

Trial Hearing
UGA-OTP-P-0422

(Open Session)

ICC-01/04-02/06

1 International Criminal Court

2 Trial Chamber IX

3 Situation: Republic of Uganda

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

5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Raul Pangalangan

6 Trial Hearing - Courtroom 3

7 Tuesday, 17 January 2017

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

9 THE COURT USHER: [9:30:41] All rise.

10 The International Criminal Court is now in session.

11 PRESIDING JUDGE SCHMITT: [9:30:57] Good morning. I see that Professor

12 Allen is ready to continue and I assume that the Defence also is ready to continue, so

13 the Defence has the word.

14 But before that the courtroom officer will call the case and then we will shortly say

15 who is present for every participant.

16 THE COURT OFFICER: [9:31:29] The situation in the Republic of Uganda, in the

17 case of The Prosecutor versus Dominic Ongwen, case reference ICC-02/04-01/15.

18 PRESIDING JUDGE SCHMITT: [9:31:42] Thank you very much.

19 And if it is the same people there, okay. But, Mr Gumpert, please start there.

20 MR GUMPERT: [9:31:50] One or two changes. My name is Ben Gumpert. With

21 me today, Adesola Adeboyejo, Ramu Fatima Bittaye, Kamran Choudhry, Beti Hohler,

22 Pubudu Sachithanandan, Julian Elderfield, Colleen Gilg, Marie Pilvio and Yulia

23 Nuzban.

24 PRESIDING JUDGE SCHMITT: [9:32:16] So you are not completely unchanged.

25 MR GUMPERT: No.

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1 PRESIDING JUDGE SCHMITT: So then the Legal Representatives of the Victims,
2 please.

3 MS MASSIDDA: [9:32:19] Good morning, your Honours. For the Common Legal
4 Representatives team, same composition as yesterday.

5 MR MANOBA: [9:32:27] Good morning, your Honours, for the other team we
6 remain as yesterday.

7 PRESIDING JUDGE SCHMITT: [9:32:32] Thank you.
8 And for the Defence.

9 MR ODONGO: [9:32:36] Mr President and your Honours, we remain the same.

10 PRESIDING JUDGE SCHMITT: [9:32:40] Thank you very much. And you have
11 the floor.

12 WITNESS: UGA-OTP-P-0422 (On former oath)

13 QUESTIONED BY MR ODONGO: [9:32:53]

14 Q. [9:32:55] Good morning, Professor Allen.

15 A. [9:32:57] Good morning.

16 Q. [9:32:57] Professor Allen, I must start by thanking you for your very
17 comprehensive presentation yesterday.

18 My name is Krispus Ayena Odongo. I am Defence counsel for Dominic Ongwen.

19 And, of course, we are going to generally talk about what you talked about yesterday
20 to find out in more details, perhaps to clarify on certain issues, that is the purpose of
21 the Defence to make sure that we are sure about what you were saying yesterday and
22 to remind you about certain areas that you may not have talked about that would be
23 of interest to this Honourable Court.

24 Professor, you are a professor in development anthropology; is that correct?

25 A. [9:34:05] That's correct. I'm a professor in development anthropology and I'm

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1 also the director of the Firoz Lalji Centre for Africa and I'm head of the Department of
2 International Development at the London School of Economics.

3 Q. [9:34:23] Professor Allen, it was interesting to note that you were
4 representative of Ugandan civil society during the ICC state review conference in
5 2004; is that correct?

6 A. [9:34:40] It was correct, yes.

7 Q. [9:34:41] Yes. What is your nationality?

8 A. [9:34:44] I am British.

9 Q. [9:34:47] Yes. And how did you come to be a representative of the Uganda
10 civil society organisation?

11 A. [9:34:58] Well the straightforward answer is because they asked me. I think I
12 mentioned yesterday that I lived for some time in the Adjumani and Moyo areas of
13 Uganda and I was asked to be part of a group that was representing that region at the
14 conference.

15 Q. [9:35:21] So am I to understand that you are a member or just an agent of the
16 organisation?

17 A. [9:35:31] I'm not quite sure how to answer that question. I was -- what
18 would -- could I ask you, please, what would you mean by "agent"?

19 Q. [9:35:46] Well, you see, you understand the agent-principal relationship. An
20 agent need not be a member of the organisation.

21 A. [9:35:56] I see. I'm not a member of any organisation in northern Uganda.
22 There was a delegation that came from that area to the conference and they asked me
23 if I would like to be part of it.

24 Q. [9:36:12] So you became part of the delegation?

25 A. [9:36:15] Yes. Yes. I don't think in any -- I wasn't -- I'm not part of a group

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1 or something like that, if that's what you mean. I'm not signed up to a particular
2 civil society organisation. I was simply asked to come along as part of the
3 delegation.

4 Q. [9:36:33] So am I right to assume, therefore, that you were just an observer?

5 A. [9:36:43] That's true. I was an observer. I was also asked while I was at the
6 conference to participate in various events. I was asked by the Kenyan government
7 to be part of a meeting to discuss issues related to African customary justice and to
8 debate ideas about criminal justice. And that was at the request of the Kenyan
9 government delegation.

10 Q. [9:37:15] That sounds like you were just not part of -- you were not only part of
11 the civil society organisation of Uganda?

12 A. [9:37:21] I was also attending in my own capacity as a scholar working on the
13 area. I had written a book on the International Criminal Court and the Lord's
14 Resistance Army. While I was there I had various conversations with figures within
15 the Court, including the Prosecutor at the time. I was a reasonably well-known
16 figure in relation the Court's involvement in Uganda.

17 Q. [9:37:49] Very well. Now let's talk about your research on the LRA.
18 Professor, since when did you get interested in research on LRA?

19 A. [9:38:09] Well, as I think I mentioned yesterday, I spent many years living in
20 South Sudan, including quite a long period of time living among Acholi populations
21 in South Sudan. Later I lived to the south of the border in northern Uganda, living at
22 a place called Laropi, which is located on the Nile. I think you are familiar with the
23 location, in Madi area. I lived there for quite a long time. And while I was there
24 the Holy Spirit Movement was active and the, what became the Lord's Resistance
25 Army began to be active too.

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1 So I've had an interest in the Lord's Resistance Army and the Holy Spirit Movement
2 from the time when they were first operational. I wrote a -- I wrote the first detailed
3 study of the Holy Spirit Movement, in which I also talked about the emergence of
4 Joseph Kony's forces. I published that in the, I have to really think about it now, at
5 the end of the '80s, and I've remained interested in the issues ever since. I've had
6 various PhD students who have worked on the topic. I returned to Uganda at
7 various points during the '90's.

8 And then in 2004 --

9 Q. [9:39:36] Thank you.

10 A. [9:39:37] -- I was asked to investigate the situation on the ground by Save the
11 Children looking at the implications of the International Criminal Court's
12 involvement for children who had been abducted by the Lord's Resistance Army.

13 Q. [9:39:53] So may I ask, I mean what were your motivations?

14 A. [9:40:01] That's a deep question. Look, I've spent many years of my life living
15 in this area. I have -- I have a strong connection with this region. It is something
16 that -- it is not the only thing that I have written about and studied, but it's been a
17 major theme in my research. I have a, if you like, I have a commitment to the people
18 of the region, I think it would be fair to say.

19 Q. [9:40:37] Thank you very much. Now, that is very interesting, Professor.
20 Now I want to know whether it is your general interest in research in rebel activities
21 and, if that is so, have you ever had occasion to do research into any other rebel
22 activities?

23 A. [9:41:03] I have. I have written about South Sudan. I wrote a history of
24 South Sudan from independence up until the emergence of the war with the Sudan
25 People's Liberation Army. In the period after the comprehensive peace agreement I

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1 researched on the security situation in South Sudan. I wrote a detailed study on the
2 emergence of new rebel groups in South Sudan in the period before the current
3 conflicts. I have been researching on those groups in South Sudan subsequently.
4 I've also written about conflict in Europe. I wrote a book, edited a book, rather,
5 called Divided Europeans. I've worked on war and conflict in different parts of the
6 world. But I should say war and conflict and rebel groups and civil war are not the
7 only things I work on. I also work on public health, everything from debt
8 cancellation to witchcraft.

9 Q. [9:42:20] That's interesting, Professor. Now, from your findings and
10 conclusions, how would you compare your experiences with different rebel groups
11 and your experiences with LRA? Are there any similarities or are there some
12 distinct characteristics about the LRA that you wouldn't find in any other rebel
13 group?

14 A. [9:43:00] Well, there are clearly certain things that are specific about the Lord's
15 Resistance Army, not least that the Lord's Resistance Army emerged among the
16 Acholi people and draws upon ideas from the Acholi people in its ideology, if one can
17 call it that. There are also many similarities between the Lord's Resistance Army and
18 other groups in Africa, groups that fought in the war in Sierra Leone or in
19 Mozambique, for example. So I think it depends on what specifically you're
20 referring to. Clearly there were specificities about where this group occurred and
21 the specific histories that I referred to yesterday. But I think maybe you're alluding
22 to something different?

23 Q. [9:43:55] Maybe we shall cross the bridge when we reach it, but you know, I
24 thought you might want to -- because it would appear like the Lord's Resistance
25 Army operations mainly gravitated around spirituality and those kind of things,

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1 metaphysics and mysticism. Is this what you think ran through all the rebel groups,
2 in like proportions?

3 A. [9:44:38] It's very common for there to be spiritual dynamics in rebel
4 movements in Africa and elsewhere. So one thinks, for example, of the Nyampara
5 (phon) cult in Mozambique. Or one thinks of, say, the various rebel groups in Sierra
6 Leone in which spirituality of various kinds, including possession, was important. It
7 is the case that the Holy Spirit Movement and the Lord's Resistance Army in northern
8 Uganda were characteristic of a particular kind of spiritual group. There are others
9 like that that we've seen in Africa and elsewhere, but I don't think there's any doubt
10 that spiritual aspects of the LRA were important to the movement.

11 Q. [9:45:44] Thank you very much. Now, in your research, Professor Allen,
12 what did you find to be the main causes or for that matter motivation for the LRA
13 insurgency?

14 A. [9:46:15] In my report I've tried to answer that question as best I can. I mean,
15 academics always give the same answer to most questions, which is it's complicated
16 and we need to do further research. I think it is complicated. The Lord's Resistance
17 Army emerged out of a particular history, a particular set of political factors. I
18 mentioned yesterday about the emergence of Pentecostal Christianity and spirituality
19 in that region taking on particular dynamics. It is the case that both the Holy Spirit
20 Movement and the Lord's Resistance Army occurred at a time when the political
21 situation in Uganda had changed dramatically and there is evidence of abuses of the
22 civilian population in the north in the mid-1980s which was a trigger for both
23 movements in a variety of ways.

24 I talked yesterday about the veteran soldiers coming from the south who were in
25 some cases not accepted by their families and turned to spirit mediums. So I think

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1 it's a combination of factors. I think also if you're asking me what was motivating
2 the Lord's Resistance Army -- or, rather, people within the Lord's Resistance Army,
3 I'd have to also say it was variable from one person to another and it changed over
4 time. So I'm sorry it's not a very clear answer, but it kind of, it covers the various
5 issues that I think are relevant to answering your question.

6 Q. [9:48:13] Yes, I think you are running in circles about spirituality, but I'm
7 talking about the root causes of the LRA insurgency, the root causes. What was it
8 that sparked the insurgency?

9 A. [9:48:37] Are we talking now about -- could you give me a particular date,
10 1986, '87?

11 Q. [9:48:43] Yes, I mean I'm going to come to that. First of all, I'm sure you know
12 how and when the LRA started?

13 A. [9:48:53] Yes, I do, yes.

14 Q. [9:48:54] And, therefore, can you draw your attention to the time when it
15 started and perhaps tell Court what you think actually sparked the revolution, if you
16 want to call it, the root causes?

17 A. [9:49:22] So if we're talking about 1986/1987, I should emphasise I was living in
18 the region from the early part of 1987. The situation was that there was political
19 instability. I referred yesterday to a more conventional rebel movement that was
20 active. There was other rebel movements operational in the north as well, in west
21 Nile. There is no doubt that some of the activities of President Museveni's forces in
22 the north were antagonistic to the local population. The discipline that perhaps had
23 been prevalent in the south was not always applied. There was the issue of the cattle
24 from the region being removed, which was a matter of considerable grievance.

25 I think in terms of what later became the Lord's Resistance Army, it was the end of

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1 the 1980s, the motivations for Joseph Kony and his group in the mid '80s was partly
2 the inspiration of Alice Auma Lakwena. It does appear that there was an attempt to
3 actually link his movement to hers in the early stages.

4 But I think if I understand what lies behind your question, it is the case that people in
5 northern Uganda felt fearful, felt under threat from the new government, and there
6 were incidents that were antagonistic to the local population which fed into local
7 grievances.

8 Q. [9:51:27] So would it be fair for me to say that the emergence of LRA was a
9 ramification of the political and social problems of the time perceived by the
10 population as a whole?

11 A. [9:51:47] Yes, I think that's fair. There were other factors, but I think that was
12 an important context to it.

13 Q. [9:51:55] Thank you.

14 Now, Professor, I want you to watch the following extract of what Kony said in a
15 recording named "Another side: Freedom Fighter against Ugandan Oppression?"
16 Found at tab 8, ERN UGA-D26-0018-0091.

17 (Viewing of the video excerpt)

18 MR ODONGO: [9:53:09]

19 Q. [9:53:10] Professor, did those objectives as stated by Kony remain the same
20 towards 2006?

21 A. [9:53:26] This recording was made in 2006.

22 Q. [9:53:31] Sorry, let me take you back. Was this true as of the time of the start
23 of the insurgency?

24 A. [9:53:46] I don't -- well, I don't have material based directly on interviews with
25 Joseph Kony from the period of the start of the insurgency. From people who I have

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1 spoken to who were with him at the time or knew him before the insurgency started, I
2 very much doubt that he would use the term "terrorism" or would know what it was.
3 I think that this interview -- this is the interview that we discussed yesterday that was
4 based upon the discussion with Mareike Schomerus; the person who is speaking here
5 is the cameraman. And it is fairly clear that in that interview Joseph Kony was
6 wanting to present himself in a particular kind of way. I just don't think he would
7 have used that language 10 or 15 years before.

8 Q. [9:55:01] I want you again to look at another video recording, tab 8.

9 THE COURT OFFICER: [9:55:10] Counsel, I'm sorry, could you please, before
10 playing the video, indicate the timestamps of the video that you just played and then
11 indicate the timestamps of the second one. Thank you.

12 MR OBHOF: [9:55:24] For the record, the first timestamp was 1:00 to 1:11. And
13 this timestamp will be 4:23 to 4:53. And we shall provide the excerpts that we have
14 cut out to every single person after the hearing on a CD. And this one is from tab 8
15 as well.

16 (Viewing of the video excerpt)

17 MR ODONGO: [9:56:23]

18 Q. [9:56:24] Yes, I should have allowed you to listen to that before I put the
19 question to you. Does it make more sense now, Professor?

20 A. [9:56:34] I think the language in this second extract is a language that is more
21 likely to have been used in the mid-1980s than the language in the earlier extract. At
22 the time when the Holy Spirit Movement and the Lord's Resistance Army and the
23 movement I mentioned yesterday locally known as Cili were operational, it was a
24 time after President Museveni had seized power at the beginning of 1986, and a view
25 amongst many people in the north was that he had come to power through military

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1 action rather than through a vote.

2 It was a slightly complicated position because, as I also mentioned yesterday, Okello
3 had overthrown Obote who had been elected in 1980 in a military coup as well. But
4 there was a view that the government had been taken by force, that Okello had
5 agreed a peace deal with Museveni and that that peace deal had been set to one side
6 and that Museveni's government had seized power by force.

7 So there was some discussion in northern Uganda, not just in the particular area in
8 which the Holy Spirit Movement and the Lord's Resistance Army became operational
9 but in much of the country, in much of the northern part of the country, that the new
10 government had come to power by force rather than through an election.

11 Q. [9:58:16] And yesterday you alluded to a rumour that the population in Acholi,
12 or northern Uganda for that matter, perceived Museveni as not being necessarily from
13 Uganda. Is that correct?

14 A. [9:58:37] Yes, that's true. It wasn't -- of course, that rumour is not just
15 something that is circulated in northern Uganda, it's circulated in other parts of
16 Uganda too. I don't recall it -- I don't recall it being spoken of very much in northern
17 Uganda in the mid-1980s. I heard it rather more in southern Uganda at that time.
18 But yes, there are stories about it and the situation that occurred in Rwanda in 1994
19 following the invasion from Uganda fed the rumour. There were lots of stories
20 about a kind of Tutsi empire being created.

21 Q. [9:59:38] In your conclusions could it be the case that this was part of the
22 reasons why there was resistance?

23 A. [9:59:54] I'm sorry, I'm not quite sure what you're specifically asking me now.
24 Could I just clarify, are you saying that the rumours about the creation of a Tutsi
25 empire fed the rebellion in the north, is that what --

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1 Q. [10:00:16] Yes, yes, yes.

2 A. [10:00:18] Yes. It's not something I recall anyone saying to me who I

3 interviewed on the ground in the north. It is something that I noted in

4 communications that occurred in the diaspora, and my best guess, and it's only a

5 guess, is that it fed into the manifestos that we saw yesterday through discussions

6 that occurred in South Sudan between members of the Lord's Resistance Army and

7 supporters in the diaspora. But I say that is only a guess.

8 It is the case that I haven't -- I have not heard people -- the people who I interviewed

9 coming back from the Lord's Resistance Army and people living in the region in the

10 north, it's not something that I recall being said to me either in the mid-1980s or in

11 2004, 2005 when I was doing most of my work on those who had just come back from

12 the LRA during the period that relates to this particular trial.

13 Q. [10:01:42] Professor, you talked about socio-economic -- you gave a

14 socio-economic background to the emergence of LRA. Would it be fair to say that

15 the emergence of LRA was a spontaneous reaction or, rather, a spontaneous reaction

16 to the politics, security challenges of the day, or was it gradually shaped perhaps by

17 the demands of the Acholi population as a whole, particularly the elders against the

18 backdrop of what they perceived as an oppressive regime according to what you say?

19 A. [10:02:36] Could I ask you for just a little bit of clarification here? Are you

20 referring to the incident that has been described whereby elders blessed the Lord's

21 Resistance Army at some point in the late 1980s, I think 1988 or maybe '89? Is that

22 the specific incident that you're alluding to?

23 Q. [10:03:02] Well, to some extent yes, yes.

24 A. [10:03:07] Yes. There are accounts -- at the point where the Lord's Resistance

25 Army became the main remaining force opposing President Museveni's government,

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1 a military force opposing President Museveni's government in the north, there is an
2 incident that has been described where Kony was blessed by a number of ritual elders
3 and this is something that has been mentioned a number of times by those in the
4 Lord's Resistance Army that the -- some of the commanders in the Lord's Resistance
5 Army that they were blessed by elders and made the representative of the Acholi
6 people.

7 What I say about that is the incident may well have occurred. I wasn't there myself.
8 I've heard it from a number of different sources. Sverker Finnstrom describes it in
9 his book rather well. I don't think it would be true to say that all elders of the region
10 participated in that and I think it's ambiguous what was actually intended at the time.

11 Q. [10:04:33] That brings me back to what you said yesterday about the cultural
12 institution of Acholi. Did I get you right when you said that the cultural institution
13 of Acholi was non-existent until -- was not formally existent until some NGOs
14 ushered in Rwot Acana as the paramount chief?

15 A. [10:05:10] You're asking me to comment on some very sensitive issues that are
16 a matter of debate amongst Acholi people. The issue about Acholi chiefs, rwodi, is
17 complicated by the fact that, as I mentioned yesterday, during the protectorate period
18 there was the deliberate policy of creating chiefs. In the early period those were
19 nominally traditional kinds of chiefs, even though they might not have been
20 recognized as such by the populations that were given them by the district
21 commission who was involved in that process. His name was Postelthwaite. In
22 some parts of the region the rwodi were basically people who were willing to work
23 with the British authorities.

24 So I think this is very -- this issue is very different from one part of what is now
25 Acholi region to another. In the later part of the protectorate period there was the

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1 introduction of more administrative kind of chiefs and so there was lots of sort of
2 debate and discussion about that in relation to the more customary chiefs.
3 There were various attempts during the protectorate period to create something like a
4 paramount chief partly because of the relationship between the protectorate
5 government and the kingdom of Buganda. Those all failed. It wasn't possible to
6 develop enough consensus, political momentum to do it. So it is I think fair to say
7 that there was no paramount chief of the Acholi people until that position was created
8 relatively recently and the Rwot of Payera became the paramount chief.

9 I'm not suggesting of course that there were no cultural institutions before that.

10 What I'm saying is that the emergence of a more formalised system is a new kind of
11 development drawing upon past practice but also changing it in various ways.

12 Q. [10:07:42] Professor Allen, you were -- you've been living in and among the
13 Acholi people for a long time. Did you ever hear about this term, this title, "lalonyo
14 maber"?

15 A. [10:08:07] I believe so, but I would be grateful if you would explain a little bit
16 about it.

17 Q. [10:08:12] Did you hear the name Phillip Adonga?

18 A. [10:08:19] You're referring to people who were at various points put forward
19 as possible senior chiefs or paramount chiefs during the period of the protectorate?

