

Trial Hearing
WITNESS: DAR-OTP-P-0877

(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 3
9 Friday, 1 July 2022
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:00] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:33:21] Yes, good morning, all.
15 Could we call the case, please.
16 THE COURT OFFICER: [9:33:30] Good morning, Madam President. Good
17 morning, your Honours.
18 This is the situation in Darfur, Sudan, in the case of The Prosecutor versus Ali
19 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: [9:33:46] Yes, thank you.
22 Appearances for the Prosecution. The same as yesterday or different?
23 MR NICHOLLS: [9:33:53] Essentially, the same. Good morning, your Honours, I
24 should have said first. Good morning, everyone. We're joined by Mr Eltawila
25 today.

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1 PRESIDING JUDGE KORNER: [9:34:04] Thank you.

2 Yes, the victims representatives.

3 MS VON WISTINGHAUSEN: [9:34:06] Yes, good morning, Madam President,
4 your Honours. The same composition as yesterday for the victims. Thank you.

5 PRESIDING JUDGE KORNER: [9:34:12] And for the Defence. Mr Laucci is not
6 here this morning, is he?

7 MR EDWARDS: [9:34:17] Good morning, your Honour. He'll be attending in the
8 afternoon, we hope.

9 PRESIDING JUDGE KORNER: [9:34:22] Right. But otherwise the same as
10 yesterday?

11 MR EDWARDS: [9:34:23] Otherwise the same as yesterday.

12 PRESIDING JUDGE KORNER: [9:34:25] Yes, thank you very much.

13 Sir, good morning to you. That completes the formalities. You're now going to
14 continue giving your evidence, being asked questions by the lawyer for the
15 Prosecution, and we'll take a break at 11 o'clock. But, again, if you need a break at
16 any other time, just say so.

17 WITNESS: DAR-OTP-P-0877 (On former oath)
18 (The witness speaks Arabic)

19 PRESIDING JUDGE KORNER: [9:34:45] Yes.

20 MR SACHITHANANDAN: [9:34:49] Thank you, your Honour.

21 QUESTIONED BY MR SACHITHANANDAN: (Continuing)

22 Q. [9:34:53] Good morning, Mr Witness.

23 A. [9:34:59] Greetings.

24 Q. [9:35:03] Mr Witness, you'll recall that yesterday we talked through your
25 narrative until around March 2004. Do you remember that?

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1 A. [9:35:22] Yes.

2 Q. [9:35:25] And we discussed how you were arrested in Mukjar and placed in
3 Mukjar prison. And I want to --

4 A. [9:35:38] Yes.

5 Q. [9:35:39] And I want to ask a few questions about that period, about the time
6 that you discussed yesterday, just to fill in a few gaps that I may have missed
7 yesterday, at the beginning of this session of questioning.

8 A. [9:36:08] Yesterday, I talked until the events of March -- until I -- I spoke about
9 events of March 1. What I'd like to point out is that before Ahmad Harun left on
10 March 1, 2004, we heard noise, people shouting, "Allahu Akbar, God is the greatest."
11 They were afar, and we heard the voice of someone giving remarks to a mass of
12 people. He said, "Things are now in your hands, and you should plant panadora."
13 This is what I heard. Others were shouting and saying, "Allahu Akbar," but they
14 were a little afar from us.

15 Q. [9:37:08] Thank you. And we'll definitely come to this in a few minutes, but I
16 want to clarify a few things about what you said yesterday. So let's focus on the first
17 time you got arrested or stopped on 28 February.

18 You mentioned that another person who got stopped was a *sheikh* called Adam
19 Mousa. Could you tell us who *Sheikh* Adam Mousa is.

20 A. [9:37:39] Adam Mousa was one of the *sheikhs*, of the senior *sheikhs* in Sindu. He
21 was arrested with us. He was with us at the police station. He was then released.

22 Q. [9:38:04] What ethnicity was *Sheikh* Adam Mousa?

23 A. [9:38:12] He was from the Fur tribe.

24 Q. [9:38:17] You mentioned another person called Abdul Aziz who was stopped.
25 Who is Abdul Aziz?

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1 A. [9:38:28] Abdul Aziz Hamid Abdelkarim also was from the Fur tribe and he was
2 arrested with us.

3 Q. [9:38:40] What village was he from?

4 A. [9:38:49] Adam Mousa was from Sindu. Abdul Aziz was from a village called
5 Moumou.

6 Q. [9:39:01] Do you know anyone called Adam Suliman Daoud Adam?

7 A. [9:39:11] I do. I knew Adam Suliman Daoud Adam. He was from the village
8 of Tendy. He was with us and was arrested and taken along with us to the police
9 station.

10 Q. [9:39:29] Do you know anyone called Yacoub Musa Ibrahim?

11 A. [9:39:37] Yacoub Musa Ibrahim is someone I knew from Tendy. He too was
12 taken to the police station with us on that same day.

13 Q. [9:39:55] Do you know anyone called Jaranda or Jaranda?

14 A. [9:40:06] Yes, I know him. Abaker Mohammed Adam, aka Jaranda, he was
15 from Tendy. He was arrested with us and was with me in the same cell the whole
16 time.

17 Q. [9:40:30] You mentioned that one of the people arresting you was Hassan
18 Mohamed Jooma. Who is Hassan Mohamed Jooma?

19 A. [9:40:43] Hassan Mohamed Jooma was a PDF coordinator in Mukjar.

20 THE INTERPRETER: [9:40:52] Correction: A PPF coordinator in Mukjar.

21 MR SACHITHANANDAN: [9:40:58]

22 Q. [9:41:01] Do you know the names of any PPF who served under him?

23 A. [9:41:09] Hassan Mohamed Jooma was working actively with the PPF, but
24 among the PPF I knew Jamal Adam Abdelrahim and Khalid Omer Ahmed Zarouq, in
25 addition to others.

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1 PRESIDING JUDGE KORNER: [9:41:39] Mr Sachithanandan, is this all in an extra
2 statement? Because I can't find what you're looking at to get -- put all these names to
3 him.

4 MR SACHITHANANDAN: [9:41:52] They are in different parts of his statement.
5 The PPF -- the PPF members he just mentioned will come up in literally my next
6 question, and I can mention where that is.

7 PRESIDING JUDGE KORNER: [9:42:09] All right. But I just -- at the moment, it
8 just helps if I can see what you're -- if this is extra information provided during
9 preparation. Because I can't at the moment see which -- all right. You just carry on.

10 MR SACHITHANANDAN: [9:42:27]

11 Q. [9:42:27] Mr Witness, you mentioned yesterday that on the 29th you were
12 released but then arrested again. Am I right in understanding that?

13 A. [9:42:41] That is correct.

14 Q. [9:42:48] And on the second occasion, when you were arrested on this second
15 time, who are the people who arrested you?

16 A. [9:43:00] I was arrested by three people: Adel Bady Musa, *Abdel Elmagid
17 Jooma and Jamal Abdelrahim.

18 MR SACHITHANANDAN: [9:43:21] And, your Honour, this is paragraph 84, the
19 first statement.

20 PRESIDING JUDGE KORNER: [9:43:27] Yes, I can -- that one I can see. It was the
21 earlier names I couldn't ...

22 MR SACHITHANANDAN: [9:43:35] I'll check and mention the paragraphs in a few
23 minutes.

24 Q. [9:43:45] Mr Witness, who was Adel Bady Musa?

25 A. [9:43:55] Adel Bady Musa was one of the CRF soldiers, and particularly, he

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1 worked for the intelligence department.

2 Q. [9:44:13] And who was Abdel -- *Abdel Elmagid Jooma?

3 A. [9:44:19] *Abdel Elmagid -- actually, it's *Abdel Elmagid Jooma. He too was
4 a member of the CRF. He too worked precisely for the intelligence department.

5 Q. [9:44:39] And for these personnel of the CRF, in 2004, who was their supervisor
6 or leader?

7 A. [9:44:50] Their leader was called Mustafa Ahmed Al-Tayeb.

8 Q. [9:45:03] Do you remember when Al-Tayeb became the head of the CRF in
9 Mukjar?

10 A. [9:45:14] Mustafa Ahmed Al-Tayeb arrived in January of 2004.

11 Q. [9:45:25] And who was the head of the CRF before Mustafa Al-Tayeb?

12 A. [9:45:34] There was a man called Abdallah Hemaidan Tutu. He was the
13 commander of CRF in Mukjar before the other gentleman.

14 Q. [9:45:54] You also mentioned Jamal Adam Abdelrahim. Who is Jamal Adam
15 Abdelrahim?

16 A. [9:46:10] Jamal Adam Abdelrahim was from the PPF. Formerly, he was one of
17 my students that I taught in school.

18 Q. [9:46:40] Thank you. So am I right in thinking that you were rearrested on 29
19 February by these three men?

20 A. [9:46:54] Yes.

21 Q. [9:47:10] Yesterday you mentioned that John Koj told the prisoners to say their
22 prayers. Was this on the night of the 29th? Have I understood correctly?

23 A. [9:47:28] He said so on the eve of March 1 of 2004.

24 Q. [9:47:44] You mentioned yesterday being interrogated by a lieutenant with an
25 enlarged eye. Was that on the 29th or 1 July -- sorry -- on 1 March?

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1 A. [9:48:26] He interrogated me on the 29th. He said that Ali Kushayb had gone
2 to Sindu to quell the rebellion, and he asked me if Abdel Wahid got killed or whether
3 he survived.

4 Q. [9:48:47] Thank you. Thank you. The visit of Ahmad Harun that you
5 described yesterday, am I right in understanding that that was on 1 March?

6 A. [9:49:21] Yes, correct.

7 MR EDWARDS: [9:49:25] Your Honour, I'm very sorry. Dates, generally speaking,
8 aren't enormously in contention, but I can't help but notice that there's been
9 a significant degree of leading. There's going to come a point where less leading
10 questions are asked about what happened at Mukjar police station.

11 PRESIDING JUDGE KORNER: [9:49:48] Yeah. Well, you've heard that.

12 MR SACHITHANANDAN: [9:49:52] Point well taken, your Honour. I'm more or
13 less clarifying the sequence that was set out yesterday. But this is it. So there won't
14 be anymore.

15 Q. [9:50:20] Mr Witness, now we're going to come back to talking about the visit of
16 Ahmad Harun that you mentioned yesterday. When you saw Ahmad Harun and
17 Ali Kushayb speaking in front of the prisoners, were you still inside the cell or had
18 you also been taken out of the cell with the other prisoners?

19 A. [9:50:50] I stayed in the cell with other prisoners. They took out some of the
20 prisoners, but all the doors were opened and I could see out.

21 Q. [9:51:07] Around what time of day was this?

22 A. [9:51:18] It was in the early morning hours, between 9 and 10 a.m.

23 Q. [9:51:29] You mentioned this morning hearing at this point a speech about
24 planting pandora -- panadora, if I'm -- sorry, I'm probably mispronouncing it. Can
25 you please explain to the Court or tell us more detail about this speech.

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1 A. [9:51:55] I was hearing this speech delivered by someone to masses of soldiers
2 and Janjaweed who were shouting. He said, "Everything is in your hands, but plant
3 panadora." That's what I heard from that speech. In our terms, plant panadora
4 refers to rape.

5 Q. [9:52:30] Could you recognise who was speaking or not?

6 A. [9:52:43] I could not know who that person was because he was a little far from
7 us.

8 Q. [9:52:52] Please tell us what happened after this -- hearing this speech about
9 planting panadora.

10 A. [9:53:11] I heard shouts of "Allahu Akbar, God is the greatest" and some noise.

11 Q. [9:53:24] And did Ahmad Harun leave at some point?

12 A. [9:53:35] He left a few minutes after that speech. We heard the noise of the
13 aircraft, and he left.

14 Q. [9:53:50] And what happened after the departure of Harun?

15 A. [9:53:57] Nothing happened at that point in time, but certain things happened
16 later on during that day -- at later hours of the day.

17 Q. [9:54:19] Please tell us what happened in the later hours of that same day.

18 A. [9:54:26] What happened and what I saw, I saw that, from the eastern direction,
19 the late hours of daytime, and this is the first of the month, there were four soldiers
20 moving in the back, pointing their guns towards Ali Kushayb. And there, there was
21 Ali Kushayb walking, flanked by military vehicles, Janjaweed on camels and
22 horseback. So they pursued that route to the inside of the police station.
23 Afterwards, I saw those soldiers take -- being brought near our cell and being
24 stationed there. However, they were unarmed. They put them in that cell, and I
25 saw Ali Kushayb standing in front of the door and telling them, "Tomorrow, I'll show

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1 who you are and who I am."

2 Q. [9:55:45] And how is it that you could see this?

3 A. [9:56:02] The cell was near our cell, and I was in the same place I have been, and
4 I could see through the holes in the door and the door was close to us.

5 MR SACHITHANANDAN: [9:56:19] Your Honour, this is paragraph 102 and there's
6 been of addition information in prep that I'll elicit now.

7 Q. [9:56:30] Mr Witness, can you tell us, please, the names of these policemen who
8 were backing into the police station?

9 A. [9:56:40] The names of the police officers who were moving in the back, well,
10 one of their names -- one of them was called Mohamed Idriss Adam Taha. Another
11 one was called Adam Idriss Adam Hassan. The third person was called Abdu Rosik
12 (phon). The fourth person was called Abdu Nurlak (phon).

13 Q. [9:57:29] Do any of them have nicknames?

14 A. [9:57:33] I only knew the nickname of Abdu Nurlak, which was his nickname.
15 I did not know his actual name or any other name of that person.

16 Q. [9:57:53] You said you saw Ali Kushayb at this point, how far away was he from
17 you?

18 A. [9:58:02] He was three or four metres away from me. The room where the
19 others were taken was nearby ours.

20 Q. [9:58:23] So just like yesterday, if we can take my position and your position,
21 was Kushayb further than where I am in relation to you, or around where I am, or
22 closer than where I am?

23 A. [9:58:39] Closer than you. More than halfway from your position to me.

24 Q. [9:58:48] As you were looking through the hole in the door, was there any
25 obstruction to your view?

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1 A. [9:58:57] No, there was not.

