

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Private Session)

ICC-02/11-01/15

1 International Criminal Court
2 Trial Chamber I - Courtroom 3
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Koudou Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing
9 Wednesday, 18 May 2016
10 (The hearing starts in private session at 9.33 a.m.)
11 (Redacted)
12 (Redacted)
13 (Redacted)
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25 (Open session at 9.39 a.m.)

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1 THE COURT OFFICER: (Interpretation) Your Honour, we are in open session.

2 (The witness enters the courtroom)

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

4 So good morning, Mr Witness. We call everybody "Mr Witness," although you have
5 no protective measures, Mr Wells. Good morning and we have now the second day.

6 As you are aware we have sessions one hour and a half, three. The floor is to the
7 Prosecutor for the last questioning. Shouldn't take too long I would say.

8 So yours the floor.

9 MS PACK: In fact, Mr Wells, you will be pleased to hear that I won't be asking you
10 any more questions, and their Honours will be very pleased to hear that too.

11 The only issue that I wanted to raise was the report to which I have referred the
12 witness during his testimony very selectively, but nevertheless it is the report that he
13 wrote, as he has testified, and with the edits, but of course he spoke to. We had it on
14 our list of material and we had selected passages upon which we would seek to rely.

15 Now, of course I'm very much aware, we are very much aware of your Honours'
16 order, decision of last Friday and the limits upon the questioning of this witness.

17 Nevertheless, I would seek to submit all of the report in deference to Defence -- the
18 Defence concerns about some parts of it. There is a specific extract from page 103 to
19 1 -- I'm sorry. I say 103, that's the page numbering of the report. It actually ends
20 0179 and following that particular chapter going on to 1 -- 0198, which in deference to
21 the Defence's expressed concerns about issues of accountability and so forth, I
22 wouldn't seek to submit, but nevertheless, that's what I seek to do. And I just
23 wanted to make that plain for the record. I know we referred to very specific parts
24 and limited our questioning, but that's what I would seek to do at that stage.

25 PRESIDING JUDGE TARFUSSER: Okay. Thank you very much. This concludes

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1 the questioning by the calling party and now I give the floor for the questioning to the
2 Defence.

3 MR ALTIT: (Interpretation) Thank you, Mr President.

4 WITNESS: CIV-OTP-P-0369 (On former oath)

5 QUESTIONED BY MR ALTIT: (Interpretation)

6 Q. Good morning, Mr Wells. How are you doing?

7 A. Very good. Thank you.

8 Q. Mr Wells, I'm going to put some questions to you and I would appreciate it if
9 you answer very concisely. We will begin with the interviews that you carried out.

10 You told us yesterday that you yourself conducted interviews in French with your
11 sources and I'm referring to the French transcript of 17 May 2016,

12 ICC-02/11-02/11/T-40, page 25, lines 3 to 9. These interviews logically had to be
13 organised and prepared before you actually conducted them; is that correct?

14 A. In some cases.

15 Q. Who proposed to you the people that you were to contact?

16 A. It -- it varied. There were many different interlocutors or intermediaries that
17 we relied upon.

18 Q. Can you elaborate on that. Please don't be a bit too general. Who specifically
19 proposed to you people that you were going to meet?

20 A. For example, members of local civil society in Côte d'Ivoire, people who worked
21 for different organisations in Côte d'Ivoire, in addition at times different ethnic or
22 immigrant community leaders in Côte d'Ivoire that we -- that we were in contact
23 with.

24 Q. Do you remember having given a statement to the representatives of the Office
25 of the Prosecutor?

1 A. Yes.

2 Q. Very well. In that statement, CIV-OTP-0049-2866, pages 26, 76, 77, 78, you
3 state and I quote: "During the post-election crisis we hired three people for a period
4 of three months who played the role of what we referred to as fixers. They had to
5 draw up a list of witnesses and victims with whom we had to have interviews there
6 as soon as we returned. They did not have to give us full testimonies, but simply
7 identify direct victims and witnesses in relation to the facts with whom we would
8 subsequently have interviews."

9 If I understand correctly, those fixers were three in number; is that correct?

10 A. Yes, though I also said in the statement that this was a very small -- a relatively
11 small percentage of the overall number of people that we interviewed came from
12 connections through these three individuals. It was less than -- well less than half of
13 the people that we interviewed came from these three individuals.

14 Q. Please simply limit yourself to the questions that I'm putting to you. We are
15 talking about the people who put you in contact with your sources for the time being.
16 Now, those fixers that you were talking about, what was their background?

17 A. One worked for a women's rights organisation in Côte d'Ivoire, one was in
18 Liberia and helped connect us to refugees, primarily supporters of Mr Gbagbo who
19 had fled to Liberia, and a third person lived in the neighbourhood of Abobo and was
20 helpful in connecting us to some of the people that we spoke with in Abobo.

21 Q. I would like to know what their academic background was, for example, to be
22 more specific.

23 A. Two of them had -- the one in Liberia and the person from the women's rights
24 organisation had backgrounds in working for NGOs, for local NGOs. The person in
25 Abobo had not worked for an NGO, it was someone who simply knew people very

1 well in the neighbourhood.

2 Q. As far as you know, did those fixers have any political affiliation?

3 A. A direct political affiliation? No.

4 Q. And yet the Prosecutor read the part on the methodology of the report, French
5 transcript of the 17th, page 23, lines 12 to 16, and he quoted:

6 "Human Rights Watch frequently identified witnesses and victims thanks to their
7 local organisations, local authorities close to President Ouattara, journalists and
8 representatives of immigrant communities."

9 So broadly speaking, it seems that those people had a specific political coloration; isn't
10 that so?

11 A. No. You asked me about the three specific fixers, none of whom fit the
12 category that you just described in terms of people who had a local affiliation with the
13 RHDP. So the answer is no.

14 Q. Very well. So you are distinguishing between the fixers on the one hand and
15 all your other contacts on the other hand; is that so?

16 A. I believe you were drawing the original distinction and I was trying to stay true
17 to it.

18 Q. Very well. A short while ago you told us that the fixers played a relatively
19 insignificant role, that is simply to connect you with your sources; isn't that so?

20 A. I said less than half, and it's, yeah, it would be honestly even, even less than that
21 from these three specific fixers. The reason they were brought out in the statement is
22 simply because I was asked about people that had some form of contract with us
23 during this time and that's who it applied to in terms of those three people.

24 Q. So the other sources, that is all the other people that you met, came through
25 other people than the fixers that you mentioned in your statement as well as

1 yesterday when the Prosecutor quoted your statement; would you agree with that?

2 A. For the most part there were people -- as I said yesterday, at times if there was
3 an internally displaced person's camp or a refugee camp, I didn't rely upon any
4 intermediaries. I could just go to that particular site where there was a large
5 concentration of people who had often directly experienced violence and I could
6 interview them there myself without having any sort of intermediary. So all of the
7 more than 500 people we interviewed, not all of them came from intermediaries.

8 Q. Are you saying that you went sometimes to meet a group of people and said,
9 "Look, I'm here, can anyone speak to me?" without using any intermediaries; is that
10 what you mean?

11 A. Yes. At times, yes.

12 Q. Very well. Now, let me put to you my question once again regarding the other
13 intermediaries, that is other than the fixers. It is in your statement which the
14 Prosecutor quoted to you yesterday, and I will not read it out, but you were talking
15 about the local authorities of the political coalition RHDP of President Ouattara and
16 others, and my question is: These intermediaries that you have referred to, didn't
17 they have a political affiliation? Wouldn't you say so?

18 A. Some of them, yes. Some of them, no. And some of them had a political
19 affiliation that supported Mr Gbagbo and some of them had a political affiliation that
20 supported Mr Ouattara.

21 Q. In your statement you didn't mention any pro-Gbagbos. I read out everything
22 you said and that is correct, isn't it?

23 A. The statement given to the Office of the Prosecutor includes that we also spoke
24 with people from the LMP, the coalition of Mr Gbagbo's political parties. We spoke
25 with -- we used as intermediaries people that represented ethnic groups, including

1 the Bété, the Guere groups that tend to support Mr Gbagbo. I was in contact with
2 local journalists from newspapers in Côte d'Ivoire that tend to support Mr Gbagbo.
3 The reason why the report specifically calls attention to the RHDP is because we
4 documented a very specific set of abuses related to neighbourhood-level RHDP
5 leaders. I documented myself I believe it was at least 10 enforced disappearances of
6 neighbourhood-level leaders from the RHDP coalition. Corinne and I documented
7 I believe it was 23 or 24 cases of sexual violence that were largely targeted at activists
8 from the RHDP.

9 And so because of these specific things that we documented that related to the
10 RHDP --

11 Q. I'm sorry to interrupt you. We are talking about factual conclusions, so please
12 limit yourself to my questions because that would prevent you from getting into
13 factual conclusions.

14 So what you are telling us is that you spoke with representatives of human rights
15 organisations who were anti-Ouattara and, for example, two representatives of the
16 FPI; is that correct?

17 A. Most local civil society organisations in Côte d'Ivoire would not say they were
18 pro or against a specific person. Often their representation came from particular
19 ethnic groups that tended -- tended to support one person or another and so they
20 were particularly helpful at connecting us to victims from one side or another. But
21 yes, we were in contact with those sorts of organisations from Ivorian civil society as
22 well as with members from the LMP.

23 Q. Now, the FPI, my question related to the FPI.

24 A. Yes. As the major party as part of the LMP, yes.

25 Q. Very well. If I ask you to give me the names of your fixers and the people that

1 you have claimed and those that you have claimed to belong to the Gbagbo camp, can
2 you give me those names? Let me be more specific. If you feel ill at ease giving us
3 these names in open session, we can go to private session. So can you give us these
4 names, first of all; and if so, do you prefer to give them in private session?

5 A. No, I cannot. Human Rights Watch does not divulge the names of the people,
6 whether witnesses or intermediaries, with whom it speaks.

7 Q. You talked to us at an earlier stage about the fixers. I asked you the question
8 about their background. This is a legitimate question because according to their
9 background, you can understand whether they are more or less efficient, can you not?

10 A. In what sense?

11 Q. Well, the more education the person has, the more training they have, the more
12 experience they have, the better position they are in to bring you information as to
13 useful and credible sources; is that not true?

14 A. Their job was not to do interviews themselves. It was simply to identify -- help
15 identify people who had directly witnessed or experienced a certain event. And that
16 was how we judge them or relied upon them in terms of their work. It was whether
17 they were able to connect us to people who had directly experienced events because
18 they themselves were not conducting interviews.

19 Q. In your statement on page 2878, and I quote: "Another intermediary was a
20 resident of Abobo to whom we invested trust because he knew the inhabitants of the
21 various neighbourhoods of Abobo and, and because he understood our methodology
22 and the way that we worked."

23 What does that mean?

24 THE INTERPRETER: Message from the English interpreter: Could counsel please
25 quote the paragraph number in the original statement because it is in English, is it

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1 not?

2 PRESIDING JUDGE TARFUSSER: That is correct. I just heard, I wanted to say the
3 same, if you could quote the paragraph, not the page. Otherwise it's more difficult
4 for us to find the way through.

5 MR ALTIT: (Interpretation) Of course it's easier, is it not?

6 MS PACK: Your Honours, I apologise to Mr Altit, but just so then the interpreters
7 have for the record the number of the statement, the ERN number of -- in English,
8 which is the original, it's CIV-OTP-0048-1396, which is the original English statement.

9 THE INTERPRETER: Message from the interpreters: Thank you. We do have the
10 statement printed out in the booth. We just need to have the paragraph number so
11 that we can read it out in English from the original. Thank you.

12 MR ALTIT: (Interpretation) So I shall be giving you the reference numbers. I'm
13 going to give you the number in French, so it's CIV-OTP-0049-2866, page 2878. And
14 I do thank my learned colleague for having stood up.

15 Q. Do you recall the question?

16 A. If you could repeat it, I would appreciate it.

17 Q. I was reading from an excerpt from your statement. I'm going to read it back
18 to you. And I'm quoting you.

19 THE INTERPRETER: Without the paragraph reference.

20 MR ALTIT: (Interpretation)

21 Q. "Another intermediary was a resident" --

22 PRESIDING JUDGE TARFUSSER: The paragraph, please.

23 MR ALTIT: (Interpretation) Mr President, I will give it to you at the end of the
24 citation if you authorise, at the end of the question, in fact, yes, because we're looking
25 for it.

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1 MS PACK: Actually, I would say perhaps in fairness, if a statement is given in
2 French, then read it in French, but if it's in English, just going back and forth, it may
3 be easier to read it in English if the original is in English.

4 MR ALTIT: (Interpretation) Our dossier is in French, we are a Francophone team
5 and we are going to read the document in French. And when the original is in
6 English, we're going to read it out in French. And I believe that the same case
7 applies to the Prosecution. If the original is in the French language, they read it in
8 English.

9 PRESIDING JUDGE TARFUSSER: Yes, I do not care so much in which language
10 you read it, I would just like to have the reference to the paragraph in the original
11 English so that I can -- that we can follow. This is the only thing we need.

12 THE INTERPRETER: Mr President, and we need the paragraph before reading it,
13 not after, as counsel has said.

14 MR ALTIT: (Interpretation) Of course I do understand, Mr President, because we
15 worked on the French version of the documents, did we not? And the fact that we
16 have to look into the original and refer to it is a bit complicated for us and it's going to
17 somewhat cut into the rhythm of the questioning. So we have to work on the two
18 versions, whereas there is inequality here because of course the Prosecution will be
19 authorised to work with the English version. You can see the issue here.

20 PRESIDING JUDGE TARFUSSER: But --

21 MR ALTIT: (Interpretation) And yesterday I was said, with your leave,
22 Mr President, when the Prosecution quoted, he quoted the English version and we
23 did not request the French equivalent. We did that -- made that effort in order to
24 adapt ourselves to what was going on. Otherwise it's going to be hellish if we
25 request the Prosecution to quote both in English and French. I think that we're going

1 to have a lot of difficulty.

2 THE INTERPRETER: Message from the English interpreter: The paragraph
3 numbers will be the same in the English and the French versions. Voila.

4 PRESIDING JUDGE TARFUSSER: That's what I was going to say. I think the
5 translation, of course one is the original, one is the translation, but the paragraphs are
6 the same. Otherwise, what translation is it? So I think if you quote from the French
7 version, paragraph 46, it is paragraph 46 also in the English. So I don't think there is
8 a big difficulty.

9 MR ALTIT: (Interpretation) We have understood you, Mr President. We are
10 looking for the paragraph numbers.

11 PRESIDING JUDGE TARFUSSER: Good. It's not only for me, but more for the
12 interpreters so they can just read out the translation instead of translating it.

13 MR ALTIT: (Interpretation)

14 Q. Mr Witness, I fear that you completely and entirely have forgotten the question
15 at that stage, have you not?

16 A. I believe it was about what the methodology related to the person in Abobo; is
17 that correct?

18 Q. Yes, but I believe that it would be better for me to read back to you what you
19 said.

20 "Another intermediary was a resident of Abobo to whom we invested trust because
21 he knew the various neighbourhoods of Abobo and because he understood our
22 methodology and the way in which we worked." End of quote.

