

Trial Hearing
WITNESS: DAR-OTP-P-0907

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and
7 Judge Althea Violet Alexis-Windsor
8 Trial Hearing - Courtroom 1
9 Wednesday, 9 November 2022
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:24] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:33:47] Yes. Good morning, all.
15 Court, can you call the case, please.
16 THE COURT OFFICER: [9:33:55] Good morning, Madam President. Good
17 morning, your Honours.
18 This is the situation in Darfur, Sudan, in the case of The Prosecutor versus
19 Ali Muhammad Ali Abd-Al-Rahman, case reference ICC-02/05-01/20.
20 And for the record, we are in open session.
21 PRESIDING JUDGE KORNER: [9:34:09] Yes.
22 Appearances for the Prosecution, please.
23 MR NICHOLLS: [9:34:14] Good morning, Madam President. Good morning,
24 your Honours. Good morning, everybody in the courtroom. Good morning,
25 Mr Witness.

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1 Julian Nicholls with Alison Whitford, Claire Sabatini, as always, and Antonella

2 Giordano. Thank you.

3 PRESIDING JUDGE KORNER: [9:34:30] Yes, thank you very much.

4 For the Defence.

5 MR LAUCCI: [9:34:36] Good morning, Madam President.

6 Together with Mr Ali Muhammad Ali Abd-Al-Rahman, present in the courtroom this

7 morning, Mr Mohammad El Rahi, assistant evidence reviewer, and myself, Cyril

8 Laucci, counsel.

9 PRESIDING JUDGE KORNER: [9:34:52] Thank you, Mr Laucci.

10 And the victims.

11 MR SHAH: [9:34:57] Good morning, Madam President. Good morning, your

12 Honours, dear colleagues. Anand Shah for the participating victims. And the legal

13 representative, Ms von Wistinghausen, should hopefully be joining us in the course of

14 this session.

15 PRESIDING JUDGE KORNER: [9:35:10] Well, that will be something unusual,

16 Mr Shah. Yes, thank you very much.

17 Right. Are we in Fur again this morning?

18 Sir, can you hear and understand me?

19 WITNESS: DAR-OTP-P-0907

20 (The witness speaks Fur)

21 THE WITNESS: [9:35:31](Interpretation) Good morning. Yes, I can hear you very

22 well.

23 PRESIDING JUDGE KORNER: [9:35:36] Good morning to you, sir. Can I first of all

24 thank you for coming to court.

25 THE WITNESS: [9:35:51](Interpretation) Very well.

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1 PRESIDING JUDGE KORNER: [9:35:52] Next, can I -- can I mention two or three
2 matters which I'm sure have been mentioned to you by the witness unit, as well as
3 Ms Whitford.

4 First, because of interpretation, it's very important that you don't speak too fast and
5 please try and keep your answers short. If you don't keep your answers short, the
6 lawyers will probably stop you, and that just breaks up your train of thought.

7 Second, if you don't understand a question, then please say so straight away and the
8 question will be asked again.

9 Finally, this: You're likely to be giving evidence all of today and into tomorrow.

10 There are regular --

11 THE WITNESS: [9:37:45](Interpretation) Very well.

12 PRESIDING JUDGE KORNER: [9:37:48] There are regular breaks, but if you need a
13 break for any reason outside the normal ones, then please say so straight away.

14 Yes. Thank you very much. Ms Whitford.

15 Yes, I'm sorry, sir. And the first thing you are going to be asked to do is to repeat
16 after the court officer the solemn declaration or undertaking, as it's called here.

17 THE COURT OFFICER: [9:39:02] Mr Witness, can you please repeat the solemn
18 undertaking after me. I solemnly declare that I will speak the truth, the whole truth
19 and nothing but the truth.

20 Thank you, Witness. You are now under oath.

21 THE WITNESS: [9:39:37](Interpretation) I solemnly declare that I will speak the
22 truth, the whole truth and nothing but the truth.

23 PRESIDING JUDGE KORNER: [9:39:46](Microphone not activated) Mr Nicholls.

24 MR NICHOLLS: [9:39:49] Thank you, your Honour.

25 PRESIDING JUDGE KORNER: [9:39:50] Oh, you're doing the witness.

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1 MR NICHOLLS: [9:39:52] Yes, your Honour.

2 PRESIDING JUDGE KORNER: [9:39:54] I thought it was --

3 MR NICHOLLS: [9:39:56] Usually, but this is me today.

4 PRESIDING JUDGE KORNER: [9:39:57] It's because you are in a different place.

5 Right.

6 QUESTIONED BY MR NICHOLLS:

7 Q. [9:40:09] Good morning, Mr Witness.

8 A. [9:40:11] Good morning. I'm very well.

9 Q. [9:40:13] Now, as the Judge said, if you don't understand any of my questions,
10 that's my fault. Please put your hand up, and I will try to ask it in a better way.

11 A. [9:40:38] Very well.

12 Q. [9:40:39] Now, let me just tell you my plan for today, as I said when we met, so
13 there would be no surprises for you. I'm not asking you a question now, I'm just
14 telling you.

15 First, I'll ask you some questions about your background. Then I will ask you some
16 questions about the village you lived in in 2003 and what happened there. Then I
17 will ask you about how you travelled to Deleig. I will ask you what happened in
18 Deleig, and then I will ask you about how you came to leave Deleig. But first of all I
19 will ask you some questions about your background so that their Honours know a
20 little bit more about you.

21 And for that I'd ask to go into private session, please.

22 PRESIDING JUDGE KORNER: [9:41:45] Yes.

23 (Private session at 9.42 a.m.)

24 THE COURT OFFICER: [9:42:02] We are in private session, Madam President.

25 MR NICHOLLS: [9:42:06] (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 THE WITNESS: [9:43:58](Interpretation) (Redacted). I used to live in a village called

15 Forgo, and there are about 800 people there. And Forgo is the burial place of the

16 sultan.

17 MR NICHOLLS: [9:44:19]

18 Q. [9:44:20] Okay. Thank you, sir.

19 Now, that question I first asked you was just your name. So we will get to those other

20 details, but it would be best if you just answer the question I ask, which in this case

21 was just your name. But we will -- don't be nervous. We'll keep going.

22 You are from the Fur tribe, correct?

23 A. [9:44:58] Yes, I am one of the Fur tribe.

24 (Redacted)

25 (Redacted)

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1 A. [9:45:21] (Redacted)

2 Q. [9:45:24] (Redacted)

3 A. [9:45:48] (Redacted)

4 Q. [9:45:59] (Redacted)

5 (Redacted)

6 A. [9:46:29] (Redacted)

7 Q. [9:46:37] (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. [9:47:12] (Redacted)

13 (Open session at 9.47 a.m.)

14 THE COURT OFFICER: [9:47:22] We are back in open session, Madam President.

15 MR NICHOLLS: [9:47:28]

16 Q. [9:47:28] Thank you, Mr Witness.

17 What was the main tribe -- what was the main tribe that lived in Forgo when you
18 lived there in 2003?

19 A. [9:47:56] The residents of Forgo, all of them are Fur.

20 Q. [9:48:03] Thank you. And maybe if you look at me while we are talking. You
21 don't have to, but if you look at me, we might be able to communicate a bit better.
22 How many people lived in -- thank you. How many people lived in Forgo? Thank
23 you. How many people lived there -- how many Fur people lived in Forgo in 2003,
24 approximately?

25 A. [9:49:01] The inhabitants of Forgo is approximately 800 people. The total was

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1 2,000 people, including men, women and children.

2 Q. [9:49:17] Thank you. But 800 in Forgo, about.

3 A. [9:49:43] The number 800, these are the residents of Forgo in particular, not
4 including the neighbouring or the adjacent areas.

5 Q. [9:49:54] Very clear. Thank you. And what was the name of the *umdah*?

6 A. [9:50:11] The *umdah* is named Adam Adam Kindiri.

7 Q. [9:50:21] And did you know *Umdah* Kindiri, I'll call him, personally?

8 A. [9:50:56] Yes. *Umdah* Adam Adam Ahmed Kindiri, I know him personally
9 because we live in the same village, we live together. And in the morning we greet
10 each other. And every time we meet -- we also would meet in social events. We
11 lived our lives together.

12 Q. [9:51:28] Thank you, Witness. And when you see me pausing like that, it's
13 because I'm waiting for the translation myself.

14 And were you married in 2003?

15 A. [9:51:55] In 2003, I was married. I was married to three wives.

16 Q. [9:51:59] Thank you. And I'll move on now.

17 Now I'd like to have you focus your attention on 8 October 2003. So the eighth day
18 of month ten of 2003. Were you in Forgo that day?

19 A. [9:52:34] Yes, I was in Forgo on that day.

20 Q. [9:52:37] And what happened that day that you remember? Anything special
21 happen in Forgo on that day, or to Forgo?

22 A. [9:53:05] Yes. On 8 October 2003 Forgo was attacked.

23 Q. [9:53:12] All right. Now I'd like to go through this step by step. What time
24 did the attack start that day?

25 A. [9:53:34] It was in the morning.

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1 Q. [9:53:38] Where were you when this attack started?

