

Trial Hearing
WITNESS: DAR-OTP-P-1073

(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 2
9 Tuesday, 22 November 2022
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:55] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:33:21] Yes.
15 Can we call the case, please.
16 THE COURT OFFICER: [9:33:24] 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: [9:33:40] Yes.
22 Appearances. Good morning, all.
23 Appearances for the Prosecution, please.
24 MR NICHOLLS: [9:33:45] Good morning, your Honour. Good morning, all.
25 Good morning, Madam President. Julian Nicholls with Laura Morris, Claire Sabatini,

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- 1 Antonella Giordano and Melissa Simms. Thank you.
- 2 PRESIDING JUDGE KORNER: [9:34:00] I thought there was a request to keep
3 the number of people down in court.
- 4 MR NICHOLLS: [9:34:07] That's actually for the next witness.
- 5 PRESIDING JUDGE KORNER: [9:34:11] Oh, it's the next witness, is it?
- 6 MR NICHOLLS: [9:34:13] Yeah.
- 7 PRESIDING JUDGE KORNER: [9:34:13] All right.
- 8 Yes. Right. Yes, victims, while we're going around the room.
- 9 MS VON WISTINGHAUSEN: [9:34:22] Yes, good morning, Madam President. We
10 have a rather full house, but I have that in mind that this will change for the next
11 witness.
- 12 PRESIDING JUDGE KORNER: [9:34:31] Yeah, I think -- well, obviously, there will
13 have to be a break anyhow. But my understanding of the special measures
14 requested was as few people as possible and no men, so --
- 15 MS VON WISTINGHAUSEN: [9:34:43] Absolutely, that's absolutely right
16 (Overlapping speakers)
- 17 PRESIDING JUDGE KORNER: [9:34:45] It's just as well that there's a bench of three
18 women.
- 19 MS VON WISTINGHAUSEN: [9:34:50] That's for the next witness, but of course we
20 will respect that.
- 21 So, this morning, the victims are represented by associate counsel Anand Shah. I
22 have with me my case manager Idriss Anbari, and two interns, Nur Mahameed and
23 Randa Bellahdid.
- 24 PRESIDING JUDGE KORNER: [9:35:04] Right. Thank you very much.
- 25 Yes, Defence.

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1 MR LAUCCI: [9:35:08] Good morning, Madam President. Good morning,
2 your Honours. Good morning, colleagues. On the side of the Defence this morning,
3 Mr Abd-Al-Rahman is present. And I am with Madam Marcela Velarde, assistant
4 evidence reviewer; and Madam Vanessa Grée, legal advisor. And I am Cyril Laucci,
5 counsel. For this afternoon, I'm afraid you will have to accept the presence of my
6 learned friend Iain Edwards, and he will be alone with Madam Grée.

7 PRESIDING JUDGE KORNER: [9:35:45] I see you've lost your Arabic speaker
8 though.

9 MR LAUCCI: [9:35:50] No, he is not lost, but he has been requested to stay outside
10 the courtroom.

11 PRESIDING JUDGE KORNER: [9:35:55] I see. Okay. But he's still assisting
12 remotely, is he?

13 MR LAUCCI: [9:35:59] He will come at the break.

14 PRESIDING JUDGE KORNER: [9:36:00] Are these witnesses Fur or Arabic
15 speakers?

16 MR NICHOLLS: [9:36:04] Fur, your Honour.

17 PRESIDING JUDGE KORNER: [9:36:05] Both of them? Right.

18 All right. Well, I've seen the email correspondence. I'm, as usual, very grateful to
19 both sides for reaching agreement.

20 I want to make it absolutely clear, however, it is not just my view, it is our considered
21 view that these interviews with this doctor ...

22 MR LAUCCI: [9:36:31] It looks like there is an issue.

23 PRESIDING JUDGE KORNER: [9:36:34] All right.

24 MR LAUCCI: [9:36:42] Apologies.

25 It looks like it's revolved.

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1 PRESIDING JUDGE KORNER: [9:37:01] These interviews with these doctors should
2 not be taking place, for two reasons:

3 Firstly, it's likely to retraumatise the victims. Secondly, it has the inevitable
4 probability that inconsistent evidence will be created, and that must be the last thing
5 on earth, with victims of rape, that you want to happen. So I would strongly advise
6 the OTP from here on in, in any cases where they're dealing with, not to have these
7 interviews.

8 Right. Having said that, let's have the witness into court.

9 MR NICHOLLS: [9:37:43] I'd just like to thank my friends, although you made
10 the point, your Honour. I really do appreciate them discussing this with us last
11 night and finding a way forward.

12 PRESIDING JUDGE KORNER: [9:37:53] Yes. Well, I think things are back on, I
13 hope, an even keel in this case.

14 (The witness enters the courtroom)

15 PRESIDING JUDGE KORNER: [9:39:10] Good morning to you, Madam.

16 Can you hear and understand me?

17 WITNESS: DAR-OTP-P-1073

18 (The witness speaks Fur)

19 THE WITNESS: [9:39:29](Interpretation) Good morning. I am well and I hear you
20 clearly.

21 PRESIDING JUDGE KORNER: [9:39:33] First, let me thank you very much indeed
22 for coming to court to give evidence in this case.

23 THE WITNESS: [9:39:53](Interpretation) God willing.

24 PRESIDING JUDGE KORNER: [9:39:57] Second, as you gather, and as will have
25 been explained to you, everything is being interpreted twice over.

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1 THE WITNESS: [9:40:24](Interpretation) All right.

2 PRESIDING JUDGE KORNER: [9:40:25] So it's really important that you don't speak
3 too quickly. And try to answer the questions as shortly as possible.

4 THE WITNESS: [9:40:57](Interpretation) All right.

5 PRESIDING JUDGE KORNER: [9:40:58] If you do not understand a question, say so
6 straight away and it will be repeated.

7 THE WITNESS: [9:41:18](Interpretation) All right.

8 PRESIDING JUDGE KORNER: [9:41:19] I don't think your evidence is going to last
9 very long, and there is a break at 11 o'clock. But if at any stage you want a break,
10 please say so straight away.

11 THE WITNESS: [9:41:58](Interpretation) All right.

12 PRESIDING JUDGE KORNER: [9:42:00] What's going to happen now is that you
13 will be asked to make a solemn declaration by repeating the words after
14 the court officer.

15 THE WITNESS: [9:42:24](Interpretation) All right.

16 THE COURT OFFICER: [9:42:26] Good morning, Madam President. Could you
17 please repeat the solemn declaration after me.
18 I solemnly declare --

19 THE WITNESS: [9:42:46](Interpretation) Yes.

20 THE COURT OFFICER: [9:42:52] -- that I will speak the truth, the whole truth and
21 nothing but the truth.

22 Thank you, Madam Witness. You are now under oath.

23 THE WITNESS: [9:43:13](Interpretation) I solemnly declare that I will speak
24 the truth, the whole truth and nothing but the truth.

25 PRESIDING JUDGE KORNER: [9:43:17] Yes, thank you very much.

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1 Ms Morris.

2 MS MORRIS: [9:43:27] Thank you, Madam President.

3 QUESTIONED BY MS MORRIS:

4 Q. [9:43:30] Good morning, Madam Witness. We have met before. For
5 the record, my name is Laura Morris, and I will be asking you questions on behalf of
6 the Prosecution.

7 A. [9:43:57] All right.

8 Q. [9:43:59] Please listen carefully. And if you don't understand, let me know and
9 I will clarify.

10 A. [9:44:23] All right.

11 MS MORRIS: [9:44:26] Madam President, I will conduct part of my direct in open
12 session. However, I'd like to begin in private.

13 PRESIDING JUDGE KORNER: [9:44:34] Yes, private session.

14 (Private session at 9.44 a.m.)

15 THE COURT OFFICER: [9:44:47] We're in private session, Madam President.

16 MS MORRIS: [9:44:53]

17 Q. [9:44:55] (Redacted)

18 (Redacted)

19 A. [9:45:15] (Redacted)

20 Q. [9:45:17] (Redacted)

21 A. [9:45:37] (Redacted)

22 Q. [9:46:07] (Redacted)

23 A. [9:46:21] (Redacted)

24 Q. [9:46:25] (Redacted)

25 A. [9:46:55] (Redacted)

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- 1 A. [9:51:29] (Redacted)
- 2 Q. [9:51:35] (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 PRESIDING JUDGE KORNER: [9:51:55] (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 MS MORRIS: [9:52:16] (Redacted)
- 10 PRESIDING JUDGE KORNER: [9:52:19] (Redacted)
- 11 (Redacted)
- 12 MS MORRIS: [9:52:30] (Redacted)
- 13 (Redacted)
- 14 PRESIDING JUDGE KORNER: [9:52:43] (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Open session at 9.53 a.m.)
- 19 THE COURT OFFICER: [9:53:16] We're back in open session, Madam President.
- 20 MS MORRIS: [9:53:27]
- 21 Q. [9:53:28] Madam Witness, in 2003 you were 15 years old, correct?
- 22 A. [9:53:49] I wasn't 15 years old yet.
- 23 Q. [9:53:55] Now, without saying any names of the school, my question is, did you
- 24 attend school in 2003?
- 25 A. [9:54:20] I did. I was still going to school.

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1 Q. [9:54:25] And why did you stop attending school?

2 A. [9:54:47] Do you mean school and schooling?

3 Q. [9:54:49] I mean why did you have to stop attending primary school?

4 A. [9:55:15] I left school because of the problems that occurred in the country.

5 Q. [9:55:26] Madam Witness, I'd like to ask you some questions about the 2003
6 attack on Bindisi.

7 A. [9:55:44] All right.

8 Q. [9:55:48] What were you doing on the morning Bindisi was first attacked?

9 A. [9:56:44] The attack occurred on a Friday. At that time, we had just taken
10 breakfast and we headed to the *wadi* to work.