23 And my question to you was: What do you mean by this? What does it mean "our
24 methodology and the way in which we worked?" Do you understand? If these are
25 the criteria, this means that you are choosing people whose background will enable

1 them to adapt themselves to your methodology and your way of working. So that's
2 why I put the question to you on their background. Do you see what I mean?

3 A. Yes, but what was essential for us in terms of what -- when you ask what I
4 meant by our methodology and the way we worked, the crucial thing is that any
5 intermediary helped connect to firsthand victims or witnesses, that often times people
6 might bring someone who is then giving secondhand information which Human
7 Rights Watch cannot rely upon, it's always based on firsthand accounts.

8 And so what was particularly important or noteworthy about this person in Abobo is
9 that he understood that, he understood that we were looking very specifically for
10 firsthand accounts. He also understood that we were looking at issues related to
11 both sides in Abobo and so understood our impartiality and understood the way we
12 worked in terms of firsthand witnesses and that's why we used him in part, although
13 he was not the only person that helped connect us to people in Abobo.

14 MS PACK: Your Honour, I can give you the paragraph number. It's 46.

15 MR ALTIT: (Interpretation) I was going to say that to you, but you know, it was
16 taken from under my feet, but in good will. Thank you.

17 PRESIDING JUDGE TARFUSSER: My team was even quicker than the Prosecutor
18 and yourself. So I knew it before.

19 MR ALTIT: (Interpretation)

20 Q. Anyway, we still do not know what is the profile of these individuals, their level
21 of education, their competence, their employment, they ethnic group. What can you
22 tell us about that?

23 A. I've said that one of them was a woman who worked for a women's rights
24 organisation in Abidjan. She is someone who we had worked with in the past prior
25 to the post-election crisis, so we already had a developed relationship with her.

1 Again, she understood our methodology and way of working. Because she worked
2 for a women's rights organisation, she was particularly connected in terms of issues of
3 sexual violence and was able to help connect us to victims from both sides. Did not
4 have a political orientation one way or another.

5 Q. With your leave, I did understand that because you said so. My question is a
6 simple one. This lady whom you are talking about, what was her level of study?
7 What was her experience? Apart from the fact that she belonged to an NGO, what
8 was her trade? Do you understand what I mean?

9 A. Her trade was that she worked for a women's rights organisation. She was
10 employed by a women's rights NGO in Côte d'Ivoire.

11 Q. Mm-hmm. You say that she was working for an NGO. Which NGO was she
12 working for?

13 A. I'm not going to identify the organisation as that would make her identifiable.

14 Q. Do you understand that you are in a court of law and that here we are not going
15 to make due merely with simple claims because then people can just come and say
16 what they want and go away. We need concrete elements. Do you understand
17 this?

18 A. Human Rights Watch does not divulge the names of the witnesses that it
19 interviews or that the intermediaries that it works with.

20 Q. So I suggest to you that we move into private session. Are you in agreement
21 then to giving this information?

22 MS PACK: Your Honour, the witness -- this is asked and answered. Done.

23 PRESIDING JUDGE TARFUSSER: He said he will not give this information in open
24 or in private session, did he? And of course we do weight this appropriately, but
25 this is what the witness said.

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1 MS PACK: Your Honour, I would say this: The whole point of restraining the
2 Prosecution in the questioning of this witness was this very issue. So it really is very
3 clear what the answer is and will remain.

4 MR ALTIT: (Interpretation) No. No, no. We're talking here about methodology,
5 firstly. Secondly, the witness is saying that this might make her identifiable, but if
6 we go into private session, for the purposes of identification, this argument is dead in
7 the water, is it not?

8 And I would also remind you, Mr President, your Honours, of your decision in
9 substance said that the witness, the NGO that he represents, was to reveal his sources,
10 that he could not keep them confidential because then it would be possible, as I just
11 said, for all in sundry to come here and say precisely what they wanted.
12 So we need a source and you are guarantors of a fair trial, your Honours, and to make
13 sure that the person who comes also needs to provide us with supportive information,
14 otherwise it's too easy. We're asking you here for the name of an NGO. It's not that
15 difficult.

16 PRESIDING JUDGE TARFUSSER: I do know that we are here as guarantors for a
17 fair trial, I know, but the Chamber, as you might know, has no means to compel the
18 witness to say something. He has just -- he has just the duty to say the truth. We
19 can do this when at a later stage we are giving a weight to his -- to what he says, to his
20 testimony. This is the only way we can -- we can deal with this. But I think we
21 cannot -- we have no means to compel the witness to say something more than he
22 does want to say.

23 MS PACK: Your Honours, I would also just pray in aid the rules are not the rules
24 that we relied on before on the topic of qualified privilege and such, but just the
25 general provisions that are available under the Statute related to the protection of

1 confidentiality and the protection of victims and witnesses, and your Honours are
2 very familiar with them 64(6)(c), 64(7), 68(1), 69(5), all articles within the Statute that
3 apply within the context of protections of confidentiality and victims and witnesses.
4 And I just state those for the record that they are there, available for the protection
5 and the parties and victims and witnesses as in this instance. Thank you.

6 PRESIDING JUDGE TARFUSSER: Iura novit curia I would say. We know the law.
7 So please go ahead, but I think this is the only response which can come from the
8 Chamber.

9 MR ALTIT: (Microphone not activated)

10 THE INTERPRETER: Microphone, please, Counsel.

11 MR ALTIT: (Interpretation) Thank you, Mr President.

12 Q. Those individuals whom you were just talking about, notably the fixers and the
13 intermediaries, in brief the people whom you counted on to bring sources to you,
14 people you call sources, how did you go about recruiting them? Who introduced
15 them to you? Do you see what I mean? They didn't just come to you like that.
16 You didn't just go to see them like that. There was a process. Who introduced
17 them to you and how did you go about getting to know them?

18 A. As an organisation Human Rights Watch has worked in Côte d'Ivoire since 2000.
19 Many of these organisations of local civil society, we have worked with them for
20 years. My predecessor passed his contact information along to me when I started
21 the position, just as I have done with who now works on Côte d'Ivoire. So many of
22 these local civil society organisations or local journalists are people or organisations
23 that we had longstanding relationships with by the time the crisis started.

24 Q. I note in your statement, I note in your statement -- and, Mr President, the
25 paragraph will be given to you. This is page 2878, it's still paragraph 46.

1 And I quote to you: "Another intermediary was a resident of Abobo in whom we
2 vested trust in terms of his knowledge of the people in the various neighbourhoods of
3 Abobo and his understanding of our methodology and way of working. We met
4 him during the crisis and he helped us primarily in our work in Abobo." End of
5 quote.

6 My question is simple. This individual, was he your main intermediary for
7 everything concerning Abobo?

8 A. No. One of several.

9 Q. Very well. Did you do any research into this person, attempting to ascertain
10 who he or she was?

11 A. Yes.

12 Q. And with regard to his political leanings?

13 A. Yes.

14 Q. And what was his political affiliation?

15 A. He tended to support Mr Ouattara, as did the vast majority of people who lived
16 in Abobo.

17 Q. And before working with him, did you meet him with a view to holding a
18 discussion to ascertain who he was?

19 A. Yes.

20 Q. Did you train him?

21 A. We spoke with him about our methodology and particular way that we worked.

22 Q. Did you put questions to him as a witness or as a source, should we say?

23 A. No. He was not a witness.

24 Q. All these individuals whom you have talked to us about to date, fixers,
25 intermediary sources, all these individuals who put you in contact with other

1 individuals who were in a way your beaters, if you like, did they assist in the
2 discussions that you held?

3 A. In general, no.

4 Q. But it did happen, did it not?

5 A. It would only happen if the specific victim or witness asked for it to happen.

6 Our preference is always one-on-one interviews and so we overwhelmingly do not
7 interview people with anyone else around. If a particular victim -- for example,
8 there were some victims of sexual violence where when Corinne was not around and
9 so I was the one doing the interviewing they expressed that they would feel more
10 comfortable if the -- if a woman was there as well. That person was instructed not to
11 speak during the course of the interview.

12 Q. Thank you. In your statement or from reading your statement it would appear
13 that you and Corinne Dufka drafted at least nine communiqués during the
14 post-electoral crisis. This is at your statement at 2873 and 2874.

15 I'm not going to quote it, Mr President, so I won't be providing you with a paragraph
16 number.

17 But it would seem from your own statements to the Prosecution that three of these
18 nine communiqués were drafted only on the basis of telephone conversations. The
19 communiqué of the 23 December, October 2012 --

20 THE INTERPRETER: Dates read at great speed.

21 MR ALTIT: (Interpretation)

22 Q. -- 31 March 2011. Can you confirm this fact?

23 A. I would have to see the specific press releases. The one from 23 December, yes,
24 that was primarily based on phone interviews. We subsequently interviewed many
25 of those same people in person, which led to the findings after the first mission and a

1 longer press release we did, as well as in the report. So many of those phone
2 interviews were followed up with in-person interviews with the exact same people.
3 For the ones that you mentioned in February and March, I would have to see the exact
4 press release.

5 Q. So what you are saying to us is that these three press communiqués -- and you
6 do have those dates in your head, do you not? Would you like me to repeat them to
7 you?

8 MS PACK: Your Honour, maybe I could just refer to the paragraphs in the
9 statement, just in fairness to the witness.

10 MR ALTIT: (Interpretation) No, no. I don't see this is any -- in any way useful
11 and I do not see the interest in intervening in the questions that I'm putting. There is
12 no objection to be raised. Things are clear. And I don't think that we need to quote
13 the paragraphs and if they're not quoted, then we don't need to make mention of their
14 reference numbers.

15 Q. So I'm going to repeat the dates of these communiqués to you, sir.
16 23 December 2010, 23 February 2011 and 31 March 2011. And you've just said to us
17 now that in reality they would not -- they were drafted on the basis of telephone
18 communications. I'm talking about the communiqués. I'm not asking you whether
19 at a later stage you did or did not meet with these sources that you mentioned.

20 MS PACK: Your Honour, this is asked and answered. He said he can't answer this
21 without looking at the press releases.

22 MR ALTIT: (Interpretation) Mr President, with your leave, the question is
23 important in the sense that we are trying to ascertain how everything was done
24 because this is the consequence of a process. How was this person put in contact
25 with these individuals? Who talked? Who said what? Who did what with the

1 information? Et cetera, et cetera.

2 And I do believe that it is important for us to attempt to understand or for us to be
3 able to understand how this was all done and how these communiqués were
4 produced and how the report was produced because it is at the heart of what we're
5 doing here. How these ingredients were produced.

6 Otherwise, as you said yesterday, we will not understand the value of it because the
7 Chamber, as you said, will give a certain weight to this report, and if we do not see or
8 have the means of ascertaining what weight to give it, then what are we doing?

9 PRESIDING JUDGE TARFUSSER: Please go ahead.

10 MR ALTIT: (Interpretation) Thank you, Mr President.

11 Q. This method of conducting an interview over the telephone, does it truly allow
12 you to your mind to analyse the plausibility of what your interlocutor is saying to
13 you?

14 A. It was not the interlocutor that we were interviewing. It was people who were
15 firsthand victims or witnesses to specific events.

16 MR ALTIT: (Interpretation) I did not understand the English version. I think
17 there's a problem with translation that the witness did not understand my question.
18 It might be that the witness answered my question in French.

19 Q. The question -- the notion of an interlocutor seems to be foreign to you. The
20 interlocutor in French is the person to whom you are talking. So it is the person who
21 is at the other end of the line, if you like.

22 PRESIDING JUDGE TARFUSSER: The interlocutor in this case is somebody else, is
23 the one you're talking to on the telephone, not the intermediary.

24 MR ALTIT: (Interpretation) Yes, that's correct.

25 THE WITNESS: Then, yes, we would determine their credibility or the credibility of

1 their testimony in the same way that we would with an in-person interview, meaning
2 we would go into great detail about what they had seen or lived, probing with very
3 specific questions to see if there were inconsistencies in their story. In addition, we
4 would speak with more than one, we would speak with many different witnesses to
5 the same incident so that we could corroborate what one person said with the details
6 provided by someone else.

7 There is -- so whether it was an in-person or a telephone, we would use the same
8 methodology to determine the reliability and to corroborate the testimony. If we
9 were able to do so, then we would feel comfortable publishing those findings.

10 Q. How can you be certain about the identity of the person that you are speaking
11 to on the phone?

12 A. Again, after the organisation had worked in the country for a decade at this
13 stage, we had built up very strong relationships with members from different human
14 rights organisations and other people from local civil society, and it was generally
15 them who would put us into contact, providing a telephone number of the person
16 that we would speak with. Often -- and so it was based off of a developed trust with
17 organisations that we had worked with for -- or people that we had worked with for a
18 long period of time.

19 Q. So if I understand you correctly, you are telling us that you put yourself in the
20 hands of those intermediaries. They were the ones who chose people who told you
21 that this person would call you, they would give you telephone numbers, they are the
22 ones who said -- who confirmed the identity of the people to you; is that what you are
23 telling us?

24 A. At times.

25 Q. A short while ago you talked about trust and in your statement, page 2889, I

1 will give you the paragraph number, 95. And you told the OTP and I quote you:
2 "As with in-person interviews, for phone interviews we generally rely on trusted
3 interlocutors who put us in contact with a witness or victim who experienced the
4 event firsthand."

5 Further on you said:

6 "These phone interviews were then carried out as if it was face to face and we tried to
7 get all the information, the relevant information."

8 Now, as you are stating here, in the final analysis, everything depends on trust; is that
9 so?

10 A. No. It depends. When you're speaking with, say, eight or nine victims or
11 witnesses to a specific event whom you've often been connected to by different
12 intermediaries, our findings are based off of consistent corroboration from a number
13 of different people to whom we were connected by a number of different people in
14 order to comment what the truth is about a particular incident.

15 Q. Let me put the question again. There is a misunderstanding maybe. I'm not
16 talking about the trust that these people you are talking about are telling you. I'm
17 talking about the trust that you have in those who introduced those people to you.
18 You talked to them by the telephone and you had never seen them and you have
19 complete trust in them. That is what you say in the statement that I have just read
20 out. So everything depended on the trust that you had in those who put you in
21 contact with the people that you were going to interview; is that correct?

22 A. It is a trust that is developed over a long period of working together. And
23 again, many of these phone interviews were followed up with in-person interviews
24 that then helps to confirm that the account that was received by phone is consistent
25 and that the person who has provided that connection is worthy of that trust and that

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1 what was said, the identity of the person by phone is the exact same as when we then
2 saw an identity card say a month later. It's not a -- it's an earned trust.

