONS: [14:54:24] All right.

13 PRESIDING JUDGE SCHMITT: [14:54:26] So you don't have to come back to what
14 the witness explained in the last, let's say, 15, 20 minutes.

15 MS LYONS: [14:54:32] All right, your Honour.

16 Q. [14:54:33] I would like to go though, however, to the issue that the Judge raised
17 about the -- well, the Judge pointed to that I've raised in transcript chart number 6 on
18 page 9 about the bush. And it's in transcript T-197, page 21, lines 17 to 25; page 22,
19 lines 1 to 19. I will not read it for the record. It's not necessary.

20 But my question is - take a few minutes to read it - and do you have any comments
21 about this? And specifically, what did you observe the abductees, how did they feel
22 about the bush? Does this --

23 PRESIDING JUDGE SCHMITT: [14:55:23] No. Perhaps simply if this perhaps
24 contributes to the mindset of a young abducted child soldier. That would be
25 perhaps the question to Mr Awich.

- 1 MS LYONS: [14:55:44] Thank you, Your Honour. I appreciate that. Thank you.
- 2 THE WITNESS: [14:55:47] Yeah, of course, the bold I have seen, and the bush, it's a
3 metaphor. Yeah, it contributes to the mindset, especially to a child, to child soldier,
4 this contributes, the bush itself.
- 5 I remember, even when we are free, we are not in the armed conflict. When you are
6 young and you are moving in the evening in the village from one homestead to the
7 next, we used to have this fear where if you see a stump, a cut tree, when you squat
8 down, the stump also squats down. When you start to move, it also moves after
9 you.
- 10 So I don't know that kind of feeling. But the feeling is that bush comes up with some
11 effect on the mind; bush, per se, in our setting, in Acholi or in African setting. The
12 presumption already ordinarily is that danger lurks in the atmosphere, danger lurks
13 in the atmosphere in that setting. And that's why I was even saying, even in
14 ordinary situation, you see a cut tree and you imagine it is following you, or even
15 when you try to squat down, you see as if it is also squatting down. Now, this is in
16 ordinary setting, but in bush generally there is that feeling that danger lurks in the
17 atmosphere. So it even complicates the mindset more.
- 18 Q. [14:57:31] Thank you.
- 19 Now, I just want to raise one other point on this majority age, because you've raised it
20 in your report a little bit difficultly, just one or two questions if I may. Take a look at
21 page 7 of your report ending in 1028, where you talk about children reaching the age
22 of majority being unable to exercise informed choice and decisions independent of the
23 LRA. And then you later talk about that physical growth is possible, but there's no
24 room for maturity.
- 25 Is there anything you want to add on this issue here that you haven't said already?

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [14:58:28] I would simply say he has covered
2 everything.
- 3 MS LYONS: [14:58:31] Okay.
- 4 PRESIDING JUDGE SCHMITT: [14:58:33] Okay. Mr Awich, of course, I won't stop
5 you, but --
- 6 MS LYONS: [14:58:35] Okay.
- 7 THE WITNESS: [14:58:36] It's not much. I have nothing more useful to add.
- 8 MS LYONS: [14:58:39] Okay, okay. Thank you. All right. Thanks. I appreciate
9 your indulgence.
- 10 Q. [14:58:45] Now, related to this is this issue of free will. In your view and in
11 your experience, can an abductee exercise, quote, free will in the bush?
- 12 A. [14:59:15] No.
- 13 PRESIDING JUDGE SCHMITT: [14:59:17] Yes, Ms Hohler, please.
- 14 MS HOHLER: [14:59:20] Your Honours, I was going to object. The witness is not a
15 psychologist, he's not a psychiatrist. He can't possibly talk about these issues.
- 16 PRESIDING JUDGE SCHMITT: [14:59:27] Yes, I think I would also sustain this. He
17 gives us facts from his experience, and we have to draw our conclusions. And free
18 will is one of the most complicated matters legally, but also a matter of physiology
19 and biology and everything. And by the way, he has answered it already --
- 20 MS LYONS: Okay.
- 21 PRESIDING JUDGE SCHMITT: -- in my opinion --
- 22 MS LYONS: All right.
- 23 PRESIDING JUDGE SCHMITT: -- in the morning, I think I have heard something to
24 that effect. So we should simply move on.
- 25 MS LYONS: [14:59:56] But for the record I would just like to state that I would have