2 Q. [9:59:09] Around what time of day was this?

3 A. [9:59:13] It was in the late hours of March 1. However, it was before sunrise --

4 THE INTERPRETER: [9:59:26] Correction: Sunset.

5 MR SACHITHANANDAN: [9:59:30]

6 Q. [9:59:30] When you saw Kushayb, what was he doing?

7 A. [9:59:37] He wasn't doing anything. I just saw him when they were -- the
8 police officers were pointing their guns at him, I don't know how they were disarmed,
9 but I saw him standing in front of that door and the officers being taken into that cell
10 and I saw him saying those words to them. He told them, "Tomorrow we will show
11 you who you are, and who we are," but he didn't do anything else.

12 Q. [10:00:25] Please continue then. What happened after he said that?

13 A. [10:00:31] He left. A little while afterwards, Hadi Bady Adel and Abdel *Elmagid
14 came by holding the key that can be used to lock the place and that room was locked
15 with another lock.

16 Q. [10:00:57] These policemen, do you know what happened to them eventually?

17 A. [10:01:03] I don't know what became of them afterwards.

18 Q. [10:01:20] Do you know what ethnicity these policemen were?

19 A. [10:01:27] They were all from the Fur tribe and I knew them from before because
20 Mohamed Idris was a police officer working with the courts and he was also a deputy
21 commissioner.

22 Q. [10:01:42] All right. And what happened that night, if anything?

23 A. [10:01:53] That night nothing happened to us, but people were talking about the
24 officer who is called John Koj who came during the night and he told us that you have
25 to take your prayers because tomorrow, all of you will not be alive.

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1 Q. [10:02:31] I know you mentioned John Koj yesterday. What tribe did John Koj
2 belong to?

3 A. [10:02:40] He's from the Dinka tribe and of course in South Sudan, Dinka tribe.

4 Q. [10:02:47] And how is that you knew that he was from the Dinka tribe?

5 A. [10:02:54] I knew that from the way he looks and the way he speaks and we
6 know how these Dinka people speak, we can know them by that.

7 Q. [10:03:13] So let's move forward to the next day, which would, I imagine -- yeah,
8 let's move forward to the next day because you're talking about 1 March so I want to
9 talk now about 2 March. What happened that morning?

10 A. [10:03:32] In the morning, on 2 March 2004, between 10 and 11 a.m., Ali
11 Kushayb came with some soldiers and he came to the cells. He put people in line
12 before the cell, two lines before the cells. And people can see each other, because
13 this in the -- in these lines they can see each other. After that, they opened the doors
14 of the cells and they -- we saw these soldiers and we saw from the southern parts,
15 from the police station, within the north and south offices we saw soldiers who are
16 taking somebody and they're moving towards us. Then Ali Kushayb moved
17 forward from the line in which he was standing and he went to that person and he hit
18 him with the axe and that person fell down. The soldiers were standing with him
19 when called "Allahu Akbar" and they put him in a car. Ali Kushayb came back to
20 stand where he was standing next to Al-Dayf Samih and Hassan Jooma. After that,
21 the car moved towards the door of the cell in which we were kept ...

22 Q. [10:05:37] Thank you. Thank you, and I'm sorry to interrupt as usual, but I just
23 want to unpack what you just said.

24 When Kushayb -- when you first saw Kushayb that morning, you -- who else was
25 there? I know you mentioned some people, but could you mention everyone that

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1 you recognised as being there?

2 A. [10:06:04] The people whom I know who were with Ali Kushayb, there was
3 Abdullah Tayyib Torshein, the *mu'atamid* of the locality of Mukjar. Then Assadiq
4 Ahmed Osman, the coordinator of the people's defence -- then Mustafa Ahmad
5 Al-Tayyib, the leader of the Central Reserve Forces.

6 Q. [10:06:41] And at this point, how is that you could see them?

7 A. [10:06:51] Because they opened the door. All the people in the cell can see
8 them because the doors were wide open.

9 Q. [10:07:02] And again, if we can use this courtroom as a -- as a way of estimating,
10 how far away were they from you?

11 A. [10:07:13] Mustafa Ahmad Al-Tayyib and Abdullah Tayyib Torshein, the
12 distance them and me, the distance between myself and the Judges. But Ali
13 Kushayb, after that, he came closer from -- from the lines the people who were
14 standing in front of the doors of the cells where we were kept.

15 Q. [10:07:53] Where was Al-Dayf Samih at this time, if you know?

16 A. [10:08:01] Al-Dayf Samih, he was standing in the line which is not far from the
17 line which Ali Kushayb was standing, one of them from the east and the other one
18 from the west standing in these lines.

19 Q. [10:08:19] You said Kushayb hit someone. Who did Kushayb hit?

20 A. [10:08:28] The name of the person, Adam Naheeb -- Naheed Numan, he was the
21 person who was hit by Kushayb.

22 Q. [10:08:42] What village is Adam Naheed from?

23 A. [10:08:50] Adam Naheed Numan, from the Tendy village, he was a guard with
24 *Shartay* Mohamed Zarouq.

25 Q. [10:09:01] And what ethnicity?

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1 A. [10:09:07] From the Fur tribe.

2 Q. [10:09:14] Right, and you can please continue from the moment that Naheed
3 Numan was hit, please carry on with your narrative.

4 A. [10:09:25] After Adam Naheed Numan was hit, Ali Kushayb went back to the
5 line in which he was standing earlier, and then Hassan Mohamed Jooma who has
6 a list of the people and he started calling people by their names. He called *Umdah*
7 Yahya Ahmad Zarruq. And when he -- Ali Kushayb -- when he -- he stood there, Ali
8 Kushayb hit him with an axe and he fell on the ground.

9 Q. [10:10:01] Sorry to stop you, Mr Witness. I just got a message asking us both to
10 slow down. So if you could still speak -- speak a little bit slower, but please
11 continue.

12 A. [10:10:16] Hassan Mohamed Jooma with a list of names, he started calling on
13 people by their names. He called first *Umdah* Yahya Ahmad Zarruq, he left the cell
14 and he went through the door, Ali Kushayb was standing next to the door, hit him
15 with an axe and he fell down. The soldiers who were standing in these two parallel
16 lines, started hitting him with their sticks and whips. They put him in a car.
17 Hassan Mohamed Jooma started calling the names of other people. He called on
18 *Umdah* Issa Harun Nour.

19 When Issa Harun Nour left the cell, Ali Kushayb hit him with the axe in his shoulder,
20 but he did not fall on the ground. Then the soldiers continued hitting him with the
21 sticks, and they put him, of course, in the vehicle, which was waiting. Hassan
22 Mohamed Hassan continued calling the names of other people. He called on *Umdah*
23 Adam Husayn Abdelmahmoud. And when he left the cell, the soldiers were around
24 him, hit him the same way, but he did not fall on the ground. And Hassan
25 Mohamed Jooma continued calling the other persons.

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1 He called on Yusuf Muhajer -- Yusuf Muhajer, and the same thing happened to Yusuf
2 Muhajer. He was hit by the soldiers with the sticks and whips. After that, he
3 started calling the names, and nobody came out from the cell because people were
4 scared and did not want to go out of the cell.

5 Ali Kushayb and his soldiers and the other soldiers who were taking their guns and
6 pointing them towards the prisoners, and Hassan Mohamed Jooma came with them.
7 He started calling people, using their finger to mention some people by name and
8 using his finger to choose them.

9 Q. [10:13:09] Thank you. When Kushayb was hitting *Umdah* Zarruq, again, using
10 this courtroom as a source of estimate, as an aid for estimation, could you tell us how
11 far away was Kushayb from you.

12 PRESIDING JUDGE KORNER: [10:13:24] I mean, I take -- I know why you're doing
13 this, but aren't we -- isn't he in the same place the whole time? Do we have to go
14 through how far away it was each time? As I understand it, the witness is there in
15 the cell looking at it.

16 MR SACHITHANANDAN: [10:13:40] I'm happy to move on, your Honour.

17 PRESIDING JUDGE KORNER: [10:13:43] Yeah. Right. Thank you.

18 MR SACHITHANANDAN: [10:13:44]

19 Q. [10:13:46] At this time that these assaults are taking place, where was
20 *Umdah* Issa Harun Nour?

21 A. [10:14:00] Issa Harun Nour, he was in -- in the same cell in which *Umdah* Ahmad
22 Zarruq was kept.

23 Q. [10:14:21] Do you know of anyone called Ahmed Mohamed Babay?

24 A. [10:14:30] Yes, I know Ahmed Mohamed Babay. He's one of the people who
25 were put in the back of the vehicle.

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1 Q. [10:14:43] In what manner was *Umdah* Issa Harun Nour treated at this time?

2 A. [10:15:01] *Umdah* Issa Harun Nour was hit by Ali Kushayb with an axe, as I said,
3 in the shoulder. And the soldiers also started hitting him with their sticks and whip,
4 but he did not fall on the ground. And he was put at the back of the vehicle, in
5 which they put other people; Zarruq and the others.

6 Q. [10:15:30] In what manner was Babay treated at this time?

7 A. [10:15:37] Babay was treated like the other people. He was hit with the whips
8 and the sticks. Anybody who is asked to come out is hit by the whips and the sticks.

9 MR SACHITHANANDAN: [10:15:54] And, your Honour, just -- this is para 113.

10 I'm sure you're there.

11 Q. [10:16:10] What does -- what was Al-Dayf Samih doing at this time?

12 A. [10:16:18] Al-Dayf Samih was standing in front of the cell in line with Ali
13 Kushayb. When Ali Kushayb and his soldiers and Hassan Mohamed Jooma came
14 inside the cell, he was standing in front of the cell next to the vehicle in which they
15 put these people after they have been hit.

16 Q. [10:16:44] Right. I think I stopped you when you were describing how people
17 came into the cell. Please continue from there.

18 A. [10:16:54] When they came inside the cell, Hassan Mohamed Jooma was calling
19 the names, and he was pointing his fingers to the person whom his name he
20 mentioned, and the soldiers would drag that person outside the cell. And he
21 continued for some time. And then he stopped calling people. And there was
22 some chaos inside the cell. And people say -- people are just crying. They started
23 pulling people in a haphazard manner outside the cell, and they continued and put
24 people in the first vehicle. And the second vehicle came, and they started the same
25 thing, putting people in the back of this vehicles, between 20 to more people in this

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1 vehicle. Ali Kushayb was still inside the cell. He was still hitting people with his
2 axe. So this is what happened, exactly.

3 Q. [10:18:13] You mentioned that Ali Kushayb was hitting people with his axe
4 inside the cell. Please tell us the names of the persons he hit.

5 A. [10:18:24] The people who were hit by Ali Kushayb inside the cell are Abaker
6 Mohammed Adam, called Jaranda. He was hit on his head. And also Adam
7 Hassan Adam, who was hit, his leg. And Omar Adam Harun as well was hit in the
8 head. This is it what I saw.

9 Q. [10:18:56] Does Adam Hassan Adam have any nicknames?

10 A. [10:19:02] Yes. His nickname, Bashari. His nickname is Bashari.

11 Q. [10:19:19] What was the consequence of them being hit? What happened to
12 them?

13 A. [10:19:25] They left them inside the cell. I did not take them outside the cell.
14 And, of course, some of them were bleeding because they had been hit with sticks and
15 whips.

16 Q. [10:19:41] Please continue.

17 A. [10:19:50] After that, the door of the cell was closed. When they put these
18 people in the first vehicle and the second vehicle, we heard what was going on in the
19 other cells. We were hearing people who were crying in the other cells. After
20 that -- this took around half an hour, and the situation started to change, and there
21 were was some calm after this half hour.

22 Q. [10:20:33] Can you estimate for us how many vehicles were loaded.

23 A. [10:20:41] From our cell, two vehicles. In each vehicle, more than 20 people.
24 After that, I did not see what happened for the people in the other cells and the
25 number of vehicles used to carry them.

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1 Q. [10:21:03] Were people only loaded from your cell or were they loaded from any
2 other cell?

3 A. [10:21:11] Two cells, in which I was kept and the other cell which has a door,
4 which is closer to my cell. And those who were put in these two vehicles are people
5 who came from two cells; my cell and the other cell.

6 Q. [10:21:35] And how is it that you know people from the other cell were loaded?

7 A. [10:21:43] When I heard the sounds and people were crying, I knew that they
8 would have the same destiny.

9 Q. [10:22:05] I want to go back to Naheed Numan. I noticed that we -- the
10 transcript didn't note down what his job was. What was Naheed Numan's job?

11 A. [10:22:20] Mohamed Naheed Numan was a guard for *Shartay* Omar -- a guard
12 for *Shartay* Ahmed Zarouq, was a guard.

13 Q. [10:22:34] And what happened to him? Did he remain in the cell or was he
14 loaded?

15 A. [10:22:42] When he was hit by -- on his head, he fell down on the ground. At
16 the same time, he was taken and put in the vehicle. And after that, of course, the
17 vehicle moved and came closer to my cell.

18 Q. [10:23:06] The list that Jooma had that he was using to call out these names, do
19 you know how -- how that list was prepared?

20 A. [10:23:16] No, I don't know exactly. But Hassan Mohamed Jooma and others
21 from the popular forces and the -- the rapid support, they, of course, held people
22 captives, and those who fled from the villages, and they started putting their names
23 on this list, but I don't know if this happened using the method or other methods. I
24 don't know exactly how they compiled those lists.

25 Q. [10:23:55] And how do you know that their names are put on a list?

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1 A. [10:24:01] My name, of course, was put by Hassan Mohamed Jooma with the
2 others on that list.

3 Q. [10:24:15] Do you know anyone called Omar Adam Harun?

4 A. [10:24:30] Yes, I know him. He is the person who was hit by Ali Kushayb on
5 his head using the axe inside the cell.

6 Q. [10:24:40] What happened to Omar Adam Harun?

7 A. [10:24:48] Omar Adam Harun, he was lying on the ground for two days and
8 thought that he was dead. But after that, some people of the police force took him
9 somewhere, and they called his family and told the family that they took him. And
10 having seen what happened, exactly, we're not able to follow after that.