20 Q. [10:08:36] Not necessarily during the protectorate period. I mean, I want you
21 to -- I want to find out from you whether in your research --

22 A. [10:08:43] Yes.

23 Q. [10:08:43] -- you discovered that this was something that happened even after
24 independence. Did you discover any form of central authority of paramount chiefs
25 in Acholi during the immediate post-independence Uganda?

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1 A. [10:09:09] I know that there were attempts to create a senior chief that would
2 represent the whole region at various times. My understanding is that it was
3 never -- there was never enough consensus and it was never adequately formalised.
4 There is also confusion between an administrative chief and a rwodi. So there
5 was -- there were confusions about that matter as well. Various scholars were
6 writing about it in the period immediately after independence into the 1960s. So,
7 you know, yes, there was certainly attempts to do it. My understanding is that it
8 was never successful in the way that has emerged in more recent years.

9 Q. [10:10:03] Professor Allen, I put it to you that you may have missed a link in
10 your research. But before I put that to you, did you also study the arrangements of
11 the adjoining tribes like Lango, Madi where you lived for the long time? Did they
12 have some semblance of central authority among the local chiefs?

13 A. [10:10:40] Among Madi and Acholi, I have known many rwodi and opi. I
14 have spent a great deal of time with them. Most of them who I have come to know
15 well are very reluctant to accept the authority of any other one. They have perceived
16 their customary authority as being associated with the particular lineages connected
17 to their chiefdom.

18 We mentioned Ronald Iya yesterday who became the chairman of the Madi cultural
19 association, who I suppose might arguably have been made a Madi paramount chief,
20 but in the end there wasn't enough consensus amongst Madi opi to agree upon the
21 creation of a paramount chief.

22 The history of the Payera rwodi of course goes back to the precolonial period when
23 Samuel Baker was operating in the area and, you know, the earliest descriptions of
24 the region describe how the rwot from that region claimed to be a -- the most senior of
25 the chiefs in the area and there was considerable discussion about whether or not that

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1 was the case. I mean, as I'm sure you know very well there were conflicts between
2 various rwodi in the region in the early protectorate period, including outright
3 warfare in some cases.

4 Q. [10:12:32] Professor, like I put it to you before, I want you to punch that hole in
5 your research.

6 A. [10:12:40] Right.

7 Q. [10:12:41] Because from the independence up till 1966 when there was
8 abolition of kingdoms --

9 A. Correct, yes.

10 Q. -- there was a form of central authorities among all the tribes in Uganda, and in
11 Lango the institution was called won nyaci, in Acholi it was called lalonyo maber, and
12 this was a central authority and to which all the rwodis paid allegiance.

13 But the importance of, you know, running you through that is to find out whether
14 when you said there was a blessing at the inception of LRA, whether this was on
15 behalf of the entire community of Acholi or at least some central authority, from some
16 central authority of Acholi?

17 A. [10:13:54] That is not my understanding and it may be that maybe I'm wrong
18 in this. My understanding is that particular elders were involved in the blessing.
19 In terms of an overarching authority linking together rwodi, that in itself in some
20 areas of Acholi is quite problematic because there is this distinction between
21 commoner lines and royal lineages and considerable tension between them. In
22 many cases in my experience the clan elders are more significant in promoting
23 customary mechanisms than rwodi or ritual chiefs.

24 And if I could just say we see that rather clearly with the way in which land conflicts
25 have been resolved in recent years. I mentioned yesterday that many of the rather

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1 fraught land conflicts have been dealt with locally and it's very striking how that has
2 involved drawing upon lineage customary authority in many cases rather than the
3 customary authority that's become associated with chief or rwodi.

4 I think it's -- I suppose my position is that these things are very fluid and take on
5 different forms at different times. And in terms of the specific incident that you're
6 referring to, I would be hesitant to suggest that a blessing represented the Acholi
7 people as a whole, even if some of those involved in it suggested that it did.

8 Q. [10:15:55] But is it fair to say that the fact of that blessing was known to the
9 entire Acholi anyway eventually?

10 A. [10:16:08] Well, I think it became known partly because it was, it was
11 politicised actually particularly at the time of the Juba peace talks. It's not something
12 I came across until I read Sverker Finnstrom's PhD thesis in the late 1990s. So
13 nobody had said it to me, nobody had mentioned it me on the ground, but that could
14 just simply be that I hadn't asked the right people or hadn't asked the right question.
15 But I came across it in his PhD thesis, and in my own subsequent research it was
16 confirmed by many of the people that I worked with from 2004 onward.

17 Q. [10:17:02] After the publicity, Professor, did you ever come across any clan or
18 clan head for that matter who has denounced this?

19 A. [10:17:15] Sorry, who denounced the blessing?

20 Q. [10:17:30] Yes.

21 A. No, I can't think of anyone who explicitly denounced it. However, I don't
22 recall very many people speaking about it. When I specifically asked about it, then I
23 might be told about it, but it wasn't something that people spoke about very much.
24 If I -- I'm just now really just trying to wrack my brains for conversations I might have
25 had at the time.

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1 I recall when I was researching in and around Kony's home area there was a little bit
2 of embarrassment about it, I think it's fair to say, and amongst some neighbouring
3 groups there was the view expressed to me that well, if Kony's own people did that,
4 they could be the ones paying compensation. So it was sometimes expressed in that
5 way. But I -- it just really wasn't something that was discussed very much to my
6 knowledge, not to me anyway, not to me personally, apart from when I investigated it
7 directly and tried to find out what had occurred.

8 Q. [10:18:59] Okay. There seems to be a dichotomy between the socio-economic
9 and political axis and the spiritual axis of the LRA emergence. Can you explain to
10 Court, given your answer from yesterday and now, can you explain that to Court the
11 nexus between the two?

12 A. [10:19:52] If I understand you correctly, you're suggesting that the secular
13 political agenda outlined by Kony in the video that we've just looked at and also in
14 the manifestos seems to be at variance with the stories about spirituality and
15 possession within the Lord's Resistance Army and you're asking me how the two
16 combined together, is that -- have I understood your question correctly?

17 Q. [10:20:31] What I'm saying is this: When LRA seems to be synonymous with
18 military operations predicated on spiritualism, on metaphysics, but according to your
19 explanation, there was this socio-economic and political dimension that fed into this.
20 Is it the case that whether or not there were political and socio-economic reasons, LRA
21 would have emerged anyway?

22 A. [10:21:23] In terms of the emergence of the LRA in the later 1980s I think it's
23 highly likely that if the LRA had not existed there would have been another kind of
24 rebel group. We know there were other rebel groups, not just amongst Acholi
25 people, but amongst other groups in northern Uganda, including in parts of west Nile

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1 and in other parts of the country too. So given how President Museveni came to
2 power, given the history of the country, given the historical divisions between north
3 and south, given the government of Idi Amin and the previous governments of Obote
4 and Okello and the numbers of the soldiers that had been associated with different
5 previous governments, it would have been very surprising if there had been no rebel
6 groups operating in the northern part of the country. I think that is a reasonable
7 supposition.

8 I thought your question was, if I may, a quite complicated one. There were lots of
9 things going on it. I think the point I've just made seems fairly straightforward and I
10 think is uncontroversial really.

11 It is the case that the Holy Spirit Movement took everybody by surprise. Nobody
12 saw that coming. Seeing those people walking towards soldiers' camps carrying
13 bibles anointed in oil was an extraordinary thing. And her campaign, her crusade to,
14 you know, when she marched south, it was something that was very surprising and
15 that's part of the reason why there was so much coverage in the international news
16 media at the time.

17 It's perhaps also not surprising that given how much publicity there was around the
18 Holy Spirit Movement that another rebel group, it wasn't the only one, but another
19 rebel group, which later became the Lord's Resistance Army, sprung up in its wake.
20 It created a model for others to replicate.

21 In terms of the spiritual aspects of the LRA's activities, now, I think when I listen to
22 Joseph Kony speaking or read the transcript or indeed for that matter listen to him
23 speaking from the radio interview that he did which we discussed yesterday, there
24 does seem to be an explicit agenda there of trying to secularize the movement. He's
25 very clearly seeking to make it more like a conventional military group and he denies

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1 many of the things that are associated with the movement, including the abduction of
2 children and so on and denies very explicitly the spiritual aspects of the movement.
3 That I think is contradicted by many of those people who come back from the Lord's
4 Resistance Army and describe what happened to them.

5 I mentioned yesterday that it may well be the case that the spiritual aspects of the
6 movement became less significant before and after the incursions of the Ugandan
7 army into South Sudan.

8 There are aspects of -- there are many people who I have spoken to who have come
9 back from the LRA who found the spiritual dynamics of the movement very
10 significant for them. And my understanding is that for Kony himself, at least in the
11 earlier period of the movement, the spiritual aspects of the movement were important
12 to him too. He was after all a spirit medium before he became a leader of a rebel
13 movement. And his power and authority and status was to some extent linked to
14 his capacity as an ajwaka according to people that I have spoken to who knew him at
15 that time.

16 Q. [10:26:17] So is it therefore fair to conclude that the emergence of LRA was
17 only one of the manifestations of the underlying factors that could have led anyway
18 to some rebel activity at one point or another; or, rather, could it be correct to say that
19 Kony was just a rude interruption, the emergence of LRA was a rude interruption
20 against maybe a more organised resistance by the people of northern Uganda to what
21 they thought was oppressive?

22 A. [10:27:11] Look, I think it is the case that there were many people who in
23 northern Uganda who felt fearful and perhaps oppressed in the, in the later 1980s.
24 So, and as I think I've already indicated, there were other groups that were operating
25 in the area and the LRA was just one of them. However, I don't think we should

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1 underestimate Joseph Kony or the Lord's Resistance Army. This is one of the longest
2 lasting groups that exists, rebel groups in Africa, if not the longest lasting. It's been
3 incredibly good at managing guerilla campaigns and so I don't think it could just be
4 dismissed as a kind of an aberration. It has become a phenomenon in itself.

5 Q. [10:28:16] Thank you. Maybe we shall clarify that as we go along.

6 Let's move to the next. Professor, as early as paragraph 3 on page 1 of your report,
7 that is tab 10, ERN, UGA-OTP-0027-0004, you stated that you carried out several
8 studies dealing with spirit possession; is that correct?

9 A. [10:28:50] Sorry, I haven't quite got the exact paragraph.

10 Q. [10:28:53] It is on paragraph -- the paragraph is 3 on page 1 of your report.

11 A. [10:29:00] Yes.

12 Q. [10:29:01] Yes.

13 A. [10:29:02] I talk about my articles on the Lord's Resistance Army, yes.

14 Q. [10:29:09] Several studies dealing with spirit possession --

15 A. [10:29:14] Yes.

16 Q. [10:29:14] -- witchcraft --

17 A. [10:29:15] Yes.

18 Q. [10:29:16] -- and so on and so forth.

19 A. [10:29:19] Yes, correct.

20 Q. [10:29:22] Now I want you to refer to your book on tab --

21 A. [10:29:40] Is it this one?

22 Q. [10:29:41] Yes. Page 66. Page 66. That celebrated book of yours.

23 A. [10:30:00] Thank you.

24 MR OBHOF: [10:30:03] For the record, that's tab 11. The ERN is

25 UGA-OTP-0272-0002.

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- 1 THE WITNESS: [10:30:16] So just to be clear, this is a chapter that we have not
2 looked at previously.
- 3 MR ODONGO: [10:30:22] But it's on record, so I think --
- 4 PRESIDING JUDGE SCHMITT: [10:30:27] I don't see a problem that you proceed
5 with that.
- 6 MR ODONGO: [10:30:30] Yes.
- 7 THE WITNESS: [10:30:37] So this is the chapter by Kristof --
- 8 MR ODONGO: [10:30:41]
- 9 Q. [10:30:42] Yes.
- 10 A. -- Titeca?
- 11 Q. This is a chapter by Kristof.
- 12 A. [10:30:46] Yes.
- 13 Q. [10:30:47] And in that chapter, I want just to be quick, if you look at the eighth
14 line from the bottom.
- 15 A. [10:30:57] Eight lines from the bottom. Is it the quote that you're referring to
16 here?
- 17 Q. [10:31:01] No, it's not the quote.
- 18 A. [10:31:04] Oh, one, two --
- 19 Q. [10:31:06] These are something different.
- 20 A. -- three, four, five six, seven, eight.
- 21 Q. And from the word "from" on page 66.
- 22 A. [10:31:13] Eight lines from the bottom I've got -- eight lines from the bottom
23 I've got, "According to Kony," it's a quote. I'm sorry, I'm on the -- maybe I'm on the
24 wrong page or something or maybe it's a different pagination that you've got.
- 25 Q. [10:31:26] I think the pagination might be, I don't know, because what we are

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1 provided with by the --

2 A. [10:31:33] Yes, I don't, I don't have that I don't think. Could you just tell me

3 what's at the beginning -- what's the line at the beginning of the first --

4 Q. [10:31:40] The line begins from --

5 A. [10:31:41] -- of the paragraph.

6 Q. [10:31:43] "From the beginning, the LRA has been fighting a war against

7 witchcraft."

8 A. [10:31:47] I'm sorry, I can't find -- what was the beginning of the paragraph,

9 the first word?

10 Q. [10:31:51] The beginning of the -- it's a long paragraph starting with, in this

11 way, I mean: "Third, the spiritual rules" --

12 A. Ah, okay.

13 Q. -- "serve certain pragmatic functions for the movement."

14 A. [10:32:05] Second, I've got second so I must be near third.

15 Q. This is strategic functions --

16 A. "Third, the spiritual rules have certain pragmatic functions." I'm with you.

17 Okay.

18 Q. [10:32:16] Yes.

19 A. So that's 64 on my version. Yes, so --

20 Q. That is 64 of your version?

21 A. [10:32:18] Yes.

22 Q. [10:32:19] And if you move to 65.

23 A. [10:32:23] Yes.

24 Q. [10:32:24] The first paragraph of that page --

25 A. [10:32:29] That --

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- 1 Q. [10:32:30] -- is "Fourth" --
- 2 A. [10:32:32] Fourth --
- 3 Q. [10:32:33] -- "on a more general" --
- 4 A. Correct.
- 5 Q. And then you come to "External strategic functions" on page 66.
- 6 A. [10:32:40] That's over the page, yes.
- 7 Q. [10:32:41] Yes.
- 8 A. [10:32:42] "External strategic functions," yes, I have it.
- 9 Q. [10:32:46] Now, if you come down for that paragraph --
- 10 A. [10:32:51] Yes.
- 11 Q. [10:32:53] -- the sentence starting with the word "From the beginning".
- 12 PRESIDING JUDGE SCHMITT: [10:33:05] So if it is not a long quotation, I would
- 13 suggest that --
- 14 MR ODONGO: I had --
- 15 PRESIDING JUDGE SCHMITT: -- for example if you only want to put something, a
- 16 question to the witness citing one or two sentences, perhaps you just read it out --
- 17 MR ODONGO: [10:33:18] Yes. "From the beginning" --
- 18 PRESIDING JUDGE SCHMITT: [10:33:19] -- and then ask to comment on it.
- 19 MR ODONGO: [10:33:21] Yes.
- 20 Q. "From the beginning, the LRA has been fighting a war against witchcraft and
- 21 unbelief, and has been targeting what it considers impure traditional Acholi elements
- 22 such as ajwakas, ancestor shrines clan elders. This is nothing new: In this firm
- 23 targeting of Acholi witchcraft practices, the LRA is a radical heir of Alice Lakwena ...
- 24 In this situation, the LRA is fighting a wider spiritual struggle (of the new/pure order)
- 25 against the external impure order."

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- 1 A. [10:34:05] Yes.
- 2 Q. [10:34:05] And down the pages up to page 68 --
- 3 A. [10:34:08] Yeah.
- 4 Q. [10:34:09] -- you -- I mean, there is a description of the dimensions of the
- 5 activities of Joseph Kony, the LRA, their dislike against witchcraft, their war against
- 6 this witchcraft.
- 7 A. [10:34:31] Yes.
- 8 Q. [10:34:31] In fact they talked about a spiritual warfare --
- 9 A. [10:34:36] Yes.
- 10 Q. [10:34:36] -- between LRA and the UPDF.
- 11 A. [10:34:40] Yes.
- 12 Q. [10:34:41] They talked about how at one stage there was a witch doctor that
- 13 was brought by the UPDF sponsored by government called Ali --
- 14 A. [10:34:52] Yes.
- 15 Q. [10:34:53] -- either from Nigeria --
- 16 A. Yes.
- 17 Q. -- or from wherever.
- 18 A. [10:34:58] There have been many.
- 19 Q. [10:34:59] Yes. There have been many, I am very aware. You know that?
- 20 A. [10:35:04] Yes.
- 21 Q. [10:35:06] I'm reminded that the interpreters have to --
- 22 PRESIDING JUDGE SCHMITT: [10:35:16] This was a short exchange between you
- 23 and the witness, so they could not --
- 24 MR ODONGO: [10:35:21] Yes.
- 25 Q. [10:35:22] And of course you know from that exposure it would appear like

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1 Kony was actually fighting against witchcraft; is that correct?

2 A. [10:35:42] Just to clarify, are you asking me to interpret Kristof Titeca's analysis
3 or you're asking me -- I mean, he's also of course citing me here I should --

4 Q. [10:35:57] I want you to confirm whether you are alert to this?

5 A. [10:36:01] Yes, I am alert to it. I mean he is citing my work in this paper.

6 This is somebody who is a very -- now a very eminent scholar on the Lord's
7 Resistance Army. Most of his fieldwork of course has been on the DRC on the later
8 parts of the conflict. In this chapter he's mainly drawing upon the published sources,
9 including my own. He is a scholar whose PhD I examined.

10 Q. Yes.

11 A. Yes. So he is drawing upon -- to a large extent drawing upon the published
12 literature on the LRA, and it's a rather good chapter summarising those aspects of the
13 movement that are linked to its spirituality.

14 Am I aware of there being this idea of a war on witchcraft? Yes, it's referred to
15 sometimes by people coming back from the Lord's Resistance Army. Am I aware
16 that the Lord's Resistance Army targeted spirit mediums, other ajwaki and sometimes,
17 sometimes other spiritual leaders from Catholic priests to local ritual elders? Yes,
18 I'm aware of that too.

19 One of the -- if I could just reflect on this for a moment. I remember the first time I
20 went to Gulu in the 1980s hearing the sound in Gulu town the drumming of ajwaki
21 holding possession rituals in the town and I visited many ajwaki on that occasion.
22 That's going way back now to --

23 Q. [10:37:56] Is it ajwaki or ajwagi?

24 A. [10:38:01] I would say ajwaki, but you're a Lango so -- but you speak a funny
25 dialect compared with the Acholi.

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1 And that was 1983 I think and I met many of them operating in the town.
2 Now, going back after Alice's, Alice Auma's movement and the LRA, you don't hear
3 that any more. The ajwaki who I have interviewed in more recent years have been
4 very quiet about what they're doing and they're very open about the fact
5 that -- because there were many operating within the IDP camps and they were still
6 operating as healers, and I met many of them, spent a lot of time with them. But
7 they were doing it very quietly now because they knew that they could be both the
8 targets of attack from the Lord's Resistance Army if it was known that they were
9 operational, but also they might be suspected by the government if they were seen to
10 be interpreting their spirits in a problematic manner. So it's almost like it's gone
11 underground a bit.

12 Q. [10:39:14] Okay. I was also looking at -- I'm sorry, I'm sure you've not got a
13 copy of the draft transcript, but I was looking at what you said on page 33 of the draft
14 transcript where you say: "He came from a family of male ajwaki. Now that's a
15 very strange thing in northern Uganda. I mentioned how spirit mediums in the past
16 were often associated with ancestral shrines. For a male ajwaka, ajwaka is singular
17 for ajwaki, for a male ajwaka to operate outside of the remit of ancestral shrines as
18 someone possessed by spirits that are not associated with ancestors is often perceived
19 as a rather dangerous and frightening thing ... And Kony came from a family where
20 there were a number of male ajwaka. I don't know how many. His brother
21 apparently practised for a period and he became quite a well-known healer in the mid
22 '80s. I know several people who consulted him as a healer from that period."
23 This is from line 8 up to line 22.

24 PRESIDING JUDGE SCHMITT: [10:41:09] And the question?

25 MR ODONGO: [10:41:11] Yes.

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1 Q. [10:41:12] Now, I want you to answer some of these questions. In view of
2 what you have said and what you have read, I mean I have quoted from the other
3 book, what would you describe Kony as? Was he an ajwaki or a spirit -- I mean
4 somebody who was possessed by spirit?

5 A. [10:41:46] I think the term that would be -- would have been used for him
6 would be ajwaka. There are some people who are possessed by Christian spirits
7 who like to call themselves nebi, like the Swahili for prophet, but ajwaka would be the
8 term that people would have used for him.

9 Q. [10:42:10] Before you continue, I want to pose the question. In the context of
10 the LRA spirit possession, was spirit possession synonymous with witchcraft?

11 A. [10:42:27] The term "witchcraft" is used in a very loose and confusing way, all
12 right? Witchcraft is an English term. Many Christian activists in particular but also
13 many journalists for that matter use the term "witchcraft" for just about anything from
14 somebody who indulges in sorcery to somebody who is actually a healer who is
15 dealing with people's health concerns.

16 So if you look at the, you know, the popular literature on Uganda, the term
17 "witchcraft" is used in a very loose and misleading way, both for people who might be
18 called perhaps witches, but also for people who might be called witch doctors.
19 And the further confusion is sometimes the English word is used too within the local
20 idiom. So it's sometimes not quite clear what we're talking about when the term
21 "witchcraft" is used.