11 Q. [9:57:01] And without giving the names, who were you with that morning?

12 A. [9:57:26] When we went to the farm I was with my mother and my eldest sister.

13 Q. [9:57:38] And how did you know that an attack had started?

14 A. [9:59:22] When the attack occurred, we were at the farm working. We heard
15 gunfire, so we left the farm. And when we did, we saw smoke rising up, so we
16 rushed to the village and we saw people running away from the village heading to
17 the west. We reached afterwards our home and found our brothers and siblings, so
18 we gathered our things, our possessions, and left the village. We bumped into other
19 people who were running away. We were able to wrap our possessions in a bed
20 sheet and we joined the other villagers with whom we fled.

21 After we saw people from -- rushing and running out of the village, in an area not too
22 far from our home, we got apart. As a family, we were separated. My mother, my
23 sister, myself went in one direction, my other siblings went in another.

24 We were standing near the street and we were hiding inside the bushes. And we
25 saw the Janjaweed in vehicles going towards the village. And they went to

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1 the village, they burned it down.

2 Q. [10:02:29] Madam Witness, I would like to follow up. You said you saw smoke
3 when you were working on the farm, coming from a direction. Which direction was
4 the smoke coming from?

5 A. [10:03:04] It was coming from the eastern side.

6 Q. [10:03:09] And you said that (Overlapping speakers).

7 Apologies. I can hear the French interpretation.

8 Okay. My question was, you said that you were separated from your siblings with
9 your mother and sister. Which sister were you with?

10 A. [10:03:57] My elder sister.

11 Q. [10:04:02] And you said you were hiding in the bushes and saw Janjaweed in
12 vehicles. What kind of vehicles were they in?

13 A. [10:04:33] It was -- it was a vehicle in green colour. Green colour was part of
14 the vehicle's colour.

15 Q. [10:04:46] And was the back of the vehicle open or closed?

16 A. [10:05:07] It was open. The back was open.

17 Q. [10:05:13] And who was on the vehicle?

18 A. [10:05:35] Ali Kushayb and his people were in the vehicles -- in the vehicle.

19 Q. [10:05:43] And how did you know this was Ali Kushayb?

20 A. [10:06:05] I knew him.

21 Q. [10:06:10] How did you know him?

22 A. [10:06:45] I saw him with my own eyes, but my mother, who was with me, told
23 me that that man was Ali Kushayb.

24 Q. [10:06:58] And when did your mother tell you that was Ali Kushayb?

25 A. [10:07:18] When we were hiding in the plantation, inside the -- the bushes.

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1 And Ali Kushayb came, he was passing by.

2 Q. [10:07:34] Can you describe what the Janjaweed were wearing.

3 A. [10:07:56] Okay. They were wearing khaki clothes and head covers, like
4 scarves, to -- that was covering all the head except the eyes.

5 Q. [10:08:42] And what was Ali Kushayb doing in the vehicle?

6 A. [10:09:10] Ali Kushayb was inside the vehicle. In his hand he had the axe
7 which was called *farrar*, and he was waving with his axe, or the *farrar*, in different
8 directions.

9 Q. [10:09:28] How fast was the vehicle going?

10 A. [10:09:52] The vehicle was slow, because the area was wet. The roads were
11 wet.

12 Q. [10:10:02] And from where you're sitting, can you point to how far away
13 the vehicle was?

14 A. [10:10:39] Can I raise my hand to describe?

15 Q. [10:10:44] Yes.

16 A. [10:11:07] The distance between where I am sitting to the witness -- to the area
17 before the witness -- before the Defence, rather.

18 Q. [10:11:26] And was there anything obstructing your view of the vehicle?

19 A. [10:11:59] Between us and the vehicles there were the remains of the corn
20 plantation, so I was able to -- but they were short, so I was able to see the vehicle.

21 Q. [10:12:16] And was anyone following the vehicle?

22 A. [10:12:48] Yes, there were people following the vehicle.

23 Q. [10:12:55] Were these people civilians or were they Janjaweed?

24 A. [10:13:04] They were following the vehicle and they were also in front of
25 the vehicle.

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1 The people who were following the vehicle were Janjaweed.

2 Q. [10:13:25] And what did you see --

3 PRESIDING JUDGE KORNER: [10:13:29](Microphone not activated)

4 MS MORRIS: [10:13:33]

5 Q. [10:13:33] And what about the people in front of the first vehicle?

6 A. [10:14:07] By "in front", I meant in the front of the vehicle, the front seat of
7 the vehicle. But there were also people following the vehicle.

8 Q. [10:14:19] And were the Janjaweed following the vehicle on horseback or foot, or
9 were they also in vehicles?

10 A. [10:14:44] They were on horseback.

11 Q. [10:14:50] And where did this group of Janjaweed go?

12 A. [10:15:42] The Janjaweed were heading to the west. After that, we went out.
13 When we went out we saw a group of seven people who took us to a hut, a deserted
14 hut.

15 Q. [10:16:06] I'd like to go back to the first vehicle with Ali Kushayb and Janjaweed.
16 Did you see where that vehicle went, which direction?

17 A. [10:16:32] They were heading to the west as well.

18 Q. [10:16:36] And did you see what they did?

19 A. [10:16:54] Yes, I did.

20 Q. [10:17:00] What were they -- what did you see them doing?

21 A. [10:17:52] Yeah, I saw them. They were trying to set fire to the homes, and at
22 that time the homes and the hay inside the walls was wet. That's why they had
23 to -- to -- to get that hay outside, the one from the outside -- the one from inside to
24 the outside and they would set fire to this hay. So they also take -- took a cart, one
25 that was very new, not even used.

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1 Q. [10:18:33] And what happened to your family's house?

2 A. [10:18:50] It was totally burned down.

3 Q. [10:18:56] Did you see your house burning down with your own eyes?

4 A. [10:19:14] Yes, I did see it with my own eyes.

5 Q. [10:19:20] And what happened to your family's property?

6 A. [10:19:43] Do you mean -- do you mean the property of my own family or
7 the extended family?

8 Q. [10:19:52] You said you saw your house being burnt down. And I was asking,
9 were the belongings in your house also burnt, or what happened to the things inside
10 the house before it burned down?

11 A. [10:20:33] All the possessions that were inside the home were totally charred.

12 Q. [10:20:49] How long were you hiding and watching the Janjaweed burn down
13 the houses in the village?

14 A. [10:21:13] We stayed there for an extended period of time, approximately two or
15 three hours.

16 Q. [10:21:26] And without saying the name of the village, was this your home
17 village that you saw being burnt?

18 A. [10:21:49] Yes, it was.

19 Q. [10:21:56] You said, "A group of seven people took us into a deserted hut."
20 What people took you?

21 A. [10:22:26] They were from the Janjaweed.

22 Q. [10:22:32] And you said, "they took us into a hut". Who is "us"? Who did they
23 take?

24 MR LAUCCI: [10:22:50] Colleague.

25 MS MORRIS: [10:22:53] Apologies.

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1 MR LAUCCI: [10:22:55] I just want to tell you, lead as much as you want.

2 MS MORRIS: [10:23:01] Thank you, that's appreciated.

3 Q. [10:23:09] Madam Witness, did the Janjaweed take you and your eldest sister
4 into deserted huts?

5 A. [10:24:18] Yes, I was taken to a deserted residence alone. And my sister was
6 also taken to another deserted residence. As for my mother, she was taken to a tree
7 by a man who was older.

8 Q. [10:24:47] Did the Janjaweed whip your sister and you prior to taking you into
9 the huts?

10 A. [10:25:50] Yes, I was whipped and beaten down. It was -- the beating was so
11 severe that I got injured. My sister was beaten as well. She was beaten so hard that
12 she got injured in her back. After that I was taken to a room. My hands were tied.
13 I don't know what happened -- what happened to my sister, though.

14 Q. [10:26:22] Did the Janjaweed say anything before you went into the hut?

15 A. [10:26:57] Yes. They threatened me with weapons before I was taken to that
16 room and they insulted me. They said, "You're the sister of *tora bora*." I told them,
17 "I don't know what that means."

18 Q. [10:27:15] And you said that an older man was with your mother. Was
19 the older man also a Janjaweed?

20 A. [10:27:33] Yes. Yes, he was. He was a Janjaweed.

21 Q. [10:27:40] And did he tie your mother's hands up and force her to sit down?

22 A. [10:28:06] Yes, he tied her hands. He forced -- he forced him -- her to stay
23 under the -- the threat of weapons -- with the threat of weapons.

24 MS MORRIS: [10:28:22] Madam President, I will not go into the details of what
25 happened in the hut. Tab 9, DAR-OTP-00000500 contains the transcripts detailing

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1 the witness's sexual assault in the hut.

2 And with the kind agreement of the Defence, I will not ask questions about this
3 sexual assault.

4 PRESIDING JUDGE KORNER: [10:28:47](Microphone not activated)

5 MS MORRIS: [10:28:50] This is the transcript detailing the injuries that she sustained
6 inside the hut, with the doctor, yes.

7 The witness also had the opportunity to mark an anatomical drawing of her injuries.

8 And that's at tab 6, DAR-OTP-0000492.

9 Q. [10:29:29] Madam Witness, did the Janjaweed take your sister into a different
10 hut, or the same hut as yours?

11 A. [10:30:25] Yes, my sister was taken to a different hut. There were two deserted
12 huts. I was taken to the one which was in the east and it opened towards the west.