11 Q. [10:25:18] Thank you.

12 I'd like to show the witness a document. We have also a public redacted version
13 prepared. So it should the public redacted version for display, which is

14 DAR-OTP-0217-0251. And the Arabic version, which can be shown physically to the
15 witness, is DAR-OTP-0219-0490. The Arabic version is tab 14 in the witness binder.

16 Witness, please wait, maybe -- could the court officer please assist the witness to get
17 to the right tab. It should be under tab 14, it should be a Arabic-language sketch

18 with two pages. And the English version which I called out can be -- the redacted

19 version -- redacted English version can be broadcast. No, no, it should be titled with

20 an "Annexure C". Annexure C. I'm going call out the English ERN again,

21 0217-0251.

22 THE COURT USHER: [10:28:39] Could counsel please clarify: Is it annex C or D?

23 MR SACHITHANANDAN: [10:28:44] It's annex C.

24 Q. [10:29:31] Right, Mr Witness, I just want to make sure you have the right image
25 in front of you. Do you see a sketch of two -- two buildings, do you see a sketch of

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1 two buildings with numbers marked on it?

2 A. [10:29:46] Yes. Yes, I see them, yes.

3 Q. [10:29:49] And if you -- and is it correct that you drew this sketch?

4 A. [10:29:57] Yes, I drew this and this is the police centre in Which anything I
5 talked about happened.

6 Q. [10:30:13] And can you see in the next page that you've listed descriptions for all
7 of these numbers?

8 A. [10:30:23] Yes, I gave the description, yes, according to the drawing I made, yes.

9 Q. [10:30:32] So if you could look at the drawing again, could you please tell us
10 which number indicates where you were imprisoned?

11 A. [10:30:46] I was detained in number 4. Number 4.

12 Q. [10:30:54] And you mentioned another cell where people were detained. What
13 is the number of the other cell where people were detained?

14 A. [10:31:08] Number 1, cell number 1, which was close to number 4.

15 Q. [10:31:19] And are you happy with the accuracy of this drawing?

16 A. [10:31:31] I am happy with the accuracy of this drawing. I draw it of my free
17 will and of my knowledge.

18 Q. [10:31:49] You mentioned four police officers being detained. Could you tell us,
19 if you can, which number indicates where the police officers were detained?

20 MR EDWARDS: [10:32:09] Your Honour, it occurs to me that the image on the
21 screen is of the legend to the actual map. It might be more helpful if we have
22 the map itself, the sketch itself.

23 PRESIDING JUDGE KORNER: [10:32:32](Microphone not activated)

24 MR SACHITHANANDAN: [10:32:36] Thank you, Mr Witness.

25 MR EDWARDS: [10:32:37] Sorry, and this doesn't have the signature redacted, so

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- 1 this probably shouldn't be for public broadcast.
- 2 PRESIDING JUDGE KORNER: [10:32:48] Well, I can't see it (Microphone not
3 activated)
- 4 MR EDWARDS: [10:32:51] It's -- it's more in the -- it's in the way of a line, it's sort of
5 a scrawl that looks like a vertical line to the sort of --
- 6 PRESIDING JUDGE KORNER: [10:33:02] The tail bit at the end of it.
- 7 MR EDWARDS: [10:33:08] Yeah, yeah, that's his signature I think.
- 8 PRESIDING JUDGE KORNER: [10:33:08] Well, I don't think it's going to tell
9 anybody who he is, is it?
- 10 MR SACHITHANANDAN: [10:33:12] Can we just scroll up so that the "W" hits the
11 bottom of the screen, scroll up -- no, no, the "W" hits the bottom of the screen so that
12 the signature is not seen.
- 13 Right, why don't we just -- for this image we can cut the public broadcast and we can
14 just use it inside the courtroom.
- 15 Q. [10:33:33] I'm sorry about the interruption, Mr Witness. Can you please tell us
16 which number indicates where the police officers were kept?
- 17 A. [10:33:48] It's the number 6.
- 18 Q. [10:33:58] And can you tell us which number indicates where you were
19 interrogated in the police station?
- 20 A. [10:34:08] The number of the location where I was interrogated is the number 8.
- 21 Q. [10:34:28] We can take this down now and move to annex D. I'm told
22 internally that the signature is actually elsewhere, so I think we are okay. Apologies
23 for the shambolic beginning.
- 24 We can move on to annex D, which is tab 16. And if tab 16 can please be shown to
25 the witness physically with assistance of the court officer. The ERN is 217-0254.

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1 And as long as we are using the redacted version, this can go public.

2 Q. [10:35:45] Mr Witness, do you see a drawing in front of you?

3 A. [10:35:52] I do. I see it clearly.

4 Q. [10:35:56] And can you please tell the Court what this is?

5 A. [10:36:01] It is a drawing of the door of the cell where I was. And these are the
6 holes in our direction, where a lock would be put.

7 Q. [10:36:24] And just so I understand, are these the holes you looked through
8 when the doors were closed or am I misunderstanding you?

9 A. [10:36:33] You did not misunderstand me. That is correct. These are indeed
10 the holes through which I was able to see outside.

11 Q. [10:36:51] And you produced this drawing, correct?

12 A. [10:36:55] I did indeed draw this.

13 PRESIDING JUDGE KORNER: [10:37:04] And exactly how is it supposed to help
14 us?

15 MR SACHITHANANDAN: [10:37:08] Well, your Honour --

16 PRESIDING JUDGE KORNER: [10:37:14] Are the doors lengthways, upwards?

17 Where's the holes in relation to the top, the bottom? I mean, putting in documents
18 simply because a witness has drawn them doesn't really help.

19 MR SACHITHANANDAN: [10:37:27] No, your Honour, but two years from now
20 this may -- well, it's of limited relevance. I thought it was -- I thought we could
21 spend 30 seconds on it, but we can move on.

22 This can be taken down.

23 Q. [10:38:00] Mr Witness, you described the prisoners being driven away while you
24 were in the prison. Can you please tell us what happened afterwards?

25 A. [10:38:17] About 30 minutes after they were driven away, we heard gunfire,

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1 intense gunfire in the direction of the north -- north of the police station where we
2 were detained. Twenty minutes after we heard the gunshots, soldiers returned in
3 vehicles and they surrounded the vicinity separating the northern building and the
4 southern building. They surrounded that area and they were chanting, "Allahu
5 Akbar, we farted them. Allahu Akbar, we farted them."

6 Q. [10:39:18] And tell us, if you know, what does that mean, "we farted them"?
7 What is the implication?

8 PRESIDING JUDGE KORNER: [10:39:26](Microphone not activated) translation
9 that's a bit odd.

10 MR SACHITHANANDAN: [10:39:30] This is in the statement so I think it might be
11 useful for the witness to explain. Paragraph 118.

12 Q. [10:39:39] If you can help us understand what this means, Mr Witness.

13 A. [10:39:44] It is commonly known among us that the expression "farted" someone,
14 meaning someone has stopped breathing through their face, the proper breathing,
15 and instead they are breathing from their back. In other words, they died.

16 Q. [10:40:19] Please continue, what happened after that?

17 A. [10:40:24] Afterwards, there was calm, we were silent, but we learned that those
18 persons must have died and everybody was just silent.

19 Q. [10:40:43] How long did you stay in detention after -- after that?

20 A. [10:40:49] Afterwards, I stayed -- I stayed in detention for the second day and I
21 was released the next day, which was March 3, 2004.

22 Q. [10:41:09] Did you learn at any point what happened to the persons who were
23 taken away from the prison?

24 A. [10:41:29] Afterwards, when I got released at the hands of Mohamed Turjouk
25 Ateem. He took me to a town in Mukjar and he advised me not to go where the

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1 displaced people are. So I chose to join a colleague of mine, (Redacted)

2 (Redacted), who was the (Redacted) in the locality of Mukjar. So I

3 went to him, and when I reached him, he told me that the people who had been taken

4 from prison were all killed at the *Khor* Talaba. He also told me that a man called

5 Saddiq Idriss Ahmed was the person who related these news to him.

6 Q. [10:42:32] Is that all you heard about the burials -- my apologies, about the

7 killings of these people, or did you learn anything else?

8 A. [10:42:51] That was the first news I heard about that because I had been in

9 prison, and when I left prison, Abdullah Adam Abdullah was the person who first

10 told me about these things. I later on learned that -- about that also from other

11 people, but what I have just been telling you now is the first thing I heard about that.

12 Q. [10:43:20] These people who had been killed, did they remain where they were

13 or were they eventually buried?

14 A. [10:43:31] They were left where they got killed. Because Abdullah Adam

15 Abdullah, Abdulkari (phon) and Abd-el-Kareem Mohamed Nouredin went both to

16 *Shartay* Omar Ahmed Zarouq and they were -- and then they went with a *shartay* to

17 obtain a permission from the commissioner to bury those people. They met Mustafa

18 Ahmad Al-Tayyib, who was the commander of CRF. They told him about that and

19 he said to them "That is none of your business."

20 Q. [10:44:13] Is this all you learned about the -- the persons who were killed, or did

21 you at any point learn any more about the persons who were killed?

22 A. [10:44:24] I learned more later on, from other people. But I heard most about it

23 from brother Abdelrahman Abdallah Musa.

24 Q. [10:44:47] Did you ever have reason to view these locations or not?

25 THE INTERPRETER: [10:44:57] Could counsel please repeat the question.

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1 Thank you.

2 MR SACHITHANANDAN: [10:45:00]

3 Q. [10:45:00] Did you ever have a reason to view these locations where people were
4 killed or not?

5 A. [10:45:06] I had recorded people's names in the cell. When I left the prison and
6 heard about their death, and Abdelrahman Mohamed Musa told me that he had gone
7 with a friend of his -- actually, a business partner of his from the Janjaweed, he went
8 with him and -- and saw many corpses lying there in the open, I went with him to
9 check if that story was true, and I went to the execution site.

10 Q. [10:45:57] Please tell us what you saw at these sites?

11 A. [10:46:05] It was very hot then. We went in night-time and there was a full
12 moon. I went with Abdelrahman Mohamed Musa. With us was Yahia Ishaq Musa.
13 We went to that place. When we reached it, we found corpses lying on the ground,
14 some of them stacked on top of each other in the northern part. Other corpses were
15 scattered randomly in the southern part. And he told us that that person is Yahya
16 Ahmad Zarruq. The other one was Adam Husayn Yahia, the
17 commissioner -- correction, the *umdah*. And then Issa Mahmoud.

18 THE INTERPRETER: Another name inaudible.

19 THE WITNESS: [10:47:00](Interpretation) Then we went to another place, Ahmed
20 Mohamed Babay.

21 MR SACHITHANANDAN:

22 Q. [10:47:07] Mr Witness, just a reminder to speak a little slow because otherwise it
23 won't be interpreted.

24 But let's take -- let's take this first -- this location that you mentioned. How far away
25 from Mukjar was this first location?

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1 A. [10:47:26] The first site we went to was approximately 700 metres away of
2 Mukjar, meaning less than 1 kilometre.

3 Q. [10:47:47] There was a UNAMID base built near Mukjar at some point. If you
4 can assist, how far away from the UNAMID base was this location?

5 A. [10:48:05] The location was about 25 or 30 metres away from the wall of the
6 UNAMID building in the northern direction.

7 Q. [10:48:22] Right. And you were telling us about the persons you found at this
8 location. Could you please slowly tell us these persons?

9 A. [10:48:40] The persons we found there were numerous. But we recognised
10 Abdelrahman Abdallah Musa, who -- correction, that person went with us -- ahead of
11 us with a Janjaweed friend of his to that location. We found *Umdah* Yahya Zarruq,
12 also *Umdah* Adam Husayn Abdelm Mahmoud. We also found Adam Naheed Numan
13 and Yusuf Muhajer and Adam Mohamed Babay.

14 Q. [10:49:30] Was this the only place you found bodies or did you find bodies
15 elsewhere?

16 A. [10:49:38] The corpses were numerous and we found them elsewhere too, but on
17 another day. Not on that same day.

18 Q. [10:49:51] Okay. Just focusing on this day, how much time after your release
19 was this visit to this site near the UNAMID base?

20 A. [10:50:07] Three days since my release from my prison cell.

21 Q. [10:50:23] Right, let's -- so you mentioned that you visited another site on
22 another date. Please tell us about that?

23 A. [10:50:36] I first -- I visited another site near the first site and I have given the
24 number 2 to this other site, and it was west of UNAMID. There, we found even
25 more corpses than what we had found at the first site. At this second site the corpses

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1 were stacked on top of each other, inside the creek, other corpses were scattered
2 randomly around.

3 Q. [10:51:20] And were these two the only locations, or did you find bodies at
4 another location?

5 A. [10:51:27] I found corpses at the third site approximately 7 kilometres away of
6 the two other sites. Afterwards, we also found a fourth site located between site 1
7 and site 3.

8 Q. [10:52:02] I'd like to pull up a sketch right now, and this is -- it should be annex I
9 to the first witness statement. If someone can -- if the court officer could assist the
10 witness look at the Arabic version, which is 0217-0264. And the redacted English
11 version is 0217-0495.

12 THE COURT USHER: [10:52:35] Could counsel please indicate the tab numbers.

13 MR SACHITHANANDAN: [10:52:38] Yes, so it's tab 28 and 29. So the Arabic is 28
14 and the English is 29. And let's please use the redacted version for the public and we
15 can scroll down so that we can actually see the sketch.

16 Q. [10:53:37] Mr Witness, am I right in thinking that we are looking at a drawing by
17 you of the various locations where you found bodies?

18 A. [10:53:53] Correct. This is a sketch that I drew of the four sites that can be seen
19 here.

20 Q. [10:54:04] Right, and you can see Mukjar police station here, and the locations 1,
21 4 and 3 are not the Mukjar police station, correct?

22 A. [10:54:24] Yes, the location in the middle is the police station. The other
23 areas -- the other numbers 1, 2, 3 and 4 above that are the sites where I found corpses.

24 Q. [10:54:42] And am I right in thinking that the location 1 is where you found
25 *Umdah* Zarruq and the others you mentioned by name?