22 So is it possible for you to clarify your question a little bit further?

23 Q. [10:43:42] You know, Professor, I'm not an anthropologist and least still a
24 professor of anthropology for that matter, but in this case, you know, we are talking
25 about spirit possession vis-à-vis witchcraft. Is it possible for somebody to be

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1 possessed by some spirits but is not a witch doctor, does not practice witchcraft?

2 A. [10:44:17] As I mentioned yesterday, Pentecostal Christianity is very common,
3 so there are many people who become possessed at church services, including
4 Anglican church services. So the answer to your question is yes, but it also relates to
5 my previous answer. There's lots of debate about what is appropriate kind of
6 possession. So there's lots of debate between Pentecostals about who is possessed by
7 appropriate kinds of spirits and those that are considered to be possessed by spirits
8 that are not, if you like, within the remit of the church are often castigated as
9 indulging in witchcraft by those within those particular church groups. And you
10 have competition between and conflict between different Pentecostal groups that are
11 castigating each other using the term "witchcraft" to describe the possession of those
12 that are not part of the church.

13 It's quite an issue in Gulu for example at the moment.

14 Q. [10:45:41] Later on you referred to the term "cen"?

15 A. Yes.

16 Q. [10:45:55] And then somewhere you talk about cwiny maleng and then yet in
17 another section you talked about tipu. Can you clarify to Court the concept around
18 these terms? For instance, tipu and cen, are they also spiritual?

19 A. [10:46:20] Tipu is a word, one of the words that is used for spirits, ghosts, if
20 you like. These terms are always -- there is also the terms like jok also I'm sure
21 you're familiar with is also a term used amongst the Lango too. There are many
22 different terms that are used for different kinds of spirits. So talking about the tipu
23 maleng, clean spirit, good spirit is a term that was associated with Alice Auma,
24 translated by some of the journalists writing about the movement as the Holy Spirit.

25 Cen is -- I would not describe cen -- I would describe cen as spiritual in a broad sense,

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1 but my understanding of cen from those who have talked about it is that it's not a
2 posing spirit. It is more that it is a malevolent emanation that comes from those who
3 have experienced or perpetrated violent acts. It's a kind of pollution associated with
4 people who have experienced violence.

5 But I would also add that these things are very fluid and people will sometimes even
6 in one conversation move from describing things in one kind of a way to describing it
7 in another way and there are people who I have spoken to who are accused of being
8 affected by cen or even talk themselves about being affected by cen who will also talk
9 about spirits, tipu affecting them. And so these issues get muddled up in practice.
10 So I think there's no -- I would hesitate to give very clearly distinct descriptions of
11 each which excludes the possibility of them overlapping with the other. But, in
12 essence, cen I understand to be an emanation, an aura, if you like, a polluting aura.
13 Tipu or jok, jogi, kinds of spirits.

14 Q. [10:48:48] Professor, did you in your research ask whether it is possible for
15 somebody to be possessed by his ancestors' cen?

16 A. [10:49:11] I can't -- I don't recall --

17 Q. [10:49:14] Or attacked?

18 A. [10:49:16] Yeah. I don't recall specifically asking that question. I do ask
19 questions in my research, but much of my research that I do myself is just sitting and
20 watching what's going on and having general conversations with people and
21 observing, including observing what happens in seances. I have encountered
22 situations in which cen is passed on. It comes up in -- towards the end of my
23 testimony yesterday I talked about the children of women born -- children of women
24 who had come back from the bush who were born to biological fathers since they
25 have returned and sometimes those children are seen to be affected by cen. So

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1 I think it's entirely possible that cen might be passed -- might be understood to be
2 passed in that way.

3 I mean, I think I would put it the other way. Where there is misfortune in a home or
4 things that are not readily explained, people will look for an explanation for it and
5 that could well be one of the explanations people turn to.

6 Q. [10:50:36] Professor, in your research did you find out whether cen is
7 exorcisable?

8 A. [10:50:47] There are ajwaki or healers or nebi, if one uses the term that
9 Alice Auma liked to use of her --

10 Q. [10:51:01] Nebi?

11 A. [10:51:02] Sorry. Nebi, I think I mentioned it earlier. This is the Swahili
12 term for prophet. I mean, Alice liked to refer to herself as nebi rather than as ajwaka.
13 And her movement also targeted other ajwaki.

14 And with nebi -- one of the qualities I find with many of the spirit mediums I've come
15 to know well, ajwaki in Acholi and opi in Madi, is that they associate
16 themselves -- even if they have their own places where they perform seances, they
17 associate themselves very strongly with the Christian churches partly as a way of
18 asserting a kind of moral probity. So these things get mixed up.

19 They're often, often opi and ajwaki, opi the Madi form of ajwaki, are very active in the
20 Christian churches, sometimes actually in Islam too.

21 Do they exorcise cen? There are some who claim to do so, yes. Of course cen is not
22 something that has just emerged recently. It has a history. If one reads the older
23 ethnographies, hunters coming back from the bush who have performed violent acts
24 with animals would sometimes be cleansed too by -- often by elders at the shrine,
25 they would go through some sort of healing rituals. So cen can be associated with all

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1 sorts of different kinds of things. And yes, there are spirit mediums, healers who
2 would suggest that they can cleanse people of cen. Alice Auma, Alice Lakwena as
3 she is often called, was famous for cleansing the cen of the veteran soldiers coming
4 back to the region from the south following the fighting in Luwero, and it's been
5 argued by me and by others who you have written about the movement that that was
6 an important aspect of her power and authority that she was seen as being able to do
7 that. So the answer to your question is yes.

8 Q. [10:53:20] So in that sense how do you distinguish cen from spirit possession?
9 Because I mean if it is exorcisable and, you know, it follows those who you have been
10 involved in violent attacks, maybe like in the example you give, if it's about those
11 who were involved in fighting in the Luwero triangle and therefore they come back
12 and they are disturbed by cen, which cen possesses them? I would imagine that they
13 are possessed, that is why they get exorcised. Then where do you draw the
14 distinction between cen and the other spirits like tipu and cwiny maleng?

15 A. [10:54:24] Well, I can only repeat what I've said already that my understanding
16 of cen is more like a malevolent emanation. So whether -- I mean, exorcism is of
17 course again an English word which perhaps carries connotations that don't exactly
18 apply in every case. There are many ajwaki and opi who I've worked with who deal
19 with other kinds of problems too, including for example HIV/AIDS. I have known
20 opi and ajwaki who have become specialised in, if you like, exorcising HIV/AIDS.
21 So a healer gains status from what in most cases she does to deal with the problems of
22 people who come and consult with her and some gain status from being more
23 successful than others at dealing with particular problems.
24 I mean the answer to your question is that casting out cen and casting out spirits,
25 however one describes them, is something that many different kinds of healers will

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1 attempt to do. People also go through rituals within Pentecostal church services to
2 cast out what are described in those contexts as the effects of Satan upon them.
3 So I think my answer to your question is that it varies from one situation to another,
4 one healer to another, one seance to another, one possession ritual to another. But
5 I think there is a generally understood difference within cen -- I mean, somebody can
6 have cen and not have spirits who possess them, not have spirits who speak through
7 them, not have spirits who visit them in dreams and communicate with them.
8 Someone can have cen who lives in a neighbourhood and in that neighbourhood
9 children become ill and then they are seen to be in some way responsible for the
10 suffering of the neighbourhood. And sometimes they say "I didn't know I had cen"
11 or "maybe I had it but didn't know I had it," and they may see a healer who might try
12 and mediate it.
13 So I think one would have to say it's very different from one situation to another.
14 PRESIDING JUDGE SCHMITT: [10:57:08] I think this has been answered now and
15 we are close to the break and we would like to inquire as a Chamber how much more
16 examination you envisage because this might be important for the next witness. The
17 Registry would need 30 minutes to implement everything, so it would be nice if you
18 could give us an indication how long your examination is going to last after the break,
19 after the break of course.
20 MR ODONGO: [10:57:36] For the witness. I would need the entire day, plus. I
21 thought I was given six hours. Yes. Am I still entitled to the six hours?
22 PRESIDING JUDGE SCHMITT: [10:57:49] We would very much -- let me put it
23 this way: We would very much appreciate it if you did not take more time than the
24 Prosecution did. So this was I think four hours, something like that, something like
25 that. Or let me put it this way: We would very much appreciate it if we could

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1 finish this witness today. And I think in light of the report that has been extensively
2 discussed yesterday and also all the items that have been submitted, I think this
3 should be possible if you arrange yourself like that.

4 MR ODONGO: [10:58:27] I appreciate your concern, my Lord. And I can confirm
5 to you that I think I have sufficiently laid down the foundation of my examination.
6 The rest I think will follow more easily.

7 PRESIDING JUDGE SCHMITT: [10:58:42] So we take it that you continue with
8 your examination for two further sessions and then we finish the examination and
9 questioning of Professor Allen today. And then so the Registry would not have to
10 arrange for today for the next witness but for tomorrow.

11 MR ODONGO: [10:59:04] I can only promise my best, my Lord.

12 PRESIDING JUDGE SCHMITT: [10:59:08] I trust that you promise your best and I
13 trust also that you fulfil the best.

14 MR ODONGO: [10:59:15] It is my desire.

15 PRESIDING JUDGE SCHMITT: [10:59:20] We very much trust in your capacities
16 to question the witness.

17 MR ODONGO: It is my desire to fulfil, my Lord.

18 PRESIDING JUDGE SCHMITT: Okay. Then we break until 11.30.

19 THE COURT USHER: [10:59:28] All rise.

20 (Recess taken at 10.59 a.m.)

21 (Upon resuming in open session at 11.31 a.m.)

22 THE COURT USHER: [11:31:40] All rise.

23 PRESIDING JUDGE SCHMITT: [11:32:04] Mr Odongo, you still have the floor.

24 MR ODONGO: [11:32:10] Thank you very much, my lords.

25 Q. [11:32:17] Professor Allen, I hope you had a great break.

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1 A. [11:32:21] There was no whiskey.

2 Q. [11:32:26] The judges have had.

3 THE WITNESS: [11:32:30] Is that on record?

4 PRESIDING JUDGE SCHMITT: [11:32:33] I can only speak for me, I had a very
5 modest break.

6 MR ODONGO: [11:32:41]

7 Q. Professor, I think we laid a very good foundation for what we are now going on
8 for, because we are talking about the spiritual aspects of the LRA, and you know
9 what you know about them and what maybe you don't know about and so on and so
10 forth.

11 Now I want to put some very specific questions to you from now on. In your
12 research, what were you told Kony was capable of doing? Or, rather, what miracles
13 were you told Kony was able to perform through the spirits? And were you told
14 some of his prophecies that came to pass?

15 A. [11:33:31] Yes, I was told of many such stories. Of course, different people had
16 different experiences. There were some people who had, who I have spoken to who
17 had direct experiences with him when they were with the LRA and others who
18 maybe only had a very remote relationship with him.

19 Common stories are that he was able to interpret events with a remarkable capacity,
20 that he could sometimes know when military actions would occur and would
21 sometimes appear to predict what would happen in military encounters of various
22 kinds.

23 There is a story that I have heard that he, when Mareike Schomerus went to interview
24 him, some people said, oh, he predicted that somebody would come and interview
25 him in that way before it happened. So lots of stories of that kind, that he would

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1 have the capacity to predict what would happen in the future.

2 Some of the accounts which were alluded to yesterday, for example, in the chapter of

3 the book we have been referring to by Ben Mergelsberg describes, there are some

4 first-hand accounts there from people describing what was said to them and then

5 what happened. There is a very vivid example of how somebody or one of the

6 people who were interviewed described how somebody broke one of the

7 commandments of Kony about sexual activities and then was killed in a skirmish

8 with the bullet going through the person's private parts. And this was kind of

9 confirming that, you know, Kony's capacities to, you know, contain and control

10 reality in surprising ways. So lots of stories of that kind.

11 Shall I go on a bit more or you've --

12 Q. [11:36:00] Yes, yes.

13 A. [11:36:01] There were also people who, particularly when they first -- if I spoke

14 to them, I interviewed a lot of, I think it is fair to say, rather vulnerable people when

15 they first returned from the LRA, many of whom were clearly very disturbed by what

16 had happened to them and they would recount their experiences, sometimes at

17 enormous length, describing what happened day after day after day. Sometimes I

18 would sit with people for very long periods and they would describe things to me.

19 And some of them said that they felt that Kony can see inside their minds and knew

20 what they were thinking, so they were fearful of even thinking of trying to escape

21 because he would, he would know. So some people said to me things like that. But

22 it was very variable from one person to another.

23 Q. [11:37:05] Well, in that case would it be fair to say, therefore, that to some people,

24 especially those who believed him, Kony was, could be said to be omnipresent?

25 A. [11:37:34] "Omnipresent" is a very loaded word.

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1 Q. [11:37:39] I used it deliberately.

2 A. [11:37:41] Yes, I thought you might. I don't think -- it is not a word I
3 would -- not a word I would choose, because it carries all sorts of connotations that
4 perhaps go beyond what people said to me. But it is the case that there were some
5 people who felt that, in one way or another, Kony or his aura was with them
6 continuously in a broad sense. But, again, it was very variable from one person to
7 another.

8 Q. [11:38:22] For instance, I wanted to know whether it was the case that some or
9 all of his followers, at least who believed that, also believed that wherever you were
10 Kony knew exactly what you were doing?

11 A. [11:38:56] Are you asking if all of those people who I have interviewed, large
12 numbers of people I have interviewed, are you saying that the majority or all of them
13 would have that view?

14 Q. [11:39:06] The majority.

15 A. [11:39:08] No, I don't think the majority, but some. I can't say exactly, because
16 sometimes answers were a bit ambiguous, you know, that they would -- and people's
17 ideas would change over time.

18 One of the things we were discussing yesterday was the effects of the, if you like, the
19 spiritual aspects of the LRA on younger people who had been abducted compared
20 with older people. I think an interesting aspect of the work by Blattman and Annan
21 is -- excuse me, is that they suggest that as people became older they became a bit
22 more sceptical, and that seems to be suggested by their findings. But there is no
23 question that there are some people who were deeply impressed by Kony's capacities.

24 Q. [11:40:19] Did this come about as a result of some form of initiation or
25 indoctrination or conditioning, by whatever names you may want to call it?

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1 A. [11:40:38] Yes, I think in many cases it is reasonable to say that it was linked to
2 that, though I would also say that there was a general view, including amongst
3 people who did not spend time with the LRA, that Kony had remarkable capacities.

4 Q. [11:41:08] Professor, if you don't mind, I shall refer you to that celebrated book
5 of yours.

6 A. [11:41:17] I hope you have bought lots of copies.

7 Q. [11:41:22] On page 160. It is UGA-OTP-0272-077 -- I mean 174. 0174. I don't
8 know whether the pagination is the same.

9 A. [11:41:56] On page 160 is actually the example I referred to just a moment ago
10 about -- if I could just read it, that passage?

11 Q. [11:42:05] Yes, if you may, if you may.

12 A. [11:42:06] "One of my friends had sex with a certain woman who was not his
13 wife. So when we went for battle, among everybody who went there, the two of
14 them were the only ones being shot, the boy and the girl. The boy was shot through
15 the waist and it came out through his private part and the girl was shot dead. So we
16 believe, if these rules are not followed, something happens."

17 Q. [11:42:30] But the previous quotation?

18 A. [11:42:33] "One time, we were crossing a road; a mamba entered our group and
19 started firing."

20 That's an armoured vehicle.

21 Q. [11:42:43] Yes.

22 A. [11:42:44] "We were firing back with our small guns. One of our commanders
23 took cover and when he did so, the person in the mamba shot his head; the rest of us
24 were not hurt. If you do something you should not do, you may be hurt or shot.

25 That is an example showing that you have to follow." "The rules" I think is implied.

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1 Q. [11:43:15] So according to what you have read, these were results of a violation
2 of set rules?

3 A. [11:43:28] Yes, as I understand it from the interviews that were conducted by
4 Ben Mergelsberg. They are referring here to the sets of rules and guidelines for LRA
5 combatants that were presented to them when they went into battle.
6 My understanding is that those rules were adhered to rather strictly until, again this
7 relates to what I was discussing yesterday, my sense is that those rules became less
8 stringent from the time of the operation, Iron First Operations, when the Ugandan
9 army moved across into South Sudan. But they still applied and some commanders
10 continued to apply them rather strictly.

11 Q. [11:44:22] Professor, I don't know, after the Juba peace talks --

12 A. Yes.

13 Q. -- did you get to know about the attack on the LRA position in Garamba? You
14 talked about it yesterday.

15 A. [11:44:37] Yes.

16 Q. [11:44:38] Did you get to know about the experiences of that attack? Were
17 indeed some of these tactics applied or spiritual experiences used?

18 A. [11:45:00] If I understand what you are alluding to, I think I do, and it relates to
19 another chapter in this book, the interview -- well, the statement by Ronald Iya, who
20 was with Joseph Kony for the final meeting, he and Rwot Acana met with Kony, and
21 Kony was fairly clear that he was going to be attacked. He predicted the attack.
22 But to be frank, I could have predicted it too, because people were talking about it
23 rather openly.

24 Q. [11:45:43] Would you have predicted it with the same specificity?

25 A. [11:45:53] I might have got pretty close.

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1 PRESIDING JUDGE SCHMITT: [11:45:56] We know that this was hypothetical, but
2 I won't interfere all too often, but I think we should now really move on to something
3 substantially new in the --

4 MR ODONGO: [11:46:07] Yes.

5 Q. [11:46:10] So when he predicted, did he take some precautionary measures?
6 Did he instruct his soldiers about what to expect and how to counter it?

7 A. [11:46:33] From what I understand from the information that I have received
8 from various sources, yes, he did. So, you know, he was -- he moved people away
9 from the area that he thought would be most likely the place of attack. He began to
10 divide the LRA up into smaller groups. He told Iya, by his own account described in
11 the chapter of this book that we haven't referred to directly, that he would meet them
12 again the following day, but actually moved a long distance away thinking that there
13 might be an attack at any moment.

14 So he clearly took precautions to ensure that if there was an attack on the base camp,
15 that all his senior commanders would not be in the vicinity.

16 Q. [11:47:32] Professor, did you ever enquire as to whether it was also true that
17 Kony actually told his troops that, yes, they are going to attack us, but nobody is
18 going to be killed, nobody is going to be injured? And if you wish, you may move
19 out of here, but even if you remain here, nothing will happen to you.

20 A. [11:48:08] I have heard reports of that sort, but subsequent to events. So, if you
21 like, it was a prediction that occurred after the events had happened as far as I was
22 concerned. So I don't know whether he -- I cannot state that he said that before the
23 events occurred.

24 It is the case that -- or, we know as a fact that he took necessary precautions to ensure
25 that his followers were unlikely to be killed in the attack, and he took precautions to

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1 ensure that he and his commanders and others in the LRA would be able to escape
2 being captured or killed by the forces that were sent to -- as part of that operation.
3 So we know he dealt with it from a military point of view very successfully. And it
4 could well be that he -- well, we know that he predicted the attack and we know he
5 took precautions in advance.

6 Q. [11:49:38] Professor, maybe you can now help the Court. What you discovered
7 during your research about how the spiritual powers believed to be from God were
8 imparted to or on the followers of Kony. Could you briefly describe to Court the
9 rituals, if any, that were performed on the followers during the initiation process.

10 A. [11:50:20] Accounts about the initiation processes again vary dramatically, vary
11 substantially from one person to another. My understanding is that when the LRA
12 were well established in South Sudan there was rather a complicated system of
13 bringing new recruits into the movement. Those are described in some detail in
14 parts of Chris Dolan's work on, I think part of his PhD thesis and later published as
15 a book called Social Torture, in which his, some of his informants that he spoke to in
16 the late 1990s described in detail rather complicated systems of incorporating people
17 into the LRA, which would involve prolonged prayer meetings, daily prayer
18 meetings and various systems of ritual associated with changing people from moving
19 from one world to another, if you like, if I can put it in that way.
20 Others tell slightly different sorts of stories, and particularly when, if we are talking
21 about the later period when the LRA moved in smaller groups following
22 Operation Iron Fist and people who were abducted. From 2002 onwards, that the
23 introduction into the movement was rather more haphazard from one person to
24 another --

25 Q. [11:52:04] Excuse me. Excuse me, Professor --

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1 A. [11:52:06] Yes.

2 Q. [11:52:07] -- what I am alluding to --

3 A. [11:52:09] Yes.

4 Q. [11:52:12] -- is about the process of integrating people into the LRA from the

5 time of recruitment, and with particular emphasis on child soldiers, when they were

6 recruited, or abducted for that matter, how were they initiated? What kind of rituals

7 did they have to go through in order to get into the new world, as you call it?

8 A. [11:52:53] There are some who recount being required to be, participate in

9 numerous prayer meetings, but I think it is fair to say that the processes were

10 sometimes, I won't necessarily call them rituals, though sometimes they had a ritual

11 element in them. There were some people who tell rather harrowing stories about

12 how they were forced to perform violent acts or, in some cases, to do things like

13 licking the blood of dead bodies. I gave the example yesterday of somebody who

14 was forced to march with severed heads tied around his neck. So sometimes, I don't

15 know whether one calls those rituals or whether one calls them something else, but

16 there was a kind of a moment where some of them were forced or had to choose in

17 order to survive, to act in ways that would, if you like, turn the moral orders upside

18 down in which they would have to kill friends and relatives or do things to dead

19 bodies that would be unthinkable in normal life.

