

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(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 ("Ali  
5 Kushayb") - ICC-02/05-01/20  
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and Judge Althea Violet  
7 Alexis-Windsor  
8 Trial Hearing - Courtroom 2  
9 Wednesday, 20 July 2022  
10 (The hearing starts in open session at 9.34 a.m.)  
11 THE COURT USHER: [9:34:04] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE KORNER: [9:34:22] Yes. Can we call the case, please.  
15 THE COURT OFFICER: [9:34:29] 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: [9:34:45] Yes. Good morning to all. Good  
20 morning to you, sir.  
21 Appearances, Defence, please, first of all.  
22 MR LAUCCI: [9:34:54](Interpretation) Good morning, your Honours and colleagues  
23 and witness. This morning, along with the accused, we've got Eva Kalb, who is  
24 the evidence manager; Ahmad Issa, case manager; my colleague, Iain Edwards; and  
25 myself, counsel.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [9:35:16] Yes. Prosecution.

2 MR JEREMY: [9:35:18] Good morning, Madam President, your Honours. For  
3 the Prosecution today, we have Ester Kosova, Diana Saba, Claire Sabatini and myself,  
4 Edward Jeremy.

5 PRESIDING JUDGE KORNER: [9:35:31] I know, I did it again yesterday. I heard  
6 myself do it.

7 Yes. And the counsel for the victims, please.

8 MS VON WISTINGHAUSEN: [9:35:38] Yes. Good morning, Madam President,  
9 your Honours, dear colleagues. Good morning to everyone in and around  
10 the courtroom. The participating victims today are represented by our case manager,  
11 Idriss Anbari; Anand Shah, our associate counsel; and myself, Natalie von  
12 Wistinghausen.

13 PRESIDING JUDGE KORNER: [9:35:55] Yes. Thank you very much,  
14 Ms von Wistinghausen.

15 Mr Laucci, I saw the email about timing. We'll see -- I'll explain when the witness  
16 has finished and before the next comes what we're going to do. All right? Yes.  
17 Yes.

18 MR LAUCCI: [9:36:14] Thank you, Madam President.

19 WITNESS: DAR-OTP-P-0986 (On former oath)  
20 (The witness speaks Fur)

21 QUESTIONED BY MR LAUCCI: (Continuing)

22 Q. [9:36:22](Interpretation) Good morning, witness. (Speaks English) I will really  
23 need to put myself on the side if we want to see.

24 Can we push a little bit in the rear, because it's worse than yesterday. Yeah, it's  
25 better. Thank you.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 Mr Witness, I start again your cross-examination this morning. And I start with  
2 the moment when you -- you get treated of your injuries in Mukjar and you depart  
3 from Mukjar with an international organisation, or a nongovernmental organisation.

4 I am at paragraph 105-106 of the statement.

5 Did that organisation which treated you and took you out of Mukjar deliver some  
6 medical certificates in relation to your injuries?

7 A. [9:38:46] I did not receive any treatment from any organisation. However,  
8 what happened was that a vehicle affiliated to the organisation moved me from  
9 Mukjar through the Chadian border until we reached Nyala.

10 Q. [9:39:13] Thank you. Did that organisation record your statement of what had  
11 happened to you in Kodoom?

12 A. [9:40:18] I haven't received any treatment from any organisation. However, I  
13 went into a vehicle that belonged to an organisation that came to the region, bringing  
14 some assistance, and they moved me to the area that I had already mentioned.

15 Q. [9:40:39] And you say that you do not remember the name of that organisation;  
16 is that correct?

17 A. [9:41:12] I am not sure of the name of that organisation. However, there was  
18 a vehicle affiliated with the organisation. It came and delivered some goods, and at  
19 that time, any vehicle bearing the name of the organisation would not be attacked.  
20 But I cannot recall the name of the organisation in specific.

21 Q. [9:41:36] So, Mr Witness, you -- you are explaining to the Court that you can  
22 remember the name and face of a veterinary you saw for 20 minutes on a totally  
23 insignificant occasion in 2001, but you cannot remember the name of the organisation  
24 which saved your life in January 2004; is that correct?

25 A. [9:42:41] Yes, this is correct. I cannot remember.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 Q. [9:42:45] Thank you. You mentioned that one of your uncles was working for  
2 that international organisation. It is at paragraph 106.

3 Can I ask you why you did not simply ask your uncle what was the name of  
4 the organisation?

5 A. [9:43:48] There is a confusion in your question. The uncle that you are talking  
6 about was not working for that organisation. He was working for the (Redacted),  
7 and he moved me from Mukjar to Nyala. And after that, we went back.

8 Q. [9:44:09] Okay. So I take that the sentence in your statement, paragraph 106, I  
9 quote: "My uncle worked for this humanitarian organisation and he explained  
10 the situation to them," is erroneous; is that correct?

11 A. [9:45:00] I do not remember what you are saying now. I do not remember that.

12 Q. [9:45:08] Thank you. Mr Witness, is the reason why you don't want to say  
13 the name of that organisation to the Court, that -- the reason is that, actually, you  
14 were not injured when this organisation took you from Mukjar to Nyala, and that you  
15 were actually injured and tortured when you were arrested in Kabum on the way to  
16 Nyala, as you explained to Madam Massidda?

17 A. [9:47:12] All that's to it is that a vehicle affiliated with the organisation came to  
18 Mukjar to deliver and distribute some supplies, and then we secretly moved towards  
19 the vehicle and we got in it. And at that time, it was difficult to read the name or  
20 the slogan of the organisation. We did that because, when you go into a vehicle that  
21 belongs to an organisation, you wouldn't be searched or you wouldn't be attacked in  
22 Mukjar, and you would be able to safely to the place where you want to go.

23 What I remember is that the vehicle had a plate number that belonged to Chad.

24 Q. [9:48:17] Thank you. Yesterday - I am at page 74, line 19 to 24, of the real-time  
25 transcript - you said that, during your interview with Madam Massidda, she told you

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 that she was not interested in what had happened to you in Kabum.

2 Did she explain why?

3 A. [9:49:30] That is correct. They told me that once I am Mukjar, I would be  
4 outside the jurisdiction, or the mandate.