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1 A. [10:54:55] Yes.

2 MR SACHITHANANDAN: [10:55:06] Your Honour, we are at a logical stopping
3 point. Do you mind if we take the break five minutes early and start five minutes
4 early?

5 PRESIDING JUDGE KORNER: [10:55:20] That's fine. I mean, I take you're nearly
6 completed, as far as I can tell?

7 MR SACHITHANANDAN: [10:55:26] I have a few video clips to play, and yes, I
8 mean, definitely done by -- before the end of the next session.

9 PRESIDING JUDGE KORNER: [10:55:33] All right. Okay. Yes, the video clips
10 and then I suppose you've got paragraph 144 to deal with.

11 All right, yeah, we'll take the break now and sit again at 11.20.

12 MR EDWARDS: [10:55:53] Yeah, I was just going -- I'm sorry to interrupt. I
13 wonder if we could come back at the normal hour. Your Honours may have
14 received an email from Mr Laucci --

15 PRESIDING JUDGE KORNER: [10:56:01] Yes, you weren't aware of it then?

16 MR EDWARDS: [10:56:04] Only because I hadn't opened a particular message, he
17 had notified us. But I'm going to have to speak with him and the more time we
18 have --

19 PRESIDING JUDGE KORNER: [10:56:14] You're taking the next witness -- I mean,
20 I'm sorry, you're cross-examining this witness.

21 MR EDWARDS: [10:56:21] Yes. I think the question is going to be about the next
22 witness.

23 PRESIDING JUDGE KORNER: I see, all right, yes.

24 MR EDWARDS: [10:56:24] So if I could have as much time as possible.

25 PRESIDING JUDGE KORNER: [10:56:28] Do you know if you will finish today?

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- 1 Probably not?
- 2 MR EDWARDS: [10:56:31] Not --
- 3 PRESIDING JUDGE KORNER: [10:56:32] So this witness will go into Monday?
- 4 MR EDWARDS: [10:56:36] Absolutely, yeah. And I gather that my learned friend,
- 5 Ms von Wistinghausen has --
- 6 PRESIDING JUDGE KORNER: [10:56:46] Yes, well, I suppose actually
- 7 Ms Wistinghausen will have a few questions.
- 8 All right. Is he likely to take all of Monday?
- 9 All right, well, you can --
- 10 MR EDWARDS: [10:56:52] I'm not sure, not sure.
- 11 PRESIDING JUDGE KORNER: Yeah, all right.
- 12 MR EDWARDS: [10:56:53] Could well do.
- 13 PRESIDING JUDGE KORNER: [10:56:55] All right. So the Prosecution know about
- 14 bringing the next witness up.
- 15 Yeah, all right, 11.30, then.
- 16 THE COURT USHER: [10:57:03] All rise.
- 17 (Recess taken at 10.57 a.m.)
- 18 (Upon resuming in open session at 11.33 a.m.)
- 19 THE COURT USHER: [11:33:59] All rise.
- 20 Please be seated.
- 21 MR SACHITHANANDAN: [11:34:38]
- 22 Q. [11:34:39] Mr Witness, I'm going to show you a few videos and ask you a few
- 23 questions about that.
- 24 Can the court officer please pull up 0220-5444. And let's paused at the very
- 25 beginning for the moment. That's right.

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1 And for the record, this is a subtitled version of the original, which is 0217-0278.

2 Can we please play from 0 to around 25, and this can be public.

3 THE INTERPRETER: [11:35:37] Does counsel wish the interpreters to read the
4 transcript?

5 MR SACHITHANANDAN: [11:35:44] No, thank you.

6 (Viewing of the video excerpt)

7 MR SACHITHANANDAN: [11:36:07] We can stop now. And let's fast forward
8 around 45 seconds and play again, please. Same video, yes.

9 PRESIDING JUDGE KORNER: [11:36:33] Sorry, I'm not getting it on my screen.

10 MR SACHITHANANDAN: [11:36:40] It should be on evidence 1, your Honour. If
11 you press evidence 1 under your mic.

12 And if we can play this video until about 1:08; 1 minute, 08 seconds.

13 (Viewing of the video excerpt)

14 MR SACHITHANANDAN: [11:37:22]

15 Q. [11:37:23] Mr Witness, do you recognise this location?

16 A. [11:37:30] Yes. Yes, I know. This is number 1, location number 1.

17 Q. [11:37:38] Meaning location number 1 that you just mentioned a few minutes
18 ago; is that correct?

19 A. [11:37:50] Yes. Yes. Number 1, in which these people were killed, yes.

20 Q. [11:38:01] Can you just remind us which bodies you discovered in location 1.

21 A. [11:38:08] The dead bodies we found here, *Umdah* Yahya Ahmad Zarruq, and
22 that of *Umdah* Adam Husayn Abdelm Mahmoud, and that of Ibrahim Muhammad Ali
23 Ballut, and that of Adam Naheed Numan and Yusuf Muhajer, and other persons, of
24 course.

25 Q. [11:38:45] And am I correct in thinking that this is the location which is close to

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1 the -- where the UNAMID base was built; is that correct?

2 A. [11:38:55] Yes. This is the area next to UNAMID and close -- 700 metres from
3 the police station.

4 Q. [11:39:08] Can you tell us, when was the UNAMID base built? Which year?

5 A. [11:39:16] In 2005. In July 2005. But at that time it was called the
6 African Union, AU. And after that, of course, it became a base for UNAMID,
7 because it's a -- common between the United Nations and African Union.

8 MR SACHITHANANDAN: [11:39:42] And just for the record, we stopped at 1:08.

9 Can we please now go --

10 Your Honour, we might have to go into private session for the next clip.

11 PRESIDING JUDGE KORNER: [11:39:57] Yes, very well.

12 Private session.

13 (Private session at 11.40 a.m.)

14 THE COURT OFFICER: [11:40:04] We're in private session, Madam President.

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7 PRESIDING JUDGE KORNER: [11:46:32] Yes. Well, can I suggest that, really, if

8 before videos and other documents are produced, the Defence and Prosecution get

9 together, see if they can agree the dates. I think it's a mistake to ask witnesses,

10 because, not surprisingly, witnesses get dates wrong. And if the evidence's showing

11 when it was done, then it should be agreed.

12 While I'm at it, I did make myself a note as the witness referred to sunrise again,

13 could somebody -- sorry, somebody -- could the Defence and Prosecution and, of

14 course, the victims representatives please agree that the dates of sunset and sunrise

15 throughout the year in Darfur, rather than us having to guess.

16 Yes, all right. Thank you.

17 (Redacted)

18 (Redacted)

19 (Redacted)

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24 (Open session at 11.58 a.m.)

25 THE COURT OFFICER: [11:58:52] We are back to open session, Madam President.

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1 MR SACHITHANANDAN: [11:59:05] I'm going to -- I'm going to call up a sketch.

2 This should be Annexure E, that is tab 19 and 20. The English version is 217-483,
3 redacted, please. And the Arabic is 217-256 and if that can be -- the physical copy
4 can be shown to the witness.

5 Q. [12:01:12] Mr Witness, do you -- do you recognise this location?

6 A. [12:01:18] I do. This is the second burial site.

7 Q. [12:01:26] Did you -- did you draw this image?

8 A. [12:01:31] I did. I drew it myself.

9 Q. [12:01:36] Please describe to the Court what you found at this location?

10 A. [12:01:43] What I found in this location is the largest number of corpses in
11 comparison to all other sites and we found them stacked inside the creek or *khor*,
12 inside of it, and other scattered corpses around it. These corpses were in the
13 hundreds.

14 Q. [12:02:26] When did you visit location 2?

15 A. [12:02:31] I visited location 2 after my visit with Abdelrahman Mohamed Musa
16 and Yahia Ishaq at the first site. I visited the second site in the same week after my
17 release from prison.

18 Q. [12:02:55] Thank you, Mr Witness.

19 Just for the record, I had called up 217-483, this is 217-486, that's fine because we've
20 now elicited the correct -- the evidence relating to this image. But can we now move
21 on to Annexure E to the first statement, which is, I repeat, 0217-0483, 483. That's the
22 English. And the Arabic is 0217-256. And if the witness can be please assisted with
23 the Arab physical version.

24 THE COURT OFFICER: [12:03:58] Could counsel please confirm the tabs.

25 Thank you.

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1 MR SACHITHANANDAN: [12:04:01] Tabs 20 and 19 in the binder.

2 Q. [12:04:21] Mr Witness, am I right in thinking that you drew this?

3 A. [12:04:26] This is the sketch of the first burial site and indeed it's me who drew
4 this.

5 Q. [12:04:41] And is this the same location 1 that you mentioned in the context of
6 two of the videos shown to you?

7 A. [12:04:50] Indeed, location 1 in the context of the videos, the video where I was
8 with the governor and the other video where I was with a journalist by the creek. It
9 is the same location, indeed.

10 Q. [12:05:17] You told us that you recognised *Umdah* Yahya by way of the
11 underclothing he was wearing. Was that the only way you recognised him or was
12 there any other way?

13 A. [12:05:31] I recognised *Umdah* Yahya also because of a ring he had in his hand,
14 a silver ring that was dug in that place where he also had his undergarments.

15 Q. [12:05:54] When *Umdah* Yahya was at the prison, did you see that ring or did
16 you not see that ring?

17 A. [12:06:06] Yes, I did. I saw him wearing the ring. And for a long time he
18 always had that ring on. Even when he was taken out of prison, he still had the ring
19 on. He never took off that ring.

20 Q. [12:06:31] Was this the only *umdah* you recognised here or did you recognise any
21 other *umdahs*?

22 A. [12:06:43] I also recognised *Umdah* Adam Husayn Abdelmahmoud, the *umdah* of
23 Doorri. I also recognised him there.

24 Q. [12:06:55] And how do you recognise *Umdah* Doorri?

25 A. [12:07:05] I recognised him when Abdelrahman Abdallah Musa described to me

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1 that that person was the *umdah* of Doori. And I saw him wearing the clothes what
2 we call the *ansari*, the *ansari* outfit. That's what we call it. So his corpse was dressed
3 in that *jallabiya* that he had on.

4 Q. [12:07:35] Did you see the *Umdah* Doori at the Mukjar prison or did you not?

5 A. [12:07:44] I was with him in cell 4. All *umdahs* were with us in cell 4, the three
6 *umdahs* that I have previously mentioned.

7 Q. [12:08:00] And when *Umdah* Doori was with you in the cell, was he wearing this
8 *ansari* or was he wearing something else?

9 A. [12:08:14] He was wearing the *al ansari* outfit. He never took it off. And when
10 he found his corpse, he -- we found him dressed in that too.

11 Q. [12:08:28] Did you recognise by appearance anyone else at location number 1?

12 A. [12:08:44] I recognised many, actually. Adam Naheed Numan is someone I
13 recognised. He had a striped shirt. I also recognised someone called Abd-al-Jabbar
14 Abd-al-Mawla, who was with us -- who had been with us in the cell. He used to
15 work as a medical assistant.

16 Q. [12:09:08] How exactly did you recognise the body of Abd-al-Jabbar?

17 A. [12:09:22] He was wearing the trousers of a particular colour. He had been
18 with us in the cell, so when we went there, we found the same trousers on him.

19 Q. [12:09:40] Did you recognise anyone else by their physical appearance?

20 A. [12:09:46] I recognised Muhammed Ali Ballut and many others.

21 Q. [12:10:01] How did you recognise Muhammed Ali Ballut?

22 A. [12:10:08] I knew him from before and when I found his corpse, his face was not
23 much different from what I knew.

24 Q. [12:10:29] Thank you. I'm going to leave this sketch and move on to a different
25 sketch.

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1 Can we please pull up tab 24 and 23, which would be -- the English version would be
2 0217-0489, and the Arabic hard copy should be 0217-0260. And if the court officer
3 could please assist the witness.

4 And of course the redacted version can be shown to the public.

5 Q. [12:12:10] Mr Witness, is this an image of location 3 drawn by you?

6 A. [12:12:16] It is. It is location 3 and indeed I drew this.

7 Q. [12:12:29] And is it the same location 3 you mentioned in one of the videos we
8 showed you?

9 A. [12:12:37] It is the video where you see Yacoub Ishaq. That's the video that
10 refers to this same location.

11 Q. [12:12:55] Did you recognise any bodies at this particular location?

12 A. [12:13:11] I did. I recognised Abdallah Ahmed Hassan and others. Including
13 Bahr-al-Din, Abdullah Jibril and others.

14 Q. [12:13:39] Could you please tell us Bahr-al-Din's full name. I'm afraid the
15 transcript did not catch it.

16 A. [12:13:55] It's Bahr-al-Din Idris Mohamed Abdelrahman.

17 Q. [12:14:08] When you said -- actually, how did you recognise that this was
18 Bahr-al-Din's body?

19 A. [12:14:17] He was one of the students with us at the school and we found him in
20 the same clothes when we recognised him there.

21 Q. [12:14:36] Am I understanding you correctly that he was wearing the same
22 clothes when he was detained with you, or am I -- am I wrong there?

23 A. [12:14:49] Yes.

24 Q. [12:14:57] And Abdallah Ahmed Hussein, how did you recognise the body of
25 Abdallah Ahmed Hussein?

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1 A. [12:15:10] It is actually Abdallah Ahmed Hassan and not Hussein. I recognised
2 him also because of his outfit. He used to wear something specific and he had been
3 with us in the cell.

4 Q. [12:15:29] And Jibril, what is Jibril's full name and how did you recognise his
5 body?

6 A. [12:15:40] As far as I know, he's called Abdullah Jibril, and I recognised his body
7 because he was tall of a sturdy build. He was one of the largest build among those
8 buried there. I found him along with Abdelrahman Abdallah Musa -- Abdelrahman
9 Abdallah Musa was the one who recognised his corpse. He told us so. And when
10 we went to his corpse, indeed, we found that it was him.

11 Q. [12:16:15] Mr Witness, I'm reminded again that we should speak a little slower.
12 Am I right in understanding that at (Redacted)
13 (Redacted), is that correct?