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 liked the opportunity. I'll abide by you, your ruling. But to rephrase, whether he
2 himself observed that these abductees could exercise free choice, but if you think no --
3 PRESIDING JUDGE SCHMITT: [15:00:12] No, no. I think he has --
4 MS LYONS: [15:00:15] Okay.
5 PRESIDING JUDGE SCHMITT: [15:00:17] He has already testified to that effect.
6 MS LYONS: [15:00:19] Okay.
7 PRESIDING JUDGE SCHMITT: [15:00:20] And given -- and on the basis of, I would
8 assume, of his encounters and, if you will, interviews, talks with former abductees.
9 And this might form a basis for some, whatever conclusions, yes, on assessing
10 holistically everything we hear here in the courtroom but not the conclusion as such,
11 please. Yes. Please continue.
12 MS LYONS: [15:00:44] I will abide by (Microphone not activated)
13 Q. [15:00:47] Now you describe on page 8 of your report - it's ERN ending at
14 1029 - you describe rebel leaders as owning not only the physical but the minds of
15 such combatants.
16 Is there anything more you want to explain about this?
17 A. [15:01:13] I think it's clear there what I meant. I don't think I can add more.
18 PRESIDING JUDGE SCHMITT: [15:01:24] And I think also, Mr Awich, you have
19 already elaborated on the specific leadership we are talking here about. You have
20 done this in the morning I think also, which could be related to that statement here.
21 MS LYONS: [15:01:38] Thank you.
22 Q. [15:01:39] Now I want to move to a different topic, which is the general topic of
23 the relation between an abductee and the organisation, and what I would like to do is
24 show you a few seconds from a video. And in your -- the video is noted in tab 11, it
25 will be on evidence channel number 2.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 MS HOHLER: [15:02:13] Your Honours, I will object to this. This is, I believe, the
2 exchange that your Honours had with Dominic Ongwen during the opening of the
3 trial. And I think it is inappropriate for this witness, a child rights advocate, to
4 comment on that exchange in any way.

5 MS LYONS: [15:02:31] May I be heard? May I be heard, your Honour?

6 PRESIDING JUDGE SCHMITT: [15:02:33] Yes.

7 MS LYONS: [15:02:34] I didn't get to finish my sentence, but let me finish it now.
8 The rest of what I would say is the purpose of this exchange is not for a discussion
9 between -- is not your discussion with Mr Ongwen, but there are specific points that
10 Mr Ongwen says. That's my only interest in it. Lines 12 to 25 on page 16, lines 1 to
11 14 on page 17. It's Mr Ongwen's position about himself and the LRA. I am not
12 interested in the rest.

13 PRESIDING JUDGE SCHMITT: [15:03:12] Then I think, then, we do it this way, that
14 you simply put exactly these parts of the transcript, you put it to the witness.

15 MS LYONS: [15:03:21] Without the video?

16 PRESIDING JUDGE SCHMITT: [15:03:23] Without the video, please. I would
17 indeed not feel comfortable and I think the Chamber, I see on my right and on my left,
18 also not.

19 But if this is the purpose, then I think you can serve this purpose equally by putting it
20 to Mr Awich. So you extract now from this transcript what Mr Ongwen has said.

21 MS LYONS: [15:03:46] Thank you, your Honour. I will do that.

22 Q. [15:03:50] Now, just for background, there was a hearing in December 2016?
23 2016.

24 PRESIDING JUDGE SCHMITT: [15:04:05] 2016, yes.

25 MS LYONS: [15:04:06] Thank you. All right. Help.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 Q. [15:04:10] Okay. 2016. And there was a questioning between the Judge and
2 Mr Ongwen. I am not interested in the substance of the questions. What I am
3 interested in are two statements that Mr Ongwen made in the course of answering
4 your Honours --

5 PRESIDING JUDGE SCHMITT: [15:04:28] That's fine. That's fine. There is no
6 problem with that.

7 MS LYONS: [15:04:37] Okay.

8 Q. [15:04:38] So the first statement, the first statement, which I believe is lines 19
9 and 20 on page 16; and 23 to 25, for the record, on 16; and lastly, page 17, lines 1 to 2.
10 That's what I'm going to read.

11 PRESIDING JUDGE SCHMITT: [15:04:59] And this would be from line 18, "the
12 charges I do understand" I think, yes?

13 MS LYONS: [15:05:03] Yes. I do -- okay. Fine.

14 PRESIDING JUDGE SCHMITT: No, that's okay. That's okay.

15 MS LYONS:

16 Q. [15:05:05] And the statement Mr Ongwen makes is:

17 "I'm not the LRA. The LRA is Joseph Kony who is the leader of the LRA".

18 Then there's a question from the Judge and Mr Ongwen makes another statement.

19 He says, Mr Ongwen says:

20 "... but I reiterate it is the LRA who abducted people in northern Uganda. The LRA
21 killed people in northern Uganda. The LRA committed atrocities in northern
22 Uganda, and I'm one of the people against whom the LRA committed atrocities. But
23 it's not me, Dominic Ongwen, personally, who is the LRA."

24 And you can, to make it easier, you can find the statement of the transcript in the
25 black binder at tab 12, and we're on pages 16, lines 19 to 25; and 17, lines 1 and 2.

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 That's the section I'm interested in your comments on, if any.

