

Trial Hearing
WITNESS: UGA-D26-P-0060

(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 Monday, 19 November 2018
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: [9:32:53] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:33:27] Good morning, everyone.
13 Could the court officer please call the case.
14 THE COURT OFFICER: [9:33:33] Good morning, Mr President, your Honours.
15 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: [9:33:44] Thank you.
19 I ask for the appearances of the parties. Mr Gumpert first for the Prosecution.
20 THE WITNESS: [9:33:49] Good morning, your Honour.
21 With me today Adesola Adeboyejo, Yulia Nuzban, Pubudu Sachithanandan,
22 Julian Elderfield, Colleen Gilg, Shkelzen Zeneli, Jasmina Suljanovic, Grace Goh and
23 Georgia Milka.
24 PRESIDING JUDGE SCHMITT: [9:34:05] Thank you.
25 And for the legal representatives of the victims.

1 MS SEHMI: Good morning, Mr President, your Honours.
2 With me James Mawira and Maria Radziejowska, and I am Anushka Sehmi.
3 PRESIDING JUDGE SCHMITT: [9:34:15] Thank you.
4 And Mr Narantsetseg.
5 MR NARANTSETSEG: [9:34:18] Good morning, Mr President.
6 For the common legal representative, myself Orchlon Narantsetseg, and with me
7 Mr Anderson Dirocie, our intern from Dominican Republic. Thank you.
8 PRESIDING JUDGE SCHMITT: [9:34:32] Thank you very much.
9 And for the Defence, Ms Lyons.
10 MS LYONS: [9:34:35] Thank you, your Honour.
11 Appearances today are Chief Charles Taku, behind me; to my right,
12 Inshuti Zirimwabagabo, Abigail Bridgman; the back row, Tibor Bajnovic,
13 Michael Rowse, Tom Obhof, Roy Ayena, and our client Mr Ongwen.
14 And I would like to, if I may, say two brief things. I bring regrets of counsel
15 who -- lead counsel Ayena who cannot be here today, but want to convey his
16 greetings to the witness. I forgot to do that.
17 And the second point I want to make, is that today and tomorrow are the last days
18 that Ms Bridgman will be in court. Her responsibilities on this team are changing as
19 of 2019.
20 PRESIDING JUDGE SCHMITT: [9:35:23] Okay. Thank you very much. We have
21 noted that.
22 And of course last but not least, we turn now to Mr Kristof Titeca. On behalf of the
23 Chamber I would like to welcome you in the courtroom.
24 There should be a card in front of you Mr Titeca, with a solemn undertaking to tell the
25 truth. Could you please make this undertaking by reading this out aloud.

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1 WITNESS: UGA-D26-P-0060

2 (The witness speaks English)

3 THE WITNESS: Okay. Thank you.

4 I solemnly declare that I will speak the truth, the whole truth, and nothing but the
5 truth.

6 PRESIDING JUDGE SCHMITT: [9:35:54] Thank you very much.

7 Before we start with your testimony a few practical matters:

8 You are aware that everything we say here in the courtroom is written down and
9 interpreted, and to allow for the interpretation we have to speak at a relatively slow
10 pace, perhaps slower like I do at the moment, and only start speaking when the
11 person who has asked you a question has finished.

12 If you have any issues yourself, you need a break or something like that, please raise
13 your arm, we know then that you want to be addressed, and I will address you. We
14 can start now with your testimony.

15 Ms Lyons, you have the floor.

16 MS LYONS: [9:36:32] Thank you, your Honour.

17 QUESTIONED BY MS LYONS:

18 Q. [09:36:34] Good morning, Professor Titeca. I said the name correctly?

19 A. [9:36:39] Correct.

20 Q. [9:36:40] Okay.

21 Before we begin, I would ask that the -- that Professor Titeca be given a few moments
22 to review the binder in front of him so that he's familiar with the contents.

23 PRESIDING JUDGE SCHMITT: [9:36:54] Why not?

24 MS LYONS: [09:36:55] That's okay.

25 PRESIDING JUDGE SCHMITT: Yes.

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1 MS LYONS: And everyone else may have or may not have done it, so here's your
2 opportunity.

3 PRESIDING JUDGE SCHMITT: [9:37:22] The easiest way to get through this is
4 simply to look at page 1, and there you see everything what is contained in the binder.
5 So that's -- you don't have to go through.

6 MS LYONS: [9:37:35] We appreciate organisation. Okay.

7 PRESIDING JUDGE SCHMITT: [9:37:40] No, no, it's fine. It's fine.

8 MS LYONS: [9:37:41] It's true. It's fine. Thank you.

9 PRESIDING JUDGE SCHMITT: [9:37:50] There might also be some documents that
10 are very familiar to you, so to speak.

11 THE WITNESS: [9:37:56] Mm-hmm.

12 PRESIDING JUDGE SCHMITT: [9:38:20] I think it's --

13 THE WITNESS: [9:38:22] Yeah.

14 PRESIDING JUDGE SCHMITT: [9:38:23] -- not too complicated, so to speak.

15 THE WITNESS: [9:38:27] Yeah. That's fine.

16 PRESIDING JUDGE SCHMITT: [9:38:28] And you will think quickly, notice where
17 Ms Lyons is heading at.

18 So please, Ms Lyons, start your testimony.

19 MS LYONS: [9:38:34] Thank you, your Honour. Thank you for the time.

20 Q. [9:38:37] Professor Titeca, could you please state your full name for the Court,
21 for the record?

22 A. [9:38:42] Kristof Titeca.

23 Q. [9:38:43] And could you tell the Court what your occupation is, and your
24 current position?

25 A. [9:38:48] I am a professor at the University of Antwerp, at the Institute of

1 Development Policy.

2 Q. [9:38:55] All right. Now, as at -- in your position at the university in
3 development policy, do you specialise in particular areas?

4 A. [9:39:03] Mm-hmm. My main interest is in governance in areas where the state
5 is only weakly present. And I do so -- I am an area specialist. That means that I
6 focus on particular areas, and that's the DC Congo and Uganda. These are my two
7 main areas of specialization. And I look at, well, particular issues, as well, one
8 a rebel movements, the ADF, as you see in your article, but in particular the
9 Lord's Resistance Army. Part of that I'm also interested in informal institutions.
10 More broadly, I am interested in, where the state is absent, how do actors regulate
11 themselves. That can be in violent circumstances such as the Lord's Resistance
12 Army.

13 Q. [9:39:50] And for the record could you just say what the acronym ADF stands
14 for?

15 A. [9:39:57] Allied Democratic Forces --

16 THE INTERPRETER: [9:39:58] Your Honour, could we please ask for the break to
17 give the interpreters time to interpret?

18 THE WITNESS: [9:40:06] -- which is a rebel movement originated in Uganda, who is
19 now present in the DR Congo.

20 PRESIDING JUDGE SCHMITT: [9:40:10] And I am reprimanded a little bit by the
21 interpreters. Please wait a second or two, or better, three, until your answer.

22 THE WITNESS: [9:40:18] Yes. Sorry.

23 PRESIDING JUDGE SCHMITT: [9:40:18] But that's absolutely natural. So
24 we -- perhaps I will never really adapt to that. So, simply try.

25 THE WITNESS: [9:40:26] Okay, I will.

1 MS LYONS: [9:40:27] And I also have been warned to wait also by my colleagues,
2 because I don't wait.

3 PRESIDING JUDGE SCHMITT: [9:40:32] You would have been the next I would
4 have addressed.

5 MS LYONS: [9:40:36] Okay. All right. Let me hold back.

6 Q. [9:40:40] Now, could you tell the Court how long you've specialised in this field,
7 particularly looking at the regions of the Democratic Republic of Congo and Uganda.

8 A. [9:40:52] For the last 15 years. I started working on this in 2003, up to today.

9 From 2003 up to 2007 this was part of my doctoral studies at the University of Ghent.
10 From 2008 onwards this was part of my post-doctoral programme at the University of
11 Antwerp, until I became a lecturer, but basically for the last 15 years.

12 Q. [9:41:20] Thank you.

13 Now, could you describe some of the particular work you do in this area, the courses
14 you teach?

15 A. [9:41:33] I am teaching in the master programme of Governance and
16 Development at the University of Antwerp, and I teach a range of courses. At the
17 moment, during the first semester I am teaching on qualitative research methods, on
18 how to do field research. Later on, I teach about conflict studies, how to analyse
19 situations of violent conflict, and I also teach things to do with governance, with local
20 governance. I have been doing so at the University of Antwerp, but I also have
21 long-standing collaborations with institutes in the regions that I just mentioned. I've
22 been collaborating with university -- with a university in the Democratic Republic of
23 Congo for five years. I collaborated with the Catholic University of Congo in
24 Kinshasa, and I have been collaborating with universities in Uganda as well, more
25 particularly Gulu University and Uganda Christian University.

1 Q. [9:42:38] Now, I notice on page -- looking at tab 2, at your résumé, you've listed
2 the last two universities and projects you just testified about; Gulu University,
3 Uganda University. Could you tell us a little bit more about these two particular
4 projects?

5 A. [9:43:01] So these are projects which are financed by -- which is called
6 VLIR-UOS, and they finance academic collaborations by academic institutions in the
7 global north, in this particular Belgium, and global south, in this case Uganda.
8 What they do is they finance research, the research teaching and, yeah, doctoral
9 programmes. So I have been supervising doctoral students, I have been teaching at
10 these universities, and I have been supervising and conducting research projects.
11 This means that senior academics from these institutions in Uganda have been
12 conducting research programmes, with my collaboration and supervision, and have
13 been writing up under my supervision and collaboration.

14 Q. [9:43:54] Okay. Thank you. I just want to digress a few moments backwards,
15 because apparently the transcript did not get the acronym ADF. For the purposes of
16 the record, could you please repeat what ADF stands for.

17 A. [9:44:11] Allied Democratic Forces.

18 Q. [9:44:15] Okay. Thank you. Now, have you researched the role of spirituality
19 and its impact on individuals in groups besides the Lord's Resistance Army?

20 A. [9:44:39] I have been looking at this to some extent within the ADF, but my main
21 focus has been on the LRA.

22 Q. [9:44:48] And could you tell the Court, have you written about the ADF, or
23 contributed to articles on the ADF?

24 A. [9:45:00] Sure. I have written in academic international peer review journals on
25 this. I have written on this -- well, I see the article is in the binder in the Journal of

1 Eastern African Studies. That was 2012, I think. Then I have written another one
2 for the Journal of International Affairs. This was published in 2016, I think. And I
3 have written nonacademic pieces and blog posts on the ADF.

4 Q. [9:45:35] Thank you. Now, I want to ask you, do you think you can assist the
5 Judges to understand the role of spiritualism in the Lord's Resistance Army?

6 A. [9:45:55] Sure. Yes, very much so.

7 Q. [9:45:59] And could you please explain what you believe you can contribute to
8 the discussion?

9 A. [9:46:06] I can contribute to how individual -- on how spirituality is being
10 experienced by individual combatants and, from a more meta perspective on how, on
11 the various function, these spirits serve within the rebel movement.

12 Q. [9:46:25] When you say "meta", I assume M-E-T-A?

13 A. [09:46:30] Exact --

14 Q. [09:46:30] Could you explain to those of us who don't work in your field what
15 "meta" means?

16 A. [9:46:35] All right. So I would like to make a distinction between, on the one
17 hand, what can be called the emic perspective of spirituality. The emic perspective
18 means from the individual's own perspective, without preconceived notions of what
19 outsiders think these notions mean. So, on the one hand, emic, what
20 individual -- how the individual experiences these notions; and on the other hand, the
21 meta perspective from a more abstract theoretical perspective, the function the
22 spirituality serves for the movements. On how I myself, as an academic and analyst,
23 would argue the functions spirits and spirituality play for the movement.

24 Q. [9:47:30] Thank you. Now turning specifically to your research on the LRA I
25 have a few general questions before we get into more details. Could you describe

1 the foci of this search?

2 A. [9:47:48] Could I describe the?

3 Q. [9:47:49] The foci. The focal points. Sorry.

4 A. [9:47:53] Ah, okay. Well, what I have just answered were kind of my focal
5 points. So this -- well, these two points of how individuals experience this and the
6 meaning they give to that, and then also from a more abstract perspective.

7 Q. [9:48:11] Now, in terms of the work you've done with -- concerning the LRA,
8 could you describe how you conducted the research?

9 A. [9:48:26] Thank you. So since 2004 I have been conducting field research on
10 this issue. So, well, as an academic you use various methods of data collection, and
11 my main method of data collections has been qualitative field research. What does
12 this involve? Well, a variety of methods, but my main one has been interviewing
13 forming combatants.

14 So since 2004 I have been conducting this field research with a variety of actors. And
15 these actors, they can be policy analysts, they can be the affected population, they can
16 be policymakers. But the main actors for this specific issue, spirituality, has been
17 former combatants.

18 So I guess also you will be interested in how many of these actors I spoke with. So,
19 let's say over the years I spoke -- so all the actors I just mentioned must have been, I
20 guess, around 500 interviews. Specifically with ex-combatants I -- this has been
21 around 100, 120 interviews.

22 Q. [9:49:57] Thank you. Now, have you published this research?

23 A. [9:50:05] Yes, sure. Well, specifically on spirituality, this is the chapter which is
24 part of the folder here, which is published in the book edited by Tim Allen and
25 Koen Vlassenroot. My other research on the LRA has, for example, been published

1 in journals such as African Affairs, and so on.

2 Q. [9:50:23] And lastly, in the academic world in which you work, in which you
3 operate, are you considered an expert on the LRA?

4 A. [9:50:36] Sure. Very much so.

5 Q. [9:50:41] I have --

6 PRESIDING JUDGE SCHMITT: [9:50:41] But what can you say now, if you sit here
7 as an expert in -- yes.

8 MS LYONS: [9:50:47] Okay. Maybe it was a redundant question. I apologise,
9 your Honour.

10 PRESIDING JUDGE SCHMITT: [9:50:51] You know, I did not object to it, and
11 Mr Gumpert neither.

12 MS LYONS: [09:50:54] Yes, obviously. Okay.

13 PRESIDING JUDGE SCHMITT: But it's obvious, the answer.

14 MS LYONS: [9:51:03] Okay. Thank you. Point taken.

15 Q. [09:51:05] Now I would ask you please to turn to tab 3. Could you tell
16 the Court what this is.

17 A. [9:51:25] This is the paper I wrote in request to -- to a request by the Defence
18 team, who asked to write a paper on this spiritual element of the LRA.

19 Q. [9:51:41] Thank you.

20 Now, could you turn to page -- the last page, page 8, which is -- the document, the
21 first number of the document, for the record, is UGA-D26-0018-3901. This is tab 3.

22 The last page ends in 3908. Is that your signature on page 8?

23 A. [9:52:15] Exactly.

24 Q. [9:52:18] Do you have any objections to this expert report being submitted into
25 evidence, Professor Titeca?

1 A. [9:52:29] No.

2 MS LYONS: [9:52:29] Your Honour, pursuant to Rule 68(3) I would request that the
3 expert report be accepted into evidence.

4 PRESIDING JUDGE SCHMITT: [9:52:39] Any comments by the Prosecution to that?

5 MR GUMPERT: [9:52:45] Will your Honour just give me a moment?

6 PRESIDING JUDGE SCHMITT: Yes.

7 MR GUMPERT: [09:53:18] The answer in principle is certainly no, it will save time
8 and be efficient.

9 The only thing which gave me cause for a little concern is to be found on page 11, line
10 5 of the transcript. Asked about specifically X combatant interviewees - the
11 transcript is slightly defective, it's, I think, interviewees. In any event, it's the
12 number of people who were combatants. And that appears to be a clash - it may
13 simply be a typographical error - with the second paragraph of the first page of the
14 report where the number of interviews with former combatants is 450.

15 PRESIDING JUDGE SCHMITT: [9:54:11] No, that's correct. Absolutely.

16 MR GUMPERT: [9:54:12] The Prosecution in the past had documents which it
17 wanted to submit where there were some typographical or other, perhaps, minor
18 errors, and we adopted the procedure of asking the witness whether there was
19 anything about the document which he or she would want to change before it was
20 submitted. It may be - it's a matter really for the Defence and for your Honour - that
21 that will be an appropriate procedure.

22 PRESIDING JUDGE SCHMITT: [9:54:42] I agree with you. I agree with you. But
23 we have the witness, the expert here in the room, and we can simply ask him. You
24 have of course followed the conversation. So in this report here we have -- it's
25 second paragraph on page 3901, reads:

1 "I have conducted approximately 450 interviews with former LRA combatants" and
2 we have here on the record 120.

3 THE WITNESS: [9:55:15] Yes. Thank you.

4 Well, this is a -- well, this must be a grammatical issue, or my English writing. The
5 450 relates to both the former LRA combatants and expert government officials, and
6 so on. So it includes both of those. So that's why I said in my statement - well, the
7 number has increased in the meanwhile - around 500 interviews with all these actors,
8 among which 100, 120 former ex-combatants. So the 450 here refers to both the
9 combatants and the others.

10 But I agree, grammatically this could have been made much clearer.

11 PRESIDING JUDGE SCHMITT: [9:55:56] No, there is no reproach. I think even
12 with an understanding to bring things together, it can also be clear from the wording
13 here, I would say.

14 Just a moment.

15 THE WITNESS: [9:56:11] Thank you.

16 (Trial Chamber confers)

17 PRESIDING JUDGE SCHMITT: [9:56:21] So following the procedure we had already
18 with the Prosecution case, we simply can continue. This fulfils the requirements of
19 Rule 68(3). We have no problem with that. So the, so to speak, this report is in,
20 which shortens the whole procedure, of course. We don't -- you know that, you
21 have -- no, you have not. I think you were not in the courtroom when we did that,
22 you don't have to go now through it. This is the reason why we have the procedure
23 Rule 68(3), meaning you can ask additional questions. But if you planned - I don't
24 know if this is the right subject - if you planned to go through the whole report I
25 would stop you, because it's now already on evidence as the evidence of this expert.

1 Do you understand what I mean?

2 It is - the reason behind Rule 68(3) - it is as if Mr Titeca had already said this here
3 orally in the courtroom. Do you understand that?

4 MS LYONS: [09:57:17] Yes, your Honour. We understand that. And, however,
5 we will raise some questions about a number of the concepts.

6 PRESIDING JUDGE SCHMITT: [9:57:26] No, no problem. Additional questions,
7 always yes. But please, otherwise really, the shortening and the expediting effect of
8 this rule would be not there, so I would simply ask you to keep it short.

9 MS LYONS: [9:57:40] Thank you, your Honour.

10 Q. [9:57:53] Now, before we discuss some of the concepts and methodology of the
11 report, I wanted to ask you two very brief questions about the terms of reference
12 which are found at tab number 1.

13 Now, could you explain, Professor Titeca, why you focused on the role of spiritualism
14 in your expert report, and not the broader issues that are outlined in some parts of the
15 terms of reference?

16 A. [9:58:51] Well, I guess two answers: One, because the spiritual aspect is my
17 line of specialization; and two, because I argue that the spirits have a particularly
18 important and strong impact on individuals functioning within the LRA and on the
19 LRA as an organisation.

20 PRESIDING JUDGE SCHMITT: [9:59:14] And I add number 3, which is that legal
21 questions have to be decided by the Chamber.

22 MS LYONS: [9:59:21] I'm sorry. Say that --

23 PRESIDING JUDGE SCHMITT: [9:59:23] And I add as number 3 that legal questions,
24 which are also here in the terms of reference, Article 28 and so on, have to be decided,
25 and criminal responsibility, have to be decided by the Chamber. So it's a very -- and

1 we appreciate that, it's a restraint by the expert which we appreciate.

2 MS LYONS: [9:59:41] Thank you, your Honour.

3 PRESIDING JUDGE SCHMITT: [9:59:42] Experts and witness can only bring to the
4 attention of the Court a factual basis for the legal conclusions that the Chamber will
5 have to take later on.

6 MS LYONS: [9:59:57] Thank you for your guidance, your Honour.

7 Q. [10:00:00] Now, the second question I just want to raise is on -- let me read the
8 ERN number so that we have it.

9 The ERN number of the terms of reference is UGA-D26-0015-1039.

10 The second question I just wanted to ask briefly relates to the page ending in 1040.

11 One of the bullet points here says -- talks about conducting interviews, including
12 interviewing Mr Ongwen, if necessary.