3 Q. Yes. But all the phone interviews were not followed up by in-person
4 interviews, were they?

5 A. All of them, no. In a report based on 500 interviews less than 5 percent,
6 certainly less than 10 percent were from phone interviews.

7 Q. Now, this notion of trust, can it be considered as a scientific notion as far as
8 you're concerned?

9 A. It is part of a developed methodology of Human Rights Watch for a long period
10 of time.

11 Q. Very well. Yesterday you explained to us that you went to Abobo in January
12 and March 2011. And this is the French transcript of 17 May 2016, page 59, lines 23
13 to 29 for the January mission; page 70, lines 12 to 16 for the March mission; and page
14 89, lines 13 to 27 for the July mission.

15 Can you tell us the personalities that you met and I mean in Abobo? And I am
16 referring to both civilian and military personalities or authorities.

17 A. Human Rights Watch does not divulge the identities of the people that it
18 interviews.

19 Q. Did you meet with the mayor of Abobo or his deputies?

20 A. Human Rights Watch does not divulge the names or identities of the people that
21 it interviews.

22 Q. Did you meet with the member of parliament for Abobo?

23 MS PACK: Your Honour, if we're going to go through a list of people that the
24 witness may or may not have met, then we're probably going to --

25 PRESIDING JUDGE TARFUSSER: Yes, but in this --

1 MS PACK: (Overlapping speakers)

2 PRESIDING JUDGE TARFUSSER: Yes, you're right, but in this case it is members of
3 the parliament, it's not a person. Probably there are more than one, I guess.

4 MR ALTIT: (Interpretation) That is precisely my point, your Honour. Once again,
5 maybe the witness did not quite understand. I am not talking about interviews or
6 sources. I'm simply talking about meeting with the mayor. When you are going to
7 carry out investigations in a particular location, just meeting with the authorities
8 I believe seems to me to be quite normal, especially since the witness is answering
9 about the human rights policy. I'm asking the question to Mr Wells and I'm saying:
10 You, personally, Mr Wells, did you meet with the mayor of Abobo or his deputies, the
11 MP of Abobo, any authorities, civilian or military?
12 That's what I'm asking, your Honours.

13 PRESIDING JUDGE TARFUSSER: I'd say the question is legitimate and we hear the
14 answer.

15 MR ALTIT: (Interpretation) This is quite regrettable.

16 Q. Mr Wells --

17 PRESIDING JUDGE TARFUSSER: Excuse me, what is regrettable? What is
18 regrettable?

19 MR ALTIT: (Interpretation) That we should not have information which we think
20 is important to help us to understand what happened.

21 PRESIDING JUDGE TARFUSSER: Okay. Just go ahead.

22 MR ALTIT: (Interpretation)

23 Q. Mr Wells, who are those who facilitated and organised interviews with the
24 personalities or authorities of Abobo that you met with? And I suppose you met
25 with them even though you have not identified them for us.

1 A. Human Rights Watch does not divulge the names of its intermediaries or the
2 people with whom it speaks.

3 MR ALTIT: (Interpretation) Mr President -- I'm sorry, I was addressing myself to
4 the witness, actually.

5 Q. Mr Wells, please try to put yourself in my shoes for one moment. How is it
6 possible to understand the methodology of your report if each time we put a question
7 to you that makes it possible to understand it, you refuse to answer?

8 MS PACK: What sort of opinion is my friend trying to elicit here? In my
9 submission it's just an inappropriate question and not helpful. Your Honours have
10 specifically said ask about facts.

11 PRESIDING JUDGE TARFUSSER: I think it's more a rhetoric question more than a
12 question, I would say, a rhetorical question.

13 MR ALTIT: (Interpretation)

14 Q. I will ask you a question about your driver, if you agree. In the French
15 transcript of 17 May 2016, page 66, lines 4 to 8 this driver who drove you everywhere
16 you went, how did you meet him?

17 A. He was someone that Human Rights Watch had worked with in the past prior
18 to the crisis.

19 Q. Did he himself suggest to you locations that you could visit?

20 A. No.

21 Q. Did he speak Dioula?

22 A. I don't believe so, no.

23 Q. And it is this particular driver who took you to Abobo?

24 A. Yes.

25 Q. Yesterday you told us that in 2011 you conducted a major part of the interviews

1 yourself and in French. And it is in the French transcript, page 25, that is transcript
2 of 17 May 2016.

3 And I will give you the line numbers very soon, your Honour.

4 So you yourself conducted a great number of the interviews in French; is that correct?

5 A. Yes.

6 Q. Yesterday you told us that you were moving around Abidjan with a driver.

7 Now, in each of the missions that you undertook, did you take along an interpreter in
8 your vehicle with you?

9 A. No.

10 Q. Where did you learn your French?

11 A. At Harvard and then in taking intensive French courses in France.

12 Q. For how long?

13 A. Which part of that are you asking?

14 Q. The French courses in France.

15 A. I was in France for I believe six weeks. This was after having taken several
16 years at Harvard.

17 Q. Yesterday you told us about the psychology course in Rice University and law
18 in Harvard. French transcript page 6, lines 3 and 4, that is the transcript of
19 17 May 2016. You didn't mention your studies in French.

20 A. I wasn't asked about my studies in French.

21 Q. Okay. So you had French courses during your psychology and law degrees
22 and then six weeks of courses in France, this is your French language background; is
23 that correct?

24 A. In addition I lived in Senegal, a Francophone country, where I lived and worked
25 in French prior to the crisis.

1 Q. How would you describe your level of French?

2 A. When I have taken classes they have been at a fluent level.

3 Q. But you yourself, how would you assess your French level?

4 A. I work comfortably in French. Although it's been now two years as I now
5 work on South Sudan so I'm not working in a Francophone country any more.

6 Q. Does this last remark explain the little error that you made a short while ago?

7 A. The translator used the word "interlocutor." You and I had together used the
8 word "interlocutor" to speak about a very specific thing, which was intermediaries or
9 interlocutors that we had worked with.

10 Q. Very well. And you can of course understand French, but can you understand
11 without any difficulty the street language in Ivory Coast, which is usually quite
12 different from the standard language?

13 A. Yes, I could understand the French that Ivorians spoke.

14 PRESIDING JUDGE TARFUSSER: And I would say that we are through that.

15 MR ALTIT: (Interpretation) Absolutely.

16 Q. Now, yesterday you said that before -- you started working with Human Rights
17 Watch in 2009; is that correct?

18 A. Yes.

19 Q. So if I understand you correctly, based on what you said yesterday, you started
20 working with Human Rights Watch as soon as you graduated, as soon as you had
21 your degree; is that correct?

22 A. Yes. I took the bar exam first before starting the job, but yes.

23 Q. Very well. In your statement, and it's still CIV-OTP-00 -- or, rather, page 2871,
24 paragraph 9, you said you obtained a scholarship from Human Rights Watch.

25 And I quote you: "I have a bachelor's degree in history and psychology from Rice

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1 University and a law degree from Harvard Law School, where I graduated in 2009. I
2 worked as a fellow at Human Rights Watch from September 2009 through
3 September 2010."

4 What type of fellowship did you have from Human Rights Watch at that time?

5 A. What do you mean? It was a fellowship that allowed me to be employed to
6 work for Human Rights Watch.

7 Q. And that is from September 2009?

8 A. Yes.

9 Q. Did you have any scholarships during your university studies?

10 A. What do you mean by scholarships? During my summers in law school I
11 received particular summer internship money to work for human rights organisations
12 in Argentina and Liberia.

13 Q. When was the first time that you travelled to Côte d'Ivoire?

14 A. It was in mid-2010. I don't remember the exact month, but it was in the middle
15 of 2010.

16 Q. So if I understand you correctly, you travelled to Abidjan on four occasions
17 during the post-election crisis; is that correct?

18 A. Specifically related to the crisis, yes.

19 MR ALTIT: (Microphone not activated)

20 THE INTERPRETER: Microphone.

21 MR ALTIT: (Interpretation)

22 Q. How old were you at that time?

23 A. I imagine you can do the math from my birth date. I was -- this would have
24 been in 2010, 2011. I was 27.

25 Q. 27 years old. Mr Wells, do you think that a young man of 27 years old, even

1 were he to be as brilliant as you are, who discovers a country, a culture, a political
2 context for the very first time is well-equipped to really understand the stakes?

3 PRESIDING JUDGE TARFUSSER: May I say that this is an opinion, a very opinion.
4 Not a fact. It's an opinion.

5 MR ALTIT: (Interpretation) Mr President, you are the presiding Judge and I fully
6 respect what you say, but we are talking here about the experience, the ability, which
7 includes experience, that is to make it possible for someone to approach sources in the
8 appropriate manner for the purposes of writing a report, there is a human factor to
9 the methodology. I can rephrase the question, but the idea is there.

10 PRESIDING JUDGE TARFUSSER: No, but just -- I'll make another question. Do
11 you think it changes something if the witness says yes or no? It's an opinion he is
12 expressing on his ability. I think we should judge the things he is saying and the
13 facts he is reporting and not the opinions he's expressing. So if you can rephrase it
14 on the basis of eliciting facts, you are welcome.

15 MR ALTIT: (Interpretation)

16 Q. Let me put it in a different manner. I will ask you a question on the manner in
17 which you understand an interview. Yesterday you told us that you followed the
18 Human Rights Watch procedures that is very well. Now, let me ask you a simple
19 question. During such an interview, what are you really paying attention to? What
20 are you listening to? What is being said or what has not been said? What appears
21 to you to be important? Now, during the interviews that you carried out to draft
22 your communiqués and your report, did you really pay attention to what was said or
23 what was not said?

24 A. Yes. And the most important thing are the specific details of a person's
25 experience that are then corroborated by testimonies from a large number of other

1 victims or witnesses from the same events. So it's about going into very specific
2 details in terms of what they saw, what they lived, in terms of the uniforms, if there
3 were any of alleged perpetrators, of what was said during the course of the event.

4 So going into as specific as possible --

5 Q. I'm sorry to interrupt you, but that was not my question. And this is precisely
6 the point. I have two questions before the break. My question is very simple. I'm
7 not asking whether you cross-check or corroborate what is being said. If you are
8 talking to someone who is different, who has a different experience from you, you are
9 trying to understand something, but you were not present, you are trying to
10 understand what happened, but you don't have that information.

11 Now, is that -- are you looking for the information that is given to you or the implicit
12 information, what is not said? Are you simply just taking what is said to you or
13 what is implied or what is not said? What do you really look for?

14 A. We are looking at what a person has specifically lived and that comes through
15 in what they say and we ask follow-up questions to get to anything that is left unclear
16 from what they have said explicitly.

17 Q. That is precisely my point, Mr President.

18 It seems to me that when you are asking questions, it is very important to understand
19 what is left unsaid. Now, let me put my question to you. How would you
20 understand what is left unsaid, what is implied without having an in-depth
21 knowledge of the country? You can know the country, you can -- you can know the
22 social setup and so on, but how do you think you can really understand in-depth
23 what the interviewees are saying?

24 A. Human Rights Watch has worked in Côte d'Ivoire since 2000. Before I ever
25 arrived in Côte d'Ivoire, I read every word that the organisation has ever written and

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1 many other things about the country to gain a deeper understanding in order to
2 address these questions that you are -- that you are raising.

3 PRESIDING JUDGE TARFUSSER: Last question.

4 MR ALTIT: (Interpretation) Thank you, Mr President.

5 Q. Mr Wells, I'm putting the question to Matt Wells here, not to Human Rights
6 Watch. I do understand that there is a policy of Human Rights Watch as an NGO,
7 but Human Rights Watch is not here. It's Matt Wells who is here. It's Matt Wells
8 who has taken the oath and who is helping us to understand what went on. So I'm
9 asking Matt Wells to answer my question, please.

10 MS PACK: Your Honours, Matt Wells already answered the question.

11 PRESIDING JUDGE TARFUSSER: Let me hear the question. Let me hear the
12 question I said.

13 MR ALTIT: (Microphone not activated)

14 THE INTERPRETER: Microphone, please, Counsel.

15 MR ALTIT: (Interpretation)

16 Q. I shall rephrase the question. Matt Wells, have you a sufficient knowledge or
17 did you have at the time a sufficient knowledge of the country, of its complexities, of
18 the relationships between the people? In brief, did you know the makeup of the
19 country, including the non-said, non-theoretical relations, did you understand this
20 sufficiently for you to be able to understand what those people you interviewed were
21 not saying to you or what was left unsaid by them?

22 A. Yes, I did.

23 PRESIDING JUDGE TARFUSSER: Thank you. We have the break and we resume
24 just after 11.30. Thank you very much.

25 THE COURT USHER: All rise.

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1 (Recess taken at 11.05 a.m.)

2 (Upon resuming in open session at 11.36 a.m.)

3 THE COURT OFFICER: All rise.

4 PRESIDING JUDGE TARFUSSER: Good morning again. Good morning.

5 The floor is again to the Defence of Mr Gbagbo.

6 MR ALTIT: (Interpretation) I thank you, Mr President.

7 Q. Mr Wells, your statement to the Prosecution, page 2946, 47, paragraph 21, you
8 indicated, and I quote, I'll quote -- paragraph 321, you indicated two points, that on
9 28 June 2011 "As a representative of Human Rights Watch, I was contacted by Jennifer
10 Naouri from Mr Altit's law office asking for a meeting and expressing interest in the
11 work and investigations of Human Rights Watch related to the post electoral crisis."
12 End of quote.

13 My question, why did you not answer Jennifer Naouri's email?

14 A. I had been instructed at this stage to pass any communications from lawyers,
15 regardless of sides, to our general counsel and to the director of the France office,
16 which I did. And I believe that one of them eventually sent all of our publicly
17 available material to Ms Naouri.

18 Q. You indicate -- one moment. I apologise.

19 (Counsel confer)

20 MR ALTIT: (Interpretation)

21 Q. So in this email that was sent to you by my law office signed by Madam Naouri,
22 it was said, and this is document CIV-D15-0001-5612, it is said, and I quote: "We
23 have received a number of testimonies" -- we, that is the lawyers -- "We have received
24 a number of testimonies concerning acts of violence or crimes committed to date by
25 the forces from the north." End of quote.

1 Was it not your duty, if you wanted to draft a neutral report, was it not your duty to
2 meet with those who were ready to give you detailed and circumstantial elements,
3 statements, documentary elements?

4 A. Again, my instructions from our general counsel were to pass any emails or
5 correspondence from any lawyer, regardless of side, to her and to our France director
6 and to respond by -- and for them to respond by providing publicly available
7 material.

8 Q. And at the same moment in time, did you not meet with the French lawyers of
9 Alassane Ouattara?

10 A. We approached in the same way. They contacted me. I passed that to our
11 general counsel and to the head of our France office, who responded to them with all
12 of our publicly available material.

13 Those lawyers then followed up, asked to speak with our general counsel and our
14 France director, and they met in -- at some point that year.