5 PRESIDING JUDGE KORNER: [9:49:45] Sorry, Mr Laucci, before you go on, are you  
6 quoting: "She told me that it was not her responsibility. It was that of other  
7 people"?

8 MR LAUCCI: [9:49:55] Yes.

9 PRESIDING JUDGE KORNER: [9:49:56] It's not quite the same as "not interested".

10 MR LAUCCI: [9:49:59] Yes.

11 PRESIDING JUDGE KORNER: [9:50:00] If you're going to quote, you need to quote  
12 accurately.

13 MR LAUCCI: [9:50:03] Yeah, yeah. It was a reference more than a quote, but I take  
14 the point.

15 Q. [9:50:08] And so is it because Madam Massidda told you that what had  
16 happened in Kabum was - what did you say? - was "outside the jurisdiction" of  
17 the Court, that you decided to vary your statement and say that what had happened  
18 in Kabum had actually happened in Kodoom; is it the reason?

19 A. [9:51:20] Yes, Mrs Massidda told me that the mandate is only about Mukjar and  
20 Kodoom. But Kodoom was outside the jurisdiction or mandate -- Kabum.

21 THE INTERPRETER: [9:51:39] Correction from the interpreter.

22 MR LAUCCI: [9:51:42]

23 Q. [9:51:42] Yes. And I repeat my question. Is it for this reason that you decided  
24 to say that what had happened to you in Kabum, the tortures, had happened to you  
25 in Kodoom, within the jurisdiction of the Court?

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 A. [9:53:13] The jurisdiction of Kodoom is different from that of Kabum. And  
2 when I moved from Mukjar to Um Dukhun to Kobom or Kabum, I had reached  
3 Kabum.

4 Q. [9:53:31] Thank you. I move on.

5 Mr Witness, I move to another topic, which is what you could see in Mukjar. You  
6 say that the Janjaweed leaders there were Al Sadiq Solong and Al-Dayf Samih.  
7 Did you hear about a person called Hassaballah in Mukjar?

8 A. [9:54:32] Yes, I have heard about someone called Hassaballah. However, it was  
9 after I went out to Mukjar.

10 Q. [9:54:44] So in September 2003, you did not hear about him; is that your  
11 response?

12 A. [9:55:04] Yes, I haven't heard about him -- about him at that time.

13 Q. [9:55:10] And did you hear or see the presence of Sudanese Armed Forces in  
14 Mukjar in September 2003?

15 A. [9:55:41] I only saw the police.

16 Q. [9:55:47] Thank you. In Mukjar you saw for the second time the car with  
17 the inscription "the Lion of the Mountains". Do you have any clue what that words  
18 are referring to?

19 A. [9:56:49] It referred to strength or force, because the lion is the strongest animal  
20 in the forest. The person who wrote that sentence was -- it was to refer to the fact  
21 that he was a strong person in the area.

22 Q. [9:57:07] Did you come across that expression anywhere else than on this car?

23 A. [9:57:31] I haven't seen it anywhere else.

24 Q. [9:57:34] Did you notice any other special feature on that car?

25 A. [9:58:01] I didn't see anything else, other than the gun mounted on the back of

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 the car.

2 Q. [9:58:13] Did you ever mention that inscription, "the Lion of the Mountains", to  
3 anybody else?

4 A. [9:58:39] What do you mean by "person"? Do you mean the Court here or  
5 people in Darfur?

6 Q. [9:58:45] People in Darfur.

7 A. [9:59:04] The people in Darfur saw the vehicle with their own eyes. It was in  
8 Mukjar, in Kodoom, and it was in several areas around that region. They know it  
9 very well.

10 Q. [9:59:22] You say: "They know it very well." Does that mean that you  
11 know -- you have witnessed discussions about this car with that inscription? Was it  
12 a common topic of discussion?

13 A. [10:00:18] If you go to Mukjar and you sat with people, you would hear them  
14 talking about the -- the vehicle. So people would be talking among each other, and  
15 they would be speaking about that car whenever they would mention the events.

16 Q. [10:00:41] And they -- when they speak about that car, they would say, "The car  
17 with the inscription 'the Lion of the Mountain'." Is that your submission?

18 A. [10:01:14] They would say it as such always.

19 Q. [10:01:18] Thank you. You said you -- you saw the police in Mukjar  
20 in September 2003. Do you know who was the head of the police at that time in  
21 Mukjar?

22 A. [10:02:15] I was not able to identify his name. We did not -- because we did not  
23 approach them. We did not talk to them. What I was able to know is that it was  
24 someone of a dark skin, and most of his soldiers were of dark skin from the north,  
25 from the Arabs of northern Sudan, not from the Arabs of Darfur. Most of the

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 soldiers came from the province of Khartoum, and some came from the mountains of  
2 Nuba.

3 Q. [10:02:49] Thank you. A clarification in your statement. You mention "red  
4 skin" instead of "dark skin". Is that a correction that you are making now?  
5 For the record, I am at paragraph 87.

6 A. [10:04:01] What I am saying is that the chief of the police was of red skin.  
7 However, in Sudan, red and dark skin mean the same thing. His soldiers came from  
8 the mountains of the Nuba. Most of his soldiers.

9 Q. [10:04:21] Does the name Himeidan ring a bell to you?

10 A. [10:04:46] Could you please give his full name. Himeidan what?

11 Q. [10:05:01] I will try to find you. I move to the next question. I may come back  
12 to him.

13 What about the name John Koj?

14 A. [10:05:27] I do not recognise that name. I have not heard of that name.

15 Q. [10:05:34] What about Hassan Muhammad Joma, also known as Carter?

16 A. [10:05:56] I have heard of that name, but I did not know that person well.

17 Q. [10:06:01] And the full name of the previous person is Abdullah Himeidan.

18 A. [10:06:27] Yes, I've heard of that name, but I did not know him personally.

19 Q. [10:06:33] Was he the police leader from the north with the -- the red skin that  
20 you mentioned?

21 A. [10:07:06] No, it is not. The chief I was referring to, the police chief, had one of  
22 the common names of the northern Arabs of Sudan. So that is not his name. His  
23 name was not Abdullah.

24 Q. [10:07:25] Thank you. You say that the prisoners were taken to the police  
25 station. So that means that they were put under the custody of the police, right?