13 As for my sister, she was taken to the second hut, which was in the northeast and its
14 door opened to the southwest.

15 Q. [10:31:02] And roughly how far away were the two huts?

16 A. [10:31:44] May I use my hands to describe that for you?

17 Q. [10:31:51] Yes.

18 A. [10:32:41] It wasn't far between the home where I was taken and where my
19 sister was taken. It is perhaps similar to the distance separating me here from
20 the bench of judges.

21 Q. [10:33:02] And did your sister tell you that she had also been raped by
22 Janjaweed inside her hut?

23 A. [10:33:30] Yes, she told me that she was raped.

24 Q. [10:33:35] And where did the Janjaweed take you after they raped you?

25 A. [10:34:10] After I was raped in the same room, they took me by my hand and

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1 took me out of the room and threw me out of the door. Then they told my mother
2 that she needed to come to take her daughter, myself that is.

3 Q. [10:34:37] And who provided you with medical care afterwards?

4 A. [10:34:52] My mother.

5 Q. [10:34:56] And where did your mother treat you?

6 A. [10:35:52] After they threw me out of the door, my mother and sister came. My
7 sister came by foot, my mother brought a donkey. So they put me on top of
8 the donkey. They boiled water for me. They treated the injury using hot water.
9 Afterwards we left to Mukjar.

10 Q. [10:36:25] And did you or your sister get pregnant as a result of the rapes?

11 A. [10:36:56] My sister came by foot. She was able to walk. I, however, was put
12 on top of the donkey.

13 THE INTERPRETER: [10:37:13] Interpreter's observation: The command of
14 standard Arabic may -- the poor command of standard Arabic in this context may
15 lead to a misunderstanding of the word. We will use a different word should you
16 put the question again, counsel.

17 PRESIDING JUDGE KORNER: [10:37:30](Microphone not activated)

18 MS MORRIS: [10:37:31]

19 Q. [10:37:33] And you -- you and your sister did not get pregnant as a result of
20 the rapes, did you?

21 A. [10:38:06] No, we did not get pregnant as a result of the rape incident.

22 Q. [10:38:16] And your mother could not report the rape to local authorities, could
23 she?

24 A. [10:38:42] She did not go anywhere to report it, because there was no one to go
25 to to report that.

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1 Q. [10:38:53] Do you know of other girls who were raped during the attack on
2 Bindisi?

3 A. [10:39:31] I did not hear of that, because we took a different route and
4 afterwards we met in Mukjar.

5 Q. [10:39:45] Do women speak openly about rape in your community?

6 A. [10:40:25] No, women are not able to speak in that fashion. In our community
7 it is difficult to talk about rape because of the taboo, culture and stigmatisation. That
8 is why women feared speaking about rape.

9 Q. [10:40:56] And you said you went to Mukjar afterwards. Is it correct that you
10 could not return to your home village because it had been destroyed?

11 A. [10:42:03] My mother would go by night to bring us food supplies -- supplies,
12 which we lacked. So occasionally she would go by foot to Mukjar and we
13 occasionally accompanied her.

14 Q. [10:42:27] In what condition was your home village when you next saw it?

15 A. [10:43:01] Our village was not safe to stay in.

16 Q. [10:43:12] Madam Witness, I appreciate that these are difficult things to speak
17 about and I thank you for answering my questions.

18 I have no further questions, Madam President.

19 PRESIDING JUDGE KORNER: [10:43:25] Yes.

20 Just before you ask questions, Ms von Wistinghausen, if you want to.

21 Two things, Madam. First, you said there was no one to go to report the rape.

22 What do you mean by that?

23 THE WITNESS: [10:44:51](Interpretation) After we arrived in Mukjar, there was no
24 office or place to report anything to. And let me put the question myself, who is
25 it -- was it conceivably possible to go to report such aggressions?

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1 PRESIDING JUDGE KORNER: [10:45:18] There was, we know, a police station
2 in -- in Mukjar. Was there a reason why you didn't go to the police?

3 THE WITNESS: [10:46:12](Interpretation) At that point in time we were not familiar
4 with the town of Mukjar and the streets there. And I don't have an answer
5 regarding why my family did not go to report the incident there.

6 PRESIDING JUDGE KORNER: [10:46:27] Okay.

7 The second matter is this: You told us that it was your mother who identified
8 the man called Ali Kushayb to you. When did she do that? Was it when you saw
9 the men in the vehicle, or on an earlier occasion?

10 THE WITNESS: [10:47:44](Interpretation) When we were hiding, my mother told me
11 that that man was Ali Kushayb. They, however, were not able to see us, but we
12 could see them clearly.

13 PRESIDING JUDGE KORNER: [10:48:15] Yes, thank you.

14 Yes, Ms von Wistinghausen.

15 QUESTIONED BY MS VON WISTINGHAUSEN:

16 Q. [10:48:30] Good morning, Madam Witness.

17 You have met my colleague Mr Shah, but we haven't met. So I would like to
18 introduce myself. My name is Natalie von Wistinghausen and I'm a lawyer who's
19 representing the participating victims in these proceedings.

20 A. [10:49:13] All right.

21 Q. [10:49:15] There are a few questions I would like to ask you. You were only
22 15 years old when the conflict reached your area, your village. But before we talk
23 about that, can you go back to the time before the attacks. How was life in your
24 village with your family and friends?

25 A. [10:51:14] Before the war, our village was safe and the villagers lived in peace,

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1 harmony and security. Myself and my family lived happily and peaceably.

2 Afterwards, people who were engaged in -- in the herding business of cattle and

3 livestock, they went about their business properly and we used to go and engage in

4 the farming business as well, in our farms.

5 Q. [10:52:04] So your -- your family also grew crops and you had a farm where you
6 worked with your siblings, maybe?

7 A. [10:52:33] Yes.

8 Q. [10:52:36] And we know from your statement, and you also told my colleague
9 from the Prosecution this morning, that you went to school. So what did you do
10 during your free time? You worked on the farms, and was there anything else you
11 did during your free time?

12 A. [10:54:05] We had a day off -- we had our weekend, actually, every Friday and
13 Saturday. And that's when we went to mother, to help her on the farm. I did not
14 have a farm myself. On Sunday, once we came back from school, we would care for
15 our livestock. We would herd the livestock.

16 Q. [10:54:38] We heard that -- or you told us that during the attack on your home
17 village your -- your house was completely burned down and -- and all your
18 properties were lost. What about the livestock that you just mentioned, what
19 happened to your family's livestock?

20 A. [10:55:22] It was completely looted.

21 Q. [10:55:30] You had goats; is that correct? And all these goats were taken away?

22 A. [10:55:55] Yes, we owned sheep, big and small. All looted.

23 Q. [10:56:06] And you already mentioned a cart today. You had -- your family
24 had a donkey cart; is that correct? And that was taken away as well?

25 A. [10:56:31] Yes, we had a cart, and it was also looted.

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1 Q. [10:56:43] And, Madam Witness, were you ever able to return to your village?

2 And I'm not talking about the year 2003 or '04, but many years later, maybe.

3 A. [10:58:02] After we stayed in Mukjar, where we spent a long time, we were in
4 the fall and later on came summer time. We had no food, so we decided to go to
5 Bindisi, where we spent a very long time before humanitarian organisations came and
6 provided us with aid. We were only able to return to our village in 2013.

7 Q. [10:58:39] And we understand, Madam Witness, that you have several children.
8 Can you tell us do they attend school?

9 A. [11:00:02] Yes. (Redacted)

10 (Redacted)

11 (Redacted)

12 livelihood depends on what I make every day. And I am a mother provider of these
13 children.

14 PRESIDING JUDGE KORNER: [11:00:46] Do you have many more questions,
15 Ms von Wistinghausen? If so, we'll take the break now, otherwise --

16 MS VON WISTINGHAUSEN: [11:00:51] Yeah. I was -- I was just going to ask you.
17 I have some questions on the impact, and as I'm just engaging in a conversation with
18 the witness, I think it would be better if you gave me 10 more minutes maybe now, if
19 that is okay for the interpreters. If you prefer to have the break now, I'm fine to, you
20 know, to engage with her again after the break.

21 PRESIDING JUDGE KORNER: [11:01:11] I mean, it's actually going fairly slowly, so
22 if you think 10 minutes you can complete, then we'll take the break after that. Unless
23 the witness --

24 Madam, would you prefer to have a break now, or are you happy to answer more
25 questions for the next 10 minutes?

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1 THE WITNESS: [11:01:48](Interpretation) I can stay.

2 PRESIDING JUDGE KORNER: [11:01:50] Right. Yes.

3 MS VON WISTINGHAUSEN: [11:01:52] Okay. I hope I will stay within
4 the 10 minutes.

5 Q. [11:01:58] Madam Witness, everyone in the courtroom, and most importantly
6 the Judges, have carefully read your witness statement and also the transcript of
7 the interview that you had with the doctor, and we know the details of what you and
8 your sister have suffered at the hands of the Janjaweed attackers, and I'm not going to
9 discuss this with you.

10 However, I would like to ask you a few questions about the consequences of what has
11 happened to you, but I want to be very clear that I only want you to answer these
12 questions if this is okay for you and if you're comfortable with it. If not, I will stop
13 right away. Do you understand that?

14 A. [11:04:00] Very well.

15 Q. [11:04:03] We know about the very significant physical consequences that
16 the assaults had on you, even to this day. And you were only 15 years when this
17 happened to you. Do you want to tell us how the assaults impacted you mentally,
18 and do you often think about these events up until today?