15 Q. But did you meet with them or not?

16 A. I was not physically present. I was called in.

17 Q. Well, I'm going to read your statement, page 2847, paragraph 322, and I quote to
18 you, and I quote:

19 "On 14 April 2011, Jean-Pierre Mignard and Jean-Paul Benoît, legal counsel working
20 for the Ouattara government, sent a letter to Human Rights Watch requesting a
21 meeting and to provide them with the full results of our investigations. Human
22 Rights Watch replied on 20 April 2011 by sending them all our publicly available
23 material. A meeting was later scheduled for late January."

24 It says here "late January 2001," but I do believe that it is a mistake in the transcription.

25 What they mean is late June 2011. The text will tell us this later on.

1 "We then scheduled a meeting with them on 24 June 2011." So it was the end of
2 June 2011. "We then scheduled a meeting with them on 24 June 2011 in Paris.
3 Human Rights Watch was represented by Jean-Marie Fardeau and legal counsel
4 Dinah Pokempner." And you say, "I joined the meeting by teleconference. I joined
5 the meeting by teleconference."

6 So you did take part?

7 A. That's exactly what I have already said.

8 PRESIDING JUDGE TARFUSSER: I understood it like this. I haven't read it, but I
9 understood it like this.

10 MR ALTIT: (Interpretation)

11 Q. Very well. So why didn't you tell us that before I put the question to you
12 earlier, notably, that you took part in that meeting?

13 A. I said I joined by telephone.

14 Q. Very well. So I'm going to continue with this quote: "The two
15 above-mentioned counsel" -- that is Jean-Pierre Mignard and Jean-Paul
16 Benoît -- "attended as advisors to the Ivorian government, mandated by
17 President Ouattara."

18 A little further on you say, "This meeting hasn't been made public by our office."

19 Okay. My question is: Why did you accept to meet with the lawyers of
20 Alassane Ouattara and not those of Laurent Gbagbo?

21 A. Again, this was not my decision. The response to each lawyers were, the initial
22 response was the same. All of our publicly available material was provided to each
23 office. Mr Ouattara's attorneys followed up by requesting this meeting. And to my
24 knowledge Ms Naouri followed up by requesting if we had provided any testimonies
25 to the Office of the Prosecutor.

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1 There was not a request in that follow-up to speak with us. I imagine if there had
2 been it would have been treated the same way. But, again, these decisions were
3 made by our general counsel at the time.

4 Q. Did you or any other representative of the Human Rights Watch remain in
5 contact with those two counsel that we just mentioned a moment ago?

6 A. I have never spoken with them since.

7 Q. And any other representatives of Human Rights Watch?

8 PRESIDING JUDGE TARFUSSER: Can you repeat the answer because it wasn't
9 gotten by the translators.

10 THE WITNESS: Not to my knowledge.

11 PRESIDING JUDGE TARFUSSER: Interpreters, sorry.

12 MR ALTIT: (Interpretation)

13 Q. I believe that you agreed to meet with the Prosecutor from the ICC, did you not?

14 A. Yes.

15 Q. Did he follow the same process that you just described to us?

16 A. Did who? Sorry.

17 Q. The Prosecutor, did he write to you? Did he -- did he refer you to the legal
18 section? Did they send documents? Did he call you back, et cetera, et cetera?

19 A. The Prosecutor's office, generally, if they are going to get in touch with any
20 researcher at Human Rights Watch, it goes through the International Justice
21 Programme. They would have followed that in terms of speaking with me. The
22 International Justice Programme at Human Rights Watch to be clear.

23 Q. So I understand from your statement, this is at page 2867 and 2868, that you met
24 with the Prosecutor from the ICC between 5 August and 5 September 2013 on 12
25 occasions; is that correct?

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1 A. That sounds correct.

2 Q. Very well. Where did those meetings take place?

3 A. In The Hague.

4 Q. Did it seem normal to you to meet, I know you've already responded with
5 regard to the formal aspect of this, but do you think it was normal to meet the lawyers
6 of Alassane Ouattara and the Prosecutor's office from the ICC, and in a sense that you
7 were then an actor, you've compiled communiqués, but you still haven't talked to the
8 lawyers of Laurent Gbagbo?

9 A. I have met with lawyers of Laurent Gbagbo and Simone Gbagbo in Côte
10 d'Ivoire.

11 Q. And when was that, when?

12 A. While I was a researcher at Human Rights Watch. It would have been after the
13 post-election crisis.

14 PRESIDING JUDGE TARFUSSER: I think there is a mistake in the transcript, "I have
15 met with lawyers of Laurent Gbagbo and Simone Gbagbo" -- oui, okay now, because
16 it was Monday Gbagbo.

17 MR ALTIT: (Interpretation)

18 Q. Mr Wells, just to answer one of the comments that you just made, I'm saying
19 this to you because I'm about to put a question to you, but as far as we're concerned,
20 we were referred to the representative of Human Rights Watch in France. And in
21 the document CIV-D15-0001-5613 on page 5614, we said to him, and I quote, "We
22 would like to talk to you about this. Where and when can we contact you?" End of
23 quote.

24 I do apologise. One second, Mr President, please.

25 (Counsel confer)

1 MR ALTIT: (Interpretation)

2 Q. "Where and when can we meet you?" And we did not, of course, get any
3 response.

4 So did you not wonder as to where our request to meet with people from Human
5 Rights Watch was at? It could have been useful for you, couldn't it?

6 A. Again, each time that I was approached by attorneys for Mr Gbagbo or for
7 Mr Ouattara, I forwarded that correspondence to our general counsel, to the France
8 director, who did respond to Ms Naouri.

9 Q. You say in your statement to the Prosecutor, page 2883 and 2884, paragraph 72,
10 on forensic matters, and I quote: "The report mentions at times that injuries were
11 seen by the Human Rights Watch researcher, though not all injuries seen by the
12 researchers are mentioned in victim testimonies in the report.

13 When people reported wounds, I" -- that is you -- "I asked if I could see them and if
14 visible and" -- I apologise. "I asked them if I could see them, and if visible, I noted
15 that in my notebook. At times I asked permission to take photographs of witnesses'
16 wounds, although this was not done systematically. We asked to see medical
17 certificates if the victims had one, but this was not a precondition to relying on their
18 testimonies. Many victims were afraid to go to hospitals during the crisis and others
19 did not bring medical certificates to interviews. I interviewed doctors and health
20 professionals throughout the crisis about the types of injuries they treated in order to
21 corroborate the types of injuries reported by victims or witnesses." End of quote.

22 My question is as follows: Now, without a medical certificate, how could you know
23 that the cause of the wound that the individual was showing to you could be put
24 down to the crisis? You're not a doctor, are you, or are you?

25 A. No, I am not a doctor.

1 Q. So my question is: How could you ascertain that the cause of the wound being
2 shown to you could be put down to the post-electoral crisis?

3 A. Based on Human Rights Watch's established methodology in terms of again
4 corroborating, so that if we see the same types of wounds again and again, and the
5 testimonies describe highly similar events leading to those wounds, we believe that
6 there is corroboration to discuss what caused those wounds.

7 Q. It's precisely that. We're talking here about methodology. You're talking
8 about the methodology of Human Rights Watch and corroboration.

9 My question is: How could you corroborate the origin of a wound of a given person,
10 namely, the person who comes to you and says that they were wounded at such and
11 such a place at such and such a time by talking to a doctor in general terms who has
12 not seen the individual? How did you go about that?

13 A. That's not what I'm speaking of in terms of corroboration. Again, we would go
14 into great detail with a particular individual, testing the reliability of their specific
15 testimony in terms of how -- what happened, what led to a specific wound, and then
16 we often interviewed many other people from the same incident, some of whom had
17 similar wounds. And it's collecting this -- these testimonies together that corroborate
18 each other in terms of what had happened and the types of wounds that had been
19 created.

20 In addition, we would often speak with doctors who had treated people throughout
21 the conflict and who could describe the types of wounds they had treated, what they
22 looked like, and we were able to then match what we had seen with what doctors and
23 other medical professionals had seen.

24 MR ALTIT: (Microphone not activated)

25 THE INTERPRETER: Microphone, please, Counsel.

1 (Counsel confer)

2 MR ALTIT: (Interpretation)

3 Q. So I quoted you and you were saying, and I repeat:

4 "I interviewed doctors and health professionals throughout the crisis about the types
5 of injuries they treated in order to corroborate the types of injuries reported by
6 victims and/or witnesses." End of quote.

7 So if I understand that sentence correctly, we're talking here about corroboration in
8 general terms, but here we're talking about corroborations in particular terms, so it's
9 not one and the same thing. And the point I'm making here is different.

10 Even when you identify the cause of a wound, you know, the origin namely of said
11 wound, you are not in any way in a position to know what caused that wound. Do
12 you understand my question?

13 A. Yes, I understand your question.

14 Q. Very well. So I'm going to put it to you, is it true to say that even when
15 identifying the cause of a wound you're not in a position to know what caused the
16 wound, namely the origin and the unfolding of events?

17 A. No, that's not correct. We could determine what had happened based off of
18 taking very detailed testimonies from these witnesses or victims in terms of what they
19 had experienced, including when it had happened, where it had happened, who had
20 carried out the specific act and how it had affected them in terms of a wound or
21 otherwise.

22 Q. In your statement to the Prosecutor, page 2877, paragraph 43, on the subject of
23 the identity of your witnesses, you said, and I quote you:

24 "Independent of whether the identity of the source is disclosed in a report, we take
25 the victim or witness' name, age and other identifying information, generally

1 including a phone number, for our internal records and to allow us to get in touch
2 with them again, if necessary. We do not systematically ask for ID documents, but
3 we were often offered the IDs by the victims or witnesses themselves. We do not
4 actively run identity verifications on our victims or witnesses, though we confirm that
5 their identity matches the identity provided by trusted interlocutors, who often know
6 the identity of the victim or witness and help put us in touch with them." End of
7 quote.

8 So if I understand correctly, you don't systematically check the identification of
9 people that you interview; is that correct?

10 A. It was often not possible during the conflict in Côte d'Ivoire. People who were
11 from a particular ethnicity or from a particular immigrant group, if they happened
12 across a Jeunes Patriotes checkpoint, for example, they might be killed if it was seen
13 on their identity card that they came from a particular group, so people were often
14 not moving around Côte d'Ivoire with their identity cards because it put them at great
15 personal risk. When they had them, we of course checked that information, but
16 because it was a security risk to people to take ID cards at times throughout the crisis,
17 it was not something that we could have done in every single case.

18 Q. Now, I don't know exactly what you said to the OTP, but now you're
19 mentioning security. I'd like to try to better understand this point. Now, going by
20 your statement, I gather that not only you didn't check identities but also you would
21 trust the identity, you would entirely trust what you were told by your intermediaries;
22 is that correct? Have I understood correctly?

23 A. Entirely, no. We interviewed the victim or witness, him or herself, who
24 provided their identity. We were not just getting an identity from an intermediary.
25 The specific person we were speaking with provided their identity. Often times

1 there were other people who knew them personally who could corroborate their
2 identity.

3 In addition, yes, an intermediary might provide additional basis for authenticating
4 their identity as who they said they were.

5 Q. Well, that's my point. When I've been -- I've been asking you whether or not
6 you cross-checked the identities and you've been saying no. You asked the people
7 for their identities and sometimes you trust other people, intermediaries and so on
8 and so forth. So if you ask someone their identity, that's not really checking,
9 cross-checking. That's my point.

10 What I'm saying and what I'm asking you is that -- well, it seems to be that judging by
11 your statement there was really no process to check a person's identity, no process.
12 You entrusted either the intermediaries or other parties or the person in front of you
13 who could have told you just about anything; is that the case?

14 A. Again, we took the person's identity, we took information, including their
15 phone number so we could be in touch again, we were often then further
16 corroborated by an intermediary or someone who knew the person personally.
17 In many cases people did have documents that further corroborated, but again,
18 because of the situation in which people were often killed based on their identity, we
19 were not going to make speaking with us conditioned upon having an identity
20 document.

21 Q. Mm-hmm. You mentioned security, but what I'm interested in really is the
22 methodology.

23 Now, in the part of the statement that I read out to you, you were quite clear. Now,
24 you said that we do not actively run identity verifications. So this was a choice, a
25 methodological choice that you made, is that so?

1 A. It was a choice in the conflict given that people were being killed on the basis of
2 their identity cards. We were not going to not speak with someone simply because
3 they did not have their identity card on them.

4 MR ALTIT: (Microphone not activated)

5 THE INTERPRETER: Microphone, please.

6 MR ALTIT: (Interpretation)

7 Q. Now, concerning the method that you tell us is the Human Rights Watch
8 method, I noticed in yesterday's testimony that you told us - French transcript, page
9 28, line 27 to page 29, line 10 - in response to a question -- well, the question:
10 "Can you tell us how you go about drafting the report?"

11 You answered as follows: "Well, we use these large press releases as a foundation or
12 the smaller reports that were drafted on the basis of interviews." I think there might
13 be a word missing here. "So on the one hand we have the press releases published
14 during the crisis and then all the other information we were able to gather from
15 firsthand witnesses, from victims. So we had to gather all of these items of
16 information, and once all the information was brought together, I used it as the
17 foundation for the drafting of my report."

18 If you don't mind, just allow me a few moments. We're looking for a different
19 excerpt from the statement.

20 I will read out the other excerpt.

21 Can you hear me? Very well.

22 And then you added, you added:

23 "I also had access to all the statements taken by Human Rights Watch, so, you see, all
24 my colleagues who had interviewed people at various points in time during the crisis.
25 So, you see, I had their notes from the interviews. So on the one hand there were the

1 press releases published during the crisis and then all the other items of information
2 from firsthand accounts from victims. And once all of that information was brought
3 together, I was able to use the information as the foundation for the drafting of my
4 report." Page 29, lines 1 to 9.

5 So my question has to do with the methodology used. First of all, I gather from what
6 you've been saying that you did not have a computer or anyone to transcribe the
7 interviews; is that correct?

8 A. We typically did -- are you talking about in the field when taking the interview,
9 or are you talking about later on in terms of compiling the information?

10 Q. I will keep on going. We'll go back to that point. We will move forward as
11 quickly as possible.

12 Now, yesterday you told us, French transcript 17 March 2016, page 19,
13 lines -- correction, 17 May, regarding the conduct of the interviews, and I quote:

14 "Question: And when you took statements from people, did you use some kind of
15 questionnaire or did you have a particular way of putting questions?"

16 And your answer was this: "No, there was no standard questionnaire because you
17 see, each person had his own story to tell, his own experience to tell us about.

18 Generally speaking, we would begin by asking some very open-ended questions like
19 what happened, what did you experience, so that we would not lead them in any
20 particular direction. We just wanted to understand what the person had gone
21 through. Once the person began speaking to us, we would start going into details by
22 asking more focused follow-up questions in order to assess the credibility and the
23 truthfulness of the person's statement."

24 So my question is this: Isn't it not true that in such cases, in such cases as the one
25 you have described, professionals recommend -- professionals recommend

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1 conducting semi-directive interviews; is that not so?