2 A. [9:53:58] I was in my home, which is located close to the -- close to the village,
3 with my wife, (Redacted).

4 Q. [9:54:16] Okay. Thank you. We are in public session, so we will take care of
5 that, but please try not to mention names of family members, please, if you can.
6 So you were with your wife --

7 A. [9:54:43] Very well, very well.

8 Q. [9:54:45] And were you with children at home as well that morning?

9 A. [9:55:06] Yes, I had children.

10 Q. [9:55:11] And were your other wives at different homes, different houses in
11 Forgo?

12 A. [9:55:29] Yes.

13 Q. [9:55:36] Now, if you could please tell their Honours, describe to them this
14 attack, what you saw and what you heard in Forgo village that morning when the
15 attack took place.

16 A. [9:56:12] All right.

17 PRESIDING JUDGE KORNER: [9:56:16] I was going to say, I think you need to take
18 him through it slowly, otherwise we are going to get the full description.

19 THE WITNESS: [9:56:31](Interpretation) On that day, 8 October 2003, when we were
20 attacked, we were attacked. Men were killed in the town. Our properties were
21 plundered and looted. We escaped. We ran out of that area. And that was the
22 harvest season, so we hid in the farms.

23 MR NICHOLLS: [9:57:04]

24 Q. [9:57:04] Okay. Thank you. I'll now ask you some follow-up questions.

25 Could you see the persons who attacked Forgo? Could you see them, the people

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1 attacking Forgo?

2 A. [9:57:29] Yes, I was able to see them with my own eyes.

3 Q. [9:57:33] And were they on foot, on horseback, on camel, on horses? How did
4 they come to attack Forgo?

5 A. [9:57:57] Some of them were on camel -- camels, and some of them were on
6 horsebacks, and others were on foot. They came to the village, and they looted the
7 properties and possessions of the locals. And then they went to the south and west
8 of the locality, taking away with them the cattle of the citizens.

9 Q. [9:58:34] All right. And I know you couldn't give an exact number, but
10 approximately how many men did it -- do you -- did it -- did you see that were
11 attacking the village of Forgo?

12 A. [9:59:12] Only God knows the exact number because the number was very big.
13 It is very difficult to determine the number precisely because it was very large. As I
14 said, some came on camels, on horsebacks, and on foot, so it was really difficult.

15 Q. [9:59:38] All right. And how were these men who attacked your village, how
16 were they dressed? What kind of clothes were they wearing, if you remember?

17 A. [10:00:11] Some of them were wearing the khaki military uniform, and others
18 were wearing civilian, normal clothes. They had their heads also wrapped with a
19 shawl or a scarf.

20 Q. [10:00:34] What type of weapons did they have that you could see?

21 A. [10:00:51] They were armed with Kalashnikovs.

22 Q. [10:01:04] And just very briefly, how do you know what a Kalashnikov rifle
23 looks like?

24 A. [10:01:36] In the areas where we used to live, there were police stations, and the
25 policemen used to carry Kalashnikovs. And whenever a problem used to happen,

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1 we used to go to the police station to open a complaint or a file. So we used to see
2 this type of weapon at the police or with the police.

3 Q. [10:02:00] And these men -- thank you. And these men who attacked your
4 village on camels, the horses, with Kalashnikovs, do you know what armed force they
5 belonged to? Did their group have a name, who these fighters belonged to, that they
6 were part of?

7 A. [10:02:39] They were from the Janjaweed. They were under the command or
8 the leadership of Ali Kushayb. The men who came and attacked our village were
9 under the command of Ali Kushayb.

10 Q. [10:02:57] And why do you say they were under the command of Ali Kushayb?
11 How do you know that? Or what makes you say that?

12 THE INTERPRETER: [10:03:30] Can we please ask the witness to repeat his answer.

13 THE WITNESS: [10:03:51](Interpretation) I knew that they were Ali Kushayb's men
14 because they were a very large group and they came from the area of Um Labasa.

15 MR NICHOLLS: [10:04:03]

16 Q. [10:04:03] And what is the significance of coming from the area of Um Labasa to
17 you?

18 A. [10:04:47] I knew that they came from Um Labasa because we used to do trading
19 or commerce between our area and Um Labasa. We used to take livestock to the
20 souk or the market of Um Labasa and bring back other goods. The residents of Um
21 Labasa used to take their livestock for herding in our area. Therefore, we know
22 them well. So we know these people because they also used to take their livestock
23 for herding in our area and also commerce made us interact with the residents of the
24 area of Um Labasa. As a result, we know them very well.

25 MR NICHOLLS: [10:05:48] I'll come back to this in a minute in private session,

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1 your Honour, as we move on. It's a -- if I may.

2 PRESIDING JUDGE KORNER: [10:05:56] Okay. As you appreciate, I know you do,
3 Mr Nicholls, there are a number of unanswered questions there.

4 MR NICHOLLS: [10:06:04] Yes, but I will come back to that in a minute and try to
5 finish this part in open, if I may.

6 PRESIDING JUDGE KORNER: [10:06:10] Yes. All right.

7 MR NICHOLLS: [10:06:14]

8 Q. [10:06:14] Now, what happened to the houses, the homes of the people in Forgo
9 during this attack? And I mean in addition to the looting. Besides the looting, did
10 anything happen to the houses people lived in?

11 A. [10:06:52] They burned the houses of the citizens.

12 Q. [10:06:59] Was your house -- were your houses burnt?

13 A. [10:07:10] Yes. All the houses were burnt.

14 Q. [10:07:13] What happened to all your personal property?

15 A. [10:07:25] They were looted.

16 Q. [10:07:33] And did you hear these Janjaweed attackers saying anything or
17 shouting anything during the attack?

18 A. [10:08:04] After they attacked the village, we escaped. I was hiding in one of
19 the places, and they were passing next to me or near me. They stopped in a place
20 that is very close to where I was, and I saw the leaders of the Janjaweed with my own
21 eyes, and I was -- and I could understand what they were saying.

22 Q. [10:08:30] And what did they say?

23 A. [10:08:44] They were talking to each other. They were telling their men to
24 collect the properties that were stolen from the town. So to take them and gather
25 them in a place outside of the town.

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1 Q. [10:09:09] Thank you.

2 May we please go into private session.

3 PRESIDING JUDGE KORNER: [10:09:19] Before we do that, Mr Nicholls, your
4 question was: Could you hear them saying or shouting anything during the attack?
5 And all we got what he heard him saying.

6 Sir, did you hear them shouting anything as they attacked the village?

7 THE WITNESS: [10:10:15](Interpretation) They were very numerous. The number
8 of the attackers were very large and, yes, they were chanting or screaming. I saw
9 them carrying the goods of the people. They were on horsebacks. They gathered
10 all these goods in one area, and then they were divided into three groups. So those
11 who were conducting the livestock went towards the north. The rest left from the
12 centre of the town. And those who were chasing the men --

13 PRESIDING JUDGE KORNER: [10:11:07] Sir, can I emphasis and repeat what I said
14 to you earlier and what Mr Nicholls has said. You don't need to repeat everything
15 that you have -- that happened over and over again. When you're asked a question,
16 were the people shouting, the answer is yes. And if you remember, tell us what they
17 were shouting. But you don't have to tell us everything that happened each time
18 you answer a question. If it can be answered either yes or no, then do so. And the
19 lawyer, Mr Nicholls, if he wants more detail, will ask for it.

20 I know it's difficult, but it's in your best interest to keep the answers short.

21 THE WITNESS: [10:12:41](Interpretation) Yes, they were insulting us, and they were
22 calling us Nuba.

23 MR NICHOLLS: [10:12:49]

24 Q. [10:12:49] Thank you. Thank you very much, Mr Witness.

25 Now can we go into private, please.

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1 PRESIDING JUDGE KORNER: [10:12:54] Yes.

2 Private session.

3 (Private session at 10.13 a.m.)

4 THE COURT OFFICER: [10:13:10] We are in private session, Madam President.

5 MR NICHOLLS: [10:13:15]

6 Q. [10:13:15] (Redacted)

7 (Redacted)

8 (Redacted)

9 A. [10:13:34] (Redacted)

10 Q. [10:13:35] (Redacted)

11 (Redacted)

12 A. [10:14:05] (Redacted)

13 Q. [10:14:11] (Redacted)

14 (Redacted)

15 A. [10:14:33] (Redacted)

16 Q. [10:14:37] (Redacted)

17 A. [10:14:53] (Redacted)

18 (Redacted)

19 Q. [10:15:01] (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [10:15:44] (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [10:17:11] Now, you started to explain about how you knew some of these

7 Janjaweed earlier, and you talked about Um Labasa. Could you please tell their

8 Honours if you recognised any of the Janjaweed during the attack, and if you did,

9 who you recognised.

10 A. [10:18:04] I can tell you the names of those that I recognised. (Redacted)

11 (Redacted).

12 Q. [10:18:30] And what was -- (Redacted)

13 what were they doing during the attack? What was their position in the attack, if you

14 could tell?

15 A. [10:19:03] They were directing the soldiers. They were giving orders to put fire or

16 light the houses on fire.

17 Q. [10:19:18] And you saw that with your own eyes, or is that something you heard

18 about?

19 A. [10:19:30] Yes, I saw it with my own eyes. When we were hiding in the forest, and

20 our village was a large village, when the village was burned, we could see the flames

21 coming out of our town. So we could see it from the place where we were

22 hiding.

