

Trial Hearing
WITNESS: DAR-OTP-P-0931

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and
7 Judge Althea Violet Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Thursday, 14 July 2022
10 (The hearing starts in open session at 9.36 a.m.)
11 THE COURT USHER: [9:36:15] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:36:37] Yes. Can we call the case, please.
15 THE COURT OFFICER: [9:36:40] Good morning, Madam President, your Honours.
16 This is the situation in Darfur, Sudan, in the case of The Prosecutor versus Ali
17 Muhammad Ali Abd-Al-Rahman, case reference ICC-02/05-01/20.
18 And for the record, we're in open session.
19 PRESIDING JUDGE KORNER: [9:37:01] Yes. Appearances for the Prosecution,
20 please.
21 MR SACHITHANANDAN: [9:37:05] Good morning, your Honour. As you can see,
22 our ranks are depleted. Appearing today with Ms Antonella Giordano,
23 Ms Alison Whitford, and I am Pubudu Sachithanandan.
24 PRESIDING JUDGE KORNER: [9:37:18] Yes. I was just wondering if Mr Nicholls
25 is any better.

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1 MR SACHITHANANDAN: [9:37:23] He's doing all right, your Honour, and should
2 be back in action shortly.

3 PRESIDING JUDGE KORNER: [9:37:30] Right.

4 Yes, let's do the victims representatives next.

5 MS VON WISTINGHAUSEN: [9:37:33] Good morning, Madam President,
6 your Honours, dear colleagues. The victims this morning are represented by my
7 colleague, Anand Shah; our case manager, Idriss Anbari; and myself, Natalie von
8 Wistinghausen. Thank you.

9 PRESIDING JUDGE KORNER: [9:37:48] And the Defence.

10 MR LAUCCI: [9:37:51](Interpretation) Good morning, your Honours, colleagues.
11 This morning, with our client here in the courtroom, we have our assistant evidence
12 reviewer and Iain Edwards and myself, Cyril Laucci, lead counsel.

13 PRESIDING JUDGE KORNER: [9:38:13] Yes.

14 Right. I gather that there's some procedural matters, Mr Sachithanandan, that you
15 want to deal with.

16 MR SACHITHANANDAN: [9:38:21] Not procedural, your Honour. It's just
17 a heads up about the witness. We've -- during the course of preparation, it again
18 became apparent that the witness has had very limited education, struggles with long
19 sentences, longer words, any abstract concepts, any hypotheticals, so I thought that
20 this would be useful information to share with the Chamber and the parties.

21 And if we could go into private session for one point, your Honour.

22 PRESIDING JUDGE KORNER: [9:38:53] Yes.

23 I noticed that, from both sides, some of the questions with the first witness speaking
24 Fur were still quite lengthy and still said "you said earlier that", I think Mr Edwards I
25 remembered saying that. I actually don't think that helps because I think, with

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1 limited education, it becomes confusing for a witness to be reminded of what they've
2 said before.

3 I know that you want to get the context in as shortly as possible, but I think you've
4 just got to put the question without saying "you said earlier that" and then "I want to
5 ask a question about this". I think it really does help if it can be kept to just
6 the simple question without the lead in.

7 I appreciate what you say, that you want to remind the victim of the topic that you're
8 going to -- but, I mean, that can be done, you know, by saying "I now want to ask you
9 about". Well, I suppose, actually, even that is, because you're not actually doing the
10 asking.

11 Anyhow, let's see how we get on. If it -- and I think we're going to have to depend
12 on the interpreters for this, that if there -- if there appears to be a real problem with
13 the witness's understanding, then they'll have to notify us.

14 Yes, all right. If there's nothing else, we'll have the witness in.

15 MR SACHITHANANDAN: [9:40:34] Your Honour, just one point in private session.

16 PRESIDING JUDGE KORNER: [9:40:36] Oh, I see. You mean the point you want to
17 raise before the witness. Oh, sorry. All right, yes.

18 Private session, please.

19 (Private session at 9.40 a.m.)

20 THE COURT OFFICER: [9:40:53] We're in private session, Madam President.

21 (Redacted)

22 (Redacted)

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24 (Redacted)

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20 (Redacted)

21 (Open session at 9.42 a.m.)

22 THE COURT OFFICER: [9:42:39] We're in open session, Madam President.

23 PRESIDING JUDGE KORNER: [9:42:43] Yes.

24 MR EDWARDS: [9:43:23] Your Honour, while the witness is being brought into

25 court, has an email been forwarded on to your Honours regarding what was starting

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1 out to be some litigation in relation to the next witness but one, Witness 9 -- 58 -- 581.

2 It was about a Spanish language video.

3 (The witness enters the courtroom)

4 PRESIDING JUDGE KORNER: [9:43:53](Microphone not activated)

5 Sir, good morning. Can you hear and understand me?

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7 (The witness speaks Fur)

8 PRESIDING JUDGE KORNER: [9:44:41] Interpreters, was it interpreted to him?

9 Okay. We'll try again.

10 Sir, could you just say "yes" if you can hear and understand me.

11 THE WITNESS: [9:45:05](No interpretation)

12 PRESIDING JUDGE KORNER: [9:45:06] Well, now I haven't got the interpretation.

13 Sorry, he replied, and I didn't hear. I didn't hear.

14 Did anybody hear?

15 No, nobody did.

16 What did he say?

17 THE WITNESS: [9:45:29](Interpretation) Yes, I can hear you clearly.

18 PRESIDING JUDGE KORNER: [9:45:31] All right. Thank you.

19 Sir, in a moment you're going to be asked to take a declaration to tell the truth. After

20 that, as I'm sure has been explained to you, you will be asked questions about things

21 that you saw and heard.

22 It is very, very important that if you don't understand the question, you say so

23 straightaway. Do you understand that?

24 THE WITNESS: [9:46:49](Interpretation) Yes, I can hear you clearly.

25 MR SACHITHANANDAN: [9:46:55] Your Honour, they're signalling for longer

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- 1 pauses between sentences.
- 2 PRESIDING JUDGE KORNER: [9:47:00] Even longer? I -- okay.
- 3 THE INTERPRETER: [9:47:06] Your Honour, the interpretation is consecutive,
- 4 which means you have to pause and allow the interpreter to interpret, and then -- it's
- 5 not just slowing down. It's really breaking.
- 6 PRESIDING JUDGE KORNER: [9:47:14] Oh, I see. Okay.
- 7 THE INTERPRETER: [9:47:15] Thank you.
- 8 PRESIDING JUDGE KORNER: [9:47:19] Right.
- 9 I've lost completely the thread of what I was saying.
- 10 Okay. Did -- sorry, this is all going mad. Did he get the thing about saying if he
- 11 didn't understand the question?
- 12 THE INTERPRETER: [9:47:51] Message from the interpreters: Could the question
- 13 be repeated to the witness. He does not appear to have responded, judging by
- 14 the English transcript.
- 15 PRESIDING JUDGE KORNER: [9:48:01] Okay.
- 16 Sir, it's very important that when you are asked questions, if you don't understand
- 17 the question, then you must say so.
- 18 THE WITNESS: [9:48:39](Interpretation) Okay.
- 19 PRESIDING JUDGE KORNER: [9:48:43] Okay. Could you now take the solemn
- 20 declaration, please, to tell the truth.
- 21 THE WITNESS: [9:49:03](Interpretation) Okay.
- 22 THE COURT OFFICER: [9:49:06] Mr Witness, you have first to take the solemn
- 23 undertaking to tell the truth.
- 24 THE WITNESS: [9:49:25](Interpretation) I solemnly declare to tell the truth.
- 25 THE COURT OFFICER: [9:49:29] I will read it out to you, and please follow me and

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1 repeat what I'm saying.

2 I solemnly declare that I will speak the truth, the whole truth and nothing but

3 the truth.

4 THE WITNESS: [9:50:00](Interpretation) I solemnly declare that I will tell the truth,

5 the whole truth and nothing but the truth.

6 THE COURT OFFICER: [9:50:10] Thank you, Mr Witness. You're now under oath.

7 PRESIDING JUDGE KORNER: [9:50:12] Yes, thank you.

8 Yes.

9 QUESTIONED BY MR SACHITHANANDAN:

10 Q. [9:50:21] Good morning, Mr Witness.

11 A. [9:50:30] Good morning, thank God.

12 Q. [9:50:33] You remember meeting me and my colleague Antonella a few days ago
13 to go through your statement?

14 A. [9:50:55] Yes.

15 Q. [9:50:58] So today I'm going to ask you some questions related to the statement
16 you gave to this office.

17 A. [9:51:16] Okay.

18 Q. [9:51:20] The other lawyer that met you, Mr Julian, is not available today, but he
19 sends you his good wishes.

20 A. [9:51:40] Okay.

21 Q. [9:51:45] Because everything I say is interpreted from English to Fur and from
22 Fur to English, please pause every time you've said a few sentences, okay?

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

24 Q. [9:52:14] And if I think we need to stop briefly so I can ask a question,
25 sometimes I will raise my hand like this to pause you. Is that okay?

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1 A. [9:52:36] Yes, okay.

2 Q. [9:52:41] So at the moment we're in public. I mean your face and voice is
3 distorted, but people can understand the content of what you're saying.

4 A. [9:53:09] Okay.

5 Q. [9:53:11] But now I'm going to ask the judge that we go into a confidential
6 hearing, where your voice doesn't go out to the public, so that I can ask your personal
7 details.

8 A. [9:53:35] Okay.

9 PRESIDING JUDGE KORNER: [9:53:38] Yes, all right.

10 (Private session at 9.53 a.m.)

11 THE COURT OFFICER: [9:53:54] We're in private session, Madam President.

12 (Redacted)

13 (Redacted)

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8 (Open session at 10.10 a.m.)