13 My brief question to you was: Was it necessary -- why did you -- was it necessary to
14 interview Mr Ongwen?

15 A. [10:00:53] So, as I -- yes. Thanks. So as I explained before, my main method
16 of data collection is qualitative field research, and in particular interviews. So after
17 having read the terms of reference I wanted to interview Mr Ongwen myself to see to
18 which extent my findings, my general findings based on my previous interviews
19 relate to Mr Ongwen himself.

20 Q. [10:01:31] Thank you.

21 Now I would like to move on to the report, and I will try to bear in mind the advice
22 and cautions from the Presiding Judge.

23 PRESIDING JUDGE SCHMITT: [10:01:43] Which the Presiding Judge also bears in
24 mind.

25 MS LYONS: [10:01:48] Okay. All right.

1 Q. [10:01:52] Now, first of all, could you explain the title of this paper and what
2 does "cosmological space" mean?

3 A. [10:02:10] All right. Thank you.

4 So cosmological space, well, has two words. The first one is cosmology, and
5 cosmology relates to the -- it's the study of the origin, state and future of the universe.
6 Religion is closely related to this.

7 The term space I used to make a distinction, or to make the point that the LRA, as
8 a rebel movement, as an armed group consists of different -- has different aspects. In
9 anthropological terms these aspects can be called registers or spaces. So the LRA as
10 an armed movement, it's a military movement, so it has -- definitely it has military
11 aspects, but spirituality and religion also plays a role, and this paper wanted to focus
12 in particular on these elements. So that's why I use the term "cosmological space" to
13 make it clear that, rather than focusing on military aspects or political aspects, I
14 wanted to focus on cosmology.

15 PRESIDING JUDGE SCHMITT: [10:03:34] May I ask shortly a question directly
16 related to it?

17 When you speak of cosmological space, is it correct to say that you -- that is your
18 concept, so to speak? That is a concept that you, if it were a natural science thing,
19 invented? Would that be correct, or is this expression used by other scientists?

20 THE WITNESS: [10:04:03] It's used in social sciences in general.

21 PRESIDING JUDGE SCHMITT: In general. So I am wrong, simply, here. Okay.
22 Thank you.

23 THE WITNESS: Yes.

24 MS LYONS: [10:04:13]

25 Q. [10:04:14] Now, is cosmological space the same as spiritual space, or is this not

1 true?

2 A. [10:04:22] So cosmology can consist of many elements. And spiritual space
3 is -- or spirituality is a particular manifestation of cosmology. So for -- for the LRA,
4 and also for the Acholi population in northern Uganda, spirits and spirituality are an
5 important manifestation of cosmology. So spirits, rather than being synonymous
6 with cosmology, they're the most important manifestation of cosmology.

7 Q. [10:05:01] (Microphone not activated)

8 PRESIDING JUDGE SCHMITT: [10:05:05] Microphone, please.

9 MS LYONS: [10:05:06] Thank you.

10 Q. [10:05:08] You've described what you mean by cosmological space. To clarify,
11 is there a distinction between military and cosmological spaces?

12 A. [10:05:27] Well, this is an artificial distinction which I make in this paper for the
13 sake of clarity of argument.

14 To come back to my initial distinction which I make, that I focus both on the emic
15 perspective, in other words, the perspective of the individual fighter and the more
16 abstract perspective. From an emic perspective, from the viewpoints of the
17 individual fighter, this distinction is very often difficult to make, whether something
18 is spiritual or military or political, because everything is intertwined.

19 But for me as an analyst to write this paper I wanted to, as much as possible, make
20 a distinction, although again, in reality they are intertwined.

21 Q. [10:06:21] Now, based on what you write the paper, under the methodology
22 section, have you chosen one perspective to guide your work and research and
23 insights in this area?

24 A. [10:06:36] Yes. Well, I focused on the spiritual elements. Because, as I
25 explained before, I think -- well, because on the one hand I was asked to do so, and on

1 the other hand I was -- I wanted to make this point about spirituality.

2 Q. [10:06:55] Now, did you focus on the emic perspective which you have already
3 defined?

4 A. [10:07:03] Yes. Well, again, on both, but the emic definitely was an important
5 element of it.

6 Q. [10:07:13] Now, in terms also of methodology, you make a point that what
7 matters is the effects of these beliefs on the combatants. Could you explain a little
8 more to the Court what you mean and is this important or not?

9 A. [10:07:37] Yes, okay. Thank you.

10 Yes, so perhaps -- I imagine that I will get quite, quite some questions on what these
11 spiritual elements look like, how do they function and what do they mean. So
12 over -- throughout all these years I have heard many manifestations of the spirituality.
13 I have heard combatants who were able to speak with animals, who were able to
14 predict the future, who were able to do a lot of things.

15 Now, again, getting this emic perspective means that I don't have any a priori value
16 judgment about whether this is factually true or not. What is most important is the
17 effects it creates.

18 To make a comparison, for, let's say suicide bombers for ISIS, it does not matter
19 whether it's factually true that they will get access to X amount of virgins or that
20 whatever will happen to them. What matters are the effect, they really, you know,
21 become a suicide bomber. So the same logic holds for my research.

22 It does not matter if people, if combatants, or if Kony really could speak with spirits,
23 if they could really speak with animals as combatants. What matters for me is the
24 effects it creates and their actions. And that's what I'm looking at. In other words,
25 so for example, the predecessor of the Lord's Resistance Army was Alice Lakwena's

1 Holy Spirit Mobile Forces and, you know, you know, they had a very strong belief
2 again in that animals were fighting on their sides, and so on. It doesn't matter
3 whether that really was the case. What matters were the effect, and the effects were
4 that they reached Jinja, which is a town 80 kilometres from Kampala and that they
5 pushed away regular military forces. So that's what I mean with the effects it
6 creates.

7 Q. [10:09:59] (Microphone not activated)

8 PRESIDING JUDGE SCHMITT: [10:10:02] Microphone. Perhaps --

9 MS LYONS: [10:10:04] I don't do this enough.

10 PRESIDING JUDGE SCHMITT: [10:10:04] I have a suggestion.

11 MS LYONS: [10:10:05] Yes, keep it on all the time.

12 PRESIDING JUDGE SCHMITT: [10:10:09] You have -- you have -- no. No, no, that
13 not.

14 MS LYONS: Okay.

15 PRESIDING JUDGE SCHMITT: [10:10:09] But you have someone at your side who
16 can simply pay attention to it and help you with that.

17 MS LYONS: [10:10:15] Thank you. I accept my limitations. Okay. Thank you,
18 your Honour.

19 PRESIDING JUDGE SCHMITT: [10:10:20] It's not a problem. Please continue.

20 MS LYONS: [10:10:25] All right. Okay.

21 Q. [10:10:26] Now, you were talking about the effects on individual combatants.
22 Could you describe generally what the factors are that may affect whether an
23 individual believes or not, and can you generalise about this or not?

24 A. [10:10:53] Mm-hmm. Okay. Thank you.

25 Well, that's an interesting question. So, over the years I have spoken with many

1 people who were part of the LRA or who were outside of this, so let me speak
2 mainly -- let me speak about those who were part of the Lord's Resistance Army.
3 Some had an extremely strong belief in the power of these spirits and in the power of
4 Joseph Kony. Perhaps I will explain this later on, but when I talk about the power of
5 the spirits, this often has to do with the power of Joseph Kony, because within the
6 Lord's Resistance Army Joseph Kony, he's -- he's the messenger, he's the law, and he
7 is the one who's in contact with these spirits, he is the one who is talking to them and
8 he is the one who is the messenger on them, so when -- for example, when
9 combatants, or former combatants, say then the spirit said X, Y, Z, in reality this the
10 leader Joseph Kony who said these things.
11 While, again, some of these combatants, they had very strong -- how would I say,
12 supra-natural experiences, meaning that they themselves had dreams which had
13 predictive powers, they could see the future, they have spoken with animals, they
14 could see strange creatures, and so on. Even after having left the
15 Lord's Resistance Army they continue believing in these spirits.
16 Others I have spoken with have taken distance from those spirits. They say, "Well,
17 maybe we believed at some point in it, but we no longer believe in them." Or others
18 didn't believe much in it.
19 So what would explain the difference? Well, that's a difficult question, but one thing
20 which definitely plays a role in this is the length of time which someone has spent
21 within the rebel movement. That's why I use the term "growing in" this space,
22 because it often takes time before people starts believing these spirits and starts
23 experiencing them. Because, again I come back to this emic perspective, it's very
24 much a lived experience. Well, in this paper and in my writing, to some extent I
25 argue that, well, the spirituality, it definitely, it serves functions for the movement.

1 The rebel leader Joseph Kony, he has a whole range of benefits from it. He is able to
2 control the fighters to an extent in which normal military organisations can only
3 dream of. In a normal military organisation, you know, if you transgress a rule you
4 receive a punishment, you can go to prison, et cetera, but through the spiritual rules
5 you can basically die if you don't follow these rules.

6 But my point being that, the longer somebody is in the LRA, you need time to grow
7 into that, you need time to believe in it. Some of my main informants, for them, after
8 some time they started witnessing what they called miracles. They started feeling
9 the power of these spirits. And that's, for example, bullets would not hit them, or
10 bullets would dodge them.

11 So time is a very important aspect. Others which were abducted for a shorter time
12 had far -- believed far less in these spirits. Particularly in the last 10 years, when the
13 LRA extended to DR Congo and Central African Republic, abduction often were
14 shorter, and meaning that belief was less. So that's one.

15 Two, a second factor is, particularly for Ugandan abductees, what the LRA was doing,
16 on the one hand they were inventing something new, so this spiritual or cosmological
17 space, you know, it was syncretic, which meant that they took elements from various
18 traditions, from Christianity, from Islam, but particularly from traditional religion in
19 northern Uganda among the Acholi.

20 So many people in northern Uganda, they might not find Kony legitimate or they
21 might not agree with the violence, but they believe that there are some powers there.

22 And this goes, for example, I think it was 2003, there was a state minister saying
23 we cannot win this war, we need spiritual help, we need spiritual guidance to win
24 this war.

25 So just to say, there is a strong belief in northern Uganda, particularly among the

1 Acholi, so that's another factor. There is a pre-existing belief in the power of these
2 spirits, but there is also a belief that with Kony these spirits, the way he used it, they
3 have gone out of control.

4 So those are two main factors, and other factors might be the degree to which a
5 person was already religious before he or she was abducted, and so on.

6 But to summarise my main argument, is time, you need time to become part of it and
7 to belief in it, hence the title "growing in," becoming part of this spirituality.

8 Q. [10:17:04] Thank you. You raised a number of issues. I just want to focus on
9 a piece of what you have said right now on the factors.

10 Question: Does the age at which a person is abducted into the LRA have any effect
11 on what you have just described? Is it a factor?

12 A. [10:17:37] Yes, very much so. There a wide literature on child soldiers and why
13 child soldiers are chosen, and it basically shows, well, children, they're a blank slate, if
14 you want, which are much easier to, again, indoctrinate, if you want.

15 So, for children who are abducted, these spiritual elements become -- well, they grow
16 into the space easier, as in it's easier for them to become part of this spiritual world.

17 Q. [10:18:16] Now, the last question along the factor lines is this: Is there an
18 individual response in terms of when the beliefs kick in? That's a bad phrasing, let
19 me say it again. Do all people -- let's say, all abductees, show, demonstrate that
20 they -- that he or believes at the same time, chronologically, or how does the time
21 factor work?

22 I'm having difficulty phrasing the question, but it is a question of the time, whether
23 everybody reacts within the same time, based on your research.

24 PRESIDING JUDGE SCHMITT: [10:19:09] I would be surprised if everyone would
25 react in the same way, but we have here an expert who can tell us.

1 THE WITNESS: [10:19:17] Yes, exactly.

2 It varies, and it -- for me, it's not possible to say when people start believing into this,
3 but it's a gradual process. And maybe a last factor which is important, which is
4 important to explain this, it also has to do with the fact that they are in what is called
5 "the bush". And the bush, it's a metaphor which is used, it's -- well, in Luo it' is
6 called lum, which literally means tall grass, and that's not only a physical space, it's
7 not only nature, it's not only a forest, but it's also an important metaphysical space.
8 And why? Because it's the area where the spirits are and which is traditionally seen
9 as a dangerous area.

10 In traditional Acholi society you go there to fetch wood or you go there to hunt, but
11 you limit your time there, because it's a very unpredictable and dangerous space,
12 which because there's wild animals, et cetera, but there's also spirits. So you need to
13 learn how to navigate this space. You need to -- you have -- you know, you need to
14 look for food, you need to be careful for attacks by the government army, you need to
15 look for illnesses. And again, these spirits, they help you to navigate that and to
16 protect yourself from these things.

17 And again, it depends on the dangers you encounter, the attacks you encounter, the
18 way these spirits guide you and protect you. Again, the time when it kicks in, if you
19 want, also it depends on these factors.

20 Q. [10:20:58] Thank you. In a few moments I will go into more about specific
21 areas of Kony, means of control, the issues of the bush and some of these factors.
22 But I want to ask you a few more general questions on this concept of growing in, if I
23 may.

24 Now, does -- what is your view of why -- why do individuals grow in to the LRA?

25 A. [10:21:46] If I understand your question correctly, I think this has to do again

1 with -- well, there is push and pull factors. The push factors are people have been
2 completely cut off from their normal social environment. I am sure this has, you
3 know, been explained abundantly in this trial. People have been often forced to
4 commit atrocities. They have been cut off from their normal social environments.
5 That's one.

6 Two, they're confronted with an extremely dangerous and unpredictable environment;
7 namely, the bush I just mentioned, with all its dangers.

8 So, again, I think in this folder there is an article by Paul Richards. So Paul Richards,
9 he has worked on similar issues for the RUF in Sierra Leone. And he explains how
10 abductees, so their world has been pulled apart by abduction, but then again it's
11 pieced back together through processes of inclusion. And these spiritual elements,
12 they're a crucial element for abductees to piece back, to puzzle back their life world.
13 Meaning it's this spirituality, on the one hand, it's the means of control by
14 Joseph Kony, but on the other hand it also -- it helps people to survive in this
15 unpredictable environment. It helps them to know where dangers are, it helps them
16 to survive and embattle. So on the one hand, you know, it's a response, they are
17 forced to do so, otherwise, they will be killed. On the other hand, it offers them
18 a degree of security; it allows them to survive in this unpredictable environment.

19 Q. [10:23:53] One of your conclusions is that, for the individual LRA fighter to
20 survive in difficult circumstances, she or he has no choice but to obey and grow into
21 the LRA. Is there anything else you want to say about this conclusion?

22 A. [10:24:11] No. This relates to what I've just explained. It's, yes, both these
23 push and pull factors which makes that gradually somebody becomes part of this
24 spiritual universe.

25 Q. [10:24:32] And lastly I want to pick up on your reference to Paul Richards'

1 article. There's a -- let me find it -- at tab 9 -- I will give you the ERN number -- there
2 is an article about Sierra Leone by Paul Richards. The ERN number is
3 UGA-D26-0018-3874. That's the first page. And I would call your attention to
4 page 3880, where he talks about how converts died and then were brought to life
5 through a growing in process, essentially.

6 First of all, is my interpretation correct?

7 A. [10:25:44] Yes. Yes, it is. So, yes, Paul Richards, and so his analysis of the
8 RUF, the processes at stake, they are very similar to what happened for the LRA.
9 So he uses the concept of -- he calls it an accidental or circumstantial sect, meaning
10 they also -- they were operating in a very thick jungle, if you want, and also here they
11 were operating with abductees. And so he used the term circumstantial sect because
12 they were making use of the elements they had at play to survive and to progress as
13 a military organisation. And the institutions or the elements which they had which
14 determined how the sect functioned was, well, this forest environment, and the
15 spiritual elements which were also there in the forest and which made the RUF the
16 movement it was. Again, a very similar process to how the LRA functioned.

17 MS LYONS: [10:26:57] Thank you.

18 Can I have a moment your Honour? 60 seconds.

19 PRESIDING JUDGE SCHMITT: [10:27:02] With the microphone.

20 MS LYONS: [10:27:29] Sorry.

21 Q. [10:27:30] Now, I want to get into -- all of these areas are interrelated and
22 interconnected, but I am trying to break it down so that it becomes -- it is clear to all of
23 us, including myself. I want to deal with the issue of the role of the rules and
24 regulations in this growing in process.

25 But the first question is: Could you describe what the role of the rules and

1 regulations in the growing in process is?

2 A. [10:28:20] Yes. Thank you.

3 So the Lord's Resistance Army was a very tightly regulated movement in which there

4 were a wide range of rules and regulations. These started from the moment -- well,

5 rules, regulations, and also rituals; rituals played an important role in enforcing and

6 applying these rules and regulations. So abductees, soon after abduction, have to go

7 through a ritual which involves a range of symbolic elements, again referring to

8 known elements in Acholi culture, for example, moo-yaa or shea nut butter oil plays

9 an important role in that.

10 Now, for the life of an LRA combatant, the life was very tightly regulated through,

11 well, these spiritual rules. Again, spiritual rules were rules communicated by the

12 leader Joseph Kony, who was visited by the spirits, and important elements by these

13 spirits is that they are seen as the ones having the power. Joseph Kony is only the

14 one seen sheltering these spirits, but the spirits are the ones seen as having the power.

15 So spirits, they can both be harmful or protecting. That's a very important element

16 of these spirits. So in traditional Acholi culture spirits were -- they were used to

17 explain bad things which happened to society. And also these spirits in themselves,

18 they were dynamic. So, for example, when Arab traders or colonialists came, new

19 spirits came to explain new elements.

20 So, these rules and regulations - to come back to the LRA - these rules and regulations

21 were enforced because this -- well, were partly enforced by the spirits, if you don't

22 abide by these rules and regulations it was believed that you would be punished by

23 the spirits. For example, there were very strict regulations on sexual intercourse.

24 Women had to be -- well, also -- well, abducted girls and women, they were handed

25 to particular combatants. If you committed adultery or if you didn't abide by these

1 rules, it was believed that you would be punished by the spirits. For example, you
2 would be hit in your private parts by bullets, and so on.

3 So there were rules, there were very elaborate rules for every aspect of life within the
4 rebel movement, what you could eat, whom you could talk to, what you had to do if
5 you pass by water and so on. The enforcement of these rules happened, well, largely
6 through these spirits, you would be punished, what was believed, in one way or the
7 other.

8 Q. [10:31:35] Thank you.

9 Now could you talk a little bit more about who made the rules, how they were
10 communicated, and, particularly, the role of Joseph Kony in this process?

11 A. [10:31:53] Yes. So these rules, they were made by -- well, they were
12 Joseph Kony, so a distinction could be made largely between rules communicated by
13 Kony as a person, and rules which were communicated by the spirits. Many rules
14 came through the spirits, so there were a wide variety of spirits. In the last
15 weeks -- well, you've had explanations on these various spirits. So, again, the
16 agency or the power it is said are with the spirits, not with Joseph Kony himself. So
17 Kony had a note taker and it was believed that once the spirits took possession, or
18 take possession of him, he loses control over himself and it's the spirits who talk
19 through him. Then these rules are communicated to the combatants on, for example,
20 you are not allowed to drink water from combatants, you are supposed to go to
21 combat in this way, with this amount of fighters, and so on.

22 As I said before, to some extent some other combatants they had some powers
23 themselves, some spiritual powers. They -- through dreams, or they could -- or
24 the Holy Spirit could speak to them through dreams.

25 This further established the hierarchical power of Joseph Kony because, again, it was

1 Kony who had the final word on the legitimacy of these dreams and of these spirits.
2 So again, it was a very centralised and hierarchical system.
3 So, again, some rare individual actors, they also had spirits -- or, spirits who visited
4 them, or they could dream themselves or they had some special powers. But again,
5 this was tightly controlled within this very hierarchical movement, in that
6 Joseph Kony had the final word about this.

7 Q. [10:33:55] Thank you.

8 Now, did -- were the rules and regulations -- were they a constant? Were they
9 always the same? Were they ever changed or transformed?