23

24

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1 (Redacted)

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8 (Redacted)

9 (Redacted)

10 (Redacted)

11 PRESIDING JUDGE KORNER: [10:22:05] And where is Um Labasa in relation to -- are

12 we in private? Yes. In relation to Forgo?

13 THE WITNESS: [10:22:35](Interpretation) Um Labasa was in the southwest of our area,

14 and the distance it was relatively far. This is why we used to go to the souk on specific

15 days.

16 MR NICHOLLS: [10:22:53]

17 Q. [10:22:53] It's actually in South Darfur, Um Labasa; is that right? It's to the, as you

18 say, south of Forgo?

19 A. [10:23:17] Yes, it is under the state of South Darfur and to the south of Forgo.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

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5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [10:25:51] Okay. Thank you, sir. Last question for these two men who you
10 recognised who were giving orders to the Janjaweed during the attack. Do you know
11 what tribe they were from? Just if you know or remember.

12 A. [10:26:26] They were from the Beni Halba tribe.

13 Q. [10:26:34] That's an Arab tribe.

14 A. [10:26:41] Yes. They are an Arab tribe.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE KORNER: [10:28:04] Right. Thank you.

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1 Mr Nicholls, this all started -- do not translate this for the witness because it's going to
2 take too long.

3 This all started when you asked him originally how he knew these were Ali
4 Kushayb's men. We haven't even remotely got there. Do you want to do that in
5 private, or are you happy to do that in open session?

6 MR NICHOLLS: [10:28:27] I will do that now in private, I think, just to be safe --

7 PRESIDING JUDGE KORNER: [10:28:29] Right. Because that's where this all started
8 off and we haven't yet got the link.

9 MR NICHOLLS: [10:28:46]

10 Q. [10:28:46] Now let me come back to something you said earlier, which is that the
11 Janjaweed, led by these two men you've described, (Redacted), you said they were
12 under the command of Ali Kushayb. Can you explain why you say that or how you
13 know that.

14 A. [10:29:45] Yes, I knew them because Ali Kushayb was gathering people, and he met
15 with them. He distributed weapons on these people. And when the attackers came to
16 our village, they were armed, and they were armed on horsebacks and camelbacks.
17 The people said that they had instructions stipulating that, "The properties of the
18 people are like the war gifts or the war benefits for us."

19 Q. [10:30:25] (Redacted)

20 (Redacted) Did somebody tell you that?

21 A. [10:31:10] I knew them when they attacked our village, * and there were people
22 who are elderly and they were not killed. They informed the elderly that, "We have
23 instructions to do anything and to take your properties as a booty." Therefore, they
24 looted our properties being booty for them.

25 Q. [10:32:00] Now, let me just understand then, that after you came back from

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1 hiding, there were some elderly people in Forgo who had not been killed, and they
2 told you that (Redacted) had said this to them, had explained this to them, that they
3 had to -- that they could take and loot. That's how you learned this; is that
4 right?

5 A. [10:33:16] Yes. The elderly that were gathered in the centre of the village, those
6 were the people who told us they were gathered there. And some of the young people
7 from the Janjaweed tried to kill these people, but these two people, (Redacted)
8 (Redacted) refused to kill the elderly and they said, "As long as we have * plundered
9 their possessions, there is no actually need
10 to kill these people."

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. [10:34:43] If you remember, what did they say?

16 A. [10:34:59] They told them that, "We had instructions from Ali Kushayb to loot all
17 these possessions and all these possessions are our booty. There is no one to hold us
18 accountable."

19 PRESIDING JUDGE KORNER: [10:35:17] Okay. Sir, you said -- you started your
20 answer by saying Ali Kushayb was gathering people and distributed weapons to
21 them. I want you to concentrate on that. How do you know that Ali Kushayb
22 gathered people and distributed weapons? Forget about looting for the moment.

23 THE WITNESS: [10:36:31](Interpretation) He would meet with the people in Garsila,
24 and the emir of Arab, Hussein Al-Hilu, also met with the Arabs and distributed
25 weapons to them. In that time, Ali Kushayb was promoted to agid al-ogada.

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1 PRESIDING JUDGE KORNER: [10:36:59] Who told you that?

2 THE WITNESS: [10:37:16](Interpretation) When we heard the news that Ali Kushayb
3 was promoted to agid al-ogada, which is an occupation that is affiliated with the local
4 authorities, government authorities gave this position to Ali Kushayb.
5 They promoted him to this position. So government authorities transferred this
6 position to Ali Kushayb, and people were asking why would this position be given to
7 Ali Kushayb. The position of agid al-ogada and Ali Kushayb being transferred to this
8 position, we heard about this news in that time.

9 MR NICHOLLS: [10:38:28]

10 Q. [10:38:29] Thank you. And just before we move on, her Honour's question -- and
11 just for your Honours, this does appear at paragraph 33 of the statement. Not that the
12 statement is going to evidence, but -- so who did you hear about -- who told you, or
13 who did you hear from that Ali Kushayb was gathering men and distributing
14 weapons? Where did you learn that information? And if you can't remember the
15 names of the people, just where did you hear that information?

16 A. [10:39:40] We heard this news from the local authorities, from the umdahs, the
17 ones who were -- who were -- who would come to Garsila for the meeting. They were
18 invited, and when we sat there, they informed us that Ali Kushayb would -- was
19 promoted to the position of agid al-ogada. He was promoted orally, verbally by
20 Ja'afar, a person called Ja'afar.

21 Q. [10:40:16] Okay. Thank you. And last question, learning about Ali Kushayb's
22 position and the distribution of weapons, what you've described, you said you
23 learned from the umdahs. Did you learn this from Umdah Kindiri of your village?

24 A. [10:40:56] Yes, I heard that from Umdah Kindiri. He told me that, "We were invited
25 to an emergency meeting. We went to that meeting, and Ali Kushayb came or was

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1 brought, and he was appointed agid al-ogada."

2 Q. [10:41:14] Okay.

3 So I think, your Honour, the answer is that it's sort of double hearsay.

4 PRESIDING JUDGE KORNER: [10:41:23] He said, "We went to the meeting."

5 Sir, do you mean you personally went to the meeting and saw Ali Kushayb, or that
6 the umdah told you about the meeting?

7 THE WITNESS: [10:42:17](Interpretation) No. I heard it from our umdah. When he
8 went and attended the meeting and came back, he told us that Ali Kushayb was
9 appointed agid al-ogada.

10 PRESIDING JUDGE KORNER: [10:42:29] Yes. Okay. Thank you.

11 Mr Nicholls, I'm well aware of what's in the statement, but as you say, it's not in
12 evidence.

13 MR NICHOLLS: [10:42:36] No. I understand, your Honour, but because you were
14 asking these questions, I was just trying to direct you to it, but I do understand that.

15 PRESIDING JUDGE KORNER: [10:42:43] Okay. Yes. All right.

16 Do you want to go back into public session?

17 MR NICHOLLS: [10:42:48] Yes, please.

18 PRESIDING JUDGE KORNER: [10:42:50] All right. We've driven away the only
19 spectator.

20 MR NICHOLLS: [10:43:01]

21 Q. [10:43:01] Okay, sir. We are in public session now -- we will be in one second.

22 (Open session at 10.43 a.m.)

23 THE COURT OFFICER: [10:43:09] We are back in open session, Madam President.

24 MR NICHOLLS: [10:43:14]

25 Q. [10:43:14] Now, just briefly, to finish up your -- your telling us about what

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1 happened during the attack on Forgo, how long did you hide in the woods before
2 going back into the town?

3 A. [10:44:12] I stayed in my hiding for about an hour or two hours. And then I
4 returned to the village to see the body of (Redacted). And I saw
5 that the Janjaweed were running off the cattle, so I returned back again.

6 Q. [10:44:36] (Microphone not activated)

7 THE INTERPRETER: [10:44:42] Microphone, Mr Nicholls, please.

8 MR NICHOLLS: [10:44:44]

9 Q. [10:44:45] Very quickly, what did the village look like after the Janjaweed had
10 finished the attack and left? What did it look like, the houses, where you had lived?

11 A. [10:45:21] The village was on fire. The houses were built out of hay, and I saw
12 smoke coming out of these houses. And whatever was inside the houses was also
13 burning, so a lot of the smoke was coming out.

14 Q. [10:45:47] Thank you. I'd like to show you a document now, sir. It will
15 appear on that screen in front of you in a minute.

16 Could we have tab 12 up, please. Should not be broadcast, please. And this is
17 DAR-OTP-00000430.

18 And while we're waiting for that -- pushing the wrong machine.

19 Do you see the document on the screen, sir? I realise it's in English, but can you see
20 it?

21 A. [10:47:03] Yes, I see it.

22 Q. [10:47:07] Do you remember when we were meeting and talking last week and
23 when you met with Ms Whitford, you gave the names and descriptions of ten persons
24 that you saw who had been killed in the attack on Forgo? Do you remember giving
25 that information to Ms Whitford?

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1 A. [10:47:49] Yes. I gave them this list.

2 Q. [10:47:52] Thank you. And after it was read back to you, and you and

3 Ms Whitford made sure it was correct, your signature was put on the bottom. You
4 signed that it was correct.

5 A. [10:48:21] Yes, this is correct.

6 Q. [10:48:27] Thank you. And then -- I won't go through this list and all the names
7 on it, but just to confirm, all of the persons on this list who were killed during the
8 attack on Forgo, you saw these ten bodies yourself; is that right?