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 A. [10:08:07] They were transported to the police station because the prison inside  
2 the police station was the only prison in the area. There was no other prison around.

3 Q. [10:08:21] Thank you. And you say that at some point the person you call  
4 Ali Kushayb went to the prison and started punishing prisoners. Who told you that?

5 A. [10:09:02] (No interpretation)

6 THE INTERPRETER: [10:09:03] The Fur interpreter requests that the witness repeats  
7 his answer and speaks more loudly.

8 PRESIDING JUDGE KORNER: [10:09:12] (Microphone not activated)

9 Could the court officer make sure the microphone is close enough.

10 THE WITNESS: [10:10:12](Interpretation) According to what I heard from someone  
11 called Alkaly, Kushayb used to go with his soldiers and ask them to get into the  
12 prison to torture people and beat them. He did not get inside the prison himself.  
13 This is according to what I heard from this person.

14 MR LAUCCI: [10:10:40]

15 Q. [10:10:41] And didn't that surprise you when Alkaly told you that the police had  
16 let itself being threatened and had surrendered its weapons to that person named  
17 Ali Kushayb without reaction?

18 A. [10:11:51] Yes, you would be surprised. Because as a police officer, you are  
19 credentialed, trained, and you have a governmental officer, and here comes someone  
20 who is not a career officer, and most of his soldiers come from far and wide, and here  
21 he is giving you orders and instructions, so it would astonish you. But it happened  
22 because he was getting his own instructions from the centre.

23 Q. [10:12:26] Thank you. Mr Witness, you explain, I believe - yes, you did - that  
24 the person you call Ali Kushayb was not even from Mukjar, that those with authority  
25 on the Janjaweed in Mukjar were Al Sadiq Solong and Al-Dayf Samih. So, once

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 again, what -- with what kind of authority could that person you call Ali Kushayb do  
2 what Alkaly told you he did?

3 A. [10:14:17] This person was getting his orders from the centre, from Khartoum  
4 directly. All the leaders who were in the area of Wadi Salih were under his  
5 command. No one was higher than him in the hierarchy.

6 Q. [10:14:41] How do you know that that person was receiving his order from  
7 Khartoum?

8 A. [10:15:14] Ali Kushayb said so. He said that he received his instructions from  
9 Ali Uthman Muhammad Taha and from President Omar Bashir, from the centre. He  
10 said so to the police. He was speaking to the centre through -- over the phone.

11 Q. [10:15:34] Did you witness that conversation?

12 A. [10:16:19] No. I heard that from Alkaly. Alkaly was a policeman and an  
13 imam of the police mosque. They usually spoke in front of him. That person was  
14 in contact with the centre and spoke in front of the police. Alkaly heard that. So  
15 my information came from Alkaly.

16 Q. [10:16:44] Thank you. At paragraph 88 -- sorry, at paragraph 88 and 89 of your  
17 statement, you mention a person you call (Redacted), who told you that two close  
18 friends to you, whom you called your brothers, had been tortured in the Mukjar  
19 police station.

20 MR JEREMY: [10:17:19] Sorry. I wonder if maybe we -- we should move into  
21 private session.

22 MR LAUCCI: [10:17:25] Let -- tell me. I will not mention any other name than  
23 the one that I just mentioned.

24 MR JEREMY: [10:17:32] Okay. I think we could deal with it with redactions for  
25 now, but if you go into the detail about --

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 MR LAUCCI: [10:17:41] Okay. So I should not repeat that name?

2 MR JEREMY: [10:17:44] I think it's better not to, or the brothers, I think.

3 MR LAUCCI: [10:17:49] Okay.

4 PRESIDING JUDGE KORNER: [10:17:51] We got -- no, we didn't. All right. Just  
5 don't mention the names again, Mr Laucci.

6 MR LAUCCI: [10:17:57] Yeah.

7 Q. [10:17:57] I just want to make sure -- Mr Witness, can you confirm that the name  
8 that I just mentioned, which I will not repeat, did you get it? Do you know who I'm  
9 talking about? The doctor something.

10 A. [10:18:26] Yes, I know him.

11 Q. [10:18:28] Okay. And you said that you mentioned that you -- that you met  
12 that person for the first time in October 2003, right?

13 A. [10:18:53] Yes, that is correct.

14 Q. [10:18:56] So if you didn't know each other in September 2003, how come that  
15 you -- you got in the discussion that you had in October to identify those two person  
16 you call your brothers whom he saw allegedly in the Mukjar police station?

17 My question is: How could you make sure that you were talking, the two of you,  
18 about the same two persons? If that's clearer.

19 A. [10:20:43] At that time, I was sick. I was showing symptoms of malaria, and  
20 I was in the *rakuba*. I was taken to a southern area where there was a doctor  
21 providing drugs and folk medicine.

22 During that time, that person had -- himself had also been recently released from  
23 prison, and there were marks on his head, injuries. So Alkaly advised him to go to  
24 that person also to receive treatment.

25 We met when he came to receive the folk or traditional medicine treatment, and he

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 found me also receiving treatment. So at that time, we brought up the subject of  
2 the events, and he said to me that he had two brothers who went through ...

3 THE INTERPRETER: [10:22:35] But that was not finished.

4 THE WITNESS: [10:23:05](Interpretation) So he asked me about the names of my  
5 two brothers. I said to him the name -- I mentioned the names of my two brothers.

6 So he said, those two persons were brought to detention. When he was in detention,  
7 they were severely tortured and beaten, to the -- to the extent that some container was  
8 filled with saltwater and poured on their mouths.

9 MR LAUCCI:

10 Q. [10:23:42] Did that person tell you where -- ah, sorry.

11 A. [10:24:03] At that time, I saw in -- at the detention, I saw the officers holding  
12 plastic, attaching it to the ceiling, setting -- setting it on fire in order for that to be  
13 poured on the bodies of the detainees.

14 (No interpretation)

15 THE INTERPRETER: [10:24:53] The Fur interpreter requests that the witness repeats  
16 the answer.

17 THE WITNESS: [10:25:29](Interpretation) As I have previously said, the security  
18 officers attached plastic and set it on fire. That plastic material on fire was then  
19 poured on the detainees who were lying on the ground. My brother was holding  
20 himself, leaning on the leg of (Redacted). Given the severe torture, he died on that  
21 same very night.