9 THE COURT OFFICER: [10:10:00] We're back to open session, Madam President.

10 MR SACHITHANANDAN: [10:10:04]

11 Q. [10:10:05] Mr Witness, without telling us any relationship you have to him,
12 could you please tell us who is Hamdi.

13 A. [10:10:43] Hamdi is the commander of the intelligence office.

14 Q. [10:10:52] During 2003-2004, where was Hamdi based?

15 THE INTERPRETER: [10:11:25] Message from the Fur interpreters: We didn't hear
16 the answer of the witness clearly.

17 PRESIDING JUDGE KORNER: [10:11:37](Microphone not activated)

18 MR SACHITHANANDAN: [10:11:49]

19 Q. [10:11:50] Mr Witness, the court officer is going to move the microphone closer
20 to you. Please speak clearly into this -- the red coloured microphone.

21 THE INTERPRETER: [10:12:01] Many thanks from the interpreters.

22 THE WITNESS: [10:12:14](Interpretation) Very well.

23 MR SACHITHANANDAN: [10:12:15]

24 Q. [10:12:16] Right. So I'm going to repeat my question because we didn't hear
25 the answer.

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1 During 2003-2004, where was Hamdi based?

2 A. [10:12:46] With the intelligence services.

3 Q. [10:12:51] Yes. But can you tell us which city or town was Hamdi based in.

4 A. [10:13:06] In Garsila.

5 Q. [10:13:12] Do you know someone called Hassaballah?

6 A. [10:13:22] Yes, I know him.

7 Q. [10:13:26] Without telling us anything about your relationship with him, please
8 tell us who is Hassaballah.

9 A. [10:13:48] He was affiliated with the Popular Defence Forces.

10 Q. [10:13:58] During 2003-2004, what was his role in the Popular Defence Forces?

11 A. [10:14:33] Hamdi is not affiliated with the Popular Defence Forces. He works
12 with the intelligence services.

13 Q. [10:14:43] Yes. I think there was maybe some sort of mistake there. I mean
14 Hassaballah. What was Hassaballah's role in the Popular Defence Forces?

15 A. [10:15:09] He was a facilitator in the Popular Defence Forces.

16 Q. [10:15:19] Before you travelled to Mukjar, had you ever seen Hassaballah in
17 Garsila?

18 A. [10:15:38] Yes, I saw him in Garsila.

19 Q. [10:15:48] You said that Hassaballah was a facilitator. What does a facilitator
20 usually do in the Popular Defence Forces?

21 A. [10:16:23] The facilitator or coordinator is the head of
22 the Popular Defence Forces.

23 Q. [10:16:37] Do you know anyone called Ali Al Tarzi?

24 A. [10:16:52] Yes. I know him. I know Ali Al Tarzi. He used to work under
25 the command of Hassaballah.

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1 Q. [10:17:11] Without telling us anything about any connection you have to him,
2 can you please tell us what was his job under Hassaballah.

3 A. [10:17:47] Hassaballah was the coordinator of the Popular Defence Forces.

4 Q. [10:17:58] Right. Right. But I'm talking about Ali Al Tarzi. What was
5 Ali Al Tarzi's job?

6 A. [10:18:19] Ali Al Tarzi was a member in the Popular Defence Forces.

7 Q. [10:18:33] Before -- testing. Okay.

8 Before going to Mukjar, had you ever seen Ali Al Tarzi in Garsila?

9 A. [10:18:53] Yes, I saw him in Garsila.

10 Q. [10:19:00] Do you -- do you -- my apologies. There's a delay on my mic.

11 Testing. It's okay? Okay.

12 Do you know someone Abikir? Abikir.

13 A. [10:19:30] Yes, Abikir.

14 Q. [10:19:38] Without -- without telling us any relationship you have to Abikir,
15 please tell us who is Abikir.

16 A. [10:20:04] A member in the Popular Defence Forces working under
17 the command of Hassaballah.

18 Q. [10:20:26] Who -- before going to Mukjar, did you ever see Abikir in Garsila?

19 A. [10:20:47] Yes, I saw him in Garsila.

20 MR EDWARDS: [10:20:54] Your Honour, I'm -- I'm being very pre-emptive. I can
21 see a certain path that my learned friend is taking. If in due course questions are
22 going to be asked of this witness relating to an important person in this case, given
23 that we are putting the Crown -- the Prosecution to very strict proof as to any such
24 knowledge, I would be grateful if my learned friend would do so in an entirely
25 nonleading way, please. Thank you.

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1 PRESIDING JUDGE KORNER: [10:21:32](Microphone not activated)

2 All right. I think probably the best way is to deal with it as and when it arises in
3 the events, as opposed to going through, as you're doing at the moment, a list of
4 names, which I see -- which at the moment mean absolutely nothing to anybody,
5 other than Mr Hamdi. But I see it's in the preparation note. Yeah. But I think
6 when you get to the name that obviously Mr Edwards has in mind, it should be done
7 as part of the events.

8 MR SACHITHANANDAN: [10:22:05] Point taken, your Honour.

9 Just for -- just for the sake of IT, sometimes I can't hear my own voice when I'm
10 speaking into the mic. Perhaps that can be looked into.

11 THE INTERPRETER: [10:22:18] Message from the interpreters: There's a bit of
12 a delay while the Arabic interpreter finishes the interpretation into English, and
13 during that time, the channel is blocked. And then once she finishes her sentence,
14 then your microphone will activate.

15 MR SACHITHANANDAN: [10:22:37] Thank you. Thank you. I'll try to observe
16 a longer pause.

17 Q. [10:22:47] Mr Witness, do you know someone called Muhammad Adam
18 Bonjouse?

19 A. [10:23:13] Muhammad Adam Bonjouse? Bonjouse?

20 Q. [10:23:21] Yes. Who -- who is that man?

21 A. [10:23:49] I didn't know what he used to work, but I know that his name is
22 Bonjouse, and he works as a commander right now.

23 Q. [10:24:02] Do you know what Bonjouse did back in 2003-2004?

24 A. [10:24:38] No, I didn't know where he worked in 2003 and 2004, but I know now
25 that he works as an *aqid*.

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1 Q. [10:24:53] Can you tell us, please, what is an *aqid*?

2 A. [10:25:11] It's a rank. *Aqid* is a rank.

3 Q. [10:25:17] A rank in which unit or organisation?

4 A. [10:25:41] *Aqid* is a military rank.

5 Q. [10:25:53] Mr Witness, since we are in public -- since we are in a public session,
6 you remember I told you to call one person your commander? You remember that?

7 A. [10:26:26] Yes, I remember that.

8 Q. [10:26:31] During the period of the war, you remember travelling with your
9 commander to Mukjar?

10 A. [10:26:52] Yeah. Yes, I remember.

11 Q. [10:26:59] Without mentioning the name of your commander, can you please tell
12 this Court or describe to this Court this journey you took to Mukjar.

13 A. [10:27:51] (No interpretation)

14 Q. [10:27:55] Mr Witness -- Mr Witness, I think -- I'm going to repeat my question.
15 Without mentioning the name of your commander, can you tell us -- can you describe
16 to us your trip to Mukjar, please.

17 A. [10:29:00] When we arrived in Mukjar, we found people inside detention, inside
18 their cells. And we also saw an aeroplane in Mukjar, landing in Mukjar.

19 Q. [10:29:22] Where were people placed in detention? Which -- which building?

20 A. [10:29:44] They were detained in the Mukjar prison.

21 Q. [10:29:55] And where were you when you saw these people detained in Mukjar
22 prison?

23 A. [10:30:21] I was close to the (Redacted).

24 Q. [10:30:34] Using this courtroom as a way of judging distance, can you tell us,
25 were the prisoners beyond where the judges are sitting, where the judges are sitting,

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1 or closer than where the judges are sitting?

2 A. [10:31:28] It was -- the distance was much further than that. The distance was
3 longer than the distance that's separating me from the judge and a little bit, you know,
4 longer than this distance between me and the judges.

5 Q. [10:31:59] Now, because we were not there, it's helpful to get some detail. Can
6 you please tell us what did the prisoners look like to you.

7 A. [10:32:54] When I saw them, I saw their bodies. They were covered with blood.
8 They had been tortured, heavily tortured. The problem is that they didn't let me get
9 close to some to see what had happened. But from (Redacted), I was able to look at
10 the detainees and see that their bodies were covered with blood, they were tired,
11 which means that they had been severely tortured.

12 Q. [10:33:33] Which part of Mukjar prison were these prisoners kept in?

13 A. [10:34:09] From the location where I was standing, they were almost in the same
14 direction of the judges' location compared to me right now.

15 Q. [10:34:27] Okay. What were -- what were these prisoners wearing, if you
16 remember?

17 A. [10:34:59] They were wearing regular civilian clothes.

18 Q. [10:35:09] Other than these prisoners, did you recognise anyone in that area
19 where you were?

20 A. [10:35:42] It was my first visit to Mukjar, so I didn't recognise anybody, because
21 they wouldn't let me get close to anyone, from the other people working there or
22 the prisoners or detainees.

23 Q. [10:36:06] When you were looking -- when you were near Mukjar prison, where
24 was Hassaballah?

25 A. [10:36:39] They were, all of them, inside one tent, but I was not able to go to that

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1 tent.

2 Q. [10:36:51] But how -- how do you know that Hassaballah was there?

3 A. [10:37:22] I saw him from afar. He was amongst those who entered the tent. I
4 saw him from afar.

5 Q. [10:37:36] Was this tent near the Mukjar police station, or was this tent
6 somewhere else?

7 A. [10:38:04] It was directly adjacent to the prison, the Mukjar prison.

8 Q. [10:38:16] At this same time when you were looking at the prisoners, where was
9 Muqaddam Idriss?

10 A. [10:38:48] He didn't arrive at that moment, but he appeared later on.

11 Q. [10:38:58] What about Ali Al Tarzi? Where was -- where was Ali Al Tarzi?

12 THE INTERPRETER: [10:39:26] Sorry. Note from the Fur interpreter: We ask
13 the witness to repeat his answer. We did not understand the last part of his answer.