9 A. [10:48:58] Yes, this is correct.

10 Q. [10:49:03] Thank you. All right. Now I'm done talking about the attack on
11 Forgo. Thank you for explaining what happened.

12 I would now like to talk about how you came to leave -- how you came to go to
13 another village. How long -- well, tell -- I don't think I will get an objection again.
14 How long was it from the time of the attack to before you went to Deleig?

15 A. [10:50:06] When our village was attacked, it was attacked in October. We
16 remained to harvest our crops. My family and I went to Deleig because our area was
17 not safe anymore. We left the others, our family, behind, and we went to Deleig.
18 And when the attack occurred, and a big number was killed, the village was burnt
19 down completely. That's why we decided to go to Deleig.

20 Q. [10:50:52] All right. Thank you. And how many -- besides you, how many
21 villages from Forgo approximately went with you to Deleig?

22 THE INTERPRETER: [10:51:45] Message from the Fur interpreters: Can the
23 witness please be instructed to mention the names of the villages one after the other
24 so that we can capture them.

25 THE WITNESS: [10:52:00](Interpretation) Forgo, Sogo, Khirtin, Kusu, which is the

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1 fourth village, and fifth, Gaba, and the sixth one was Gorolla, number seven was Um
2 Jameina.

3 PRESIDING JUDGE KORNER: [10:52:33] Okay. I do not know whether the
4 question was properly interpreted or whether it is the witness who has difficulty in
5 understanding questions, but the question was: How many people from your
6 village went to Deleig?

7 MR NICHOLLS: [10:53:04] Your Honour, if I may. Sorry. The transcript in the
8 English says: "Besides you, how many villages from Forgo approximately went to
9 Deleig?" So maybe there was something lost there because I said people.

10 PRESIDING JUDGE KORNER: [10:53:21] No, I think you said villages. I think
11 that's where --

12 MR NICHOLLS: [10:53:26] It's villagers. Let me start again.

13 PRESIDING JUDGE KORNER: [10:53:27] Okay. All right. But I really do not
14 want to go through this every single day. If the interpreters have difficulty, would
15 they say so straight away. It is absolutely clear that with this witness, the questions
16 need to be seriously simple ones.

17 THE INTERPRETER: [10:53:56] Message from the English booth, and also as *chef*
18 *d'équipe*: I believe it'd be simplest if the interpreters work in pure consecutive mode,
19 that they have the time to put the question to the witness and to give the answer. I
20 believe if we work in pure consecutive mode, that will greatly enable and facilitate the
21 interpretation.

22 PRESIDING JUDGE KORNER: [10:54:18] Whatever I may do about this later, I agree
23 that anything that will facilitate proper interpretation, whichever method, should be
24 used.

25 MR NICHOLLS: [10:54:40]

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1 Q. [10:54:40] Mr Witness, I think my question wasn't clear for you. I will ask you
2 the question again. Here is the question: How many people went with you from
3 Forgo to Deleig?

4 A. [10:55:17] The ones that set off to Deleig were no less than -- no fewer than 200
5 people.

6 Q. [10:55:26] When you arrived in Deleig, where did you stay, where did you sleep
7 when you first got there? I'm talking about you and your family.

8 A. [10:55:55] When we arrived in Deleig, we met the mayor or the *umdah* of the
9 village, and the *umdah* distributed some accommodation or residences to the
10 displaced, and he hosted us in the north of the village. Some people would just stay
11 under the trees, and some went with their families. Women would gather hay and
12 men would cut trees, and we would make some huts, build some huts. And these
13 were the residences that we stayed in.

14 Q. [10:56:37] And is it right that you personally built huts for yourself and your
15 family?

16 A. [10:57:00] Yes. Our homes were just huts attached to each other. My two
17 wives were in one hut. My mother was in another.

18 Q. [10:57:23] Thank you. Once you had arrived in Deleig, did you ever try to
19 make a complaint to the police there about the attack on Forgo?

20 A. [10:57:59] Yes. We went to the police station with the *umdah*, but we did not
21 find any protection. And we reported that we didn't have any protection, our village
22 was being -- was attacked and burned down, our properties were looted. And we
23 reported them -- to them that nobody came to defend us. We reported all this.

24 Q. [10:58:41] Now, just to be clear, were you present with the *umdah* at the police
25 station at the time you made this complaint?

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1 A. [10:59:14] Yes. I personally went with the *umdah* to the police station.

2 Q. [10:59:20] And just to be clear, which *umdah* was this? Do you remember the
3 name of that *umdah* you went to the police station with?

4 A. [10:59:49] His name is Adam Ahmed Abdelshafi, nicknamed Kindiri.

5 Q. [10:59:59] Thank you.

6 Your Honour, it's a good time, unless you prefer otherwise.

7 PRESIDING JUDGE KORNER: [11:00:14] Yes.

8 Sir, we will take, as I say, the first break now until 11.30.

9 Yes. Thank you.

10 THE COURT USHER: [11:00:31] All rise.

11 (Recess taken at 11.00 a.m.)

12 (Upon resuming in open session at 11.32 a.m.)

13 THE COURT USHER: [11:32:04] All rise.

14 Please be seated.

15 MR NICHOLLS: [11:32:42]

16 Q. [11:32:42] Hello again, Mr Witness. Can you hear me okay?

17 A. [11:32:51] Yes, I hear you very well.

18 Q. [11:32:54] Thank you. Just a couple more questions about going to the police
19 station in Deleig. If you know, when you made the complaint about the attack on
20 Forgo, did the police in Deleig do anything with that complaint? How did they
21 react?

22 A. [11:33:50] They did not give us any information and did not do anything with
23 us.

24 Q. [11:33:58] Now, when you went to the police station in Deleig, did you have to
25 register as a person who had now arrived in Deleig with the police?

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1 A. [11:34:41] When we arrived, we were told that any person who comes from
2 somewhere else has to register their name. We asked why would we register our
3 names. The answer was that there were humanitarian assistance that is coming, and
4 if we do not register, we will not receive this assistance or this aid.

5 Q. [11:35:14] And, as far as you know, did the people who came from Forgo
6 register their names?

7 A. [11:35:46] What's important to note is that some people registered their names,
8 and some others remained in the village, and they faced difficulties in reaching Deleig.
9 Therefore, they did not register their names.

10 Q. [11:36:02] Thank you. Just to make sure I understand then, the people from
11 Forgo who were able to go to Deleig did register their names?

12 A. [11:36:49] Yes. Some people registered their names, especially those who came
13 and met the *umdah* and filed complaints. The *umdah* gave them residence places.
14 As for the others, they were scattered in their farms, outdoors, and they did not arrive
15 all together. They arrived groups after others.

16 Q. [11:37:14] Thank you. I'm going to move on to another topic now. Earlier --

17 A. [11:37:25] Yes.

18 Q. [11:37:26] Earlier you mentioned Ali Kushayb and you said he was the
19 commander of the Janjaweed. Did you ever meet Ali Kushayb? And let me say,
20 sorry, before 2003.

21 A. [11:38:10] Yes, I met him before 2003.

22 Q. [11:38:13] When did you first meet Ali Kushayb, approximately, if you
23 remember?

24 A. [11:38:55] I met Ali Kushayb because at some point he was a government
25 employee, and then he got retired. He went to retirement and opened a pharmacy.

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1 One day I asked him to give me medication, and he did.

2 Q. [11:39:17] Now, I will have a couple more questions about that, but do you
3 remember, that's to say, what year that was that you went to Ali Kushayb for
4 medicine?

5 A. [11:39:42] This happened in 2002, before the beginning of these events.

6 Q. [11:39:53] And where was it that you bought that medicine from Ali Kushayb?

7 A. [11:40:21] He was in Garsila. He used to tour around in the outer souks, outer
8 markets, in * Gaba, and the souk or the market of Zarey, as well as the market of
9 Arawala. The doctors used to come to these markets. Him as well used to go to
10 these markets. He used to sit in a specific place in the market. And if you have a
11 certain injury or illness, you would go to Ali Kushayb. You would tell him about
12 your illness.

13 As for myself, I had diarrhoea, so he gave me medication for this. So this is how I
14 met Ali Kushayb.

15 Q. [11:41:18] And if you remember, what town was it? You said he went to
16 different markets and that he was also in Garsila, but where was it that you bought
17 this medicine from him, which town?

18 A. [11:41:57] I bought the medication from him in Garsila. He asked me
19 about -- when he asked me about my pain and my health, that was in Arawala.

20 Q. [11:42:12] I see. And did the medicine help you?

21 A. [11:42:48] Yes. Yes. I improved on the medication. He told me that when I
22 want to take this medication, I have to take it after the meal because -- it's called
23 Flagyl. It's a very strong medication, and without any food it will not take effect and
24 the tolerance of the body will be difficult for it.

25 Q. [11:43:16] Now, in the context -- well, let me start again. How many times did

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1 you meet with Ali Kushayb before, as you say, these events in 2003?

2 A. [11:44:19] I did not only meet him once, twice or three times. We were mobile
3 merchants, so we used to go to Arawala market, Zarey market, and Gaba market, as
4 well as the Deleig market. Sometimes we used to go to Garsila because it was the
5 main hub where we used to get our goods.