2 A. In our field I don't think there is a preference for that, no. We go in knowing
3 that there are specific things that we want to discuss, which in some ways would be a
4 semi-direct interview. The point is simply we don't want to go in with a
5 questionnaire of, say, 15 questions and that's all you ask because then you miss so
6 much of the key parts of a person's story or testimony.

7 Q. Question: Now, this method you have described to us, following your instinct,
8 so to speak, not official, no framework, do you think that this method is scientific in
9 nature?

10 PRESIDING JUDGE TARFUSSER: Well, we are talking now about instinct is even
11 less than opinion, I would say. Please rephrase.

12 MR ALTIT: (Interpretation) You are correct, your Honour, but it is the meaning.
13 That is -- really this is what the witness has been telling us essentially that -- that their
14 interviews are based on instinct.

15 PRESIDING JUDGE TARFUSSER: Well, this is a matter how you read it, but
16 I would ask you to rephrase the question because it's -- instinct is really a little
17 bit -- we're going very, very low.

18 MR ALTIT: (Interpretation) Very well.

19 Q. I will now rephrase my question. Do you think that this method is scientific?

20 A. This is a well-established methodology of Human Rights Watch that has been
21 built up over years of human rights work that has led the organisation to be
22 considered one of the leading human rights organisations in the world to have our
23 reports seen as an authority.

24 I believe in opening statements even your co-counsel, Ms Naouri, referenced multiple
25 reports by Human Rights Watch, discussing our findings related to particular

1 incidents and so I believe it demonstrates that there is an established credibility built
2 on our methodology.

3 Q. I think you've gone beyond the scope of my questioning. If you don't mind,
4 there's really no logical link here.

5 We will now discuss, if you will, the establishment and the publication of your
6 reports, the Human Rights Watch reports. In your statement you said, pages 2889
7 and 2890, paragraph 97, and I quote:

8 "This report was drafted in a somewhat unusual way. In a situation of no crisis
9 usually we -- in a non-crisis situation we would normally do our research and draft a
10 report once the research is completed; the time frame would vary depending on the
11 particular situation under investigation. In the case of this report, we already
12 published some of our findings in the form of long press releases during the crisis, as
13 the events were unfolding. Since it was an emergency situation, we generally
14 drafted a long press release, also called a short report, on the last day of our mission
15 in Côte d'Ivoire or immediately upon leaving, aiming to publish our findings as
16 quickly as possible. The findings published in the press releases along with
17 additional research and documentation collected during and after the crisis were later
18 compiled in this larger report." End of quote. Paragraph 97.

19 So my first question is this, Witness: Why was the drafting of this report somewhat
20 atypical? I quote: "The drafting of this report was somewhat atypical." Why?

21 A. As I believe I said yesterday, at Human Rights Watch there are generally two
22 types of work. There are crisis situations and there are more longstanding human
23 rights issues. And the way that the work is carried out is slightly different in those
24 two different contexts.

25 So, for example, for a longstanding human rights issue, like when I did a report on

1 land conflict in western Côte d'Ivoire, it was through successive missions after the
2 completion of all of them that the report drafting began.

3 In a crisis situation like the post-election crisis was in Côte d'Ivoire that is rapidly
4 evolving, in which there is a need to get out findings as quickly as possible, given the
5 gravity and scale of abuses, Human Rights Watch puts together releases much
6 quicker to spotlight these abuses. So it is atypical in terms of how non-crisis work is
7 done at Human Rights Watch, but typical in terms of how a crisis response works.

8 Q. Mm-hmm. Now, the methodology used when drafting a press release, is that
9 methodology the same as the one used when drafting a full report?

10 A. Yes. The level of corroboration or reliability is the same. The review process
11 is more or less the same. As I said yesterday, the one difference is when there is a
12 press release, the communications department at Human Rights Watch also reviews it.
13 But the legal and policy team, the programme department, they review both, both
14 types of publications.

15 Q. I'd like to hark back to one particular point for a few moments, if you don't
16 mind.

17 You said yesterday in response to a question from the Prosecution: "We usually take
18 handwritten notes. Thus, we write down the remarks made by the witness. We
19 draft summaries."

20 Well, "We usually take handwritten notes," this leads me to my question, which is:
21 Don't you have computers or people to transcribe interviews?

22 A. First to be clear, since given what you just said, we do not take summaries.

23 You said we do. We do not take summaries of what the witness or victim is saying.

24 We take their -- we transcribe what they're saying. So just to be clear on that point in
25 case there was a difference in the record yesterday.

1 Second, in terms of a computer, from our handwritten notes we typically, and
2 certainly in this case, typed them up into a computer so that we had all of the
3 interviews that we had done on electronic file.

4 Q. I'm trying to understand. Now, if I've understood correctly, several of you
5 take notes and these are handwritten notes, and you collect all these various notes
6 and you quote what you think is useful; is that how you go about your work? So
7 that that is how you work and some of your colleagues, not just you, this is the work
8 method?

9 A. We take handwritten notes, yes. I think that was the first part of your question.
10 And in terms of what ends up in the report, it's testimonies that we believe are
11 representative of patterns of human rights violations more generally. We are not
12 selecting the worst of the worst, we are selecting what we believe in a representative
13 of in this case, you know, more than 500 interviews that we did during the course of
14 the conflict.

15 Q. I'd like to ask you a few questions still about the methodology and the report.
16 CIV-OTP-0087-1369.

17 Now, Mr Wells, the first few pages of your report provide a historical overview of
18 Côte d'Ivoire from independence up until the election of 2010. And I would like to
19 hark back for one moment to this overview.

20 First of all, could you tell us what methods you used to draft this overview?

21 A. It was based on a reading of a large amount of material available about Côte
22 d'Ivoire, including a decade of Human Rights Watch reports that had been written
23 about the country.

24 Q. Now, after reading and cross-checking the footnotes, it would appear that you
25 basically based yourself on articles taken from the international press, mostly very

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1 short articles, non-exhaustive reports that go back to 2011, for example, footnote
2 number 2 regarding Phil Clark. This is in actual fact something that comes from
3 BBC News, 11 April 2011. You also quote Marcus -- you also quote from Slate Africa
4 2011, Boni Teiga was the author, CIV-OTP-0087-1369, page 1392. In actual fact, that
5 article is entitled -- well, it's not the title that you provided in your footnote. The
6 true title is "From Democrat to Autocrat," and not dictator, contrary to the words that
7 you used in your report.

8 Another example, footnote number 5, which has to do once again with a very short
9 item published by CBC News on 21 May 2011, written by Daniel Schwartz.

10 So this really is the very core of your research because these articles are cited
11 constantly -- well, multiple times. So my question is this: Do you think that these
12 are credible and reliable sources?

13 PRESIDING JUDGE TARFUSSER: That's again an opinion. It's not a fact. I mean,
14 I think that our decision, our decision you referred to yesterday is a decision which is
15 one who is valid also for the Defence I think on facts and methodology.

16 MR ALTIT: (Interpretation) You are quite right, your Honour, but in truth, to our
17 mind, this is all about the methodology. We are told that exhaustive and careful
18 research has been done, but we see three measly little bits of information. That can't
19 be the source of a scientific publication. So I'm trying to find out more. This is
20 really about the methodology. Of course, as you wish, your Honour, but I think this
21 really is where the problem lies.

22 PRESIDING JUDGE TARFUSSER: Yes, but then you ask an opinion, "Do you think"
23 really, and I think this is an opinion, you're eliciting an opinion from the witness and
24 not a fact.

25 MR ALTIT: (Interpretation) Your Honour, it's really -- well, the issue is about the

1 choice of sources. It's purely a matter of methodology. In actual fact, we're
2 wondering -- I beg your pardon?

3 PRESIDING JUDGE TARFUSSER: No. I agree. The problem is that when you
4 have said this, you cannot ask the opinion, "What do you think about this?" It's only
5 a matter of questioning, to eliciting an opinion instead of a fact.

6 MR ALTIT: (Interpretation) Very well. We will continue along this line of
7 questioning.

8 Q. Now, is this -- is this historical overview the result of true research? Do you
9 think a true research has been done in this particular case?

10 A. Yes.

11 Q. I would like to quote something to you from the Human Rights Watch website
12 and it sets out the methodology used by the organisation. Now, this is

13 CIV-D15-0004-1272, at page 1274, page 1274, and I quote:

14 "The purpose of initial stages of research is to develop in-depth exhaustive
15 information of the incident or the violation of human rights and to acquire a solid
16 understanding of the local realities and situation in which the incident occurred."

17 Now, the work that you've done here and the sources that you used, are they
18 sufficient to ensure solid understanding of the political backdrop within Côte d'Ivoire
19 at the time?

20 A. Human Rights Watch had worked in Côte d'Ivoire for over a decade at this
21 stage. The person with whom I was with during these two -- first two Abidjan
22 missions had overseen Human Rights Watch's work on West Africa throughout this
23 entire time. She, in fact, had been involved in the first report that Human Rights
24 Watch wrote on Côte d'Ivoire back in 2000.

25 So yes, as an organisation we had a decade of experience, understanding of the

1 context. We had worked in the period of the 2000 elections, in the period of the
2 conflict in 2002-2003 and the intervening period of that in advance of the 2010
3 elections, during the 2010 elections and had continued -- have continued to work
4 thereafter.

5 Q. You give over part of your report to the peace agreements signed between the
6 government and other parties between 2004 and 2007, CIV-OTP-0087-1369, page 1398
7 and onwards. I'm going to be putting some questions to you on the methodology
8 that you used in that part of the report on the peace agreements between the rebels
9 and the government authorities.

10 With regard to the Ouagadougou agreements in March 2007 it is written in your
11 report, and I quote, CIV-OTP-0087-1369, page 1399:

12 "Laurent Gbagbo postponed the elections on a number of occasions prétextant or
13 saying that the preconditions of the Ouagadougou agreements were not fulfilled."

14 My question is to you: Why did you use the term "prétextant" in French, which in
15 English would give alleging or giving as an excuse? Why did you use that term?

16 A. We were being particularly cautious in terms of how to frame it in terms of not
17 taking a position that one side or another had broken the peace agreement. That is
18 not the mandate of Human Rights Watch to determine if someone has broken a peace
19 agreement or not; our mandate is to focus on human rights violations by all parties to
20 a conflict. This is just providing a background into the context of Côte d'Ivoire.

21 Q. So according to your report -- according to your report, it was a pretext in effect.

22 A. What was a pretext?

23 Q. Notably, that he postponed on a number of occasions the elections, claiming
24 that the conditions under the Ouagadougou agreement were not fulfilled. You
25 know, the word "prétextant" in French, the word "claiming" says that you are basing

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1 yourself on something that is not true. You're claiming, you're saying something
2 basing it on something that is not true.

3 A. No, we were not taking a position one way or another. We were making the
4 claim that was out there. We were not taking a position as to whether the claim was
5 or was not legitimate.

6 MS PACK: Your Honours, just in fairness, just so it's on the record, but there's also
7 an English version of the report, and perhaps in fairness that should also be available
8 and read, and just to note the language that's used there, which is at page 0099 of the
9 English version, which is the report 0004-0072. And it's in that first paragraph on the
10 top of that page.

11 The language is slightly different to the way in which it's being translated back. So
12 I'm just making sure that that's clear and I leave it at that.

13 In fairness, I think the witness probably should be aware of the content of that
14 English --

15 PRESIDING JUDGE TARFUSSER: The language in English is "Gbagbo repeatedly
16 delayed elections on the ground that conditions outlined in the OPA were not met."
17 This is the part, just so we have it on the record.

18 MR ALTIT: (Interpretation) Yes, Mr President. We use the official version, the
19 French official version from Human Rights Watch.

20 Q. Anyway, my question is simple. You are giving an opinion here
21 about -- you're saying that he did not do what he should have done, are you not?

22 A. No. The English reads very clearly "on the grounds of," which means we're not
23 taking a position one way or another as to whether it was right or wrong, simply that
24 that was the stated basis.

25 Q. So in the footnote you go on to clarify, and I quote to you:

1 "The Ouagadougou agreement and its fourth additional agreement fixes the process
2 to be followed on 30 December 2008, the process to be followed in the future, and as a
3 precondition they request the disarmament of the militia and the Force Nouvelles and
4 the redeployment in the north under the control of the Forces Nouvelles."

5 The Ouagadougou agreement and its fourth additional agreement signed on the 30
6 December 2008 fixes the procedure to be followed before the elections. As a
7 precondition they, that is to say the agreements, require the disarmament and
8 demobilisation of the militia and the Forces Nouvelles and the complete
9 redeployment of the authorities of the state in the north.

10 And a little further on it is said or noted, "These conditions are still not fulfilled in
11 mid-2010." End of quote.

12 So that's what I do not understand. You explain here in a very clear manner that the
13 agreement was not respected by the rebels because, and you say so, as a precondition,
14 precondition means before execution, they are requesting the disarmament of the
15 militia and Forces Nouvelles, that means the rebels. So why in the body of the text
16 do you in the French version seem to put the blame on President Gbagbo and in the
17 English version you seem to be a little bit more balanced?

18 So a little further on you say what happened. And my question to you is you are a
19 legal man, you can see what the Ouagadougou agreements say, can you not? So
20 why -- and the succession or the sequence of events that it implies, so why do you not
21 clearly say this or state it in the body of the text?

22 A. First, again, I think the English, I'd have to look back at the French, but reflects
23 the nuance in which both sides felt that the other was responsible for the
24 Ouagadougou accords terms not being met in their entirety. And again, we spelled
25 out the details of it, as you yourself have noted, in the footnote. Our footnotes are

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1 part of our reports as well.

2 MS PACK: Your Honours, it's not an objection but just to say -- just to make things
3 perhaps easier for the witness and fairer, if there's going to be lots of questions of very
4 intricate parts of footnotes and so forth, they could -- the report could be shown on
5 the screen in English or French or both, perhaps technically.

6 PRESIDING JUDGE TARFUSSER: Thank you.

7 Please go ahead.

8 MR ALTIT: (Interpretation) I do thank you, Mr President.

9 PRESIDING JUDGE TARFUSSER: If the witness requested this, I think we could
10 grant it, but please go ahead.

11 MR ALTIT: (Interpretation)

12 Q. So let's move on to another subject. The elections of 2010 from a
13 methodological viewpoint, you gave over part of your report to an account of the
14 elections. In your opinion, according to you, that is at page CIV-OTP-0087-1369,
15 page 1399 and onwards. And I'm going to be putting a number of questions to you
16 on the methodology that you used for that part of the report.

17 For example, it is indicated in the report, and I'll provide you with the reference,
18 CIV-OTP-0087-1369, page 1400.

19 And maybe it might indeed be useful, Mr Courtroom Officer, for us to be able to
20 show this document to the witness on the screen.

