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The Lubanga Chronicles: The First Trial before the International Criminal Court

Chronicle #2

Witness 8: "Yes, I did rape once."

Wednesday, 25 February 2009.

Today's session produces no upsets, in contrast to yesterday. Witness 213's unexpected and touching statement had provoked many emotions in the Court Room the day before. It is the turn of the third former child soldier who will testify on what happened on a certain day in the Congolese region of Ituri.

After several minutes in private session, the public gallery is finally allowed to hear the questions which Prosecution trial attorney, Mr Sachdeva, is asking the new witness. "You said you saw soldiers, you know who those soldiers were?" "Yes," replies Witness 8, "they were UPC soldiers." He is referring to the political military movement chaired by Thomas Lubanga Dyilo called *Union des Patriotes Congolais*.

The child soldier was allegedly abducted and later transported by Lubanga's militia to a military training centre in Irumu, in the region of Ituri. "You said the soldiers came to school," says Mr Sachdeva, evoking the day Witness 8 was abducted. The child, who was then still under the age of 15, was taken forcibly to his home. There, the soldiers threatened his family. "They told my parents to shut up, not to say anything or they would kill them." Later, they took him away. "Where did they take you?" continues Mr Sachdeva. "Irumu," replies Witness 8, "a military training centre run by the UPC."

Witness 8 tries to remember how he arrived at the Centre. "They were singing military songs to us; they told us not to be afraid," he says. "I was afraid, very afraid," he remarks, with emotion. "Why were you afraid, Mr Witness?" "I was afraid because I didn't know what I was going to do there, and military service was not something for us as children" Witness 8 replies, without hesitation. And this time, his voice is firm.

According to Witness 8's testimony, the children at the military training centre were taught how to shoot, how



Children allegedly recruited by the UPC. OTP Evidence Material Shown at the Lubanga Trial in 2009

to run, and how to identify the enemy. "When I shot for the first time, I was very afraid," he tells the Court. "The weapon was powerful and jerked me forward." Both boys and girls were forced to take part in this military training. If they made mistakes, they were punished. "If you didn't hit your target properly, you were beaten," Witness 8 remembers. He describes how he was beaten several times while at the camp. "You were beaten severely if you lost your weapon, or even killed; losing a weapon was a serious crime in the militia."

Mr Sachdeva wants to know more about how it was for the girls in the camp. "They [the military leaders] told us: 'You can take the girls, you are free to take any one of the women and sleep with her. I was afraid to sleep with a girl because I did not know how to, I was afraid of this kind of act of intimacy,'" says Witness 8. "Did the girls know about these instructions?" insists Mr Sachdeva. "Yes," he replies, "they were afraid, but the military superiors obliged them to do it."

Mr Sachdeva compares the oral testimony with Witness 8's statement he is holding in his hands. Sometimes his colleague, Nicole Samson, exchanges notes with him. Thomas Lubanga has been quiet and attentive the whole morning, sometimes jotting down notes from his seat at the back of the Court.



Trial Attorney Mr. Manoj Sachdeva © ICC-CPI 2009

On several occasions, witness protection concerns mean the sound is cut, and the public gallery has to follow the trial in private session. "Yes, I participated in combat"— the witness's voice is audible again. "Are you able to say roughly when that was?" asks Mr Sachdeva. At this same moment, Thomas Lubanga passes a note to his lead Defence Counsel. It is a folded sheet. As Witness 8 recounts how he took part in military operations, the Defence lawyers are conferring over Thomas Lubanga's note.

The high point of the session would soon be reached. Mr Sachdeva: "Did you rape girls?"

Silence in the court room.

"Yes, I did rape once," Witness 8 admits. "Are you able to say what age the girl was?" asks the Trial Attorney. "I don't know, but I think she was the same age as me." Witness 8 hesitates. Mr Sachdeva does not press on, but asks Witness 8 if he is fine to continue with this line of sensitive questioning. Judge Fulford immediately intervenes and invites Mr Sachdeva to reflect whether or not it is necessary to press this point with Witness 8. The Prosecution decides to continue their questioning. "Witness, when this happened, did anybody else know about it?" asks Mr Sachdeva. "Yes, there were people who saw what happened," says Witness 8, "the civilian population, and especially the girl's parents. All the military chiefs were aware of what happened but none of them reacted."

The afternoon starts with questions by Paolina Massida, representative of the Office of the Public

Counsel for Victims. She wants to express her concern about the physical consequences of the enlistment Witness 8's life. The former child soldier bursts out passionately: "I still have some physical consequences, but most of the time when I look at this wound—referring to a painful foot injury - I have some bad memories, because it brings back the suffering that I experienced in combat ... I did not get any compensation for this! I really regret all that happened during the war when I look at this wound." He continues, "My enrolment into the UPC had consequences on my life because I had to stop my studies. Furthermore, I was separated from my parents. You know, children have to be with their parents. And this is very painful, very painful to me. The person who enlisted us separated me from my parents, and this is a big worry to me."

A couple of minutes later, the Defence team starts their cross-examination. The mission of Mr Biju-Duval will be to put the validity of Witness 8's statement to the test. And to do so he begins by asking Witness 8 to verify his signature on the statement he provided to Court investigators. They realise the Swahili version is not available for the witness. Minutes of confusion. They finally decide to work with the French version, and continue with questions. The public gallery again watches the trial in the silence of the private session. Once more, the public gallery is obliged to guess what the actors might be saying until the end of the hearing. The lawyers' gestures seem to indicate an important disagreement. Ms Mabelle gesticulates, shows her annoyance. They discuss for minutes on end, while the public gallery keeps quiet, transfixed, as if watching a silent film.

The Lubanga Chronicles Project aims to follow the case of former rebel commander Thomas Lubanga Dyilo, the first trial before the International Criminal Court (ICC). This Project seeks to chronicle the proceedings, including by looking at the principal legal issues, but mainly from a "human interest" perspective by portraying the trial participants; looking at their personal experiences, feelings and emotions. The Project will produce written, audio and video summaries of the trial. For more visit www.aegistrust.org