14 MR SACHITHANANDAN: [10:39:38]

15 Q. [10:39:38] Mr Witness, could you please repeat your answer. The interpreter
16 didn't hear you.

17 A. [10:39:59] Which part of the answer do you exactly mean?

18 Q. [10:40:07] At the time that you saw Hassaballah and you saw these prisoners,
19 where was Ali Al Tarzi?

20 A. [10:40:44] (Redacted) But when we
21 moved to head to Garsila, I saw him with the other people who were killing others.

22 Q. [10:41:05] When you came and stopped near Mukjar -- Mukjar prison, what did
23 your commander do?

24 A. [10:41:59] He came with Ali. And when the Janjaweed were in Sindu fighting
25 the rebels, my commander and Ali Kushayb, they said that we need to move to Sindu

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1 to help those. So this is what we did.

2 Q. [10:42:32] What were the Janjaweed doing in Sindu?

3 A. [10:43:02] They went to Sindu looking for Abd-Al-Wahid. When they didn't
4 find him, they came back and they just took it out, their frustration, on the village and
5 opened fire at the villagers.

6 MR EDWARDS: [10:43:20] Your Honour, I'm conscious of the fact we don't have
7 a time frame at all yet.

8 PRESIDING JUDGE KORNER: [10:43:25](Microphone not activated)

9 You heard me ask whether -- whether there was any, but we have absolutely no time
10 frame whatsoever. When you spoke to the witness, were you wholly unable to
11 establish when this is all happening? Because we really should try and get some
12 time frame in.

13 MR SACHITHANANDAN: [10:43:49] Yes.

14 Q. [10:43:50] Mr Witness, do you mind taking your headphones off --

15 PRESIDING JUDGE KORNER: [10:43:53] I don't imagine this being translated
16 because we're all speaking too quickly.

17 MR SACHITHANANDAN: [10:43:58] So, please, no interpretation.

18 One of the reasons I'm asking about the Sindu offensive is to use a -- a milestone, a
19 temporal marker that doesn't relate to a date. It will become apparent that the Sindu
20 operation occurred during a particular time, and that may be useful for the parties
21 and the Chamber when trying to -- and I will ask a few questions about seasons,
22 et cetera, right now, as well.

23 PRESIDING JUDGE KORNER: [10:44:29] Right. I still don't -- it is still, I'm afraid,
24 also very unclear -- sorry, Mr Edwards, I'll come back to you -- it's very unclear what
25 building he's talking about, what the tent is. I mean, we can all make an educated

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1 guess, but we've got to have evidence. This is the first time we've heard about any
2 tent.

3 MR SACHITHANANDAN: [10:44:52] Yes. So before we leave this section, I will
4 make a valiant attempt at showing a satellite photo, an annotated satellite photo, and
5 we'll take it from there, I think.

6 PRESIDING JUDGE KORNER: [10:45:07] Right.

7 All right. Mr Edwards, there was something else you wanted to raise.

8 MR EDWARDS: [10:45:11] Only that -- well, I know very well why my learned
9 friend is not trying to get a date, because throughout the witness's three days of -- of
10 interview, he stated time and time and time again, despite the valiant efforts of
11 the investigator, that this all happened in March 2003.

12 PRESIDING JUDGE KORNER: [10:45:39] Well, yes, but I don't -- I don't
13 think -- firstly, I think that's a slightly unnecessary suggestion, that this is deliberate.

14 MR EDWARDS: [10:45:48] No, no. I'm -- (Overlapping speakers)

15 PRESIDING JUDGE KORNER: [10:45:50] Well, you know, you said you know
16 exactly why your learned friend is not doing that, which rather suggests he's doing
17 that deliberately.

18 MR EDWARDS: [10:45:59] No, sorry. If that's how it's come across, that's now
19 what I mean at all. I understand why my learned friend is trying to -- alive to
20 the difficulties, I understand why he's trying to fix it in time by reference to other
21 historical events. And I don't suggest that that is necessarily a -- a -- an
22 inappropriate way of -- of proceeding. But I'm just conscious of the fact that there
23 hasn't been an attempt to fix it in temporal -- by way of a calendar time. And -- and I
24 think I know why that is. And it -- I just think that it should be on the record.

25 PRESIDING JUDGE KORNER: [10:46:58] Well, Mr Edwards, that's the whole point.

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1 You've got the chance to -- to put the date. He's saying it's March 2003. And I
2 suppose the Prosecution is entitled to -- to try and fix a date, if that's what their case is,
3 which they say is more accurate by other events.

4 MR EDWARDS: [10:47:24] Indeed, but they're going to have to show that the other
5 temporal markers are unique.

6 PRESIDING JUDGE KORNER: [10:47:36] Right. Well, let's just -- I mean, this is
7 positively agonising all the way through, so let's just get a move on and see where we
8 get to.

9 MR SACHITHANANDAN: [10:47:58] Just one minute, your Honour. I'm just
10 trying to remember what my last question was.

11 Q. [10:48:19] Mr Witness, did you at this point meet anyone who came back from
12 Sindu after this operation in Sindu?

13 A. [10:48:47] Any particular person?

14 Q. [10:48:52] No. Anyone. Did you meet anyone who came back from -- who
15 came back from the Sindu operation?

16 A. [10:49:27] I didn't quite understand the question.

17 Q. [10:49:37] You mentioned that somebody told you, the people who went to
18 Sindu, they need help. What kind of help did they need?

19 A. [10:50:13] Those who went to Sindu, you mean that they were asking for some
20 help?

21 Q. [10:50:23] The people who went to fight Abd-Al-Wahid, were they -- did they
22 remain in good condition, or did any of them suffer any injury?

23 A. [10:51:30] Yes. When we were coming back on the road, two of their vehicles
24 went other landmines. The vehicles were destroyed. And when they arrived to
25 Mukjar, they started firing and the civilians started running to the police station, but

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1 they stopped them and they told them, "No, you have to flee to somewhere else."

2 Q. [10:52:00] When the two vehicles were destroyed, was anyone injured during
3 that -- during the destruction of the two vehicles, or not?

4 A. [10:52:26] Yes, some were wounded, and they were brought in.

5 Q. [10:52:35] Did you see these people who were wounded, or did you not?

6 A. [10:53:16] I did not see them with my own eyes, but I heard that they were
7 wounded. And at around 4 o'clock, before we moved, they were taken out by
8 helicopter.

9 MR SACHITHANANDAN: [10:53:34] And please do not interpret this point that
10 I'm going to make.

11 Your Honour, this event with the two vehicles being blown up will be one of
12 the temporal markers we will be using with other witnesses as well. This is just
13 being shared as an FYI to the parties and the Chamber.

14 Right. And we can go back to interpreting now from the next thing that I'm going to
15 say. Yeah.

16 Q. [10:54:05] Mr Witness, you mentioned Ali Kushayb. Who is Ali Kushayb?

17 A. [10:54:23] Ali Kushayb was the commander of the Janjaweed.

18 Q. [10:54:31] At the time that you were near Mukjar police station looking at these
19 prisoners, where was Ali Kushayb?

20 A. [10:54:56] At that time, they were all in the *siwan*.

21 PRESIDING JUDGE KORNER: [10:55:07] Ask him to repeat the last, please.

22 MR SACHITHANANDAN: [10:55:11]

23 Q. [10:55:12] You said they were all in a particular location, but we didn't really
24 hear where they were. Could you please repeat where Ali Kushayb and others were.

25 A. [10:55:54] They were in the *siwan*. I mean by that a place similar to this room

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1 here.

2 Q. [10:56:05] This place, where was it in relation to the Mukjar police station?

3 A. [10:56:25] In the eastern part of it.

4 Q. [10:56:34] Was it outside the police station or inside the police station?

5 A. [10:56:58] The place was inside the police station, and it was towards the east.

6 MR EDWARDS: [10:57:08] Your Honour, I'm content for this to be lead, because
7 the evidence isn't coming out very clearly. It's -- your Honours, if it assists, this is at
8 the fifth transcript, at ERN 0219-8700, and my friend can lead on this.

9 PRESIDING JUDGE KORNER: [10:57:32] Well, as you interrupt, Mr -- first of all, he
10 hasn't mentioned the police station so far. You asked him where it was in the police
11 station. He's talked about a prison.

12 Second, we don't know what the tent is.

13 Third, we've now got an unpronounceable room. So if -- if, as Mr Edwards kindly
14 says, you can lead on this, would you. And can we establish that when he says
15 "prison", he's talking about the police station, because that hasn't been said yet.

16 MR SACHITHANANDAN: [10:58:02] Very well, your Honour. I misspoke when I
17 said "police station". I apologise.

18 PRESIDING JUDGE KORNER: [10:58:09] Well -- well, he answered it. But,
19 anyhow, one way or the other, can we have the tent, *siwan*, the police station and
20 the prison all clarified by leading questions.

21 MR SACHITHANANDAN: [10:58:21] Right. I think the time has come to pull up
22 an image.

23 Tab 22, please. That is to say, 0224-0880. Not for the public, please.

24 Can the image -- yes. Right.

25 Q. [10:59:22] Mr Witness, do you see an image in front of you?

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1 A. [10:59:34] Yes.

2 Q. [10:59:35] You see at the bottom of the page, next to the date, your signature?

3 A. [10:59:56] Yes.

4 Q. [11:00:00] You remember looking at this image and showing us various
5 locations, showing me and Antonella various locations on this image?

6 A. [11:00:23] Yes.

7 MR SACHITHANANDAN: [11:00:24] Can the court officer please scroll up a little
8 so we can also catch the entire image. We don't need the signature anymore.
9 We can zoom in a little bit, please. Yeah, that's perfect.