19 A. [11:05:42] Yes, the rape that I suffered from, I still suffer from this incident and it
20 had -- it has impacted me immensely. There is one thing that I still remember.
21 When I remember this, I can't sleep. As for the future, this rape had impacted my
22 future a lot.

23 Q. [11:06:15] Did you ever get any support, for example, by women's associations,
24 or were you ever -- ever offered any psychological treatment or assistance?

25 A. [11:07:00] No, no one offered assistance. Until this very day, no one helps us.

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1 Q. [11:07:18] Madam Witness, I would like to ask you one question about your
2 mother. You told us that she was kept under guard while you and your sister were
3 attacked, and after that she is the one who gave you medical assistance. Can you say
4 how this situation has impacted your mother and how is she doing today?

5 A. [11:09:09] I'm not very sure of the -- of the impact that my mother inflicted. But
6 she is elderly now and she suffers from diseases such as high blood pressure and
7 diabetes. I am the only one who takes her to the hospital sometimes and get her
8 back home. Sometimes she's in good health.

9 Q. [11:09:40] Yes. Thank you.

10 And, lastly, I would like to ask you if you want to say why you agreed to be a witness
11 in these proceedings and what are your very personal hopes for your future, for your
12 children, for your family?

13 A. [11:11:09] I came to the Court to ask the -- to ask for my rights since the day that
14 the war started until this very day.

15 Q. [11:11:23] Is there anything you would like to add or to -- to say to the judges?
16 If not, I thank you very much for your patience and for answering my questions.

17 A. [11:11:59] Do you mean that I ask what I need the Court to do to me or to
18 the country in general?

19 Q. [11:12:13] My question was certainly not very well formulated. I just wanted to
20 give you the opportunity, if there is anything more you want to say to the judges,
21 you're welcome to do so. If not, of course you don't have to. And I thank you very
22 much for answering my questions.

23 A. [11:13:58] We in Darfur still continue to suffer from different -- different
24 problems in the infrastructure, such as schools, for example. Schools are not in
25 the right shape. We also suffer from the lack of hospitals. So if someone is sick,

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1 sometimes we have to transport that person to remote areas, far areas, to receive
2 treatment. Also, the resources are very limited. We have, for example, lack in fresh
3 water and many other services.

4 Q. [11:14:42] Thank you, Madam Witness.

5 PRESIDING JUDGE KORNER: [11:14:50] Yes, Madam, there is still some more
6 questions to come, but we're now going to have the break and we'll sit again at
7 quarter to 12, 11.45.

8 THE COURT USHER: [11:15:05] All rise.

9 (Recess taken at 11.15 a.m.)

10 (Upon resuming in open session at 11.48 a.m.)

11 THE COURT USHER: [11:48:33] All rise.

12 Please be seated.

13 PRESIDING JUDGE KORNER: [11:48:55] Yes, Mr Laucci.

14 MR LAUCCI: [11:48:58] Thank you, Madam President.

15 QUESTIONED BY MR LAUCCI:

16 Q. [11:49:11] Good morning, Madam Witness.

17 A. [11:49:19] Good morning.

18 Q. [11:49:22] My name is Cyril Laucci, I'm the counsel for the Defence, and I will
19 now ask you some questions.

20 A. [11:49:41] Very well.

21 Q. [11:49:42] Before doing that, I want to be extremely clear, from the beginning.

22 The Defence has no reason and does not intend to challenge what happened to your
23 sister and you personally.

24 A. [11:50:26] Very well.

25 Q. [11:50:27] I will not ask you questions about this. This should never have

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1 happened to you, nor to your sister, nor to any other persons.

2 A. [11:51:00] All right.

3 Q. [11:51:01] And I want to -- I want to salute your extreme courage, and extreme
4 dignity, for having come to the Court to testify.

5 A. [11:51:27] All right.

6 Q. [11:51:29] My questions will be very specific. You did extremely well so far
7 when you answered the questions from my colleagues. If you carry on like this, we
8 should be done within a maximum of 45 to, let's say, one hour maximum.

9 A. [11:52:15] Okay.

10 MR LAUCCI: [11:52:17] With apologies to the public, I will need a short private
11 session at the very beginning. It should be two to three questions, so not too long.

12 PRESIDING JUDGE KORNER: [11:52:29] I take it that's a request to me, Mr Laucci,
13 as opposed to the public gallery.

14 MR LAUCCI: [11:52:36] Precisely, but you're reading my mind, Madam President.

15 PRESIDING JUDGE KORNER: [11:52:40] Yes, all right.

16 Private session.

17 (Private session at 11.52 a.m.)

18 THE COURT OFFICER: [11:52:50] We're in private session, Madam President.

19 MR LAUCCI: [11:52:56]

20 Q. [11:52:57] (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [11:53:26] (Redacted)

24 Q. [11:53:30] (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 A. [11:54:18] (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 Q. [11:54:34] (Redacted)
- 6 (Redacted)
- 7 A. [11:55:00] (Redacted)
- 8 Q. [11:55:07] (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 A. [11:55:40] (Redacted)
- 12 Q. [11:55:45] (Redacted)
- 13 A. [11:55:55] (Redacted)
- 14 Q. [11:55:58] (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 PRESIDING JUDGE KORNER: [11:56:17] (Redacted)
- 18 Open session.
- 19 (Open session at 11.56 a.m.)
- 20 THE COURT OFFICER: [11:56:36] We're back in open session.
- 21 MR LAUCCI: [11:56:41] Thank you, Madam President.
- 22 Q. [11:56:44] Did you witness the attack on Bindisi on 15 August 2003? Were you
- 23 there?
- 24 A. [11:57:24] Yes, I witnessed that attack.
- 25 Q. [11:57:29] Were you in Bindisi or were you in your village?

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1 A. [11:57:43] I was in my village.

2 Q. [11:57:47] Do you remember seeing aircrafts flying over Bindisi and shelling it
3 during the attack?

4 A. [11:58:14] No, I did not.

5 Q. [11:58:18] Answering the questions of my colleague, you said that the attack
6 took place on a Friday. Did that attack carry on the day after?

7 A. [11:58:48] Yes, it did.

8 Q. [11:58:52] But the day after, if I understand correctly, you were -- you must have
9 been on your way to Mukjar, right?

10 A. [11:59:14] Yes, that's correct.

11 Q. [11:59:17] So you did not see what happened, if anything, on the day after in
12 Bindisi, right?

13 A. [11:59:45] I saw the events that took place on Friday, but on Saturday we were
14 on the way to Mukjar.

15 Q. [11:59:54] Thank you. You say that Bindisi was attacked by people called
16 Janjaweed. And you said that they wore green khaki uniforms; is that your
17 recollection?

18 I'm at paragraph 26 of the statement.

19 A. [12:00:48] Yes, that is correct.

20 Q. [12:00:55] A bit later, when you were in Mukjar, you say that you saw again
21 some Janjaweed. Did these Janjaweed that you saw in Mukjar wear the same
22 uniform as the ones you saw in Bindisi?

23 A. [12:01:50] Yes, they were dressed in the same clothes. They were on horseback,
24 armed, and wore the same shawls over their heads as the ones in Bindisi.

25 Q. [12:02:12] Are you able to differentiate Janjaweed from members of other armed

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1 forces like the Sudanese regular armed forces? Are you able to make that
2 distinction?

3 A. [12:03:11] Yes, I am able to distinguish Janjaweed from the regular forces.
4 Before the war, in our region there used to be only police members and they had
5 a specific outfit well known to everyone. On the other hand, the Janjaweed wore
6 a well-known khaki outfit.

7 Q. [12:03:43] And this khaki outfit that you mention, did you see other forces
8 wearing it, or was it specific to the Janjaweed only?

9 A. [12:04:21] I did not see other forces wearing it. I only saw the Janjaweed
10 wearing that khaki uniform. In our region, there weren't other forces, there was only
11 a police force and they had a different outfit.

12 Q. [12:04:46] Are you familiar, Madam Witness, with another force which is called
13 the Popular Defence Forces?

14 A. [12:05:10] I'm not familiar with that.

15 Q. [12:05:15] Very well. I move on.

16 Talking about Bindisi, did you know about a presence of Janjaweed in Bindisi?

17 I stop my questions. Are you well, Madam Witness? Can I carry on?

18 A. [12:05:53] I have no problem. You can proceed.

19 Q. [12:05:56] Thank you. Did you know about a presence of Janjaweed in Bindisi
20 or its area before the 15 August attack?

21 A. [12:06:32] I was not aware of that in the past.

22 Q. [12:06:40] And the person that you saw on the day of this attack and that you
23 call the Janjaweed, are not people from your -- that you had seen before in your area;
24 am I correct?

25 A. [12:07:12] I had not seen them before.

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1 Q. [12:07:16] Did you ever hear the name Al-Dayf Samih?

2 A. [12:07:43] I've heard of the name Al-Dayf Al Samih recently, but I hadn't heard
3 of that name before.

4 Q. [12:07:54] Okay. On that day, during the attack on Bindisi, you mention
5 spotting a man that your mother -- about whom the mother -- your mother told you
6 that his name was Ali Kushayb. That's what I want to talk about now. Are you
7 with me?

8 A. [12:08:47] Yes, I understand you clearly. You may proceed.

9 Q. [12:08:51] You said that that name was given to you at that moment when you
10 were hiding by your mother. And during your preparation session last week you
11 confirmed that you had no idea of how your mother could have known the name of
12 that man.

13 I'm in the prep log, paragraph 3g.

14 Do you confirm so?

15 A. [12:09:57] I don't know how my mother learned about Ali Kushayb or what her
16 source was. I don't know about that.