10 A. [10:34:21] Yes.

11 Q. [10:34:21] Were they a living, living rules and regulations?

12 A. [10:34:27] Thank you. So the rules, they changed frequently. And again, this
13 shows the pragmatic character of the rules. For example, again, these rules, they
14 helped the LRA to function as a very smoothly operating military organisation. And
15 why was that? Well, because some of these rules, they helped clearly the LRA to
16 function better. For example, there was one of the spirits, I think it was -- I'm not
17 sure, one of the spirits was called Sili Silindi, she was a woman, and so one of
18 the rules she communicated was, well, women should not -- on certain occasions
19 women should not go to the battlefield. Another rule was, well, don't be too
20 ambitious, don't try and be a commander.

21 Again, spirits communicate this, but militarily speaking, or from an organisational
22 perspective, they help the LRA to function better as an organisation. But again, this
23 rule, they change depending on the circumstances in which they were. For example,
24 when they had their bases in southern Sudan -- or, in south Sudan at the time, they
25 were not allowed to drink water from civilians' home. When they were chased away

1 from there, when they had much more difficulties in accessing water, they were
2 allowed to drink water from home. So there was a very pragmatic element in them
3 which helped them to function.

4 Q. [10:36:01] Now, in the literature, the point of a transformation of rules is
5 identified as post-Iron Fist. Could you comment on what this means in term of the
6 evidence you just gave about pragmatism?

7 A. [10:36:18] Yes. So before Operation Iron Fist -- so Operation Iron Fist
8 happened in 2002 and the Ugandan army pushed the LRA out of its bases in southern
9 Sudan. So before that, and so between '90 -- so after the peace negotiations in '94, up
10 to Operation Iron Fist, they had very tightly established military bases in southern
11 Sudan where life was the easiest, they could grow their crops and so on. And then
12 they also had tightly regulated religious or spiritual practices. They had their yards,
13 and so on.
14 Once they were pushed out of southern Sudan, life became more challenging from an
15 organisational point of view, as in that it was more difficult to communicate these
16 rules in a centralised matter, because the troops, they were much more scattered.
17 And also these spiritual rules, they changed more often.

18 Q. [10:37:39] Now, a few minutes ago you talked about, what's important about
19 these beliefs is the effect of the beliefs on the individual combatant. My question to
20 you is this: What effect, if any, did a change in the rules have on an individual
21 combatant?

22 A. [10:38:18] That's a difficult question. I'm not sure how I would answer that.
23 Let me say that on the -- let me say that an important element in the functioning of the
24 LRA was fear, fear for military punishment, fear for spiritual punishment. On the
25 other hand, it also makes that, to some extent, transgressions of the rules could be

1 possible, but again within this context of fear. There was a degree of insecurity. I
2 think that's what I can answer for now. Yes.

3 Q. [10:39:01] Now, in general, based on your research, did rules and regulations
4 provide any sense of security to abductees?

5 A. [10:39:20] Thank you. This relates to my earlier point and this quote, this
6 reference of Paul Richards. So on the one hand, these rules and regulations, they
7 helped the LRA as an organisation to function better. Meaning, what does a military
8 organisation need to function well? It needs, well, very obedient fighters and it
9 needs a strong hierarchy. These rules and regulations, they very much helped the
10 LRA to function like that.

11 On the other hand, it also helped the individual combatant to find his or her place.
12 Again, as an individual combatant, your life has been completely pulled apart by
13 abduction, by cruelties you have been asked to commit, and so on. These rules and
14 regulation, they provided a very tight structure, which again structured the life of this
15 individual combatant and which almost did the thinking for them. The thinking of
16 the individual combatant had been pushed aside and almost these very tight rules
17 and regulations had been taking over the functioning of the individual combatant.

18 Q. [10:40:40] When you say the thinking had been pushed aside, could you
19 expound on that concept for the Court?

20 A. [10:40:48] Yes. So of course, if you are abducted, if you have been forced to
21 commit these atrocities, you are not in a happy place, you do not want to be part of
22 that movement. Through these very elaborate rituals, rules and regulations, again,
23 you've got the push and pull factors. On the one hand, the LRA is a military
24 organisation, they will prevent the escape from combatants by very harsh military
25 punishment; if you try to escape you will be punished.

1 On the other hand, these rules and regulations, they make that, well, you as
2 a combatant, you continuously -- you have to make sure that you follow these rules
3 and regulations rather than worry about your past. You'll have to think about your
4 future now; your future is in the LRA. And the way in which this is enacted is
5 through these very elaborate rules and regulations.

6 Q. [10:41:56] Based on your research, did the element of fear on the part of the
7 ex-LRA, was that an emotion that was expressed in relation to the change of rules and
8 regulations you are describing now to us?

9 A. [10:42:24] Yes. In some of my interviews this has been mentioned, that -- this
10 increased degree of fear. Some of my interviews have mentioned that. Can I
11 generalise this for all LRA combatants? I'm not sure. But this definitely has been
12 mentioned by some interviewees, in that the facts that these rules were changing
13 often, that people, they were worrying that it increased their fear of the spirits.

14 Q. [10:43:03] Now I am going to talk a little bit, although you have raised all of the
15 issues that I want to deal with basically, you know, in your narratives here, and I
16 appreciate that and thank you. I want to deal a little bit now though with the aspects
17 of spirituality in Acholi culture, the function in the LRA, a little bit on life in the bush,
18 and more on Joseph Kony. Those are the areas. If you have already said something
19 in the evidence that answers it, don't feel as if you have to repeat yourself. But if you
20 want to add something, or have other perspectives, feel free to do this. All of these
21 subject issues are interrelated.

22 PRESIDING JUDGE SCHMITT: [10:44:00] And we have read the report.

23 MS LYONS: [10:44:02] Yes. And your Honours have read the report and are
24 aware.

25 Q. [10:44:05] So it's a question to add information to make what you conclude

1 clearer to the Trial Chamber. Thank you. Now, you've -- the Court has heard, and
2 you've mentioned this, has heard extensive testimony from Defence witnesses in the
3 past weeks about the role of the spirits generally and in their own lives. There has
4 been testimony from cultural leaders, traditional healers, ex-LRA combatants.
5 You acknowledge in your report that there is a profound belief among the spirits in
6 Acholi culture, and you mention this as one of the factors that was important in terms
7 of this issue.

8 Are there any other specific examples of how these beliefs function in the LRA you
9 want to give us in terms of the daily life of a person in the LRA? Do you want to add
10 anything?

11 PRESIDING JUDGE SCHMITT: [10:45:28] Or perhaps just give an example of
12 a certain rule and -- if you want. Otherwise, I think we have addressed the issue
13 already, I would have said, but nevertheless, if you want to add something.

14 THE WITNESS: [10:45:42] Yes. I could talk about this for hours, literally.
15 Just two examples:

16 So, you know, the spirits cannot only be captured by the rules, but also by the
17 manifestations. And again, the way in which this manifest itself is that for, again, for
18 many combatants, but this depends on the way they have grown in. But for again,
19 those I have spoken with who have spent more time. So, for many this is -- this was
20 not and is not a traditional conflict between two competing armies in which military
21 forces fight, but it's a broader cosmological conflict in which elements of nature
22 participate, and in which there is a strong belief that, for example, the government
23 army also makes use of these elements. Many ex-combatants told me about witch
24 doctors which were used by the government army. And anyway, I could tell many
25 stories about that. But, another example of that is that also animals play a role in

1 this.

2 Again, answers vary between combatants. Some would only refer to animals which
3 are used for rituals. Others would say that, for example, rain, birds or rainbows play
4 a role in the fight. For example, that birds can be used by the government army to
5 spy on them or to look at them, or rain or rainbows can be used, et cetera.

6 So these are -- or, others would give examples of strange creatures which they meet
7 along the way. For example, there are many examples of strange creatures, humans
8 which have elephant teeth or which have strange manifestations and which are used
9 by the government army. It does not matter whether this is factually true or not.

10 What matters is, and I refer again to Paul Richards here, that this becomes part
11 of -- that the LRA can be compared to what he called an accidental or circumstantial
12 sect. These beliefs, they are voiced, they are repeated, they are magnified and they
13 play a role in the lives of the combatants.

14 An example of a rule could be that if you cross -- well, at some point there is a rule, if
15 you cross a river, if you cross water, you need to touch the water and you need to
16 make a cross. You need to make sure that the nature elements of the river, that they
17 are on your side.

18 Or again, another rule on adultery, you are not supposed to commit adultery because,
19 if you do, you will be punished, you know, in the battlefield. You will be punished
20 anyhow.

21 Q. [10:48:27] Okay. Thank you. And one last question on this general issue:
22 Based on your work and research, is there a specific period of time, in your view,
23 when the spiritual aspect of the LRA was more prominent than at other times?

24 A. [10:48:48] Yes. Thank you.

25 It definitely was more prominent in the earlier years of its existence. It became less

1 prominent once -- the more loosely organised the LRA, the less prominent, because
2 again, as I explained -- well, I explained the growing in aspect. So you need rituals,
3 you need rules and regulations to become part of this spiritual universe.

4 Over the years, and particularly after the collapse of the Juba peace negotiations, the
5 LRA has been a scattered military force which has been on the run, basically. When
6 you're on the run it's much more difficult to have these rituals, to enforce these rules
7 and regulations and so on, so the spiritual aspect became less important. Does that
8 mean that it has disappeared? No, it has not.

9 Also, for example, for abductees in Congo or Central African Republic it plays a role.
10 But again, there is the time element. There is, for example, one research report
11 published by an advocacy organisation, they are called Discover the Journey, which
12 also describes in detail how for Central African and Congolese abductees there was
13 what they called magic; they called it magic because, again, they build on different
14 religious tradition, and how magic prevented people from escape. And how also for
15 the local population in these areas this plays a role, that the LRA is seen as a magical
16 force.

17 But to summarise your answer, over the years it became less important. And also it
18 depends on the space. During the Juba peace negotiations, that was a political space,
19 and in these spaces the spiritual element was hardly, hardly there.

20 Q. [10:50:51] (Microphone not activated) earlier years, could you give us
21 a proximate time frame, year -- what year to year? What are you talking about?

22 A. [10:51:01] So in the beginning of its existence, the LRA, it was very much
23 a successor of Alice Lakwena's Holy Spirit Mobile Forces. And Alice, her forces
24 were strongly spiritual. So Joseph Kony was seen as related to Alice, as a cousin,
25 and in the beginning they were very much building on these early year spiritual

1 practices. So that's '86 up to -- let's say that after Iron Fist it started becoming less
2 prominent.

3 Q. [10:51:35] Thank you. Now, you have used the phrase "life in the bush" in
4 much of the evidence you have given to this Court, and you have talked about the
5 bush as a dangerous place. Now, how did the rules and regulations and rituals help
6 abductees navigate this dangerous place, if it did -- if they did? Sorry.

7 A. [10:52:26] Yes. I think I've already answered this to some extent. Let me just
8 briefly refer back to the dangers which were there. So the dangers were related with
9 the nature which was there, so suddenly you had all these dangerous animals, you
10 had military attacks and so on.

11 So it was believed that the spirits offered protection and that they knew how to
12 handle this. Because again, yeah, in the bush you not only had nature and military
13 attacks, but the bush in itself was the -- was the space where the spirits resides,
14 particularly around rivers, mountains and in the bush. So civilians, they tried to
15 avoid the bush as much as possible. Also when they went hunting -- when you go
16 hunting or when you go there to get firewood, you need to -- you need to be careful.
17 So, again, the rules and regulations communicated by the spirits, they help
18 combatants to deal with these dangers.

19 Q. [10:53:27] Thank you.

20 My last question in this section on the bush is: We have heard testimony from
21 Defence witnesses that abducted - at least one, at least - abducted persons did not
22 have a normal life in the bush, and this was explained by a traditional healer to this
23 Court a few weeks ago.

24 Now, could you talk about what does "normalcy" mean, in terms of your conclusions
25 and the work you are doing.

- 1 PRESIDING JUDGE SCHMITT: [10:54:16] That is not an easy question, frankly
2 speaking. Because Mr Titeca cannot know what the testimony you are referring to
3 meant by a normal life. I think he would need more information on that.
4 And I give -- I give you the time to do that. And we have now the coffee break and
5 we come back to that after the break, I would suggest.
- 6 MS LYONS: [10:54:45] Thank you so much.
- 7 THE COURT USHER: [10:54:47] All rise.
- 8 (Recess taken at 10.54 a.m.)
- 9 (Upon resuming in open session at 11.35 a.m.)
- 10 THE COURT USHER: [11:35:41] All rise.
- 11 PRESIDING JUDGE SCHMITT: [11:36:07] Ms Lyons, you still have the floor.
- 12 MS LYONS: [11:36:09] Thank you, your Honour.
- 13 First, I would say this to myself and also to Professor Titeca, I have reproached by
14 a colleague for -- from the interpreters for missing the five-second rule many, many
15 times. And I will make an effort and also want to remind you, so that their job is
16 a little bit easier. And I stay this to myself and make a self-criticism. But I know
17 you need to see if there is any change. So let me try.
- 18 PRESIDING JUDGE SCHMITT: [11:36:42] I think it's nearly never five seconds.
19 But it of course makes sense to exaggerate a little bit with the second so that we at
20 least meet two or three seconds.
- 21 MS LYONS: [11:36:55] Okay. That's fine. Or more. That's fine.
- 22 PRESIDING JUDGE SCHMITT: [11:36:58] No, no, it -- no, it should also not -- the
23 pauses should also not become awkward.
- 24 MS LYONS: [11:37:06] Okay. Thank you.
- 25 Q. [11:37:08] Now, with that guidance, let me ask you just one or two more points

1 about life in the bush.

2 And I appreciate, your Honour, the time that you gave me to deal with one question

3 here.

4 One of the Defence witnesses who was a traditional healer, it was P-0111, transcript

5 183 at page 16. She is asked a question --

6 MR GUMPERT: [11:37:38] Sorry, if it's worth making the detailed reference, given

7 that no notice has been given, I think my learned friend must allow at least five

8 seconds for us to find the transcript.

9 PRESIDING JUDGE SCHMITT: [11:37:52] I would give you even 10 seconds, if you

10 need it.

11 MS LYONS: [11:37:54] Okay. Sure. I apologise, because its content will be in my

12 question. I will read it accurately.

13 PRESIDING JUDGE SCHMITT: [11:38:00] No, you have it now -- we are not in

14 a rush here, so simply we wait a couple of seconds so that --

15 MS LYONS: No problem.

16 PRESIDING JUDGE SCHMITT: -- so that, simply, the Prosecution also can follow,

17 and the Judges.

18 I think you have it now, so please continue.

19 MS LYONS: [11:38:54] Okay. And apologies to Mr Gumpert.

20 Q. [11:38:59] On page 16 this particular witness is asked: "You have mentioned

21 living a normal life and you said that the kind of life they" - referring to the

22 abductees - "lead in the bush is not normal. Can you explain what you mean by

23 that?"

24 And I will read the first part of the answer:

25 "Because while they were in the bush they were going hungry, they were killing

1 people when they were sent to go and kill. They were pillaging people's property.

2 Those are some of the things that they were doing in the bush."

3 Now -- I have forgotten my question. The question I have is: What is your

4 comment on whether there was normalcy in the bush and what does this mean?

5 A. [11:40:17] Thank you. That's a broad question. I can give a -- well, I think I'm
6 afraid I will also give a broad answer.

7 So what the LRA tried to do is establish a new moral order. So the LRA believed
8 that the Acholi were no longer clean and, in order to be -- or had become -- sorry, not
9 clean is not the right term; were no longer pure, and in order to be saved a new
10 Acholi had to be established.

11 So in order to do, a new order was established which involved a whole range of
12 spiritual rules and a whole range of practices, well, which we have been described
13 and which was also described in this quote.

14 So, yes, a degree of normalcy was established, but a normalcy which was completely
15 different from the world outside and which was relying on important spiritual and
16 military elements.

17 PRESIDING JUDGE SCHMITT: [11:41:27] May I shortly.

18 Would it be correct to summarise what you said, that there is of course a normalcy
19 outside, of the outside world where these abductees come from? And once they are
20 in the organisation there is a sort of organisational normalcy which is provided by
21 rules, spirits and so on and so forth. Is this --

22 THE WITNESS: [11:41:53] Yes. Yes. Thank you. That's -- that's a good summary
23 to some extent.

24 But for me, normal, it's a moral statement about which act should be allowed and
25 which act should not be allowed.

1 Well, what the LRA tried to do was establish a new normalcy. And, in fact, this
2 relates again to the earlier question on did the individuals, did they have a choice in
3 obeying these rules? Well, to some extent they did. But to some extent -- to a large
4 extent they did not, because it was such a dangerous area, because of the attacks,
5 because of hunger, because of illnesses. So, in these circumstances, the distinction
6 between the individual and the organisation becomes very much in flux. Why?
7 Similar to any army, if you want to survive you need to obey the rules. If you go to
8 any army or any armed group in any -- in Syria, in Afghanistan, wherever, if you're
9 a combatant and you want to survive, well, you need to obey by the rules.
10 The same happened for the LRA, the difference being -- well, not the difference, an
11 important element being that spirituality played an important role, in protection, in
12 the battle against illnesses, and so on.
13 So what the LRA tried to do is establish a normalcy in military terms, in spiritual
14 terms, and so on. I'm not making any moral statements here whether this was good
15 or bad, just that a very important mission of the LRA was -- or, of Joseph Kony in
16 particular, was to establish this new moral order to be pure again, and in order to do
17 so to save the Acholi. And in doing so he gave also a moral argument as to why
18 these killings were allowed.

19 PRESIDING JUDGE SCHMITT: [11:43:48] Okay. Thank you for that clarification.
20 Please, Ms Lyons.

21 MS LYONS: [11:43:51] Thank you for clarifying also for those points.

22 Q. [11:43:56] And I want to raise a question about the rituals here. There's been
23 a -- witnesses have come before this Court and testified that one of the purposes of the
24 rituals; referring to the smearing of the shea butter oil, for example, was to make the
25 abductee forget about home, or have no thoughts of going home. This was

1 testimony from P-26 in early November.

2 Similar testimony came from another witness, P-79, about forgetting about home.

3 And there was also a witness we call P-24 who was asked by the Presiding Judge,

4 after these rituals, which you have described this morning, after they're performed,

5 how do you feel? And as I recall P-24 responded, in part, you are told you are now

6 part of us, "us" being the LRA. You have no option, no voice, no say; you just wait

7 and do what you are told to do.

8 And I'm quoting from, for those checking transcripts, transcript 192, pages 8 to 9.

9 My question to you is this: Do you have any comment on this evidence?

10 PRESIDING JUDGE SCHMITT: [11:45:46] Or, perhaps, any comment. Do you

11 think from your research that this fits in the knowledge that you derive from your

12 research? Do you think that that fits what you have heard here, this evidence?

13 MS LYONS: [11:46:02] Thank you.

14 THE WITNESS: [11:46:03] Sure. Thank you.

15 Well, it depends which element. But from what I understand, it's about the

16 relation -- what I can talk about is the relation between rituals and beliefs. And yes,

17 this has been shown extensively in the general literature and also in the specific

18 literature on the LRA.

19 I'll first talk about other research. For example, there's the report of Tim Allen and

20 Mareike Schomerus which is included in this file and they, for example, argue how,

21 you know, the frequent performance of rituals very much affects what people come to

22 believe is true, and this is very much the case for children.

23 So rituals, they play an important role in belief systems, whether it's for

24 any -- whether it's for Christianity or Islam, well, it's rituals which further -- which are

25 a manifestation of your belief, but they also help to entrench your belief.

1 And the second part, the further entrenching of beliefs, is particularly important for
2 the LRA. Abductees, and particularly children, are seen as a blank slate, and these
3 rituals, they play an important role in, well, filling up this blank slate, if you want,
4 with a particular belief system; not only to forget about home, but also as
5 a mechanism of control and to scare combatants. For example, many ex-combatants
6 I spoke with, and this also has been written in the wider literature, they did not dare
7 to escape when they had the first opportunity, because they believed that this
8 moo-yaa, this particular oil, allowed the spirits to find them to wherever they went.
9 You know, if they would try to escape, Kony and the spirit would know where they
10 were, because of this oil which was smeared in the ritual after abduction.

11 And different stories were circulated to that extent of people trying to escape, but
12 walking around in circles, getting back to the LRA and so on.