10 Q. [11:00:54] Mr Witness, do you see a number of locations that were -- that are
11 marked on this image?

12 A. [11:01:25] Yes, I can see this map. I can see it.

13 Q. [11:01:29] Right. And this is a map of Mukjar. This is an image taken from
14 above of Mukjar.

15 Do you remember marking or telling us that the building marked number "2" is
16 where the prisoners were kept; is that correct?

17 A. [11:02:27] Yes. But it is not very clear. This image is not very clear. So I
18 couldn't identify the police station.

19 Q. [11:02:37] Right. Can we -- can we please -- can the court officer please zoom in
20 on the number "1" and number "2". Yes, that's enough. Thank you.

21 Right. Mr Witness, so -- okay. So you can see here. So north is upwards; south is
22 downwards. And you recall marking with number "2" where the prisoners were
23 kept; is that correct?

24 A. [11:03:27] Yes.

25 Q. [11:03:30] You recall marking with number "1" where you were at that time?

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1 A. [11:03:51] Yes.

2 Q. [11:03:52] So when you said that you saw Ali Kushayb in a tent, where was that
3 in relation -- I'm sorry. Let me -- I misspoke.

4 When you said you saw Ali Kushayb, where was that in this image, if you can tell us?

5 A. [11:04:47] He was in the eastern side, in the eastern side.

6 Q. [11:04:51] Right. So using this courtroom as a guide, I want to know
7 the distance between the prisoners and Ali Kushayb. Was Ali Kushayb further than
8 the judges to Ali Kushayb -- if you're considering the distance between you and
9 the judges, was Ali Kushayb further than the judges to the prisoners, where
10 the judges are in relation to the prisoners, or closer than where the judges are to
11 the prisoners?

12 A. [11:06:01] It might be exactly the same distance.

13 Do you mean the distance from the tent?

14 Q. [11:06:09] I'm trying to understand how far Ali Kushayb was from the prisoners.
15 Can you please explain how far Ali Kushayb was from the prisoners.

16 A. [11:06:42] It wasn't a big distance. Approximately, it was almost the same
17 distance between me and the people who are sitting right in front of me.

18 MR SACHITHANANDAN: [11:06:58] Your Honour, I'm going to leave it at that for
19 now and take the narrative -- after the break, take the narrative forward a little bit.

20 And I think that -- that we can elicit more clarity. But --

21 PRESIDING JUDGE KORNER: [11:07:11](Microphone not activated)

22 I think the only question before we break, I've been waiting in the hopes we could
23 finish this, but ...

24 Sir, what is the tent or where is the tent in relation to the buildings in the police
25 station?

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- 1 THE WITNESS: [11:07:59](Interpretation) It's right here on the map.
- 2 THE INTERPRETER: [11:08:09] Message from the Fur interpreter: We can't see
- 3 the map.
- 4 PRESIDING JUDGE KORNER: [11:08:14] No. I could see that he's actually
- 5 pointing to it on the screen. All right. We'll just have to deal with that afterwards.
- 6 I think the interpreters need the break.
- 7 Sir, there's going to be a break now for 30 minutes. And somebody will be with you.
- 8 Can they escort the witness out. Thanks.
- 9 (The witness exits the courtroom)
- 10 PRESIDING JUDGE KORNER: [11:09:19] Mr Sachithanandan, I've been looking at
- 11 some of the interviews, which I hadn't done before because they are set out in this
- 12 appalling format again. He does manage to give a fairly clear account, and I think
- 13 part of the problem is -- is -- is trying to interrupt him to ask how far he was. At this
- 14 stage of the proceedings, I think just getting the story out is -- is all that matters, as
- 15 opposed to how far he was when he saw all this or where he was or whatever. I
- 16 think just try and get the story out of what he actually did and what he saw, and then
- 17 we'll just have to wait and see what happens when the Defence have a go at this.
- 18 But at the moment, we haven't got anywhere in, what is it, the best part of an hour
- 19 and a half, other than the arrival at the police station. I think asking for
- 20 the -- the sort of detail at this stage that you would ask of a more -- I can't think of
- 21 the right word -- a more coherent witness is probably not going to get us anywhere.
- 22 MR SACHITHANANDAN: [11:10:35] Yes, your Honour, I'm entirely on the same
- 23 page. And the -- and from now on, it's going to be a pretty much linear
- 24 narrative -- (Overlapping speakers)
- 25 PRESIDING JUDGE KORNER: [11:10:45] I was going to say, just let him tell

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1 the story, and let's see then where we get to.

2 MR SACHITHANANDAN: [11:10:52] And then I may come back and fill in some
3 gaps.

4 PRESIDING JUDGE KORNER: [11:10:55] Yes, right. Yes, thank you.

5 Yes, all right. Twenty to 12, please.

6 THE COURT USHER: [11:10:58] All rise.

7 (Recess taken at 11.11 a.m.)

8 (Upon resuming in open session at 11.47 a.m.)

9 THE COURT USHER: [11:47:59] All rise.

10 Please be seated.

11 MR SACHITHANANDAN:

12 Q. [11:48:44] Welcome back, Mr Witness. I hope you had a good break.

13 A. [11:49:01] Yes, I did. Thank you.

14 Q. [11:49:05] I would like the witness to mark up the image that we were using. If
15 the court officer could please -- yes -- pull up the same image, and if we could have
16 a hard copy that could be marked on the Elmo.

17 Mr Witness, we are going to look at the image that we were looking at a few minutes
18 ago, because I want you, if possible, using your pen, to show us -- or to mark where
19 the tent was. You said Hassaballah and some others were in a tent, right?

20 Right. You see -- you see where you said you were at ...

21 Yes. So -- so, for example, you said that at number 1 is (Redacted)

22 and number 2 is where the prisoners were. So can you please mark where the tent
23 was with the red pen.

24 A. [11:51:04] I put a mark.

25 Q. [11:51:05] Yes.

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1 If the court officer could please put this on the Elmo so that we can see. Okay.

2 Can I ask the Fur interpreter, is there a meaning to the word *siwan* or *sewan* (phon)?

3 THE INTERPRETER: [11:52:06] It's like a big tent or a big gazebo covering the area
4 underneath it so that people can sit in the shade.

5 MR SACHITHANANDAN: [11:52:20] Thank you.

6 Q. [11:52:22] So, Mr Witness, you've marked the tent with a red pen. When you
7 say *sewan* (phon) or *siwan*, is that this tent you marked, or is it a different thing?

8 A. [11:53:02] What I mean by *siwan* is like a coverage. In our local language, we
9 use the word "*rakuba*", and people sit underneath it.

10 Q. [11:53:17] Right. So what you marked just now, is that the *siwan*, or is that
11 something else?

12 A. [11:53:38] Yes, this is the *siwan*.

13 MR SACHITHANANDAN: [11:53:47] Your Honour -- your Honour, I'm going to
14 come back to this image, but I would like to start a chronological narrative now,
15 unless you'd like to clarify anything on this point?

16 PRESIDING JUDGE KORNER: [11:53:56] No. Thanks very much. Let's get on
17 with the narrative.

18 MR SACHITHANANDAN: [11:54:00] We can take that away for now. Thank you,
19 Ms Court Officer.

20 Q. [11:54:16] Mr Witness, you mentioned that your commander and Ali Kushayb
21 talked. What happened after that?

22 A. [11:55:13] After my commander spoke to Ali Kushayb, (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 MR SACHITHANANDAN: [11:55:38] Your Honour, can we go into private session

2 for about five, 10 minutes.

3 PRESIDING JUDGE KORNER: [11:55:41] Yes, private session.

4 (Private session at 11.56 a.m.)

5 THE COURT OFFICER: [11:56:02] We're in private session, Madam President.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Open session at 12.05 p.m.)

5 THE COURT OFFICER: [12:05:15] We're back into open session, Madam President.

6 MR SACHITHANANDAN: [12:05:24]

7 Q. [12:05:24] So, Mr Witness, you said around 4 o'clock you were told to move.

8 Can you please describe what happened next, like a story, with as much detail as
9 possible.

10 A. [12:06:18] At around 4 o'clock, when they decided to move, the cars moved
11 ahead of us. And then my commander came and said, "Follow these cars." And we
12 were heading towards Garsila. When we moved, we crossed a distance, and then
13 the cars in front of me stopped, so my commander stopped -- ordered me to stop.

14 Q. [12:06:48] Thank you, Mr Witness.
15 And please continue, like a story, with detail.

16 A. [12:07:39] After we stopped, my commander stepped out of the vehicle and he
17 had headed towards Ali. They spoke together. At that time, two cars -- two other
18 cars arrived, and there were people inside these cars. They asked them to step down,
19 to get out of the vehicles, and they started beating them.

20 Q. [12:08:04] Thank you. Please continue, just like this, in detail, like a story.

21 A. [12:08:45] After they made people get out of the cars, they fired at them. When
22 all those civilians were shot, the vehicles left to pick up other civilians. And at that
23 time, I couldn't hold myself anymore and I fainted.

24 Q. [12:09:18] I understand. And I'm sorry that we have to go through this. I will
25 be as quick as I can.

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1 A. [12:09:40] Okay.

2 Q. [12:09:42] When the first vehicles arrived -- when the first prisoners arrived,
3 who told them to get down?

4 A. [12:10:26] Ali Kushayb was standing there. And when people were -- got out
5 of the car, Ali Tarzi and Idriss started firing at the civilians.

6 Q. [12:10:46] Who was beating the civilians?

7 A. [12:11:08] Muqaddam Idriss, Abikir and Ali Al Tarzi.

8 Q. [12:11:18] What was Ali Kushayb doing at this time?

9 A. [12:11:39] Ali Kushayb was standing next to them. And after I saw those
10 people being shot, I couldn't keep looking. So I was not able to keep looking at what
11 was happening.