17 Q. [12:10:09] And the information that these Janjaweed that you saw and who
18 attacked Bindisi were Ali Kushayb's men also comes from your mother; is that
19 correct?

20 A. [12:10:57] Yes, it was only my mother who told me about it.

21 Q. [12:11:05] Thank you.

22 At paragraph 27 of your statement you describe the men who arrested you, your
23 sister and your mother. And you say that these men were dressed in civilian clothes,
24 trousers and shirts, except an elder man who had a *jallabiya*. So the men who
25 arrested you, your mother and your sister did not wear uniform; am I correct?

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1 A. [12:12:51] Those who arrested me were dressed in plain clothes, green plain
2 clothes. As to the person who caught my mother, he was the only one dressed in
3 *jallabiya* and it was a short *jallabiya*. As to the two men, they were dressed in green
4 trousers.

5 Q. [12:13:19] Okay. But these -- to be perfectly clear, these clothes that you
6 describe were civilian clothes, they were not uniform; am I correct?

7 A. [12:13:55] No, these were not civilian clothes.

8 Q. [12:14:08] Okay. Were these people wearing the same uniform as you describe
9 the Janjaweed were wearing?

10 A. [12:14:38] Yes, the two people who arrested me were dressed in the same clothes
11 that the Janjaweed wore, except the elder man who wore a white *jallabiya*.

12 Q. [12:14:54] Okay. So the information that is in your written statement, that they
13 were all, not only the old man, in civilian clothes, is not exact; do I understand well?

14 A. [12:15:40] My words reflect what is true.

15 Q. [12:15:50] I'm not challenging that, Madam. I just want to know what we
16 should keep on record. I read what is in your written statement and you tell me now
17 if you agree with it or not.

18 I am at paragraph 27: "We met about 7 Janjaweed men; they were dressed in civilian
19 clothes; trousers and shirts except the elder one among them who wore a *jalabia*. Six
20 of them wore green head gear (which cover the whole face except eyes)", like gear
21 that was shown to you by the Office of the Prosecutor.

22 Do you stand by this statement or do you want to -- to say something else now?

23 A. [12:17:53] I do not wish what I -- to change what I had said in my statement.

24 Q. [12:18:00] Thank you.

25 When you saw the man your mother called Ali Kushayb, you were hiding in a millet

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1 field; is that correct?

2 A. [12:18:44] Yes, we were hiding in crops.

3 Q. [12:18:55] And the millet -- the millet crops had grown high enough for you to
4 hide without being seen; do I understand well?

5 A. [12:19:48] They were not able to see us. But we were able to see them clearly,
6 because there was nearby us a tree.

7 Q. [12:20:04] And this is precisely what you wanted, not to be seen. You were
8 hiding --

9 THE INTERPRETER: [12:20:12] Correction: A winter fern (phon) tree.

10 MR LAUCCI: [12:20:21]

11 Q. [12:20:21] I start again. That was precisely your objective, not to be seen.

12 Were you -- what did you do, were you lying on your stomach in order to be
13 impossible to -- to spot?

14 A. [12:20:57] We were not lying on the ground, we were standing on our feet.

15 Q. [12:21:06] Then I understand that the millet crops must have been very high to
16 hide you if you were standing; is that correct?

17 A. [12:21:47] Some crops were about to blossom, some other crops hadn't grown
18 yet.

19 Q. [12:22:05] Can I assume that the -- the crops behind which you were hiding were
20 higher -- higher than your size, went above your head?

21 A. [12:22:41] Yes, higher than me.

22 Q. [12:22:45] Okay. And you estimated that the distance between the car and you
23 was about the same distance as between you and me. If you were standing at that
24 distance, the people in the car could have seen you, couldn't they?

25 A. [12:23:43] They were not able to see us because they were focused on continuing

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1 their route. They were not focused on what was on the sides, the sides of their route.

2 Q. [12:23:56] I fully understand. You said that the car was passing slowly. If I
3 tell you that it was -- was it faster than walking pace, or slower even?

4 A. [12:24:43] In general terms it was going slowly. It was not going fast.

5 PRESIDING JUDGE KORNER: [12:24:51] Could you not translate this.

6 Mr Laucci, if -- if your concern is the purported identification of Ali Kushayb, that
7 the highest that this could be taken, and as far as we're concerned, is that a man
8 whom her mother identified was Ali Kushayb. And that's it. If that helps you at
9 all.

10 MR LAUCCI: [12:25:19] Yes, it does, Madam President. And I thank you for this
11 intervention.

12 Q. [12:25:28] Madam Witness, you said that the man you saw in that car, and
13 whom your mother said he was called Ali Kushayb, had a scar on his forehead.
14 I'm at paragraph 24 of the statement.

15 Can you describe that scar for us, please.

16 A. [12:26:38] He had a scar on his forehead, right where he would prostrate in
17 prayer.

18 Q. [12:26:52] So I understand that you are describing the -- the real centre of
19 the forehead, right?

20 A. [12:27:17] Yes.

21 Q. [12:27:23] And this scar was big enough for you to spot it when the man passed
22 in the car?

23 A. [12:27:57] Yes, it was clear and visible.

24 Q. [12:28:03] Thank you.

25 I am almost done with my cross-examination, Madam President. I will ask you

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1 the authorisation to go once again in private session for two questions.

2 PRESIDING JUDGE KORNER: [12:28:14] Yes, private session.

3 (Private session at 12.28 p.m.)

4 THE COURT OFFICER: [12:28:25] We're in private session, Madam President.

5 MR LAUCCI: [12:28:32]

6 Q. [12:28:32] (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. [12:30:57] (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [12:31:20] (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [12:32:09] (Redacted)

23 Q. [12:32:12] (Redacted)

24 (Redacted)

25 PRESIDING JUDGE KORNER: [12:32:19] (Redacted)

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1 (Open session at 12.32 p.m.)

2 THE COURT OFFICER: [12:32:31] We're back in open session, Madam President.

3 MR LAUCCI: [12:32:36]

4 Q. [12:32:37] Madam Witness, in conclusion to your statement, I put to you that
5 you have no knowledge of the man your mother called Ali Kushayb, and you cannot
6 know that the man you allegedly saw on that day in the car in Bindisi was that man;
7 do you agree?

8 THE INTERPRETER: [12:33:35] There was no answer from the witness.

9 MR LAUCCI: [12:33:41]

10 Q. [12:33:42] Maybe you can repeat your answer. I think the interpreters did not
11 get you.

12 A. [12:33:54] I did not understand the question properly.

13 Q. [12:33:56] I will simplify it.

14 Madam Witness, I tell you that you have no knowledge of the man your mother
15 called Ali Kushayb; do you agree?

16 PRESIDING JUDGE KORNER: [12:34:11](Microphone not activated) again, that's
17 not entirely clear. Knowledge could be: Do you know anything about him?

18 MR NICHOLLS: [12:34:20] Your Honour, I don't mean to intervene, but I don't -- I
19 think based on the question and the answer he got, he doesn't need to put this.

20 PRESIDING JUDGE KORNER: [12:34:28](Microphone not activated)

21 MR LAUCCI: [12:34:30] I'm happy to avoid that.

22 PRESIDING JUDGE KORNER: [12:34:32](Microphone not activated)

23 THE INTERPRETER: [12:34:35] Microphone, please.

24 PRESIDING JUDGE KORNER: [12:34:38] Sorry. That this doesn't add anything,

25 Mr Laucci, to what I have already said is all that we can draw from this witness.

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1 MR LAUCCI: [12:34:48] Perfect, Madam President.

2 PRESIDING JUDGE KORNER: [12:34:49] And indeed you were taking a great risk,
3 in my view, because you've no idea what she might have said in response.

4 MR LAUCCI: [12:34:57]

5 Q. [12:34:57] Madam Witness, I have completed my cross-examination.

6 You earlier spoke about your four children. Let me tell you that I will remember
7 your appearance and testimony before this Court as a genuine tribute to hope and
8 example of dignity.

9 At paragraph 21 of your statement --

10 A. [12:36:02] Very well.

11 Q. [12:36:03] At paragraph 21 of your statement you say that you have a good
12 memory of dates, especially when bad things happen. I wish you will be able to
13 forget the date of today as soon as possible.

14 A. [12:36:56] I can't forget such memories until I die.

15 Q. [12:37:04] I was talking about today, but thank you, Madam Witness.

16 Thank you, Madam President.

17 PRESIDING JUDGE KORNER: [12:37:11](Microphone not activated)

18 Ms Morris, any re-examination?

19 MS MORRIS: [12:37:18] I just have one question. And I'm afraid we'll have to go in
20 private as it's possibly identifying.

21 PRESIDING JUDGE KORNER: [12:37:30] Yes, private session.

22 (Private session at 12.37 p.m.)

23 THE COURT OFFICER: [12:37:43] We're in private session, Madam President.

24 QUESTIONED BY MS MORRIS:

25 Q. [12:37:49] (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. [12:38:51] (Redacted)

4 (Redacted)

5 PRESIDING JUDGE KORNER: [12:39:05](Microphone not activated) (Redacted)

6 (Redacted)

7 (Redacted)

8 MS MORRIS: [12:39:18] (Redacted)

9 PRESIDING JUDGE KORNER: [12:39:21] (Redacted)

10 (Open session at 12.39 p.m.)

11 THE COURT OFFICER: [12:39:34] We're back in open session, Madam President.

12 PRESIDING JUDGE KORNER: [12:39:36] Thank you.

13 Madam, that concludes your evidence in this case. I think that I can do no better
14 than did Mr Laucci when he commended you for your dignity and for being willing
15 to come to court to tell not only the judges, but the world, about what happened to
16 you.