2 PRESIDING JUDGE SCHMITT: [15:06:47] But of course we don't expect Mr Awich

3 to comment on the appropriateness of the proceedings as such here, and of the

4 appropriateness of any choices of the Prosecution to prosecute any persons, I think.

5 But what he -- what he -- indeed, what he can comment upon is what these quotations

6 tell him about the accused, so to speak, about his understanding. This I would

7 allow.

8 MS LYONS: [15:07:15]

9 Q. [15:07:16] My question in fact was: What does it say, if anything, these sections,
10 about how someone in the LRA views his own role and the organisation?

11 PRESIDING JUDGE SCHMITT: [15:07:29] That's okay. This is appropriate, this
12 question. Yes.

13 THE WITNESS: [15:07:35] My view about the statement from Ongwen is that I agree
14 with it. It's correct. In a sense that, as I said earlier, the children who were forced to
15 be part of LRA were, first of all, young, they are not acting out of their volition. And
16 even subsequently when they became old, they were just acting -- they were being
17 used, they were not acting out of their consciousness. So LRA as an institution, so to
18 say, did this. And they could have used anybody. It's just circumstantial that
19 Ongwen was in the theatre. They could use anybody and they indeed did use
20 anybody they captured. So I agree with that statement that indeed Ongwen himself
21 is a victim.

22 PRESIDING JUDGE SCHMITT: [15:09:03] I think that answers the question that you
23 have put to him. So you can move to another point.

24 MS LYONS: [15:09:10]

25 Q. [15:09:23] I am going to move to another area focussing a little bit more on some

1 mental health issues. But before I do that I just want to give you an opportunity to
2 add anything that we may not have covered about the comparisons between the LRA
3 and NRA. I am not looking for -- you've talked about this a lot this morning in terms
4 of influences, factors, but if there's anything that comes to your mind about the major
5 differences between them, or what you think is most important to emphasise about
6 the difference between the two, I would like you to comment since you have
7 experienced one as an abductee and experienced another through abductees.

8 A. [15:10:16] I don't think I have much to add, just to emphasise that the mental
9 work performed by LRA on the abductees, it's strong, not like the political education
10 we had. And also to add that, the duration the children took with LRA is long and,
11 therefore, had more effect. And further, that the violence that they experienced was
12 grave, longer than NRA in our case and, therefore, the situation of the children up to
13 past childhood or up to being adult is grave and I think it has more impact on them
14 than our children were with in NRA.

15 Q. [15:11:31] Thank you.

16 PRESIDING JUDGE SCHMITT: [15:11:38] When it comes, as you already indicated,
17 to mental health issues, you have to be a little bit careful because Mr Awich is not an
18 expert on mental diseases, for example. You can also try to elaborate some factual
19 basis for anything, but I think we should not dwell into that too much. And I, of
20 course I have read the report and there are information in it that you might head at.
21 But I would like also to remind you that we have this report incorporated already in
22 his testimony.

23 MS LYONS: [15:12:16] Thank you, your Honour. I have no intention of asking
24 Mr Awich in areas of mental health beyond his expertise. It's based on his
25 experience and the observations --

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [15:12:29] That's fine.

2 MS LYONS: [15:12:30] -- and conclusions of the report, if I may.

3 PRESIDING JUDGE SCHMITT: [15:12:36] That's fine. Yes. Okay.

4 MS LYONS: [15:12:39]

5 Q. [15:12:39] Now, in your paper you clearly have written about, and you have
6 testified this morning, about the negative effects of child soldiering and some of the
7 mental health consequences. Are there any consequences you want to describe in
8 more detail in addition to what happened to the people you were with, these six or
9 seven people with whom you were with in Ntare school?

10 A. [15:13:11] Not much, apart from my interface with the LRA, who really
11 demonstrated extreme mental thinking, so to say, which affects them to date.
12 For example, you have a child who has come out of captivity, is back in the village,
13 and when he hears a vehicle passing he starts to shout that they should go and
14 ambush that vehicle because it is carrying something good, or food, because this is the
15 mind that it has been in this child. Now he's back already home and still his
16 thinking is that it's okay, it's normal, vehicles are ambushed anyway. So I just want
17 to say that that is the extreme that I just want to highlight in the case of the LRA.

18 Q. [15:14:35] Now, in your report also -- thank you for your answer. In your
19 report also on page ERN 1027 on page 6 you talked about the effect on a person when
20 somebody watches a friend or a colleague die in battle next to him or her.
21 Let me just ask you, based on your own observations and work with child soldiers
22 and your own experience, does this affect children or child soldiers differently than
23 older adult soldiers?