6 Q. [11:44:43] All right. Did you hear when Ali Kushayb was arrested and came to
7 this Court?

8 A. [11:45:29] Yes, I heard about this news. So this information of arresting Ali
9 Kushayb reached me. And when it reached me, * I was in (Redacted). I don't
10 remember whether it was in 2016 or 2017. I heard this on the radio. So I heard on
11 the radio that Ali Kushayb was arrested and was brought to the International
12 Criminal Court.

13 Q. [11:46:07] Now, when you heard that news, you heard that on the radio. On
14 the television or in a newspaper or on the Internet, did you see any pictures of the
15 person who had been arrested and came to the Court?

16 A. [11:46:50] At the beginning, I heard this news on the radio. They mentioned
17 his name. None of our community knew his full name. We only knew him as Ali
18 Kushayb.

19 Recently, we were sure that Ali Muhammad Ali Abd-Al-Rahman was the same
20 person, Ali Kushayb. He was known as Ali Kushayb.

21 Q. [11:47:27] Thank you. I'll ask my question again. After you heard that -- on
22 the radio that Ali Kushayb had been arrested and come to this Court, did you see any
23 pictures of the person arrested and brought to this Court as Ali Kushayb?

24 A. [11:48:18] I did not see his pictures, but I was hearing his name. I heard that he
25 was arrested in the Central African Republic. I heard from people that he was from

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1 the Ta'aisha tribe. However, in previous times we did not know to which tribe Ali
2 Kushayb belonged, because we have never asked anybody about his tribe.

3 Q. [11:48:49] Okay. I'm coming back to --

4 PRESIDING JUDGE KORNER: [11:48:56](Microphone not activated) try one more
5 time.

6 Did you see any photograph of him in any newspaper or on television after his arrest?

7 THE WITNESS: [11:49:46](Interpretation) I did not see his picture on any media. I
8 did not see his pictures on any media. However, I heard that Ali Kushayb would be
9 prosecuted and that there was a session to be held at the International Criminal Court.
10 I heard this information on the radio.

11 MR NICHOLLS: [11:50:11]

12 Q. [11:50:12] Thank you. Now I want to come back to Deleig and what happened
13 there. Okay? And I'll ask the question now.

14 I want to draw your attention to Thursday, 4 March 2004. What happened in Deleig
15 that day, if you can start, and then I'll ask you some more questions?

16 A. [11:51:15] Yes, I will talk about that Thursday. On Thursday, the Janjaweed
17 came on horsebacks and on camelbacks. The government forces came on vehicles.
18 They surrounded the village. The people whose houses were on the peripheries of
19 the village could see the lights of the vehicles and they could not see the camels and
20 the horses during the night. When the morning came, they saw that the village is
21 besieged by the Janjaweed on horsebacks and on camelbacks and by the government
22 forces on vehicles. They were also spread inside the village. So if you go out of
23 your home, you will be questioned.

24 Q. [11:52:16] Now, did you personally see any of these Janjaweed who were
25 surrounding Deleig village? Did you see that with your own eyes, or did you hear

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1 about it?

2 A. [11:52:47] Yes, I saw them. They even entered my house. Before they reached
3 us, the Janjaweed came from the south, and they were shooting also. When I went
4 out to check where the fire is coming -- the gunfire is coming from, the gunshots, I
5 saw some villagers taking their cattle and their livestock inside the village. So I
6 asked them, "What's going on?" So these herders said that the Janjaweed are trying
7 to loot the village.

8 Q. [11:53:35] Now, you said some even came to your house in Deleig. Tell their
9 Honours, please, about that. Who came to your house in Deleig?

10 A. [11:54:12] Those who entered my house were Janjaweed. However, the
11 Janjaweed and the *asakir*, or the military personnel, were touring together in the town,
12 in the village. The *asakir*, or the military personnel, were wearing the khaki. And
13 you could differentiate between the *asakir*, or the military personnel, who were
14 wearing their uniform, or khaki, and the Janjaweed had the scarves wrapped around
15 their heads, and they were wearing regular clothes.

16 Q. [11:54:52] Now, when the Janjaweed came to your house, what time of
17 the -- let's focus on 5 March now. When the Janjaweed came to your house, what
18 time of day was it?

19 A. [11:55:30] When the Janjaweed came and entered my house, that was 8 or 9 in
20 the morning.

21 Q. [11:55:41] Thank you. And just so you know, that was a very good way you
22 answered that question. I asked what time it was that they came to the house and
23 you said exactly the time. So now I will ask the next question. What did the
24 Janjaweed who came into your house say to you, if they spoke to you? What did
25 they say to you?

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1 A. [11:56:25] When they came, they did not ask anything. They entered the house
2 and then they exited. So I left the house and went to another neighbourhood where
3 my family was. I saw them trying to escape, running. They were asking me, "How
4 is the situation in the place where you were?" So my family asked me this, and then
5 I answered them that the Janjaweed came and entered my house and they didn't even
6 ask me if they could come in. They just entered and exited. So I will tell you
7 something, this is what I said: "Do not exit your houses. The *asakir* or the military
8 personnel were outside and they were also shooting. So the situation outside is
9 dangerous, so stay at home, stay inside because inside it will be safer."

10 Q. [11:57:42] And then did any Janjaweed come to your house again that day?

11 A. [11:58:09] On that day, I had moved to another house. When it was 10 o'clock,
12 the Janjaweed started arresting or detaining people. So I was in the other
13 neighbourhood, and I did not know that they were arresting people in the
14 neighbourhood where I was previously, at the beginning, in my first house. So I was
15 sleeping at home. One of the Janjaweed came or entered to me and said, "Why are
16 you sleeping like this?" So he took me outside of the house, and I saw that a large
17 number of people were gathered there.

18 Q. [11:59:06] And then what happened after this Janjaweed person, soldier, took
19 you out of your house?

20 A. [11:59:38] I found a large number of my family members standing in front of my
21 door. Among them, there were elderly and children. So the children and the
22 elderly were left behind, and rest were taken to the point.

23 Q. [12:00:18] Okay. (Microphone not activated)

24 THE INTERPRETER: [12:00:22] Microphone, please.

25 MR NICHOLLS: [12:00:28]

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1 Q. [12:00:28] Were you also taken to what you've called now the point?

2 A. [12:01:07] Yes, I was taken. Myself and my brother-in-law, the person who is
3 the brother of my wife, we were taken to the police station. When we arrived there,
4 there were so many people, and they were heading north.

5 Q. [12:01:35] One second. Let me ask another question. Approximately, if you
6 remember, what time of day was it when you were taken to the police with your
7 brother-in-law?

8 A. [12:02:09] It was between 11 and 1 o'clock, but the other detainees had been
9 arrested between 10 and 11.30.

10 Q. [12:02:32] Now, did the Janjaweed who arrest you say why you were being
11 arrested or taken to the police station?

12 A. [12:02:55] They didn't ask me. They just took us to the police station. They
13 brought us from the northern side, and they took us around. And they made us sit
14 near to a tree inside or close to the -- inside the police station.

15 PRESIDING JUDGE KORNER: [12:03:27] Are we talking about day-time or
16 night-time? Because he said he was sleeping. And we haven't heard whether it
17 was a.m. or p.m.

18 MR NICHOLLS: [12:03:38] Yeah. Thank you, your Honour.

19 Q. [12:03:40] And when you say 11 and 1 o'clock, is that in the day-time or the
20 night-time that you were taken to the police station?

21 A. [12:04:05] It was day-time, a.m.

22 Q. [12:04:09] Thank you. And on the way, at the time you were arrested, were
23 you mistreated in any way?

24 A. [12:04:51] When we were taken out of our homes by the Janjaweed, the
25 Janjaweed would hit the elderly, but then release them. And they asked them to go.

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1 "You are free to go," they told them. But they didn't let us go, and they led us to the
2 police station.

3 Q. [12:05:13] And when you say "us", how many were in your group that was led
4 to the police station?

5 A. [12:05:40] Two people, myself and my brother-in-law. And the elderly were
6 not led to the police station, and the women and children. Only myself and my
7 brother-in-law, the brother of my wife.

8 PRESIDING JUDGE KORNER: [12:06:09] So were you the only two men there?

9 THE WITNESS: [12:06:27](Interpretation) No. There were many people, but the
10 rest were elderly and women -- and children, rather.

11 PRESIDING JUDGE KORNER: [12:06:37] Yes. So you were the only two men of
12 military age, if you like?

13 THE WITNESS: [12:07:09](Interpretation) Yes, because we were fit, strong, and we
14 were farming. That's why we were selected.

15 MR NICHOLLS: [12:07:21]

16 Q. [12:07:22] And I'll just ask again to be clear. When you were taken to the police
17 station by the Janjaweed, was it only you and your brother-in-law, or were other men
18 brought to the police station with you and your brother-in-law?

19 A. [12:08:05] There were about 12 or 13 people there. When we got close to the
20 station, the rest were released, and we were taken to the inside of the station.

21 Q. [12:08:26] Now, on the way to the police station, when you are being taken to
22 the police station, do you remember if you stopped and talked to anybody?

23 A. [12:09:04] We were not stopped at that point. We were not interrogated on the
24 way. We were only taken to the police station. And when we arrived, we found
25 the vehicle of Ali Kushayb parked under a tree, and it was facing north, from south to

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1 north.