17 And I cannot stress too much the importance of women like yourself being prepared
18 to come to court and recount your experience, because it is important that everyone
19 understands the consequences of actions such as those that took place in Darfur in
20 2003 and '04.

21 And so we thank you once more and wish you a safe return.

22 Right. I think what we'll do --

23 THE WITNESS: [12:41:58](Interpretation) All right. Thank you.

24 PRESIDING JUDGE KORNER: [12:42:00]-- is we'll adjourn now and sit early to hear
25 the last witness for today, rather than having to have a break anyhow.

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1 So we'll rise now until 2 o'clock.

2 MR NICHOLLS: [12:42:14] Yes, your Honour. And I think we will both be quick
3 with the next witness, so we'll still finish in that session.

4 PRESIDING JUDGE KORNER: [12:42:21] Right. Yes, well that's very helpful. Yes.
5 Thank you. I thought it was Mr Edwards who's the next.

6 MR LAUCCI: [12:42:30] I know that for him.

7 PRESIDING JUDGE KORNER: [12:42:32] Yes, right. Yes, all right.

8 Well, I suppose actually we'll say 10 past 2 in that case. Yeah, 10 past 2, so we have
9 the normal break. Thank you.

10 Thank you very much, Madam.

11 (The witness is excused)

12 THE COURT USHER: [12:42:52] All rise.

13 (Recess taken at 12.42 p.m.)

14 (Upon resuming in open session at 2.15 p.m.)

15 THE COURT USHER: [14:15:56] All rise.

16 Please be seated.

17 PRESIDING JUDGE KORNER: [14:16:19] Yes, Ms Simms, can you do the summary
18 before the witness comes in.

19 MS SIMMS: [14:16:25] Very well, your Honours.

20 Witness P-1074's statement and associated material have been approved for Rule 68(3)
21 in email decision communicated on 19 October 2022 at 1522 hours. The witness's
22 statement is DAR-OTP-0224-0441, and this is at tab 1.

23 P-1074 is a Fur civilian. She's female. She provides evidence on the geography of
24 Bindisi, including villages which were nearby or surrounding it. This witness also
25 provides evidence that the Fur were the people who lived in Bindisi at the time of

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1 the attack.

2 This witness provides further evidence that Bindisi was attacked in mid-August 2003.

3 That on the Friday morning, she saw people, including men, women and children
4 coming into the village from Kodoom.

5 She will further testify that later that day Bindisi came under attack by the Janjaweed,
6 which caused her to flee, alongside other members of her family, firstly, to another
7 area in Bindisi. While fleeing, the witness's evidence is that she came across
8 the body of a woman by the name of Kaltouma Yahya, a midwife, and she saw this
9 victim's children, who told her that she was killed by the Janjaweed.

10 P-1074 will further testify that the Janjaweed continued their attack on the Saturday.

11 She saw them setting a grinding mill on fire and this caused her and other persons to
12 flee into the village.

13 This witness testifies, or will testify, that they were followed into the forest by
14 the attackers and that on the Sunday she was raped.

15 Additional details of her sexual violation is contained in document
16 DAR-OTP-00000508.

17 This witness also marked a body outline indicating areas to her body where she
18 sustained injuries during the attack. And this is found at DAR-OTP-00000505.

19 This witness also provides a list of persons who were killed in Bindisi, including two
20 of her relatives. This is found at DAR-OTP-00000506.

21 P-1074 will also testify that she and other members of her family were ultimately
22 displaced to Mukjar.

23 This witness has provided corrections and clarifications to her statement and this is
24 found at DAR-OTP-00000503. And at page 2 of this document, which is correctly
25 stated at 000002, the witness has attached her signature consenting to her statement

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1 and associated material being introduced into evidence via Rule 68(3).

2 If it pleases you, your Honour, that's the end of the summary.

3 PRESIDING JUDGE KORNER: [14:21:15] Thank you, Ms Simms.

4 Let's have the witness in.

5 I gather there's a psychologist in court. Just for the purpose of the record, could you
6 introduce yourself, please, using the microphone.

7 MS SABA: [14:22:18] Hi, everyone. Good afternoon. My name is Yara Saba and
8 I'm a psychologist with the Victims and Witnesses Unit. And I'll be monitoring our
9 witness today for this session.

10 PRESIDING JUDGE KORNER: [14:22:36] Yes, thank you very much.

11 (The witness enters the courtroom)

12 PRESIDING JUDGE KORNER: [14:23:03] Madam, good afternoon to you. Can you
13 hear and understand me?

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15 (The witness speaks Fur)

16 THE WITNESS: [14:23:25](Interpretation) Good afternoon. Yes, I can hear you very
17 well now.

18 PRESIDING JUDGE KORNER: [14:23:27] Thank you very much indeed for coming
19 to court to give evidence.

20 THE WITNESS: [14:23:40](Interpretation) Okay.

21 PRESIDING JUDGE KORNER: [14:23:41] As you know, everything you say has to
22 be interpreted twice over, from Fur to Arabic to English, or French, and back again.
23 So it's important that you don't speak too quickly. And try and keep your answers
24 to any questions you're asked very short.

25 THE WITNESS: [14:24:29](Interpretation) Okay.

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- 1 PRESIDING JUDGE KORNER: [14:24:29] We don't think your evidence is going to
- 2 last a long time. But if at any time you would like a break, say so straightaway.
- 3 THE WITNESS: [14:24:59](Interpretation) Okay.
- 4 PRESIDING JUDGE KORNER: [14:25:02] And now would you be kind enough to
- 5 repeat after the court officer the solemn declaration.
- 6 THE COURT OFFICER: [14:25:21] I solemnly declare ...
- 7 THE INTERPRETER: [14:25:28] Can we say the whole declaration, please.
- 8 PRESIDING JUDGE KORNER: [14:25:32] Did you hear that? Say the whole thing.
- 9 I think we're going to do it all in one go.
- 10 THE COURT OFFICER: [14:25:40] I solemnly declare that I will speak the truth,
- 11 the whole truth and nothing but the truth.
- 12 THE WITNESS: [14:26:08](Interpretation) I solemnly declare that I will say the truth,
- 13 the whole truth and nothing but the truth.
- 14 PRESIDING JUDGE KORNER: [14:26:14] Yes, thank you very much, Madam.
- 15 Ms Simms is going to ask you a few questions.
- 16 MS SIMMS: [14:26:20] (Microphone not activated)
- 17 QUESTIONED BY MS SIMMS:
- 18 Q. [14:26:25] Good afternoon, Madam Witness.
- 19 A. [14:26:37] Good afternoon.
- 20 Q. [14:26:38] And as indicated by the Presiding Judge, I'll be asking you a few
- 21 questions today.
- 22 A. [14:26:58] Very well.
- 23 Q. [14:26:59] Before I go into the questions, Madam Witness, I just wanted to
- 24 remind you of the measures that the Court has provided for you so that you can give
- 25 your evidence comfortably and safely.

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1 So one of the safety measures that you have is that your voice is distorted.

2 A. [14:27:54] Okay.

3 Q. [14:27:56] Another measure is that your face is also distorted, in relation to it
4 being projected on a video. So if anyone, even a family member, were to hear you
5 speak or see your image on the screen, they wouldn't be able to identify that it is you
6 who is speaking and testifying in this court.

7 A. [14:28:55] Okay. Very well.

8 MS SIMMS: [14:29:02] Your Honours, for the record, I'm going to ask the witness
9 a question in relation to paragraph 25 at page 0446 of the statement.

10 PRESIDING JUDGE KORNER: [14:29:16] Paragraph 25 is sufficient.

11 MS SIMMS: [14:29:19] Very well, your Honours.

12 PRESIDING JUDGE KORNER: [14:29:26] And?

13 MS SIMMS: [14:29:28] I'll be asking her, your Honours, if she had returned to --

14 PRESIDING JUDGE KORNER: [14:29:32] I mean, that's fine, but why are you telling
15 me this rather than just asking it?

16 MS SIMMS: [14:29:37] Very well, your Honours, I thought the "and" was a question.
17 My miscomprehension.

18 Q. [14:29:47] Madam Witness, in your statement you have told us that at the start
19 of the attack you left your house with members of your family. My question to you,
20 did you return to your house at any point after the attack in August of 2003?

21 A. [14:30:39] No, I haven't returned yet.

22 Q. [14:30:50] Now, Madam Witness, you provided us with a list of persons who
23 were killed during the attack in August 2003.

24 And for the record, your Honours, that document is found at tab 14. The ERN is
25 already on the transcript.

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1 I'll ask the court officer to put it on the screen for me, please. Thank you.

2 Your Honours, I'm sure Defence counsel will not object to me skipping the formalities
3 and for me to just go straight to the question. Very well.

4 Madam Witness, the names that you have provided here, you got the information
5 from your father. Do you remember when your father told you about these men
6 that he assisted to bury after the attack in August of 2003?

7 A. [14:33:23] He told me this information when we were gathered again in Mukjar.
8 So when we met in Mukjar, he gave me all this information. He told me that they
9 were killed on a Saturday.

10 Q. [14:33:47] Thank you, Madam Witness.

11 Two of the names on the list, you're related to two of them, they are your uncles.
12 Can you tell the Court if any of your other family members were killed during that
13 August 2003 attack.

14 A. [14:34:46] Do you mean in addition to these uncle? Are you asking about other
15 people?

16 Q. [14:34:52] Yes, in addition to your -- your uncle, do you have any other family
17 members who were killed during that August 2003 attack?

18 A. [14:35:39] Yes, there are two additional persons and they are (Redacted)
19 (Redacted). These two persons lived with us in the same
20 neighbourhood and they were killed during this attack.