22 MR LAUCCI: [10:26:04]

23 Q. [10:26:04] where did that scene take place? Is it at the police station?

24 A. [10:26:27] It was inside that prison that hosted over 150 detainees.

25 Q. [10:26:37] And to be clear, this prison was the prison of the police station; is that

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 correct?

2 A. [10:27:06] Yes, it was inside the police station.

3 Q. [10:27:12] Do you know where the person who told you that story was detained  
4 himself?

5 A. [10:27:50] I don't know precisely where he was detained, but what I know is that  
6 he was taken to the police station. But I don't know where he got arrested.

7 Q. [10:28:06] Okay. And if I tell you that this person had never been detained at  
8 the police station but was detained consecutively at the boys' school and then at the  
9 girls' school. How could he have witnessed what happened to your brothers in  
10 the police station?

11 PRESIDING JUDGE KORNER: [10:28:32](Microphone not activated) sorry,  
12 Mr Laucci.

13 Don't translate that.

14 You can't ask that. That's pure comment.

15 MR LAUCCI: [10:28:42] I move on with that discrepancy, Madam President.

16 Q. [10:28:49] I'm reaching the last chapter of my cross-examination, which is  
17 the person you call Ali Kushayb. At paragraph 87-88 of your statement, you say that  
18 the - excuse me - the way you learned that Ali -- the way you learned that  
19 Ali Kushayb was the leader of the Janjaweed is because you saw him standing in  
20 front of them and talking to them and giving orders.

21 Where did you see that scene?

22 A. [10:30:35] I saw him when I was hiding in the *rakuba*. I saw Ali Kushayb and  
23 his men talking to people in the mosque. He was giving them orders, telling them  
24 "do this" and "do that". In addition to that, I heard from the people that he was  
25 giving orders to his soldiers.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 Q. [10:31:07] So you say: "It is when I was in the *rakuba*." Am I correct to say that  
2 it was when you were in Mukjar?

3 A. [10:31:30] Yes, that was in Mukjar.

4 Q. [10:31:45] But you have also specified the authority of Ali Kushayb extended  
5 over the Wadi Salih area. That is at paragraph 87. Mukjar is not in Wadi Salih.  
6 And you identified the Janjaweed leaders in Mukjar as Al-Sadiq and Al-Dayf Samih.  
7 So is it your -- just an assumption of yours that the person you called Ali Kushayb  
8 was the Janjaweed leader in Mukjar?

9 MR JEREMY: [10:32:23] Sorry. Could I just clarify the paragraph reference.

10 MR LAUCCI: [10:32:29] (Microphone not activated)

11 MR JEREMY: [10:32:34] Ninety-seven? Okay. I think you said 87. Okay, thanks.

12 MR LAUCCI: [10:32:39] (Microphone not activated)

13 THE WITNESS: [10:33:29](Interpretation) Who told you that Mukjar is not in  
14 the Wadi Salih area?

15 MR LAUCCI: [10:33:38]

16 Q. [10:33:39] Well, is it your evidence that Mukjar is in Wadi Salih?

17 A. [10:34:23] I would like to mention the big regions in Wadi Salih, and not  
18 the small regions. So the big regions of Wadi Salih are Deleig, Garsila, Um Kher,  
19 Bindisi, Mukjar, Um Dukhun and Artala.

20 Q. [10:34:43] Mr Witness, at paragraph 99 of your statement, you say that Mukjar  
21 was bigger than Wadi Salih. Can you explain now your position.

22 A. [10:35:33] My explanation is that Mukjar is one of the biggest regions of  
23 Wadi Salih. It has an old authority in Wadi Salih. It is one of the biggest regions in  
24 Wadi Salih. That was what I meant to say.

25 Q. [10:35:49] And you say that the Janjaweed leader in Mukjar was Al-Dayf Samih.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 I'm still at paragraph 99.

2 A. [10:36:27] Yes, he -- he is considered to be the leader of the Janjaweed in that  
3 area, because he had a centre for the police of Abu Teira. And all the Janjaweed who  
4 came on horseback used to come to that station. So you could say that he was  
5 the leader of the Janjaweed in that area.

6 Q. [10:36:52] You say that Al-Dayf Samih was from the Misseriya tribe and that he  
7 was a former policeman. How do you know that?

8 A. [10:37:29] Yes, he was a former policeman. He retired, and then he started  
9 working again. He was brought back to service, and he became the leader of  
10 the Abu Teira forces.

11 Q. [10:37:54] Mr Witness, you repeat the information that you have on Mr Al-Dayf  
12 Samih. My question was more about the source of that information. Can you tell  
13 us where you got that information from, please.

14 A. [10:38:28] Alkaly told me so.

15 Q. [10:38:33] Thank you. So Mr Al-Dayf Samih was the Janjaweed leader, giving  
16 orders to them, in Mukjar. Is that your submission?

17 A. [10:39:15] Yes. The authority of Al-Dayf Samih was in Mukjar alone.  
18 However, that person that came from afar was responsible for the whole area.

19 Q. [10:39:36] Can you clarify who that person you just mentioned is.

20 A. [10:39:55] Kushayb. I mean Kushayb.

21 Q. [10:39:58] Yes. It's for -- just for clarity of the records.

22 And you mention also Al Sadiq Solong. And at paragraph 104, you say that he was  
23 the one identifying the persons to be arrested, and that the person were -- the persons  
24 were arrested on the basis of his identification.

25 Do you have any clue about what were the criteria of identification by

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 Al Sadiq Solong?

2 A. [10:41:41] Al Sadiq Solong was from the inhabitants of Mukjar. He was born in  
3 Mukjar. His parents were in Mukjar. They had a home in Mukjar. And by virtue  
4 of all that, he knew everyone in Mukjar, in particular, the youth. His responsibility  
5 was to distinguish between the people of Mukjar and the people coming from  
6 the other villages to Mukjar, the youth, that is. That was his mission.

7 Q. [10:42:14] Thank you. And, finally, Mr Witness, I come back to 2001, which is  
8 the key moment when you -- on the basis of which your identification of the man you  
9 call Ali Kushayb is based. We are at paragraph 24 of the -- your statement.