20 Q. [11:54:19] Professor, before you had the opportunity even to kill, first of all, did

21 you hear about this thing called Moo ya, Moo ya?

22 A. [11:54:40] Mm-hmm.

23 Q. [11:54:41] Yes. Can you describe to Court what it was used for. Were there

24 elements of libations --

25 A. Yes.

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1 Q. -- and things like that?

2 A. [11:54:54] Yes. I think I spoke yesterday about the anointing of oil associated
3 with the Holy Spirit Movement. Similar sorts of anointing is described by some of
4 those who spent time with the Lord's Resistance Army too. I can't say with
5 confidence how prevalent that was. Some describe it, some don't mention it.
6 My guess is that it varied considerably from one commander to another. During the
7 time when people were inculcated into the movement, when the LRA was based in
8 South Sudan, I think these rituals were much more systematised and probably all of
9 those who went through that process when the LRA had well-established base camps
10 went through some kind of anointing of the kind that you are referring to.

11 Q. [11:55:59] That kind of anointing which I call rituals, you have got to go through
12 some kind of rituals, which included anointing, did you get to know whether it
13 exerted any influence or, I mean on the subjects, or, for that matter, did it in
14 a substantial manner change the attitude and outlook, conduct of the subjects?

15 A. [11:56:38] If we are going back to the later 1980s there were incidents where
16 people who had been anointed with oil appeared to imagine that bullets would not
17 pierce their skin. So that was pretty powerful kind of anointing. Those sorts of
18 stories became much less prevalent in the later period. There are still stories about
19 people feeling that -- stories about, as we have already referred to, people who broke
20 rules who were then, who then found themselves being killed or being hit, whereas
21 others -- not following rules, sorry, sorry, where people do not follow rules being hit
22 in skirmishes, whereas those who follow rules avoiding harm.

23 And again this is -- I can't speak with real confidence here, but I should say that
24 anointing is a rather common practice in the region. Many, many rituals involve
25 some kind of libation or ritual and, of course, Christian services involve libations as

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1 well. So there is a kind of a, you know, a mixing up of things here, when homes are
2 cleansed, elders will pour libations on the bush or sprinkle libations on the homes.
3 So libation is a common practice, it is not necessarily a ritual in itself, it is often part of
4 a ritual. So in answer to your question, I'm afraid I can only say it varied from one
5 time to another and from one person to another, but it does appear that in some cases
6 the libations were considered to be very powerful and very effective.

7 Q. [11:58:48] Thank you for that answer. But, Professor, I want to refer you to
8 page 62.

9 A. [11:58:56] In the same book?

10 Q. [11:58:58] The same book, the same celebrated book. I shall want to own one of
11 them after this.

12 A. [11:59:10] This is again referring to the chapter by Kristof Titeca?

13 Q. [11:59:19] Yes, it is UGA-OTP-0272-0076.

14 Look at the subheading, "Strategic functions of the spiritual order in the LRA".

15 A. [11:59:35] Yes.

16 Q. [11:59:35] If you want to read up to, up to "operative", "operative"?

17 A. [11:59:44] So I am going to begin from "internal strategic functions"?

18 Q. [11:59:49] Yes, sir.

19 A. [11:59:50] "This section argues that the spiritual order is serving strategic
20 functions in ensuring internal cohesion, through motivating, legitimising and
21 intimidating the individual fighter. First, the spiritual order of the LRA has led to
22 a complex system of control over its members, wherein in the transcendental
23 character of the rules is an authoritative incentive for compliance. Central to the
24 LRA is the fact that its leader, Joseph Kony, claims to be possessed by a number of
25 spirits. The spirits introduce the rules into the organisation, which have to be strictly

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1 respected: if they are adhered to closely, the fighters are rendered immune on the
2 battlefield; if not, the fighter will be punished (ie killed) on the battlefield. In this
3 situation, punishment is not only carried out by the LRA commanders, but primarily
4 by the spirits, who always know who has been breaking the rules, in which case the
5 ultimate punishment, ie death because of impurity, becomes operative."

6 Do you want me to continue reading, to continue reading? Or that's enough?

7 PRESIDING JUDGE SCHMITT: [12:00:59] I think we should not entertain now
8 reading of the celebrated book in its entirety. I would really appreciate it if we could
9 now come up with a question that refers to the passage that Professor Allen has just
10 read out.

11 MR ODONGO: [12:01:20] I am much obliged for your guidance.

12 Q. [12:01:31] Professor, what would you make of that narrative?

13 A. [12:01:34] Well, I think it --

14 Q. [12:01:36] Strategic functions of the spirits. Yes?

15 A. [12:01:54] My answer to your question is that it doesn't contradict at all of course
16 what I have been saying, that in that passage the author is drawing upon the work of
17 Heike Behrend on the Holy Spirit Movement, as you see being cited there in the
18 passage, and is also echoing some of my own earlier work too. It is the case that the
19 spiritual aspects of the movement are part of it. The reason I have given you more
20 ambiguous answers than is suggested there is I think it reflects more broadly the
21 responses from the very large numbers of people I have spoken to. So there are
22 some people who would give an answer that is rather close to this and there are
23 others who would give a more, a different sort of response, suggesting that the -- I
24 mean even in some of those examples that we spoke about earlier in the chapter from
25 Ben Mergelsberg, some of the responses there from people are that, well, the rules

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1 were ridiculous, we had to do them not to get killed but we thought they were stupid.

2 So it varies from one person to another, inevitability.

3 But I think in a broad sense what is written there is an accurate description certainly

4 of the Holy Spirit Movement and of the Lord's Resistance Army at various periods,

5 with that being emphasised more by some commanders than by others and

6 sometimes being emphasised more by Kony and sometimes less by Kony. I think

7 that would be my considered response.

8 Q. [12:04:06] Since I am now restricted to only this, just one reference, Professor, I

9 want to draw your attention particularly to this:

10 "In this situation, punishment is not only carried out by the LRA commanders, but

11 primarily by the spirits, who always know who has been breaking which rules, in

12 which case the ultimate punishment, that is death because of impurity, becomes

13 operative."

14 Did you consistently hear this from some of your informants --respondents?

15 A. [12:04:55] It is something that is often said. I mean it is, it is suggested in the

16 quote we read a moment ago from Ben Mergelsberg's chapter of course, it was very

17 closely associated with Alice Auma's Holy Spirit Movement. She very openly talked

18 about war as a kind of healing in which the wrong elements, as she described it, were

19 cut out of society through violence, that those who were impure on both sides would

20 die. There is no question that that idea was influential in the Lord's Resistance Army

21 too.

22 To be fair, though, I think Kristof Titeca here is describing a model that was promoted

23 and is often, often articulated. But I don't think Kristof himself would say that all

24 people who were with the LRA bought into that idea in whole. But it was, it was an

25 idea that certainly influenced people who were within the LRA.

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1 Q. [12:06:07] But would you agree that it was a common theme?

2 A. [12:06:18] Yes.

3 Q. [12:06:19] Most of the, most of your respondents, those who especially returned
4 from the bush, especially those who were child soldiers?

5 A. [12:06:30] Look, I think the problem here perhaps underlying this discussion is
6 the categories of person returning from the LRA vary hugely. You know, there
7 were -- just talking about the reception centres in northern Uganda there was
8 something like 26,000 to 30,000 people returning through those reception centres who
9 had probably been taken by the LRA when they were children, some of them were
10 coming back as young adults. And their experiences varied hugely. Some of them
11 had only been with the LRA for brief periods of time, never really brought into the
12 thinking of the movement. Some of them were forced to perform terrible acts and
13 then escaped almost immediately afterwards. Some of them were moving items and
14 then managed to escape. So if one is looking at the generality of people coming back
15 from the Lord's Resistance Army, responses inevitability varies hugely. If we are
16 talking about people who spent prolonged periods of time with the
17 Lord's Resistance Army, then I think these sorts of ideas become more significant.
18 So my answer to your question is not most, but some, particularly those who spent
19 long periods of time with the LRA.

20 Q. [12:08:03] But, Professor, I want to remind you of what you stated at page 3. I
21 mean paragraph 3, page 2.

22 A. [12:08:13] Of which document, sorry?

23 Q. [12:08:17] ERN page 0005?

24 A. [12:08:22] This is my --

25 Q. [12:08:25] Your report, your report?

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1 A. [12:08:26] My report.

2 Q. [12:08:31] Where you stated --

3 A. [12:08:33] Sorry, which paragraph? Paragraph 3?

4 Q. [12:08:35] Yes, paragraph 3 on page 2.

5 A. [12:08:38] Over the page towards the end of it?

6 Q. I could help to --

7 A. Sorry, I am not sure which paragraph.

8 Q. [12:08:51] There you stated that in the course of your investigations on security
9 in justice in northern Uganda you interviewed hundreds of those who returned home
10 from LRA in 2004.

11 A. [12:09:07] This is paragraph 6? I'm sorry, I'm not sure which paragraph we are
12 on.

13 PRESIDING JUDGE SCHMITT: [12:09:11] No, it is paragraph 3 and it just is
14 the description of what you have done in 2004 as a researcher. And I think it has
15 been quoted correctly by Mr Odongo and I don't -- I at the moment fail to see
16 a contradiction to what Professor Allen has said already, but perhaps you will
17 enlighten us.

18 MR ODONGO: [12:09:36] Yes. I just want to confirm to him, your Honour, that
19 accurately expressed the view that a substantial number of people expressed that they
20 had this experience of influence on them.

21 Q. You said you interviewed hundreds of those who returned home from the LRA
22 in 2004.

23 Later, in paragraph 21, page 12, ERN 14.

24 A. [12:10:17] Paragraph 21. "It is not possible to give a straightforward outline of
25 the LRA's purpose and objectives."? Paragraph 21?

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1 MR ODONGO: [12:10:29] Yes, you said, you wrote they "expressed a degree of awe
2 and fear with respect to Kony in this regard, and many would mention times when
3 Kony's spirits would predict things through him which came true."

4 A. [12:10:54] That's towards the end of that paragraph?

5 Q. [12:10:57] Yes.

6 A. [12:10:58] I think this paragraph, to me, it summarises, perhaps rather more
7 succinctly what I have done saying, that it is not possible to give a straightforward
8 outline of the LRA's purpose and objectives. People's experiences were very
9 different. There was a broad sense of Kony's spiritual capacities not just amongst
10 those that came back from the LRA but in the population as a whole.

11 PRESIDING JUDGE SCHMITT: [12:11:23] I really would like to interrupt you. This
12 is really repetition now, you know, and the Chamber is very indulgent now but he
13 has said this yesterday. It is not your fault, of course, Professor Allen, and it has also
14 been asked and answered now and I think we would really appreciate if you move to
15 another point now.

16 MR ODONGO: [12:11:43] Much obliged, your Honour.

17 PRESIDING JUDGE SCHMITT: [12:11:45] Professor, I am going to show you a video
18 found at tab 8, timestamp 6.42 to 7.10.

19 And then a second one from Uganda's LRA guerillas speak about horrors of war at
20 tab 1, ERN UGA-D26-0018-001, timestamp.

21 (Viewing of the video excerpts)

22 MR ODONGO: [12:14:17]

23 Q. [12:14:17] Professor Allen, could you tell this Court if your findings about the
24 perception of Kony among the LRA was the same before and throughout the period
25 of your research? And also whether the statement you have just heard is a fair

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1 reflection of what Kony was perceived to be among his followers.

2 PRESIDING JUDGE SCHMITT: [12:14:57] But again may I shortly interrupt,

3 Professor, and you are not of course here an expert for legal matters, so please restrict
4 yourself to your area of expertise when you are answering. Because the second, may
5 I say so, the second quotation could perhaps mislead a little bit, the expert.

6 THE WITNESS: [12:15:28] Thank you.

7 The two quotes are very different to one another, so could I make a comment on each
8 of the two quotes, one after the other?

9 MR ODONGO: Yes.

10 A. The first quote I think echoes quite a bit of what I spoke about earlier on this
11 morning, that Kony had been an ajwaka, a healer. Somebody who is an ajwaka will
12 often have spirits, information imparted by spirits about different kinds of therapies.
13 I spoke earlier this morning about how some opi, the Madi version of ajwaka and
14 ajwaka in Acholi, become associated with, for example, dealing with HIV/AIDS and
15 would have herbal remedies or rituals that are suggested to people who are infected
16 and their spirits would inform them of that. I knew one Madi spirit medium very
17 well who was, who claimed to be possessed actually by the Virgin Mary who would
18 provide remedies for HIV/AIDS.

19 So what he is describing there is an idiom of healing that is rather common in the
20 region, not just associated with military activities but with the activities of different
21 kinds of local healers and he was a healer of that kind, as I described earlier, in the
22 mid-1980s and I know people who consulted him as a healer during that period.
23 So what he is saying there is entirely consistent with that and some of those who I
24 have interviewed who have been with the Lord's Resistance Army would describe
25 how there were what was sometimes called "hospitals" within the LRA in which

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1 various kinds of remedies would be offered for different kinds of afflictions, some of
2 which might be understood as infections or diseases in some cases and that would
3 often be involving different kinds of herbal remedies, some of which may well have
4 been efficacious.

5 So that is what Kony is alluding to there. In that interview, as we have discussed
6 before, he was very keen to separate the spirits from his political and military
7 strategising, he makes that very explicit in the interview, but he is not denying that
8 spirits speak to him. He is saying that the spirits don't determine what he does but
9 they advise him, they advise him with respect to military strategy but they also advise
10 him with respect to healing therapies of other kinds.

11 The second interview --

12 Q. [12:18:32] Excuse me --

13 A. Shall I go on the second one?

14 Q. On that one, before you go to the second one. In your research you talk about
15 healing. In your research did you discover whether or not there were healers in the
16 Acholi communities who were not necessarily possessed by spirits?

17 A. [12:18:54] Yes, there are. Sometimes there are people who would refer to
18 themselves as, as herbalists. Though even they would tend to -- I mean I asked them
19 well, how do you find out your herbal remedies? Sometimes they would talk about
20 them being revealed to them in dreams, so there was sometimes some ambiguity
21 there. You know, I have interviewed Muslim healers who will often draw on ideas
22 from the Quran. I spent a lot of time with somebody who claimed to be a Bahá'i
23 healer who had found all sorts of information on the Internet. So there is
24 considerable variation.

25 But Kony, as he says here, is informed about different kinds of healing techniques by

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1 his spirits so, you know, he fits very clearly within that category of a possessed healer
2 that I would describe as an ajwaka in Acholi.

3 Shall I move to the second one?

4 Q. [12:20:09] Yes, Professor.

5 A. [12:20:10] Well, the second statement is a statement that, I have to say it is a very
6 clear statement, clearer than many other statements of that sort. I am not quite sure
7 what you want me to say about it. You know, it is clear that there were strict sets of
8 rules, there was a command structure, there was mysticism of various kinds
9 associated with that command structure. I don't think the LRA is unique in that
10 respect. You know, that is the case with many different sort of military
11 organisations. And he is saying that he operated within that framework.

12 Q. [12:20:50] I am talking about, I am talking about responsibility.

13 PRESIDING JUDGE SCHMITT: [12:20:58] No, responsibility has at least
14 a connotation with legal matters, so I would really ask you to rephrase the question
15 and not put Professor Allen in a situation where he might be, might be tempted to
16 answer on legal matters which will in the end have to be decided by the Chamber.

17 MR ODONGO: [12:21:25] I am much obliged for your guidance, your Honour.

18 Q. [12:21:31] According to what you have heard, Professor Allen, was it possible
19 for any commander to say yes or no to Kony's order to decide as to whether or not to
20 obey Kony's order?

21 A. [12:22:00] I'm afraid, rather frustratingly, I would have to give the same answer,
22 it varies. You know, there were some who, who got away with it and there were
23 some who didn't. You know, it's clear that on some occasions people, even senior
24 commanders who, who Kony felt were not obeying his orders appropriately were
25 removed. And we spoke yesterday about seconds in command who were demoted

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1 and executed, including Vincent Otti almost certainly was executed at Kony's orders.
2 So it is the case that there are some people who tried to operate independently and
3 they were punished.

4 More generally, I think the answer to your question relates to the unpredictability of
5 Kony. Some people describe doing things that are against the rule and on that
6 occasion Kony just laughed and it didn't matter. On other occasions they were
7 punished, sometimes in extreme ways.

8 In some ways, if I had to give my own personal view, I think the unpredictability, the
9 constant threat of something happening to some -- if they didn't obey rules or didn't
10 follow orders, was a kind of a continuous concern. The lack of predictability was
11 perhaps part of his power. So in a sense I may even put it down around a slightly
12 different way, that it was the unpredictability that seemed so frightening. And
13 sometimes that was put down to what his spirit said to him. There were several
14 people who said to me that when the spirits were not possessing him he was a very
15 nice man and could be very funny and entertaining and very social. And then on
16 another occasion he would be completely different. And I think that is also echoed
17 in the quote that I give in my report from Father Carlos where he talks about having
18 a conversation with Joseph Kony on the radio and then suddenly Kony speaking in a
19 high-pitched voice and making all kind of threats and sounding totally terrifying.

20 Q. [12:24:37] Thank you. Now, Professor, given that Kony used spiritual powers
21 in his military operation, in your research did you establish whether he still respected
22 the LRA military hierarchy and the chain of command?

23 A. [12:25:06] So let me, if I could just rephrase your question to make sure I
24 understand it, Kony was sometimes possessed by spirits, spirits advised him. Did
25 he also respect the command structure of the Lord's Resistance Army that he had had

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1 responsibility in creating? Is that -- as an institution -- is that --

2 Q. [12:25:36] Exactly.

3 A. [12:25:38] Exactly. Well, I think I would have to repeat my answer, he was
4 unpredictable. So there is no question, I think, that there are aspects of the way that
5 the LRA was organised that are associated with the fact that it has endured for so long,
6 an organisation that could be based in South Sudan with large base camps and then
7 break up into small units with commanders operating huge distances from one
8 another and yet somehow retain a connection. People knowing where food was
9 buried and could be found when it was needed, knew where weapons were buried
10 and could meet there to collect them. It is remarkable the degree to which the LRA
11 was able to operate both as, for some periods, a large cohesive group or a group in
12 which large numbers of people were located and then break up into small units and
13 still endure.

14 So, you know, just from the facts of history we would have to say that there were
15 institutional qualities to the LRA that were remarkable and that Kony's influence in
16 various ways supported. Is it the case that Kony would always act in such a way as
17 he would respect the authority of his senior commanders over more junior recruits?

18 It seems not always. You know, senior commanders always had to be aware that
19 their position was not necessarily permanent. But then also they were operating
20 sometimes a very long way from where Kony was located and they could always
21 choose not to return to base camp, which is what Sam Kollo did of course when he
22 took the amnesty.

23 So I think my answer to your question, unfortunately, you know, is that I can't give
24 a very clear, precise answer. It varied from one commander to another, one member
25 of the LRA to the other. Kony's influence on the LRA as an institution was

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1 remarkable. It wasn't always consistent in a conventional sense.

2 Q. [12:28:16] In this case did you discover whether Kony was using some
3 communication system in his -- especially when he was in Sudan, and in the latter
4 part of 2003/2004, are you aware as to whether he was communicating using some
5 communication gadgets?

6 A. [12:28:52] Well, the LRA had satellite phones, so they were able to communicate
7 using satellite phones. They also had mobile phones. I remember a senior figure in
8 Gulu complaining to me that Vincent Otti kept ringing him up and asking to be sent
9 more airtime on his mobile phone. It was quite a strange world, Gulu in 2004. You
10 could be sitting with senior commanders in the Ugandan army, UN negotiators, with
11 a range of different aid personnel. Betty Bigombe was there, she re-engaged with
12 the process of trying to mediate with the LRA. And Vincent Otti in particular would
13 sometimes ring people up and talk to them. It was a very sort of intimate kind of
14 war and many people knew each other very well. Many of them had grown up
15 together. I mean the senior figures in the Ugandan army knew Kony as a -- you
16 know, they were people who knew each other as children. So it was a very, a very
17 intimate kind of war at that point and there was quite a lot of communication going
18 on.

19 Q. [12:30:24] In view of the fact that Kony's mode of operation vis-à-vis the various
20 hierarchies of the LRA depended on his mode, was it possible, according to your
21 research, for Kony at certain points to decide to circumvent a senior commander and
22 communicate directly to a junior commander?

23 A. [12:31:11] I cannot describe an incident that I have come across in my own
24 research, but I could think of no reason why that would not necessarily happen.
25 Kony had very close relationships sometimes with people who were very junior in

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1 military terms within the Lord's Resistance Army, sometimes he had very close
2 relationships with his bodyguards. Sometimes he would just seem to like someone
3 a lot and build up a relationship with that person. But, again, there was this sort of
4 element of terror because suddenly it could change and somebody who felt they were
5 his friend would suddenly find themselves ostracised.

6 Q. [12:32:01] Thank you, Professor. Professor, yesterday you talked about some
7 form of -- you talked about the manifesto, you talked about the constitution of the
8 LRA and other documents. Did you discern from those documents whether there
9 was an operating political wing of the LRA?