12 Q. [12:11:59] How many prisoners, roughly speaking, were in the first vehicle
13 which brought prisoners?

14 A. [12:12:29] I don't know the number of prisoners. But the vehicles were
15 belonging to the Central Reserve Forces.

16 Q. [12:12:43] How far were you from Ali Kushayb at this time?

17 A. [12:13:09] It wasn't a big distance, (Redacted).

18 Q. [12:13:19] Was there -- was there -- was there anything blocking your view of
19 Ali Kushayb or not?

20 A. [12:13:59] I could see death. And after that, I could no longer see.

21 Q. [12:14:14] At the -- at the time that the prisoners were being shot, where was
22 Hassaballah?

23 A. [12:14:50] They were all together. Hassaballah and the commander and Hamdi,
24 they all were with Ali Kushayb in one location.

25 Q. [12:15:09] You said -- you said that some vehicles went to get more prisoners.

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1 What happened when those vehicles came back?

2 A. [12:15:58] I saw vehicles coming back. But after that, I was not able to see,
3 because it was a very sad event.

4 Q. [12:16:19] I understand. When the vehicles came back, who was in
5 the vehicles?

6 A. [12:16:48] Within those vehicles were members of the Central Reserve Forces.

7 Q. [12:16:59] Right. But you mentioned that they had gone to get prisoners. So
8 what I'm trying to understand is, was it only Central Reserve Forces in the vehicles, or
9 were there also prisoners?

10 A. [12:17:44] Yes. When the vehicles came back, there were prisoners inside them.
11 But I couldn't see them clearly.

12 Q. [12:17:57] When the shooting was taking place, how far was Ali Kushayb from
13 Ali Tarzi and Muqaddam Idriss?

14 A. [12:18:29] It was a short distance. They were all in the same location.

15 Q. [12:18:38] When the -- when the shooting was taking place, where was Abikir?

16 A. [12:19:10] They were all in one place. They were all close to the dead bodies.
17 They didn't go to any other place.

18 Q. [12:19:22] When the shooting was taking place, what was Abikir doing?

19 A. [12:19:53] They were the ones firing at the civilians. Muqaddam Idriss,
20 Ali Al Tarzi and Abikir, they were the ones killing civilians.

21 Q. [12:20:10] You said vehicles came back with more prisoners. Did that only
22 happen once, or did it happen more than once?

23 A. [12:20:46] I saw them leave and come back twice. But after that I was not able
24 to see anything that was happening.

25 Q. [12:20:59] When the Central Reserve vehicles came back with more prisoners,

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1 what was Kushayb doing?

2 A. [12:21:25] He was standing.

3 Q. [12:21:35] Was -- were his hands empty, or did they have anything in them?

4 A. [12:21:55] He was carrying a small axe.

5 Q. [12:22:03] Now, again, because we were not there, could you please describe this
6 axe in detail, what you saw.

7 A. [12:22:31] It was a small axe that you would use to chop up wood.

8 Q. [12:22:49] Mr Witness, you know the UNAMID building that was built some
9 years after these events. How far was the location of the shooting from
10 the UNAMID building?

11 A. [12:23:34] The distance between the two location was not far. It was a short
12 distance between the two locations.

13 Q. [12:23:44] And just so we can understand, roughly how long would it take to
14 walk from -- from the location of the shootings to the UNAMID building?

15 A. [12:24:21] It was a close distance. About 20 to 30 metres.

16 Q. [12:24:32] I'd like to show the witness an image now. It's tab 23. Not for
17 the public, please. The ERN is 0224-0881.

18 MR EDWARDS: [12:24:56] Is there any -- sorry. I just query, is there any reason
19 why this can't be shown to the public? It doesn't --

20 MR SACHITHANANDAN: [12:25:06] Actually, if we can show it without
21 the signature, this is -- this is fine to be shown to the public.

22 PRESIDING JUDGE KORNER: [12:25:14](Microphone not activated)

23 MR SACHITHANANDAN: [12:25:18] It may well be a unique scrawl, your Honour.
24 So I'd still be happier if it was not shown to the public, the pseudo signature.

25 THE COURT OFFICER: [12:26:03] Excuse me, counsel, is there a different ERN for

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1 the redaction -- for the redacted version of the document? Sorry.

2 MR SACHITHANANDAN: [12:26:11] No, I'm afraid there is no redacted version.

3 So is it possible to just show the upper part of the image without the wide line at the
4 bottom, so that the signature is not shown? So we can just cover the map but not
5 the lower white border.

6 Okay, that's pretty good.

7 Q. [12:26:52] Mr Witness, do you see an image in front of you?

8 A. [12:27:06] Yes.

9 Q. [12:27:07] Right. So do you remember being shown this image and being told
10 that Mukjar is on the bottom right of the image, and that the white buildings are
11 the UNAMID building?

12 A. [12:27:44] Yes.

13 Q. [12:27:46] And you remember being told that the yellow line going from Mukjar
14 upwards is the Mukjar-Garsila road?

15 A. [12:28:10] Yes.

16 Q. [12:28:18] Do you remember marking with a number "1" where the people were
17 shot, the prisoners were shot?

18 A. [12:28:33] Yes.

19 Q. [12:28:42] Mr Witness, at number 2 you marked a small valley or a *khore*. Can
20 you tell us what this *khore* was.

21 A. [12:29:20] I mean by that a small *wadi* where the water would run during
22 the rainy season.

23 Q. [12:29:36] When these prisoners were being shot, do you remember what season
24 it was?

25 A. [12:30:05] What I know and recall is that the event took place in 2003, but I do

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1 not remember the month.

2 Q. [12:30:15] That's okay. But do you remember whether it was rainy season, dry
3 season, something like that?

4 A. [12:30:54] This happened a long time ago, that's why I cannot recall in which
5 season it actually happened.

6 Q. [12:31:02] Of course. Do you remember whether the *khor* was full or empty?

7 MR EDWARDS: [12:31:17] Sorry, full or empty of what?

8 MR SACHITHANANDAN: [12:31:21] All right. I will rephrase.

9 Q. [12:31:23] Was the *khor* full of water or was it empty of water at this time -- at the
10 time of the shootings?

11 A. [12:31:48] It was empty. It didn't have any water.

12 Q. [12:32:04] When the first group of prisoners were shot, can you remember what
13 short of clothing were the prisoners wearing?

14 A. [12:32:41] They were dressed in white *jallabiyas*, normal *jallabiya* that civilians
15 usually wear.

16 Q. [12:32:55] Do you remember what ages they were? Were they young,
17 not -- middle age, old?

18 A. [12:33:33] I can't tell exactly how old they were, but they were a mixed group.
19 Some of them were elderly people and some were very young and some were in their
20 middle age.

21 Q. [12:33:50] When these prisoners were brought to this site, was Kushayb silent or
22 was he saying anything?

23 A. [12:34:27] When they started shooting the people, my state was really bad. I
24 couldn't really tell what happened. I couldn't see what was going on, and I fainted.

25 Q. [12:34:43] I understand. So let's focus on the time just before the shooting.

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1 Just before the shooting, was Kushayb silent or was he saying anything?

2 A. [12:35:26] There was some distance between me and them, so I can't really tell.

3 I didn't hear what they were saying, so I can't really say if he was saying something or
4 not.

5 Q. [12:35:39] Right. So let's move now past the shootings. What happened after
6 the shootings of the last group of prisoners ended?

7 A. [12:36:26] After that, we started moving. We moved towards Garsila, and we
8 arrived in Mara and we stopped there, in Mara.

9 MR SACHITHANANDAN: [12:36:40] Your Honour, I think we might have to go
10 into private for about 10, 15 minutes, or at least 10 minutes, I think.

11 Well, as -- let's see how we go. It's the latter part of the narrative.

12 PRESIDING JUDGE KORNER: [12:36:54](Microphone not activated)

13 THE INTERPRETER: [12:36:55] Microphone, please.

14 PRESIDING JUDGE KORNER: [12:36:57](Microphone not activated)

15 THE INTERPRETER: [12:36:57] Mic, your Honour, please.

16 PRESIDING JUDGE KORNER: [12:37:02] If we can at least try and keep in public
17 session for a bit and only go into private when we actually have to.

18 MR SACHITHANANDAN: [12:37:19] I think we could try to soldier on for a few
19 minutes and see how we go.

20 Q. [12:37:27] Mr Witness, without saying anything about you or what you did, can
21 you please tell us what happened at Mara.

22 A. [12:38:17] After we arrived in Mara, we stopped there. And then
23 the commander got out and he went to them and spoke to them. I don't know
24 exactly what they spoke about. But then the commander came back, and he ordered
25 me to move towards Garsila, and we left them behind.

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1 Q. [12:38:43] So before you left, who were the commanders who gathered in Mara?

2 Please tell us their names.

3 A. [12:39:55] When we stopped and my commander got out of the vehicle and

4 went to speak with Ali Kushayb and Hamdi and Hassaballah and others, and before

5 he came back, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 MR SACHITHANANDAN: [12:40:41] Your Honour, now I think we'll have to go

12 into private.

13 PRESIDING JUDGE KORNER: [12:40:48] All right. You've driven everybody off

14 anyhow.

15 (Private session at 12.41 p.m.)

16 THE COURT OFFICER: [12:41:07] We're in private session, Madam President.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

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20 (Open session at 12.53 p.m.)

21 THE COURT OFFICER: [12:53:08] We're back into open session, Madam President.

22 MR SACHITHANANDAN: [12:53:12] Right.

23 Q. [12:53:14] I want to focus now a little bit on what you saw in Deleig.

24 You said you saw a lot of people there. Where in Deleig did you see a lot of people?

25 A. [12:53:54] To the west of the police station.

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1 Q. [12:54:02] Okay. And since we were not there, can you please describe in detail
2 what you saw near the police station.