10 Briefly, you had gone to the market of Garsila to sell -- to sell oil. Your donkey was  
11 injured. You were directed to the shop of a veterinary. I stop here, and I will  
12 continue.

13 There was --

14 PRESIDING JUDGE KORNER: [10:43:41] No, Mr Laucci, stop. Why are you  
15 repeating everything he's just said? Just ask the question. It takes twice as long to  
16 translate it.

17 MR LAUCCI: [10:43:50] I go straight to the question. I wanted to put that into  
18 context, but fine.

19 Q. [10:44:00] You remember that event anyway, Mr Witness. I do not need to  
20 repeat it, right?

21 Okay, I move on.

22 Yesterday, at the very beginning of my cross-examination, you explained that your  
23 village was six -- about six hours away from Garsila and that the person in your  
24 village used to go to the market of Bindisi.

25 Why did you go on a market of Garsila, six hours away, on that day of 2001?

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 A. [10:46:23] To be able to determine to which market you would go to buy things,  
2 this would depend on the prices. So if the market that is far away has good prices,  
3 we would go to it. And if the market that is close would have good prices, we  
4 would go to it. So that would depend on the prices of the market.

5 Q. [10:46:45] But your evidence is that you were not going to the market to buy.  
6 You were going to the market to sell.

7 A. [10:47:07] Yes, that is correct.

8 Q. [10:47:11] So why did you go to the market six hours away where you could sell  
9 what you had to sell at the lowest price?

10 PRESIDING JUDGE KORNER: [10:47:37] (Microphone not activated)

11 Just a minute, before you answer.

12 Where did you get he said it was depending on the prices? He doesn't say whether  
13 it was low or high. "So if the market that is far away has good prices, we would go  
14 to it. If the market that was close had good prices, we would go to it. It would  
15 depend on the prices." (Overlapping speakers)

16 MR LAUCCI: [10:48:11] Madam President, I interpreted good prices as low prices.

17 PRESIDING JUDGE KORNER: [10:48:14] But if you're selling, presumably, good  
18 prices would be high prices.

19 MR LAUCCI: [10:48:19] I think that the witness in his answer - I'm at line 25 - is  
20 talking about buying, not selling.

21 PRESIDING JUDGE KORNER: [10:48:32] Oh, you're right, yeah. All right. Yes,  
22 Mr Laucci. But at the moment, I don't know why you're saying lowest, because he's  
23 saying they were going to sell.

24 THE WITNESS: [10:49:03](Interpretation) I have a question to you. If there is  
25 a market in that direction and another market in another direction, and I have oil, and

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 I want to sell that oil, so if that market would buy the oil from me at \$5 and the other  
2 market in the other direction would buy oil from me at \$10, to which market would I  
3 go? That question is addressed to you.

4 PRESIDING JUDGE KORNER: [10:49:29] I'm afraid, irritating though it may be,  
5 you cannot ask the lawyer questions, but I think we've got the point.

6 MR LAUCCI: [10:49:40] Yes, thank you, Madam President. I move on.

7 Q. [10:49:43] And sorry, Mr Witness, I cannot answer your question.

8 Yesterday -- no, sorry. At paragraph 27 of your statement, you said that you did not  
9 remember the month in 2001 when you went there, to the market of Garsila -- at  
10 Garsila. And yesterday - I'm at page 7, line 15, of the real-time transcript - you said  
11 that this happened in June.

12 What made you remember yesterday that this had happened in June, please?

13 A. [10:51:25] Since I spoke to Julian, I remembered the month, but I do remember  
14 the day. I remember that was the sixth month, or June.

15 Q. [10:51:41] Thank you. You said that this man, the veterinary, whom you have  
16 seen in 2001 for 20 to 25 minutes, you never forgot him. Why that? What -- did  
17 something remarkable happen during your interaction around the donkey for  
18 20 minutes in 2001?

19 A. [10:53:01] What made me remember was that our donkey was seriously injured.  
20 My father was walking and dragging the donkey, and someone directed us to that  
21 person. We went to that person. He treated our donkey, and we tied our donkey at  
22 a certain place. And after that, we went into the market to buy some things, and we  
23 then moved to our village. Our donkey recovered. And my father, he was on  
24 the donkey when we were going back to our village. That was first.

25 Second, what made me remember that person was the fact that my father was talking

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 to him. And he specifically asked him, "Is this your shop?" He answered, "Yes, this  
2 is my shop." And he went into the shop, and then he went out. This is what made  
3 me remember him well. Those two things made me remember that person up until  
4 today.

5 Q. [10:54:32] So, Mr Witness, is it your evidence that you are able to remember  
6 every person you saw in your life, even for such an insignificant event?

7 PRESIDING JUDGE KORNER: [10:54:54] I'm sorry, it's much too wide a question.  
8 It doesn't arise, really, from his answer.

9 MR LAUCCI: [10:54:59] I move on, Madam President. It was also comment.

10 Q. [10:55:05] Mr Witness, final question. If I tell you that Mr Ali Muhammad Ali  
11 Abd-Al-Rahman, who is sitting behind me, also had a pharmacy in Garsila but that it  
12 had no banner and certainly not one identifying it as a veterinary pharmacy, what  
13 would be your conclusion? Are we talking about the same place?

14 A. [10:56:24] It is the same place. It is the same place. And if you are talking to  
15 people with Garsila, you can ask them and you can enquire about that.

16 Q. [10:56:43] Thank you, Mr Witness.

17 I put to you that, based on this brief, unique and insignificant interaction of 2001, your  
18 identification of the veterinary of Garsila, in the terrible condition you described in  
19 Kodoom and Mukjar, is, to say the least, highly implausible. Do you agree?

20 A. [10:58:05] I do not agree. I remember that very well.

21 If I met you, for example, now, and if we met again one year down the line, I would  
22 remember you.

23 MR LAUCCI: [10:58:22] I'm done with my cross-examination, Madam President.  
24 Thank you, Mr Witness.

25 PRESIDING JUDGE KORNER: [10:58:26] I'm resisting the temptation to say

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 anything as a result of that last answer.