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

15 Q. [12:16:51] Does that include location 1?

16 A. [12:16:56] Locations 1, 2, 3, 4 are all included in that.

17 Q. [12:17:09] Do you know someone called (Redacted)?

18 A. [12:17:24] I do. He was with me in the village and he (Redacted)
19 (Redacted) in the village of (Redacted) He was then arrested with me at the police
20 station. Later, he (Redacted).

21 Q. [12:17:51] We can take this sketch off the screen right now.

22 I would like to call up tab 62 now. That -- not for broadcast to the public. That is
23 DAR-OTP-0224-0804.

24 And actually, while that's being pulled up, I'll ask a few questions from the witness.

25 Mr Witness, you remember you told us that you made a list of victims, a list of

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1 persons who -- who were detained and then killed. Do you remember that?

2 A. [12:18:58] I do.

3 Q. [12:19:03] Do you remember sitting in the last week and going through that list
4 and providing revisions and corrections?

5 A. [12:19:27] I do.

6 Q. [12:19:30] And do you remember giving us information about which victims
7 you saw with your own eyes in the prison and which victims you did not see with
8 your own eyes but you heard about from someone else?

9 A. [12:19:53] I do.

10 Q. [12:19:56] And do you remember also clarifying which victims you saw yourself
11 at a particular execution site and which victims you heard about from others?

12 A. [12:20:13] I do.

13 Q. [12:20:15] And providing additional information about ethnicity and occupation
14 of the victims?

15 A. [12:20:23] Yes.

16 Q. [12:20:33] And then do you remember that this was placed into a chart or a table
17 and read back to you.

18 A. [12:20:48] I do.

19 Q. [12:20:50] Right. Can we please show the witness the last page of this list
20 where there should be a signature.

21 And then do you remember, after having that list read back to you, as indicated in
22 front of you, you signed that -- you confirmed that the list was accurate and you
23 signed the list?

24 A. [12:21:26] Yes, I confirmed the accuracy of this list and I signed it, and there is
25 my signature, as you can see.

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1 Q. [12:21:36] Thank you.

2 This can be taken off. Unless, your Honour, you have any questions related to the
3 list?

4 PRESIDING JUDGE KORNER: [12:21:47] No, thank you.

5 MR SACHITHANANDAN: [12:21:49] Yes, this can be taken off.

6 Q. [12:22:18] Mr Witness, do you need a break? I'm just wondering, I'm trying to
7 guess from your face, but tell us if you need a break.

8 A. [12:22:32] Not at all. Based on the Presiding Judge's announcement, there will
9 be some break in due course. I do not need a special break at this point.

10 PRESIDING JUDGE KORNER: [12:22:47] Sir, we'll break for lunch at 1 o'clock for
11 one and a half hours, and I anticipate that the Prosecution will conclude their
12 questions of you by lunchtime and that's when we'll have the break.

13 MR SACHITHANANDAN: [12:23:12] Can we please show the witness tab 40 and 41,
14 that is to say, the English version should be 0220-3138, and the Arabic hard copy
15 should be 0216-0492.

16 And the English version can be displayed on the screen if necessary.

17 Q. [12:24:57] Mr Witness, is -- is this part of the list of 97 persons that you originally
18 made and showed to the Prosecution and that we revised this week?

19 A. [12:25:12] Yes.

20 Q. [12:25:15] Yes, we can move on.

21 MR SACHITHANANDAN: [12:25:28] And your Honour, this is the underlying list
22 that was revised by the witness this week, so I'm not going to -- I'm not going to go
23 through all the pages of this list because we now have on the record a new
24 and finalised list.

25 PRESIDING JUDGE KORNER: [12:25:44] I don't think you need to go through any

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1 old list at all.

2 MR SACHITHANANDAN: [12:25:56]

3 Q. [12:25:57] Mr Witness, do you know someone -- anyone called Jiddo?

4 A. [12:26:02] I do.

5 Q. [12:26:05] At the time when people were imprisoned in Mukjar police station in
6 March 2004, where was Jiddo?

7 A. [12:26:15] Jiddo and others were arrested at the police station.

8 Q. [12:26:26] When people, as you described, were taken away from Mukjar police
9 station, did Jiddo remain in the police station or was he taken away?

10 A. [12:26:41] Jiddo was taken among the group that Ali Kushayb took to the sites
11 I -- the site I had previously designated as locations, or burial sites 1 and 3. He took
12 those people with him. But that person survived.

13 Q. [12:27:14] And how is it that you know he survived?

14 A. [12:27:27] At first, they told me that he survived. I saw him also much later. I
15 saw him alive with my own eyes.

16 Q. [12:27:45] What is Jiddo's full name?

17 A. [12:27:51] Jiddo's full name is Mohamed Abaker Abdou Rahman.

18 Q. [12:28:07] Do you know anyone called Harun Ahmed Abdelkarim?

19 A. [12:28:15] I do. I know someone called Harun Ahmed Abdelkarim. I'm well
20 acquainted with that person.

21 Q. [12:28:26] When people were detained at Mukjar police station in March 2004,
22 where was Harun -- Harun Ahmed Abdelkarim?

23 A. [12:28:39] Harun Ahmed Abdelkarim was with us in cell 4. And he was taken
24 among those who were taken out of that cell, including the aforementioned *umdahs*.

25 Q. [12:28:59] And was he killed, or did he survive?

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1 A. [12:29:04] He survived. He is still alive today. I, however, have not seen him
2 for a long time.

3 Q. [12:29:20] Thank you, Mr Witness. We're going to move on now to a different
4 topic.

5 You said you saw Ali Kushayb at Mukjar police station in March 2004. Was that the
6 last time you saw him, or did you ever see him again?

7 A. [12:29:43] I saw him twice afterwards.

8 Q. [12:29:51] Right. So let's take that step by step.

9 What was -- please describe to the Court the first time you saw Ali Kushayb after
10 March 2004.

11 A. [12:30:07] I saw him in Garsila at his shop. He had a drugstore, a veterinary
12 drugstore. When I heard -- at that point, I -- I had previously heard that Ali Kushayb
13 had a shop in Garsila, so I figured I should go there and check that myself. So I went
14 to Garsila where I had business colleagues working in the market. One of them was
15 called Daoud Hassan. Another person was called Abaker Omar. So I went to them,
16 greeted them and asked them where Ali Kushayb's drugstore was. So they
17 described to me that it was west of the agricultural bank.

18 I went to his shop. And when I approached him, I saw with my own eyes -- I
19 recognised with my own eyes that it's the same person who had been in Mukjar on
20 March 2 of 2004. So I approached him and I asked him about the medicine,
21 a medicine called *mujmouu*, a medicine given to donkeys. And I had a donkey.
22 So I approached him, and I asked him about the medicine and if it was available. He
23 said yes. So I said, "Well, could you give me that?" And so he stood up and
24 retrieved the medicine from one of the shelves in the shop. He gave me the
25 medicine, and I gave him the money and left. This was in April 2004.

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1 Q. [12:32:17] Could you tell us -- actually, when you say April 2004, is that correct?

2 I'm not sure I heard that correctly. Did you say the fourth month of 2004? Is that
3 what you said?

4 A. [12:32:53] Indeed, I said the fourth month, April, of 2004.

5 PRESIDING JUDGE KORNER: [12:33:00] So that's a month after all of this, if -- if
6 that's right.

7 THE WITNESS: [12:33:11](Interpretation) Approximately 50 days afterwards, give
8 or take. Things had calmed down then. Some organisations, including MSF, have
9 come down there, and people have started to move around again. That's what
10 happened on that point in time.

11 MR SACHITHANANDAN: [12:33:32]

12 Q. [12:33:32] Can you describe to the Court the location of Ali Kushayb's pharmacy
13 in Garsila.

14 A. [12:33:40] Ali Kushayb's pharmacy in Garsila is west of the Agricultural Bank,
15 and it opens towards the east.

16 Q. [12:34:04] How long did you talk to Ali Kushayb in his pharmacy?

17 A. [12:34:12] Between three -- two to three minutes. Between two to three
18 minutes.

19 Q. [12:34:36] And when you were talking, what was the distance between you?

20 A. [12:34:42] Less than 2 metres. Because he gave me the drug, and I took it from
21 him, and I paid the amount, and he took that amount from me. So it was very close.

22 PRESIDING JUDGE KORNER: [12:35:02] I think if you hand over for medicine,
23 you're pretty close.

24 MR SACHITHANANDAN: [12:35:09] You would imagine, your Honour.

25 Q. [12:35:12] And if you could explain to the Court, what did it feel like to talk to

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1 Ali Kushayb after your experience in Mukjar prison, at this point, in the pharmacy?

2 A. [12:35:26] My feeling, I was very sad, but I went specifically to see that this is Ali
3 Kushayb, the same person, when the situation has calmed down. So I just wanted to
4 know -- to make sure that this is Ali Kushayb. So my feelings, I was very sad,
5 indeed. So I just wanted to make sure that this is the same person I came to know as
6 Ali Kushayb.

7 Q. [12:35:58] What was he wearing when you saw him in the pharmacy?

8 A. [12:36:29] He was dressed in a white *jallabiya*. He was wearing a white *jallabiya*.

9 MR SACHITHANANDAN: [12:36:43] Your Honour, I'm going to move on to
10 paragraph 145, unless you have any questions on this.

11 PRESIDING JUDGE KORNER: [12:36:49](Microphone not activated) time of the day
12 when you went to the shop?

13 THE WITNESS: [12:36:54](Interpretation) This was Thursday, which is the market
14 day, on Thursday, but I don't remember the date. But it's a Thursday, because it's
15 the market day.

16 PRESIDING JUDGE KORNER: [12:37:14] Yes, but roughly, what -- what sort of time
17 of day? Morning? Afternoon? Evening?

18 THE WITNESS: [12:37:23](Interpretation) In the morning, before breakfast. In the
19 morning.

20 PRESIDING JUDGE KORNER: [12:37:30] Yes, thank you.

21 MR SACHITHANANDAN: [12:37:32]

22 Q. [12:37:34] You said that this was one of the times you saw Ali Kushayb.

23 A. [12:37:43] (Overlapping speakers)

24 Q. [12:37:51] I want to ask about the next occasion.

25 Actually, your Honour, can I ask just one question in private session, and then we can

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1 come back.

2 PRESIDING JUDGE KORNER: [12:38:04] Yes.

3 (Private session at 12.38 p.m.)

4 THE COURT OFFICER: [12:38:09] We're in private session, Madam President.

5 (Redacted)

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22 (Open session at 12.40 p.m.)

23 THE COURT OFFICER: [12:40:13] We're back in public session, Madam President.

24 MR SACHITHANANDAN: [12:40:29]

25 Q. [12:40:31] Now, on this occasion when you saw Ali Kushayb -- yeah, can you --

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1 A. [12:40:38] (Overlapping speakers)

2 Q. [12:40:39] I'm sorry, one minute.

3 Can you estimate --

4 PRESIDING JUDGE KORNER: [12:40:55] What was that?

5 MR SACHITHANANDAN: [12:40:57] I was just checking whether you wanted to
6 ask anything.

7 PRESIDING JUDGE KORNER: [12:41:01] No, thank you very much.

8 MR SACHITHANANDAN: [12:41:04]

9 Q. [12:41:05] Mr Witness, using the courtroom as an aid to estimating distance, can
10 you tell us how far were you from Ali Kushayb at this time. Were you, for example,
11 further than where I am to you or where I am to you, or closer than where I am to
12 you?

13 A. [12:41:30] This is with myself and Ali Kushayb? Maybe the distance between
14 myself and those who are sitting in front of the Judges.

15 Q. [12:41:49] Right. And when you saw him, at this distance, was there anything
16 obstructing your view or not?

17 A. [12:41:57] No, no. No.

18 Q. [12:42:07] Around what time of day was this?

19 A. [12:42:11] In the morning. Between 10 and 11 in the morning.

20 Q. [12:42:22] Without mentioning the names of any person, can you tell us,
21 did -- did you hear Ali Kushayb speaking or did you not?

22 A. [12:42:37] Yes. I heard him, because he talked to someone, and he also stopped
23 with this person for maybe four or five minutes. And after that, of course, he left
24 and he went to his car and moved away.

25 MR SACHITHANANDAN: [12:43:13] Your Honour, I'm going to leave this point,

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1 unless there are questions from the bench.

2 Q. [12:43:19] Mr Witness, we're going to move to a different topic now.

3 Mr Witness, do you remember marking, using global positioning, or GPS, various
4 locations in Mukjar and elsewhere?

5 A. [12:43:47] No. I have not used this before. I used it in Mukjar for the reason I
6 gave in the previous statement.

7 PRESIDING JUDGE KORNER: [12:44:16] Is this going to take it any further? I take
8 it you're looking at 153 and 154.

9 MR SACHITHANANDAN: [12:44:25] Yes, your Honour. I'm -- I'm actually
10 debating -- discussing with my team whether we should do this in private very
11 briefly.

12 PRESIDING JUDGE KORNER: [12:44:30] But do you need to do it at all? Unless
13 there's going to be a dispute.

14 Mr Edwards, is there any dispute about these locations, leaving aside anything else,
15 but the actual locations?

16 MR EDWARDS: [12:44:49] We -- essentially, no. Put it this way: We're not in
17 a position, of course, to gainsay these locations.

18 MR NICHOLLS: [12:45:10] Sorry. Just to follow up on that a bit. So then I take it
19 there's not going to be a dispute about the equipment used, how -- how the
20 GPS -- thank you.

21 MR SACHITHANANDAN: [12:45:30] Your Honour, I'm essentially done. I just
22 want a minute to check with my team if I've missed anything.

23 (Counsel confer)

24 MR SACHITHANANDAN: [12:45:57] Your Honour, I'll have one question in
25 private session, and then I'll be done.

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1 PRESIDING JUDGE KORNER: [12:46:02] Yes, all right.

2 (Private session at 12.46 p.m.)