3 A. [12:54:58] Yes. When we arrived, I saw with my own eye, in the area to
4 the west of the police station and to the east of the market, I saw a big number of
5 people laying on the floor. I was in my car. We were moving. It was a very, very
6 big number of people, but I can't tell how many exactly.

7 Q. [12:55:30] These people lying on the -- on the ground or floor, what were they
8 wearing?

9 A. [12:55:59] They were wearing normal civilian clothes.

10 Q. [12:56:08] Roughly, what ages were they? Were they young, middle aged, old?

11 A. [12:56:43] I can't specify exactly the ages. We were in our cars and we were
12 a little bit far from where they were. A little bit. And the cars were moving. So
13 I can't tell how old they were.

14 Q. [12:57:01] You mentioned Ali Kushayb. What made you think that
15 Ali Kushayb was there?

16 A. [12:57:40] Because the place was full of the Janjaweed members, and those
17 Janjaweed were the same ones that were with us before. They were on horsebacks.
18 And Ali Kushayb was there. He was there in person.

19 Q. [12:58:00] Right. Okay. Let's take it step by step. Why did you think these
20 people were Janjaweed?

21 A. [12:58:28] They are well known to us. They usually go on horsebacks.

22 Q. [12:58:39] And about Ali Kushayb, I'm trying to understand. Is this something
23 that you -- Ali Kushayb's presence, is this something you saw with your own eyes, or
24 is this something you learnt from some other way?

25 MR EDWARDS: [12:58:52] Your Honour, he's given the evidence twice now that he

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1 saw Ali Kushayb. This question has been asked and answered.

2 MR SACHITHANANDAN: [12:58:59] Well, I haven't really asked the basis of
3 knowledge yet. He said Ali Kushayb is there.

4 PRESIDING JUDGE KORNER: [12:59:04](Microphone not activated)

5 We'll bring this to a halt now and we'll pick it up after lunch.

6 Sir, you can leave now and -- there will be a break for lunch and -- which will be an
7 hour and a half. If somebody can escort the witness out.

8 (The witness exits the courtroom)

9 PRESIDING JUDGE KORNER: [13:00:02] You've never actually asked him how he
10 knows this man that he's been talking about is Ali Kushayb. At all. I mean, at the
11 moment we've no idea whether was somebody he'd seen before or somebody told
12 him or whatever.

13 As far as the Deleig incident is concerned, he says he -- where are we? Sorry, I had it
14 a moment ago and now ...

15 MR EDWARDS: [13:00:41] It's page 50, line 10, your Honour.

16 PRESIDING JUDGE KORNER: [13:00:44] Yeah. And then he says it. That's right.
17 Yeah. "I saw him there at the police station." And then he said it again. Yeah. I
18 mean, you asked him, "What made you think that he was there?" And he said he
19 saw him there. I'm not clear why you were asking that either.

20 MR SACHITHANANDAN: [13:01:11] Well, your Honour, I'd like to ask
21 the standard questions I ask every time the accused is spotted.

22 PRESIDING JUDGE KORNER: [13:01:18] I know that. But I -- and as I've already
23 pointed that out earlier, "How far away were you", and "Did you see with your own
24 eyes?" But, I mean, at the moment, as I say, what's really missing from all of this is,
25 right from the beginning, how he ever knew this man was Ali Kushayb.

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1 MR SACHITHANANDAN: [13:01:36] Right. And I fully intend to cover that, but I
2 wanted to come to the end of -- well, we have come to the end of the narrative, and
3 my next session is going to be his knowledge of Ali Kushayb. But ...

4 PRESIDING JUDGE KORNER: [13:01:48] All right.

5 MR SACHITHANANDAN: [13:01:49] Yes. So I would like to put one question
6 about --

7 PRESIDING JUDGE KORNER: [13:01:54] I'm not clear, at the moment, but, I mean,
8 so much of this evidence is unclear. I don't think it makes any difference. Is -- he
9 says, "We took the Deleig route. We saw a group of cars and lorries. And when we
10 arrived in Deleig, I saw Ali Kushayb there in Deleig police station." I mean, you
11 haven't so far adduced that he'd gone to the police station, except as a sort of aside.

12 MR SACHITHANANDAN: [13:02:22] Yes. So that is why I want to ask more about
13 Ali Kushayb; where he saw him, how he saw him, what Ali Kushayb was doing,
14 et cetera.

15 PRESIDING JUDGE KORNER: [13:02:34] Well, I think -- I think the first question is,
16 "When he got to Deleig, where did he go?"

17 MR SACHITHANANDAN: [13:02:43] His evidence thus far is that he's driving by.

18 PRESIDING JUDGE KORNER: [13:02:46] I know. Well, that just doesn't make any
19 sense.

20 MR SACHITHANANDAN: [13:02:48] Right. And I can certainly clarify that in
21 the afternoon session, your Honour.

22 PRESIDING JUDGE KORNER: [13:02:52] Yeah. All right.

23 MR EDWARDS: [13:02:53] Yes. But the point is, your Honour, that the objection
24 that I took was to the way my learned friend asked his question, as if there's any -- as
25 if there's any ambiguity about the witness's evidence and lack of clarity. Page 52,

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1 from line 1: "And about Ali Kushayb, I'm trying to understand. Is this something
2 that you -- Ali Kushayb's presence, is this something you saw with your own eyes, or
3 is this something that you learned some other way?"

4 That -- the evidence from the witness so far is unambiguous, as far as it stands.
5 He saw him.

6 PRESIDING JUDGE KORNER: [13:03:35] Yeah. Well, I think -- yes. All right. I
7 think the proper question is, "How did you see him," or "Where did you see him
8 right?"

9 MR SACHITHANANDAN: [13:03:40] I'm happy to proceed that way.

10 PRESIDING JUDGE KORNER: [13:03:42] All right. Let's do it that way.
11 Yes, all right, 25 to 2.

12 Oh, before we go any further, it seems to me, Mr Edwards, I don't know how long
13 you're going to be in cross-examination. How much longer have you got, Mr ...

14 MR SACHITHANANDAN: [13:03:57] I think perhaps half an hour or less. Not
15 much at all.

16 PRESIDING JUDGE KORNER: [13:04:03] So is this witness definitely going to go
17 into tomorrow, I take it?

18 MR EDWARDS: [13:04:07] Yes.

19 PRESIDING JUDGE KORNER: [13:04:08] And we've got a truncated day.

20 MR EDWARDS: [13:04:11] I suspect my learned friend will have some questions for
21 this witness before I start anyway. In fact, we've discussed it. I gather that that's
22 the case. Although I don't want to speak for her.

23 MS VON WISTINGHAUSEN: [13:04:23] Yes, but literally just three, four, five
24 questions -- (Overlapping speakers)

25 PRESIDING JUDGE KORNER: [13:04:27] I'm just saying (Overlapping speakers)

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- 1 MS VON WISTINGHAUSEN: [13:04:28] -- very quick.
- 2 PRESIDING JUDGE KORNER: [13:04:29] As far as I understand, this chap's not in
3 any way a victim of any sort or description.
- 4 MS VON WISTINGHAUSEN: [13:04:35] Well, he still has some knowledge about
5 things that could be of interest to our client. But it's going to be short, I promise.
6 Five minutes, I suppose.
- 7 MR EDWARDS: [13:04:44] Yes. We'll -- we're going to make good -- good -- well, I
8 hope we're going to make good progress this afternoon.
- 9 PRESIDING JUDGE KORNER: [13:04:53] Well, then I'm wondering if -- tomorrow
10 morning, we're sitting from 9.15 to 10.45, and then 2.30 till 4. Are you likely to
11 complete cross-examination in that first session tomorrow morning? Because if so,
12 then probably we ought to start the last -- the other witness in the afternoon.
- 13 MR EDWARDS: [13:05:15] Yeah, I think there's a good chance it will be finished in
14 that first session, so ...
- 15 PRESIDING JUDGE KORNER: [13:05:21] All right. Well, then I think we need to
16 get the next witness for 2 o'clock tomorrow.
- 17 MR SACHITHANANDAN: [13:05:25] That should be fine.
18 I'm looking at Ms Whitford.
19 Yes, it should be fine.
- 20 PRESIDING JUDGE KORNER: [13:05:32] All right. Yes. All right. Thank you
21 very much. All right. A full hour and a half, I suppose. We'll call it 2.35.
- 22 THE COURT USHER: [13:05:39] All rise.
- 23 (Recess taken at 1.05 p.m.)
- 24 (Upon resuming in open session at 2.37 p.m.)
- 25 THE COURT USHER: [14:37:50] All rise.

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1 Please be seated.

2 PRESIDING JUDGE KORNER: [14:38:10] Before we continue, the -- the court officer
3 is just going to put the ERN number on record for the photograph.

4 THE COURT OFFICER: [14:38:18] Thank you, your Honour.

5 The document annotated by Witness P-0931, originally located at tab 22 of the OTP
6 binder, original ERN DAR-OTP-0224-0880 will be assigned the following ERN:

7 DAR-REG-0001-0013 and marked as confidential.

8 PRESIDING JUDGE KORNER: [14:38:51] Yes. Thank you.

9 MR SACHITHANANDAN: [14:38:54]

10 Q. [14:38:59] Welcome back, Mr Witness.

11 We're going to continue to talk about Deleig in the same way we were talking earlier.

12 A. [14:39:21] Okay.

13 Q. [14:39:24] One thing I'd like to understand is, how did you go from Garsila to
14 Nyala? Was it through Deleig and Zalingei?

15 A. [14:40:00] Yes, that is correct.

16 MR SACHITHANANDAN: [14:40:04] Your Honour, purely for the benefit of
17 the parties and the bench, I have an annotated map, just a highlighted map of
18 the potential route. I've shown it to -- I've discussed it with my learned friend, and
19 he doesn't object to using it. Perhaps I can just have it placed on the Elmo. It might
20 help us have a perspective on the route taken.