2 MR LAUCCI: [10:58:32] I had the same temptation.

3 PRESIDING JUDGE KORNER: [10:58:36] Yes, right. Mr Jeremy, any  
4 re-examination?

5 MR JEREMY: [10:58:39] No, Madam President. But just one point of clarification  
6 with Mr Laucci. So the witness has pointed at the accused as the man that he knew  
7 as Ali Kushayb twice in the courtroom. So I -- on that basis, I wonder if Mr Laucci is  
8 going to put his case to the witness that -- if he thinks that the witness is --

9 PRESIDING JUDGE KORNER: [10:59:10] (Microphone not activated)

10 MR JEREMY: [10:59:11] -- incorrect or -- or mistaken, unless Mr Laucci accepts it.  
11 But I think he should put -- put his case. I think that's fair.

12 MR LAUCCI: [10:59:21] I thought it was put already, but I --

13 PRESIDING JUDGE KORNER: [10:59:23] I think you -- sorry, yeah. I think you  
14 need to put properly that he -- he has twice identified your client as the man he  
15 knows, that this is -- he's wrong. He's just made a mistake. In the same way he's  
16 made a mistake in his identification earlier on.

17 MR LAUCCI: [10:59:43] Thank you, Madam President and dear colleague.

18 Q. [10:59:46] Mr Witness, I put to you that your recognition of Mr Ali Muhammad  
19 Ali Abd-Al-Rahman, my client, who is sitting in this courtroom, as the veterinary of  
20 Garsila, and Ali Kushayb giving orders in Kodoom and Mukjar, is mistaken. What  
21 have you -- what do you have to answer to that?

22 A. [11:00:56] That is correct.

23 Q. [11:01:03] Okay. And --

24 PRESIDING JUDGE KORNER: [11:01:06] (Microphone not activated)

25 Sorry, I think this is -- it is -- I think it's a double negative.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 MR LAUCCI: [11:01:15] Yes.

2 PRESIDING JUDGE KORNER: [11:01:16] Try again, yeah.

3 MR LAUCCI: [11:01:19]

4 Q. [11:01:19] Mr Witness, I put to you --

5 PRESIDING JUDGE KORNER: [11:01:21] (Microphone not activated)

6 Sorry, I think just put that he's wrong when he says that your client is the man.

7 MR LAUCCI: [11:01:30]

8 Q. [11:01:30] Mr Witness, I -- I put to you that you are wrong when you say that

9 Mr Ali Muhammad Ali Abd-Al-Rahman was the veterinary you saw in Garsila or  
10 the Janjaweed leader in Mukjar and Kodoom.

11 PRESIDING JUDGE KORNER: [11:01:50] Mr Ali Rahman Ali -- well, the rest of it,  
12 Rahman, is the man you say that is sitting behind the Defence teams.

13 MR LAUCCI: [11:02:04]

14 Q. [11:02:06] Is that, according to you, the same person, yes or no?

15 A. [11:03:15] Yes, it is the same person.

16 If you want more testimonies corroborating that he is the same person, you would  
17 find over 10,000 people in Mukjar and in the area of Wadi Salih testifying that  
18 the person in question is Ali Kushayb.

19 Q. [11:03:38] And, Mr Witness, I put to you that you never saw a man called  
20 Ali Kushayb, neither in Kodoom, neither in Mukjar, because, when Kodoom was  
21 attacked, you went with your parents, you were not tortured, and that happened in  
22 Kabum. Sorry for the long question.

23 PRESIDING JUDGE KORNER: [11:04:06] You're doing it again. You can't -- you  
24 can't put that as a positive, but never mind. Anyway, you've put your case. Yeah.

25 THE WITNESS: [11:04:55](Interpretation) That is not correct.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 MR LAUCCI: [11:04:58] Thank you, Mr Witness.

2 PRESIDING JUDGE KORNER: [11:04:59] Yes, thank you, Mr Laucci.

3 Yes. Therefore, Mr Jeremy, you have got no questions in re-examination.

4 MR JEREMY: [11:05:07] Correct, Madam President. Thank you.

5 PRESIDING JUDGE KORNER: [11:05:11] All right.

6 JUDGE ALEXIS-WINDSOR: [11:05:20] Good day, sir.

7 When the -- when you went to Nyala with -- in the van of an organisation, what was  
8 your physical state?

9 THE WITNESS: [11:06:13](Interpretation) My clothes were dirty. And for seven  
10 days, I had not showered from -- since the time I moved from Mukjar to Nyala.

11 JUDGE ALEXIS-WINDSOR: [11:06:28] Thank you. What was your medical state?

12 THE WITNESS: [11:07:00](Interpretation) My health had deteriorated, because for  
13 two days I did not eat. Only when the vehicle would stop somewhere on the way I  
14 would get into the restaurant, and if I found some food leftovers, I would eat that.  
15 So my health was in dire deterioration.

16 JUDGE ALEXIS-WINDSOR: [11:07:26] When you arrived in Nyala, did you remain  
17 with that organisation in that van, or did you go elsewhere? You don't have to tell  
18 me where you went, but did you go elsewhere?

19 THE WITNESS: [11:08:33](Interpretation) When I came from Kabum to Nyala and I  
20 stepped out of the organisation's vehicle, I did not go with them in the vehicle to  
21 their -- to their offices, to the organisation's offices. Some policemen interrogated me,  
22 then released me.

23 Afterwards, when I was going around in the market, I found some people who told  
24 me that some vehicles belonging to an organisation are transporting people,  
25 the displaced people to the (Redacted). So I got into one of those vehicles and went

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 to the (Redacted).

2 JUDGE ALEXIS-WINDSOR: [11:09:12] And my last question: You said that

3 Ali Kushayb put his foot on your neck and that you looked at him. Which part of his  
4 body did you look at?

5 THE WITNESS: [11:09:58](Interpretation) I saw his face when he was holding an axe  
6 with his hand and a mobile phone with his other hand. And he was looking down  
7 at me as his foot was over me.

8 JUDGE ALEXIS-WINDSOR: [11:10:17] Thank you, Witness.

9 Those are all my questions, Madam President.

10 JUDGE ALAPINI-GANSOU: [11:10:25](Interpretation) Thank you,

11 Madam President.

12 I'd also like to follow on from what my colleague said in respect to this oral evidence.

13 Mr Witness, I want to look at two particular periods. First, August 2003 and then  
14 September 2003.

15 Have you heard?

16 Now, returning to this incident, this blow that features in your statement, there was  
17 an incident during which somebody had placed their foot on your neck, the judge,  
18 Alexis-Windsor, referred to it a moment ago, and my question goes to what happened  
19 to you after that.