21 MR ALTIT: (Microphone not activated)

22 THE INTERPRETER: Microphone, please, Counsel.

23 MR ALTIT: (Interpretation)

24 Q. So I quote -- could you please zoom in on the first paragraph, beginning with
25 the words "Le 2 décembre," "2 December."

1 So I'm going to be quoting this paragraph: "On 2 December, Youssouf Bakayoko,
2 president of the independent electoral -- election committee, the CEI, announced the
3 victory of Alassane Ouattara with 54.1 percent of votes." End of quote.

4 And you then refer us to a Reuters bulletin dated 3 December 2010 in your footnote.
5 So that's your source, is it not?

6 My question to you is: Did you conduct any personal research in order to
7 understand the Ivorian electoral system?

8 A. As part of general background, yes, but that is not a focus of Human Rights
9 Watch in terms of the work it's doing in a particular country. We are focused on
10 human rights violations again regardless of perpetrator. We don't take positions on
11 elections.

12 Q. Do you not think that it would have been necessary to conduct true legal
13 research to find the legal documents or tools underpinning this rather than relying on
14 a press agency?

15 PRESIDING JUDGE TARFUSSER: It's again an opinion. "Don't you think".

16 (Counsel confer)

17 MR ALTIT: (Interpretation) So, Mr President, you can see that we are reacting in
18 order to tell you what's what. And there is a true question here at hand. It is not an
19 opinion that we're asking here of the witness. I'm between a rock and a hard place
20 here. It's not an opinion that we are eliciting. It is a question of methodology.

21 What brings him to choose a certain methodological approach rather than another?
22 Why does he use a Reuters bulletin and why did he not conduct true research, true
23 legal research? Because my following question will, of course, have a bearing on the
24 result of what we believe to be a methodological aberration.

25 So my question here is not one of opinion, nor of credibility. We're not talking about

1 credibility here. The witness can draft his report as he sees fit. The question here
2 for us is to understand how he intended to draft it, his methodological logic, if you
3 like. Do you see what I'm getting at?

4 PRESIDING JUDGE TARFUSSER: I do understand it, I understood also before, but
5 why can't the question be: Why do you refer to Reuters and not to some other
6 source? This is a fact. If you ask what he thinks, then it is an opinion that he
7 expresses. It's just the way, how you -- the way of formulation of the question.

8 MR ALTIT: (Interpretation) Mr President, I'm going to go where you want me to,
9 no problem there, but with regard to this particular issue, I could have said: What
10 were your sources? But the source of the report or source mentioned in the report is
11 only this little Reuters bulletin. We can all get hold of it. So I don't think this
12 is -- the question here is why was it that source and not any other? But if you want
13 us to come a little bit further upstream to put to him the question of his sources, well,
14 he can only really answer the point in this regard because he's only cited this source
15 as the one he used.

16 PRESIDING JUDGE TARFUSSER: And you draw the conclusion you want to draw,
17 but that's it. I really don't understand because then all the rest is a conclusion which
18 you can draw and everybody can draw, but the fact is there is some news in the
19 report, something stated in the report and a footnote, which indicates the source.

20 MR ALTIT: (Interpretation)

21 Q. So with regard to this point, what is the source that you are mentioning here in
22 your report?

23 A. For this specific sentence? It comes from Reuters.

24 Q. Why were no other sources mentioned?

25 A. This was a fairly straightforward factual sentence about a percentage of votes

1 received according to a particular body.

2 Q. Did you know the legal provisions governing the elections, governing the
3 Ivorian elections?

4 A. This was not Human Rights Watch's focus. Was I aware from reading things?
5 Yes. But that is not, that is not our focus.

6 Q. So you talk about the independent electoral commission. Did you know, did
7 you know the scope of intervention of this commission and what it was authorised to
8 do and not authorised to do?

9 A. Again, this is not a focus of Human Rights Watch. We are a human rights
10 organisation whose work is rooted in the international human rights framework,
11 being the conventions that exist, as well as in a case of armed conflict, international
12 humanitarian law. What we work on is framed through that international human
13 rights framework.

14 Q. I'm going to read Article 2 to you of the law establishing the independent
15 electoral commission and it is item CIV -- or exhibit CIV-0021-1441. Article 2 says as
16 follows --

17 PRESIDING JUDGE TARFUSSER: Yes, but what has this to do -- the witness has
18 said he has nothing to do with the law but only with human rights issues. So I really
19 don't know where you would like to go.

20 MR ALTIT: (Interpretation) Yes, Mr President. The witness said in his
21 report -- Mr President, the witness said in his report, and I read this earlier, that "2
22 December, Youssouf Bakayoko, president of the CEI, announced the victory of
23 Alassane Ouattara with 54.1 percent of votes." It is very clear that this report has a
24 bearing on the incidents following the contested or challenged results.

25 The incidents -- and he says that on 2 December Youssouf Bakayoko announced the

1 victory of Alassane Ouattara, so this report is supposed to explain things and, as the
2 witness said to us yesterday, it is with a view to explaining to all the people that this
3 report was given to, political actors, et cetera, et cetera, this is very clear, he said this
4 to us yesterday.

5 I want to draw to your attention, the decision-makers, that this report has a
6 methodological shortcoming. If he does not tell us that the CEI was not authorised
7 to announce the victory of whomsoever, in the sense that they were not authorised, I
8 want to ask the witness, and it's a good thing he's listening to us, I just want to ask
9 him quite simply whether he was aware of the law that delineated the scope of
10 intervention of the CEI because, two things into one here, either he does know it and
11 then he should not say he just announced, he should say he announced despite the
12 legal provisions.

13 Or maybe he does not know it and then how can we give over responsibility without
14 knowing the raison d'être of this conflict, without knowing the legal framework as to
15 whom is right and who is wrong. It seems very interesting to me, Mr President, that
16 we read out this very simple text which is three lines in length in order to verify the
17 methodological approach because this approach or this lack of approach to our minds
18 has a very serious result with regard to the contents of the report.

19 A further word. I might put it differently. The question here is that of research.

20 We could put the question quite simply: Did the basic research that we believe here
21 was done in order to draft this report, was this basic research done and then we might
22 see that -- well, probably not.

23 PRESIDING JUDGE TARFUSSER: For sure you have 35 seconds to read out the
24 three lines, then we go for lunch. For our interest also.

25 MR ALTIT: (Interpretation) Shall I read it after the break? Because it will lead to

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1 a number of questions, of course.

2 PRESIDING JUDGE TARFUSSER: We have the break now and then we resume at
3 2.30.

4 THE COURT USHER: All rise.

5 (Recess taken at 12.59 a.m.)

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

7 THE COURT USHER: All rise.

8 Please be seated.

9 PRESIDING JUDGE TARFUSSER: Good afternoon.

10 And just for housekeeping reasons, after this witness we will restart on Tuesday, as
11 everybody has agreed.

12 And as far as the motion of the Defence of Mr Blé Goudé concerns, which has not yet
13 been filed, but we received a courtesy copy, we would like the submissions by Friday
14 close of business for all the parties who want to submit observations.

15 Maître Altit.

16 MR ALTIT: (Interpretation) Thank you, your Honour.

17 Q. Mr Wells, now, we had just begun discussing the act establishing the
18 independent electoral commission. I shall now read out article 2 of this particular
19 Act, CIV-OTP-0021-1441. The provision reads as follows, and I quote:

20 "The independent electoral commission shall be responsible for organising,
21 supervising and overseeing the holding of all elections and referenda, all elections
22 and referenda in compliance with legislation and regulations in force.

23 The role and responsibilities are as follows: Provisional or definitive proclamation of
24 the results, all election results, with the exception of the presidential election and a
25 referendum for which the definitive announcement of the results shall fall exclusively

1 within the authority of the Constitutional Council." End of quote.

2 "The Constitutional Council shall be responsible for announcing the results of the
3 presidential election."

4 Mr Wells, were you familiar with this provision?

5 A. Yes, I have read this.

6 Q. Thus, you knew that the independent electoral commission was not in a
7 position, could not announce the results of the presidential election; is that not so?

8 A. I think again you're fundamentally misunderstanding what we do as an
9 organisation. I think this line of questioning is getting at the question of --

10 Q. I beg your pardon. I beg your pardon. My question has been clear. My
11 question is clear. Perhaps we are not on the same wavelength, but I think the
12 question is quite clear and the answer is clear or should be clear.

13 Did you know, did you know that, since you have read the provision, the provision is
14 quite clear, these roles and responsibility include the announcement of all election
15 results, with the exception of a presidential election or a referendum? And you have
16 told us that you have looked at this provision. Did you know that the independent
17 electoral commission was not able to announce the results of the commission? Did
18 you know that or not? Yes or no?

19 A. I will begin again. Our work is not on elections. I think you are looking at the
20 question of a legality of an armed conflict. In Latin we would say *jus in bello*, right?
21 Our work is focused on what happens once a conflict begins, the legality of actions by
22 different parties in a given situations, human rights abuses, violations of international
23 humanitarian law.

24 The question of elections is not the focus of our work as a human rights organisation.

25 Q. Mr Wells, I think you've realised, you understand, you are a legal person, I

1 believe you understand the logic that underpins a court of justice. We are here just
2 to make an assessment, what weight should we attach to this report? We need to
3 make an assessment and, thus, we need items of information and, thus, we must put
4 questions to you. And we do hope to receive answers from you. I shall rephrase
5 my question.

6 Since you did review the legislative provision, why is it did you write in the report,
7 the report we're discussing here, why did you say that it was the task of the
8 independent electoral commission to announce the election results whereas the legal
9 provisions say the contrary?

10 A. The report does not say whose task it is. It presents a very simple fact in terms
11 of an announcement that was made. It then goes on to present facts related to what
12 the Constitutional Court said about that. Again, we were not focused on the
13 specifics of the elections. We were focused on human rights violations in the context
14 of the post-election crisis.

15 Q. Mr Wells, you're speaking of a fact. You speak of a fact. But your report, I've
16 quoted from it once already, "On 2 December, Youssouf Bakayoko, president of the
17 Independent Electoral Commission, announced the victory of Mr Ouattara with
18 54.3 percent of the results." You describe that event as a fact. What is the reader to
19 make of this? It would appear that the body responsible for making the
20 announcement made the announcement. But you say nothing about the legislative
21 provision which says that it is not the electoral commission that is supposed to make
22 such an announcement. So why did you provide this, why did you give this
23 particular event this particular spin?

24 A. Again, that was the fact of what the electoral commission did. And if you read
25 the remainder of the paragraph, we also talk about what the Constitutional Court did.

1 Again though this is not the focus of our work. The focus of our work is on the
2 violations of human rights committed by both sides.

3 What you're getting at is what caused the conflict. That is not a question that as an
4 organisation Human Rights Watch takes a position on. We -- in order to maintain
5 our neutrality, our impartiality, we look at what happens in the course of the conflict
6 or in the post-election crisis more generally.

7 Q. Yes, I've understood that. But aren't you supposed to be presenting things
8 neutrally? Aren't you supposed to be giving readers all items of information?
9 Now, why didn't you say that the constitutional committee or court made no
10 announcement? That would have been a neutral report.

11 Now, if you don't mind --

12 PRESIDING JUDGE TARFUSSER: But this is now a hidden final statement, I would
13 say. Now, I think the Chamber has perfectly understood what -- where the Defence
14 wants to go. I think we should move on.

15 MR ALTIT: (Interpretation)

16 Q. Mr Wells, now since we are discussing methodology, let us return to the issue of
17 the methods you used. I'd like to read from the Human Rights Watch website and
18 its methods. This is CIV-D15-0004-1272, page 1275, and I quote:

19 "In addition to preliminary exchanges of information with contacts, researchers also
20 conduct exhaustive research before beginning interviews with victims or witnesses.
21 They look at international humanitarian law and international human rights law.
22 They look at the local or domestic law, information provided by the UN or other
23 organisations of an international scope, police reports, universities, academic reports
24 and so on and so forth in order to better understand the situation and the context of
25 this particular situation."

1 So, Mr Wells, so it was your professional obligation to do that research on previous
2 law or local law to use the very wording of Human Rights Watch, wasn't that your
3 duty?

4 A. Again I think you're misreading what the website is actually getting to in terms
5 of our research methodology. When it's talking about local or national law, that is as
6 it relates to human rights issues. For us the question of election law is not part of
7 what we work on as an organisation. So we are -- we often cite local law in terms of,
8 say, the penal code, criminal laws that exist that reflect international human rights
9 norms or international humanitarian law. But in terms of electioneering law, well,
10 yes, we were -- we were aware of these provisions, I knew of these provisions, it is not
11 part of what our mandate is in terms of working on.

12 Q. And that's what I'm not understanding. So through these reports and press
13 releases, throughout the world we hear talk about elections here or there that did not
14 go well, that were not democratic, were not freely held, that sort of thing, or that
15 despots had kept the people from making their views known. Isn't that what
16 defending human rights is all about?

17 But you seem to be telling us that you are not interested in the legal provisions, the
18 national legal provisions, and you do not make mention of them to -- I'm not so sure
19 that I have really understood what you've been saying. In a way one might think
20 that you're telling us that the right to democracy and freely held elections, the right
21 to -- well, the upholding of the constitution itself, the rule of law, all of that is not part
22 of international human rights law, is that what you're telling us? What have you to
23 say?

24 MS PACK: Your Honour, there's a few questions in there. And it is really difficult
25 in my submission for the witness to be able to answer such a very long exposition

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1 with a couple of questions within.

2 PRESIDING JUDGE TARFUSSER: I think the witness is very well capable to do so.

3 I think just that it is more a statement than a question.

4 I think you should just put questions and answers and not draw conclusions

5 on -- anticipated conclusions.

6 MR ALTIT: (Interpretation)

7 Q. Unless I'm mistaken, Mr Wells, there is nothing in your report that has to do

8 with the conditions under which the leader of the electoral commission made the

9 announcement. You made no mention of the conditions in which the announcement

10 was made.

11 A. Again, our focus as a human rights organisation was on human rights violations

12 committed by both sides during the course of the post-election crisis.

13 Q. I'd now like to play a video for you, CIV-D15-0001-0577, time code 36.17 to

14 37.30.

15 MS PACK: Your Honour, just to say before it's played that the Prosecution didn't

16 get any timestamps when we got the list of material. So it's very difficult, were there

17 to be an objection on the basis of foundation, I just -- I can't advance it at the moment

18 because I don't know what's being played.

19 (Viewing of the video excerpt)

20 MR ALTIT: (Interpretation)

21 Q. Mr Wells, do you recognize the person in this footage?

22 A. Which person? There were many people in the footage.

23 Q. The person who is speaking, the person at the centre of the footage, the person

24 about which the footage -- that the footage focuses on.

25 A. I believe the person speaking was the journalist from France 24.

1 Q. You don't recognize anyone else here on this particular image?

2 A. Yes, I believe so.

3 Q. Don't hesitate to tell us who it is.

4 A. I believe that's Mr Bakayoko.

5 Q. Mr Bakayoko. So you told us a few moments ago, regarding the
6 announcement, and I quote, page 71, lines 11 and 12, quote:

7 "It was a fact, a fact that the electoral commission did that." End of quote.