24 A. [15:15:22] As I said, it does affect. And I think it affects more the young. The
25 only difference is that so many things happen when you are a child soldier, seeing a

1 dead one is one of them. To the extent that the product, the final result, you can't
2 even know whether I am behaving this way because of the other death I see, I saw.
3 But suffice to say that these experiences, including my feeling and my experience is
4 that it badly affects children because I saw the seniors who were with us never
5 manifesting the kind of feelings that we had. The fears, for example, the adult could
6 not. So the difference -- there is a difference in the effect, of course, between the
7 adult and the young.

8 Q. [15:16:35] Now, earlier today you talked about the dead years when you were in
9 the bush.

10 If I recall correctly, the reference was to the dead -- his dead years in the bush.

11 And in your report at the same page, you also talked to -- you talk about the
12 disruption of a child's health and well-being when he or she is drawn into a battle.

13 Is there anything you want to elaborate on this to explain to the Court? Anything
14 more you want to say?

15 A. [15:17:15] Not much. I think it is pretty clear. The only thing is that the dead
16 years I referred to is the years when you're not in a normal family setting, the years
17 when you're seeing bad things, and the year when you're experiencing pain and
18 violence. So when you get back to the normal community, you find that those years
19 were blank, you didn't use it well. So as I said, as I have written, is pretty clear in
20 that dimension.

21 Q. [15:18:02] Thank you. You've also stated in your paper that the situation is
22 even worse for child soldiers -- with former LRA child soldiers who were subjected to
23 trauma that the *kadogos* in the LRA could not dream of. This was at page 7, 1028. Is
24 there anything you want to explain more about this that you have not said?

25 A. [15:18:35] Yeah, as I said earlier, when I started to meet the ex-LRA soldiers,

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 I was excited and anxious to know about them because I considered like I was one of
2 them because I had just been from the same situation. So -- but when I discussed
3 with them the horror that they said, the violence that were meted on them, including
4 others who had signs of beating, it wasn't in any way compared to ours which, as I
5 said earlier, had political education and a bit of persuasion and promises of a better
6 future. This one were really, the way I saw it, is that their minds were removed and
7 put aside, their brains were removed and put aside, and something like an artificial
8 brain for the LRA was put in their head. So their situation were not comparable to
9 us. That's what I said. And as I said, sometime, unfortunately, that deliberate
10 artificial brain put on them continued with many up to adulthood.

11 Q. [15:20:12] Thank you. Now, I want to call your attention to an article by
12 Dr Schauer; it should be at tab 5 of your binder. Tab 5. And it is, the ERN number
13 for the record is UGA-PCV-0001-0095. I believe that the Defence gave you a copy of
14 this report earlier.

15 MS LYONS: [15:20:46] I'm not going through the whole report, your Honour.
16 There are just a few pages I would like to call to the attention of the witness and ask a
17 few questions so that he can review it now. This is not a test, okay.

18 PRESIDING JUDGE SCHMITT: [15:21:12] Of course not, no.

19 MS LYONS: [15:21:15] Dr Schauer, so that everyone in the room may know or may
20 not know, she was an expert in the Lubanga case. She wrote this article called,
21 "Psychological Impact of Child Soldiering", which I believe was put into evidence by
22 the victims at some point.

23 Q. [15:21:32] I'm interested in pages, if you can turn to them, pages 6 and 7 of the
24 report, and it's ERN ending in 0100 and 0101 and let me focus it even more.

25 Dr Schauer points out a few reasons why children are recruited as child soldiers. I

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 want to focus on her last reason, which is reason D, where she discusses the -- that she
2 says: The children are recruited as child soldiers because they are easier to retain in
3 a group, they are more malleable and more adaptable. She also says on this page,
4 they're easiest to indoctrinate.

5 My question is, do you -- what is your comment on this conclusion as an expert?

6 A. [15:22:47] This is right. I agree with her.

7 PRESIDING JUDGE SCHMITT: [15:22:49] And I think sort of Mr Awich has already
8 covered this during I think the first session this morning.

9 MS LYONS: [15:22:57] All right.

10 Q. [15:22:58] Now I would like to turn to the same article, the article pages are
11 numbered 15 through 17 and it's ERN numbers -0109, -0110 and then 0111. And
12 what I would like to do, with permission of the Court, is pull out a few salient points
13 here and ask Mr Awich's comment on this.

14 PRESIDING JUDGE SCHMITT: [15:23:37] Yes. But we are talking when it comes to
15 the diagnosis, so to speak, we have these limitations we spoke about but I'm sure --

16 MS LYONS: [15:23:42] Yes.

17 PRESIDING JUDGE SCHMITT: [15:23:42] -- you're not intending to do that.

18 MS LYONS: [15:23:49] I assure you --

19 PRESIDING JUDGE SCHMITT: [15:23:50] Okay, good.

20 MS LYONS: [15:23:50] -- these are not questions about medical diagnosis, okay. I
21 assure you.

22 PRESIDING JUDGE SCHMITT: [15:23:55] This works perfectly, I have to say.

23 MS LYONS: [15:24:02] Okay, let's hope.

24 PRESIDING JUDGE SCHMITT: [15:24:02] Please continue.

25 MS LYONS: [15:24:02] Let's hear the question and we'll decide. Okay, let me do

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 the questions and then you can rule. All right.