2 Q. [12:09:38] Now, when you were taken to the police station, were you taken
3 inside the police station, or did you stay outside in the square in front of the police
4 station?

5 A. [12:10:19] The police station didn't have a yard, a walled yard. It was just a
6 square about a hectare. And they would gather people in that square.

7 Q. [12:10:36] Were you gathered in that square?

8 A. [12:11:05] Yes. They brought us in that square, and we saw Ali Kushayb. He
9 came, and he was stepping on the people with his shoes on.

10 Q. [12:11:22] And when did you see that, Ali Kushayb walking on -- stepping on
11 people in the square? Is that right when you arrived or later? When was it that you
12 saw that?

13 A. [12:11:53] It was on a Friday.

14 Q. [12:11:57] Thank you. When you arrived at the square in front of the police
15 station -- let me start again.

16 You said you saw Ali Kushayb walking on top of people in the square. When did
17 you see that, when you arrived yourself, or was it later?

18 A. [12:12:57] It was after we were brought to the police station or the square.
19 They asked us to lie down approximately about 15 minutes after we had arrived.
20 After that, Ali Kushayb came, and he was stepping on people. And Adam
21 Abd-Al-Rahman Jenif asked Ali Kushayb a question. He said, "Who gave you these
22 instructions to arrest people and humiliate them?" Ali Kushayb had a stick, and he
23 hit Jenif with his stick and he bled for an extended time -- period of time.

24 Q. [12:13:42] Okay. I'll come to that, when Ali Kushayb hit Jenif, in a minute.
25 When you got to the square, approximately how many men -- I know you can't know

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1 the exact number. How many men were being held prisoner there on the ground?

2 A. [12:14:32] The area where people were gathered was about 1 acre and the total
3 number of people ranged from 600 to 700 people.

4 Q. [12:14:46] And as far as you could tell, what was the ages of the people you saw
5 being held there? What was the youngest one, what was the oldest one that you
6 could see, approximately?

7 A. [12:15:36] The ages of the detainees ranged between -- for example, the eldest
8 was about 60 or a bit over 60. And there were young people, and as young as 13 and
9 14 years old.

10 Q. [12:15:52] That's something you saw with your own eyes, is that right, or you
11 heard it?

12 A. [12:16:12] Yes, I saw this with my own eyes. I witnessed it. I was present on
13 scene.

14 Q. [12:16:21] Thank you. Now, you said that after you arrived, you lied down,
15 and at some point you see Ali Kushayb walking on people, walking on -- who is he
16 walking on?

17 A. [12:17:16] Ali Kushayb started to step on those who were lying down towards
18 the north of my side. He stepped on them until he reached me, and he stepped on
19 my own body. Then Adam Abd-Al-Rahman Jenif asked Kushayb, "Why would you
20 do this?"

21 Q. [12:17:48] Did you hear Ali Kushayb saying anything while he was walking on
22 the prisoners?

23 A. [12:18:38] Ali Kushayb did not insult people. He just stepped on their bodies.
24 And nobody objected, except Adam Abd-Al-Rahman Jenif who said, "Who are you to
25 do this? Who are you to gather these poor people and humiliate them?"

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1 Q. [12:19:16] And what did Ali Kushayb -- well, did Ali Kushayb say anything to
2 Jenif?

3 A. [12:19:43] Ali Kushayb asked him directly, "Who are you to ask me this
4 question?" And he hit him on the head.

5 Q. [12:19:55] Did Ali Kushayb say anything else?

6 A. [12:20:24] Ali Kushayb didn't say anything. He just hit Jenif who started to
7 bleed. Blood was covering his face. After that, they took him inside the prison.

8 Q. [12:20:38] Okay. And can you describe what Ali Kushayb hit Jenif with.
9 Describe it as best you can, what it looks like.

10 MR LAUCCI: [12:20:49] This has been answered already.

11 MR NICHOLLS: [12:20:51] It has not.

12 PRESIDING JUDGE KORNER: [12:20:54](Microphone not activated)

13 MR LAUCCI: [12:20:56] The witness said -- maybe not to translate.

14 MR NICHOLLS: [12:21:00] He said an object --

15 MR LAUCCI: [12:21:01] A stick.

16 MR NICHOLLS: [12:21:01] -- name, and I'm asking him to describe what he hit him
17 with.

18 MR LAUCCI: [12:21:07] He said a stick. And that is --

19 MR NICHOLLS: [12:21:09] I don't contest that, but --

20 MR LAUCCI: [12:21:11] -- page 42, line 14 to 16.

21 MR NICHOLLS: [12:21:15] Yes, I don't contest it, but I would like a description of
22 that.

23 Q. [12:21:23] Can you describe, as much detail as you can, what you saw Ali
24 Kushayb hit Jenif with.

25 A. [12:21:51] It was a long stick, at the end of which there was an axe. That was

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1 the tool or the object he used to hit Jenif.

2 Q. [12:22:14] What happened after Ali Kushayb hit Jenif with the axe?

3 A. [12:23:04] He started to order them to carry these people to the vehicle and take
4 them to Garsila.

5 Q. [12:23:13] All right. We will get to that -- that part of what happened in a
6 minute, but now I have a couple more questions.

7 When Ali Kushayb hit Jenif with his axe, how far away were you when that -- from
8 them? And to guide you, was it closer or farther away than I am from you now?

9 A. [12:24:13] The distance is a bit longer and further, because we were to the
10 southwest, and heading north. Yet Adam Abd-Al-Rahman Jenif was on the other
11 side, in the eastern side. We saw him when Ali Kushayb hit him on the face and
12 blood was covering his face. After which he was taken inside the prison.

13 PRESIDING JUDGE KORNER: [12:24:44] Don't translate, please.

14 Was he shown the photographs of the police station?

15 MR NICHOLLS: [12:24:53] We -- we looked at one aerial, and our impression was
16 that the victim had difficulty with aerials.

17 PRESIDING JUDGE KORNER: [12:25:03] I see. Okay.

18 MR NICHOLLS: [12:25:04] Was our impression.

19 PRESIDING JUDGE KORNER: [12:25:06] All right.

20 MR NICHOLLS: [12:25:08] Let me just concur because I wasn't actually there.

21 (Counsel confers)

22 MR NICHOLLS: [12:25:19] Yeah, we didn't show that exact image, but we showed
23 different aerial images and thought that the witness was having difficulty working
24 with them.

25 Q. [12:25:33] You said that the person who was hit by Ali Kushayb with the axe

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1 here was Adam Abd-Al-Rahman Jenif. Do you know Jenif? How did you know
2 who this person was?

3 A. [12:26:24] I came to know Adam Abd-Al-Rahman Jenif because he was very well
4 known in our region. He was working as the head of the farmers union in the
5 village of Nankuseh. He would distribute some amounts of money for the purpose
6 of agriculture, and this money would be paid in instalments later on to the
7 government. So that person is very well known in the region.

8 Q. [12:27:00] Did you know him personally, yourself?

9 A. [12:27:25] Yes, I know him very well. He would bring some tools and
10 distribute these tools to the villages out of fairness. So our acquaintance came this
11 way. He would -- the person who would bring these tools to the region and he
12 would have a draw and distribute these according to the results of this draw, and he
13 would check the documents.

14 Q. [12:28:08] All right. Did you see whether -- or could you see whether Ali
15 Kushayb hit anybody else that day?

16 A. [12:28:46] Yes. Ali Kushayb hit another person. He was the *sheikh* of the
17 village of Massa. After hitting him, he was carried -- he was carried and shot in the
18 vehicle. Rather, carried and thrown into the vehicle.

19 Q. [12:29:08] Do you remember the name of that *sheikh* of Massa?

20 A. [12:29:21] Yes. He was called Adam Adam Abd-Al-Rahman.

21 Q. [12:29:30] Do you remember his nickname?

22 A. [12:29:46] He was known as *Sheikh* Motor.

23 Q. [12:29:51] What did Ali Kushayb hit *Sheikh* Motor with? What did he hit him
24 with?

25 A. [12:30:10] He hit him with the same axe.

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1 PRESIDING JUDGE KORNER: [12:30:24] You were lying on the ground face down;
2 is that right?

3 THE WITNESS: [12:30:44](Interpretation) Yes, this is how it was. We were all lying
4 down on the ground, heads down, and we were facing the east. I was the closest to
5 Ali Kushayb by distance, in terms of distance here. My head wasn't directly on the
6 floor.

7 PRESIDING JUDGE KORNER: [12:31:16] All right.

8 MR NICHOLLS: [12:31:26]

9 Q. [12:31:26] Did you personally know *Sheikh* - I will use his nickname - Motor of
10 Massa before you saw him getting hit with the axe that day?

11 A. [12:31:54] Yes, I know *Sheikh* Adam Abd-Al-Rahman because when there were
12 cooperatives being established by the government in Forgo and other towns, we were
13 all together in one council. And when the government was providing foodstuffs,
14 such as sugar, the government was ordering the *sheikhs* to receive these quotas or
15 these quantities of sugar. So we used to also meet together in one market. So these
16 were the places where I have known Adam Abd-Al-Rahman.

17 Q. [12:32:48] Now, you said that after he was hit with the axe, he was thrown into a
18 vehicle. Did anybody order that the *sheikh* be thrown into a vehicle?