21 Q. [14:36:02] Madam Witness, thank you for coming. I don't have any further
22 questions for you, but my other colleagues will have questions for you.

23 Your Honours, I have no further questions for this witness. Thank you.

24 PRESIDING JUDGE KORNER: [14:36:17] Thank you, Ms Simms.

25 Ms von Wistinghausen.

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1 THE WITNESS: [14:36:33](Interpretation) Yes, you are done with your questions.

2 But you asked me about those who were killed during the attack. Is the answer that

3 I gave you enough about my relatives or do you want more?

4 MS SIMMS: [14:37:08] Madam Witness, what you have provided is sufficient. And

5 I just want to assure you that the statement that you have given to us, it is before

6 the Judge. Everything that you have said that what you saw and what you heard,

7 which is noted in your statement, is before the Judges, okay?

8 PRESIDING JUDGE KORNER: [14:37:43] Madam, that's right. Everything that you

9 have said about what you saw, we have read in your statement. And all that's

10 happening now is that you're going to be asked some questions to sometimes expand

11 on -- on what you've already said.

12 QUESTIONED BY MS VON WISTINGHAUSEN:

13 Q. [14:38:22] Yes. Madam Witness, we haven't met before - you've met my

14 colleague - so I would like to introduce myself. My name is Natalie von

15 Wistinghausen and I'm a lawyer who's representing the victims who are participating

16 in these proceedings. And I have a few questions for you.

17 A. [14:39:03] Okay.

18 Q. [14:39:04] I would like to repeat, because I think it's very important that you

19 know that not only the judges, but also myself and my colleagues, everybody here in

20 the courtroom has read your witness statement, so we know all the account you have

21 given about what has happened to you. And the questions now are just some

22 follow-up questions or, for me specifically, questions that relate to the consequences

23 of what has happened to you on -- you and your family and the Fur community.

24 A. [14:40:26] Okay.

25 Q. [14:40:27] Maybe before we talk about the time after the attacks, let's go back to

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1 the time before the attacks, where life in your village was still peaceful. Can you tell
2 us how the life was in your village with your family and your neighbours.

3 A. [14:41:48] Before the war, we had a happy and beautiful life and a peaceful life
4 in our village. We did not have any problems. We only heard from far that some
5 cattle were looted, for example, or they were stolen on the way to the market.

6 Q. [14:42:11] And, Madam Witness, we know from your statement that you went to
7 school. Can you tell us a little bit about what you did during your free time, with
8 your family or your friends.

9 A. [14:43:31] When I used to go back from school, I used to go to the farm in order
10 to help my parents there. Sometimes, if I wasn't able to help, I would do other
11 activities. So sometimes I would babysit little children. And those who were not
12 able to go to school used to stay at home in order to do other activities such as helping
13 in cooking, or babysitting little children, or just to take care of little children and make
14 sure that they don't fight and to make sure that they don't go out.
15 So these were the tasks or the things that I used to do after going -- coming back from
16 school.

17 Q. [14:44:22] Yes, Madam Witness, please continue. And I apologise for
18 interrupting you, but it was just to give the interpreters the opportunity to translate
19 every word you say because it's important that they can really get every sentence
20 correctly that you're saying. So please go on.

21 A. [14:45:16] Sometimes I was being sent to the windmill in order to get some
22 grains, and sometimes I would be given * some other small tasks.

23 Q. [14:45:30] And I understand from your statement that your family had 25 cattle,
24 as well as other livestock, and chicken. Did your family also grow crops or trade in
25 goods?

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1 A. [14:46:20] We used to farm, we used to plant things ourselves.

2 Q. [14:46:27] Thank you. Now I will move on to the time during and after
3 the attacks.

4 Can you tell us what happened to your family home during the attack.

5 I would like to add, if any of my questions are too difficult for you to answer, you can
6 always say so and I will move on or stop my questions. All right? I want you to
7 feel comfortable.

8 A. [14:48:13] When the attack happened and we left, so when the war started or
9 the attack happened and we left home, we left it as it was. We only carried some
10 clothes that were hanging in order to dry after being washed. So afterwards, my
11 sister, myself and the other family members left. We had a horse and donkeys at
12 home, as well as chickens. We left everything behind as they were at home. Our
13 cattle were outside grazing. We also had some goats that were grazing. We left
14 everything behind and left.

15 When the attack happened on the village, the entire village was burned down. They
16 looted the rest of the donkeys, chickens and goats. They didn't leave anything
17 behind. They looted everything and they left the area in debris, destroyed.
18 Everything was razed to the ground. It was as if it was a field, open field. Nothing
19 was left standing.

20 Q. [14:50:18] Thank you, Madam Witness. I would like to move on to the assault
21 that you suffered and that was committed by two Janjaweed. I'm not going to ask
22 you any details about what happened, but I would like to ask you about injuries you
23 had or the impact that it had on you.

24 Is it all right for you if I ask you questions about this, or would you prefer not?

25 A. [14:51:24] I agree. You can ask questions.

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1 Q. [14:51:30] Thank you. First I would like to know, in the weeks immediately
2 after the attack, did you suffer any physical problems, for example, difficulty in eating
3 and drinking?

4 A. [14:52:44] After the first week -- oh, sorry, I felt pain in the throat and I had
5 difficulty also being around people. When it came to food, I was not able to eat
6 sufficiently. Sometimes I suffered from diarrhoea and sometimes I was vomiting.

7 Q. [14:53:21] And if I may ask you about the situation today. Do you have any
8 pain, for example, in lifting heavy things?

9 A. [14:54:22] Yes, I still suffer from some pains. I have pain in my shoulder and in
10 my leg, especially my left leg. I have problems in the nerves of my left leg. I have
11 also pains in my left hand or arm. If I try to lift something heavy, I feel this pain. I
12 also suffer from headaches.

13 Q. [14:54:59] And I read that you have vision problems that are linked to these
14 headaches, and that you also have heavy and extremely painful periods; is that right?

15 A. [14:55:56] Yes, I'm suffering from the problems that you have mentioned. Yes,
16 I suffer from the problems that you just mention. In addition, I have problems in my
17 ear. I cannot put any earphone or a headphone on it. I have difficulties hearing
18 some sounds also, so I have problems in this ear.

19 Q. [14:56:38] Are you all right with the headphones that you have on your ears
20 right now? Is that okay for you?

21 A. [14:57:05] No, I don't feel any pain right now. But I can only hear with my left
22 ear. I cannot hear well with my right ear.

23 Q. [14:57:17] I understand. And do you have difficulties in sleeping?

24 A. [14:57:36] Yes, I cannot sleep at night. I would sleep for half an hour and then
25 wake up and then I try to sleep again. So I cannot sleep a full night continuously.

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1 Q. [14:57:56] And, Madam Witness, did you ever talk to anyone about what has
2 happened to you? Are there, for example, women's associations where you can
3 share what has happened to you? And did you ever receive any psychological
4 treatment or assistance?

5 A. [14:58:43] No. I did not have any complaint, or file a complaint to any
6 association. My parents took me to the doctor. There were -- there was no
7 medication that would treat me completely. I was receiving temporary medication,
8 temporary treatment such as painkillers.

9 Q. [14:59:27] Madam Witness, I'm -- I'm moving away from this and I just want to
10 ask you the following: Can you tell us why you agreed to be a witness in these
11 * proceedings and what this trial means for you, if anything at all.

12 A. [15:00:19] Can you please divide the question into two parts, because I'm unable
13 to answer all this question in one answer.

14 Q. [15:00:31] The question is why you agreed to be a witness in these proceedings.
15 Would you like to share this with us?

16 A. [15:01:15] I agreed to be a witness before the International Criminal Court
17 because an attack and dangerous aggressions happened in our area, numerous people
18 were killed. We were tremendously impacted and damaged and, personally, I had
19 great damage and there was -- this war * had a great impact on me.

20 That was the first part of your question. I can answer the second part if you're
21 ready.

22 Q. [15:02:08] To be very honest, I can't remember the first part of my questions, but
23 I'm going to ask you this: What are your personal hopes for the future, for yourself,
24 for your family, for your community? Is it possible for you to -- to tell?

25 Excuse me. Excuse me, Madam Witness, I'm really sorry to interrupt you, but we

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1 need to give the interpreters the chance to interpret every word you said. Thank you.

2 Just pause for a moment.

3 A. [15:04:07] What I aspire for from the ICC is to hold the criminals who committed
4 these atrocious crimes in our region accountable. And I would like also the ICC to
5 disarm those who carry weapons and who are terrorising people and displacing them
6 till today. And my last request is that the new settlers are evicted from our lands
7 and from our farms. Right now, if we would go back to our farms, we have to take
8 permission from the Arabs who occupied our land. If we wanted to cultivate our
9 own land we have to do that. We can't go back to our regular life because of those
10 Arabs who came from various parts of the country.

11 And I also would like that the ICC will provide us with security in the areas that we
12 left so that we can go back to our villages and towns without fearing that we will be
13 attacked again.

14 Q. [15:06:03] Well, thank you, Madam Witness, for sharing your expectations.

15 And, Madam President, I know you don't like these very broad open questions, but in
16 my view, specifically for a 68(3) witness who has been asked very little questions, I
17 will ask her if she wants to add anything.

18 Madam Witness, we haven't asked you many questions because, as we have
19 explained, everything you've said before on paper has been read by us, so we know
20 everything that happened to you, but still, is there anything else I should have asked
21 you or anything else that you would like to tell the judges before I conclude?