10 A. [12:32:55] You are asking if I discern it from those documents? I think those
11 documents, insofar as I understand it, were produced by what might be called
12 a political wing of the LRA. And it is the case that there are groups that have
13 presented themselves as the political wing of the LRA, some of which have been
14 operating in foreign countries. I have met a delegation, for example, in London. So
15 there are groups, but I think particularly in the -- the diaspora who, for all sorts of
16 ways, saw the LRA as being the one group that was resisting Museveni's authority in
17 the north and -- it is my interpretation now rather than anything else -- sought to
18 influence it, to moving it towards a more kind of conventional political movement.
19 How much of it emerged from Joseph Kony himself and from the forces on the
20 ground I don't know for certain. As we discussed yesterday, those written
21 manifestos began to circulate from the later 1990s. There may have been some
22 circulating earlier but I didn't come across them.

23 Q. [12:34:39] If I am not wrong, at a certain point in your testimony yesterday you
24 talked about the functions of Vincent Otti as being more political, which finally
25 brought him into crossroads, into cross-purposes with Kony; is that correct?

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1 A. [12:35:06] This inevitability involves a degree of speculation on my part. You
2 know, we know that, from all the evidence we have, Vincent Otti and those that had
3 been taken from Madi area who were around him were killed. There are various
4 stories about precisely why that happened. Some of them resolve around money
5 that was allocated for the peace negotiations that were not openly declared, there are
6 stories about possible abuse of money. But I think it's reasonable to take the view
7 that Vincent Otti was the person who was communicating with outsiders and he did
8 tend to present himself as somebody who was representing the kind of political
9 aspects of the LRA. He took great pride in his, his design of the LRA emblem, how
10 do you say, emblem? What's the word?

11 Q. [12:36:21] Emblem.

12 A. [12:36:22] Emblem. It is in my own language and I am forgetting it.

13 Q. [12:36:26] (Overlapping speakers) We find you learned them well, too.

14 A. [12:36:35] Yes, yes. And so he and -- from the fact that he was executed he was
15 clearly seen as a threat to Kony at some point and Kony felt, decided to kill him.

16 What precisely happened is a little unclear, for obvious reasons. Ronald Iya, who I
17 have mentioned several times, the Madi chief who was with Kony at the last meeting
18 was trying to find out what had happened to the Madi who were with the LRA and
19 he concluded that they had all been killed at the same time.

20 Q. [12:37:17] Now, you present the case that Otti was now presenting himself like
21 the political wing of the LRA. Can you describe to this Honourable Court what
22 henceforth became the structure of the LRA and who was answering to who in real
23 terms.

24 PRESIDING JUDGE SCHMITT: [12:37:58] If you can say something about this
25 matter of course only. If not, you have to lay bare that you don't have enough

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1 information, I think you just make it clear then.

2 THE WITNESS: [12:38:16] If I could just sort of repeat the question in my own
3 words so I have understood exactly what you are saying. That during that period in
4 the buildup to the Juba Peace Talks in, let us say, 2004/2005 when Vincent Otti was
5 telephoning people and communicating with them, presenting himself as a kind of
6 spokesperson for the LRA, are you suggesting that a new kind of political structure
7 emerged within the LRA at that time and that during the peace processes that that
8 new arrangement was played out in particular ways?

9 Q. [12:39:08] Yes.

10 A. [12:39:10] I think I would have to say, since you were involved in the peace
11 processes directly, you are a better person to answer that question than I am.

12 Q. [12:39:20] It is not in my place.

13 A. [12:39:25] I would really like to know the answer. But I can't say with -- you
14 know, I think we all recognise that the Juba peace processes involved many different
15 groups claiming to speak for the LRA. You know, Vincent Otti was doing so, we
16 had the, all the upheavals with different groups who were representing Kony in the
17 peace process, and then Kony at one point said they weren't representing him and
18 they came back again. All sorts of confusions. From what we know and from what
19 Kony said in those final discussions, he took the -- I think his attitude towards the
20 peace processes changed over time. They were quite a drawn out process.
21 Perhaps it is not my place to go into all the, all the issues that arose in the peace
22 process, but quite mixed messages were given to the LRA commanders through that
23 process and quite mixed messages were given to Kony himself. So at the end of it, if
24 one takes at face value what he was saying, he saw those peace negotiations as
25 a prelude to a discussion between him and President Museveni to resolve matters.

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1 And that's the way he presented it in that final discussion with Iya and Rwot Acana.
2 He said he had not yet had direct discussions with Museveni and he wanted to know
3 even quite specific things like which house he would be -- you know, where he would
4 be based in Kampala and so on when he was, you know, when he took amnesty. Or
5 actually he didn't accept amnesty, to be accurate. As part of the pre -- as part of the
6 settlement he was expecting to be given some sort of political power, that was the
7 implication of what he was saying. So it was as though he had seen the whole Juba
8 peace negotiations as a prelude to a discussion between him and President Museveni.
9 That was how he talked about it at the end.

10 Q. [12:41:48] I will jump to another question.

11 Professor, in the course of your research, did you ever come to discover that
12 sometime in the year 2003/2004 there were some commanders of Kony who came into
13 contact with some commanders of the UPDF and particularly General Salim Saleh,
14 the younger brother of President Yoweri Museveni?

15 A. [12:42:32] I am aware of a wide range of stories about close relations between
16 officials of the Ugandan government including military personnel and figures within
17 the Lord's Resistance Army. That is one of them. There have been others too that
18 have been talked about. I can't confirm the veracity of any of them, they are stories
19 that people tell.

20 Q. [12:43:08] Among them, did you find out whether my client Dominic Ongwen
21 was one of those who came into contact with him?

22 A. [12:43:23] No, I don't know any information about that.

23 Q. [12:43:43] You talked about Vincent Otti succeeding somebody called Lagony; is
24 that correct?

25 A. [12:43:56] Mm-hmm.

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1 Q. [12:43:56] Did you discover in your research why Lagony was killed?

2 A. [12:44:02] No. No, I don't know the details of that.

3 Q. [12:44:05] Did you get to know about some activists who had either to have been
4 associated with Kizza Besigye called James Opoka? Did you ever get to know about
5 him joining the LRA?

6 A. [12:44:30] No, I don't know any details about it. I mean, I hear, I hear stories,
7 I don't know -- I have not been able to investigate them in any way so I wouldn't feel
8 confident to say anything about --

9 Q. [12:44:41] Did you hear any story about him?

10 A. [12:44:44] Well, there is lots of stories about different, different rebel groups
11 having links with the LRA. There are stories about rebel groups in southern Uganda
12 sometimes having connections with the LRA. I am just not able to speak with any
13 confidence about how accurate any of them are. I mean rumours of all sorts
14 circulate and so I really feel that I -- I wouldn't feel it was appropriate for me to
15 comment on those events.

16 Q. [12:45:26] Okay. Professor Allen, the question of indoctrination is very pivotal
17 in this trial and I wish to go back to it, but in passing this time.

18 A. [12:45:45] Mm-hmm.

19 Q. [12:45:48] You wrote in your report on page 21 that -- 0021, page 18, paragraph
20 31.

21 A. Thirty-one. Should I read it?

22 Q. [12:46:10] Yes, please.

23 A. [12:46:11] "Large numbers of combatants were not necessary," from there?
24 Paragraph 31, yes?

25 PRESIDING JUDGE SCHMITT: [12:46:17] I think we should not read out the report,

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1 but we have it in front of us and we have discussed it yesterday. And it is
2 a relatively short paragraph, paragraphs you can put your question, and I am
3 absolutely sure that Professor Allen is aware of the content of this paragraph.

4 MR ODONGO:

5 Q. Yes. I am pretty sure you are aware of that paragraph, Professor. I have a
6 question for you.

7 A. [12:46:38] I am just rereading it.

8 Q. [12:46:40] In the course of your research did you find out why LRA had recourse
9 to those inhuman methods as part of their initiation?

10 A. [12:47:06] Just to be clear, this paragraph doesn't refer specifically to initiation,
11 doesn't use the term "initiation". And in fact I have used deliberately a very neutral
12 term, "incorporated". And I have done that deliberately because, you know, there
13 were some people who spent time with the LRA and I don't think it is true to say that
14 they were initiated. But others doubtless were.

15 I think perhaps you are alluding to the issue of -- well, I am not quite sure which issue
16 you are referring to. The idea of society being purified by violence or that, the issue
17 of shocking atrocities on a few individuals with maximum effect, or whether you are
18 talking about the forced recruitment issue. And I can talk about any or all of those.

19 PRESIDING JUDGE SCHMITT: [12:48:07] Let me just for a moment step in while
20 you are searching for something. I think it might not be the same, or synonym,
21 "initiation" and "indoctrination". So I think about initiation, we talked about that
22 before, you have enquired that before the break and Professor Allen has extensively
23 answered that. But indoctrination might have another twist in it. So if you would
24 continue with that line of indoctrination, which I personally think is not the same of
25 initiation, we would appreciate that, because initiation has been discussed and

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1 answered before.

2 MR ODONGO: [12:48:45] I am much obliged, your Honour.

3 Q. [12:48:49] Professor, I want us to discuss the theme of indoctrination within the
4 LRA. In your research did you peer into the details of how the LRA runs through
5 their new recruits to understand the policies and how, and the workings of the
6 organisation and to adhere to them?

7 A. [12:49:32] Yes, I did a great deal of research on that and several of my students
8 have also worked on it. Repeating what I have said already the experiences of
9 people are hugely different from one another. I mentioned earlier that sometimes
10 people who were taken by the LRA were forced to perform terrible acts, often on their
11 relatives or friends, one might say as a way of breaking a relationship with their, with
12 their home and taking them into a new home. That seems to have been a deliberate
13 strategy on a number of occasions.

14 Making people do events that were unthinkable, such as licking the blood of dead
15 bodies and so on, that was a very significant event for some people who came back
16 from the LRA and they openly, often not in the first interview, talk about such things.

17 PRESIDING JUDGE SCHMITT: [12:50:41] Well I think this is still -- this is still the --

18 THE WITNESS: [12:50:44] Initiation, isn't it?

19 PRESIDING JUDGE SCHMITT: [12:50:44] It is still initiation.

20 THE WITNESS: [12:50:46] Yes.

21 PRESIDING JUDGE SCHMITT: [12:50:46] I think indoctrination would -- I don't
22 want to take it over, but would more allude to a mental process.

23 THE WITNESS: [12:50:53] Yes.

24 PRESIDING JUDGE SCHMITT: [12:50:54] A mental imposition of certain ideas.

25 THE WITNESS: [12:50:57] Yes, yes.

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1 PRESIDING JUDGE SCHMITT: [12:50:59] I don't know if these words fit correctly.

2 MR ODONGO: [12:51:02] Your Honour, I am very indebted to you, your Honour.

3 Indoctrination, as I understand it, is transforming somebody mentally to think the
4 way you think or the way you want him to think.

5 A. [12:51:15] Mm-hmm.

6 Q. [12:51:16] And conduct affairs.

7 A. [12:51:19] Well, I mean there is a truism to begin with, isn't there, that any kind
8 of military campaign involves a degree of indoctrination of people within it to adhere
9 to rules and regulations. So that's always going to happen in some, in some sense.
10 It is also apparent that within the Lord's Resistance Army references to the spirit
11 world, to the power of Kony, to the abuse of the people of northern Uganda to, you
12 know, long term historical suffering all played a part in promoting a certain way of
13 thinking.

14 Talking to people who return from the LRA, the degree to which they were
15 indoctrinated such that they could not think in any other way varied hugely. Some
16 people were open about the rules being ludicrous and they just had to follow them in
17 order to survive. But very many people, probably almost everyone had a sense of
18 the marginality of northern Uganda. The, you know, the kind of broader sort of
19 sense of political grievance, it is very pervasive in the region. So I don't think Kony
20 had to teach people that, people had it. Indoctrination drew upon it. But I
21 wouldn't want to say that everybody who was recruited into the LRA was
22 indoctrinated in such a way as they couldn't think in any other way. For some that
23 may well have been the case, for others not. And again I think it varied hugely
24 between the commanders, particularly in the situation where the LRA broke up into
25 smaller units. Indoctrination wasn't being done by Kony himself and a small

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1 command structure around him. It was being done by the local commanders who
2 were responsible for those particular groups.

3 So I am not giving you a very straightforward answer to your question because
4 I think I don't know -- I don't think there is a simple answer. But to be fair, to be -- to
5 relate to what I think perhaps underlies your question, it is the case that there was
6 a set of ideologies associated with the LRA, some of them linked to Kony's power,
7 that had a considerable influence on shaping people's experiences when they were
8 with the LRA. And some of them talk about how when they were with the LRA
9 they felt they could do things and act in ways that are not appropriate when they
10 return to normal life.

11 Q. [12:54:31] I think you have, you have done pretty well. When you talk about
12 ideology, you are nearer to what I wanted. Because, you know, I wanted you to
13 discuss, as a process, how was the foundation of indoctrination laid? For instance,
14 were the abductees made to know their personal circumstances left behind? For
15 instance, whether their parents were still there, what was happening in the IDP camps,
16 and the attitude of government towards their people and the opportunities that they
17 still had back at home and that kind of thing.

18 A. [12:55:25] Well, there is lots of evidence that commanders didn't allow people
19 access to radios so they would not hear of what, you know, the broadcast from
20 Mega FM that we talked about earlier. There is evidence that some of those who
21 came back from the LRA expected that they would be killed immediately. They
22 believed that Museveni and Museveni's forces were some sort of evil cabal that would
23 massacre them.

24 Something else I feel I should say though, which perhaps doesn't quite fit with what
25 you are sort of looking for in the questions but perhaps relates to this issue of

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1 indoctrination. One of the things that really surprised me about talking to people
2 when they had just come back from the LRA, many of them, was almost like they had,
3 they would describe events in extraordinary detail without making any valued
4 judgments about them. So I remember sitting for hours with someone who, when
5 she realised I was just going to sit and listen, gave me a narrative that was remarkable
6 in that it was almost like, it almost came across as total recall of day by day events.
7 And she would say well, in this day we went to this place and she would describe
8 what they ate. And then when they went somewhere else and what they cooked in
9 the evening and then she would talk the next day and she would describe violent acts,
10 cooking, walking, almost in like a continuous monotone. And some of the most
11 moving testimonies I heard were like that, where there was nothing specific about
12 indoctrination, nothing specific about, about being initiated. It was just like
13 a continuous statement about what had happened since they had been taken.

14 Q. [12:57:54] Professor, I want to refer you to your own book where you described
15 where, you know, there was an interview with somebody called -- I mean one of the
16 respondents was interviewed at tab 11, ERN UGA-OTP-0272-0002, at page 179 where
17 a soldier was describing --

18 A. [12:58:33] Just to be clear, this is in the chapter that I have mentioned several
19 times by Ronald Iya, correct? Am I on the wrong page?

20 Q. [12:58:44] Actually page 165 of your book.

21 A. Aha, this is from the chapter by Ben Mergelsberg that we have mentioned
22 several times before.

23 Q. [12:59:05] Exactly. Exactly. Would you, in the course of your research, would
24 it be fair to say that the above statement is true, of all those who were abducted at an
25 early age and spent most of their life in the jungle and who were made to do things

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1 they never wanted to do. According to that they became a walking shadow?

2 A. [12:59:42] I was going to ask you which quote. You are thinking about the
3 quote here: "We were living in the bush like people who had closed their eyes."

4 Q. [12:59:52] Yes.

5 A. [12:59:53] "It was as if we were being used, we couldn't reason." Yes, it is
6 a very moving quote, I think. And it perhaps relates a little bit to what I was just
7 saying a moment ago about this long testimony. It was almost like a -- I am
8 remembering back to that interview that I did, it went on for so long it was almost like
9 she was in a trancelike state telling these stories, what happened day after day after
10 day. But I would also note on this page there were other quotes to, like those rules
11 which were just very stupid rules to follow, one of the informants also said. So, yes,
12 I mean I suppose I come back to the point that it varies from one person to another.
13 The same person is going to give different answers when you ask them at different
14 times. One of the things I found, that when you come to know people well and you
15 speak to them many times after they have come back, sometimes after years, that their
16 story is, is different. And how people reflect on what happened to them when they
17 were with the LRA changes over time after they have returned.

18 PRESIDING JUDGE SCHMITT: [13:01:15] I think we also have addressed this
19 already. So I think it is a good point -- when I say "addressed" Professor Allen has
20 told us this yesterday already. I think it is a good time to have now the lunch break
21 and we trust the Defence -- you gave a sort of promise before the last break, that we
22 can, sort of a promise I said.

23 MR ODONGO: More than a promise.

24 PRESIDING JUDGE SCHMITT: Even more I would say, yes, I would say. So we
25 trust that we can finish the questioning of this witness by the end of the day.

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1 Thank you very much for the moment.

2 MR ODONGO: [13:01:50] Obligated.

3 THE COURT USHER: [13:01:51] All rise.

4 (Recess taken at 1.01 p.m.)

5 (Upon resuming in open session at 2.31 p.m.)

6 THE COURT USHER: [14:31:52] All rise.

7 PRESIDING JUDGE SCHMITT: [14:32:11] Mr Odongo, you may continue, please.

8 MR ODONGO: [14:32:15]

9 Q. [14:32:16] Good afternoon again, Professor.

10 A. [14:32:19] Good afternoon.

11 Q. [14:32:21] Professor, we are nearly as far as I would wish us to go, but maybe I'll
12 ask you a few questions about cen again, but not the definition anymore.

13 Professor, is it the case that this cen only affected those who returned from the LRA
14 after defection or being captured; or could it be that it affected them even when they
15 were still in the bush?

16 A. [14:33:15] I can only answer that question by saying I can see no reason why it
17 would not affect people who were living in the bush. It is clear that other people
18 who had nothing to do with the LRA have been affected, are said to be affected by cen.
19 It is a wider phenomenon than anything specifically related to the LRA.

20 Q. [14:33:44] But in this case we're talking about the effects of LRA conduct
21 specifically related to cen. Would you say that -- was the incidence of cen more
22 prominent among those who were abducted at a young age or it was the same across
23 the board, the effect of LRA war?

24 A. [14:34:21] I understand. I think it's impossible to quantify that kind of
25 phenomenon. As I mentioned earlier, there were many stories of soldiers returning

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1 from Luwero, moving north from Luwero being affected by cen. So it's not so clear.
2 There is also whether people say they're affected by cen and have experiences of bad
3 things in dreams and so on and also what other people say about them. I was
4 speaking earlier about how women coming back from the Lord's Resistance Army
5 with children, even if they have not -- they do not say they experience cen themselves,
6 are seen as being affected by their neighbours, and their children are sometimes
7 affected by it, sometimes in very disturbing ways.

8 Q. [14:35:27] Do I understand you, Professor, to say that if I was attacked by cen or
9 possessed by cen, the children of my neighbours would be affected by the cen that is
10 in me?

11 A. [14:35:47] Yes. Could I perhaps just tell one, one story, just very briefly about
12 this --

13 Q. [14:35:52] Yes.

14 A. [14:35:54] -- from my recent work. This is a story recounted by a woman who
15 came back from the Lord's Resistance Army many years ago and has been living in
16 northern Uganda now for more than 10 years since she came back.

17 She brought back a child from the bush and she had had children subsequently.

18 What she says is that neighbours are always saying that "Your children are causing
19 problems." They always, even her close relatives, she says, blames her for having
20 those children because they bring cen to the neighbourhood.

21 She came back home after leaving her home one day, and she found her young girl
22 being raped by a boy of 15 from a neighbouring home, and she went to the local
23 councils and to the neighbouring home to protest about what had occurred and she
24 was told: You know, your daughter is causing harm in the neighbourhood, or she is
25 like a prostitute, and you have no recourse to making a complaint.

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1 Those sorts of incidents are extreme, but they're not exceptional. They're the kind of
2 fears associated with those affected by experiences in the bush.

3 So what I'm trying to emphasise is that there are those who say that they are
4 incapacitated by cen, and quite a considerable portion of those we've been following
5 up, not the majority, but a considerable portion state that. And then there is also
6 what their neighbours and relatives may say about them and how they might
7 interpret misfortunes that occur in the population.

8 Q. [14:38:07] That sounds like you're suggesting that cen is a spirit which is
9 infectious, am I right?

10 A. [14:38:16] Hmm, a spirit which is infectious. It is a polluting emanation
11 associated with those who are associated with violent acts of various kinds. How it
12 is interpreted in particular instances varies from one case to another, I think it's fair to
13 say. It is a way of describing and interpreting misfortunes that occur and it's a way
14 of apportioning blame. But the specific ways in which that blaming occurs varies
15 from one case to another.

16 Q. [14:38:59] Would it be right for me to suggest that maybe it is some kind of spirit
17 that hovers and hops from one compound to another within the neighbourhood?
18 Maybe "infectious" is a bit extreme.

19 A. [14:39:23] I have not heard people talking about cen in that way. I've heard
20 people talking about spirits in that way, tipu or jogi, jok in that way. I have not
21 heard about cen jumping in that way. It is, as I say, it's more an emanation, more
22 described like an emanation or an aura, a kind of polluting quality of a person rather
23 than a separate spirit that is possessing them.

24 Q. [14:39:54] That's why I would suggest, Professor, it may benefit you enormously
25 for you to go and do further research in this area, yes.

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1 Now, could you tell Court whether or not those who were abducted at a very young
2 age, but lived with the LRA beyond majority age, have lived the trauma of cen and
3 recovered full control of their mental faculties and were able to control their acts and
4 conducts while still under Kony's command?