13 So, yes, rituals had an important function within the LRA to embed and entrench
14 a belief system and, in doing so, further entrench the hierarchy and prevent escape.

15 Q. [11:48:33] Thank you. I would like to follow up now on two areas which
16 you've identified in your response.

17 One has to do with more on mechanisms of control, specifically mind control. And
18 the second area I will ask you about is particularly children and the effects of all of
19 these, of the rituals, the rules, the regulations, the control on children.

20 Let me deal with the first one to give you some idea of where I'm going.

21 Could you actually -- because I think you will be -- it's better I should ask you an open
22 question than I try to summarise, you're better at it. Could you talk about more the
23 elements of this mechanism of control.

24 A. [11:49:30] Yes. Well, I have written about this in the chapter -- in the book
25 edited by Tim Allen and Koen Vlassenroot. So spirituality, it serves various strategic

1 functions for the LRA as an organisation and for Kony as the overall commander in
2 particular.

3 Well, what I am going to explain now, it's very functionalist and it shows how
4 a leader can use -- Joseph Kony can use these rules for his advantage and for the
5 organisation. But before I begin, it's more than that. It's also very much a lived
6 experience for the combatants. I explained this before. How it really becomes
7 a lived reality and part of their -- but let's get back to the functions.

8 First, well, let me first make an abstract point, and the abstract point is, witchcraft or
9 traditional religion or spirituality plays, generally, in Africa, three basic functions.

10 The first one is it plays an existential function; it helps to explain what is not there.
11 Two, it helps to explain misfortune. If something bad happens, it allows to explain
12 it.

13 And three, it acts as something to reduce social pressure, so very functionalist.

14 And all these three elements, they also play an important role in the LRA. So, first of
15 all, it helps to explain misfortune. Meaning, if the LRA loses a battle or if somebody
16 is killed, it's not the fault of the organisation or of the overall commander, but it is the
17 fault of the very individual. And why? Because he or she did not follow the rules.
18 If he or she is killed, it is not the fault because of the commander which had a military
19 plan which didn't work out. Well, no, it's the fault of the individual who did not
20 follow up the mistakes.

21 Two, in doing so, the LRA, as an organisation, is able to tie individuals very tightly
22 within its organisation. I think I said it before, what every military organisation
23 wants to do is it wants to tie the individuals into its movement and into its operation,
24 because that's how military organisation functions, you need obedience, you need
25 a smoothly functioning machine. And every military organisation has punishments

1 in place, which can be demotion, which can be prison and so on. But for the LRA
2 these are not just normal demotions or punishments, which are there, but also you
3 have the ultimate punish, death. As in, if you don't follow the rules the spirits, they
4 will punish you, you will be hit by a bullet, you will be killed, and so on.
5 So three, in order to survive, you need to follow the rules, that's a direct consequence
6 of that. But a direct consequence of that meaning -- means that it further entrenches
7 the hierarchy within the organisation, and entrenching the hierarchy meaning that
8 you need to obey the leader, Joseph Kony, who is the only one who has direct
9 connection with these spirits. So again, by this intertwinement of military and
10 spiritual rules, the LRA as a military organisation functions much better and it further
11 entrenches the position of Joseph Kony. So it has these important internal functions.
12 And lastly, it also has an important external function, it scares off the enemy. And
13 this was particularly important, let's say, up to Iron Fist and even slightly beyond
14 Iron Fist. There is a belief that there is something special about this movement and
15 that Kony, the leader, that he has these kind of special powers there. And there are
16 stories of, particularly in the early years of the LRA, of combatants going into the
17 battlefield singing, chanting, and government troops being intimidated by that. So
18 that's an additional factor in that. And the government soldiers, well, I spoke with
19 some individual soldiers, they themselves say, well, this enemy is not like any enemy,
20 you can't kill them with one bullet; you need many bullets to kill them. And these,
21 some of these soldiers I spoke with, they themselves, they also went to traditional
22 healers to have something to protect themselves or to be able to finish or kill the
23 enemy.
24 Again, another manifestation of that is the statement of the state minister of defence
25 in 2003, I mentioned, saying that, well, we need something spiritual to finish the LRA.

1 So all of this, from a strategic point of view, it's genius almost. It helps to entrench
2 discipline, it helps to make it a more efficient machine.

3 But as I said in the beginning, it's more than that. It's not only pure
4 instrumentalisation by a leader, it's based on pre-existing beliefs and it's very much
5 a lived reality.

6 Q. [11:54:48] Thank you.

7 Now, in your report you use the term mind control.

8 Is that what -- what you were just talking about it? Is it something else? Is it
9 different than what you just described generally on page 4 of your report?

10 A. [11:55:14] Yes. So, yes, indeed I have used the term mind control. So, indeed,
11 I have spoken with quite a number of combatants who did not escape when they had
12 the opportunity to do so and who believed that Joseph Kony could read their minds
13 and that, if they were thinking of escape, who -- that he would be able to detect it.

14 Again, this was based on stories of people trying to do so, they were prevented and
15 they were eventually killed, or they were severely punished for trying to do so.

16 Does that mean that everyone believed that Kony could read their mind at any
17 moment in time? No. What it however proves is that, for crucial elements such as
18 abduction -- sorry, for crucial moments such as escape or crucial moments that people,
19 they were thinking of escape, there was a belief that he was able to read this.

20 Again, this very much depended on the individuals, on the particular individuals.

21 How much were they part of this spiritual order, how much did he or she believe in
22 this spiritual order, and so on.

23 Q. [11:56:32] In your research did you get -- or, was there any information about
24 whether, for example, if someone succeeded in escaping from their grouping in the
25 LRA, were there negative repercussions on that group from which they escaped, if

1 you know?

2 A. [11:57:00] Yes. Yes. Yes, in various ways.

3 So, two, three weeks ago I was in -- in the area, in Gulu, as part of a project in which

4 I was speaking with former combatants. One combatant, for example, told me this

5 story that he had escaped, after one of his colleagues found out that he had escaped,

6 the colleague - according to the ex-combatant - committed suicide. Why? Because

7 he didn't see any other way out, because he was fearing repercussions, because he

8 wanted to leave, but saw no other reason.

9 But, so to answer your question, yes, there could have been repercussions for the ones

10 part of the group or the ones who were close to the escapee, because they could be

11 seen as being also, as co-conspirators, of helping to escape, of not having informed

12 other commanders, or of not having informed Kony.

13 Q. [11:58:17] Thank you.

14 You also described when you talked about mind control, a concept of dependency

15 between the individual and the organisation. Could you say a little bit more about

16 this so that we can understand it better, please.

17 A. [11:58:49] Yes. So the -- well, dependency plays out in various ways. In the

18 way which I explained it between the organisation and the individual, it means that,

19 again, if you are an individual combatant you are faced with very hostile

20 circumstances, with attacks, with illnesses, you need food, you need water. At some

21 point -- well, also, if -- also for wives to be handed out -- well, you need, you need this

22 from the organisation, but let's not -- I am only talking about dangers now, so dangers

23 are attacks, illnesses, food, and so on.

24 For all of these things you are completely -- well, you are not completely, but you are

25 to a large extent dependent on the organisation for your protection against these

1 attack, for protection against illnesses, for food, and so on. So this is something
2 which helps the individual again to grow into the LRA, to be tied to the LRA. You
3 turn to the organisation for protection against military attacks, for learning how to
4 handle weapons, for learning how to handle illnesses, for learning how to handle
5 these metaphysical dangers in the bush. Because again, the bush spiritually is
6 a dangerous place and you need to learn how to handle these spirits and so on.
7 So that's why the individual is dependent, there is this codependency between the
8 individual and the organisation.
9 But -- and again this ties into dependency to Joseph Kony. Most of the
10 ex-combatants, well, they speak with a certain degree of respect for him, respect in the
11 sense that he has these special powers, respect for -- he is seen as the, well, big
12 teacher.
13 At some point, for some, this turns into frustration, particularly the ones who've come
14 out -- who've gone out of the bush. That's why I speak about, and that's why
15 Ben Mergelsberg in the book of Tim Allen speaks about growing in and growing out.
16 Similar to how they've become part of this organisation, they need to get out of it, and
17 also, this a gradual process. Some of the ex-combatants I spoke with, they still
18 respect certain rules, they still believe in to the powers. Others, they've made a more
19 radical cut. But, again, so there's this dependency on the organisation and also, to
20 some extent, on Joseph Kony as an individual.

21 Q. [12:01:33] Before we talk about children I want to focus on the concept of
22 growing out which you have raised here. I mean, as I am listening to you, are you
23 saying that individuals do not grow out of the LRA? What are you saying exactly?
24 A. [12:01:57] All right. So let me make a distinction between the growing in and
25 the growing out.

1 So growing in means -- this growing in -- this growing in can be used, you need to
2 grow in this spiritual place, this cosmological space. In the beginning you might not
3 believe these spirits, but then after some time you see how they work, you see how,
4 again, from -- many combatants argued how after some time they see the power of
5 Joseph Kony, they see the power of the spirits. They feel how these spirits can
6 protect them against bullets. How these spirits can protect them against illnesses.
7 A similar process is at stake once you go out of the LRA. And, again, you can
8 compare this to sects or cults. Again, for people who go out of sects or cults, it takes
9 some time or it takes -- well, yes, it takes some time before they stop believing in those
10 rules, before they stop respecting those rules.
11 The same happens for the LRA, for former combatants, it takes some time before they
12 stop believing in the power of the spirits, before they stop following these rules,
13 before they stop believing in the spirits of Joseph Kony.
14 So some ex-combatants I spoke with, they still strongly believed in those rules. They
15 still strongly believed in those powers. Some would still respect some of these rules.
16 Others, they -- they had completely grown out and they no longer believed in
17 Joseph Kony, in his spirits or in the rules.

18 Q. [12:03:41] Based on your conversations and your research, to what extent to you
19 think the factor of being imbued with the Acholi traditions, culture, positions on
20 spirits, does it play any role in this growing out process?

21 A. [12:04:05] Similar to how it plays a role in growing in, it also plays a role in
22 growing out. The fact that -- you can compare it to, let's say, Pentecostal churches or
23 churches where the believers believe that they are in direct contact with God. So
24 I don't know if you've witnessed some of these services, but in these services some of
25 these believers, they start -- they believe that gods or spirits take over their body and

1 they start speaking in tongues. Some people start speaking in tongues, others don't.
2 A similar, a similar process happens for the LRA, for the growing in and the growing
3 out. Some people, they, again, are very much affected by these spirits. But the fact
4 that Acholi society, that these spirits have traditionally been part of Acholi society, it
5 plays a role. They might accept that there's a spirit, but on the nature of the spirit
6 and the legitimacy of the spirit people might differ. Some might think that this is an
7 evil spirit gone wrong, or that this is something which can be Satan or they don't
8 know what. But, indeed, it does play a role.

9 Q. [12:05:24] Thank you.

10 Now I want to talk a little bit about -- you mentioned children, spiritualism, I want to
11 talk about if there are any particular effects on all of these concepts on children. For
12 example, in your report you say it's -- basically say that it's easier for children to
13 believe and to follow the various rules and rituals of the cosmological space.
14 Could you explain this to us a little bit more.

15 A. [12:06:15] I think I have answered that question before.

16 PRESIDING JUDGE SCHMITT: [12:06:17] I also would say that, yes. But you can
17 very shortly --

18 MS LYONS: [12:06:21] Shortly.

19 PRESIDING JUDGE SCHMITT: [12:06:22] You can very shortly say something to
20 that effect. But I also think you have (Overlapping speakers)

21 THE WITNESS: [12:06:27] I will briefly refer to an interview with one of my
22 informants and ex-combatants who -- well, I think it was even this person who
23 said -- who used the term "blank slate". Children are a blank slate, they can very
24 easily be filled with whatever belief system, and much easier for them to adhere into
25 it and believe in it.

1 PRESIDING JUDGE SCHMITT: [12:06:58] May I shortly?
2 MS LYONS: Sure.
3 PRESIDING JUDGE SCHMITT: [12:06:59] Did you come during your research ever
4 to the -- perhaps, to some findings, when you talked with former combatants, that
5 this -- that there might be a relationship between the age of abducted children and the
6 concept of the blank slate? Do you understand what I mean? I don't want to be too
7 direct, but I don't want to give you the answer already.
8 THE WITNESS: [12:07:25] Yes. This would be a fascinating research project, but
9 I don't know the answer to it. But I would be very interested to see what the
10 relationship would be.
11 PRESIDING JUDGE SCHMITT: [12:07:33] Okay. Thank you.
12 MS LYONS: [12:07:35] Thank you, your Honour.
13 Q. [12:07:40] Now, one of the -- maybe perhaps to tie up some of these ideas in
14 terms of practices, let me ask a question about something you mention in your report
15 about newcomers being placed in the households of the commanders. Could you
16 talk about what significance -- newcomers, I assume, mean young abductees. Could
17 you talk about the significance of this, if there is any?
18 A. [12:08:19] Thank you. This relates to, to this concept of dependency before.
19 Well, different things can be said about this. So first, they were being placed to learn
20 the rules, to learn the life in the LRA as ting ting, as -- well, as helpers. They were
21 not combatants yet, but they were helping out in the household. They were learning
22 the rules.
23 And it also, it further entrenched this dependency on particular individuals. And
24 it -- but, yes, it is also dependent on the relationship between the new abductees and
25 the commanders in whose household they were being set.

1 I had some ex-combatants who spoke very affectionate about this period in time,
2 about these commanders who were seen as very friendly and who helped them to
3 find their way. Others spoke rather negatively, said they were treated harshly, that
4 it was more difficult. But again, this was a crucial period of time in terms of growing
5 into this universe of the LRA, of learning the rules, of learning the military rules and
6 so on.

7 Q. [12:09:40] And although you have touched on - more than touched - you have
8 explained this, but in the context of this particular policy could you comment on
9 whether the issues of protection, survival were involved in this policy, if you know?

10 A. [12:09:58] Yes, indeed. Well, this was also crucial for their own survival.
11 They were depending on this commander for food, for water, for how to act in terms
12 of attacks, et cetera. So this, yes, this plays an important role.

13 MS LYONS: [12:10:23] Can I have a moment, your Honour?

14 PRESIDING JUDGE SCHMITT: [12:10:27] Yes.

15 MS LYONS: [12:10:29] Thank you.

16 PRESIDING JUDGE SCHMITT: [12:11:08] I would also have a question, perhaps, in
17 the meantime, Ms Lyons.

18 MS LYONS: [12:11:18] Yes.

19 PRESIDING JUDGE SCHMITT: [12:11:19] I'm referring you, Mr Titeca, to page 6 of
20 your report, this is 3906, where you say, and it's the fourth:

21 "The way in which military discipline was enacted within the LRA was brutal and
22 cruel." And then you expand a little bit on that.

23 So what was the function of this, in your finding, when you look at the -- your
24 research and your findings? What was the function of growing in this -- the military
25 discipline was brutal and cruel -- or did it -- did this also have a function, for the

1 organisational coherence, so to speak?

2 THE WITNESS: [12:12:00] Yes. Thank you.

3 This also, this shows this intertwinement or the complementarity of the spiritual and
4 the military aspect. The spiritual aspect was not enough for -- to have complete
5 control. It played a significant role. But, again, it's the term growing in; you grow
6 into it. And at certain moments in time the military will be very important to
7 prevent escape, and that's right after abduction. It takes -- often it takes a while
8 before they really become part of this universe. And particularly in the first phase of
9 the abductee becoming part of the LRA, the military will -- the military aspect will be
10 very important to prevent escape. If you try to escape you can be killed, and it will
11 be done so publicly to scare the others.

12 But later on, you know, the military aspect is brutal, and it's there, but you can't rely
13 on it alone. You cannot watch somebody 24/7, you need to be send people to fetch
14 water, you need to send them on operations. So that's why the spiritual is also
15 important, so both complement each other and are intertwined. As I said, this mind
16 control it's not total. Some people buy more into it than others, it's more important
17 at certain moments in time, et cetera, so that's why the complementarity with the
18 military aspect is very important.

19 PRESIDING JUDGE SCHMITT: [12:13:25] Thank you.

20 And I think, Ms Lyons, we had not addressed this so intensely, the relationship
21 between the military and the spiritual space.

22 MS LYONS: [12:13:36] Yes. In fact, I thank you because you're -- what's the word?
23 Prescient. You foresaw the --

24 PRESIDING JUDGE SCHMITT: [12:13:42] But then I was too quick of course,
25 perhaps (Overlapping speakers)

1 MS LYONS: [12:13:45] No, that's okay. You weren't too quick. I appreciate it. It
2 makes it easier, easier for me. But if I may focus a little bit more on what you -- what
3 you've --

4 PRESIDING JUDGE SCHMITT: Of course (Overlapping speakers)

5 MS LYONS: But not to -- not to repeat. But thank you very much, because this is
6 where we're moving and I appreciate, your Honour.

7 Q. [12:14:05] Could you just briefly sum up, since you've discussed some of this in
8 response to your Honour's questions here. I want to talk a little about the issues of
9 obedience, disobedience, and this intertwining. You've touched upon it somewhat
10 in answers, but could you -- at someplace in your report, I believe on page 6, you talk
11 about the military space being a double-edged sword, both protective and punitive.
12 Can you just say why you make that characterisation and what's important about it
13 for the LRA, in your view.

14 A. [12:14:50] If I'm not mistaken, this is about the spiritual, the cosmological space
15 being a double-edged sword, as being protective and punitive. Let me first talk
16 about that. So the spirits, they allow to -- well, I have explained that, they allow to
17 protect the combatants, it allows them to give a feeling of security of finding their
18 own space after being brutally separated, et cetera. On the other hand, so it protects,
19 but it also punishes. If you don't follow the rules, well, you'll -- you can be killed.
20 If you don't follow the rules you will be hit somewhere, you know, in correspondence
21 with -- with your transgression and so on; so protecting and punishing.

22 PRESIDING JUDGE SCHMITT: [12:15:35] And, indeed, you have addressed this
23 already, and with regard to the question -- taking the question literally, anything with
24 regard to the military space to be said?

25 THE WITNESS: [12:15:50] I guess you can give the same answer. On the one hand,

1 adhering to the military order, it protects you in those very difficult circumstances on
2 the battlefield. Follow the orders and you'll survive the battlefield. If you don't
3 follow the orders, you'll be punished brutally, often publicly.

4 PRESIDING JUDGE SCHMITT: [12:16:08] Thank you.

5 Ms Lyons.

6 MS LYONS: [12:16:13]

7 Q. [12:16:14] Now, you've talked about the consequence -- sorry, you've talked
8 about the consequences for not obeying the rules and the possible punishments. Is
9 there anything you want to add to what you've said? You've covered it, but I want
10 to give you that opportunity.

11 A. [12:16:35] No. Perhaps let me add: So the spiritual -- so you had the spiritual
12 rules, if they are transgressed you could be punished. Did that mean that
13 transgressions never happened? No, transgressions did happen. People, they did
14 break the rules. Did that mean that they were not aware of the punishments? Yes,
15 they were aware of the punishment and they were aware of the risk they took. They
16 were aware of the dangers. Overall, they enforced a very rigid discipline, but within
17 that rigid discipline, transgressions, they could take place.

18 Q. [12:17:22] And who was the ultimate enforcer of the punishments for
19 transgressions?

20 A. [12:17:28] Well, this again, the intertwinement -- well, the spirits. But again, it's
21 the intertwinement of the spirits and Joseph Kony. For example, often in my
22 interviews, combatants or ex-combatants would say the spirit said X, Y, Z; the spirit
23 said that we should go to the battlefield with 10 combatants, no more and no less.
24 When my respondent said "the spirits" they meant Joseph Kony. So there's a clear
25 intertwinement between Joseph Kony and the spirits. So, yes, the spirits did it, but

1 in reality this was Joseph Kony.

2 Q. [12:18:11] Thank you. Now, one of the aspects you mention in the paper, and I
3 think also in responding to the Presiding Judge's question, has to do with this issue of
4 obedience and spying in the LRA.

5 A. [12:18:24] Mm-hmm.

6 Q. [12:18:25] Now, one of the Defence witnesses, witness 74, at transcript T-187,
7 pages 45 to 46 talks about a, quote, "chieftaincy of military intelligence," end quote,
8 with all of the intelligence ranks, from the Control Altar to sections which assist in
9 surveillance, network.