3 THE COURT OFFICER: [12:46:06] We're in private session, Madam President.

4 MR EDWARDS: [12:46:21] Your Honour, sorry, before we go into that, obviously,

5 we don't take issue with the functioning of the GPS system, and so on. I do note,

6 however, that in the witness's second statement, he -- he made a couple of mistakes in

7 terms of the GPS locations. So I don't know if that needs to be dealt with or not,

8 or -- I don't have any particular proposition to make. It's just that I note that for the

9 record.

10 PRESIDING JUDGE KORNER: [12:46:53] Where in the second statement does he

11 correct it?

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 MR SACHITHANANDAN: [12:47:31] That and a few other locations, which I

17 understand are also not contested, such as the location of Mukjar police station, et

18 cetera.

19 PRESIDING JUDGE KORNER: [12:47:38] Well, quite. I mean, that one, I don't

20 think anybody's contesting. So -- I would really -- rather than getting into the

21 intricacies of GPS, if it's not necessary, then -- and the fact that he made some errors.

22 MR SACHITHANANDAN: [12:47:51] We could file an investigator's note on to the

23 record just confirming that paragraph.

24 PRESIDING JUDGE KORNER: [12:48:03] All right. Why don't you just put the

25 paragraph to him and be done with it. We've now wasted five minutes on my

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1 unhelpful intervention.

2 MR SACHITHANANDAN: [12:48:09] Yes. So perhaps we can go into private, and
3 I'll ask one question about this and another question about something else.

4 PRESIDING JUDGE KORNER: [12:48:19] All right.

5 Into private session then.

6 THE COURT OFFICER: [12:48:27] We are in private session, Madam President.

7 MR SACHITHANANDAN: [12:48:30] My apologies. I've completely lost track of
8 what's going on.

9 Can I ask the court officer just to show paragraph 44 of the third statement to the
10 witness. It might be the easiest way to do it.

11 PRESIDING JUDGE KORNER: [12:48:42] In Arabic?

12 MR SACHITHANANDAN: [12:48:44] In Arabic, yes, please.

13 Q. [12:49:41] Mr Witness, are you reading paragraph 44 of your second statement?

14 Have you read paragraph 44 of your second statement?

15 A. [12:50:23] Yes, yes, I read it, yes.

16 Q. [12:50:26] Can you confirm the accuracy of what you say in paragraph 44?

17 A. [12:50:31] I made a mistake, yes.

18 Q. [12:50:45] I'm going to move on to something else now.

19 PRESIDING JUDGE KORNER: [12:50:48] Let me just deal with it this way: Sir, you
20 gave the Office of the Prosecutor in your first statement some information about GPS
21 coordinates. Did you correct those in the second statement which you've just read?

22 THE WITNESS: [12:51:06](Interpretation) Yes, I corrected that, yes.

23 PRESIDING JUDGE KORNER: [12:51:11] And are you satisfied that what you've
24 now said in that statement is accurate?

25 THE WITNESS: [12:51:21](Interpretation) Yes, that is correct. And correct -- I

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1 corrected that, yes.

2 PRESIDING JUDGE KORNER: [12:51:25] Yes, thank you.

3 Yes. What's the other topic you want to ask?

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Open session at 12.53 p.m.)

16 THE COURT OFFICER: [12:53:25] We're back in public session, Madam President.

17 MR SACHITHANANDAN: [12:53:50] I've just one question, your Honour.

18 Q. [12:53:53] Mr Witness, do you know anyone called Hamza Yunis?

19 A. [12:54:02] Yes, I know him very well.

20 Q. [12:54:03] At the time that people are detained in Mukjar prison in March 2004,
21 where was Hamza Yunis?

22 A. [12:54:14] I saw Hamza Yunis, who was taken from Bindisi, and he lives in
23 Kodoom. And I saw some bloodstains on his body. And they brought him in the
24 police -- to the police station. But where they put him and in which cell, I do not
25 remember the details about that.

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1 Q. [12:54:41] Sorry, it's not clear in the transcript where he was taken from. Could
2 you please repeat the first part of your sentence.

3 A. [12:54:53] Hamza Yunis was brought from Bindisi. He was inhabitant of
4 Kodoom. When they brought him to the police station, I saw him and saw
5 bloodstains, but I don't know what happened after that.

6 Q. [12:55:18] Thank you, Mr Witness.

7 Your Honour, I'm done. I'd like to place the ERN of the GPS records on record, if
8 that's all right.

9 PRESIDING JUDGE KORNER: [12:55:28] Yes.

10 MR SACHITHANANDAN: [12:55:30] So the Arabic ERN is DAR-OTP-0219-4005
11 and the English is 0219-4767.

12 Thank you, Mr Witness. Those are my questions.

13 PRESIDING JUDGE KORNER: [12:55:48] Yes. Sir, that's -- what we do is, we'll
14 take the break now before the representatives of the victims ask you some questions.
15 So if you would like to leave court with the court officer now and be back please
16 ready to start again at 2.30.

17 (The witness exits the courtroom)

18 PRESIDING JUDGE KORNER: [12:56:42] Yes, Mr Edwards.

19 MR EDWARDS: [12:56:45] Very, very briefly. I inadvertently misled the Court a
20 little earlier on when I indicated that the (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted). I won't say in

24 open court what his pseudonym is, but he is on the list of witnesses.

25 PRESIDING JUDGE KORNER: [12:57:17] Well, I rather thought it was, as I was told

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1 that we were going to see this video again. And, actually, can I discuss this whole
2 question of showing videos?

3 Thank you very much, Mr Edwards. I mean, that's, as I'd say, very proper to -- to
4 accept that. Is there something else you wanted to raise?

5 MR EDWARDS: [12:57:38] No. (Overlapping speakers) You're addressing the
6 bar.

7 PRESIDING JUDGE KORNER: [12:57:40] Yeah, I'm addressing the bar about this
8 question of videos. It does seem to me that these videos, there aren't very many of
9 them in this case, and the ones that are should be seen publicly, if at all possible.

10 I don't see why it's not possible to play the video in front of the witness and then go
11 into private session for anything that -- where you're going to be saying to a witness,
12 "Is that you," or whatever it is, or "Can you identify anybody?"

13 But it seems to me, to give the public a feel for what this case is all about, and those
14 are very powerful images, is important. So if you can find some way of playing
15 them publicly, as opposed to just the witness, it is -- it does seem to me, as I say,
16 possible to ask the witness questions about it without identifying who he is.

17 MR NICHOLLS: [12:58:43] Yes, we'll do that, your Honour. And it may be that on
18 occasion we play them with different witnesses again in order to -- again, we're in
19 public session now, but sometimes, you know, with a particular witness, it may not
20 be a good idea. But we will find a way to play those publicly.

21 PRESIDING JUDGE KORNER: [12:59:01] Well, I do think it's important. We are
22 talking about events an awful long time ago, and I think it's important that the public
23 be reminded of what happened.

24 Yes, thank you all very much.

25 So at 2.30, please.

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1 THE COURT USHER: [12:59:17] All rise.

2 (Recess taken at 12.59 p.m.)

3 (Upon resuming in open session at 2.32 p.m.)

4 THE COURT USHER: [14:32:50] All rise.

5 Please be seated.

6 PRESIDING JUDGE KORNER: [14:33:20] Yes.

7 I hope you had a good break, sir. And you're now going to be asked questions on
8 behalf of the -- or by the representatives of the victims in this case.

9 Ms von Wistinghausen.

10 QUESTIONED BY MS VON WISTINGHAUSEN:

11 Q. [14:33:53] Yes, Mr Witness. As you know, my name is Natalie von
12 Wistinghausen. We have met yesterday and had the opportunity to speak a little bit.
13 Ah, witness is raising his hand. I think the interpretation isn't working.

14 PRESIDING JUDGE KORNER: [14:34:09] He can't hear. Yeah, I think -- it's not
15 being interpreted, I don't think.

16 Could somebody go and check his mic -- his earphones, sorry.

17 THE INTERPRETER: [14:34:25] Message from the English booth: the Arabic
18 interpretation is coming through loud and clear.

19 MS VON WISTINGHAUSEN:

20 Q. [14:34:47] Can you hear me now?

21 A. [14:34:50] Yes, I hear you very well.

22 Q. [14:34:52] Very good. So I will start again.

23 As you know, my name is Natalie von Wistinghausen. We have met yesterday, with
24 my team, and we had the opportunity to speak a little bit. You have filled a victim's
25 application form and you have asked to be a participating victim in these

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1 proceedings.

2 I think we -- we all agree, Madam President, and -- and the parties, that we don't have
3 a decision by the Trial Chamber yet, but I think we can all agree that, also after having
4 heard the witness's testimony today at least, he squarely falls within the charges
5 allegedly committed by the accused. And so we -- I would address him also on the
6 basis that I expect him -- him to be, you know, admitted as a participating victim, if
7 the parties agree, and of course the Trial Chamber does.

8 PRESIDING JUDGE KORNER: [14:35:50] Yes. I'm -- I'm really sorry that we
9 haven't given a decision. It may have fallen through the cracks.

10 MS VON WISTINGHAUSEN: [14:35:59] No, no, no, there's nothing to be sorry
11 about, because it also came late in the day.

12 PRESIDING JUDGE KORNER: Right.

13 MS VON WISTINGHAUSEN: [14:36:03] But you -- but you have been informed
14 and -- and you have agreed to apply the dual status protocol to this witness. I'm just
15 raising it because, you know, officially he's not a participating victim yet, but --

16 PRESIDING JUDGE KORNER: [14:36:18] Well, I think we can probably give an oral
17 ruling. Do we?

18 (Trial Chamber confer)

19 PRESIDING JUDGE KORNER: [14:36:21] Yes. You get an oral ruling: Yes, he is
20 a participating victim.

21 MS VON WISTINGHAUSEN: [14:36:33] Yes. Thank you. Out of transparency, I
22 just wanted to raise this from the very beginning.

23 Q. [14:36:38] So, Mr Witness, you -- you have -- you have asked to be
24 a participating victim in these proceedings, and you have just heard from the
25 Presiding Judge that this is also officially going to be decided. And it's on the basis

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1 of this that I'm going to ask you some questions regarding the witness statement that
2 you have given to the Prosecution, but I will also ask you to take the opportunity to
3 address the judges and to tell them about the harm you and your family have
4 suffered, the consequences of the attacks that you've been a victim of, and also to take
5 the liberty to raise the views and concerns that you would like to communicate to the
6 Trial Chamber.

7 But we will take it step by step. Is that all right?

8 A. [14:37:29] Yes, I do. This is correct.

9 Q. [14:37:38] Firstly, I would like to ask you about your home village, and you and
10 your family's life in your village before the attacks. Can you tell us a little bit about
11 the life in your home village before the conflict.

12 A. [14:38:00] I was with my family living in (Redacted) and we took the opportunity to
13 cultivate and work in trades and in raising livestock. I used to (Redacted)
14 (Redacted)

15 There was another belonging -- which is an oil press in (Redacted).

16 Q. [14:38:54] Mr Witness, I apologise for interrupting you, but I would like to
17 remind you that at the moment we are in open session. There will be questions I will
18 ask you in closed session, but for the moment try not to say anything that may -- that
19 may reveal your identity. Is that all right?

20 A. [14:39:24] Yes, that's all right.

21 Q. [14:39:29] So if I'm asking you how was life in your village before the attacks,
22 I'm not that much asking about your personal life, the life of your family, but more
23 what was the atmosphere in the village like, what were people doing.

24 A. [14:40:03] We were living in (Redacted), me and my family, and other families. We
25 were living in security, we were reassured. We had a good life.

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1 Q. [14:40:26] Did people grow crops or did they have livestock, cattle?

2 A. [14:40:36] People used to cultivate agriculture crops, different crops. And they
3 also had -- or they're rearing livestock. They also were working in trades. They
4 worked in cultivating bees.

5 Q. [14:41:01] Were there schools? Did children go to school?

6 A. [14:41:08] There was one school, in addition to a medical facility and a weekly
7 market. There was also one police station and one mosque for the -- for the Friday
8 prayers, and one Koranic school.

9 Q. [14:41:40] Thank you. And what did the houses look like? What were they
10 made of?

11 A. [14:41:51] Most of the houses were made of straw. However, there were some
12 houses, and every family had one house or two. They were afraid for fear of fire.
13 They -- those houses were made of red clay. However, 95 per cent of the houses
14 were made of haystack.

15 Q. [14:42:23] Thank you.

16 I would also ask to -- like to ask you about the community leadership structure. And
17 this is something that you addressed and that's, for the record, in Annexes A, A2 and
18 A3 of the first statement you gave to the Prosecution. And I would like you to
19 explain to the judges what were the duties of the *sheikhs* and the *umdahs* and the
20 *shartays*.

21 A. [14:43:03] In our community, the community leaders, starting with *shartay*, and
22 after that, at the lower level, *umdahs* and *sheikhs*, they assumed a social role to resolve
23 the dispute among the inter -- intertribes or intratribes. They were determining
24 weekly the family disputes. They would order people to do some action, like if there
25 were collective actions such as building houses. They were also participating in

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1 religious matters and social matters.

2 Q. [14:44:01] And keeping in mind that we are in a public session, can you tell us
3 about the role of imams. Did they also play a leadership role in the community?

4 A. [14:44:17] Imams, they were -- they also had chieftainship. The imam is
5 a leader in the mosque, or even he was in charge of the congregation. He is
6 a religious leader. All religious -- in all religious matters they would go back to him.
7 Even when there are problems between two persons, or between the man and his
8 wife, in any dispute the imam would sit, then the village *sheikh*, and then the *umdahs*,
9 they would sit together to reach reconciliation between these people. This is their
10 role.

11 Q. [14:45:13] And can you explain to us how these community leaders were
12 selected.

13 A. [14:45:23] Those community leaders, often they needed the consent of the
14 villagers. They would meet to decide on the imam. This would be determined
15 when they meet together. They would have a candidate which -- who is a religious
16 person, and when -- most of the people would consent to assign him as an imam, so
17 they would agree that he would be assigned as an imam. And a deputy imam
18 would be also assigned.

19 As for the village *sheikh*, the villagers themselves would confer and they would have
20 two or three persons, of whom they select one person, either upon consent or by
21 assigning them. And then they ask the *umdah* about that and the *umdah* in turn
22 would ask the *shartay* to make a decision.