22 A. [15:07:29] Yes, I have something to say.

23 I want to add that we need help, we need assistance from the ICC. We need to build
24 schools and to provide health care to our people. We desperately need security in
25 our region. When we go to the farms we still get attacked. We need this -- our

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1 roads to be secured. We need to be able to go to our farms and our markets safely.

2 It's still very risky to go to the market. Right now, a lot of people got badly impacted
3 and harmed by the war. Until now some people can't work, or they became disabled
4 and they can't even walk and they are a burden over their families.

5 The girls who were raped also suffer from a lot of issues. Until today they have lots
6 of problems, including the fact that they can't have children. We need help with
7 that.

8 This is all that I wanted to say. And I would like to thank you very much.

9 Q. [15:10:26] Well, Madam Witness, it's for me to thank you. Thank you very
10 much for answering my questions.

11 PRESIDING JUDGE KORNER: [15:10:32] Yes, thank you, Ms von Wistinghausen.

12 I'm afraid, Madam, there's still one more person to ask you some questions.

13 Mr Edwards.

14 QUESTIONED BY MR EDWARDS:

15 Q. [15:10:47] *Salaam alaikum*, Madam Witness.

16 You may remember that we met last week.

17 A. [15:11:02] *Alaikum salaam*. I'm very well, thank you.

18 Q. [15:11:05] I'm just going to introduce myself again. My name is Iain Edwards
19 and I'm one of the lawyers for the Defence.

20 I'm not going to ask you many questions at all. You may be pleased to -- to hear. I
21 also want to make it clear that I don't challenge or dispute any of your account. But
22 there are one or two questions I'd like to ask you just to clarify some points for us,
23 please.

24 You mention in your statement an item of clothing called the *kadamoul* in Darfur. It's
25 right, isn't it, that a *kadamoul* is something that a lot of Arab men wear in Darfur?

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1 A. [15:12:48] No. A *kadamoul* is like a scarf that they use to cover their faces with.

2 They wrap it around their head.

3 Q. [15:13:02] Yes. And it was something that a lot of Arab men wear now and also
4 wore at the time of the conflict; is that right?

5 A. [15:13:29] Yes, that's correct.

6 Q. [15:13:33] You also say in your statement that you saw the man described to you
7 as Ali Kushayb in Mukjar market. I want to ask you about that just for a few
8 moments.

9 It's at, your Honours, paragraph 50.

10 A. [15:14:14] Very well.

11 Q. [15:14:16] There was a woman who pointed Ali Kushayb out to you. Are you
12 still in touch with that woman?

13 A. [15:14:57] I know, yes, this woman, but I am not in contact with her right now.

14 Q. [15:15:06] Did that woman ever explain to you how she knew that this man was
15 Ali Kushayb?

16 A. [15:15:39] She told me that she knew Ali Kushayb really well and * that the
17 person that was standing in front of us was Ali Kushayb. And she was pointing at
18 him with her finger.

19 Q. [15:16:00] And did she -- did she tell you how it is that she knew him very well?

20 A. [15:16:27] No, I didn't ask her.

21 Q. [15:16:30] Okay. Thank you. And that was the only time you ever saw
22 the man you understand to be Ali Kushayb, that time in the market, right?

23 A. [15:17:00] Yes, that was the first time. And that was in the Mukjar market.

24 Q. [15:17:22] Did you see Ali Kushayb on another occasion?

25 A. [15:17:53] No, I didn't.

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1 Q. [15:17:57] Thank you very much, Madam Witness. Those are all the questions I
2 have for you.

3 It's very obvious that you have told us the truth. Your courage has been plain to see.
4 So thank you very much and I wish you well in all you do in the future.

5 PRESIDING JUDGE KORNER: [15:18:15] Yes, thank you, Mr Edwards.
6 Ms Simms.

7 MS SIMMS: [15:18:19] No questions from me, your Honours.

8 JUDGE ALAPINI-GANSOU: [15:18:30](Interpretation) Thank you,
9 Madam President.

10 Madam Witness, I just have one short question for you. After the question asked by
11 the victims' lawyers, can you tell us whether you are happy to have come and made
12 your testimony here at the International Criminal Court?

13 THE WITNESS: [15:19:43](Interpretation) Yes, I am very proud that I'm here in
14 the ICC now.

15 JUDGE ALAPINI-GANSOU: [15:19:52](Interpretation) Thank you very much.
16 We're also very happy that you could come and be with us here.

17 PRESIDING JUDGE KORNER: [15:20:01] Madam, that does conclude your evidence.
18 I don't think I can add anything to what has been said by everybody in this case to
19 you, other than to say that you shouldn't underestimate at any stage the importance
20 of your coming here to tell, not just the Court, but anyone else who is listening, just
21 what the appalling effects are for innocent people, for innocent women, as a result of
22 events such as those in Darfur in 2003.

23 THE WITNESS: [15:21:20](No interpretation)

24 THE INTERPRETER: [15:21:20] Message from the Fur interpreter: We can't hear
25 the witness.

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1 PRESIDING JUDGE KORNER: [15:21:25] The -- the interpreters couldn't hear you,
2 but is there anything else that you want to add?

3 THE WITNESS: [15:22:07](Interpretation) No, I don't have anything else to say. It's
4 just extremely sad that we witness such atrocious events. But I am very grateful that
5 you allowed me to come here and to give evidence. Thank you very much.

6 PRESIDING JUDGE KORNER: [15:22:34] No. As I say, again we thank you, and if
7 you'd like to leave now with the court usher -- the court officer.

8 (The witness is excused)

9 PRESIDING JUDGE KORNER: [15:23:14] Yes.

10 We have been in public session throughout, haven't we, yes?

11 Right, Mr Nicholls, I think the time has now come for you to inform us, if at all
12 possible, whether any further witnesses are likely to be coming before the Christmas
13 break.

14 MR NICHOLLS: [15:23:38] Yes, your Honour, I can do that. I can tell you now that
15 I can't confirm today in front of you that this will happen, but today, talking with
16 VWS, we have two witnesses that we are hopeful it will be possible. Well, we're
17 talking to them and -- and if I could go into private session for just one minute.

18 PRESIDING JUDGE KORNER: [15:24:02] Yeah. Yeah.

19 (Private session at 3.24 p.m.)

20 THE COURT OFFICER: [15:24:13] We're in private session, Madam President.

21 PRESIDING JUDGE KORNER: [15:24:15] (Redacted)

22 MR NICHOLLS: [15:24:17] (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

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15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE KORNER: [15:26:02] All right. But from that, I've had various
18 enquiries made as to whether we're going to be sitting at all next week. It doesn't
19 sound to me as though we're going to have any witnesses next week.

20 MR NICHOLLS: [15:26:17] I think it is truly impossible, unfortunately, because people
21 need to go there to those -- to set up these AVLs as well. It can't be done fully
22 remotely, is my understanding. And there needs to be prep via AVL. All this needs to
23 be approved. So I think next week --

24 PRESIDING JUDGE KORNER: [15:26:36] Well your prep sessions at the moment
25 appear to make witnesses disappear at some speed, Mr Nicholls.

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1 MR NICHOLLS: [15:26:43] That -- that has happened I think three times. However, it's
2 bad for organisation and schedule, but ultimately it's a good thing, I think I have to
3 say, and that had we called some of these witnesses the Chamber would have
4 wondered why.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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1 (Redacted)
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21 (Redacted)
22 (Redacted)

23 PRESIDING JUDGE KORNER: [15:30:12] All right. Well, let's meet that when we
24 come to it. I mean, at the moment - we're still in private session, aren't we? - if those
25 two witnesses can be brought here, all the better. I mean, the -- and how long was

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1 the estimate on -- on these witnesses, each of them?

2 MR NICHOLLS: [15:30:36] Let me bring that up.

3 PRESIDING JUDGE KORNER: [15:30:39] Are they 68 -- is any of them -- is one 68(3)?

4 I've a feeling he was, wasn't he? P-60? No?

5 Yeah, P-60 is 68(3), I'm told. And what's P-987?

6 MR NICHOLLS: [15:31:03] I don't have that at my fingertips. I apologise.

7 PRESIDING JUDGE KORNER: [15:31:07] I think our legal officer will.

8 MR NICHOLLS: [15:31:10] Yes.

9 PRESIDING JUDGE KORNER: [15:31:10] Is viva voce, yeah.

10 MR NICHOLLS: [15:31:12] But what I would suggest, your Honours, and -- and to my
11 friend is, I will enquire today with the -- the senior people at VWS we're speaking to
12 and the people on my team who do all this coordination when, you know, when --
13 when -- when do we need to know by, because this is logistically not simple, and try
14 to get a date when I will be able to tell everybody if this happening or not.

15 PRESIDING JUDGE KORNER: [15:31:38] Yeah, all right. Well, then, as I said, because
16 I gave next week effectively for written motions and the like, we will issue before the
17 end of this week an agenda of topics that we want to discuss in what I suppose is a
18 status conference, if -- if we don't have the witnesses.

19 Actually, even -- even if we do, I think we still ought to -- because we're due to sit, in
20 any event, until the Friday, we ought to have a sort of status conference - yeah, we can
21 do that - and as soon as we finish the witnesses, if there are any.

22 And, if necessary, I mean, the legal argument about the admissibility of the video can
23 wait until January. As I say, I still want the written submission on what your
24 argument is. But, all right, so I will say we will not sit, barring any sudden need to sit,
25 until the -- Monday the - whatever it is - 5 December, and we'll see what we're

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- 1 doing that day.
- 2 And as you say, Mr Nicholls, if you can let us know as soon as you know for sure.
- 3 Yes, thank you.
- 4 THE COURT USHER: [15:33:15] All rise.
- 5 (The hearing ends in private session at 3.33 p.m.)