10 He also described an independent intelligence network which had open members as
11 well as secret members; members who were not known to the people around them.
12 Now, do you have any different or more information about the spy network and does
13 this evidence, quote, make sense to you given your research in this area?

14 A. [12:19:55] Thank you. I won't be able to respond to the question of this
15 particular structure or this particular network, but I can testify that spying, indeed,
16 was an important element within the functioning of the LRA. For example, the
17 initial family I talked about, or the initial household where an abductee was placed,
18 did not only have the function of learning the rules, but also, well, seeing how this
19 person functions and spying. And people within the -- or, combatants within the
20 LRA were spying on each other. They were supposed to report if somebody tries to
21 escape, and if somebody hasn't reported and was supposed to be aware of this, the
22 person could be punished.

23 So, yes, spying was part of LRA.

24 Q. [12:20:47] Thank you. Just one last question here.

25 In your experience in working, in researching other rebel groups, especially where

1 children were abducted as soldiers, was there also an internal spy network or
2 surveillance system in place? Did it play a similar role as it did in the LRA, if you
3 can tell us?

4 A. [12:21:24] I am thinking of other rebel groups. Not to the extent of the LRA,
5 because the LRA is quite unique in the measure to which it relies on forced
6 recruitment or abduction.

7 Q. [12:21:46] Thank you. Now I am moving on to another area.

8 When you talk to us about this issue of protection, how abductees would seek
9 protection, ways of seeking protection, and you write in your report or you make
10 a conclusion that acquiring a rank - this is on page 7 - guaranteed more protection, it
11 made the person less vulnerable to commanders and military punishments.

12 What I would like to present to you is evidence that we've heard in this court, you
13 were not here, on this issue. And then elicit your comment.

14 There has been evidence from Defence witnesses, and even from a Prosecution
15 witness that, for example, high ranking individuals --

16 MR GUMPERT: [12:23:02] Could we have the references first --

17 MS LYONS: Yes, I will.

18 MR GUMPERT: -- and the --

19 PRESIDING JUDGE SCHMITT: Indeed.

20 MR GUMPERT: -- suggestions afterwards.

21 MS LYONS: [12:23:09] Yes, I will give it. Okay. Absolutely. I will be referring to
22 P-18's testimony, transcript 185, page 61 and page 60. I will be referring to D-24's
23 testimony at transcript 192, pages 15 to 16. I will be referring to the testimony of
24 D-26 at transcript 191, pages 35 to 36. And P-172, transcript 113, pages 44 to 45.

25 And lastly, I am referring to a document for which I don't have the document number,

- 1 I apologise, but I will read the title. It was in the exchanges dealing with Rule 72, it's
2 a public corrected version of the decision in response to an Article 72(4) intervention
3 dated, originally, 1 June 2016, corrected version 26 June 2018, paragraph 14.
4 And I'm happy to wait if --
- 5 PRESIDING JUDGE SCHMITT: [12:24:56] That is quite a lot of material. I think it
6 would be difficult for the Prosecution to simply open everything now.
- 7 MR GUMPERT: [12:25:05] I have got the transcripts up. That last document is
8 going to take a bit more finding. But I wouldn't wish to obstruct or prevent my
9 learned friend, for my own part, from going ahead with references to the transcripts,
10 as long as she takes us to the page concerned.
- 11 PRESIDING JUDGE SCHMITT: [12:25:20] Yes. I would not see it as obstruction, of
12 course. I would take another word. But hindering for the moment, perhaps I
13 would say. But would you feel able to follow now of --
- 14 MR GUMPERT: [12:25:32] As to the transcripts?
- 15 PRESIDING JUDGE SCHMITT: Yes.
- 16 MR GUMPERT: Yes. Provided my learned friend gives just a moment after she
17 has identified the page concerned.
- 18 PRESIDING JUDGE SCHMITT: [12:25:40] Yes. Okay. Then we continue, with
19 this caveat.
- 20 MS LYONS: [12:25:47] What I will do is read pieces of the testimony, give the
21 transcript, as well as the lines. And I will omit for now the document not
22 necessary --
- 23 PRESIDING JUDGE SCHMITT: [12:26:01] That makes sense now.
- 24 MS LYONS: [12:26:03] May I proceed that way, your Honour? Okay. All right.
- 25 Q. [12:26:08] Now, P-18 basically testified - I'm summarising - that the commanders

1 who disobeyed Joseph --

2 PRESIDING JUDGE SCHMITT: [12:26:25] Wait a moment, Mr Gumpert is --

3 MS LYONS: [12:26:29] And I'll quote --

4 MR GUMPERT: [12:26:30] Sorry. I hesitate to lay down the procedure, but what

5 would be really useful for me would be if my learned friend said "I am now going to

6 refer to transcript number 123," pause, "page X, Y, Z," pause.

7 PRESIDING JUDGE SCHMITT: [12:26:44] Yes. That's a good suggestion.

8 MS LYONS: [12:26:49] Would you like me to -- I am happy to read out the pertinent

9 sections, I'm just aware of -- is there enough time, your Honour?

10 PRESIDING JUDGE SCHMITT: [12:26:56] No, I think the problem is not the reading

11 out of the section. The problem is that the Prosecution can follow what you are

12 referring to. So why not do it the way Mr Gumpert has suggested.

13 MS LYONS: Sure.

14 PRESIDING JUDGE SCHMITT: Simply say my first witness and quotation will be,

15 and then you say where you find it, and then I think everyone can follow.

16 MS LYONS: [12:27:13] Okay. Thank you very much.

17 PRESIDING JUDGE SCHMITT: [12:27:14] Then one after the other.

18 MS LYONS: [12:27:16] Okay. Thank you.

19 And thank you very much, Mr Gumpert, for your suggestion of procedure. Okay.

20 The first witness is P-18, who's a Defence witness, he is found at transcript 185,

21 page 70, lines 8 to 11. And I'll read the quote, it's very short:

22 "... most of his commanders, he always briefed them on the orders of the spirits and

23 one has to obey the orders of the spirit. If you go astray, you will have a problem,

24 and indeed those commanders who never obeyed the instructions he always gives

25 them, they ended either getting wounded or dead in the battlefield."

1 Now I'm referring to the same witness, transcript 185, page 61, lines 7 through 18.

2 I'm not going to read it all out, but the sum and substance of that section is that

3 Joseph Kony, according to this witness, executed Otti Lagony, who was

4 a second-in-command, and Okello Can Odongo, as well as Vincent Otti.

5 Witness --

6 MR GUMPERT: [12:29:01] Your Honours, these things were said, I am sure, I recall,

7 but the references are not accurate. Your Honour, I am not going to make more song

8 and dance about this. With respect, it's going to be more helpful if my learned friend

9 were to do - I'm sorry to sound preachy - like the Prosecution did, to provide the

10 portions of transcript in advance which we put to our experts. Too late for that.

11 I'm not going to stand up and protest any more, but it really would be helpful if in the

12 future we could proceed in that way.

13 PRESIDING JUDGE SCHMITT: [12:29:36] For the moment we proceed in the

14 following way. We continue as we started.

15 So you say the reference, Ms Lyons, and if you can follow fine, because I think we also

16 trust counsel that they don't misquote here in the courtroom. This is perfectly clear.

17 So we simply go on like that. And for the expert it's not so easy, but you have it in

18 mind what you heard, the first quotation, and we will have some others and then

19 questions will appear.

20 And for everyone in the courtroom, I think the last document that has been

21 mentioned by Ms Lyons should be ICC-02/04-01/15-1267-Corr2.

22 MR GUMPERT: That's the non-transcript document.

23 PRESIDING JUDGE SCHMITT: [12:30:29] Yes.

24 MR GUMPERT: [12:30:30] That's very helpful. We hadn't found that.

25 PRESIDING JUDGE SCHMITT: Could you follow, Ms Adesola Adebeyejo, or

- 1 Ms Nuzban, or shall I repeat it?
- 2 MR GUMPERT: [12:30:38] No, I believe Ms Nuzban is on it.
- 3 PRESIDING JUDGE SCHMITT: [12:30:40] Thank you.
- 4 So, as I said, we don't think that there will be here misquotations but, Ms Lyons,
5 nevertheless, simply continue with how you started the process, and perhaps there
6 are not too many quotations and then you put the questions, please, to the expert,
7 Mr Titeca.
- 8 MS LYONS: [12:30:56] Thank you, your Honour. And I will take under advice for
9 the future, I can see the prob -- we've now -- okay.
- 10 Now, P-26, transcript 191, pages 35 to 36, stated:
- 11 "If you defy an order from Kony, ... nothing would do apart from killing you. ...
12 Whether you were junior or senior, nobody was safe, and there are examples to attest
13 to that. There was his second-in-command who was called Otti Lagony, he was also
14 killed. He was a senior commander. And that is a confirmation that nobody was
15 safe, whether you're senior or junior."
- 16 And lastly, in terms of this document 1267, and I think your Honour for the reference
17 here, was basically a unilateral stipulation which included the point that one person,
18 who spoke with Joseph Kony at about this time, understood from their conversation
19 that Joseph Kony was accepting responsibility for the death of Vincent Otti.
- 20 PRESIDING JUDGE SCHMITT: [12:32:30] Thank you.
- 21 And perhaps also for the future, and for future experts by the Defence, perhaps we
22 can follow the procedure that has been followed during the Prosecution case.
- 23 MS LYONS: [12:32:44] (Overlapping speakers) will be rectified, your Honour.
- 24 PRESIDING JUDGE SCHMITT: [12:32:46] But we don't make a big issue out of that
25 here. Please continue.

1 MS LYONS: [12:32:51] Thank you.

2 Q. [12:32:53] Now, the point is probably simpler than the procedure, the way I did
3 it.

4 Let me make it clear. You said at page 7 rank did not protect. We have this
5 evidence before you dealing with the issue of rank. What is your comment?

6 A. [12:33:20] Thank you. So, if I get you well, you want me to explain what seems
7 like a paradox; I state on the one hand ranks, they provide protection, on the other
8 hand, you have all these statements and all this evidence showing that, whether you
9 have a high rank or a low rank, Kony can kill you or can punish you any time. Yes.
10 All right.

11 So protection -- well, for us to better understand that, we need to better understand
12 what we mean with protection. So, on the one hand you have protection for
13 day-to-day survival. And day-to-day survival, well, I've explained the challenges
14 within the LRA. Hunger is a major issue, you need access to food. Military, you
15 also need protection. For example, the lower you are you can be sent to the front
16 line, you have less control over your own fate, as in if you are going to the front line
17 or to the battlefield or not; the higher your rank, the higher your grade, the better
18 access to food. If looting has happened, the better -- the earlier you can choose from
19 the looting, you can better choose whether you go to the front line or not. You have
20 more say in military decisions and so on. So the higher the rank the better your
21 protection and the more advantages you receive in those circumstances.

22 That being said, and as well as has become clear abundantly here in this room, Kony,
23 his power is almost absolute, he makes decisions on promotions, he makes decisions
24 on what to do or not. Whether it's through the spirits or through himself, he makes
25 the ultimate decisions. So he can still makes a decision, if he no longer trusts you, to

1 demote you or even to kill you. So a difference needs to be made between
2 day-to-day protection, so access to food, you know, control over military decisions,
3 and on the other hand a more structural protection against Kony. No one had that.
4 Whether you were the second-in-command or the lowest foot soldier, as was argued
5 by this quote, anyone could be killed.

6 Q. [12:35:44] Thank you. You have answered the point. Cleared that up.

7 PRESIDING JUDGE SCHMITT: [12:35:48] And, indeed -- and, indeed, the procedure
8 was more complicated.

9 MS LYONS: [12:35:54] Yes. Yes, your Honour. I say it quietly.

10 Q. [12:36:07] We are getting actually to the end. A few more questions.

11 We've also -- I want to ask you a question about the influence of -- influence of

12 Catholicism on LRA beliefs, because we've heard evidence in this trial that

13 Joseph Kony was a Catholic, he carried a Bible, he wore a rosary. We've also heard

14 evidence that when the pope came in the '90s he sent a delegation to participate and

15 stopped attacks.

16 And I note, pertaining to Tim Allen's article which is in the binder, Understanding

17 Alice, he places spiritualism of the LRA within the context of Catholicism and, of

18 course, Acholi culture.

19 The question is simple: Did Catholicism influence the spirituality of Kony and, if so,

20 in what way or ways?

21 A. [12:37:23] Well, the answer is -- the short answer is yes, it did influence, but -- so

22 the key term here is syncretism; syncretism meaning that the LRA belief system was

23 a mixture of various religious traditions. Various -- yes, various religious traditions;

24 traditional Acholi religion; Christianity; when the structural support from Khartoum,

25 from the Bashir regime came, also Islam, and so on.

1 But on your specific question on Catholicism, yes, Catholicism manifested itself in
2 various ways: For example -- but, yeah, but always in a kind of hybrid form. The
3 most famous example perhaps being that -- the much quoted argument that the LRA
4 and Kony wanted to install the Ten Commandments in Uganda, so he said that in an
5 interview, it's quoted in research, and so on.

6 So, on the one hand, to these Ten Commandments, they refer to the biblical
7 Ten Commandments. On the other hand they also refer to - well, at least that's what
8 a number of respondents in northern Uganda argue - they also refer to a traditional
9 Acholi -- well, to an Acholi tradition to install a number of rules when society is in
10 crisis.

11 So to take a step backwards, the major raison d'être, the major reason for the LRA was
12 that they wanted to save the pure Acholi, they wanted to rescue the Acholi, because
13 northern Uganda, Acholiland is in crisis. Because it's in crisis a range of rules need
14 to be respected for them to be saved, to be rescued. So again, these rules, they refer
15 to the Acholi tradition in which rules are issued when a society in crisis. So the
16 Ten Commandments, they refer both to these rules and to the biblical Ten
17 Commandments.

18 And also, within the LRA you had other Catholic rules which were used and
19 introduced. For example, often -- well, a lot of references were made to Catholic
20 traditions, to biblical parables. For example, often rituals, they involve the
21 slaughtering of sheep, the slaughtering of sheep on a mountain. Or references were
22 made to Moses, and so on and so on.

23 Q. [12:39:45] Thank you.

24 Your Honours, may I have a few minutes to consult with the team? Because I'm
25 almost at the end, I want to make sure everything is covered so that we can finish by

- 1 before lunch.
- 2 PRESIDING JUDGE SCHMITT: [12:40:00] But a few minutes, it will be
- 3 uncomfortable if we all stay here when you --
- 4 MS LYONS: [12:40:06] One minute. May I have --
- 5 PRESIDING JUDGE SCHMITT: [12:40:08] One minute is okay.
- 6 MS LYONS: [12:40:10] One minute. Okay. All right. Okay. Sorry, I don't mean
- 7 to put people --
- 8 PRESIDING JUDGE SCHMITT: [12:40:13] Yes.
- 9 MS LYONS: [12:40:14] Okay.
- 10 (Counsel confers)
- 11 MS LYONS: [12:40:43] Your Honours, thank you. We're -- sorry.
- 12 PRESIDING JUDGE SCHMITT: [12:40:56] Thank you, Ms Lyons.
- 13 MS LYONS: [12:40:59] Okay. Thank you. I'm sorry to have interrupted your --
- 14 PRESIDING JUDGE SCHMITT: [12:41:02] No, no problem.
- 15 MS LYONS: [12:41:04]
- 16 Q. [12:41:04] The last question I want to ask you is this -- well, first of all, I want to
- 17 ask you -- yes, the last question I want to ask you is this: In your expert opinion, if
- 18 you take spiritualism and spirits out of the LRA, what is left? What would the LRA
- 19 look like?
- 20 A. [12:41:34] Yes, that's a difficult question because it's hard to imagine them
- 21 without that. Also, because -- well, I think I said it to some extent, the discussion,
- 22 much of the discussions we have are to some extent artificial because for so
- 23 many -- for the people within the LRA the spiritual element is part of everything.
- 24 Imagine you are talking with a former ISIS fighter and you would ask him
- 25 particularly about how he or she was, was in Syria, it would to some extent be

1 artificial to talk about the religious aspect because it was part of everything, of the
2 military -- well, the same for the LRA. How would -- did it look like without
3 spirituality? As an organisation with an agenda which is hard to define, which
4 fluctuates over time, because in order to understand what's left I need to look at other
5 things. What is left is the political agenda, which is -- well, which is an issue which I
6 imagine has been discussed here. The military aspect, which also has been discussed,
7 well, yeah, I'm not sure I'm getting your question right.

8 PRESIDING JUDGE SCHMITT: [12:42:48] No, no, I think your first, the first line of
9 your answer, that it is a difficult question, was correct. Absolutely. Because we are
10 talking about a certain organisation with a lot of different components, and when
11 you are asked -- and which all these components together make the organisation - I
12 word it in my words now - and if you pull some of them out it's not easy to answer
13 the question what is left then, even if the organisation would be left then. So I just
14 want to rescue you a little bit, it's really hard to. But I think we have, we have
15 enough of an answer here.

16 MS LYONS: [12:43:39] Thank you, Professor Titeca.

17 And thank you, also.

18 Q. [12:43:46] Now, we have covered a lot of material and you have provided, you
19 know, lots of material to the judges. Is there anything that I haven't asked, or the
20 Presiding Judge hasn't asked, that you want to say at this point before we conclude
21 the direct examination?

22 A. [12:44:05] No. I think we've covered pretty much everything.

23 PRESIDING JUDGE SCHMITT: [12:44:09] Thank you, Ms Lyons.

24 MS LYONS: [12:44:13] Thank you.

25 PRESIDING JUDGE SCHMITT: [12:44:14] And of course we not only have covered

1 pretty much, we have also the report here, as I already said.

2 And now I ask the Prosecution, how long will your questioning be?

3 MR GUMPERT: [12:44:26] It will not be longer than an hour and a half.

4 PRESIDING JUDGE SCHMITT: [12:44:32] Yes.

5 So I think it makes sense now then to have the lunch break. Perhaps we have a little

6 bit shorter one. I understand, perhaps, that Mr Titeca would be not unhappy to be

7 out of the courtroom at half past 3? It doesn't matter. But I think we have enough

8 of a lunch break when we restart at 2 o'clock, I would say. Thank you.

9 THE COURT USHER: [12:45:00] All rise.

10 (Recess taken at 12.45 p.m.)

11 (Upon resuming in open session at 2.01 p.m.)

12 THE COURT USHER: [14:01:48] All rise.

13 PRESIDING JUDGE SCHMITT: [14:02:10] Yes, I give Mr Gumpert the floor for

14 the Prosecution.

15 MR GUMPERT: [14:02:17] Thank you, your Honour.

16 QUESTIONED BY MR GUMPERT:

17 Q. [14:02:24] Mr Titeca, I want to ask you, firstly, some questions about

18 methodology.

19 If I've understood correctly, from your point of view, from an ethnographical, if I use

20 the right word --

21 A. [14:02:41] Mm-hmm.

22 Q. [14:02:42] -- point of view. The factual truth of the individual accounts which

23 you receive from about 120 former combatants is of secondary importance; is that

24 correct?

25 A. [14:02:59] Why would that be? Secondary importance vis-à-vis what? Yes,

1 the factual truth. Yeah, yeah. You mean if animals really could speak, et cetera.

2 Yes, I would argue that this is less important than the effects it creates.

3 Q. [14:03:20] Because, as I understand it, what you are trying to describe to help the
4 judges is not the factual experiences of any one individual, but a cultural truth. Is
5 that a realistic way of putting it?

6 A. [14:03:46] I'm -- again, I'm not interested in truth, per se. Well, I'm interested in
7 describing how an organisation functions and why an individual acts the way he or
8 she does. Is that truth? I don't know. I'm interested in describing events as they
9 take place and I am interested in understanding belief systems as they function.

10 Q. [14:04:19] You give a striking example, I think you referred to it this morning,
11 but we find it in your report, which is at tab 6, and the ERN is UGA-D26-0018-3901,
12 but I hope you have it in paper form at tab 6. And I'm looking at the second page of
13 your report.

14 You compare the accounts or some of the accounts that you have received to
15 expressions of belief by a suicide bomber.