23 Q. [14:46:39] We have heard from other witnesses, and -- and from yourself, that
24 many community leaders had to flee, or were killed. And can you tell us what
25 impact this had on the community.

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1 A. [14:47:00] The community leaders, most of them were killed because they were
2 targeted directly. It's true most of them were killed.

3 Q. [14:47:19] Did this, from your experience, have an impact on the community, on
4 the families, on the -- on the functioning of the community?

5 A. [14:47:32] Certainly, we were all impacted by that, in addition to all the victims
6 and the displaced persons, because they lost their leaders on whom they were
7 dependent in their daily life, starting from resolving disputes to guiding them how to
8 behave with others and how to communicate with neighbouring people, and now
9 they -- they are without leadership.

10 Q. [14:48:09] Thank you. I briefly want to talk with you about the attacks on your
11 home village, and please don't mention your home village.

12 You explained yesterday to my learned colleague from the Prosecution, that after the
13 attacking forces departed you entered your village again and you saw the bodies of
14 three persons. And I make reference to transcript page 80 from yesterday.

15 Can you tell us what your village looked like.

16 A. [14:48:47] After the attack, there were a lot -- many corpses, but we found three
17 corpses; two women and one man. We buried them at the same time. However,
18 corpses were numerous. Some people were later buried. And some of them, until
19 now they are not buried. And this is far -- it goes far more than that.

20 Q. [14:49:19] Can you tell us what happened to the houses and the livestock and
21 what was inside the houses.

22 A. [14:49:28] All of the houses were looted. Afterwards they were razed to the
23 ground. The livestock, their owners fled, and -- and whatever livestock reached
24 Mukjar, they were taken from the owner by -- by saying that they were -- they would
25 be taking care of these -- this livestock. However, they were seized. And I am one

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1 of those people who lost their livestock. I fled with my livestock. And when I
2 arrived to -- in Mukjar with other people, they took our cattle. Then they registered
3 that and they said to us that they will take care of them and return them after that.
4 But however, when I left the prison in 2003, one week after that I met the person who
5 took my cattle and registered them. He told me that all the cattle that was assembled,
6 they received direction from Ahmad Harun to give Ali Kushayb, Al-Dayf Samih, all
7 of them to their forces. This is what happened and this is how we lost our livestock.
8 What was taken to the village was -- remained there, and what was taken to Mukjar
9 was seized. This is how we lost everything. We lost our livestock. Until now, all
10 the corpses are not buried.

11 Q. [14:51:22] Talking about the first attack of your village, can you tell us where
12 your family was during this attack.

13 A. [14:51:36] All families fled to the top of the mountains from the east side. They
14 all left to the mountains.

15 As for the elderly people, whether men or women, who could not climb up the top of
16 the mountains, some of them managed to reach the top. However, many of them
17 stayed at the bottom of -- at the foot of the mountains and many of them were killed
18 during the incidents.

19 Q. [14:52:13] You explained to us yesterday that you and your family, and also
20 other villagers, then fled to Mukjar after the second attack, arriving the next day.
21 And can you please tell us a little bit about this journey to Mukjar.

22 A. [14:52:35] The journey to Mukjar on the second day, we went to Mukjar with
23 other villagers and families, and after that we were detained. They took women and
24 children to schools and we were all taken to the police station. And during that all
25 livestock were seized. In the beginning they were registered and afterwards they

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1 were seized.

2 Q. [14:53:06] Can you describe to us the situation, while you were fleeing with
3 family members and probably many other people, how many people were you?
4 How was the situation for all of you?

5 A. [14:53:25] I -- I was living in a big village, the population was approximately
6 4,500. They all fled to the mountains. The son -- the son, the mother went one way
7 and the father and the other son went another way. That's why I cannot describe all
8 these tragedies.

9 Afterwards, we met in Mukjar. Who -- the people who did not meet us in Mukjar,
10 we don't know if they stayed at the top of the mountains or they had died. We only
11 were able to ascertain that after a while ago. This was very traumatic.

12 Q. [14:54:19] Did you ever return to your home village after this?

13 A. [14:54:26] Yes, I returned to my village afterwards.

14 Q. [14:54:37] I briefly want to talk to you about your detention at the Mukjar police
15 station that my colleague from the Prosecution has also questioned you extensively
16 about, so just a few questions.

17 You explained in your first statement, that's paragraph 81, that you were placed in
18 a room in the police station with other persons. Can you tell us from which tribes
19 these other detained persons were from?

20 A. [14:55:19] The detainees were from the Fur tribe, and two people were from
21 Aringa tribe.

22 Q. [14:55:35] And can you tell us the age, more or less, of the detained persons.

23 A. [14:55:45] I cannot tell their age. However, they were all around 18, 20, until
24 40 -- they were in their forties, fifties, sixties and seventies.

25 Q. [14:56:07] You also describe that you were released from your first detention at

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1 the Mukjar police station. Can you describe to us what the situation or the
2 atmosphere was like in Mukjar at that moment, for people like you and other persons
3 who had fled your home village. What did you see?

4 A. [14:56:34] During my first detention I was not released at the police station.
5 They escorted me to the locality. My release was made by the local commissioner.
6 As for my second detention, it was a very harsh situation. People -- all the people
7 who fled from their villages, and -- their villages were burned and belongings were
8 confiscated. They were all cramped in a narrow room. And even people who
9 wanted to relieve themselves, they had to relieve themselves in front of the others.

10 Q. [14:57:27] Thank you. And you described a situation during your second
11 detention at the Mukjar police station, that my colleague has also addressed, where
12 you said that from your cell in Mukjar police station, the door was left open and it
13 appeared that someone addressed the crowd through a microphone. And you also
14 said that you can't tell who was speaking. But this person was saying, and this is
15 paragraph 99 of the statement, and I am quoting, "the mission has been completed
16 and everything is in your hands now, but we want you to plant panadora." If you
17 remember, you've been asked about this already.

18 And you said that your understanding of the phrase "plant panadora" was to rape
19 women so as to impregnate them. This is what the statement says. And I wanted
20 to ask you to clarify for us what did you mean by this, to rape women as to
21 impregnate them?

22 A. [14:58:37] At that time, as I mentioned in my statement, I did not personally see
23 the person who said that. However, I heard -- or, I heard that. I then -- in the
24 prison, I did not see what happened. When I left the prison, I heard that society
25 were talking about rapes, children and girls were raped in front of their husbands and

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1 uncles. Consequently, many children were born, and we see them now in Mukjar,
2 their photos are different or their appearances are different from their fathers.

3 Q. [14:59:35] Thank you.

4 You described being detained in terrible conditions at Mukjar police station: It was
5 severely overcrowded. It was very hot. No food. No water. No toilet.

6 And I'm making reference to the transcript of yesterday, pages 102, 103.

7 Can you tell us, were you able to sleep?

8 A. [15:00:08] I did not have the opportunity to sleep. Everybody was in fear.

9 Where we were sitting, we could not sleep. There, we could not sleep at all. We
10 did not even feel relaxed in order to be able to sleep.

11 Q. [15:00:51] In your statement you also describe that some of the detainees had
12 traces of beatings on their bodies and dried blood from their wounds. Can you tell
13 us if you saw that, if your fellow detainees, if I may call them that way, appeared to
14 be injured?

15 A. [15:01:16] The people who were with me in the same room and were beaten by
16 the person that I mentioned previously, those people, I know three of them right now
17 who are still alive.

18 Q. [15:01:39] Thank you. And then you describe in your statement what took
19 place on the morning of 2 March. And it's in your second statement. You explain
20 that you remember this date as it was the worst day of your life. This is how you call
21 it in paragraph 24 of the second statement.

22 Now, you and your family had already suffered so much after the destruction of your
23 home and having to flee to Mukjar, still you describe this day as the worst day in your
24 life. Can you explain to us, if possible, how that day has impacted you.

25 A. [15:02:24] This day -- this day, 2 March 2004, this is how I remember it. And

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1 for the second time I say it, this is the worst day that I had in my entire life until today.

2 That's one point.

3 The other point is that myself and my family, what we have experienced before

4 2 March was less severe because, yes, our money was taken, other people were killed,

5 we had to escape to Mukjar, we were seeking protection from the government.

6 However, after that, the government and the Janjaweed started killing everybody and

7 we felt completely helpless. And that's why, until this moment, I remember that day

8 as the worst day ever in my life and the life of the entire region. And our entire

9 history never witnessed a day like this day, 2 March 2004.

10 Q. [15:03:46] Thank you.

11 In your statement, and also this morning, you described visiting several sites near

12 Mukjar where there were numerous bodies that appeared to have been executed,

13 including persons that you could identify. Can you tell us how that experience of

14 visiting these sites and seeing these bodies impacted you, if that is possible to share

15 with us.

16 Did you hear my question, Mr Witness, or would you like me to repeat? Or is this

17 something you do not want to talk about?

18 A. [15:04:56] I'm so sorry, I didn't hear the translation. I only hear the English

19 version of it.

20 PRESIDING JUDGE KORNER: [15:05:04] Is there a problem going on all over with

21 the translation?

22 MR EDWARDS: [15:05:12] No, not at all.

23 MS VON WISTINGHAUSEN: [15:05:16] Okay. I will just repeat the question.

24 Q. [15:05:19] You have shared with us this morning that you visited several sites

25 near Mukjar where you found numerous bodies that appeared to have been executed,

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1 including persons that you could identify.

2 Can you tell us how this experience of visiting these sites and seeing these bodies
3 impacted you.

4 A. [15:05:45] Yes. When I went to the first site and I saw the bodies there, and I
5 identified a big number of them, I got severely impacted by that. But then when we
6 went to the second site, we saw an even bigger number of bodies, half buried. And
7 that's why, until now, every time I remember this experience, I cry.

8 MS VON WISTINGHAUSEN: [15:06:33] Madam President, I would like to request
9 a short closed session out of necessity, I guess.

10 PRESIDING JUDGE KORNER: [15:06:39] Yes.

11 Private session then, please.

12 (Private session at 3.06 p.m.)

13 THE COURT OFFICER: [15:06:45] We are in private session, Madam President.

14 (Redacted)

15 (Redacted)

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20 (Open session at 3.14 p.m.)

21 THE COURT OFFICER: [15:14:09] We are back in open session, Madam President.

22 MS VON WISTINGHAUSEN: [15:14:23]

23 Q. [15:14:26] So, Mr Witness, we are back in open session. That means the public
24 can hear everything you say. Please keep that in mind.

25 You've already told us about the impact on the population of your home village of the

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1 events of 2003 and 2004. Can you explain to us about any particular impact on the
2 younger generation, out of your experience, also within your family, your neighbours
3 and the people you're talking to.

4 A. [15:15:18] The situation is very tragic. Until now, after 18 long years, people
5 are still impacted by what happened. We still have children beggars, their fathers
6 and their mothers were killed and they can't go to schools. They have no money to
7 pay fees and they don't have any school uniforms or school books. There's also a big
8 number of families who can't afford to buy meat for an entire month, and sometimes
9 they can't even buy milk in order to buy -- to drink their tea with milk, so they don't
10 do that. And people sometimes resort to eating only one meal a day, which is the
11 supper meal, so that they can sleep at night.

12 Until now, we have displaced children. Until now, we have children who can't have
13 education. Until now, we have children who can't get any kind of support or
14 assistance. That's why many of the young people went to the bigger cities, Nyala
15 and Al Khartoum and other cities, seeking a better life. This is the situation now.

16 Q. [15:17:00] In your view - and I would like to conclude with this question - what
17 should be done to try and address or repair the harm to the community? What is, in
18 your view, the most needed issues to address first?

19 A. [15:17:19] First of all, the world needs to understand the tragedies that
20 happened and are still happening right now. They need to go there and they need to
21 see with their own eyes what happened. They need to assess the situation. And
22 they have to compensate the victims so that they can restore their livelihoods again in
23 a humane and dignified way.

24 Number 2, the crimes that were committed are heinous, and that's why the victims
25 need to see justice. It is very important that we approach the victims and listen to

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1 them. We need to know their stories. We need to know what they say about who
2 killed their family members, who displaced them, who took away their belongings,
3 who seized their cattle. It's a very serious crime that was committed and not a single
4 person, not even a hundred people, can describe it enough. And that's why I
5 recommend that the world must prosecute the criminals and we have to tell the
6 victims and show the victims that there is justice in this world. The world -- the
7 entire world needs to move to help those people restore their lives.

8 Q. [15:19:11] Thank you, sir. Thank you for answering my questions.

9 PRESIDING JUDGE KORNER: [15:19:16] Yes. Thank you, Ms von Wistinghausen.

10 Yes, Mr Edwards.

11 MR EDWARDS: [15:19:26] Thank you, your Honour.

12 QUESTIONED BY MR EDWARDS:

13 Q. [15:19:36] And good afternoon, Mr Witness. If you could just bear with me for
14 a second while I set up my -- my lectern.

15 Mr Witness, we haven't had a chance to meet personally, but two days ago you met in
16 this room with my assistant, Camille. My name, though, is Iain Edwards and I'm
17 one of the lawyers representing Mr Ali Muhammad Ali Abd-Al-Rahman.

18 I'm going to be asking you question for the rest of the afternoon, but my questions
19 won't be finished today, I'm afraid. We'll continue on Monday. I hope that's okay.

20 A. [15:20:53] I don't have any problem with that. Of course, you have to ask all
21 the questions that you have.

22 Q. [15:21:01] I'm going to try and ask you some questions now that don't require us
23 going into private session. We may or may not be successful, but we'll try.

24 Can we please have up on the screen the witness's first statement, signed in
25 January 2021.

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1 And, Mr Witness, I'd like you to try and find the Arabic version of your first
2 statement. I'd like you to look at paragraph 15, please.

3 It may be that some assistance is required, just to make sure that this can be done as
4 smoothly as possible.

5 For the court officer, the first statement is at Prosecution tab 3, DAR-OTP-0217-0211.

6 The Arabic version of that first statement is behind tab 4. So it's paragraph 15,
7 please.

8 Mr Witness, if you read that paragraph, can you confirm that you talk about two
9 positions that you held in the early 2000s.