5 PRESIDING JUDGE SCHMITT: [14:40:51] Unfortunately I have also to intervene a
6 little bit. You will have to rephrase a little bit your question because it now touches
7 psychological, psychiatrist matters where also Professor Allen is not an expert, and
8 additionally, like we had it before the last break, also it touches a little bit upon legal
9 matters.

10 So could you rephrase it a little bit? I think it might be quite easy so to give
11 Professor Allen an opportunity to ask with the background of his expertise.

12 MR ODONGO: [14:41:27] I'm much obliged, your Honour.

13 Q. [14:41:32] Professor, what I'm saying in ordinary speak is a child is abducted at
14 infancy, maybe at 9 years, but he has lived in the bush beyond the majority age. In
15 this Court it is 15, but ordinarily in common law countries it's 18 years.

16 So this child who was abducted at 9 lives beyond 18.

17 Does the trauma of cen live with him in the same manner it would affect younger
18 children who left the bush before 18? And I mean would it live with him beyond 18?

19 A. [14:42:39] I'm not, I'm not exactly understanding the question, I think. Maybe I
20 could begin an answer and you could correct me if I'm not following you in exactly
21 the way you intend.

22 Most of the discussions about cen that I have had have been with people, I would say
23 almost all of them are with people who have come back from the LRA. I'm talking
24 about with respect to the LRA, people who have come back. And they talk about
25 their experiences having affected them or people talk about them as being affected by

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1 cen and then, if you like, polluting the neighbourhood. And that is something that
2 applies to both young people and old people, older people.

3 Q. [14:43:48] I would like to stop you.

4 A. [14:43:49] I wouldn't necessarily make a distinction between them.

5 Q. [14:43:58] If we can connect from there.

6 A. Yes.

7 Q. Some of these people came back when they were already, came back when they
8 were already adults?

9 A. [14:44:01] You mean they were abducted, they were taken to the LRA as
10 children?

11 Q. [14:44:04] Yes.

12 A. [14:44:04] And they returned as adults?

13 Q. [14:44:06] Exactly.

14 A. [14:44:07] Exactly, I understand, yes.

15 Q. [14:44:08] So what I'm asking is according to their narrative --

16 A. [14:44:12] Yes.

17 Q. [14:44:12] -- their confessions to you --

18 A. [14:44:15] Yes.

19 Q. [14:44:16] -- did cen affect them while they were still in the bush after attaining
20 majority age?

21 A. [14:44:31] I cannot recall any specific interview where that was highlighted.

22 There are people who would talk about the very disturbing things that they
23 experienced in the bush and how that terrified them. I don't recall somebody using
24 that particular kind of language about their experiences in the bush. But it may be
25 I'm just forgetting.

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1 Q. [14:45:00] Okay. I think let's move now to another topic altogether. We are
2 now talking about militias and the UPDF.

3 You wrote in your report that in 1998, Museveni appointed Betty Bigombe as minister
4 of state for pacification of northern Uganda. Following the military operation
5 named, code-named Operation North, Betty Bigombe introduced some vigorous
6 anti-insurgency measures such as arming community defence groups called Arrow
7 Brigades. The LRA's response was ever more violent; is that correct?

8 A. [14:45:52] Well, I haven't read -- you've read the passage and I think that's
9 correct, yes.

10 Q. [14:45:58] Yes. Now the question is could you tell Court if you also made
11 research about these militias?

12 A. [14:46:08] Again, I'd have to ask you about which particular time period. I
13 think the answer is --

14 Q. [14:46:15] I'm concerned mostly about the time between 2003 to 2000 -- actually
15 2003 -- 2002 to 2005.

16 A. [14:46:35] During that period there were various local defence units that were
17 operational in many of the displacement camps that were, broadly speaking, affiliated
18 to the UPDF, but they had a degree of independence. They were often constituted
19 by local councils.

20 They were at that period as I recall in 2004, when I interviewed many of them, armed
21 with more significant weapons than bows and arrows.

22 So if you're asking what is the relationships between the local defence units and the
23 Arrow Brigades that were established some years earlier, I'm not entirely clear. I
24 think the Arrow Brigades were also linked to local councils, but there was a decision
25 to provide them with more significant weapons and some support from the UPDF as

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1 part of a process of securing the IDP camps.

2 So in some of the IDP camps in which I spent time in 2004 and 2005 there were local
3 defence units of that kind who were not necessarily formally part of the UPDF, but
4 were under UPDF management, arguably under UPDF command. But the precise
5 relationship between the UPDF and those forces was slightly ambiguous.

6 The reason why I say it was slightly ambiguous was because some of those who were
7 acting as LDUs were very young. And in 2004 I had various discussions with UPDF
8 in Gulu about the ages of some of those who were operating as LDUs in military
9 uniforms, and sometimes the answer was: Well, they're not really part of the
10 UBT -- the formal army. They are part of this local defence unit that's associated
11 with the local councils and we don't have direct control over recruitment. So there
12 was some ambiguity, I think it's fair to say, about some of them.

13 Q. [14:49:16] Well, Professor, I do sympathise with you in the sense that the
14 understanding is quite often obfuscated by the differently interchanging terms that
15 are used for these different groups. On the one hand they're called local units, I
16 mean local defence forces, and on the other they're called militias.

17 A. [14:49:42] Yes.

18 Q. [14:49:42] And then sometimes they're directly called either para groups,
19 Amuka, whatever.

20 A. [14:49:48] Yes, correct.

21 Q. [14:49:49] But what I am referring to was -- I mean is that group that was created
22 as a response to the deficient -- I mean to the fact that the presence of the UPDF was
23 deficient to guard the IPDs. I don't know whether I make myself clear. There was a
24 particular number, of course, variously called in different districts by different
25 names?

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1 A. [14:50:33] Yes, and of course as I'm sure you're well aware, the issue of Arrow
2 Brigades and Arrow Boys as they're sometimes called has played a part in South
3 Sudan too where they were created in areas of Western Equatoria.

4 Q. Yes.

5 A. I'm not quite sure how to answer your question, but could I just sort of make a
6 statement that might be what you're alluding to.

7 I was in IDP camps on two occasions when they were attacked. On one occasion a
8 UPDF soldier was killed. The focus of the exchanges was not overtly linked to the
9 protection of the populations in the camp. In many cases the soldiers or the local
10 defence units were either at the periphery at the camp or were not, were not seen to
11 be protecting the local population. In the night after that attack in Atiak, there were
12 some very frightened soldiers coming around from home to home behaving in ways
13 that was quite threatening. And I was observing that in 2004.

14 I think there is plenty of evidence that when camps were attacked, the protection of
15 the population was not necessarily at the foreground of what those who were there
16 ostensibly to protect the population were doing.

17 Q. [14:52:20] I don't know if we are reading from the same page. What, in your
18 understanding, that group, that group, what -- how would you describe them?
19 What definition would you give to them?

20 A. [14:52:47] So are we talking about the local defence units?

21 Q. [14:52:50] No.

22 A. [14:52:51] Sometimes they're young people, or about the UPDF soldiers in the
23 camps.

24 Q. [14:52:54] We're talking about the militias, the arrow groups.

25 A. [14:53:00] Well, those that I came to know at that --

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1 Q. [14:53:04] Especially those who were meant to protect the camps.

2 A. [14:53:28] In some of those places they were very young and in some cases quite
3 frightened. With the UPDF it was a bit different, of course, they were professional
4 soldiers.

5 There was, of course, you're alluding to this I think in your question too, there were a
6 whole range of different kinds of local security mechanisms that were introduced in
7 the IDP camps. You know, the local councils had their own people who tried to sort
8 of manage security in the camp.

9 There were concerns, as I'm sure you're aware, about the exchanges with the LRA
10 involving bows and arrows, because some of those people were, it seems, targeted by
11 the LRA. So I think there was some fear of the LRA.

12 If you're asking me was it a very efficient means of protecting people in the IDP
13 camps, I think my straightforward answer would have to be no, it wasn't.

14 Q. [14:54:46] I just wanted to refer you, I don't know, have you read the work of,
15 the work of this researcher called Maja Janmyr?

16 A. [14:55:00] Maja Janmyr, no.

17 Q. [14:55:04] From the faculty of law, University of Bergen, Norway, published
18 some time back, "Recruiting Internally Displaced Persons into Civil Militias: The
19 Case of Northern Uganda."

20 A. [14:55:20] I haven't, I haven't read that. But from what you are -- from the title,
21 it's also addressing a number of other issues perhaps, that there was recruitment into
22 the UPDF from the camps. So was that -- I haven't really read that paper, so I can't
23 really comment on it.

24 PRESIDING JUDGE SCHMITT: [14:55:41] I think we should not let the witness
25 speculate about what you might have in mind. Please put to him a question that

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1 might arise from this book that you obviously have.

2 MR ODONGO: [14:55:53] Yes, what is arising from this book is a definition, a
3 definition what is a definition of militias. And with your permission, your Honours,
4 I shall read a short script of it.

5 This gentleman writes -- this lady defines militias as "... a group of citizens organised
6 to provide military service. It is usually a supplementary or reserve army,
7 composed of non-professional soldiers and not necessarily supported or sanctioned
8 by the government, thereby making it distinct from the regular army of a nation. It
9 can serve to supplement the regular military as an irregular reserve, or it can oppose
10 it ... Consequently, militias are often of a less professional character and intended to
11 carry out emergency tasks of a military nature."

12 Is this your understanding of militias we have been talking about?

13 A. [14:57:15] I think broadly speaking, yes. I think that's right. I mean, I think
14 that's a helpful statement in that it does suggest a degree of ambiguity about a militia
15 in relation to the command forces of the national army. They have a
16 semi-independence. They have a relationship with a particular population that may
17 be different to formal armed forces. So I think that's perhaps a reasonable
18 description of what militia usually are.

19 Q. [14:57:56] So actually the most important phrase there is that it is a
20 supplementary reserve force?

21 A. [14:58:12] Yes. I'm not quite sure what's meant by that in the northern
22 Ugandan case, because sometimes that was the only force in a camp. But yes, I
23 suppose it's a reserve force and it's supplementing the activities of the UPDF in
24 protecting the population. So in that broad sense I think that seems to be reasonable.

25 Q. [14:58:36] Did you find out how they were recruited, organised and equipped?

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1 A. [14:58:48] Well, they were equipped by the UPDF. Those that I interviewed
2 had weapons that were given to them by the UPDF and they, insofar as I was able to
3 ascertain it, were under UPDF command or at least regulation.

4 But the relationship was also a little bit ambiguous, as I've alluded to earlier in that
5 there were some very young people in the local defence forces; and when officials in
6 the UPDF were asked about it, they said: Well, they don't recruit them and they
7 don't choose them, which wasn't altogether convincing.

8 Q. [14:59:33] Yes, Professor. Was the recruitment or the joining of the militias
9 voluntary?

10 A. [14:59:51] Well, according to my own research, those people involved in the
11 militia, you might say they didn't have much choice because that was the only way of
12 having an income in the camp. Life in the camps was pretty dreadful.

13 I didn't come across forced recruitment into the militia, if that's what you are asking
14 me. I didn't come across people who had been forced. Maybe persuaded
15 rigorously. But I didn't, I didn't --

16 Q. [15:00:29] What is rigorous persuasion?

17 A. [15:00:32] I didn't discern -- well, I didn't discern a policy of, you know, a
18 deliberate policy of enforced recruitment into militia. It is the case, for example, that
19 during the period -- at that time there were thousands of people coming back from
20 the Lord's Resistance Army, as we've discussed earlier, some maybe as many as
21 30,000 coming back through the reception centres.

22 They spent a period with the UPDF before they went to the reception centres, a kind
23 of debriefing period. And many of those people told me that they were offered
24 money to become part of militia or to join the UPDF. Those that I spoke to generally
25 said they refused to do so. But there was, for example, this doesn't relate specifically

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1 to militia, but there was, for example, a group within the UPDF that was recruited
2 directly from those returning from the LRA and was made up of former LRA
3 combatants. So there was an interest in recruiting people with military experience
4 into the UPDF or into militia, and I wouldn't be at all surprised if there were offers of
5 payment to do so, and in some cases maybe pressures were more intense.

6 Q. [15:01:52] So would it be correct, I mean, this statement therefore in your view,
7 would it be correct, would this statement therefore be correct: "However," from
8 again the Nordic Journal of Human Rights, "However, it is not always easy to
9 distinguish between voluntary and forced recruitments."

10 Will you agree with that statement in view of your statement that --

11 A. [15:02:28] Yes. I think that it's an ambiguous -- in a situation in which people
12 have so little in which -- I mean, life in the camps at that time, let's be clear, was
13 horrendous, you know. Honestly, when I went back in 2004, it broke my heart to see
14 it, the way people were living in those camps. To have the opportunity of a small
15 amount of money, maybe additional food, other sorts of resources, one can see why it
16 might be relatively easy to recruit people.

17 Also, just to push back the other way a little bit, there were real concerns about
18 security in the camps. And to have somebody of the camp with weapons perhaps
19 with a greater commitment to protect their friends and relatives was not necessarily
20 such a bad idea.

21 So I think it varied from place to place, but I certainly would not assert that intense
22 pressure was always absent. Sometimes I would suspect that people were placed
23 under considerable pressure to become a member of a militia or become a member of
24 the UPDF.

25 Q. [15:03:52] There is this statement again: "Individuals who were unwilling to

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1 join risked being considered LRA collaborators. As recounted by one informant,
2 they" -- that is UPDF -- "threatened that if we didn't join, they would kill everybody
3 for they will be considered to be rebels. So we decided to make the sacrifice. We
4 did not do it voluntarily but out of fear. Therefore, we went and helped the UPDF to
5 do their work."

6 A. [15:04:32] Can we be specific about the particular dates being referred to in this
7 study? Is it during the 1990s? Is it -- do we know when the study took place? I do
8 think things changed -- I mean, one of the things I observed in my own work is when
9 ICC Prosecutors -- ICC Prosecution team arrived on the ground, some of the
10 behaviours of military personnel changed somewhat.

11 So I think there were shifts in policy at various times. So if you could be clearer
12 about when precisely we're talking about.

13 Q. [15:05:11] This is a journal that was published in 2014.

14 A. [15:05:16] 2014, and referring to what period? Do we know?

15 Q. [15:05:20] Referring to the period after 2002.

16 A. [15:05:27] After 2002?

17 Q. [15:05:28] Yes.

18 PRESIDING JUDGE SCHMITT: [15:05:32] So you can only answer to if you have
19 your own knowledge about this.

20 THE WITNESS: [15:05:36] Yes.

21 PRESIDING JUDGE SCHMITT: [15:05:37] You have heard this quotation.

22 THE WITNESS: [15:05:38] Yes.

23 PRESIDING JUDGE SCHMITT: [15:05:39] And if you have from your knowledge
24 meaning from your research, if you can say something.

25 THE WITNESS: [15:05:43] Okay.

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1 PRESIDING JUDGE SCHMITT: [15:05:44] Otherwise you would have to say no, you
2 cannot comment.

3 THE WITNESS: [15:05:47] I understand. I was asking, just to clarify, the reason I
4 was asking, I could well believe there was considerable persuasion going on at
5 various points in the 1990s.

6 In the period that I observed fairly closely really from 2004, some stories like that
7 were recounted to me. There were concerns sometimes expressed, not least by
8 organisations like Save the Children and UNICEF about what went on before those
9 coming back through the reception centres arrived in the reception centres.
10 Sometimes people were detained by the UPDF for varying lengths of time. And
11 what happened in those processes was sometimes not altogether clear. So there
12 were concerns about it.

13 I had many discussions myself with army officers. People did observe some of the
14 discussions that went on at the barracks. It may also be, of course, that there were
15 discussions that took place even before the people were brought back to Gulu or in,
16 you know, in areas where they surrendered or were captured by the UPDF. It's
17 quite possible that in those situations that I didn't observe and were difficult to
18 monitor closely the sorts of things you're describing occurred.

19 Q. [15:07:26] Now, in your research, Professor Allen, did you get to know
20 approximately how many people in the disturbed areas of northern Uganda were
21 recruited as militias?

22 A. [15:07:46] As militia?

23 Q. [15:07:48] Yes.

24 A. [15:07:49] So not into the UPDF?

25 Q. [15:07:50] No.

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1 A. [15:07:51] But as militia?

2 Q. [15:07:52] As militia.

3 A. [15:07:53] No, I don't know the number. I don't think anybody has that
4 number. I mean just to be, just to kind of put that in context, in 2005, the United
5 Nations agencies operating in the area were still trying to register the location of all of
6 the IDP camps and work out how many people were resident in them. There was
7 considerable confusion about numbers and data, and it was very difficult to move
8 about.

9 In visiting many camps I had to go in a military convoy, and there were really, really
10 serious concerns about remaining in camps as it became dark.

11 So it was a time when knowing what was going on in some of those hundreds of IDP
12 camps was not altogether easy. So some were much more closely monitored than
13 others.

14 Q. [15:09:01] Professor, I've landed on a document called "Inside 5,000 lost guns
15 and 24 billion shillings Arrow Boys pay," by a researcher called Sarah Nalukenge,
16 which was posted on November 16, 2014 again. And in that document they were
17 estimating that up to about 38,000 militias were recruited between 2002 and 2005.

18 A. [15:10:07] 38,000 people were recruited into militia in northern Uganda?

19 Q. [15:10:13] Yes.

20 A. [15:10:13] Across the whole of northern Uganda?

21 Q. [15:10:16] Yes.

22 A. [15:10:17] You're asking me if I am familiar with that figure?

23 Q. Yes.

24 PRESIDING JUDGE SCHMITT: [15:10:27] No, no. If you can confirm it, if you
25 have any background, any scientific knowledge about it.

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1 THE WITNESS: [15:10:32] No.

2 PRESIDING JUDGE SCHMITT: [15:10:32] Research in that respect.

3 THE WITNESS: [15:10:34] Not as I've said. I didn't come across -- I'd find it
4 surprising -- can I put it this way? I would find it very surprising that someone
5 would be able to ascertain that number.

6 I did make contact with a militia in camps in which I visited, often it was like a very
7 small group. I would be very -- I mean, it was a very large number of people, of
8 course, in all those camps. But that seems like a very, very high figure to me.

9 MR ODONGO: [15:11:04]

10 Q. [15:11:04] Okay. Well, with the guidance of the Presiding Judge, I think you
11 are excused from expressing an opinion on something you've not really studied.
12 Yes.

13 So I would move to the next. I will just ask you, Professor, did you study the
14 collaboration between the UPDF and the militias?

15 A. [15:11:34] I did observe it. I wouldn't say I did a separate study looking at that
16 relationship, but I was interested to see what armed groups were based at camps, and
17 I was interested to see the relationship between them. And it was frankly sometimes
18 difficult to discern which were local defence forces and which were part of the UPDF,
19 particularly when they seemed to have similar uniforms.

20 Q. [15:12:11] Okay. Now, maybe I'll ask you this: When, around the time in
21 issue, that is 2002 to 2005, when there was apparently this massive recruitment of
22 militias, what was the reaction of the LRA?

23 A. [15:12:39] To the recruitment of militia?

24 Q. [15:12:42] Yes.

25 A. [15:12:45] I don't think I can answer that question. I don't know that there was

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1 an LRA policy that was clearly -- well, what I can say is that there were statements
2 associated with the LRA that suggested that there were, if you like, punishments
3 associated with collaboration with Museveni's government. I came across
4 statements of that kind. Perhaps most obviously with respect to the incidents that
5 occurred at Pagak where -- but in that case it was people who were reportedly, it was
6 the reporting of people claiming those returning from the LRA being reported on the
7 radio, which then is said to have provoked the attack. I have no evidence to prove
8 that's the case, but that's what people said.

9 So I think it's quite possible that there was an awareness of such things. People I've
10 spoken to from the LRA were often concerned about people, for example, being
11 involved in the local councils, let alone being involved in the militia, seeing that as
12 drawing them in to Museveni's governmental structure.

13 But I can't be more specific than that, I think.

14 Q. [15:14:19] Would you want to tell court whether in your research you
15 discovered that there was some public outcry about the establishment of the militias
16 around the IDP camps and could you have come across any information that this
17 became a matter of discussion in the parliament of Uganda?

18 A. [15:14:54] Well, as I think it is in my report, I talk about how parliamentarians
19 looked or wanted to have a full investigation into what was going on in northern
20 Uganda. There was an awareness that the IDP camps were not safe places. You
21 know, we know that. That's a matter of fact.

22 There were terrible things that happened in a number of IDP camps. So there
23 were -- there were serious concerns about the levels of protection available to people
24 living in those camps. And there was lots of controversy about it, not just in the
25 Ugandan press and within the -- in debates in Uganda, but internationally, it became

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1 something that people expressed concern about and various NGOs would emphasise
2 the point that the IDP camps were not being adequately protected.

3 Q. [15:16:03] Professor, I was talking more specifically about the existence of the
4 militias within the IDP camps or within or around the IDP camps, not necessarily
5 about the existence of the IDP.

6 A. [15:16:23] I think what I was alluding to was the lack of protection for the IDPs
7 by militia, by local defence units or by the UPDF. But I think maybe you're alluding
8 to something specific and I'm not quite grasping what you are asking me.

9 Q. [15:16:42] What I'm asking is, was the presence of militias in or around the IDP
10 camps a cause of concern to the public, particularly the parliament of Uganda?