20 Did you fall ill after that? Did you meet with any particular problems?

21 THE WITNESS: [11:13:20](Interpretation) When he put his foot on my neck, I felt  
22 a great deal of pain. But I felt more pain when the other people with him tied me up,  
23 especially when they tied the part (Redacted). I felt severe pain then.

24 I also felt pain when they hit with the butt stroke of a gun on my face. Then I also  
25 felt a great deal of pain.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 JUDGE ALAPINI-GANSOU: [11:13:56](Interpretation) And how long did that last,  
2 that time when -- when you were at a loss or you had these physical problems,  
3 incapacitated?

4 THE WITNESS: [11:14:32](Interpretation) Could you please clarify your question.  
5 Do you mean when I was in Kodoom or when I moved from Kodoom to Mukjar?  
6 Could you please clarify the question. The question was not clear.

7 JUDGE ALAPINI-GANSOU: [11:14:46](Interpretation) No. I want to think about  
8 the time frame between August 2003 and September of that same year, because  
9 in September 2003, you were able to identify Ali Kushayb and other individuals.  
10 That's right, isn't it?

11 THE WITNESS: [11:15:51](Interpretation) Yes, I recognised him because he stopped  
12 for about 15 or 20 minutes. Afterwards, he left. The individuals who remained  
13 with me, remained with me from about 11 a.m. till 1 p.m. Afterwards, they left.  
14 And then there was rain when I was there. And it rained. And by sunset, I moved,  
15 and my movement was by crawling.

16 JUDGE ALAPINI-GANSOU: [11:16:26](Interpretation) No. Between August 2003  
17 and September 2003, how did you get back into a proper state -- state of health?  
18 Because we're talking about one month between August 2003 and what happened  
19 subsequently in September 2003. We're only talking about a month. So I would  
20 like to have greater clarity on your state of health in that particular month.

21 THE WITNESS: [11:17:54](Interpretation) From Kodoom to the mountain and then  
22 to Mukjar, I was in great pain. They carried me on the back of a donkey. I was  
23 lying down on the donkey with my hands dangling to the ground. Then we reach  
24 Mukjar. My relatives provided treatment -- my family provided treatment through  
25 boiled water and medical herbs boiled in water and pouring that water on my body.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 So I recovered, to some extent, and I was able to resume standing on the ground at  
2 that time.

3 JUDGE ALAPINI-GANSOU: [11:18:44](Interpretation) So should I understand then  
4 that in September 2003, you were still ill when those events occurred, the arrests and  
5 searching for people and what have you? Were you still ill at that particular point in  
6 time?

7 THE WITNESS: [11:19:40](Interpretation) Yes, I was very sick. When people were  
8 moving -- going to the mosque and going elsewhere, I was not able to move with  
9 them. My grandmother, who was very old, would get me inside the building, and  
10 she would wait at the door. And when people came, they were told no one was  
11 inside.

12 JUDGE ALAPINI-GANSOU: [11:20:10](Interpretation) Thank you. I have now  
13 understood.

14 I have finished, Madam President. Thank you very much.

15 PRESIDING JUDGE KORNER: [11:20:17] Yes. I just have one question, going back  
16 to the incident where the man you say was Ali Kushayb put his foot on your neck.  
17 Was anything said by anybody else who was there which confirmed that you were  
18 correct when you say you recognised him as Ali Kushayb?

19 THE WITNESS: [11:21:53](Interpretation) When he put his foot on my neck, I was  
20 hearing him giving orders to his soldiers, telling them, "Torture this person until he  
21 tells you where the other villagers went." At that point, I lifted my head, and for less  
22 than a minute, I recognised his facial features, and I was able to ascertain that he was  
23 the person you are referring to here.

24 PRESIDING JUDGE KORNER: [11:22:28] Did any of the men that he gave orders to  
25 address him by name?

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 THE WITNESS: [11:23:30](Interpretation) I heard from the person who was pointing  
2 his gun at me to fire at me, I heard him addressing Ali Kushayb by the words  
3 "Excellency Ali" or "Commander Ali, let me kill this person. Let us instead chase this  
4 livestock running away in front of us." So Ali Kushayb responded by saying, "Don't  
5 rush. We will eventually kill all these villagers this year, and all this land will be  
6 yours. All their assets will be your booty, so don't rush. Don't kill him until he  
7 reveals where the other locals went."

8 PRESIDING JUDGE KORNER: [11:24:19] Yes. Thank you very much, sir. And all  
9 that remains is for me to thank you for coming to court to give evidence. As I know  
10 you understand, it's really important that people who lived through these events  
11 come to court to tell us, and indeed the world, what happened. So I wish you a safe  
12 return to your home.

13 THE WITNESS: [11:25:34](Interpretation) I thank you very much. I am  
14 appreciative of your efforts and of the role you're playing.

15 However, I have a question. Do you permit me to ask you one question?

16 PRESIDING JUDGE KORNER: [11:25:48] Yes. I'm not saying that we can answer it,  
17 but you may certainly ask.

18 THE WITNESS: [11:26:28](Interpretation) When I reached this court, I went through  
19 difficulties, and I see that there are a lot of difficulties that I face in this court. One of  
20 the difficulties is the tough and repeated -- repetitive questions, which inclines me  
21 think that this person sitting behind is not a criminal. Don't you think so?

22 PRESIDING JUDGE KORNER: [11:27:11] The question of whether or not the person  
23 that you have identified is a criminal is one that we cannot answer until all  
24 the evidence in the case has been heard. And I'm afraid that's a long way to go just  
25 yet.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 THE WITNESS: [11:28:34](Interpretation) I believe and I -- in your role, and I  
2 appreciate your role. If you want more people to testify regarding this man, you can  
3 reach out to tens of thousands in our region, and they can come here to prove  
4 whether -- if this person is a criminal.

5 PRESIDING JUDGE KORNER: [11:29:01] Sir, thank you very much. I hope we've  
6 answered your question. I repeat our thanks for your testimony. And as I say, we  
7 wish you a safe return.