2 Q. [15:24:05] The first question is, again, you are not a mental health expert, so I'm
3 asking you from your experiences and from your general knowledge based on your
4 work with abductees, okay? In this section Dr Schauer says that PTSD,
5 post-traumatic stress disorder, quote, persists over time. She also points out that
6 studies from western countries with World War II veterans or political prisoners
7 found that PTSD has a high, long-term stability up to 40 years after the trauma. And
8 lastly she points out that PTSD has psychological consequences but also physical
9 consequences on the person in terms of illness and life span.

10 And my question to you is: Based on your work as a person who is an expert in
11 dealing with child soldiers, do any of these comments -- or what is your comment on
12 these conclusions? Do they make sense --

13 PRESIDING JUDGE SCHMITT: [15:25:38] Yes, no I think --

14 MS LYONS:

15 Q. -- or not?

16 PRESIDING JUDGE SCHMITT: [15:25:44] -- perhaps it's even easier for Mr Awich if
17 I may take over because I think --

18 MS LYONS: [15:25:46] Okay.

19 PRESIDING JUDGE SCHMITT: [15:25:46] -- exactly what you want to elaborate
20 upon, is to ask him if he, in his encounters with former-child soldiers, found
21 psychological or physical phenomenon that persisted over a longer period. That is
22 apart from any diagnosis or so and I think that is something Mr Awich could
23 meaningfully respond to. Please.

24 THE WITNESS: [15:26:17] I did, I did find. It is manifested among our own, that is,
25 the NRA. I came across it, right from the pieces of research that I said I was involved

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 in from the OAU research, I also found in my interface with the LRA; the
2 post-traumatic stress disorder exist and exist very strongly, especially in the case of
3 the LRA.

4 MS LYONS: [15:26:52]

5 Q. [15:26:53] And may I follow up. Do you have any comments about the
6 conclusions that the effects, quote, persist over time?

7 A. [15:27:04] Yeah, it does. It's not a one day off. It persists.

8 PRESIDING JUDGE SCHMITT: [15:27:09] And by the way, at least when it comes to,
9 apart from any medical issues or medical determinations, Mr Awich has mentioned
10 this also in the morning already, that this is nothing that only lasts -- that only exists
11 during a certain age.

12 MS LYONS: [15:27:32] (Microphone not activated)

13 (Counsel confer)

14 MS LYONS: [15:27:51] One moment, we're trying to expedite here.

15 PRESIDING JUDGE SCHMITT: [15:27:59] I, of course, always concede time to that
16 effect.

17 MS LYONS: [15:28:27]

18 Q. [15:28:27] Moving on to area of rehabilitation issues, you've been involved in
19 post-conflict war rehabilitation for both NRA guerillas and the former LRA. Could
20 you discuss a little bit the purpose of the rehabilitation, what it involves, and in your
21 experiences as an expert, is it the same rehabilitation for both groups or not or is it
22 different?

23 PRESIDING JUDGE SCHMITT: [15:29:05] And of course, Mr Awich, please focus on
24 LRA rehabilitation I would say. We have already heard this morning what you
25 underwent --

1 MS LYONS: [15:29:09] That's true.

2 PRESIDING JUDGE SCHMITT: [15:29:09] -- coming back from the NRA. So of
3 course with regard to the case we are sitting here, it would be of the utmost interest to
4 know something about rehabilitation with regard to LRA people.

5 THE WITNESS: [15:29:32] Okay. Rehabilitation in general terms is that when a
6 child is recovered from LRA, and I'm using the word "recovered" deliberately because
7 there are not known cases where children escaped on, on voluntary. Children
8 would always in contact -- when the LRA gets in contact with the government forces,
9 it is one of the occasions that children were always recovered.

10 So when they are recovered, rehabilitation starts. The intention of rehabilitation, of
11 course, is to ensure that first and foremost children find themselves in family
12 environment, ensure that children get back to school, ensure that children, the old one,
13 to get a skill, because there are those who were 17 who preferred to go to vocational.
14 So the case of LRA was not in my opinion that as like ours, because we remained in
15 the government hands. We went to school under the army. The LRA, as I said
16 earlier, is that the arrangement was that immediately they are recovered, hand over to
17 civilian institutions. And these NGOs did not do that structured schooling like we
18 had and that is why I think it's rare, or I have not seen any former LRA who is a
19 lawyer or a doctor or an engineer. Many of them ended up in those other
20 institutions.

21 But be as it is, the move then was leave it to the will of the civilian society, because
22 any longer staying with the government or with the military was construed as
23 keeping these children against their will.