8 You remember saying that?

9 A. Yes, I also remember at the bottom of the screen of the video we just watched, it
10 said the exact same thing.

11 Q. So my question to you is this: You presented this item as a fact that the
12 electoral commission had made this announcement, but I only see Mr Bakayoko. So
13 my question is this: Do you know whether Mr Bakayoko made the announcement
14 knowingly, with the full knowledge of the other members of the electoral
15 commission?

16 A. I have read media reports, yes. I was not personally there.

17 Q. Do you see him alone or surrounded by other members of the electoral
18 commission in this footage?

19 A. He's alone in this image, though it would be difficult to fit other members of the
20 electoral commission in this image.

21 Q. Do you know when the announcement was made -- correction, where the
22 announcement was made?

23 A. The reporter said so in the piece, at the Golf hotel.

24 Q. And you've just learned this today, you didn't know that beforehand?

25 A. I was not physically present at the time. I have read it in media reports.

1 Q. As a human rights defender and advocate, if I understand correctly, you didn't
2 think it was particularly relevant from a methodological point of view that the results
3 of the presidential election were -- well, to say that the announcement of the results
4 was made at the campaign headquarters of one of the candidates escorted by and
5 accompanied by soldiers; is that what you're saying? Is that correct?

6 A. It was not relevant to the crimes we committed or crimes we documented
7 throughout the conflict. Whether or how the elections were announced does not
8 impact the legality of an armed force committing a summary execution or committing
9 torture or committing sexual violence. So no, it was not relevant to the human rights
10 violations that we documented throughout the conflict.

11 Q. Allow me to provide another example. In your report we read, page
12 CIV-OTP -- page 1400 that Paul Yao, Paul Yao N'Dre was, I quote, "President of the
13 Constitutional Council and a close ally of Mr Gbagbo." End of quote.
14 So my question is this: Why did you specify that this person was closely linked to
15 Mr Laurent Gbagbo?

16 A. It was -- it seemed relevant.

17 Q. Very well. And what is the political affiliation of Mr Bakayoko?

18 A. I don't know.

19 Q. And that's not relevant?

20 A. I don't know it, so I can't say it.

21 Q. So you are telling us that in your report you provided some information that
22 you had at hand, but you didn't attempt to find other information that would have
23 allowed you to provide a proper perspective? Do you see what I'm driving at?

24 A. We read information from both sides. In this particular case, the affiliation of
25 one individual was very clear through consistent reporting. I did not see the same

1 for the other individual, which would be the difference in terms of its presentation.

2 Q. You didn't know that Mr Bakayoko was a close ally of Mr Ouattara.

3 Allow me to ask you a question about your research and methodology. Why would
4 you call one a close ally and not do the research to describe the other? Isn't there a
5 problem with parallel structure here, so to speak?

6 A. It was based on the research that we had done at the time, again looking at
7 sources related to all sides, and so that was the best of the knowledge that we had at
8 the time.

9 Q. I'm asking you the question on the methodology. Why did you not carry out
10 the research that would provide the proper answers to you? Why did you not ask
11 the right questions?

12 A. Again, we read a wide range of newspaper in Côte d'Ivoire from both sides.
13 We spoke with people from both sides in Côte d'Ivoire. So we always sought out
14 information in an impartial and neutral way from people from both sides and, of
15 course, from people who were not affiliated with one side or the other.

16 Q. Let me take another example, it is indicated in your report, page 1400, and I
17 quote:

18 "The Constitutional Council annulled hundreds of thousands of votes from regions in
19 the north which massively supported Mr Ouattara claiming that there were several
20 irregularities." End of quote.

21 Mr Wells, you have talked of alleged irregularities, and yet there is no source or
22 footnote referring to that statement in your report. So what did you rely on?

23 A. This was in widespread media at the time as well as through our personal
24 interactions with people in Côte d'Ivoire. It was a well-known fact that there -- that
25 Mr Gbagbo had alleged irregularities. Again, as I've said numerous times, we

1 ourselves are not election monitors, so we could not ourselves say whether or not
2 there were irregularities, which is why we said "alleged."

3 Q. Mr Wells, did you question or interview election observers? I understand that
4 you were not an election observer, but did you interview any of those people?

5 A. We read the reports that were produced by election observers, the public
6 statements by election observers. Again, the elections were not the focus of our
7 work in any way. Our work is based off of what happened after the elections, the
8 human rights violations committed by both sides.

9 Q. Now I will show you a video excerpt, and it is CIV-D15-0004-1155, time code
10 from the beginning to 2.15.

11 (Viewing of the video excerpt)

12 MR ALTIT: (Interpretation)

13 Q. Mr Wells, you have seen the footage. The irregularities referred to by this
14 person, according to him, took place in which part of the country, north or south?

15 A. The north.

16 Q. The north. Now, these images are public. Have you seen them before, or
17 have you seen similar footage denouncing irregularities and violence in the north
18 during the second round of the presidential elections?

19 A. I don't recall if I saw this specific release or reporting. Yes, I saw reporting of
20 alleged irregularities in the north as well as in the west and in Abidjan, I believe.
21 Again, this was not a focus of our work. We read as much as we could of what was
22 coming out in terms of publications at the time, but the elections themselves were not
23 a focus of our work.

24 Q. I will take one last example on this item of elections in relation to the
25 methodology. It is indicated in your report, page 1400, and I quote:

1 "On 3 December, in accordance with the procedures of resolution 1765 of the Security
2 Council of the United Nations, the political accords signed by the protagonists in the
3 conflict, the special representative of the secretary general for Côte d'Ivoire, Choi
4 Young-Jin, confirmed the results of the electoral commission proclaiming
5 Alassane Ouattara as the victor ..." and I repeat, "... the special representative of the
6 secretary general of the United Nations of Côte d'Ivoire, Choi Young-Jin confirmed
7 the results given by the electoral commission proclaiming Mr Ouattara as the victor."

8 So I'm not coming back to this issue of what you think about this proclamation, I'm
9 asking you whether you have read the contents of the resolutions of the United
10 Nations number 1765, which was signed on this issue on 30 March 2011?

11 A. I imagine I did so. I believe this footnote is specifically to the SRSG's -- a
12 writing by the SRSG at the time. That's what we were referencing.

13 Q. I would like you to read out paragraph 6 of this resolution.

14 And for the court officer the reference is as follows, CIV-D15-0001-5537, page 5538
15 and 5539. Can those pages be displayed on the screen, please?

16 Mr Wells, can you read paragraph 6 of this resolution? Can you see where it is?

17 A. Yes.

18 Q. Can you read it out to us, please?

19 A. (Interpretation) "Decides to put an end to the mandate of the high
20 representative for the elections and decides as a result that the special representative
21 of the secretary general in Côte d'Ivoire will certify that all the various stages of the
22 electoral process ..."

23 Q. You're quite correct, we have to move to the next page.

24 A. (Interpretation) "... all the necessary guarantees for the holding of the
25 presidential and legislative elections that should be free, fair and transparent in

1 accordance with international standards and urges the secretary general to take all the
2 necessary measures so that the special representative should have a support unit to
3 provide all the necessary assistance for him to carry out his mission."

4 PRESIDING JUDGE TARFUSSER: Excuse me. If this was a hidden exam, French
5 exam, he did it.

6 MR ALTIT: (Interpretation) No. I think, Mr President, he at least, he certainly has
7 the average, he has scored an average mark. But that was not the idea, the idea was
8 to put to him a question.

9 Q. Mr Wells, can you indicate to us where it is stated in this excerpt that the
10 Security Council would have given the special representative of the UN for
11 Côte d'Ivoire a mission to confirm the results of the presidential elections?

12 A. As cited in the release and the footnote in the report, the special representative
13 certainly took the initiative, believed that the mandate was there and the UN certainly
14 endorsed that publicly throughout the crisis.

15 Q. Mr Wells, when you read this text, as you have just read, one can say that it was
16 not up to the special representative to confirm or certify the results of the elections,
17 isn't that so?

18 A. That is not up to me to decide. I don't think I'm here as a legal scholar on
19 election law.

20 Q. That may be so, but you have drafted a report and there are consequences.
21 And readers of those reports, and those are usually authorities, take decisions based
22 on what they read. So it is important what you and the other members of your
23 organisation write. You contribute in determining or saying who is responsible or
24 who is not responsible.

25 So my question to you: Why is it that in your report you stated that the special

1 representative certified the elections on the basis of these resolution? I'm not asking
2 you to analyse the report or the resolution, but why would you state anything that
3 obviously does not correspond to the applicable law? Why?

4 A. We said it because, according to my understanding and certainly many others'
5 understanding, is this is exactly what the SRSG did, which is why we cited the SRSG's
6 special representative, his -- what he wrote at this time. So, again, this was a fact
7 based off of what the SRSG did. You're going to whether that was a correct or
8 incorrect decision on his part. We don't take a position on that. I'm merely stating
9 what the SRSG did.

10 Q. What I really have difficulty understanding is precisely that, because there is
11 this will that you have talked about to have a balanced view of things. A short while
12 ago you told us that all the reports, all your reports were re-read by the legal unit, and
13 you have read the resolution which is contrary to your report, and you say that you
14 were familiar with that report. So what does the legal unit do in circumstances such
15 as this?

16 A. As I have said on a number of occasions, we work within the framework of
17 international human rights and international humanitarian law.
18 When the legal policy division review reports, they are reviewing them within the
19 framework of international human rights law and international humanitarian law.
20 We are not an organisation that works on election monitoring or election law.

21 Q. Now we are going to move on to something else, another methodological
22 aspect.

23 Mr Wells, can you describe to us the methodology that you followed to identify the
24 persons.

25 It looks like there are some workmen working behind somewhere, your Honours.

1 PRESIDING JUDGE TARFUSSER: Well, they should work after 4 o'clock I would
2 say. Thank you.

3 MR ALTIT: (Interpretation) I shall proceed.

4 Q. My question to you is as follows: Can you describe to us the methodology that
5 you used to identify the people who, according to you, and I quote your report,
6 CIV-OTP-00 --

7 PRESIDING JUDGE TARFUSSER: We can't work like this. We can't work like this.
8 Just we have to --

9 THE INTERPRETER: Message from the interpreters: We believe the repairs or the
10 construction is on the eighth floor, one floor above us. Perhaps the courtroom officer
11 could contact whoever is in charge of the works being done.

12 PRESIDING JUDGE TARFUSSER: Yes. Now it seems that it comes from upstairs,
13 so I thought it was here. We'll try again.

14 FMU is taking care of it and probably they will stop in a minute, but we proceed.

15 Thank you.

16 MR ALTIT: (Interpretation)

17 Q. Let me begin again. Can you describe to us the methodology that you used to
18 identify the people who according to you are, and I quote your report, page 1493, and
19 I quote, "the main actors involved." End of quote.

20 Did you understand the question?

21 A. For how we came to speak of these particular people; is that the question?

22 Q. Yes, that's correct.

23 A. Some of them were different. Some of them were related to, say, command
24 responsibility. I still don't have the page up, so sorry, I'm going a bit blind here.

25 But some of them were based off of command responsibility. Some of them were

1 based off of people that we had implicated in specific orders.

2 Now, the basis for naming certain people was first off of the large number of
3 testimonies that we took on the ground with, again, direct victims, direct witnesses,
4 so compiling testimony evidence that were often corroborated by our visits to sites to,
5 as we talked about earlier, looking at wounds that people had.

6 In addition, when it came to naming certain people, it was based off of their particular
7 role in the security forces, statements that had been made publicly, other information
8 that we believed gave reason to believe that they had some responsibility for things
9 that happened during the conflict.

10 And any time we named someone in this manner, there is always a long conversation
11 with, again, our legal and policy department to determine the basis on which we're
12 naming someone and whether there is sufficient evidence, both direct and related to
13 command responsibility, in order to do so.

14 Q. Mr Wells, in your report on Laurent Gbagbo you said that he should be held
15 responsible for crimes because of the main reason that he was a commander in chief
16 of the army and that the crimes are alleged to have been committed by soldiers, and
17 he did not denounce those crimes, nor did he take any measures to put an end to
18 these incidents on the other hand. And this is page 1493 and 1494.

19 But when you drew up a list of those who, according to you, are the most senior
20 authorities, and I quote you, "in the Ouattara camp," you do not mention either
21 Alassane Ouattara or Guillaume Soro.

22 You denounce rebel chiefs such as Fofana Losseni, Chérif Ousmane and Ousmane
23 Coulibaly, who allegedly all perpetrated crimes as rebel leaders of the Forces
24 Nouvelles and all of whom were promoted by Alassane Ouattara after the victory.

25 And this is on page 1948.

1 So my question: Can you explain to us why you did not apply the same standards to
2 Laurent Gbagbo on the one hand and to Alassane Ouattara on the other hand without
3 mentioning Guillaume Soro? And why is it that you did not state clearly that we
4 hold Alassane Ouattara and Guillaume Soro responsible?

5 A. We did hold them to the same standard. In both cases it was based off of the
6 evidence that we had available to us. One of the key differences that I saw and that
7 we as an organisation saw in terms of comparing Mr Gbagbo, Mr Ouattara was the
8 incitement to violence by people close around Mr Gbagbo, including, as we discussed
9 yesterday, the speech on February 25th by Mr Blé Goudé, amongst many other
10 speeches, that we believed at the time were similar in terms of inciting violence
11 against perceived Ouattara supporters, including West African immigrants and
12 northern Ivorians. And so we saw a clear distinction between the two in terms of the
13 evidence that we had.

14 PRESIDING JUDGE TARFUSSER: Should we now really dwell with this witness
15 into questions about the criminal responsibility? I guess, you asked that this be
16 excluded, we did exclude it and now it's you going into this. I have some -- I do not
17 understand why you go into things which we try to exclude in order to keep it on a
18 fact basis, so.

19 MR ALTIT: (Interpretation) Yes, it is quite clear, your Honour, but it is not about
20 criminal responsibility of -- or, any other responsibility, we are dealing here with
21 methodology and what appears to us to be double standards. That is what we are
22 trying to understand. This is an example on the allegations made against one person
23 or the other, but we are dealing exclusively with the methodological aspect here.

24 Q. Now, I will take another example: You devote a part of your report, Mr Wells,
25 to what you refer to as, and it is page 1421 "Incitement to violence by the Gbagbo

1 camp." End of quote.

2 And I would like to briefly touch on your methodology with regard to this part of the
3 report.

4 One of the few examples in your report relating to incitement to violence is a press
5 conference of the government spokesperson, Ahoua Don Mello, on 11 March 2011,
6 and this is page 1423. But in your statement to the OTP you stated, at page 2935, and
7 I quote you:

8 "I do not remember, I do not remember having seen any specific speech inciting
9 violence made by this person during the time of violence." End of quote.