21 PRESIDING JUDGE KORNER: [14:40:30] I'm just wondering why it matters what
22 route he took if he says he was at Deleig and what he saw there. Why does it matter
23 which route he took? Isn't it what he saw in Deleig that's important?

24 MR SACHITHANANDAN: [14:40:44] That's fair enough. I was potentially
25 expecting some dispute about the route, et cetera.

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1 Very well. I will set aside my poor rejected map and continue.

2 PRESIDING JUDGE KORNER: [14:41:07] I really think, for the reasons we discussed,
3 it's better if we just get his explanation of what he saw and how he saw it.

4 MR SACHITHANANDAN: [14:41:19]

5 Q. [14:41:20] Mr Witness, when you got to Deleig, did you stop in Deleig, or did
6 you travel through Deleig?

7 A. [14:41:50] We continued our trip. We did not stop.

8 Q. [14:41:57] Am I right in understanding that you drove through Deleig; is that
9 correct?

10 A. [14:42:33] Yes, because the road goes through Deleig. And from there, I went
11 to Zalingei.

12 Q. [14:42:44] You said that you saw Ali Kushayb in Deleig. Where in Deleig did
13 you see Ali Kushayb?

14 A. [14:43:11] Yes, I saw him in Deleig.

15 Yes, I saw him close to the police checkpoint, but the distance between him and I was
16 far. This is why I wasn't able to identify him very well.

17 Q. [14:43:39] Could you explain that for us. When you say, "I wasn't able to
18 identify him very well", what do you mean?

19 A. [14:44:24] Because we did not stop for a long time. We stopped for a short
20 period of time, and that period was not enough to recognise him and identify him.
21 This is why I wasn't able to identify him or recognise him very well.

22 PRESIDING JUDGE KORNER: [14:44:47] Do you mean you think it was him, but
23 you are not sure?

24 THE WITNESS: [14:45:24](Interpretation) His men were there at that spot, so I
25 immediately inferred that he was there. But we did not stop for a long time to know

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1 enough details.

2 MR SACHITHANANDAN: [14:45:49] Shall I move on, your Honour, or ... Yes.

3 PRESIDING JUDGE KORNER: [14:45:54] I think we'd better -- just one -- when you
4 say "his men", did you recognise some of the people who -- did you recognise some of
5 the people who you had seen at Mukjar?

6 THE WITNESS: [14:46:46](Interpretation) Yes, I recognised them because they were
7 the same Janjaweed who were in Mukjar. They are the same Janjaweed that I found
8 in Deleig. And I heard from people that Ali Kushayb was among them. This is
9 why I thought that Ali Kushayb would be among those Janjaweed.

10 PRESIDING JUDGE KORNER: [14:47:06] Yes, thank you.

11 MR SACHITHANANDAN: [14:47:11] I'd like to pull up an image. It's 0224-0883.

12 And I think we could show this publicly.

13 MR EDWARDS: [14:47:28] What tab is it, please?

14 MR SACHITHANANDAN: [14:47:30] My apologies. Tab 25.

15 Yes, I think this is fine.

16 Q. [14:48:01] Mr Witness, do you see an image in front of you?

17 A. [14:48:11] Yes, I see it very well.

18 Q. [14:48:17] It's correct, isn't it, that you handed this image -- or you provided this
19 image to Mr Julian, and others, who met you?

20 A. [14:48:39] Yes, that is correct.

21 Q. [14:48:42] (Redacted)

22 A. [14:49:04] (Redacted)

23 Q. [14:49:13] (Redacted)

24 A. [14:49:34] (Redacted)

25 Q. [14:49:39] (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. [14:50:24] And this is a photograph of Deleig, correct?

4 A. [14:50:36] Yes, that is correct.

5 Q. [14:50:40] And you remember showing various locations in this photo to

6 Antonella and Mr Julian; you remember that?

7 A. [14:51:05] Yes, that is correct.

8 Q. [14:51:08] Now, at the far back of the photo is the police station, isn't it, with

9 a wall?

10 A. [14:51:35] Yes, that is correct.

11 Q. [14:51:39] And back in 2003-2004, there was no wall there; is that right?

12 A. [14:52:11] Yes. In 2003-2004, there was no police station. There was no wall.

13 Q. [14:52:28] Okay. Just to be -- just to be sure, there was no wall, but there was

14 a police station; is that right?

15 A. [14:52:48] Yes, this is correct. There was a police station, but there was no wall.

16 Q. [14:52:55] Now, in the front of the image -- if the court officer could please just

17 zoom out.

18 In the front of the image near the melons, that's the Garsila road, correct?

19 A. [14:53:30] Yes, that is the Garsila road.

20 Q. [14:53:37] And is -- this is the road you took from Garsila to Zalingei, correct?

21 A. [14:54:00] Yes, that is correct, that is the road.

22 Q. [14:54:04] The people who were lying on the ground, is it correct that they were

23 between the Garsila road and the police station?

24 A. [14:54:40] The people were in the vicinity near the police station and the area

25 where cars would park.

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1 Q. [14:54:56] Thank you, Mr Witness.

2 Your Honour, I'm going to move on, unless you have questions about the photo.

3 Yeah, all right. Moving on.

4 Mr Witness, do you remember which day of the week it was that you drove through

5 Deleig, as you described?

6 A. [14:55:50] It was on a Friday.

7 Q. [14:56:02] Have you heard of someone called Jenif?

8 A. [14:56:16] Yes.

9 Q. [14:56:19] Is he alive or is he dead?

10 A. [14:56:39] He's dead. I heard that he was killed in Deleig.

11 Q. [14:56:51] Do you know how he was killed?

12 A. [14:57:15] I don't know how he got killed. What I know is that he was a PDF
13 coordinator, along with Hassaballah. Probably Hassaballah, along with his men,
14 killed him.

15 Q. [14:57:30] Do you know who took Jenif's role after Jenif was killed?

16 A. [14:57:50] Hassaballah took over.

17 Q. [14:57:59] Jenif's killing, do you know whether it took place before the shootings
18 you described in Mukjar or after?

19 A. [14:58:43] He was killed after I went to Nyala. I spent some time in Nyala.

20 Afterwards, I heard that Jenif was killed.

21 PRESIDING JUDGE KORNER: [14:58:58] Can we know what nationality he is?

22 Nationality -- what tribe.

23 MR SACHITHANANDAN: [14:59:07]

24 Q. [14:59:07] Mr Witness, you heard the judge. What tribe did Jenif belong to?

25 A. [14:59:25] He was from the Fur tribe, from the area of Arawala.

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1 Q. [14:59:36] We're now going to go to a different topic, and that is Ali Kushayb.

2 When was the first time you heard the name Ali Kushayb?

3 A. [15:00:10] Could you please repeat the question.

4 Q. [15:00:13] So I'm trying to understand how you know Ali Kushayb. And so I

5 wanted to know when was the first time you heard the name Ali Kushayb, of

6 this -- the name of this person Ali Kushayb.

7 A. [15:01:06] All I know is that he had a pharmacy near the Agricultural Bank. I

8 heard from people in the market, I heard them saying, "Ali Kushayb. Ali Kushayb."

9 But I was not well acquainted with him.

10 Q. [15:01:28] You've mentioned seeing Ali Kushayb today. When you saw him in

11 Mukjar, how did you know that this person you saw was Ali Kushayb?

12 A. [15:02:19] All I know about Ali Kushayb is that he was a retiree from

13 the military. After his retirement, he opened a veterinary pharmacy, and I got to

14 know him because of that pharmacy and because people were referring to him as

15 Ali Kushayb. But I don't know much details about him.

16 Q. [15:02:48] So when was the first time you saw Ali Kushayb?

17 A. [15:03:25] I'm not sure the exact date I saw Ali Kushayb, but it was because of

18 his pharmacy that I got to know him. That's all I can say in that regard.

19 Q. [15:03:43] You mentioned seeing Ali Kushayb in Mukjar. Did you see

20 Ali Kushayb for the first time in Mukjar, or did you see him before you went to

21 Mukjar?

22 A. [15:04:22] The first time I saw him was in Garsila, where Ali Kushayb had

23 a pharmacy. I saw him a second time in Mukjar. When I returned to Mukjar, I

24 found him there.

25 Q. [15:04:38] Right. So now -- because we have never been to Sudan or Garsila,

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1 it's hard for us to picture this. Can you tell us, please, in detail, about the first time
2 you saw Kushayb in Garsila.

3 A. [15:05:36] I saw him the first time in Garsila, where he owned a veterinary
4 pharmacy. I saw him a second time in Mukjar, when the Mukjar events happened.

5 PRESIDING JUDGE KORNER: [15:05:53] Okay. Do you mean you went to his
6 pharmacy?

7 THE WITNESS: [15:06:35](Interpretation) You've asked me the first time I saw
8 Ali Kushayb, and I answered by saying I saw him the first time in Garsila, when he
9 owned a veterinary pharmacy near the Agricultural Bank. I saw him a second time
10 in Mukjar. Isn't that sufficient information, or do you have any other question in
11 particular you'd like me to answer?

12 PRESIDING JUDGE KORNER: [15:07:01] Yes. I'll start this again.

13 Did you ever go to his pharmacy? Or do you mean you just saw him in the Garsila
14 market?

15 THE WITNESS: [15:08:07](Interpretation) I did not go to his pharmacy. But, when
16 I moved around the market, he had his pharmacy on the main road in the market.
17 And when we passed past them, we saw people shopping at his pharmacy. Most
18 people shopped at his pharmacy, and most people who stayed at his pharmacy or
19 spent time at his pharmacy were from the Janjaweed. And that is why it was
20 difficult for us to go to the pharmacy or to even go past the pharmacy.