24 So the rehabilitation took place. Many went to vocational schools, carpentry,
25 tailoring and that, and many whose family environment could be discovered were

1 quickly put back in family environment. So that was as far as the rehabilitation in
2 LRA was concerned.

3 MS LYONS: [15:32:25]

4 Q. [15:32:26] I have one question: You said, unless I missed it, you said in the
5 beginning, you said there are not known cases where children escaped on voluntary.
6 Could you clarify that? I don't understand.

7 A. [15:32:44] I said I wanted to impart this point of entry of children coming for
8 rehabilitation, so I was moving to say where they are coming from or how are they
9 coming. So I said for these children to get into the hands of the normal people from
10 rebellion, the known process of them getting out is by a recovery from the military,
11 when the army gets in contact with them, with the LRA.

12 But I just wanted to clearly differentiate that it is not known that a group of children
13 left LRA on their own and went to report, say, to the government army or to a church
14 leader. That was pretty difficult and nearly impossible. So my emphasis there was
15 how do they get into the hands before rehabilitation.

16 Q. [15:33:44] Thank you. Now, you've described what happens to children who
17 are essentially recovered by the UPDF and go into rehabilitation. Now what
18 happens to the ex-LRA child soldiers who have not benefited from rehabilitation but
19 somehow managed to escape the LRA?

20 A. [15:34:37] Of course that now becomes the exception to the norms, to the rule.
21 You could even get a group of children, put them in the hands of NGO, let's say you
22 have put 50 children, and all of a sudden you find 5 are away, they leave the centre,
23 the rehabilitation centre.

24 Remember, these are children who are from very difficult background, even the
25 normal rules are very difficult. So many children would escape from, like for

1 example GUSCO, who was the main NGO, who was the main NGO where the army
2 was handing over to them, so a few cases would escape now.
3 Such a child who has escaped from the normal rehabilitation centre have either ended
4 up being a problem to himself or to the society or others who were lucky to go to
5 relatives got to relatives.

6 Q. [15:35:45] Thank you.

7 When I read in your report, let me read back to you my understanding to see if I'm
8 clear. It was on page 7, ERN number ending in dash 1028, and you say:

9 "Former LRA combatants and former child soldiers who have not benefited from any
10 rehabilitative measure stand little chance of ever being in command of their will and
11 action."

12 Children who have had access to nothing, they never got to GUSCO, right, nothing,
13 maybe could you comment a little bit more on this conclusion or how you reached
14 that or why?

15 A. [15:36:36] Yeah, as I said, some children who were recovered from the conflict,
16 as I said, went to institutional procedure of rehabilitation. But remember there are
17 also others who ran away actually from the battlefield and are never put into the
18 institutional framework.

19 Now, those are the ones I am referring to as not benefiting, because they have not
20 gone through counselling, they have not gone through any formal rehabilitation.
21 Attempts were made to trace and identify. And of course majority are the ones in
22 conflict with the law. And part of how we got to know them is by police record,
23 because you find a child has been arrested for this and that, and when it made
24 background check, ah, he was in LRA. And when you make the background check
25 further, he didn't go to GUSCO or he wasn't rehabilitated. So those are the

1 categories that I'm referring to, who stand not to get what their other colleagues got in
2 rehabilitation process.

3 Q. [15:38:04] Thank you for clearing that up.

4 Now I want to raise a related point to rehabilitation. And my question is really what
5 role, if any, does re-conscription into the UPDF of ex-LRA abductees play in
6 rehabilitation?

7 And to focus you more on the question, I want to point out in the transcript chart
8 number 8 on page 11, who is an ex-abductee who was re-conscripted. And it's
9 transcript T-40 in private session, so I assume -- I'd ask that it not be shown any place.
10 But he talks about the re-conscription. And it's T-40, February 2, page 70, lines 10 to
11 24. And I also -- that's the first example, then we'll deal with the second example.

12 PRESIDING JUDGE SCHMITT: [15:39:27] Personally I think the quote on page 11 is
13 not so informative, but the principle is clear, because I can explain to Mr Awich that
14 we had I would formulate quite a number of witnesses who had been in the LRA and
15 later on were part of the UPDF, became part of the UPDF, and I think this is where
16 Ms Lyons is heading at.

17 MS LYONS: [15:39:55] Thank you. Thank you, your Honour, for the clarification.

18 Q. [15:39:58] So the issue is can you tell us, if you know, what effect, if any, does
19 the re-conscription have, for example, that this witness described at excerpt number 8
20 on the transcript chart, if you know.

21 A. [15:40:24] Re-conscription I don't know, because my domain was children.
22 And as I said, the NGO including Save the Children and UNICEF were so keen on
23 children not getting back to the army. So in this particular case I don't know how he
24 got in, but maybe because he was an expert in some area. But as a general rule, the
25 rule that I'm saying children must be handed over within 72 hours was a rule agreed

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 on by UNICEF, Save the Children, Red Cross, and they were very, very strict about
2 this.