10 Now, in your report you refer, you make a serious statement about a video footage
11 without having seen it; is that correct?

12 A. It was widely reported on at the time.

13 Q. Did you see the video at the time?

14 A. I don't recall, but I read lots of press coverage in which it was quoted at length.
15 And as we discussed yesterday, I watched a number of broadcasts during the conflict,
16 so I would certainly disagree with part of your statement before that this was, you
17 know, a disproportionate part of how we came to this conclusion. We watched the
18 television, RTI repeatedly, we monitored newspapers linked to both sides and so this
19 was one of many examples that built up over time and that also were considered in
20 the particular context; for example, after Mr Blé Goudé's speech on the 25th, we
21 documented a major peak in violence against supporters of Mr Ouattara where they
22 were stopped at checkpoints and killed in following days.

23 Q. Thank you. Thank you.

24 Now, if you don't mind we are trying to move ahead you and I. If you could restrict
25 yourself to answering my questions.

1 I will take another example now: In your report, page 1421, you say that -- well,
2 another one of your examples you mention a broadcast by RTI in which the
3 announcer smiles when giving an account of the death of rebels subsequent to an
4 encounter with the SDS. That is an example, according to you, of incitement to
5 commit violence. Did you actually view this video?

6 A. I believe you're also reading just a part of it and missing a large part of it in
7 terms of what was said after he smiled, in particular, so I think the -- the full context is
8 probably needed in order to understand why we felt a certain way about the
9 statement.

10 Q. I take note of your reply as you have provided it to us. But all the same, in
11 terms of methodology, if I understand what you're saying, you think that the weight
12 of an item of information provided by a news agency, a newspaper, or what have you,
13 should be given the same weight as information that you have gleaned yourself; is
14 that the case, is that the correct?

15 A. No, they help corroborate things that we had seen ourselves, they help provide
16 additional detail to broadcasts that we had seen. We would not have come to
17 conclusions based solely off third party accounts, but they provide additional
18 corroboration.

19 Q. I'm sorry, I'm not quite getting it. You speak of corroborating something, but
20 what are your sources? You didn't watch the footage yourself so what can you
21 corroborate?

22 A. What I was saying, and I'm sorry if it was unclear, is that we watched a number
23 of broadcasts ourselves, we saw a consistent pattern of incitement to violence during
24 the course of these broadcasts.

25 In addition, there was additional reporting that corroborated what we were seeing

1 ourselves and that we make reference to in addition to what we saw ourselves.

2 Q. Well, we will move on to another point, and this has to do with the march upon
3 the RTI station.

4 Now, when we read your report, regarding this particular event, it would appear that
5 you only got information from pro-Ouattara demonstrators. Why did you not speak
6 to the authorities as well?

7 A. We didn't simply speak with pro-Ouattara demonstrators. I met with
8 pro-Gbagbo supporters during that first mission in January. I met with local civil
9 society organisations and journalists that lean in both directions in Côte d'Ivoire, so
10 the -- what we say about the march is not simply related to pro-Ouattara
11 demonstrators.

12 I also would ask if I could, Mr President, that, your Honour, in terms of trying to
13 figure out the balance here in answering these questions between people that we
14 spoke with, which seems exactly what he is getting at and which I was told yesterday
15 I could not speak to.

16 Q. Mr Wells --

17 MS PACK: Your Honour, the witness makes a very fair point. And in fact, it was
18 my responsibility to have stood up earlier and to make the point for him, but I tried to
19 constrain him very clearly yesterday in terms of what sort of answers he was able to
20 give and the limits and parameters of his testimony.

21 So, as I understand it now, he's being asked to exceed those parameters by my friend
22 and to opine and to give factual conclusions.

23 I don't know whether it is sought to thereby open the door to now a lengthened, a
24 long examination on factual findings and, dare I say it, re-examination on factual
25 findings because it would seem to us that there is -- there seems to be a change in the

1 posture of the Defence, certainly my friend in terms of what evidence this witness is
2 able to give.

3 PRESIDING JUDGE TARFUSSER: Well, I'm just trying -- I tried, maybe not
4 sufficiently, to address or to invite the Defence to address fact, question about facts
5 and not opinions. Of course I can't and I don't want to interrupt continuously, but I
6 think we have to go to facts and not opinions. And always when you ask what do
7 you think and what's your opinion, it is an opinion you're asking and not a fact. So I
8 think we have to stick on facts and I will -- I invite you to do so.
9 By the way, you have -- when we finish at 4, you have by far exceeded the time which
10 was taken by the OTP yesterday. I can tell you, we have the exact -- please, go
11 ahead.

12 MR ALTIT: (Interpretation) Thank you, your Honour. Regarding the scope, it's a
13 matter of determining, and this is the question I was putting, it's a matter of
14 determining whether the witness had spoken to people on each side, it's a matter of
15 methodology to asking him what he want -- what he thought or his opinion, no, I am
16 asking him what he did, but I do understand the point. I will stick to the facts.
17 As for the time, I do hope to be in a position to reassure you, your Honour, that I will
18 have finished by 4. Perhaps I may have a little bit of time -- I may need a little bit of
19 additional time and I do hope that you will provide some leave, some leeway, and if it
20 would be the case it would not be very much.

21 PRESIDING JUDGE TARFUSSER: I just wanted to say that I think we are in the
22 same courtroom, we hear the same person speaking and I heard him, the witness, say
23 several times that he spoke with both sides. So just for the first part of what you said.
24 But I don't want to interrupt you, I just want to ask you to continue.

25 MR ALTIT: (Interpretation)

1 Q. Mr Wells, regarding this incident, did you do any research into the behaviour of
2 the New Forces or the rebels themselves on the day of the march?

3 A. In terms of what specifically? Yes. The short answer is yes.

4 Q. Fine. What sort of information did you try to get about the behaviour of the
5 New Forces on the day of the march?

6 A. Whether they had left the area around the Golf hotel in order to -- to be at areas
7 where we then documented violence between -- or I would say the suppression of the
8 demonstrators by the security forces, so the question was whether members of the
9 Forces Nouvelles or other fighters, they wouldn't have to be just the Forces Nouvelles,
10 were part of where we saw the -- or, we documented the violent suppression of
11 demonstrations.

12 Q. I'd like to play some video footage for you, CIV-OTP-0064-0101, time code 32.48
13 to 33.38.

14 (Viewing of the video excerpt)

15 MR ALTIT: (Interpretation)

16 Q. You saw the video footage?

17 A. Yes.

18 Q. Do you recognize anyone on the image?

19 A. Several people, yes.

20 Q. Could you say who? Could you tell us who you recognized?

21 A. Guillaume Soro and Issiaka Ouattara, better known by his nom de guerre,
22 Wattao.

23 Q. Have you seen this before?

24 A. Yes.

25 Q. My question: Why didn't you use these sources? Why didn't you use the

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1 information provided for the drafting of your report?

2 A. Our work was based off of what happened on the ground that day at particular
3 places where security forces and demonstrators met. Our work is not about what
4 was said in advance of this demonstration, it was about what actually happened that
5 day.

6 Q. You told us during your testimony that you were monitoring domestic and
7 international media that were covering the situation in Côte d'Ivoire, including
8 Associated Press. This is the French transcript of the 17th, page 42, lines 18 to 22.
9 I'm going to show some photographs to you. Now, the first series includes two
10 photographs, reference CIV-D15-0004-1335, then D15-0004-1336.

11 THE COURT OFFICER: (Interpretation) Your Honour, with your leave, could
12 counsel kindly repeat the reference numbers. It would appear that they were not
13 understood or --

14 THE INTERPRETER: Overlapping.

15 MR ALTIT: (Interpretation) Of course. Now the first two photograph,
16 CIV-D15-0004-1335, the following CIV-D15-0004-1336. And, courtroom officer,
17 could you be so kind as to focus on the second image after you initially display the
18 first.

19 We could show them differently just to gain some time.

20 THE COURT OFFICER: The picture ending in 1335 is being shown at this moment.
21 And the picture ending in 1336 will be displayed shortly.

22 PRESIDING JUDGE TARFUSSER: I can see it. Can the witness?

23 THE WITNESS: Yes.

24 PRESIDING JUDGE TARFUSSER: Okay.

25 MR ALTIT: (Interpretation)

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1 Q. Could you be so kind, sir, as to read the text relating to the photograph just
2 beside it.

3 A. The entire extract or a specific part?

4 Q. No. Please start just where you left off.

5 PRESIDING JUDGE TARFUSSER: Start where? What? We didn't get. Start?

6 MR ALTIT: (Interpretation) At the beginning of the text, the text having to do with
7 the photograph. We can't quite see it here. If you could scroll down.

8 PRESIDING JUDGE TARFUSSER: Well, the text is in English. Ivory Coast, this
9 one?

10 MR ALTIT: (Interpretation) Yes, yes.

11 PRESIDING JUDGE TARFUSSER: Okay. Please.

12 MR ALTIT: (Interpretation)

13 Q. Yes, the sentence beginning with "Rebel soldiers."

14 A. It reads:

15 "Rebel soldiers loyal to Ivory Coast opposition leader Alassane Ouattara, the widely
16 recognized winner of an election that millions once hoped would reunite the
17 West African nation, advance towards government soldiers in Abidjan, Ivory Coast,
18 Thursday December 16, 2010. Gunfire and explosions shook Ivory Coast's main city
19 Thursday as supporters and security forces loyal to the two men claiming to be
20 president clashed in the streets, killing at least 15 people and bolstering fears the
21 world's top cocoa producer is teetering on the edge of another civil war."

22 PRESIDING JUDGE TARFUSSER: And the witness is fit also in the reading test.

23 MR ALTIT: (Interpretation) Thank you.

24 Thank you. Could we please -- could we have the photograph in the centre of the
25 screen once again.

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1 Q. Can you see the photograph?

2 A. Yes.

3 Q. Can you tell us who the people are who are behind the armed men?

4 A. Without context, no.

5 MS PACK: Your Honour, I don't know where any more questions on this photo can
6 go. There's no clarity over where the photo is taken, anything.

7 PRESIDING JUDGE TARFUSSER: I don't know either, but I am waiting.

8 MR ALTIT: (Interpretation) It's actually quite simple. The witness had told us
9 that he had spoken to people who had taken part in the march. Is that not so? And
10 according to Reuters these were participants, people taking part in the march. The
11 witness tells us that he trusts Reuters entirely. Reuters is one of their source. Yes,
12 he has said so, not necessarily, but he has said so at least for one particular aspect,
13 thus the question is as follows: Did he have knowledge of the presence of armed
14 men during the march, during the march of 16 December 2011?

15 MS PACK: I --

16 PRESIDING JUDGE TARFUSSER: I think - excuse me - no, but the witness -- was
17 the witness present that day? Where was it taken? We don't know if this photo
18 was taken on 16 December or 16 December of 10 years before or 10 years after. We
19 don't know.

20 MR ALTIT: (Interpretation) Your Honour, the witness has written all kinds of
21 reports, he has told us that he has prepared a report on the basis of questioning of
22 participants in the march, he has taken a particular viewpoint.

23 Unless I'm mistaken, he has not made mention of armed men, no mention of
24 pro-Ouattara armed men, so we are asking him about his methods. Did he go out
25 and get all the information? Did he look for photographs such as the one that we are

1 looking at right now? Did he look for all useful information regarding the drafting
2 of the report?

3 And a few moments ago he said that he was monitoring international news, RTI,
4 press dispatches. This photograph, such as others, was available everywhere. So
5 my question is about the methodology, why did he not use from a -- why did he not
6 use such photographs.

7 PRESIDING JUDGE TARFUSSER: The question was if he knows the people behind
8 there, which are behind the armed people. This was the question, the first question
9 you posed.

10 MS PACK: Your Honour, the --

11 PRESIDING JUDGE TARFUSSER: But the -- I mean, was he present when this
12 photo was taken? How should he know? Why should he know? Maybe he
13 knows, I don't know, but I think there is something missing in this question.

14 MS PACK: Your Honour, I would say no foundation established. There's no basis,
15 no basis for questioning on this. I don't understand why the questioning has
16 continued because there's no basis for any questioning of this photo of an armed man
17 somewhere.

18 MR ALTIT: (Interpretation) Thank you. The witness has told us that he did all
19 possible research, all research that you can think of. I'm asking a very interesting
20 question about his methodology. My question is did he find these photographs, if so
21 why did he not use them? It's a question that has to do with his methodology
22 because that could have had an impact on the way he drafted his report. So what
23 kind of research was done? Do you see what I'm driving at?

24 PRESIDING JUDGE TARFUSSER: Please go ahead for 4 minutes, four.

25 MR ALTIT: (Interpretation) In 4 minutes it will be a bit -- a bit tight.

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1 Q. I put the question to you once again, I'll try to make it fast. I apologise in
2 advance, you can interrupt if the question doesn't seem to be logical.

3 Now, you saw these photographs, you told us that you had looked for a great many
4 sources of documentary information, you did not find such photographs, so I -- I
5 don't think you made any mention of pro-Ouattara armed men during the march, so
6 why is it, why didn't you use the information that was available to you and to the
7 general public?

8 A. To your question as to whether we spoke of armed men I think that gets to the
9 heart of our factual findings on December 16th, which I am more than happy to go
10 into if you would like to. I have been told I wasn't supposed to.

11 That being said, yes, in our report and otherwise we spoke in particular of a person
12 who was killed by people as part of the demonstration that day, of a member of the
13 security forces, the pro-Gbagbo security forces that was killed that day.

14 So our public work does mention that just as it mentions that there was a violent
15 suppression of demonstrators by pro-Gbagbo forces in places like Carrefour de la Vie,
16 at places like the NTN and BMW restaurant in Deux Plateaux, at places like the
17 bridge that leads from Treichville into Plateau. We documented the use of firearms,
18 of grenades by security forces against unarmed demonstrators that day.

19 Q. Thank you.

20 MR ALTIT: (Interpretation) Your Honour, if you don't mind, in the remaining
21 three minutes could we go into private session? It has nothing to do with the
22 witness, but is to deal with another point; namely, an application made by the
23 Prosecution. And I was wondering if we could have about 10 minutes tomorrow to
24 finish off with this particular witness?

25 PRESIDING JUDGE TARFUSSER: You mean go in private session now and -- or

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1 before?

2 MR ALTIT: (Interpretation) Yes, but with something to do -- that has nothing to do
3 with the witness, it's more of a procedural point. Only three minutes. It has to do
4 with an application by the Prosecution.

5 PRESIDING JUDGE TARFUSSER: So the witness can go for the rest -- to have a rest,
6 not for the rest of the time, to have a rest until tomorrow.

7 THE WITNESS: Thank you, your Honour.

8 PRESIDING JUDGE TARFUSSER: And I hope your 10 minutes are the same 10
9 minutes as for the OTP today. So I grant the 10 minutes hoping they're the same.
10 Then we go in private session, please.

11 (Private session at 4.00 p.m.)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (The hearing ends in private session at 4.02 p.m.)