19 A. [12:33:24] Yes. Ali Kushayb is the person who ordered this. At that time I
20 was facing the east, and I saw him hitting that man. And then he ordered his men
21 from the Janjaweed to take this man and throw him in the vehicle or shove him in the
22 vehicle.

23 Q. [12:33:56] Thank you. As far as you know -- or did you see any of the men -- or
24 I should say, any of the males who were held in front of the police station, did you see
25 whether any were released that day, allowed to go home?

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1 A. [12:35:07] Yes. The Janjaweed released some people while we were lying on
2 the ground. So the Janjaweed were coming and calling certain persons that they
3 know, for example. Our faces were down on the ground, so we did not know how
4 the Janjaweed looked like. So they were calling people or selecting the people who
5 owned money, and they were releasing them, hoping to negotiate and probably get
6 some money out of them.

7 Q. [12:35:55] The people held prisoner in that square who were not released, how
8 did they come to leave the square? What happened to them, the prisoners?

9 A. [12:36:50] Those who were not released were shoved in the vehicles randomly,
10 and that happened without questioning also. So they were taking these people and
11 shoving them in the vehicle. And when the vehicle is full, they go to the execution
12 site where they execute these people. And then the vehicle returns to take the
13 second batch.

14 Q. [12:37:25] Who was shoving the prisoners on to the vehicles? I don't need the
15 names, but who was it who was doing that?

16 A. [12:38:00] Ali Kushayb himself was supervising this process. Ali Kushayb was
17 counting the people. So he was counting, one, two, three, et cetera, and he was
18 counting. And when the capacity of the vehicle is reached, he stops counting. Then
19 the vehicle is driven outside somewhere else.

20 Q. [12:38:33] While this was happening, while Ali Kushayb is counting the men to
21 go in the vehicles, did you hear Ali Kushayb say anything?

22 A. [12:39:11] Ali Kushayb did not question people. He did not raise any question
23 to anybody. He was only detaining people and take them away in the vehicle. I
24 did not hear anything from him, anything else from him.

25 Q. [12:39:26] I'm not talking about talking to the prisoners. Did he say anything to

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1 the drivers of the vehicles?

2 A. [12:40:02] He was only ordering them to take the people to the vehicle, so his
3 men were taking the people directly to the vehicles. So these instructions came from
4 Ali Kushayb.

5 Q. [12:40:18] And did he give any instructions about what to do with the people?

6 MR LAUCCI: [12:40:23] Sorry. Responded.

7 PRESIDING JUDGE KORNER: [12:40:29](Microphone not activated)

8 THE INTERPRETER: [12:40:34] Microphone, please, your Honour.

9 MR NICHOLLS: [12:40:44]

10 Q. [12:40:44] And did you hear Ali Kushayb give any instructions about what to do
11 with these people?

12 A. [12:41:47] Ali Kushayb was giving instructions to his men to take these
13 detainees to the vehicles, and then to take them away to Garsila. Sometimes he was
14 having side conversations secretly with these people, so I don't know what they were
15 talking about. And then they were taking the people to Garsila. This was as far as
16 the people were -- this was as far as people thought. So the people thought that they
17 were being taken to Garsila, but they were being taken to be executed. So the people
18 heard that these prisoners were being taken to Garsila, and then the vehicle leaves
19 and then comes back, and et cetera.

20 PRESIDING JUDGE KORNER: [12:42:42] Sir, so that we are clear, do you mean you
21 could hear Ali Kushayb saying to his men, "Take them to Garsila"?

22 THE WITNESS: [12:43:13](Interpretation) Yes, I heard him with my ears because the
23 distance between myself and him was short. Moreover, I saw Ali Kushayb ordering
24 his men to take people away. I could recognise some of the detainees or some of the
25 prisoners who were inside the village, and then I was sure where these people come

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1 from, from which village they come from. And I was checking also the registration
2 number of each vehicle, which person went to each vehicle so I could know the
3 vehicle, the plate number of each vehicle. I was also aware of the plate number of
4 (Redacted).

5 PRESIDING JUDGE KORNER: [12:44:12] I'm sorry, Mr Nicholls.

6 But how many vehicles were there which were transporting prisoners?

7 THE WITNESS: [12:44:45](Interpretation) There were two vehicles, but the vehicle
8 that were transporting people was open from up. It was not closed.

9 MR NICHOLLS: [12:45:21] And, your Honours, if I may request we go into private
10 session at this stage.

11 PRESIDING JUDGE KORNER: [12:45:30] Is that going to take us up to the
12 adjournment?

13 MR NICHOLLS: [12:45:34] Yes, I don't think I'll finish, but I could possibly do the
14 first part and maybe adjourn a little bit earlier.

15 PRESIDING JUDGE KORNER: [12:45:41] All right.

16 Yes, private session.

17 MR NICHOLLS: [12:45:53]

18 Q. [12:45:53] How many times did you see -- oh, sorry.

19 (Private session at 12.46 p.m.)

20 THE COURT OFFICER: [12:46:02] We are in private session, Madam President.

21 MR NICHOLLS: [12:46:07]

22 Q. [12:46:08] (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [12:46:56] (Redacted)

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8 Q. [12:52:03] Thank you.

9 And, your Honours, it's 10 minutes early, but it might be better to pause now, and
10 then I can finish in one go the last chapter.

11 PRESIDING JUDGE KORNER: [12:52:16](Microphone not activated)

12 THE INTERPRETER: [12:52:20] Microphone, please.

13 PRESIDING JUDGE KORNER: [12:52:20] Sir, we are going to take a break now for
14 lunch, which will last until --

15 THE WITNESS: [12:52:36](Interpretation) Yes.

16 PRESIDING JUDGE KORNER: [12:52:37] -- 25 past 2, 2.25 in the afternoon.

17 Vingt-cinq. Okay. Right.

18 THE COURT USHER: [12:52:51] All rise.

19 PRESIDING JUDGE KORNER: [12:52:58] Sorry, one last thing.

20 Sir, over lunch, you probably have somebody from the witness unit with you. Please
21 don't discuss the evidence you are giving with whoever is with you. All right?

22 Thank you.

23 THE COURT USHER: [12:53:17] All rise.

24 (Recess taken at 12.53 p.m.)

25 (Upon resuming in private session at 2.32 p.m.)

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1 THE COURT USHER: [14:32:31] All rise.

2 Please be seated.

3 PRESIDING JUDGE KORNER: [14:32:53] Mr Laucci, I hope you got the message that
4 you needn't start cross-examination this afternoon.

5 MR LAUCCI: [14:33:00] I did not get the message, but I receive it and welcome it.

6 PRESIDING JUDGE: [14:33:04] Well, no, we're feeling considerable sympathy for you
7 this week, may I say.

8 MR LAUCCI: [14:33:10] Thank you.

9 PRESIDING JUDGE KORNER: [14:33:10] But that doesn't entitle you to make an
10 American objection, half.

11 MR LAUCCI: [14:33:17] I limited myself.

12 PRESIDING JUDGE KORNER: [14:33:21] Okay. Yes, right, Mr Nicholls, back to
13 where we were.

14 MR NICHOLLS: [14:33:25] Thank you, your Honour.

15 Q. [14:33:32] Good afternoon, sir, Mr Witness.

16 A. [14:33:45] Good afternoon. I am very well. Thank you.

17 (Redacted)

18 (Redacted)

19 (Redacted)

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25 (Redacted)

Trial Hearing
WITNESS: DAR-OTP-P-0907

(Private Session)

ICC-02/05-01/20

1 (Redacted)

2 A. [15:39:23] (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [15:39:55] (Redacted)

7 (Redacted)

8 PRESIDING JUDGE KORNER: [15:40:09] (Redacted)

9 (Redacted)

10 MR NICHOLLS: [15:40:15] (Redacted)

11 PRESIDING JUDGE KORNER: [15:40:16] (Redacted)

12 (Redacted)

13 (Open session at 3.40 p.m.)

14 THE COURT OFFICER: [15:40:34] We are at open session, Madam President.

15 MR NICHOLLS: [15:40:42]

16 Q. [15:40:42] Now, on that Sunday that you left to go to Nyala, that day, did you
17 see *Umdah* Adam Adam Ahmad, known as Kindiri?

18 A. [15:41:26] Yes, I saw *Umdah* Adam Adam Kindiri. Because we left suddenly,
19 we didn't take any luggage with us, and there were some vehicles coming from
20 Garsila and passed through Deleig, and a bus.

21 So people were trying to get in the bus. And when we managed to get in, and the
22 bus started moving north -- we actually got on the bus and went south. And I saw a
23 car carrying *umdahs* and other people. * And there were around seven or eight people
24 in the back of this vehicle.

25 Q. [15:42:25] Now, this vehicle, had you seen that particular vehicle before?

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1 A. [15:42:51] Yes. I saw this car before, because it was the same car that
2 (Redacted). And on the back of the car, there were the same
3 group of people who executed the prisoners. When I saw this car carrying those
4 people, I put my head down straight away. But one person told me, "Just look, look
5 and check who the people -- who are the people who are on the back of this car."
6 And I saw that it was the *umdahs*. And then I saw that the vehicle was going
7 towards the west. They crossed the road and went through the village of Fere. I
8 know those people got killed close to this village.