11 A. [15:16:59] There were concerns expressed. There were concerns expressed. In
12 terms of my direct observation, if I can just talk about that for a moment, there were
13 issues I observed where soldiers or soldiers in particular, UPDF actually, were
14 sometimes acting in quite aggressive ways to the population, not extremely so
15 compared with of other things I've seen in Uganda in the past, but occasionally. By
16 and large my observation of the local defence unit, insofar as I could distinguish who
17 was local defence and who was UPDF, is that they were very largely people of the
18 camp and so there was perhaps a bit more acceptance of them.

19 It was quite interesting, if I could just follow up on this, that when the camps began to
20 break up and I observed people leaving the camps and returning to their homes,
21 many of them wanted to take members of the local defence units with them. They
22 got used to them.

23 So I'm aware that there were debates about semiformal or informal ambiguous
24 personnel being recruited. There was concerns being expressed about the numbers
25 of people coming back from the Lord's Resistance Army who were then incorporated

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1 into the UPDF and then deployed militarily. There was lots of discussion about such
2 things.

3 At the local level it just varied from one place to another. I was sometimes surprised
4 at the degree to which the population accepted and worked in a rather positive way
5 with both UPDF and local defence units on the ground in the camps. That was what
6 I observed on most occasions.

7 Q. [15:19:07] You talked about the ambiguity of the status of these militias. I'm
8 talking about militias, not the local defence force --

9 A. [15:19:21] Yes, but I think that we agree it's quite ambiguous. And of course
10 you're also talking about a time when there were ghost soldiers in the north as well.

11 Q. [15:19:29] Yes.

12 A. [15:19:29] That's what we're getting to partly.

13 Q. [15:19:31] Partly. But I'm not interested in the ghosts -- well, we talked a lot
14 about ghosts. I don't want to go back there again.

15 PRESIDING JUDGE SCHMITT: [15:19:37] I think we should move on to another
16 point. I think it has been explored sufficiently, this point, and --

17 MR ODONGO: [15:19:44] One more question.

18 PRESIDING JUDGE SCHMITT: [15:19:45] Of course, one more question.

19 MR ODONGO: [15:19:47]

20 Q. [15:19:47] I just wanted to know whether what you call ambiguous refers to the
21 non-constitutionality of the establishment of those units?

22 A. [15:19:55] I can well see --

23 Q. [15:20:02] Or legal instrument for that matter?

24 A. [15:20:04] I can well see why that would be a matter of concern and I've alluded
25 to it by saying when I challenge UPDF officers about the use of those involved in local

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1 defence units, you know, they immediately responded by saying, well, they're not
2 really part of the UPDF and tried to sort of withdraw from responsibility for them.
3 I had one very bizarre discussion I should just say in Gulu with UPDF officers and
4 then they introduced me to the person who was responsible for managing the
5 formerly abducted people when they first came back and they were telling me that
6 this officer was doing a great job. And it turned out to be a very young woman who
7 was below the age of 18 in a UPDF uniform.

8 So there were all sorts of ambiguities even within the UPDF about such matters.

9 I think from my observations and from my discussions with senior officers, concerns
10 about such issues became more focused after the intervention by the International
11 Criminal Court.

12 MR OBHOF: [15:21:17] For the Court record the two documents counsel was
13 discussing in the last 10 minutes are UGA-D26-0018-0013 found at tab 3. And the
14 second one which starts off "Inside 5000 lost guns" is UGA-D26-0018-0079 found at
15 tab 5.

16 PRESIDING JUDGE SCHMITT: [15:21:38] Very much appreciated.

17 MR ODONGO: [15:21:41]

18 Q. [15:21:41] Professor, did you visit any IDP camp -- well, you said you visited
19 some. In fact, you slept in some IDP camps. At that time were there these militias?

20 A. [15:22:06] There were, yes.

21 Q. [15:22:07] Where were they stationed? Were they stationed together within or I
22 mean within the population or outside the population? If outside the population,
23 were there UPDF also at the same time with the -- I mean with those militias?

24 A. [15:22:31] Some of the camps were very small. Some of them were very large.

25 In very large camps, as I recall, I would see the groups that would appear to be local

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1 defence units together with the UPDF at the same base, at the same place, usually at
2 the edge of the camp. Usually at the edge of the camp.

3 So for example, in the case of the attack on Atiak towards the end of 2004, the UPDF
4 and local defence unit base, and it's not clear to me which ones were UPDF and which
5 ones were local defence unit personnel, it's not -- was not clear, but that base was to
6 the edge of Atiak. And the LRA, I assume it's the LRA attacked the soldiers directly
7 and killed one of them. And then there were exchanges of fire, and one of the LRA
8 combatants was killed.

9 Only after that did I see soldiers, whether they were UPDF or local defence units, I
10 don't know, coming around the camp, looking and seeing what was going on and
11 making sure everybody was off the roads and shouting at people to go back to their
12 homes.

13 So that's when I -- it was after the attack that I became directly aware of the presence
14 of those personnel.

15 In other IDP camps they were rather small and if there was a local defence unit there,
16 it may well have been much more integrated into the population, because it may well
17 have been, you know, a son of the home who was in some way recruited to protect it.

18 Q. [15:24:44] Okay. Thank you. Professor, we're almost at the end, but I'll move
19 you to Operation Iron Fist one and two. You stated in your book --

20 A. [15:25:19] In this one?

21 Q. [15:25:20] -- that after the September 11, 2001 attack on the World Trade Center
22 in the US, the US passed a law categorising LRA as a terrorist organisation; is that
23 right?

24 A. [15:25:47] I don't know whether technically it was a law, but there was an act as
25 I understand it. I don't know what the status is of the act which listed terrorist

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1 organisations. And my understanding is that the Lord's Resistance Army was
2 named on that list.

3 Q. [15:25:59] An act is a law.

4 A. [15:26:01] Okay.

5 Q. [15:26:09] So that's correct, that there was such --

6 A. [15:26:10] My under --

7 Q. Okay. Let's agree that, let's use the --

8 A. Yes, that's my understanding.

9 Q. [15:26:16] -- common term.

10 A. Yes.

11 Q. There was an act?

12 A. [15:26:17] Yes, that's my understanding. Was it called the terrorist exclusion
13 act as I recall.

14 Q. Patriotic.

15 A. Yes.

16 Q. [15:26:25] Is it the case that you said after that act there was pressure on the
17 government of Sudan to get into some agreement with the government of Uganda on
18 the issue of dealing with the LRA insurgency?

19 A. [15:26:57] I think that's broadly what I say. I think I also make the point that
20 the political situation in Sudan was affected too by the lobbying in the United States
21 over Darfur, you know, by the fact that Sudan had been put on a list of terrorist states
22 I believe by President Clinton. So there's a history to it which I --

23 PRESIDING JUDGE SCHMITT: [15:27:23] We already had this yesterday.

24 THE WITNESS: [15:27:26] Yes, yes.

25 PRESIDING JUDGE SCHMITT: [15:27:27] And I think if I recall it correctly was

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1 paragraph 39 --

2 THE WITNESS: [15:27:29] Yes.

3 PRESIDING JUDGE SCHMITT: [15:27:30] -- of your report and it was already, so to
4 speak, extracted by Mr Gumpert when he questioned you yesterday.

5 THE WITNESS: [15:27:36] Correct. Thank you.

6 PRESIDING JUDGE SCHMITT: [15:27:39] Yes.

7 MR ODONGO: [15:27:41]

8 Q. [15:27:41] So can you tell this Court which countries -- I mean, so there was an
9 attack an LRA.

10 A. [15:27:51] I'm sorry, I'm not understanding the question.

11 Q. [15:27:53] What I mean is after that act, the political situation in the Great Lakes
12 Region dramatically changed; is that correct?

13 A. [15:28:09] I think there clearly were changes. My understanding, I think is also
14 in that paragraph I mentioned that President Carter was asked to help normalise
15 relationships between Sudan and the United States and part of that discussion
16 involved ceasing open support for the Lord's Resistance Army. That is my
17 understanding.

18 MR ODONGO: [15:28:36] If I -- with your permission, your Honour, I may want to
19 remind him about what is written here.

20 THE WITNESS: [15:28:43] I'd be very happy to if you tell me the paragraph.

21 MR ODONGO: [15:28:46]

22 Q. [15:28:46] The paragraph is on your report on page 24, paragraph 39. Can you
23 read it, read and internalise it.

24 A. [15:29:02] Read it. The whole paragraph? It's quite a long one.

25 Q. Well, it's --

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1 A. "During the ... 1990s, international pressure increased on President Bashir's" --

2 Q. [15:29:11] You start from after, after the September 11, 2001 attack.

3 A. "International pressure on Sudan was further intensified following attacks in the
4 US on September 11, 2001 and by the inclusion of the LRA on the USA Patriot Act
5 Terrorist Exclusion List. As a consequence, the Sudan government was persuaded to
6 give permission for so called 'Iron Fist' incursions from Uganda, which initially
7 started in March 2002."

8 Q. [15:29:45] Is that your statement?

9 A. [15:29:53] That is what is written in my statement.

10 Q. [15:29:55] Yes.

11 A. [15:30:01] Yes, that is what is written in my statement.

12 PRESIDING JUDGE SCHMITT: [15:30:03] And furthermore he has repeated it
13 yesterday on questioning by Mr Gumpert.

14 MR ODONGO: [15:30:07] Very well, your Honour. Only that when I was asking
15 him, he was rather ambivalent about it.

16 PRESIDING JUDGE SCHMITT: [15:30:13] Yes, yes, yes.

17 MR ODONGO: [15:30:15] Yes. So I just wanted to draw him back to it just to
18 remind him.

19 THE WITNESS: [15:30:19] Yes.

20 MR ODONGO:

21 Q. [15:30:20] Not because I think you're being dishonest but, you know, you're only
22 human.

23 A. [15:30:25] Have I said something that contradicts it?

24 Q. [15:30:27] No.

25 A. [15:30:28] Okay.

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1 Q. [15:30:28] Mercifully you have not, mercifully you have not. You've done
2 wonderfully.

3 Now, can you now tell Court how Operation Iron Fist was organised. Who
4 sponsored it, who supported it and so on and so forth?

5 A. [15:30:52] This isn't something that I observed myself, so I only know about it
6 from the records that are available for everybody else to read.

7 PRESIDING JUDGE SCHMITT: [15:30:59] And because of that, please, I don't want
8 to -- although I give now the impression to be impatient, but there is reason for it.
9 First of all, it has also been discussed yesterday, and secondly, Professor Allen points
10 correctly out that he now will have to take recourse to open sources that the Court
11 would have, the Defence would have, the Legal Representatives of Victims would
12 have and the Prosecution would have. So I would please ask you to move to another
13 point.

14 MR ODONGO: [15:31:33] Much obliged, your Honour.

15 Q. [15:31:35] Well, Professor, I was just saying that it was clear from your statement
16 yesterday that the government of South Sudan opened its borders, other state actors
17 or I mean the US gave logistical support and the Iron Fist became a reality; is that
18 correct?

19 A. [15:32:02] Yes, that's correct.

20 Q. [15:32:03] Yes. So, Professor, is it correct to say that conducting a military
21 operation of such magnitude outside of the national jurisdiction of Uganda with the
22 involvement of at least three countries, the northern Ugandan conflict acquired an
23 international character?

24 A. [15:32:34] Well, I don't think I would say it acquired it at that point. I think it
25 had had it for a while. You know, there was support for rebel groups going on

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1 across that border for some time going both ways with support for the Sudan People's
2 Liberation Army from Uganda. But if you like, it formalized it. I think that would
3 be a reasonable way of putting it.

4 Q. [15:33:00] Okay.

5 A. [15:33:00] It is a surprising thing perhaps. There are some surprising elements
6 in it. I remember being taken aback at one point that Uganda government
7 announced a ceasefire in South Sudan, which I thought was an interesting thing for a
8 government to do. So it raised some very interesting and perhaps quite troubling
9 questions which maybe you're alluding to.

10 Q. [15:33:26] But I think you've satisfactorily answered because you just said
11 formalising it.

12 A. [15:33:37] It formalised it, yes, it formalised it.

13 Q. [15:33:40] So in other words from what you are saying there was, you know,
14 action and reaction, both ways. Would it be fair to say that there was a proxy war
15 going on between the government of Sudan on the one hand and the government of
16 Uganda, government of Uganda supporting the SPLA and the government of Sudan
17 supporting the LRA?

18 A. [15:34:14] I don't think I would use the word "proxy war," but it is the case that
19 there was insofar as -- well, I think we have enough evidence to be able to be
20 confident of the fact that there was support going both ways that President Museveni
21 had a long-standing relationship with John Garang and had sympathy with the
22 SPLA's agenda, and it is the case that the Sudan government and from all the
23 evidence that we have that the Sudan government provided the Lord's Resistance
24 Army with a range of different sorts of resources and support. That also had an
25 influence on the peace processes that yourself were involved with. So I mean there

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1 is a history to all these things.

2 Q. [15:35:16] Yes, to that extent, Professor, would I be right to say that the war
3 finally pitted indirectly the government of Uganda against the government of Sudan
4 indirectly?

5 A. [15:35:39] It depends on how indirect is indirect. I don't think that the
6 government of Uganda wanted to fight a war against the government of Sudan. The
7 border area, I mean, the LRA was drawn into -- the LRA became a kind of militia
8 within South Sudan in the war against the SPLA. And there was, there was support
9 going either side of border with the Ugandan government supporting the SPLA.
10 So certainly there has been long-standing tensions on that border with support for
11 rebel groups on both sides.

12 Whether I would go so far as to call it a proxy war, I think that perhaps makes it more
13 substantial than it was, but I might be wrong. But maybe that suggests something
14 rather grander than what was occurring. Though of course locally it was very
15 significant.

16 Q. [15:36:42] What I mean, Professor, is that insofar as the SPLA was fighting the
17 government of Sudan, and it became apparent that there was that understanding
18 which you have elaborated on, wouldn't an observer actually come to the conclusion
19 that as a matter of fact, the SPLA became an agent of the government of Uganda?

20 A. [15:37:22] I think you would have had trouble convincing John Garang of being
21 an agent of the Ugandan government. He sought support from a number of sources
22 and the Ugandan government was one of them. But I think you are right in that
23 there was long-term political alliance between Museveni's government and John
24 Garang's SPLA and there was sympathy for the agenda of the SPLA in the Ugandan
25 government, and they were looking to see the SPLA being victorious in the war in

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1 South Sudan and it was a shock and a disappointment to many within the armed
2 forces when John Garang died in the helicopter crash.

3 Q. [15:38:15] How about in the case of the south, the government of Sudan and the
4 LRA, the logistical and other support that were allegedly given by the government of
5 Sudan to the LRA?

6 A. [15:38:41] The government of Sudan had good reasons for supporting the LRA.
7 I mean, as we are, we're all aware, there are accounts of how Riek Machar, who was
8 of course the peace negotiator in the Juba process was part of the arrangements made
9 in turning the LRA into effectively a militia group in South Sudan. And the LRA
10 was an effective fighting force on various occasions fighting for the Sudan
11 government against the SPLA in South Sudan.

12 There is I believe evidence for that. It's not something I have observed personally,
13 but I read that from evidence that's in the public arena.

14 Q. [15:39:37] I think that's good information to Court.

15 I will now bring you to the net effect of Operation Iron Fist on the wider disturbed
16 areas of northern Uganda. And I will ask you whether you ever read this article
17 titled "Civil Society and Conflict Resolution: The Role of the Acholi Religious
18 Leaders Peace Initiative in the Northern Ugandan Conflict" which was published by
19 Apuuli Phillip Kasaija, which is found at tab 8, ERN, UGA-D26-0018-0224.

20 A. [15:40:49] I think it's very likely I have read it, but I don't have it. I mean can
21 you give me the date of publication, do you know?

22 Q. [15:40:55] The date of publication.

23 MR OBHOF: [15:41:00] 24th, 2004, April.

24 THE WITNESS: 2004, yes.

25 MR ODONGO: [15:41:03]

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1 Q. [15:41:03] 24th, 2004.

2 A. [15:41:04] Yes, I believe I even cite it in the article that I wrote in the book I keep
3 referring to.

4 Q. [15:41:10] Okay. That's why I was asking.

5 A. [15:41:13] Ah-hah.

6 Q. [15:41:15] In that book it is written, "Operation Iron Fist among others resulted
7 in the expansion of the LRA's operational area from Gulu, Pader and Kitgum districts
8 to the districts of Lira, Apac, Katakwi and Soroti. This, according to the United
9 Nations Office for Humanitarian Affairs, resulted in the number of the internally
10 displaced persons to raise from 800 to at least 1.2 million."

11 A. [15:41:48] 800,000, I think.

12 Q. [15:41:50] 800,000, yes, 800,000 to 1.2 million and so on and so forth.

13 A. [15:41:56] Yes.

14 Q. [15:41:57] Now, Professor, I just want you to tell Court if in the course of your
15 research you arrived at the same conclusion that the Operation Iron Fist was a big
16 mistake, because instead of weakening the LRA, it had dispersed them and gave them
17 further impetus to attack, kill and abduct many people, thereby giving the strength to
18 expand their military operations to the other areas such as Lira, Apac, Katakwi and
19 Soroti?

20 A. [15:42:35] I think it is a matter of fact that the effect of the initial Iron Fist
21 incursions in South Sudan led to the breaking up of the LRA into smaller units. It
22 was from that point that of course so many people started coming back from the
23 Lord's Resistance Army because smaller military units abandoned large numbers of
24 people who had been brought into the LRA at that time.

25 It was from that point that thousands of people began to return to northern Uganda

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1 through the reception centre process. But it also meant that the LRA operating in
2 small units moved back into northern Uganda, and that there were attacks as you
3 correctly described, not just in the areas that have been the main focus of attacks in
4 previous years, but expanding into Lira and even into the edges of Teso area, too.
5 1.2 million is I think perhaps a rather low estimate of the number of people who were
6 actually in the end displaced into displacement camps. Some estimates go as high as
7 2 million. I think that's too high. But I think 1.5 would be about right at the peak.

8 Q. [15:43:58] 1.5?

9 A. [15:43:59] I would guess, but it's a guess. You know, I mean, I travelled around
10 very many camps. I mean, the scale of displacement by 2004 was astonishing.

11 Q. [15:44:11] Thank you for that answer. Let's move to this theme of LRA wives.

12 A. [15:44:24] LRA wives?

13 Q. [15:44:25] LRA wives.

14 A. [15:44:27] I'm sorry, wives or wise?

15 Q. [15:44:29] Wives.

16 A. Wives, yes.

17 Q. Did I say wise?

18 A. [15:44:37] I wasn't quite sure, but anyway communication has occurred.

19 Q. [15:44:40] Wives?

20 A. [15:44:41] Wives, yes.

21 Q. [15:44:41] Professor, in the report dated June 15, 2015 that is found in ERN,
22 (Redacted) at tab 9, you and other professionals were invited by the Office
23 of the Prosecutor in early May 2015 to provide a briefing on the context in northern
24 Uganda, which you did on 28 and 29 May 2015.

25 In the course of your mission you interacted with the Trust Fund for Victims and the

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1 Victims Participation Unit; is that correct?

2 A. [15:45:26] I believe it is the case. This is when I came to visit the court last year
3 and had conversations with various people here, yes, that's correct, yes.

4 Q. [15:45:35] In the course of your mission, what did you find out, what did you
5 find about gender, because you see, it has been variously called, you know, marriage
6 or whatever, cohabitation. But I want to call them relationships for the time being.
7 What did you find about gender relationships in the LRA?

8 A. [15:46:13] I'm sorry, I'm not quite sure what the connection is between the first
9 statement and --

10 Q. [15:46:19] During that --

11 A. [15:46:21] Are you asking what I reported at that time or --

12 Q. During that mission.

13 A. When you say "the mission," sorry, I'm just not quite clear what you are asking.

14 Q. [15:46:27] During that mission --

15 A. [15:46:28] The mission?

16 Q. [15:46:28] -- which was described above.

17 A. [15:46:33] I wouldn't call it a mission. It was a visit and a conversation. And
18 two Ph.D. students came with me, one of whom is (Redacted), who has just --

19 Q. Okay.

20 A. -- published a book on rape in northern Uganda, not necessarily about LRA rape,
21 but rape in a more general sense. It was more we were interested in the ICC. I had
22 been interested in the ICC for a very long time. It was an opportunity to talk to
23 people within the Court about how the Uganda situation was developing. And we
24 had open-ended discussions. But it wasn't a mission. It's not like we came with an
25 agenda.

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1 Q. [15:47:11] All right. Let's agree that it was that visit, that visit.

2 A. [15:47:13] Yes, it was a friendly visit.

3 Q. [15:47:15] Yes.

4 PRESIDING JUDGE SCHMITT: [15:47:15] But then would Professor Allen have
5 really -- could he really say something about what you are alluding to from a
6 firsthand impression or from own research?

7 MR ODONGO: [15:47:27] Yes, yes.

8 PRESIDING JUDGE SCHMITT: [15:47:28] When it was a talk to an ICC official?

9 MR ODONGO: [15:47:32] My lord, it is one of the documents provided by the OTP.

10 PRESIDING JUDGE SCHMITT: [15:47:43] Then perhaps you quote and you put it to
11 the witness what you're alluding to, especially bearing in mind that we have only 13
12 minutes left.

13 MR ODONGO: [15:47:56] Yes, yes, I'm alluding to --

14 MR GUMPERT: [15:47:58] I'm sorry to interrupt, and I know time is short and it is
15 inconvenient, but there is a matter about which we need to go into private session.