3 So if this person got into conscription, I can't comment much. But I know he would
4 have -- he maybe could get facilitation in terms of benefits like money or others. But
5 my mandate about children is that re-conscription was not allowed and UNICEF was
6 so clear about that.

7 PRESIDING JUDGE SCHMITT: [15:41:44] I think that that answer is fair enough.
8 And Mr Witness does not want to overstep his mandate as an expert witness, so to
9 speak. That's fair enough. And we were not, of course, not talking about children
10 who had been re-conscripted into the UPDF, but these were soldiers who came back
11 from the bush, so to speak, at a certain age and not at a child age.

12 I think you can move to another point now, Ms Lyons. And I assume you are quite
13 far.

14 MS LYONS: [15:42:29] I feel -- I won't tell you how I feel. Pushed. I'm doing the
15 best I can.

16 PRESIDING JUDGE SCHMITT: [15:42:37] No, no.

17 MS LYONS: We are far, but we may not finish.

18 PRESIDING JUDGE SCHMITT: This is not pushing. This is motivating.

19 MS LYONS: [15:42:44] Trust me, you're looking at a motivated woman here. But
20 I'm telling you I'm very motivated, but let me keep going. We have two or three
21 more areas. We may not have to do all the questions in them. Let's see how far we
22 go.

23 Q. [15:43:08] Now, I want to ask you a question about the area of -- it's not about
24 mental illnesses, per se, but it's about some of your observations in your own self and
25 with ex-abductees who have suffered mental challenges, defects, I don't know the

1 correct word, mental trauma due to their child soldier situation.

2 The term "invisible wounds" is sometimes used to describe the persistent, traumatic
3 stress among former child soldiers. And my question to you is, is this an accurate
4 term to describe the situation of ex-child soldiers?

5 A. [15:44:27] I think it is accurate. And I sometimes wonder whether I also don't
6 have the wound. I think it is accurate, because the experience is grave and it
7 definitely has an impact.

8 Q. [15:44:45] Without violating your own privacy, do you feel free to talk a little bit
9 more about your experience? And if you don't, the Trial Chamber I'm sure would
10 understand, but I feel I would ask you.

11 A. [15:45:01] Not, not much. It's what I have been sharing really. There's
12 nothing very new that I can add.

13 Q. [15:45:11] Now, with this notion of invisibility, does a former child soldier,
14 whether he or she is in the LRA or the NRA, who suffered some kind of mental health
15 consequences, is this always exhibited in the person's conduct, based on your
16 experience and observations?

17 A. [15:45:45] Yes, sometimes it does. Or it does, at least in the colleagues that I
18 lived longer with, I saw it. It exhibits. And it also does, to more extreme exhibition
19 with the LRA, it does.

20 Q. [15:46:09] Now, are there situations which you know about or have observed
21 where a child soldier may be suffering from traumas - you know this because you
22 work with him or her, you have information from a civil society group, et cetera,
23 et cetera - but the person may appear, quote, "normal" but still be suffering?

24 A. [15:46:44] Yeah, there are situations, for example, permanent mistrust. Even if
25 you tell somebody some honest position, he doesn't trust you, he thinks there's

1 danger. Anxiety, perpetual anxiety. Dreams. For a long, long time we used to
2 have friends who had nightmares. And acting unilaterally, which sometimes he
3 does the wrong thing and you can't stop. So the incidences are there to manifest.
4 And we would, sometimes we would know this one is the effect. We would know
5 among ourself it manifest.

6 Q. [15:47:34] Now I would like to call your attention to transcript number 10,
7 transcript excerpt number 10 on page 13, which is from the transcript, open session,
8 T-53, conference edition, 14 March 2017, page 39, lines 11 to 25. And there's a
9 description at the end by the witness, Witness 330. It says:

10 "At home there are particular months when I am disturbed, but at other times there's
11 no problem, but as soon as the problems start I get a very difficult life. So it is on
12 and off. Sometimes when I'm already in bed with my wife ... my wife will ask me,
13 'What's wrong with you? Are you getting mad?' She would ask that because of my
14 shouting because I'm talking alone as a madman."

15 Do you have any comments on this?

16 A. [15:48:53] It's true. It happens a lot. It happens a lot, even among our
17 colleagues.

18 Q. [15:49:01] Now, if someone were to look at you today -- we're all -- everybody is
19 looking at you, plus the video, we're all looking at you today. Okay. All right.
20 Not to put you on the spot, this is what broadcasts. Okay. We're looking at you
21 today, would a person, however discerning and perceptive, et cetera, be able to look
22 at you and say this is a person who has suffered trauma as a child soldier?