9 PRESIDING JUDGE KORNER: [15:43:59] The last bit is something that you were
10 told by somebody else. Somebody told you the *umdahs* had been killed.

11 Sorry, sir, you must stop, I am afraid. I need to get the translation.

12 THE WITNESS: [15:45:24](Interpretation) People were looking for the *umdahs*, and
13 then later -- I heard about that later. I didn't see them by my own eyes, but I heard
14 other people saying that the *umdahs* were taken towards Garsila. People went to
15 Garsila, but they couldn't find the *umdahs* detained there. And later, they tried
16 looking for them everywhere. So they found them killed in this place that I
17 described for you.

18 MR NICHOLLS: [15:46:05]

19 Q. [15:46:06] Thank you. Just make it very clear for me, the last time you saw
20 *Umdah* Kindiri alive was when you saw him in that vehicle, (Redacted).
21 (Redacted).

22 A. [15:47:19] Yes, the last time I saw *Umdah* Kindiri was on a Sunday at about 8 or 9
23 o'clock, when I was on -- at the back of that car, and they brought the *umdahs* from the
24 south and they took them to the west. I was rather on the bus. That was the last
25 time I saw *Umdah* Kindiri.

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1 Q. [15:47:50] Sir, thank you very much.

2 I have no more questions for you now. And I'm really sorry I had to interrupt you
3 so many times while you were speaking.

4 PRESIDING JUDGE KORNER: [15:48:04] Is it you, Ms von Wistinghausen, or Mr -- I
5 think the witness has probably had enough for today. It's really been --

6 MS VON WISTINGHAUSEN: [15:48:12] I agree. It's been a difficult testimony and
7 I will suggest to continue tomorrow.

8 PRESIDING JUDGE KORNER: [15:48:17] I don't know how long you're going to -- I
9 mean, unless you feel that you can ...

10 Sir, would you prefer to be asked questions now by the representatives of the victims
11 or start again tomorrow morning? It seems to me you have had a very long day.

12 THE WITNESS: [15:49:13](Interpretation) It's up to you. I don't mind. If you wish
13 to proceed, it's all up to you. I came all the way here for this purpose.

14 PRESIDING JUDGE KORNER: [15:49:26] Yes. Well, sir, that's very good of you,
15 and I think I will take the decision that we've had enough -- that you, not we, but you
16 have had a long day. And so we will adjourn now until tomorrow morning at 9.30.
17 And your evidence will conclude tomorrow.

18 So would you like to leave with the court officer.

19 THE WITNESS: [15:50:08](Interpretation) Very well. I hope we continue my
20 testimony for a longer period, because we were wronged, and our land has been
21 taken by the new settlers from Janjaweed, Niger and other regions, and they don't
22 allow us to farm. Unless they would permit you, I would like to continue. That's
23 why I would like to continue and finish my testimony.

24 PRESIDING JUDGE KORNER: [15:50:41] Yes, you will. Sir, you will be given
25 every opportunity, and I certainly anticipate that the questions you will get from the

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1 victims representatives will allow you to express your feelings about this.

2 THE WITNESS: [15:51:17](Interpretation) Very well. I don't have any problems.

3 PRESIDING JUDGE KORNER: [15:51:21] And we will see you tomorrow and, as I

4 say, you will have every opportunity to tell the Court about what happened. Yes.

5 (The witness exits the courtroom)

6 PRESIDING JUDGE KORNER: [15:52:23] Ms von Wistinghausen and also Mr Laucci,

7 in particular, Ms von Wistinghausen, it's normally, not surprising, the habit of the

8 questioning from your side to ask the witness wide open ranging questions to allow

9 him to explain what happened. It is, I'm afraid, absolutely clear that if you want that

10 evidence out, you can't do it because his answers are naturally very long and you are

11 just not going to get proper interpretation. So you are going to have to try and ask

12 more limited questions, if you see what I mean, as opposed to "tell us all about it."

13 And the same, Mr Laucci, I'm afraid even more so in your case. No lead up if at all

14 possible. No rehash of what he said. And I'm trying to keep the questions as

15 current because it's -- obviously he is an important witness. There is no doubt about

16 that. You made it clear in your submissions that you've got quite a lot of

17 cross-examination. And if you want it to come out properly, then his answers

18 somehow, if possible, have got to be controlled. So I'm merely, as it were, giving you

19 that warning shot because otherwise it just means we have to stop him in the middle.

20 Part of the problem, say the interpreters, is overlapping speakers. Well, that's

21 because somebody is interrupting.

22 But for the moment, we have to work on the basis that it's consecutive interpretation,

23 and it's much, much slower. And the longer his answers, the less likely it is we are

24 going to get a good interpretation.

25 I'm going to suggest that if any witnesses who are down to speak Fur actually speak

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1 Arabic and can understand Arabic, that they speak Arabic.

2 MR NICHOLLS: [15:54:40] We will do that, your Honour. It's always the
3 preference, but some of them (Overlapping speakers)

4 PRESIDING JUDGE KORNER: [15:54:45] It may well be the preference for Fur, but
5 if they speak and understand Arabic, if they want their evidence to be given and for
6 the Court to take it, they are better off if they speak Arabic.

7 MR NICHOLLS: [15:54:58] The ones who say they want to speak Fur, it's not for a
8 principle. It's because they feel they can express themselves. And some are quite
9 fluent in Arabic and we convince them to give it a try. This particular witness
10 needed -- needs to speak in Fur.

11 PRESIDING JUDGE: [15:55:12] No, that I understand. Yesterday's witness did not.
12 And part of the problem yesterday, certainly as I realised, was she understood, I think,
13 the English in many cases and then the Arabic. And so she was answering before
14 the interpretation finished, and that's why I think it got so bad yesterday.

15 MR NICHOLLS: [15:55:36] I will try to bring this up more in our prep as well for the
16 remaining witnesses. But it's really -- I am sorry I got emotional for a minute, but
17 interrupting somebody who has gone through this --

18 PRESIDING JUDGE KORNER: [15:55:46] I agree.

19 MR NICHOLLS: [15:55:46] -- not being able to tell their story in their own way, it's
20 just ...

21 PRESIDING JUDGE KORNER: [15:55:54] Mr Nicholls, I'm entirely with you. As
22 you appreciate, my experience, and indeed that of Judge Alexis-Walker, is from your
23 side on the bench, and interrupting witnesses is -- is something that we don't want to
24 do. Windsor. Well, if I can call Mr Jeremy, or whatever, I can call Judge
25 Alexis-Windsor Judge Alexis-Walker.

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1 Yes. Right. Yes, Ms von Wistinghausen, do you want to say something.

2 MS VON WISTINGHAUSEN: [15:56:26] Yes. Just two thoughts I would like to
3 share with you. Of course, I will try to take -- to bring some pace into the testimony
4 that allows for good interpretation by stopping the witness, you know, in a cautious
5 manner. However, I think it's really important -- and he's not only a witness, he's a
6 participating victim as well --

7 PRESIDING JUDGE KORNER: [15:56:46] No, I know.

8 MS VON WISTINGHAUSEN: [15:56:46] -- and you can sense and feel and
9 understand that he wants to say more than what is just framed within our questions,
10 and I think that's fair enough. So, as I say, you know, I will just try to bring the right
11 pace in his testimony.

12 PRESIDING JUDGE KORNER: [15:57:10] Well, I think you're just going to have to
13 cut him off.

14 MS VON WISTINGHAUSEN: [15:57:14] I think it's possible -- yes, but, I mean, this
15 can be done in a respectful way and I will discuss it with him in advance. And it
16 may just take more time than I had anticipated, but let's take the time it requires.

17 PRESIDING JUDGE KORNER: [15:57:25] Right. Yes.

18 Mr Laucci.

19 MR LAUCCI: [15:57:27] If you allow me in this discussion on the interpretation and
20 consecutive versus simultaneous, if I'm correct, when we started in July with the Fur,
21 it was consecutive. And I have -- I don't know if it is shared in this courtroom, but I
22 have a very positive memory of how things went. And I did not have the perception
23 that the pace was that much slower, but the accuracy of the interpretation seemed to
24 be much less problematic. Maybe the good decision would be, every time Fur is
25 needed, to go back to consecutive.

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1 PRESIDING JUDGE KORNER: [15:58:10] Well, I'm beginning -- I'm going to have a
2 discussion with the head of the unit tomorrow over the luncheon adjournment and
3 see what the best solution is to this. It's been brought to bear that we are the fastest
4 trial in the building. So if we have to slow down slightly because of the
5 interpretation, then we will have to do it.
6 I mean, it is absolutely -- as I've said, you have no idea when you read the transcripts
7 months later that, in fact, when you look at the preparation log, unless it comes out,
8 he didn't say ten trucks. He said the tracks. And that's why, as I say -- can I make it
9 absolutely clear in open court on the record, I understand just how difficult
10 interpretation is. I spent many years dealing with it. But, as I say, it is better, if
11 there is a problem, that the interpreters make that clear. And although we don't
12 want to keep asking the witness to repeat his answers, better that we try and get an
13 accurate record of what is said.
14 Right. Thank you very much. 9.30 tomorrow morning.
15 THE COURT USHER: [15:59:43] All rise.
16 (The hearing ends in open session at 3.59 p.m.)