10 THE COURT OFFICER: [15:23:18] Excuse me, Counsel. For the record, can the
11 evidence be displayed publicly?

12 MR EDWARDS: [15:23:24] No.

13 THE COURT OFFICER: [15:23:25] No. Thank you.

14 MR EDWARDS: [15:23:30]

15 Q. [15:23:32] Mr Witness, do you read paragraph 15 and see that there's reference
16 made to two positions you held in the early 2000s?

17 A. [15:23:46] Yes. Yes, I read the paragraph, yes.

18 Q. [15:23:55] Okay. Thank you. I'm going to ask you first about the first position
19 that is mentioned in this paragraph, and you give the year in which you first officially
20 took up that position, right?

21 A. [15:24:20] Yes, yes.

22 Q. [15:24:23] Did you, informally or unofficially, occupy that position at an earlier
23 time?

24 A. [15:24:41] Yes. I was working in the same position, but with an unofficial
25 capacity.

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1 Q. [15:24:56] And can you tell us when you started working in that position in an
2 unofficial capacity, please.

3 A. [15:25:10] I started working in this position unofficially in 2005. But these, as I
4 told you before, these were (Redacted), they were not (Redacted)
5 (Redacted) work, as I described it before.

6 Q. [15:25:40] Okay. And then I'm going to ask you about the second position that
7 you speak about in this paragraph and you refer to the year 2005. When did you
8 start working in that second position, even if unofficially?

9 A. [15:26:06] My work in this position started in the same year, but at the time (Redacted)
10 (Redacted)

11 (Redacted). But before that I was (Redacted)

12 (Redacted)

13 MR EDWARDS: [15:26:39] Your Honour, could we go very briefly into private
14 session.

15 PRESIDING JUDGE KORNER: [15:26:43] Yes.

16 (Private session at 3.26 p.m.)

17 THE COURT OFFICER: [15:26:47] We are in private session, Madam President.

18 (Redacted)

19 (Redacted)

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18 (Redacted)

19 (Open session at 3.30 p.m.)

20 THE COURT OFFICER: [15:30:23] We are back into public session,

21 Madam President.

22 MR EDWARDS: [15:30:43]

23 Q. [15:30:43] Mr Witness, I want to pick up on a few answers that you gave to the

24 lawyer for the victims, Ms von Wistinghausen. I want to ask you about the role of

25 imams in the community. I understand from your evidence that imams play a role

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1 in dispute resolution within the community; is that right?

2 A. [15:31:20] Is this question addressed to me?

3 Q. [15:31:26] Yes.

4 A. [15:31:31] Yes, the imams, they assumed a role with the others, with the *sheikhs*.

5 They would form a committee in charge for resolving dispute among villagers.

6 Q. [15:31:46] And, obviously, that's in addition to the more traditional role of an
7 imam leading prayers and -- and preaching in the mosques. Is it fair to say that an
8 imam -- or, one of the personal traits of an imam is fair-mindedness?

9 A. [15:32:25] As mentioned, the main function of the imam is a religious function to
10 lead the people. As for the disputes, these -- when there were judicious -- of
11 judicious nature, they needed people to be -- to serve justice and to be able to solve
12 the problems. The imam who leads people in their religion issues and in their
13 prayers, he can also resolve these problems through the social guidance. That's why
14 the imam has two roles, the first is a personal role as a religious leader, and the
15 second role is also a religious role but, however, he would serve justice and solve
16 problems. It does not contradict him being an imam and at the same time to resolve
17 the disputes among villagers.

18 Q. [15:33:40] Okay. So in order for an imam, or indeed a *sheikh*, for example, to be
19 trusted by the community, an imam will need to have a reputation for being honest.
20 Do you agree?

21 A. [15:34:14] Yes. If you did not have this trait, the community would not agree
22 that he will be their imam.

23 Q. [15:34:21] And the same question for *sheikhs*. Is it necessary for a *sheikh*, in
24 order to have the confidence of the community, to have a reputation for being honest?

25 A. [15:34:36] The *sheikh* has -- must have two reputations. First, that he would

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1 have a good reputation because the -- the society would nominate the *sheikh*. If he
2 did not have a good reputation, he would not be elected. The second reputation is
3 that the *sheikh* should be able to analyse issues and to be flexible in -- this is what is
4 important for the imam to be. Sometimes there are some issues that would be
5 resolved by the *sheikh* without a big audience.

6 Q. [15:35:26] Thank you.

7 Can we now please bring up on the screen paragraph 22. This can be publicly
8 broadcast, your Honour.

9 I want to ask you about what you say about attacks on Mukjar in 2003 and the
10 beginning of 2004. The document you were looking at a moment ago, can you turn
11 to paragraph 22, please.

12 A. [15:36:21] The document I have in front of me is in English and I do not know
13 how to read that.

14 Q. [15:36:28] No, the paper version of the document that was pointed out to you a
15 little earlier on. Okay. The court officer is coming to help you.

16 You talk about three attacks by the rebels on the town of Mukjar. One in the first
17 week of July 2003, the second one in the first week of August 2003, and the third
18 attack in February 2004. Do you see that in your statement?

19 A. [15:37:22] Yes, this is what I personally stated.

20 Q. [15:37:27] Okay. And so that we're clear, the rebels who attacked Mukjar, is
21 this the Sudanese Liberation Movement/Army?

22 A. [15:37:47] They said that they are affiliated with the Sudanese Liberation Army
23 or Movement.

24 Q. [15:37:56] Okay. And the leader was?

25 A. [15:38:11] Since they are affiliated with the Sudanese Liberation Army, I heard

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1 that through the radio. They did not mention their leader. As for the leader of the
2 Sudanese Liberation Army, he is Ahmad Muhammad Abd-Al-Nur. You used to
3 hear him talking through the radio.

4 Q. [15:38:35] Okay. I'm going to show you a document. It's a hard copy
5 document, because it will be easier for you to go through, I suspect.

6 Madam Court Officer, can I please ask you to pass that to the witness. Thank you.

7 Yeah.

8 Your Honour, this is -- this is the document at -- behind tab 2 of the Defence bundle,
9 in the Arabic.

10 And can we please have brought up on the screen the document which is behind tab 1
11 of the Defence bundle. It's a document that we're now familiar with. It's the -- it's
12 a document entitled, "List of Rebel Attacks". DAR-OTP-0153-0686.

13 And if we could proceed in the English, please, directly to ERN 0691. This is at
14 page 5 in the English.

15 And, Mr Witness, could you please turn to page 6 in the Arabic version that you have
16 and try and find the entry number 53 - it's row 53 - relating to an incident on 2 July
17 2003.

18 Do you see that?

19 A. [15:40:50] I need assistance in that.

20 MR EDWARDS: [15:41:10] Madam Court Officer.

21 MR SACHITHANANDAN: [15:41:18] The witness also has a pair of spectacles with
22 him if he -- if he wants to use them. I'm just checking. I know it was given to him
23 a few days ago.

24 MR EDWARDS: [15:41:29] Ah, all right.

25 Q. [15:41:31] Do you need -- do you need eyeglasses, sir?

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1 A. [15:41:36] (No interpretation)

2 MR EDWARDS: [15:41:47] Can I -- your Honour, can I -- can I pass up a marked up
3 copy, so it's easier for him to identify?

4 PRESIDING JUDGE KORNER: [15:41:52] Any objection?

5 MR SACHITHANANDAN: [15:41:56] No, your Honour.

6 MR EDWARDS: [15:41:58] It's literally just highlighted. Thank you.

7 Madam Court Officer, would you be good enough to pass. Thank you.

8 Q. [15:42:13] Mr Witness, do you see -- do you see an entry that's highlighted in
9 green there?

10 A. [15:42:22] Yes. Yes.

11 Q. [15:42:24] Okay. This entry refers to an attack: "Mukjar district was attacked.
12 The criminals managed to take the weapons of the District police and the Central
13 Reserve as well as setting fire to the District stores and the armoury."
14 Is this the attack that you are referring to in your witness statement that occurred in
15 the first week of July 2003?

16 A. [15:42:55] I did not know the details. I did not know who was taken. I told
17 you that the attack was in the first week of August. This document states that the
18 attack was mounted on Monday 2003. Probably we are talking about the same
19 attack, but I did not know what was taken and what happened at that time.

20 Q. [15:43:26] Okay. No, fine. Well, you say in your statement the first attack
21 happened in the first week of July 2003.

22 Let's move on now to the second attack which took place in the first week of August
23 2003. I want you to move forward, please, two pages in the document that you have,
24 and you'll see that there's another entry that is marked with a green pen. It's the
25 entry at number 67.

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1 In the English, your Honour, this is at ERN 0693, for *13 August 2003.

2 Do you see the entry in green, sir?

3 A. [15:44:11] I see him very well.

4 Q. [15:44:17] And this refers to an attack on Mukjar police post, doesn't it?

5 A. [15:44:24] Yes, it refers to that, but I do not remember that.

6 Q. [15:44:31] And then if you then move forward a little more, please.

7 In the English, your Honours ...

8 A. [15:44:56] Which number explains the attack on Kodoom? Which number?

9 Q. [15:45:04] It's not Kodoom, sir. If you -- if you move forward, please, to the
10 reference for 2 February 2004, number 140.

11 In the English, your Honour, it's ERN 0699, PDF page 13.

12 Now, although Mukjar isn't mentioned in this entry - 140 please, next, yes - it refers to
13 an attack in West Darfur in which a police post is fired upon and two policemen were
14 killed, 13 weapons seized. Is that the attack that you refer to as occurring in
15 February 2004, sir?

16 A. [15:46:30] No. No. The attack that I'm referring to is not related to Mukjar or
17 the surrounding areas at all.

18 Q. [15:46:42] Just before the break I want to deal with one matter. It's a little bit
19 out of -- a little bit out of turn, but it follows on from what you said about the rape of
20 women and the impregnation of women. So you can put that document to one side.
21 It's right, isn't it, that when you are at Mukjar police station, there was -- there was
22 only one female that you saw?

23 A. [15:47:33] Yes, yes, that's correct.

24 Q. [15:47:37] And, your Honours, this is the second witness statement, paragraph
25 29 I'm referring to.

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1 This was a female that was -- that arrived at the Mukjar police station on board
2 a vehicle, and around her were some uniformed men, correct? Is that right, sir?

3 A. [15:48:12] Yes, yes, that's correct.

4 Q. [15:48:14] And I don't want to know her name, but it was a woman that you
5 recognise, correct?

6 A. [15:48:24] Yes, I recognise her. She was from my village.

7 Q. [15:48:36] Of Fur ethnicity and in her thirties, correct?

8 A. [15:48:44] Correct. Correct.

9 Q. [15:48:50] You saw her going into --

10 A. [15:48:54] I saw her. Yes, I saw her.

11 Q. [15:48:57] And you say that you saw her alighting from the vehicle and going
12 into the director's office at the place at number 12 on the sketch that we've seen.

13 A. [15:49:15] Yes, correct.

14 Q. [15:49:22] And her arms were not -- her hands were not tied, for example, were
15 they?

16 A. [15:49:30] Yes, correct.

17 Q. [15:49:33] And you -- you don't know what occurred when she went into the
18 director's office?

19 A. [15:49:42] No, I don't know. I don't know.

20 Q. [15:49:46] And you've seen that woman on -- several times since then, but
21 you've never discussed what she was doing at the police station?

22 A. [15:50:03] Yes, that's correct.

23 Q. [15:50:07] And that was the only time you saw a female at Mukjar police station?

24 A. [15:50:20] Yes, correct.

25 Q. [15:50:22] In 2007 did you speak with a journalist?

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1 A. [15:50:45] Yes.

2 Q. [15:50:47] Was this in Darfur?

3 A. [15:50:52] Yes.

4 Q. [15:50:54] And did the journalist ask you questions about what you experienced
5 at Mukjar police station?

6 A. [15:51:06] Yes, he did ask me questions.

7 Q. [15:51:09] Did this journalist speak Arabic, or Fur, or another language that you
8 spoke?

9 A. [15:51:19] He speak in Arabic.

10 Q. [15:51:25] How good was his Arabic?

11 A. [15:51:29] I heard him well, but he asked specific questions. I think that I heard
12 him well.

13 MR SACHITHANANDAN: [15:51:46] I'm not objecting to anything, I'm just saying,
14 if we are going to go into detail --

15 PRESIDING JUDGE KORNER: [15:51:53] I was thinking the same thing. If you go
16 into detail of the interview, having established that this is an interview --

17 MR EDWARDS: [15:52:01] Yes. Perhaps to be safe, yes. And that's going to take
18 us to the end of the session, I'm afraid.

19 PRESIDING JUDGE KORNER: [15:52:06] All right.

20 Let's go into private session. And I'm told that will take until the end of this session.

21 (Private session at 3.52 p.m.)

22 THE COURT OFFICER: [15:52:17] We are in private session, Madam President.

23 (Redacted)

24 (Redacted)

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Trial Hearing
WITNESS: DAR-OTP-P-0877

(Private Session)

ICC-02/05-01/20

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Trial Hearing
WITNESS: DAR-OTP-P-0877

(Private Session)

ICC-02/05-01/20

1 (Redacted)

2 PRESIDING JUDGE KORNER: [16:10:56] No, no, no, that's a comment.

3 MR EDWARDS: [16:10:57] All right. I can -- I'll -- we can stop there.

4 PRESIDING JUDGE KORNER: [16:10:59] All right.

5 Yes. Well, I don't think we need to go back into public session, because there's no
6 public.

7 Sir, I'm afraid you will have to remain over the weekend. You may be quite happy
8 to remain over the weekend, if it's going to be better weather. But over the weekend,
9 please don't discuss any of the evidence with anybody else, that you've given in the
10 case so far. It's very important that it's your own evidence, not affected by anything
11 that anybody may say to you.

12 So we'll see you back here Monday morning, please, at 9.30.

13 Yes. Thank you all very much.

14 THE COURT USHER: [16:11:42] All rise.

15 (The hearing ends in private session at 4.11 p.m.)