23 A. [15:49:51] Well, you are looking at me.

24 Q. [15:49:54] I am. But I'm asking the question.

25 A. [15:49:56] But --

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [15:49:57] No. No, but --
- 2 MS LYONS: [15:49:58] You know.
- 3 PRESIDING JUDGE SCHMITT: [15:49:58] -- this -- actually, this is a very acute
- 4 answer I think.
- 5 MS LYONS: [15:50:04] Yes, that's true.
- 6 PRESIDING JUDGE SCHMITT: [15:50:06] Under the circumstances, I would say.
- 7 MS LYONS: [15:50:08] Yes. That's true. Okay. All right.
- 8 THE WITNESS: [15:50:12] But what I want to say is that, not regarding the sense of
- 9 humour I said about you looking at me, is that at the face of it I would look normal.
- 10 MS LYONS: Right.
- 11 THE WITNESS: But these events or this situation can manifest any time. And as I
- 12 said in the morning, that it also depends on the person, his resistibility to situations,
- 13 who could be exposed like my friends were exposed together, but just at high school
- 14 they are already running mad. So I can look normal, as I think I look normal, but
- 15 you never can tell.
- 16 But we have come out of it, because it's now 33 years. In our case, it is now 33 years.
- 17 And we have come out of it differently. I think I'm still good and my friends are not.
- 18 MS LYONS: [15:51:20]
- 19 Q. [15:51:21] Thank you.
- 20 Now I'm moving on to a new section, on the issue of the convention and the optional
- 21 protocol to the convention, areas in which you have expertise and have worked as an
- 22 expert.
- 23 PRESIDING JUDGE SCHMITT: [15:51:45] But you are mindful of my initial remark.
- 24 MS LYONS: [15:51:49] Yes, I'm mindful of your remark and I'm also mindful that I
- 25 expect that the Judge will -- you will intervene if this --

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [15:51:57] But I simply think that any legal,
2 legal -- any rules and any legal bodies that might be of relevance in this case, simply,
3 if they are to be interpreted, the Chamber will do that and we are able to do that as
4 professional judges. So I think to ask the witness about it is not, is not necessary, in
5 my opinion, and it also would easily border objections by the Judge.

6 MS LYONS: [15:52:32] (Microphone not activated) your Honour, I don't intend to
7 ask this expert for legal conclusions. I'm asking about conventions that he's worked
8 on. But there's a -- I need two minutes to just sort out a prior matter concerning our
9 client, if I may.

10 PRESIDING JUDGE SCHMITT: [15:52:48] But, you see, if we look at the report,
11 there is mention, mention of, for example, Article 8 of the Rome Statute, you don't
12 have to ask things about that. And human rights law also is -- we have to consider
13 according to, perhaps, according to Article 21 of the Rome Statute. So this is known
14 to us. So perhaps you can confer if it is really necessary.

15 MS LYONS: [15:53:10] No, no, no. Your Honour, I appreciate your remarks. But
16 if I may ask your indulgence, I just want to confer --

17 PRESIDING JUDGE SCHMITT: [15:53:20] Of course. Of course I do.

18 MS LYONS: [15:53:21] -- with my -- in terms of my client. Sorry. It's two minutes,
19 and then I can deal with this issue.

20 Thank you.

21 (Counsel confer)

22 MS LYONS: [15:54:15] Now Ms Lyons has a proposal, which is, our - it's up to the
23 Court, we will do what you want - our client has indicated -- you know, he's still
24 listening, he's paying attention, but he's extremely tired. We're into the third session.
25 I don't know if I'll -- we're almost -- we go until 4 --

Trial Hearing
WITNESS: UGA-D26-P-0133

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [15:54:39] Normally until 4 o'clock.
- 2 MS LYONS: [15:54:41] Four o'clock, okay. I'm not going to finish by 4 this -- even
3 at New York speed talking I can't do it at 4, and listening. It's not going to happen.
4 So what I'm wondering is, before I go into this section, perhaps if we could close and
5 then I would finish in less than one session in the morning on Thursday, and I will
6 take heed of your comments.
- 7 PRESIDING JUDGE SCHMITT: [15:55:06] Yes, of course. I think this is fine.
8 And I can perhaps inquire with Ms Hohler. Of course, as always it's an estimate and
9 I won't put -- as I did not, I think, push too much, I would not push you too.
- 10 MS HOHLER: [15:55:20] Yes. Depending, your Honours, on what we hear on
11 Thursday morning, but we're not looking at more than a session for the Prosecution,
12 at most.
- 13 PRESIDING JUDGE SCHMITT: [15:55:27] Okay. Okay, that's fine. And then we
14 also have taken notice of what you said about your client, and I think then this is a
15 good moment to conclude the hearing for today.
16 And I thank you, Mr Awich, for today but you are not finished with your testimony,
17 as you have recognised. We meet again, everyone, with the witness in the
18 courtroom, on Thursday, 9.30.
- 19 THE COURT USHER: [15:55:52] All rise.
20 (The hearing ends in open session at 3.55 p.m.)