16 A. [14:05:15] Mm-hmm.

17 Q. [14:05:15] Belief that if he or she acts in that way, carries out the suicide
18 bombing -- sorry, the suicide bombing, there will be -- I forget what the number of
19 virgins it is, I think you used the letter X, in heaven waiting for them when they arrive
20 there.

21 A. [14:05:36] Mm-hmm.

22 Q. [14:05:39] And you said, well, and I quote you:

23 "... it does not matter whether suicide bombers really believe X amount of virgins will
24 wait for them in heaven."

25 That's a quotation from the third to last paragraph on the page with the last four

1 digits 3902.

2 Do I understand correctly, therefore, that it's not the individual's state of mind that
3 you are trying to describe, but the set of received cultural beliefs within the LRA?

4 A. [14:06:19] So, perhaps if I under -- yes, so thank you for that. But if

5 I understand my quote correctly, I said it doesn't matter if that -- if the suicide bomber
6 believes in that, then I made a mistake. What I meant was I don't -- it's secondary if
7 it is factually true if there is X amount of virgins waiting for this suicide bomber.

8 What matters indeed is if the suicide bomber believes in it and the effects it creates.

9 So again, to be totally clear let me repeat that, I am interested indeed in belief systems,
10 whether individually or collectively. What is secondary is whether this is factually
11 true or not. It's secondary if there really are X amount of virgins waiting. It's
12 secondary if indeed animals can speak. What is important is the effect it creates. So
13 what I am interested in, in other words, is what role do these spirits play, what role
14 do these beliefs play? What does that mean for the actions of the individual and for
15 the functions of the organisation, whether it's the LRA, or from the example, if it's ISIS
16 and suicide bombers.

17 Does that clarify your question?

18 Q. [14:07:44] (Microphone not activated)

19 PRESIDING JUDGE SCHMITT: [14:07:49] Microphone please.

20 MR GUMPERT: [14:07:52] Perhaps it does, or perhaps it should do. But I just want
21 to go back to the text which the Judges and I have in front of us, and I'm quoting
22 directly here from the third paragraph from the bottom of the page which I've
23 specified, it's page number 2. For example, you say, and I'm quoting now:

24 "... in a different context, it does not matter whether suicide bombers really believe
25 X amount of virgins will wait for them in heaven." End quote.

1 A. [14:08:27] Mm-hmm.

2 Q. [14:08:28] Is that accurate? Are you saying that you were in error when you
3 wrote those words?

4 A. [14:08:37] Yes, it's the -- now that I read it back I realise that it might give leeway
5 for an interpretation which I do not mean. What I meant is the explanation I just
6 gave. It's -- I am interested, it is relevant if people believe in it. I am interested in
7 their beliefs as such.

8 PRESIDING JUDGE SCHMITT: [14:09:00] And I think if we read further there
9 seemed -- you have already I think recognised it, this would be a contradiction to the
10 next sentence.

11 THE WITNESS: Yes.

12 PRESIDING JUDGE SCHMITT: [14:09:09] Which reads:

13 "What is important and analytically relevant is that they believe in this, and they act
14 upon this belief."

15 This could not be reconciled with the page before.

16 THE WITNESS: Yes.

17 PRESIDING JUDGE SCHMITT: [14:09:21] And you have said it I think on -- this
18 morning you have said it like you explained it here.

19 THE WITNESS: [14:09:28] Mm-hmm.

20 PRESIDING JUDGE SCHMITT: [14:09:28] I think this was on page 20; page 20, line
21 20 actually, what you already explained here.

22 THE WITNESS: [14:09:35] Mm-hmm.

23 PRESIDING JUDGE SCHMITT: [14:09:35] You said:

24 "I don't have any a priori value judgment about whether this is factually true or not.
25 What is most important is the effect it creates." That is what you said now.

- 1 THE WITNESS: [14:09:47] Yes, exactly.
- 2 MR GUMPERT: [14:09:51]
- 3 Q. [14:09:52] On the next page that has the last four digits 3930, and it's your
4 page 3.
- 5 A. [14:10:01] Mm-hmm.
- 6 Q. [14:10:01] In the penultimate paragraph it begins with "in the early years".
- 7 A. [14:10:08] Mm-hmm.
- 8 Q. [14:10:08] But the sentences I'm interested in begin with the word "abductees"
9 fourth line down. Can you see that?
- 10 A. [14:10:15] Mm-hmm.
- 11 Q. [14:10:15] You say, quote:
12 "Abductees soon start realising the power of the spirits: they see things at work that
13 they have not seen before, and which make a huge impression on them. Examples of
14 these are the stone bomb: a stone, picked from the ground, which exploded like
15 a grenade."
- 16 A. [14:10:41] Mm-hmm.
- 17 Q. [14:10:42] Did your interviewees -- it's rather a lot to ask you about, but did
18 some of them say, "Yes, I actually saw that happen," or were they recounting what
19 was the common belief that such things could occur?
- 20 A. [14:11:02] Yeah. Thank you for that question.
21 I had interviewees explaining to me that, again, I repeat, that they talked with lions,
22 that they had people passing by with the teeth of -- elephant teeth, and indeed I had
23 interviewees explaining how they used stone bombs and how they saw them
24 exploding above the battlefield.
25 That being said, others also refer to stories which were circulating a lot and which

1 have been repeated in, in the movement.

2 Again, I'll add to that. For me, it is secondary whether this is true or not. What
3 matters is effects it created, and particularly these stone bombs. At the time of Alice
4 Lakwena they had a huge effect on the battlefield. They pushed back a regular army
5 from northern Uganda up to Jinja, which is about 80 kilometres from Kampala. Not
6 that they were the sole responsible, but they played an important role in military
7 tactics.

8 Q. [14:12:14] In a forensic setting, that is to say a courtroom setting or investigative
9 setting --

10 A. [14:12:21] Mm-hmm.

11 Q. [14:12:23] -- part of the questioning technique of, let us say, investigators or
12 lawyers or judges might be to challenge, not necessarily in an aggressive fashion, but
13 to challenge statements like that. Can I take it that that won't be part of your role or
14 your modus operandi as an ethnographer carrying out this kind of research?

15 A. [14:12:53] Well, as an ethnographer you use a -- well, a methodology which is
16 called triangulation, well, which is similar to other ways, so you try. You only use
17 statements if they are confirmed by a wide range of sources. This can be interviews,
18 this can be documents, this can be interviews of various actors, up to a moment where
19 you achieve what is called saturation, as in you get repetition from various actors and
20 you have solid meaning -- or, you have solid insight of what is meaning. That's the
21 first step.

22 As an ethnographer you never -- or, as an academic, you never write alone, if you
23 want, you always write in correspondence with what has been written before. You
24 always build on existing knowledge and in conversation with your peers.

25 Concretely, this means that if you find something which totally digresses from the

1 existing literature and existing insights, you need to argue why.
2 Two, you need to show where you built on previous insights.
3 And three, whatever you write you know what you will write will be written -- sorry,
4 will be read and will be commented on by the experts in your field. This will
5 happen anonymous and this will also happen through people who read. Why am I
6 saying this? For example, the stone bomb issue is also something I write about in the
7 chapter I write about the spiritual order, which basically means this has been
8 accepted knowledge by the authorities in the field. Meaning also the other
9 authorities, like Tim Allen or others, have read this, agree with this, and I built further
10 upon their scholarship, so that, in short, is methodology.

11 Q. [14:14:48] (Microphone not activated)

12 PRESIDING JUDGE SCHMITT: [14:14:52] Microphone please.

13 So you are quite, quite as -- you are comparable, let me put it this way, with
14 Ms Lyons.

15 MR GUMPERT: [14:15:00] Indeed.

16 PRESIDING JUDGE SCHMITT: [14:15:00] And think perhaps I could put
17 Ms Nuzban in change.

18 MR GUMPERT: [14:15:04] Ms Lyons has the vantage that she is, if I can put it this
19 way, a right hander, the button for her microphone is next to her junior.

20 PRESIDING JUDGE SCHMITT: [14:15:14] I see -- I have recognised it immediately
21 when I said it, indeed. For Ms Nuzban it would be really a sort of interference every
22 time.

23 MR GUMPERT: [14:15:24] I'll simply try to be more competent. Sorry for that.

24 PRESIDING JUDGE SCHMITT: [14:15:27] Don't be too harsh with yourself.

25 MR GUMPERT: [14:15:31]

1 Q. [14:15:33] Sorry for that digression.

2 As I say, thank you for your answer, but my question was premised on what you
3 would actually do, imagining that you are receiving an account --

4 A. [14:15:44] Mm-hmm.

5 Q. [14:15:45] -- which contains certain assertions which appear to be contrary to the
6 laws of biology, chemistry and physics.

7 A. [14:15:54] Mm-hmm.

8 Q. [14:15:54] It wouldn't be part of your technique with that person to challenge,
9 even, as I say, in a non-aggressive fashion, the account that they are giving you?

10 A. [14:16:06] Sure, I -- well, so first of all I try to gain an emic understanding, I try
11 to understand the people's viewpoint.

12 But two, as I said, I am looking for triangulation, so I will try and double-check that in
13 various ways: One, in getting as much as possible details from the person, whenever
14 that kind of information is crucial to my questioning and argument. And two, I will
15 ask that and I will verify that among other respondents.

16 Q. [14:16:39] Thank you. That's clear.

17 Now, the individuals to whom you have spoken, I am particularly interested in the
18 120-odd former combatants. These are people who have at some stage or another
19 been fighting with the Lord's Resistance Army.

20 A. [14:17:01] Mm-hmm.

21 Q. [14:17:02] And have subsequently escaped or been captured or in some way
22 exited that organisation so that you gained access to them.

23 A. [14:17:15] Mm-hmm.

24 Q. [14:17:15] And so they were, during that period, part of an armed group that
25 was notorious for its atrocities?

1 A. [14:17:23] Mm-hmm.

2 Q. [14:17:24] And it would follow, I imagine, that many of the people you were
3 speaking to had taken part in committing those atrocities?

4 A. [14:17:40] Mm-hmm, correct, yes.

5 Q. [14:17:41] Thank you. We're quite close to each other, almost as though we
6 were having a conversation in a classroom, or a -- some other social setting. It's
7 important you give a verbal response.

8 A. [14:17:54] Okay.

9 Q. [14:17:54] So that the record reflects what we're saying. Did they appear to you
10 to be speaking candidly about what they had done in terms of commission of
11 atrocities?

12 A. [14:18:11] So, the advantage of being in academia is that I'm able to invest
13 long -- well, that I am able to have a long-term engagement with a particular area, and
14 for northern Uganda this is particularly the case. So for the last 15 years I have been
15 visiting the area, and throughout those years I have built -- I have a range of
16 informants, some of them I've continued seeing, others I only had brief conversations
17 with. So the question, are they candid about these acts, depends on the actors I have
18 spoken with. Some would not want to speak about these things at all, others would
19 open up after some time and would be open about it; others would be open about it
20 from the beginning. So there's no clear answer to that. But my prolonged
21 engagement with the area, and with some of these actors, allowed them to be more
22 open with these things.

23 Q. [14:19:26] Than if you just met them for an afternoon?

24 A. [14:19:29] Exactly.

25 Q. [14:19:32] Yes. It must have occurred to you that for them to assert that they

1 were compelled by a divine power, spiritual power, call it what you will, to act in that
2 way would be a comforting explanation of their behaviour to you, but also to the
3 society in which they now have to live.

4 A. [14:19:54] Mm-hmm.

5 Q. [14:19:55] Did that occur to you?

6 A. [14:19:59] So this morning -- yes, thanks for that question, I find it an interesting
7 and legitimate question. When we started this morning my research interest was
8 being asked and I talked about -- well, I explained my research interest, I am
9 interested in governance dynamics in areas where there's no state regulation, et cetera.
10 So the act of committing atrocities has not been my research interest.

11 I have never -- well, as a direct question it hasn't -- it has not been a direct question of
12 mine. It has come up in conversations, but in the framework of my interest in the
13 role of spirituality, then my respondents would mention this. But I would not ask it
14 myself because it's not my primary research interests. When it comes up, I would
15 try to understand it within this broader framework, but, you know, as an
16 ethnographer, and, again, in order to get that emic perspective you try to influence
17 your respondent as little as possible, you want to understand his or her view on
18 things with as little as possible input from my side. I did not -- I never want to
19 provoke my respondents by asking them did you commit atrocities or by pushing
20 them on that. What I wanted to ask them is how the spirituality functions.

21 So for the ones I had a better connection with, or who were more open, they -- indeed,
22 they brought that up themselves. So they had no reason for -- no direct reason to
23 want to legitimise these actions, because I was not been normative about this, I did
24 not have any value judgment about it, from a research perspective. I didn't ask them
25 about that. I made it clear that I'm not from an organisation or from any other actor

1 which is interested about things such as guilty or not guilty. I'm an ethnographer
2 interested in spirituality, which almost all my respondents were quite happy to talk
3 about. They had no reason to feel that in one reason or the other I was going to give
4 them a label in terms of guilty or not guilty, or participating in atrocities or not.
5 There is fascinating work which looks at that, which I admire at lot, but it's not my job.
6 It's not my job to look into if they participated in atrocities or not.

7 Q. [14:22:41] That's not quite what I was getting at. Probably the question was ill
8 asked and I apologise for that.

9 A. [14:22:48] Mm-hmm.

10 Q. [14:22:49] Let us for a moment just concentrate upon those who either
11 immediately, or after a period of coming perhaps to trust you and get to know you,
12 confessed -- let's use a different word, spoke about their own participation in
13 atrocities. These were people who were now trying to fit back in to the mores of the
14 civilian society, northern Uganda and mostly Acholi society, correct?

15 A. [14:23:27] Mm-hmm.

16 Q. [14:23:29] A society where the commission of atrocities is not excused by any
17 spiritual dictates; is that a fair thing to say?

18 A. [14:23:43] I'm not sure I a hundred per cent agree with your last statement that
19 it's not dictated by spiritual dictates; spirituality plays a role, but I understand your
20 question, yes.

21 Q. [14:23:54] Let me then soften it a little. To a considerably lesser extent --

22 A. [14:24:00] yeah.

23 Q. [14:24:00] -- than in the Lord's Resistance Army?

24 A. [14:24:02] Okay.

25 Q. [14:24:02] Yes?

- 1 A. [14:24:02] Mm-hmm.
- 2 Q. [14:24:04] You would agree with that proposition?
- 3 A. [14:24:05] Yes, yes, very much. Yes.
- 4 Q. [14:24:09] There would, would there not be -- I'm trying not to use too
5 judgmental terms, but an incentive, a reason to advance a force majeure upon their
6 activities during the time they were with the LRA?
- 7 A. [14:24:27] Mm-hmm.
- 8 Q. [14:24:27] Was that something which you factored into the triangulation which
9 you spoke about earlier?
- 10 A. [14:24:35] All right. Thanks for that question. I find it a very interesting one.
11 But I think what we're having here is a bit of a disciplinary discussion; the law
12 perspective and the ethnography/anthropology perspective. So let me take a step
13 backwards and let me talk about, within the ethnography there is a whole sub-field
14 which primarily focuses on illegal activities and on violence. There is excellent
15 ethnographies on gang life, on rebels and so on.
16 Myself, as I said, I'm very much interested in governance without the states and I'm
17 interested in illegal activities.
18 To give other examples, in the last five years I followed a group of illegal ivory
19 traders, I focused on police corruption, and so on. So does that mean that these
20 illegal ivory traders or police corruption, that they tried to legitimise their activities
21 towards me by showing that what they're doing is not that bad? No, not at all.
22 What ethnography as a field tries to do is, again, an emic understanding. It is not
23 interested in questions of guilt. It does not ask that questions, therefore, the
24 respondent will not be interested in giving explanations to that.
25 Because, sir, your question suggests, uses the terms confession or fitting back in, or,

1 you know, adjusting him or herself to wider society. I don't have any standards of
2 what normalcy is, or what fitting back in is. My only benchmark is an
3 understanding of spirituality. I do not have any value judgments and do not want
4 the respondent to have any value judgments about what he or she did.
5 And if I feel - and now we come to methodology - if I feel that the respondent is, for
6 one reason or the other, is trying to -- things that have a value judgment, I
7 immediately will say that I am not here to judge, I am not here to have a value
8 judgment. So that's a crucial aspect of ethnography as well, and that's why from the
9 beginning I use this term emic for that my respondents will not feel the need that they
10 have to explain themselves or that I don't have a value judgment vis-à-vis them.
11 And again, this is to have statements from them which are as real life as possible,
12 which has as little influence from my presence as possible.
13 I hope that answers your question.

14 PRESIDING JUDGE SCHMITT: [14:27:09] May I shortly?

15 Would it be - apart from guilt or innocence or whatsoever - a sufficient reason for any
16 person in any conversation with any other person, for example, a friend, whomever,
17 to explain themselves if they have committed atrocities, and by doing so revert to
18 other forces? You see what I mean, simply, as a human concept of self-justification
19 or whatsoever, if you will, a more psychological concept, psychological idea?

20 THE WITNESS: [14:27:50] Yes. I get it. So, yeah, yeah. Imagine if I talk, you
21 know, if we talk about spirituality and at some point, you know, the atrocities would
22 come into play. I imagine it could be used as a perfect scapegoat, but I never
23 engaged in those questions. If it came up, it could have been in terms of order,
24 et cetera, but I was not interested in that, because I know that these are the kind of
25 leading questions which would distort the answers of my respondent.

1 But I could potentially understand that it could be used as a scapegoat, but again, the
2 amount of people I have spoken with, et cetera, the fact that I've never had as
3 a primary interest to look into atrocities or to document them, I think allows me to
4 speak about these issues without having been influenced by these kinds of
5 positionality. Yes.

6 PRESIDING JUDGE SCHMITT: [14:28:44] Yes. No, I understand. And also of
7 course, in a courtroom which has -- is a completely different setting to an
8 ethnographical studio, so to speak, where you interview persons. We appreciate it if
9 you don't digress into our area, so to speak. So we also -- I said this from the outset
10 when we started with your testimony.

11 Mr Gumpert.

12 MR GUMPERT: [14:29:07]

13 Q. [14:29:09] One last question on this same area.

14 A. [14:29:12] Mm-hmm.

15 Q. [14:29:12] In your conclusion, now that's page 7, and the last four digits are 3907,
16 second paragraph, if I may, because it's quite a complex sentence I will read those
17 four lines and three words:

18 "In addition," - I am quoting you now - "the use of cosmological space is more than
19 a functional ploy by rebel leaders. While it gave a whole range of advantages for
20 Joseph Kony, such as the extraordinary control over the lives and actions of
21 individual combatants, it is also a lived experience for individual fighters."

22 I pause there because I have now spoken the words that I am interested in. I've read
23 the words "lived experience" in the work of others in the field in which you practice,
24 I am thinking of people like to whom you refer, Tim Allen, Holly Porter.

25 A. [14:30:23] Mm-hmm.

1 Q. [14:30:23] A lived experience, if I understand it correctly; the reason why you
2 use that qualifying participle, lived, is an experience which your reporter, your
3 informant, believes has been part of their life. But once again, as I understand it, it
4 wouldn't be part of your work to establish whether in fact it was a factually correct
5 experience. It is that person's belief as to something that has happened to them,
6 something they've experienced.

7 Do I have it correctly? If not, perhaps you can explain what you mean by lived
8 experience rather than just experience?

9 A. [14:31:13] Yeah, as something they experienced, indeed. And with lived
10 experience, well, in this particular phrase I mean that they experience the power of
11 the spirits, and these powers of the spirits can come in many ways, and that they felt
12 they had power on the battlefield and that they felt they could hear the enemy
13 advancing and so on, yes.

14 Q. [14:31:33] Even if, in fact, none of those things are correct in terms of the laws of
15 science?

16 A. [14:31:44] Well, you need to distinguish between different things. The lived
17 experience, on the one hand, the major one I'm referring to is the feeling that the
18 power of the spirits exists, and that's actually from the statements is true.
19 What can be disputed is indeed stone bombs, all these other things. But again, I find
20 it secondary to the effects it creates and, indeed, as being a lived experience.

21 Q. [14:32:22] Thank you. I want to turn now to Ben Mergelsberg. As I
22 understand it from evidence which Professor Allen gave, this is a gentleman who was,
23 at the time he was receiving the information which later became part of his academic
24 writing, a comparatively young and not -- I don't mean to be in any sense
25 disrespectful, he hadn't I think at that time been to university?