16 PRESIDING JUDGE SCHMITT: [15:48:06] Then we go shortly into private session,
17 please.

18 (Private session at 3.48 p.m.)

19 PRESIDING JUDGE SCHMITT: [15:48:13] By the way, not every inconvenience can
20 be avoided in the courtroom. That's perfectly clear.

21 MR GUMPERT: [15:48:19] I'm grateful for that reassurance.

22 THE COURT OFFICER: [15:48:21] We're in private session, your Honour.

23 MR GUMPERT: [15:48:23] The document to which my learned friend is alluding is
24 one which is sensitive and has confidential status. And if there is to be further
25 discussion about its nature and contents, then I submit that that should take place in

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1 fact in closed session if -- because I don't believe the professor has got the document
2 in front of him in any hard copy form, so presumably if there is to be any meaningful
3 discussion of its content, it's going to have to be put up on the screen.

4 The reasons for its confidentiality and beyond that, because that's a very common
5 status for documents, but it has a particular sensitivity has been expanded upon in
6 previous filings back last year. I don't have the filing numbers at my fingertips, but
7 I'm certainly stating the correct case when I say that that is what the position is.

8 And in all the circumstances I would ask that the public not be privy to what is about
9 to happen, if there is indeed to be detailed questioning about this document.

10 PRESIDING JUDGE SCHMITT: [15:49:46] So I think we stay in private session until
11 the end of this session, and you continue with your questioning and bear in mind that
12 we have only 10 minutes left, please.

13 And if need be, if something has to be displayed, we have to do this, like Mr Gumpert
14 said --

15 MR ODONGO: [15:50:12] I have one thing to be displayed.

16 PRESIDING JUDGE SCHMITT: [15:50:15] Yes. And this will of course not be
17 displayed for the gallery. That's perfectly clear.

18 MR ODONGO: [15:50:24]

19 Q. [15:50:33] Professor, I think let's just give an outline in the meantime the kind of
20 question I wanted to put to you. Did you study the institution of marriage among
21 the Acholi people?

22 A. [15:50:44] I have investigated it. I've studied it. I've observed it.

23 Q. [15:50:48] Yes. Did you come across this term "elopement"?

24 A. [15:50:56] Yes.

25 Q. [15:50:57] How about "cohabitation"?

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- 1 A. [15:50:59] Yes. Well, I mean, those terms I used in English, but I mean as --
- 2 Q. [15:51:05] I mean in the context.
- 3 A. [15:51:08] Yes, I understand. No. I understand, yes, yes.
- 4 Q. [15:51:11] Yes.
- 5 A. [15:51:11] And marriage by capture, too.
- 6 Q. [15:51:13] So are they prevalent in the Acholi community?
- 7 A. [15:51:17] They occur. I spoke earlier about Okot p'Bitek the great Acholi poet
- 8 and author, he wrote a fascinating article "Acholi Love" many years ago that describes
- 9 those processes in some detail.
- 10 Q. [15:51:39] Well, in the context of the LRA, as somebody who studied and
- 11 researched the LRA, you must have studied something to do with female and male
- 12 relationships in the bush; is that correct?
- 13 A. [15:52:01] Yes. Not just in the bush, but yes, yes.
- 14 Q. [15:52:03] Not just in the bush?
- 15 A. [15:52:10] No. I mean, I've been very interested in all aspects of Acholi life.
- 16 Q. [15:52:14] No, no. I'm talking about LRA --
- 17 A. [15:52:17] I understand.
- 18 Q. [15:52:17] -- male and female relationships?
- 19 A. [15:52:20] I've also been interested in what has happened to people who have
- 20 been with the LRA after they have returned from the bush, and I'm interested in
- 21 discussions about sexual relations within the LRA in relation to the way people talk
- 22 about relationships in the population as a whole.
- 23 Q. [15:52:38] So what -- how were these relationships constructed?
- 24 A. [15:52:45] I'm sorry, that's a very general question. I think are you talking
- 25 about conventional marriage patterns?

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1 Q. [15:52:54] No. I'm talking about a man taking on a woman in the LRA context.

2 How did a man acquire a woman?

3 A. [15:53:16] All right. I can answer that question. Just to be clear, do you want

4 me to -- I should just clarify that I am aware of the document that is being referred to.

5 I have not read it. I have not seen it. The view was that we took was this was a

6 confidential document, and even though of course I am very familiar with the author,

7 I didn't feel it was appropriate, neither of us felt it was appropriate for me to see it.

8 So I have not seen the document.

9 So if I could answer that question purely from my own personal --

10 PRESIDING JUDGE SCHMITT: [15:53:44] Of course, please do that.

11 THE WITNESS: Yes.

12 MR GUMPERT: [15:53:52] Can I interrupt again? If that's the way we are going to

13 go, if the professor is going to answer questions, then we can go back into public

14 sessions.

15 PRESIDING JUDGE SCHMITT: [15:54:00] I also had the impression if we can, so to

16 speak, avoid to specifically refer to this document, I think we can go into open session

17 and finish the questioning. If so, if you can, for example, what would also be an idea,

18 phrase your questions, so to speak, around this document, but not citing it exactly, for

19 example. This would be a possibility.

20 MR ODONGO: [15:54:35] I think I'm having difficulty, my lord. I was not referring

21 to any document at all. I'm talking about his opinion as a researcher.

22 PRESIDING JUDGE SCHMITT: [15:54:46] Then we can go in open session.

23 MR ODONGO: [15:54:48] Yes.

24 PRESIDING JUDGE SCHMITT: [15:54:48] Open session please then.

25 (Open session at 3.54 p.m.)

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1 PRESIDING JUDGE SCHMITT: [15:54:54] Mr Gumpert is aware if events take
2 another turn, you come back to us.

3 MR ODONGO: [15:55:01] Yes, now -- sorry.

4 THE COURT OFFICER: [15:55:03] We're in open session, your Honour.

5 MR ODONGO: [15:55:07]

6 Q. [15:55:07] Professor Allen, can you -- do I put the question again or --

7 A. [15:55:12] No. I can repeat it at the beginning of my answer perhaps.

8 Q. [15:55:16] Yes.

9 I have ten minutes now, sir?

10 PRESIDING JUDGE SCHMITT: [15:55:19] Normally only 5, but since we had a
11 discussion, you have 10 minutes.

12 MR ODONGO: [15:55:25] Yes, I'm much obliged.

13 THE WITNESS: [15:55:28] As I have already recounted, I have interviewed very
14 many people who have come back from the Lord's Resistance Army, including
15 women who were taken by the LRA, many of whom have come back with children.
16 I've also interviewed people who describe themselves as wives of senior commanders.
17 I did so in 2004, again in 2005, and I continue to have contact with them. We are
18 following up many consistently to see what happens to them over time.
19 I've also had various Ph.D. students working on these topics, one in particular, Holly
20 Porter, has just completed a book looking at issues of Acholi sexuality, not just with
21 respect to the LRA but, if you like, within the context of the LRA war.

22 So it has been a considerable focus of our research and of concern, too, about the
23 gender dynamics in the region.

24 You asked me specifically about what happened to women within the Lord's
25 Resistance Army. From the accounts that I have collected myself or with, you know,

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1 directly with my research assistants, many women talked to me about being taken at
2 a very young age, and they describe the process of being given to a commander as a
3 wife.

4 Some commanders, as is well-known in the public record, had many such wives.

5 Specifically how that process occurred varied. One example that has been given to
6 me more than once is that commanders threw an article of their clothing in a pile, and
7 the women were forced to choose one, and they were given to that commander. But
8 other examples have been quite different where they have been given directly to a
9 particular commander as a wife.

10 You're asking me perhaps what is the nature of that relationship in Acholi society.

11 You know, at the beginning of my testimony I talked about the abductions that
12 occurred in the 19th century, the abductions of large numbers of people including
13 women.

14 It is the case that the idea of marriage by capture is something that resonates in the
15 region. Okot p'Bitek, the well-known Acholi poet and writer, described it in an
16 essay many years ago called "Acholi Love." And his description of it and how
17 people explain it to me is that maybe a girl will indicate her interest to a boy through
18 the way that she looks at him and certain kinds of ways of holding herself, and there
19 may be a kind of an arrangement where she will be abducted, so to speak, and sexual
20 intercourse may occur, and then the boy then pays an instalment of bride price, if you
21 like, to her father.

22 I know from my earlier research both among Madi and Acholi, women who would
23 say to me when they describe, you know, how they met their husband, "Oh, but he
24 wasn't my first husband," and then they would tell me about how something like that
25 had happened to them, and that they didn't like the man who had done it, and they

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1 ran away to their mother's brother, you know, and refused to take the man. But of
2 course, it can be difficult to do that. And so sometimes women were drawn into
3 marital relations in that way.

4 How prevalent it was is -- well, it's very hard to discern. I mean, as you very well
5 know, because you come from this region yourself, where lineages are protecting
6 their own, a woman who is taken into the home of another lineage and mistreated,
7 her brothers will come to protect her in the home of her husband.

8 Q. [16:00:41] Professor, I don't have a lot of time now.

9 A. [16:00:42] All right.

10 PRESIDING JUDGE SCHMITT: [16:00:44] It's okay.

11 THE WITNESS: [16:00:45] Is it okay?

12 PRESIDING JUDGE SCHMITT: [16:00:46] I think it's okay that, I think it's okay that
13 you interrupt the witness because of the time pressure. So you can continue, please.

14 MR ODONGO: [16:00:59] Thank you very much, yes.

15 THE WITNESS: [16:01:00] You want me to focus?

16 MR ODONGO:

17 Q. [16:01:03] Yes.

18 A. [16:01:04] Okay. The reason I'm giving the background is because, and I think
19 this is maybe what you are alluding to, is that the way in which women were taken
20 into the LRA echoed some of these processes. And it is the case that some of the
21 women who I've interviewed talk about their husbands in the LRA in a somewhat
22 similar way to those women I've been talking about. Others do not. Others do not.
23 There is a variation.

24 One of the things that I observed in 2004 was the intense conflict sometimes within
25 the reception centres for returned, people returning from the LRA between such

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1 women, with more senior women wanting, more senior wives wanting to control
2 more junior wives.

3 And the stories of many of the women who I spoke to did not adhere to that way of
4 thinking. So, for example, some of the Aboke girls who I spoke to after they came
5 back, you know, speak in harrowing terms about what happened to them and didn't
6 understand it in that way at all.

7 So I'm afraid like so many of the other responses to your questions, there was
8 enormous variation.

9 There was also the issue of what choice is there for a woman. A woman who has
10 children with a man needs to secure resources for those children, and the way in
11 which a woman secured resources for her children is through the lineage of her
12 husband.

13 So a woman to deny her husband, to not accept that relationship is to make it
14 extremely unlikely that land will be allocated from his lineage. And then there is the
15 issue of where do they go? Do they go back to their brothers' home? And then
16 what is the status of those children?

17 So I think it's reasonable to say that there is -- that women coming back from the LRA
18 with children find themselves in a very difficult position. So in summary, I would
19 say it varies considerably between women. A large number of the women who I've
20 interviewed found the experience of being taken by the LRA and having children
21 with a commander harrowing. There were some who talk about it even in rather
22 positive terms.

23 Q. [16:04:11] I think you've made my day. I've just one last question. And this
24 last question is about, you know, what was captured.

25 During the time when my client surrendered -- and I emphasise the word

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1 "surrendered," because invariably some people have referred to his coming to this
2 Court as a result of a capture.

3 And I want to lead you to tab 2, ERN UGA-D26-0018-0002, and the relevant part
4 starts at 219 and runs to 252.

5 A. [16:05:37] I don't have that document, do I?

6 Q. [16:05:39] No, no. This is a video.

7 A. Okay.

8 PRESIDING JUDGE SCHMITT: [16:05:43] It should be on evidence 2, if you have it.

9 MR ODONGO: Yes.

10 (Viewing of the video excerpt)

11 THE INTERPRETER: [16:06:06] (Interpretation of the video excerpt) So I know
12 fighting is one of the best things even now.

13 PRESIDING JUDGE SCHMITT: [16:06:30] We did not have, at least the Judges did
14 not have any translation. So could we please try to translate this for the Bench and
15 also for the other parties and participants.

16 MR OBHOF: [16:06:46] Your Honours, we have a translation right here too, which
17 we gave to the booth for English, which we can read if you would like.

18 PRESIDING JUDGE SCHMITT: [16:06:53] So it is no problem. It has been a long
19 day. I think I would just suggest that you just translate it from the transcript that
20 you obviously have received and just read it into the record and so that also we can
21 follow.

22 The first question would be if you have it or not, the transcript.

23 MR OBHOF: [16:07:32] I do.

24 PRESIDING JUDGE SCHMITT: [16:07:33] And if you have it, it should be possible
25 to read it out and translate it.

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1 THE INTERPRETER: [16:07:41] Your Honour, this is the translation of their script.

2 PRESIDING JUDGE SCHMITT: Yes, please read it out.

3 THE INTERPRETER: (Interpretation of the video excerpt)

4 Everyone does wrong in different ways. So if I have wronged by fighting, that is

5 regrettable. It is stuck in my mind up to now that I know that the way of life that I

6 know in my mind is that only war/fighting is the best thing. And for that reason

7 even now I go to sleep, I go to sleep, just I dream about war/fighting.

8 So right now I am sending out my voice to all the people of Uganda to seek their

9 forgiveness for the kind of things that I did. However, if you feel like you can't

10 forgive me, then that's how the Lord has planned it. I don't have much to say

11 because right now I am like a louse, even when you want to deal with it, you can take

12 it off your head or waist and just kill it without any resistance.

13 End of quote.

14 PRESIDING JUDGE SCHMITT: [16:08:55] Thank you very much. Do you have a

15 question following this quotation?

16 MR ODONGO: [16:08:59] Yes, Mr President.

17 MR GUMPERT: [16:09:00] I'm sorry to interrupt. It may be important though,

18 because it fundamentally changes the meaning. The transcript reads on two

19 occasions "... war stop fighting ..." I'm pretty confident, because this is a document

20 with which the Prosecution are well familiar, that should be "war stroke fighting," in

21 other words, two potential translations are offered for the one Acholi word.

22 PRESIDING JUDGE SCHMITT: [16:09:30] I think you would concede to me that I

23 cannot assess what is correct. So this has to be processed through the process that is

24 in place for these things.

25 MR GUMPERT: [16:09:43] I understand. I didn't want the -- his understanding of

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1 Acholi may be such he's not reliant on the translation, but if he is looking at the
2 translation or hearing the translation, it may be important for him to know that is the
3 case.

4 PRESIDING JUDGE SCHMITT: [16:09:57] Thank you very much.
5 Then please the question, Mr Odongo.

6 MR ODONGO: [16:10:00]

7 Q. [16:10:00] Professor, in your capacity as an expert on the conflict in northern
8 Uganda and as somebody, someone who is familiar with Acholi culture, after
9 listening to those words from my client in 2015, when he came from the bush, what is
10 your expert opinion about it? What is it?

11 PRESIDING JUDGE SCHMITT: [16:10:34] Mr Odongo, this is very broad, so to
12 speak.

13 MR ODONGO: [16:10:39] Yes.

14 PRESIDING JUDGE SCHMITT: [16:10:39] You should perhaps a little bit more
15 specify what you are alluding to.

16 MR ODONGO: [16:10:43] Okay. Yes.

17 Q. [16:10:45] Professor, when he says "What I know in my mind is war/fighting. If
18 I have offended you in battle/by fighting, I am sorry."

19 I mean, "If I have wronged by fighting, that is regrettable. It is stuck in my mind up
20 to now that I know that the way of life -- I know that the way of life that I know in my
21 mind is that only war/fighting is the best thing. That is why even now when I go to
22 sleep I dream about fighting."

23 From what you explained to Court about your experiences with returnees, what
24 would this tell about a child soldier who has been in the bush captured at the very
25 early age and has been in the bush for more than 25 years?

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1 A. [16:12:11] You'll appreciate it's very difficult for me to comment on it other than
2 in very general terms, because I do not know the accused. I've never interviewed the
3 accused. And I don't know the context of the interview.

4 The words that are used are not dissimilar to some of the quotes that we've been
5 talking about earlier, that there are some people who return from the LRA and they
6 talk about having been living in a dream or give various views of that kind about
7 their experience.

8 So from that point of view, I'm not unfamiliar with that kind of statement. There are
9 some people who make those kinds of statements.

10 It's unusually clear, most of the conversations I have had with people who come back
11 from the LRA say something like that, but also have more ambiguous ways of
12 thinking about what they've done and what has happened to them.

13 And also as I've said on several occasions, when I have come to know people well
14 over considerable periods of time, their reflections on how they express, their
15 reflections, how they express what happened to them changes.

16 So that's really all I can say. I don't think it's my -- I don't have a role of saying
17 whether or not this is a correct statement or not.

18 Q. [16:13:51] Yes.

19 PRESIDING JUDGE SCHMITT: [16:13:52] This answers the question --

20 MR ODONGO: It's very fair.

21 PRESIDING JUDGE SCHMITT: -- sort of, and I think it's fair, yes.

22 MR ODONGO: [16:13:54] It's very fair.

23 Q. [16:13:57] But in your opinion and drawing from your wide experience, when a
24 returnee talked like this, was this an expression of regret or it was a defiance?

25 A. [16:14:14] I think it's very hard for me to say that. If you're asking me for my

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1 personal opinion, Acholi people are like people everywhere else in the world, they
2 have an understanding that some things are really terrible acts, and in any context
3 they recognize that a terrible act has happened.
4 So sometimes people who have perpetrated terrible acts will use language that
5 suggests they were not directly aware of what they were doing. But I think even
6 some of the discussions that we've talked about earlier that have been had with Kony
7 himself, by denial of certain acts there is a recognition that those acts are
8 inappropriate, to say the least.

9 So I think it's very hard to say more than that.

10 PRESIDING JUDGE SCHMITT: [16:15:07] And I think we can leave it at that, Mr
11 Odongo.

12 MR ODONGO: [16:15:11] Okay.

13 PRESIDING JUDGE SCHMITT: [16:15:11] Okay.

14 MR ODONGO: [16:15:12] Last, but by no means least.

15 PRESIDING JUDGE SCHMITT: [16:15:15] This was the third of the last questions,
16 but if it's a short one, I allow it.

17 MR ODONGO: [16:15:21] Really the last.

18 Q. [16:15:22] Could you tell Court according to your research findings the likely
19 consequences of his situation in the long term as gleaned from his above statement?

20 A. [16:15:33] I'm sorry, I haven't understood the question.

21 Q. [16:15:35] I'm saying could you tell Court according to your research findings
22 the likely consequences of his situation, the situation of the man you have just
23 listened to in the long term as gleaned from his above statement?

24 A. [16:16:03] Are you asking me if someone in northern Uganda made such a
25 statement --

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1 Q. [16:16:08] Yes.

2 A. [16:16:09] -- what would happen to them?

3 Q. [16:16:11] No, no, no. What I'm saying is you heard his statement.

4 A. [16:16:15] Yes.

5 Q. [16:16:15] And the tone.

6 A. [16:16:16] Yes.

7 Q. [16:16:17] What do you think is the likely consequences on him in the long run
8 about, I mean consequences on him of his experiences he's talking about?

9 PRESIDING JUDGE SCHMITT: [16:16:29] It's of course again a little bit difficult,
10 because consequences might be psychological, might be social, might be cultural,
11 might be psychiatrically.

12 So but if you can answer it shortly, please, because we are far over the time, I would
13 appreciate it very much.

14 THE WITNESS: [16:16:49] Well, I think in a direct answer to your question, I think
15 that that is for -- I think it's for the Court to decide. But let me say that I have met
16 people in northern Uganda who have said such things, and they generally end up
17 living in the barracks.

18 MR ODONGO:

19 Q. [16:17:11] Thank you very much, Professor. That is the end of my questions.

20 And I appreciate your answers, very academic and focused. Thank you very much.

21 A. [16:17:21] Thank you.

22 PRESIDING JUDGE SCHMITT: [16:17:21] Also, we want to thank you, Mr Odongo.

23 And we want to thank, of course, Professor Allen for answering the questions over
24 two days, that must have been quite a difficult task for you, and in assisting us.

25 Thank you very much. And have a safe return home.

Trial Hearing
UGA-OTP-P-0422

(Open Session)

ICC-01/04-02/06

- 1 THE WITNESS: [16:17:37] Thank you.
- 2 PRESIDING JUDGE SCHMITT: [16:17:38] This concludes your testimony, of course.
- 3 (The witness is excused)
- 4 PRESIDING JUDGE SCHMITT: And this also concludes today's hearing. We
- 5 resume tomorrow with P-0403, something like that.
- 6 MR GUMPERT: [16:17:48] P-0403.
- 7 PRESIDING JUDGE SCHMITT: [16:17:52] I was correct.
- 8 MR GUMPERT: [16:17:54] Indeed, Your Honour was, yes.
- 9 PRESIDING JUDGE SCHMITT: [16:17:56] We'll see each other tomorrow.
- 10 MR GUMPERT: [16:17:58] Yes, indeed.
- 11 THE COURT USHER: [16:17:59] All rise.
- 12 (The hearing ends in open session at 4.18 p.m.)
- 13 RECLASSIFICATION REPORT
- 14 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July
- 15 2016, the public redacted version of this transcript is filed in the case.