21 MR SACHITHANANDAN: [15:08:57]

22 Q. [15:08:58] And when you saw Ali Kushayb again in Mukjar, how did you know
23 that the man you saw was Ali Kushayb, just so we understand?

24 A. [15:09:50] I saw him in his pharmacy. He is a military retiree. And I
25 recognised him from before in the pharmacy. He was a well-known person to

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1 everyone. Everybody knew who he was. So I just recognised him.

2 Q. [15:10:17] Thank you, Mr Witness. I'm going to move on to a different topic.

3 Can we please pull up for the witness tab 14. And the English translation of this is at
4 tab 15. The ERN of tab 14 is 0222-0052, and the translation is 0221-1359. But I'd like
5 the original version to be shown to the witness.

6 Mr Witness, is it correct that this is a map of Mukjar drawn by you?

7 A. [15:12:37] Yes, that is correct.

8 MR EDWARDS: [15:12:40] May I make a suggestion? We know that this witness is
9 unable to read. There's no great advantage to him being shown the Arabic version,
10 which he's not going to be able to read, but for those non-Arabophones amongst us,
11 it's -- we can't -- without making reference to the translation, which is available, we're
12 going to have difficulty understanding what's -- what's being discussed. So I
13 wonder if it might make more sense for the translation to come up. It won't
14 prejudice the witness.

15 MR SACHITHANANDAN: [15:13:20] That's fine. I'm just going to explain what's
16 going to happen to the witness, and then we can do that.

17 Q. [15:13:27] Mr Witness, we're going to use a version of this map with English
18 letters so that the rest of us will understand, but it will be still the version that you
19 drew. All right? And it's going to be shown to you right now.

20 A. [15:13:59] Yes, that's fine.

21 Q. [15:14:07] Right. So this is the map, isn't it, that you drew of Mukjar with
22 the south towards -- upwards, to the top of the image, and then north towards
23 the bottom of the image?

24 Actually, out of an abundance of caution, we should make this not public, this image.

25 Yes.

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- 1 PRESIDING JUDGE KORNER: [15:14:41](Microphone not activated)
- 2 THE WITNESS: [15:15:00](Interpretation) Fine. That's all right. That's correct.
- 3 MR SACHITHANANDAN: [15:15:11]
- 4 Q. [15:15:11] And you've marked where the prisoners were kept in Mukjar; is that
- 5 correct?
- 6 A. [15:15:35] Yes, that is correct.
- 7 Q. [15:15:38] And a little south of that you've marked where your car was parked;
- 8 that's correct, isn't it?
- 9 A. [15:16:09] Yes, that is correct.
- 10 Q. [15:16:12] And towards the bottom of the image, which is the north, you've
- 11 marked the road to Garsila, correct?
- 12 A. [15:16:43] Yes, that is correct.
- 13 Q. [15:16:45] And you've marked the direction in which the executions took place,
- 14 correct?
- 15 A. [15:17:06] Yes, that is correct.
- 16 Q. [15:17:08] And that's the same direction as the *khor* which was near your -- near
- 17 the execution site?
- 18 A. [15:17:31] Yes, that is correct.
- 19 Q. [15:17:33] Thank you.
- 20 This can be taken down.
- 21 Your Honour, can we go into private session for a few questions.
- 22 PRESIDING JUDGE KORNER: [15:17:49] Yes. Yes.
- 23 (Private session at 3.18 p.m.)
- 24 THE COURT OFFICER: [15:18:07] We're in private session, Madam President.
- 25 (Redacted)

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22 Q. [15:22:46] Thank you, Mr Witness. Those -- I've come to the end of my
23 questions.

24 That's it, your Honour.

25 PRESIDING JUDGE KORNER: [15:22:53] Yes, thank you.

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1 Yes, sir, you're now going to be asked a few questions by the lawyer for the victims in
2 this case.

3 Ms von Wistinghausen.

4 MS VON WISTINGHAUSEN: [15:23:16] Yes, Madam President. I've -- we have
5 reconsidered our questions. And after hearing the answers to Mr Sachithanandan's
6 questions, we have no questions for this witness.

7 Thank you, Mr Witness.

8 PRESIDING JUDGE KORNER: [15:23:28] Yes, Mr Edwards.

9 Sir, this is the lawyer for the Defence who you may have met.

10 MR EDWARDS: [15:23:46] Your Honour, we're still in private session, and we're
11 going to need to be in private session for a little while.

12 PRESIDING JUDGE KORNER: [15:23:55](Microphone not activated)

13 QUESTIONED BY MR EDWARDS:

14 Q. [15:24:47] Good afternoon, Mr Witness. We met a few days ago. As her
15 Honour says, my name is Iain Edwards. I'm going to ask you a few questions for
16 the rest of the day.

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE KORNER: [15:25:51] Mr Edwards, while that's being translated,
20 just a reminder, words like affiliation are over, slightly -- do you mean connection?

21 MR EDWARDS: [15:26:02] I use the word "affiliation" because it was used by
22 the witness himself, or it was translated as a word used by the witness himself in an
23 earlier document, so I'm just ...

24 PRESIDING JUDGE KORNER: [15:26:13] All right.

25 MR EDWARDS: [15:26:14] Yes.

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10 MR SACHITHANANDAN: [15:38:59] Sorry, I'm not objecting, but *this is

11 a 20-line question.

12 PRESIDING JUDGE KORNER: [15:39:03] Honestly, Mr Edwards, it's an incredibly

13 long question.

14 MR EDWARDS: [15:39:07] Well, it's a long question, your Honour, because I have to

15 put his questions and answers to him. It's unfair otherwise. My learned friend

16 would be the first to get up on his feet and say, "Well, you're not giving him

17 the context."

18 PRESIDING JUDGE KORNER: [15:39:20] Well, it's not so much that. It's whether

19 the interpreters can manage to translate all of that in one go.

20 MR EDWARDS: [15:39:29] Okay. I'll start again. Well, I'll put the question again.

21 PRESIDING JUDGE KORNER: [15:39:33] The original question, which is, effectively,

22 that's not what you said to the investigators, is it?

23 MR SACHITHANANDAN: [15:40:13] And while my friend is planning his question,

24 can I please ask that line 632 is also included in this question, because I do think that

25 that aspect is relevant.

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10 PRESIDING JUDGE KORNER: [15:48:29](Microphone not activated)

11 THE INTERPRETER: [15:48:41] The Fur interpreter is working into Fur right now.

12 THE WITNESS: [15:48:58](Interpretation) I am only saying the truth. I am
13 speaking about what I saw and what I heard. I cannot say something else. What
14 you are talking about -- what I am talking about is the only thing that I know.

15 (Redacted)

16 (Redacted)

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22 PRESIDING JUDGE KORNER: [15:49:45] All right. But if your case is the opposite,
23 then put that -- well, he's already -- actually, you're right. Let's just move on.

24 MR EDWARDS: [15:49:49] Yes. No, no, I'm trying not to waste time, your Honour,
25 because I'm not going to get anywhere by asking that question.

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- 25 (Open session at 3.55 p.m.)

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1 THE COURT OFFICER: [15:55:01] We're back into open session, Madam President.

2 MR EDWARDS: [15:55:06]

3 Q. [15:55:06] You never purchased anything from the pharmacy in Garsila, did
4 you?

5 A. [15:55:32] Yes, that is correct, I never purchased anything from the pharmacy. I
6 only saw it from afar.

7 Q. [15:55:44] Now, already we've been talking about distances by reference to this
8 courtroom. I want you to think about the nearest you ever got to the pharmacy in
9 Garsila.

10 A. [15:57:11] I cannot tell you about the precise distance, but the pharmacy is
11 located in the main street in the market. So whenever we were on the road, we
12 would be visiting the other shops, and this is what allowed us to see the pharmacy.
13 It is in the north-west -- or to the north-west of the Agricultural Bank. We would be
14 going there, and we could see the pharmacy. So I cannot tell you about the exact
15 distance.

16 Q. [15:57:55] But you never went past the pharmacy, did you?

17 A. [15:58:25] I didn't know -- I did not go past it. I used to look at it from afar,
18 because there are many people that go into the pharmacy to buy medicine. And I
19 only looked at the pharmacy or saw it from afar.

20 Q. [15:58:43] And when you saw it from afar, it was full of Janjaweed; is that what I
21 understand from your evidence?

22 A. [15:59:31] Yes. When it is the market day, the Arabs would go and buy
23 medicine for the livestock. I used to look at them from afar. I had other things to
24 do. I did not have time to go to the pharmacy or to look at it from a close distance.
25 I was busy.

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1 Q. [15:59:59] So not only -- well, so do I understand that you only ever looked at
2 the pharmacy for short -- for a short period of time?

3 A. [16:00:47] The pharmacy was open in the market. And when he left the army,
4 when he retired, he came and he opened a pharmacy next to the bank. And
5 whenever we were in the market, we would see that. However, I did not go to
6 the pharmacy.

7 Q. [16:01:07] No, I understand that. What I'm saying is that, because you were
8 busy, you only ever looked at the pharmacy for a short period of time; is that right?

9 A. [16:01:53] Yes. I did not have enough time. So whenever I had the time, I
10 went to the market. I was a passerby. Whenever I was passing by, I would see
11 the pharmacy. But I had nothing to do with it, and I never went to the pharmacy to
12 buy drugs. I never talked to people who were there.

13 Q. [16:02:13] Thank you.

14 I see the time, your Honour. That's convenient.

15 PRESIDING JUDGE KORNER: [16:02:17] Yes.

16 Sir, we are going to have to stop this afternoon. Your evidence will finish, but not till
17 tomorrow. And tomorrow morning, we start at 9.15.

18 Yes, thank you. And we'll adjourn.

19 THE COURT USHER: [16:02:54] All rise.

20 (The hearing ends in open session at 4.02 p.m.)