- 1 A. [14:33:00] That's correct.
- 2 Q. [14:33:00] Yes. On the other hand, he had - forgive me if this is crude
3 language - hands-on cultural experience of living in the midst of people who had
4 returned from the bush, and a high language skill in the Luo language which enabled
5 him to share their experiences and to speak with them easily; is that correct?
- 6 A. [14:33:24] That's correct, yes.
- 7 Q. [14:33:33] You and he both contributed to a volume published in 2010 under the,
8 perhaps I will call it the editorship of Professor Allen and Professor Vlassenroot,
9 forgive my horrendous pronunciation, which is entitled "The Lord's Resistance Army:
10 Myth and Reality".
- 11 A. [14:33:59] Correct.
- 12 Q. [14:34:00] That's correct, isn't it?
13 But in addition to that, you have had access to, and you refer to in your report
14 a document which I think is still unpublished which Ben Mergelsberg wrote in 2005;
15 is that right?
- 16 A. [14:34:18] Correct, yes.
- 17 Q. [14:34:19] And you have quoted directly from it on page 2, that's the last four
18 digits 3902 of your report.
- 19 A. [14:34:29] Mm-hmm.
- 20 Q. [14:34:32] Can I take it that Mr Mergelsberg's work is work which you respect?
- 21 A. [14:34:39] I respect the work that he has written, indeed, yes.
- 22 Q. [14:34:42] Yes. And the paper which you have quoted from --
- 23 A. [14:34:47] Mm-hmm.
- 24 Q. [14:34:48] -- did any part of that appear to you to be, simply, wrong or
25 insufficiently grounded in research?

- 1 A. [14:34:56] So the paper I'm quoting, it's more or less the same paper as the paper
2 which is in the edited volume by Tim Allen. It's a slightly modified version.
- 3 Q. [14:35:11] Forgive me just for a moment. We have it at tab 8. That is ERN
4 UGA-D26-0018-3836.
- 5 A. [14:35:49] Yes.
- 6 Q. [14:35:50] A paper which he called "Crossing Boundaries". And I think it's
7 a fair amount fuller; would that be fair to say? Perhaps he slimmed it down for --
- 8 A. [14:36:05] Exactly.
- 9 Q. [14:36:06] -- Tim Allen's book --
- 10 A. [14:36:07] Exactly.
- 11 Q. [14:36:08] -- if I call it that.
- 12 A. [14:36:09] Yeah.
- 13 Q. [14:36:18] Now, I mean absolutely no criticism in saying this, but one difference
14 between that paper and the much shorter paper you have provided for the Court is
15 that he provides a case study in the form of an appendix of a particular individual.
16 I'm sure you're familiar with that. It's at page 24 in the internal pagination and the
17 last four digits are 3859. Tell me if you would when you have reached that.
- 18 A. [14:37:00] Yes.
- 19 Q. [14:37:01] As I say, it's no criticism of the report which you have provided, but it
20 may be that this can form the basis of a number of questions, because the persons
21 whom he uses, in particular a young man - I won't give the surname since this is an
22 unpunished document - but he goes by the first name of Francis. That is his
23 principal case study here; is that right?
- 24 A. [14:37:31] He doesn't say principal case study, he says case study.
- 25 Q. [14:37:34] Yes. So I use the word principal because, in fact, he refers to

- 1 discussions that he had with four people --
- 2 A. [14:37:40] Mm-hmm.
- 3 Q. [14:37:40] -- who all knew each other.
- 4 A. [14:37:42] Mm-hmm.
- 5 Q. [14:37:43] But the account which he principally focuses on, let's put it in
- 6 arithmetical terms, the person he quotes the most often --
- 7 A. [14:37:52] Mm-hmm.
- 8 Q. [14:37:53] -- is the young man whose first name is Francis.
- 9 A. [14:37:57] Mm-hmm.
- 10 Q. [14:38:00] He tackles head on - and I'm now at page 11 in the internal pagination,
- 11 last four digits of the ERN are 3846 - the difference between qualitative and
- 12 quantitative research. I think your evidence this morning spoke of qualitative
- 13 research; is that correct?
- 14 A. [14:38:40] Mm-hmm. Correct, yes.
- 15 Q. [14:38:43] And he names the four persons from whom he is about to quote,
- 16 fairly extensively, in the case study.
- 17 A. [14:38:54] Mm-hmm.
- 18 Q. [14:38:55] Francis amongst them. And tackles the issue of whether he can
- 19 make general statements from such a small number of interviews. And if I
- 20 understand him correctly, he says, well, I supplemented this work with a - what he
- 21 calls a quantitative dimension - with what 70 other people who had also returned
- 22 from the LRA just like these four.
- 23 A. [14:39:28] Mm-hmm.
- 24 Q. [14:39:28] And goes on to say, and I quote him directly:
- 25 "I believe that the information given in this essay can be applied to a larger number of

1 the returnees."

2 Now, this is a piece of work with which you're familiar, from which you have quoted.

3 Would you say that that is a fair statement?

4 A. [14:39:51] It depends on which statements he wants to generalise. But I cannot
5 say -- you know, it depends on which particular statement, on which particular aspect.

6 Again, if saturation happens for the concept he wants to generalise, then that is
7 legitimate. If not, not. But I need to see what exactly he generalises on -- or, what
8 he generalises exactly, sorry.

9 PRESIDING JUDGE SCHMITT: [14:40:20] I think you have to continue, simply.
10 Because you did not -- you did exactly, how you recounted Mr Mergelsberg, it's
11 absolutely correct, so you can simply continue, I would say, where you are heading at.
12 Wherever.

13 MR GUMPERT: [14:40:38]

14 Q. [14:40:38] I want to look at some of the statements which Francis made to
15 Mr Mergelsberg, and I'm going to look in particular at the pages, again internal
16 pagination 26 and 27, the ERN, last four digits are 3861 and 3862, respectively.

17 Francis had been abducted in 1994, so he recounted, when he was about 10 years old.
18 I'm sorry, that's on the preceding page, 25, that's 3860. The first two paragraphs, you
19 can see that date and that age.

20 And on page 26, 3861, Mr Mergelsberg describes his early training after his abduction.

21 He says that he worked as an escort for Vincent Otti. And directly quoting from

22 Francis, Mr Mergelsberg says:

23 "I was trained in Sudan and went back to Uganda with 13 years. We were then
24 trained as chief escorts. We were always politicised: why we were in the bush, that
25 we will get peace when we overthrow the government. I couldn't even think of

1 coming back, because that was the mode of life we were living from childhood to
2 adulthood. It reached the moment when that was just normal."

3 It's really that last word which I am attempting to key into your earlier evidence.

4 You were asked about normality, relative normality this morning. Would you say
5 that that is a fairly typical account given by a returnee who has been abducted at
6 a young age and has then been an escort to a senior LRA figure?

7 A. [14:43:19] Yes, this quote illustrates what I explained this morning, that also
8 within the bush, within the LRA, normality was constructed. And, indeed, what this
9 quote illustrates is, well, this became normality.

10 Q. [14:43:36] Forgive me for going pedantic, so the answer is it would be a fairly
11 typical account. It strikes a common chord with accounts which you have received
12 from your informants?

13 A. [14:43:51] It does describe what -- for every abductee normality was different,
14 but indeed, what that normality consisted of was different, but in general terms that
15 life achieved a normality, yes, that confirms what I have been -- what I have been
16 finding.

17 Q. [14:44:13] And Francis has been speaking - it's a little up the page - of living
18 under the rule of the Holy Spirit. Once again, that would reflect accounts which you
19 received from your informants?

20 A. [14:44:28] Exactly, yes.

21 Q. [14:44:30] If we go down the page a little, we see Mr Mergelsberg's comment,
22 "Francis eventually became a passionate fighter." And then this direct quotation:
23 "Fighting was very good for me, because it was part of my work. And if I had stayed
24 for maybe two weeks without firing, I would feel something was missing, something
25 is not very normal."

1 It's the same question really: Would that be reflective of the kind of accounts which
2 you were getting from your informants?

3 A. [14:45:14] Yes, that's a more difficult question. So it would be more difficult to
4 generalise from that, because these kinds of statements, indeed, trust is needed before
5 somebody can confide something like that. But indeed, for some informants,
6 fighting indeed had a sense of almost excitement to it.

7 For others, this was not the case. Others felt that this happened under pressure. It's
8 important also to refer back to what we discussed earlier, as children as blank slates.
9 And indeed, by growing up in this extremely violent environment, indeed, some of
10 them became -- came to learn or became to accept this kind of fighting as normalcy,
11 and this quote indeed illustrates the way in which this happened.

12 Q. [14:46:05] Thank you.

13 And just the next, following paragraph, he spoke about -- and I think I need not read
14 the quotation here, it's in front of you, this will be part of the material that the Judges
15 will be able to have reference to, but Mr Mergelsberg summarises it:

16 "Another time we talked about the power the rebels have over the population."

17 Once again, would that reflect the sort of state of mind of at least some of those
18 persons who gave their accounts to you?

19 A. [14:46:47] Indeed, for some of them this violence became again a lived reality,
20 something which gave them power. And again, Ben -- because the LRA, the way in
21 which they exacted power over territories was not by occupying it, but by terrorising
22 and attacking it. And this quote illustrates this, indeed.

23 Q. [14:47:13] And I'm moving gradually through the text so we're on to the top of
24 the next page now.

25 A. [14:47:18] Mm-hmm.

1 Q. [14:47:18] And again I'm going to summarise, although please feel free to use the
2 quoted language, if you think it serves better.

3 This informant for Ben Mergelsberg expressed his pride at being given rank, authority,
4 responsibility within the LRA. Once again, is that something which would reflect
5 the accounts of at least some of your informants?

6 A. [14:47:51] Yes, but only if it's understood within its wider context, not only
7 pride -- well, again we talked about the spirits being a double-edged sword, on the
8 one hand giving power, on the other hand punishing. The same goes for ranks. On
9 the one hand, indeed something to which you feel proud, on the other hand,
10 something you do to gain protection.

11 Q. [14:48:18] And according to the account given by Francis to Mr Mergelsberg,
12 there came a time when his lived experience, if I can borrow your words --

13 A. [14:48:31] Mm-hmm.

14 Q. [14:48:32] -- changed. He said this, and if I may I am going to quote directly,
15 briefly, here:

16 "Not until" -- sorry -- I'll start at the beginning, quote:

17 "Life there was just like that, I did not feel anything bad about killing. Not until
18 when I started listening to Radio Mega. They were having programmes, music, and
19 people sending greetings... about peace: come back home... I actually heard over the
20 radio, how we used to move: we burnt homes ... and I started to think: are we really
21 fighting a normal war? That is when I started realising that maybe there is
22 something better than being here in the bush. And that is when I started learn that,
23 oh, so this feeling is bad. I started feeling that some of these orders are not genuine."
24 So it would seem that for this individual, at a time -- it's not precisely specified how
25 long before his eventual escape, having been through the growing in process which

1 you have described, whilst he was still a member of the LRA he was beginning to
2 grow out. Would that be a fair assessment of this within those, those terms?

3 A. [14:50:06] Exactly, yes.

4 Q. [14:50:19] And Mr Mergelsberg observes that, for Francis at any rate, that shift
5 in his perception of normality was not immediately a reason to escape. And indeed
6 Mr Mergelsberg quotes him directly:

7 "What made me escape: I was tired of the war."

8 Was that a common reason why your correspondents would speak of their reason for
9 escape?

10 A. [14:51:03] There is a whole range of reasons which came up, indeed. The fact
11 that they stopped believing in Kony was an important one; that they no longer
12 believed in the reasons for the war, indeed, that they were hungry, that they had been
13 injured, and so on. So there were a wide range of reasons. So they were tired of
14 this war for a whole range of reasons, yes.

15 Q. [14:51:26] But among them -- I think it was one of the first remarks you made
16 a moment ago, they stopped believing in Kony.

17 A. [14:51:38] Well, first of all, yes, indeed. Stopping believing in Kony is -- was an
18 important reason. But this did not mean that it made it easier to escape, because still
19 a distinction was made between stopping believing in Kony and stopping to believe
20 in Tipu Maleng or the Holy Spirit. Even though Kony no longer masters this spirit,
21 it still had its effect. Again, you can compare it to somebody as part of a sect, they
22 stop believing in the leader but they still believe in the powerful effects it creates.

23 Q. [14:52:18] Mr Titeca, I don't mean to suggest, and I apologise if my question
24 sounded otherwise, that escaping was easy.

25 A. [14:52:29] Mm-hmm.

1 Q. [14:52:30] But many of your correspondents, in common with Francis, came to
2 a point where they decided that although it was risky, dangerous, it was an
3 endeavour that they were willing to undertake. That's correct, isn't it?

4 A. [14:52:49] That's correct, yes.

5 Q. [14:52:54] And escapees quite commonly would escape in groups, would they
6 not?

7 A. [14:53:03] Yes, they would speak about it with other people and they would
8 plan it together, yes.

9 Q. [14:53:10] So whilst, naturally, they would be considered about being found
10 out --

11 A. [14:53:19] Mm-hmm.

12 Q. [14:53:20] -- their believes in spiritual discipline or simply military discipline --

13 A. [14:53:27] Mm-hmm.

14 Q. [14:53:28] -- wouldn't prevent them from intriguing, conspiring, talking to other
15 people who might be like minded about escape?

16 A. [14:53:38] One factor which was a constant factor in all my discussions was that
17 it, indeed it was a risky thing to talk about it with someone else. And also -- well,
18 groups needs to be seen as relative, they were not large groups, but they could be one,
19 two, three, et cetera. But indeed, talking about it with somebody else was the
20 outcome of a longer process of wanting to leave, than talking with a person and then
21 leaving indeed. Yeah. But yeah, also notwithstanding the military punishment, the
22 spiritual punishment, indeed this happened for some. But then again, not everyone
23 believed as much in the spiritual element as the other.

24 You had a question, or?

25 Q. [14:54:33] I'm sorry, it's something you said -- I don't have a poker face, I regret,

1 which is probably a bit of a drawback for an advocate.

2 A. [14:54:43] Fine.

3 Q. [14:54:43] It was when you said -- yes, you said, "notwithstanding the military
4 punishment, the spiritual punishment, indeed this happened for some." What's the
5 thing that's happening?

6 A. [14:54:55] That they were daring to risk those - those elements, that they were
7 daring to risk the potential risk of being punished militarily or punished spiritually.
8 Well, it shows the degree of despair which some had. It also showed that, well, the
9 degree in which they might believe or not into the spiritual elements and so on. As I
10 explained, it's a very individual phenomenon, the degree to which some fighters
11 adhered or not, or still believed in or not, to these spiritual rules.

12 Q. [14:55:41] And I can summarise this I hope, but you have the document in front
13 of you in case I summarise it incorrectly, looking at page 28, internal pagination, last
14 four digits 3863. I am looking at the top half of that page, and I will pause for five
15 seconds to that you can just run your eye over it.

16 A. [14:56:25] Yes.

17 Q. [14:56:26] Francis seems to have been one of those, to whom you referred just
18 a moment amongst your correspondents, your informants, who still did have a
19 degree of belief in the power of the spirits.

20 A. [14:56:40] Mm-hmm.

21 Q. [14:56:40] But nonetheless decided he was going to take the risk of escaping.

22 A. [14:56:44] Mm-hmm.

23 Q. [14:56:44] So, and I think you said this, I don't have the reference now, you will
24 correct me if I'm wrong, in your own report you spoke of the fact that, although there
25 was perceived to be a spiritual order, a cosmological discipline --

- 1 A. [14:57:01] Mm-hmm.
- 2 Q. [14:57:02] -- that didn't prevent people from doing things which they thought
3 were contrary to the requirements, the orders, that spiritual discipline.
- 4 A. [14:57:13] Mm-hmm.
- 5 Q. [14:57:14] That's correct, isn't it?
- 6 A. [14:57:16] Minor transgressions occurred, indeed. Yeah.
- 7 Q. [14:57:19] Well, escape wouldn't be a minor transgression.
- 8 A. [14:57:22] No, no, not at all. No, that's not what I'm saying. Escape,
9 indeed -- well, escape is the outcome of a process when indeed, when they start
10 growing out, when they start, when their belief has reduced, when they're ready to
11 confront, when they're ready to take this risk, indeed.
- 12 Q. [14:57:42] And lastly we see that, according to the account given by Francis, the
13 year was 2004 when he eventually escaped.
- 14 A. [14:57:55] Mm-hmm.
- 15 Q. [14:57:55] Although he'd apparently being discussing it at least since
16 Independence Day, 9 October, seemingly, of the year before. That is the account
17 given to Mr Mergelsberg by Francis, isn't it?
- 18 A. [14:58:09] Mm-hmm. Mm-hmm.
- 19 Q. [14:58:10] That's right, isn't it?
- 20 A. [14:58:11] I don't remember in detail to be honest. So I haven't -- yeah.
- 21 Q. [14:58:14] You can see the date 2004 on the page.
- 22 A. [14:58:16] Yes, I see the date, yes.
- 23 Q. [14:58:18] And the Independence Day reference I take from the last line of the
24 preceding.
- 25 A. [14:58:26] Mm-hmm. Yes, I see that, yes.

- 1 Q. [14:58:28] Yes. So that is the time period, according to Francis' account --
- 2 A. [14:58:35] Mm-hmm.
- 3 Q. [14:58:36] -- when he was beginning to lose the belief in the rightness of what he
- 4 is doing.
- 5 A. [14:58:43] Mm-hmm.
- 6 Q. [14:58:45] The normality of what he is doing.
- 7 A. [14:58:48] Mm-hmm.
- 8 Q. [14:58:48] Beginning to discuss escape, and eventually carrying it out.
- 9 A. [14:58:52] Mm-hmm, yeah.
- 10 Q. [14:58:58] Within your own research within those -- I think I am done with
- 11 Mr Mergelsberg's document. But please feel free to make reference to it if you think
- 12 it will be helpful.
- 13 A. [14:59:11] Mm-hmm.
- 14 Q. [14:59:11] Within your own experience, your own informants, was there
- 15 a pattern to the year or the period of time when escape, and a realisation that this
- 16 normality wasn't right, was becoming more prevalent?
- 17 A. [14:59:42] Yes, I was not asking for specific dates, I was asking for processes,
- 18 what events, which moments, et cetera, rather than concrete dates.
- 19 Q. [14:59:53] Which brings me, rather, to the last part, I think, of my questions for
- 20 you.
- 21 A. [15:00:03] Mm-hmm.
- 22 Q. [15:00:03] So you were concerned not particularly with when your informants
- 23 were thinking the things that they were thinking, or having these lived experiences,
- 24 but you were concerned with processes over a period of time?
- 25 A. [15:00:19] Mm-hmm, about why and how processes occur, indeed. Yes. Why

- 1 and how, rather than when, yeah.
- 2 Q. [15:00:32] I want to ask you briefly about your own contribution to the book
- 3 LRA: Myth and Reality, what I call the Tim Allen book?
- 4 A. [15:00:42] That's fine.
- 5 Q. [15:00:44] That was published in 2010.
- 6 A. [15:00:47] Mm-hmm.
- 7 Q. [15:00:47] So I guess, correct me if I'm wrong, you were writing, formulating
- 8 your views, your contribution in 2009, 2010?
- 9 A. [15:00:58] Earlier. The editing took quite some time. I think I did the field
- 10 research 2005, 2006 -- or, writing 2007, I think. Yeah.
- 11 Q. [15:01:11] So, in fact, your research for that piece was more or less
- 12 contemporaneous with Mr Mergelsberg's unpublished document which is dated
- 13 2005?
- 14 A. [15:01:20] Field research, yes. Indeed, yes.
- 15 Q. [15:01:22] Is there anything -- sorry, bad question.
- 16 Have you carried on speaking to former combatants between then and now?
- 17 A. [15:01:31] Yeah, very much so, yeah.
- 18 Q. [15:01:32] So the 120-odd, that's a current figure?
- 19 A. [15:01:37] That's a current figure indeed.
- 20 Q. [15:01:39] As you sit there today?
- 21 A. [15:01:40] Yeah, yeah, yeah.
- 22 Q. [15:01:42] Can you give us some kind of breakdown of how many you had
- 23 spoken to by the time you wrote your peace in the book, the Tim Allen book?
- 24 A. [15:01:50] I don't remember, to be honest.
- 25 Q. [15:01:51] Fair enough. Let me ask you a different question.

1 Is there anything which you have come to know, or put together as a result of new
2 accounts, which lead you to conclude that some part of what you wrote in that paper
3 is misleading or inaccurate or wrong?

4 A. [15:02:10] No, I haven't. No. But can I perhaps make a remark about the piece
5 of Ben Mergelsberg we're discussing.

6 Q. [15:02:23] Sure. I was asking about your work (Overlapping speakers)

7 A. [15:02:24] Yes, yes I know, but we've talked a lot about Ben Mergelsberg
8 (Overlapping speakers)

9 Q. [15:02:30] Please, go ahead.

10 A. [15:02:31] Okay. So – but, perhaps I would like to refer to the academic
11 practice of preferring to work. When you refer to a work it doesn't mean that you
12 refer to every detail of the work. For example, you've -- while we've discussed in
13 very much detail what this paper says, when I refer to a paper I'm not referring to
14 every detail but I'm referring to the very specific element I am, well, quoting I'm
15 referring to. And this is the growing in and growing out concept, which I find very
16 useful, which is why I quote it. I'm not referring to the specific case study, I'm only
17 referring to the process of growing in and growing out, which I still think is very
18 useful and which is very applicable. And I think also even Professor Allen he
19 referred to this process during his statement here.

20 So I just wanted to add that. Yes.

21 PRESIDING JUDGE SCHMITT: [15:03:21] I think this is of course understood from
22 how academics work.

23 THE WITNESS: Okay. Yeah.

24 PRESIDING JUDGE SCHMITT: [15:03:27] But what Mr Gumpert did, as I
25 understood it, was simply to draw out of this work of Mr Mergelsberg, and especially

- 1 the quotations by this person --
- 2 THE WITNESS: [15:03:37] Mm-hmm.
- 3 PRESIDING JUDGE SCHMITT: [15:03:38] -- by this Francis, questions that were
- 4 related to your findings. I understood it at least like that.
- 5 THE WITNESS: [15:03:46] Mm-hmm, yeah. Okay.
- 6 PRESIDING JUDGE SCHMITT: [15:03:47] Perhaps I have one question. When
- 7 you -- for this book in 2010 you said, I think, you interviewed these people 2006/07/08,
- 8 or what was it?
- 9 THE WITNESS: [15:03:58] 2005, 2006.
- 10 PRESIDING JUDGE SCHMITT: [15:04:00] So is it fair to assume that the people
- 11 coming back from the bush that you interviewed at the time had recently been
- 12 coming out of the bush, or is this wrong?
- 13 THE WITNESS: [15:04:13] Yeah, they were -- to be honest, I don't remember. Some
- 14 of them definitely; the ones which immediately come to mind, yes, others might have
- 15 been a bit longer, yes.
- 16 PRESIDING JUDGE SCHMITT: [15:04:23] Because this was not your focus, as you
- 17 have already explained.
- 18 THE WITNESS: [15:04:26] Mm-hmm.
- 19 PRESIDING JUDGE SCHMITT: [15:04:28] These time frames or timelines also were
- 20 not your focus.
- 21 THE WITNESS: [15:04:32] Exactly, yes.
- 22 PRESIDING JUDGE SCHMITT: [15:04:33] Thank you.
- 23 Mr Gumpert.
- 24 MR GUMPERT: [15:04:39]
- 25 Q. [15:04:39] Now, you're aware from the terms of reference which you were sent --

- 1 A. [15:04:44] Mm-hmm.
- 2 Q. [15:04:45] -- that in this case the Judges are looking at alleged crimes said to have
3 been committed between July of 2002 and December 2005. Do you recall that?
- 4 A. [15:04:59] Mm-hmm. Mm-hmm.
- 5 Q. [15:05:04] Can I ask you to turn to tab number 6 of the binder. That should be
6 your chapter in the Tim Allen book.
- 7 A. [15:05:22] Mm-hmm.
- 8 Q. [15:05:23] Which is entitled "The Spiritual Order of the LRA".
- 9 And in particular -- sorry, I will give the ERN. It is UGA-D26-0018-3649. I observe
10 in passing that I am pretty confident there is another version of this at another ERN,
11 because when Professor Allen gave evidence it wasn't a Defence exhibit. But I
12 mention that on the transcript only so that in future, perhaps, we're aware of there
13 being two different copies.
- 14 PRESIDING JUDGE SCHMITT: [15:06:06] But I think even if we have different
15 copies, this duplication would not lead to anything that would confuse us.
- 16 MR GUMPert: [15:06:14] Then I'm being overly cautious, and I apologise.
- 17 Q. [15:06:23] And I'm going to go to pretty much the end of your work, and I
18 would like to look with you in a little detail at -- this is internal page 72, and the last
19 four digits of the ERN are 0086. The ERN is the extensive code number, Mr Titeca,
20 which is used in the court to enable us to tell one document from another.
- 21 A. [15:07:03] Okay.
- 22 Q. [15:07:04] So when I say ERN I'm not really talking to you, I'm talking to
23 posterity.
- 24 A. [15:07:09] That's fine.
- 25 Q. [15:07:09] You say this, it's about halfway down:

1 "After Operation Fist" -- I pause there, I think that should be Iron Fist, shouldn't it?

2 A. [15:07:20] Correct, yes.

3 Q. [15:07:21] "... in early 2002, the conditions rapidly changed, as the LRA lost its
4 bases and structural aid from the Sudanese government. According to
5 a functionalist perspective, spiritual rituals and functions should gain more
6 importance during this phase ..."

7 And you go on to explain why one might think - if one was applying a functionalist
8 analysis - that would be the case.

9 A. [15:07:58] Mm-hmm.

10 Q. [15:07:59] Just for clarity, actually in my own mind as much as anybody else's,
11 what do you mean by "functionalist"?

12 A. [15:08:06] Mm-hmm. Let me explain the wider argument I'm trying to make in
13 this paragraph.

14 So, as I explain before, as I explain before, there was a particular interaction between
15 the military and the spiritual functions. So a functionalist perspective, to put it
16 bluntly, you basically look at, well, what functions does it serve for the organisation,
17 rather than, you know, what's the meaning for the individual, or -- and so on.

18 The argument I was trying to make is that, well, in the beginning of the existence of
19 the LRA, and particularly for Alice Lakwena, they had little military equipment.

20 You could argue from an instrumental or functionalist perspective the spiritual rules
21 are very useful then, because they have little access to weapons, it allows them to
22 better control their combatants, and it allows them to be more aggressive in their
23 attacks, which was the case. When they were in Sudan, when they had their bases,
24 they had much more access to weapons. You could argue, well, the spiritual aspect
25 would go down.

1 You could equally argue, well, once, you know, they're chased away from there, their
2 military equipment and organisation become more -- became more diffuse, so you
3 could argue, well, spiritual aspects would become more important.

4 But what I want to show here in this paragraph is it doesn't function like that. It's
5 not the case. Spiritualism cannot only be reduced to pure functionalism. Why?

6 When they were in Sudan they were able to build all their yards, all their churches,
7 and so on, so it could gain more importance.

8 When they were pushed out of Sudan after Iron Fist it became more difficult to do all
9 these rituals, to implement all these rules. That doesn't mean that the spiritualism
10 disappeared from the individuals, many of them had spent many years being part of
11 this universe and it stayed part of them. It became -- well, again, it was a lived
12 experience, it was part of them, it influenced how they acted.

13 That's the argument I wanted to make in this paragraph.

14 Q. [15:10:16] And in the following paragraph you gave some examples of the way
15 that the spiritual aspect began to decline at this time.

16 A. [15:10:31] Mm-hmm. Correct, yes.

17 Q. [15:10:32] For example, all battalions in the LRA -- and this is presumably
18 information you got from your informants --

19 A. [15:10:37] Mm-hmm.

20 Q. [15:10:38] -- had previously had their own religious -- I am going to use the
21 word commissaires, so --

22 A. [15:10:44] Mm-hmm.

23 Q. [15:10:44] -- controllers was the word which was used.

24 A. [15:10:47] Mm-hmm.

25 Q. [15:10:48] In other words, right down to battalion level there would be a person

1 who was interpreting what the spirits were requiring and not requiring.

2 A. [15:10:55] Mm-hmm.

3 Q. [15:10:55] And after Iron Fist, as I understand your summary of the accounts
4 you received, that was no longer the case, controllers were only at the high command,
5 the Control Altar level.

6 A. [15:11:10] Mm-hmm.

7 Q. [15:11:11] Is that correct?

8 A. [15:11:11] Yes, that's correct. So as we discussed this morning as well, after
9 Iron -- so the spiritual element, it's not something which is static, it changes. The
10 kind of spirits change, the rules change, and particularly after Iron Fist things
11 changed. The rules changed, and also the way in which the spiritualism was
12 implemented changed. Indeed, these controllers disappeared, but, again, this does
13 not mean that the spiritualism disappeared. For example, in many of the units they
14 still had people, or they still had combatants who had access to the spirits, who could
15 dream about the spirits, who could have easier access, who -- yeah, who had some
16 kind of spiritual element in them.

17 Q. [15:11:56] And in the same paragraph you observed:

18 "... whereas before Iron Fist controllers were strictly forbidden to carry guns, they
19 were allowed to do so post-Iron Fist."

20 Was this, effectively, an acknowledgment that their spiritual powers are no longer
21 sufficient to protect them?

22 A. [15:12:21] Hmm. I'm not sure. What I wanted to show with this sentence is
23 that simply rules were changing. What happened was their moral order had become
24 changed.

25 Your interpretation, it could be -- it's -- indeed, it could be one. Another one could

1 simply be that it became much more dangerous for them. Before they were safe in
2 their bases in Sudan, now they had to go back into Uganda and it became more
3 dangerous for them.

4 Q. [15:12:52] And you went on to say that at a more fundamental level, and I quote:
5 "... spiritual rituals and functions also became less significant. Recent returnees have
6 been much less well informed about the spiritual order, and do not know rituals that
7 were considered central before Iron Fist. Some do not even believe in the spiritual
8 order."

9 A. [15:13:22] Mm-hmm.

10 Q. [15:13:22] So there you were contrasting those who had come out after Iron Fist,
11 those who'd escaped, or however they had come out --

12 A. Mm-hmm.

13 Q. [15:13:33] -- with those you interviewed who had left before that time. Do I
14 understand correctly?

15 A. [15:13:39] I didn't -- to be honest, I didn't make that distinction in my interviews.
16 I didn't -- hmm, yeah.

17 Q. [15:13:48] Forgive me for interrupting you.

18 A. [15:13:50] Yeah.

19 Q. [15:13:50] The words which I'm focusing on --

20 A. [15:13:52] Yeah, yeah.

21 Q. [15:13:53] -- are "recent returnees".

22 A. [15:13:54] Yeah, yeah, yeah.

23 Q. [15:13:57] And I suppose I'm asking you to explain what was this group, recent
24 returnees, by comparison with people who weren't recent returnees?

25 A. [15:14:08] Correct. I was focusing on the ones which at the time of field

1 research had come out in the recent years, and for whom had been mentioning that
2 the spiritual order had become less important.

3 Q. [15:14:26] And next you contemplated the possibility that this is because people
4 you were speaking to in this recent returnees group hadn't been in for very long, so
5 they hadn't grown in.

6 A. [15:14:43] Mm-hmm.

7 Q. [15:14:43] But I think you came to the conclusion that, as you put it, there was
8 more to it than that, and I quote you, "suggesting an actual decline in spiritual rituals
9 and functions".

10 A. [15:14:54] Mm-hmm.

11 Q. [15:14:54] And you went on, I'm no longer quoting you, but I hope I'm
12 accurately paraphrasing you.

13 A. [15:15:02] Mm-hmm.

14 Q. [15:15:02] After Iron Fist the character of the individual unit commander --

15 A. [15:15:05] Mm-hmm.

16 Q. [15:15:05] -- tended to be the determining factor in the prevalence of spiritual
17 power.

18 A. [15:15:12] Mm-hmm.

19 Q. [15:15:14] If that's the right word. Do I understand you correctly?

20 A. [15:15:17] Correct. Yes. That was one of -- that was an important factor in
21 explaining whether spirituality was present or not.

22 Q. [15:15:24] So the individual commander would be able to decide whether his
23 unit - I think they all were men - his or her unit would have a significant spiritual
24 component in its cosmology, or not?

25 A. [15:15:44] What I'm trying to say here is that, indeed, the commander could

1 make a decision how prominent or how present the spiritual factor would be or not.
2 Of course, the commander could not control the degree to which individual
3 combatants would be part of the spiritual -- still be part of the spiritual order or not.
4 But, indeed, it was no longer, they were no longer in these big bases in Sudan, they no
5 longer had these structural rituals, and it was more up to these commanders on how
6 they implemented it.

7 Q. [15:16:17] Would it be fair to link this, to remind ourselves, that at this time the
8 LRA is physically in very different places, commanders would be perhaps hundreds
9 of miles from Kony in Sudan?

10 A. [15:16:32] Correct, yes.

11 Q. [15:16:34] And very often at least tens of miles from each other?

12 A. [15:16:40] Well, at that point they were still -- they were still in Uganda, so they
13 were spread other Teso, northern Uganda, et cetera, so their communication was still
14 frequent in that time, it was not compared to when they were in DRC, CAR, et cetera.

15 Q. [15:16:59] I understand that there were means of communication. I don't know
16 whether this is within your expertise, but I imagine you must have received reports
17 about the LRA using radio communications at around this time that we are talking
18 about now, post-Iron Fist.

19 A. [15:17:12] Correct. Yeah. Yeah.

20 Q. [15:17:13] So they were able to communicate with each other by radio, or other
21 means, but they wouldn't necessarily be physically close to each other?

22 A. [15:17:22] No, they wouldn't be physically close, but there were often meetings.
23 For example, when they were all moving to the Teso site there was, for example, one
24 group which was responsible but they would often meet and -- meet on RV points
25 and they would meet each other, yes.

1 Q. [15:17:39] Thank you.

2 Can I turn now to a much slimmer volume, it's blue, I think. Have you got it in front
3 of you?

4 A. [15:17:51] Yeah.

5 Q. [15:17:54] I'll give the ERN of the document I am looking at: It's
6 UGA-D26-0022-0001. It's not a paginated document internally, but its last page has
7 the last four digits 0012, so it's a 12-page document. This is a document you've seen
8 before and to which you refer in your chapter in the Tim Allen book, isn't it?

9 A. [15:18:29] Correct, yes.

10 Q. [15:18:32] And you say this, and I'm quoting from page 0087, quote:
11 "Most importantly, most returnees (and large parts of the population in northern
12 Uganda) claim that Kony has lost much of his spiritual power, and that the spirits
13 have stopped visiting him at all. The three ex-commanders' paper ..." -- I'm going to
14 pause there; that's this, isn't it?

15 A. [15:19:10] Correct, yes.

16 Q. [15:19:11] "... argues that the spirits stopped visiting Kony as early as 1999 at
17 Jebel Lem ..." --

18 A. [15:19:21] Mm-hmm.

19 Q. [15:19:21] Which I think must be Acholi for Two Rocks.

20 A. [15:19:25] Mm-hmm.

21 Q. [15:19:28] "... in Sudan."

22 Now, obviously no more than you know whether your direct informants are giving
23 you physically accurate statements, you don't know whether the three commanders
24 who contributed to this paper are doing so. But there was at least a significant body
25 of people who ought to know who were claiming that in 1999 Kony had stopped

1 being visited by the spirits. That's correct, isn't it?

2 A. [15:20:04] I'm not sure I get your question. What's the concrete question?

3 Indeed, the paper says that in '99 the spirits stopped visiting.

4 PRESIDING JUDGE SCHMITT: [15:20:13] No, this is -- this was a common

5 law -- excuse me -- this is my -- common law question. Isn't it simply it stands here

6 and you refer to this, to this document, so do you think from your perspective today

7 that this is, at least with regard to this information that you got, correct? With

8 regard to that information and with the caveat, of course, that you don't know if these

9 three people gave correct information, so to speak, so to put it very simple.

10 THE WITNESS: [15:20:49] Sure. Well, I -- yes, I -- well, one could look at this in

11 two ways. The first way could be asking a similar question as to the one before, in

12 the sense that to what extent could this, for example, be retroactive engineering that

13 they came out, so hence the spirits has left them, and so on. But to the -- this is

14 a common feature for people who have come out, they no longer believe in the spirit

15 and the spirit has left Kony.

16 MR GUMPERT: [15:21:25]

17 Q. [15:21:26] And I think you were able to do some triangulation -- and this is

18 pretty much my last topic --

19 A. [15:21:33] Mm-hmm.

20 Q. [15:21:34] -- yourself, because you observe, and it's about 10 lines up from the

21 bottom of your report -- sorry, of your contribution to the Allen book. And I quote:

22 "And interestingly, many ex-rebels gave Kony's loss of spiritual power as one of the

23 major reasons for their defection. Just as there was a consensus that Kony has

24 certain spiritual powers (not only amongst ex-combatants, but also among large parts

25 of the population in northern Uganda), this consensus has shifted in recent years to

1 the belief that Kony has lost many or even all of those powers."

2 A. [15:22:15] Mm-hmm.

3 Q. [15:22:15] So the reports which you were getting, as I understand it here, tend to
4 confirm, perhaps not as to the date, the assertion made in the document which you
5 refer to.

6 A. [15:22:28] Yes, indeed. So the process I'm referring to is that indeed, as I
7 explained this morning as well, so there was a belief that the powers of Kony declined
8 over the years. I think I explained that.

9 Well, there was a widespread belief that Kony could predict attacks, that he could
10 know all these things. That definitely there was a decline in belief and there was
11 a decline in the importance of these rituals. Did this mean that spiritual beliefs
12 disappeared altogether? No. It remained being -- it remained present among
13 individual fighters. And also, subsequent research reports I referred to this morning
14 showed that also for Congolese and Central African abductees, magic or spiritual
15 beliefs continued to play the role.

16 But to come back to your question, had they reduced, had the powers of Kony
17 reduced? Yes, they had.

18 Q. [15:23:25] Or at least there was a consensus that they had?

19 A. [15:23:29] There was a consensus that they had.

20 Q. [15:23:31] Yes.

21 Your Honour, would you give me just one moment to consult with my junior?

22 PRESIDING JUDGE SCHMITT: [15:23:36] Even two moments, because we conceded
23 also two moments to Ms Lyons. No, it's just joking.

24 (Counsel confers)

25 MR GUMPERT: [15:24:18] I have no further questions for this witness.

Trial Hearing
WITNESS: UGA-D26-P-0060

(Open Session)

ICC-02/04-01/15

- 1 Thank you very much, Mr Titeca.
- 2 THE WITNESS: [15:24:24] Thank you.
- 3 PRESIDING JUDGE SCHMITT: [15:24:25] Thank you, Mr Gumpert. I don't assume
4 that there are any questions by the representatives of the victims. I don't see any
5 hands up.
- 6 So I ask the Defence if there are further questions, but I don't think so. Or, are there?
- 7 MS LYONS: [15:24:38] This is not a question, your Honour. It was pointed out to
8 me that I neglected to read an ERN number for Professor Titeca's CV, and if I don't
9 read it, it doesn't get into -- I have a problem.
- 10 PRESIDING JUDGE SCHMITT: [15:24:51] No, please do now. Why not?
- 11 MS LYONS: [15:24:53] Okay. Thank you.
- 12 The CV to which I referred, and it was in the binder and I believe the witness looked
13 at and may have referred to also, the ERN number is UGA-D26-0018-3888.
- 14 Thank you, your Honour.
- 15 PRESIDING JUDGE SCHMITT: [15:25:16] Thank you very much.
- 16 Mr Titeca, this concludes your testimony. On behalf of the Chamber I would like to
17 thank you that you have come to this Court as an expert and given us this
18 information to help us to establish the truth. And we wish you a safe trip back home,
19 which is not so far away, not so far away as other witnesses that come to this court.
- 20 (The witness is excused)
- 21 PRESIDING JUDGE SCHMITT: [15:27:49] This also concludes the hearing for today.
- 22 THE COURT USHER: [15:25:41] All rise.
- 23 (The hearing ends in open session at 3.25 p.m.)