8 And the court officer will now escort you out from court. Thank you very much.

9 (The witness is excused)

10 PRESIDING JUDGE KORNER: [11:29:50] I apologise to the interpreters for the fact  
11 that we've sat for two hours now, but I thought it as well to complete the evidence of  
12 this witness.

13 The next witness I see speaks Arabic and gave an interview in Arabic. Why is he not  
14 testifying in Arabic?

15 MR JEREMY: [11:30:19] He is testifying in Arabic, Madam President.

16 PRESIDING JUDGE KORNER: [11:30:21] He is, is he? Right. Because I  
17 thought -- I was told -- (Overlapping speakers)

18 MR JEREMY: [11:30:25] No, no. Actually, we may have created some confusion.  
19 So, it's correct, the statement is in Arabic, the witness prep was in Arabic. There was  
20 a recommendation from the interpreter during witness prep that the witness would  
21 be able to, perhaps with some particular words, benefit from a Fur interpreter,  
22 although that would be simultaneous interpretation, which we don't have the benefit  
23 of, unfortunately, right now. So, on that basis, we are going with Arabic, but we've  
24 asked the Fur interpreters to be on standby just in case.

25 PRESIDING JUDGE KORNER: [11:30:57] That's very helpful. Thank you,

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 Mr Jeremy.

2 Right. Mr Laucci, we've seen the email about the question of whether the last

3 witness, who you estimate I think is going to take four or five hours in cross. Oh, it's

4 you -- or it was you, Mr Edwards, was it?

5 At this stage, I just think we're going to have to see how we go. I don't think I -- I

6 will say -- we will say that we certainly won't start him if we cannot complete him. I

7 mean, we can't leave him until -- whatever. It's 25 August I think when we're sitting

8 again next. And so we'll just have to see.

9 It doesn't seem to me that this witness that we're coming up -- I have to say, I'm

10 slightly surprised he's not Rule 68(3), but it doesn't seem to me that he is going to take

11 very long.

12 Mr Laucci, this is your witness, is it?

13 MR EDWARDS: [11:31:59] That's Mr Laucci's witness.

14 PRESIDING JUDGE KORNER: [11:32:01] Mr Laucci, I mean, he hardly says a thing

15 about Ali Kushayb. And what he does is pretty unimpressive.

16 MR LAUCCI: [11:32:08] Which witness are we talking about now?

17 PRESIDING JUDGE KORNER: [11:32:10] The next -- the witness to come.

18 MR LAUCCI: [11:32:12] Ah, the witness to come. My estimation is two sessions for

19 his cross-examination.

20 PRESIDING JUDGE KORNER: [11:32:18] Really? All right.

21 Well, we can't sit again. We've got to have a half hour's break because of the delay,

22 so we can't sit again until five past 12. This is a viva voce, isn't he? How long do

23 you -- are you calling him, Mr Jeremy?

24 MR JEREMY: [11:32:35] Yes, Madam President. Two, two sessions. Hopefully

25 less.

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [11:32:40] Well, that's the whole of today anyhow,  
2 obviously. And you say two sessions for tomorrow's --

3 MR LAUCCI: [11:32:51] That -- that --

4 PRESIDING JUDGE KORNER: [11:32:49] You say two sessions for this witness.

5 MR LAUCCI: [11:32:51] That is a maximum, but yes.

6 MR JEREMY: [11:32:55] And if it -- if it assists for the final witness of the week, I  
7 think our direct examination estimate is 30 minutes or less, at the moment.

8 The witness prep is going on at the moment, but that's our estimate right now.

9 MR EDWARDS: [11:33:09] Your Honour, can I make it very clear. I'm not saying  
10 it's impossible that we will finish 932 by the end of Friday. I think our position is,  
11 however, that if there is a risk that we can't finish him, I ask rhetorically why take that  
12 risk? It's not -- we're not trying to wriggle out of not -- not using up the entire week.  
13 It just seems to us that it would be a great shame if -- that there was an hour or an  
14 hour and a half of cross-examination to go by the end of Friday, and -- and we have to  
15 put him off over the summer recess, or, I don't know, sit on Monday.

16 PRESIDING JUDGE KORNER: [11:33:55] Well, that we definitely can't do because,  
17 certainly the panel, the trial panel won't be complete on Monday. So ...

18 MR EDWARDS: [11:34:05] Right. Well, you know, we've -- we've -- it was simply  
19 something to flag up. We've made extremely good progress since we restarted  
20 sitting three or more weeks ago. We've gone through a significant number of  
21 witnesses. All parties have tried their best to progress at pace. So I don't think  
22 there's anyone in this room that could think for a moment that we've been dallying  
23 and -- and not being efficient with the use of time.

24 PRESIDING JUDGE KORNER: [11:34:42] Right. I think looking at the statistics that  
25 we've all been issued with, that we're probably the Trial Chamber that's been the most

Trial Hearing  
WITNESS: DAR-OTP-P-0986

(Open Session)

ICC-02/05-01/20

1 efficient about.

2 All right. I think we'll review the position at the end of today, and then we'll let you  
3 know tomorrow morning.

4 MR EDWARDS: [11:35:03] There's -- there's another potential spanner in the works,  
5 which we will discuss over the course of the next break, relating to Mr Kushayb's  
6 detention.

7 PRESIDING JUDGE KORNER: [11:35:21] I was going -- is he up for review?

8 MR EDWARDS: [11:35:24] That date has passed.

9 PRESIDING JUDGE KORNER: [11:35:26] I did wonder about that.

10 MR EDWARDS: [11:35:28] And if it's to be dealt with, I'm conscious of the fact that  
11 I'm raising this, and I haven't spoken with Mr Laucci about it in the last couple of  
12 days, but that is a matter that your Honours may think needs to be dealt with before  
13 the summer recess as well.

14 PRESIDING JUDGE KORNER: [11:35:46] Do you know, interestingly enough, it just  
15 occurred to me that I thought it must be around now that -- that ... all right. Are  
16 you -- are you wanting to make submissions? Are you going to be making a further  
17 application? Because if so, that will have -- all right. Well, why don't you come  
18 back on this after the break, after you've spoken to Mr Laucci, and also to -- to  
19 the Prosecution.

20 All right. Five past 12 then, please.

21 THE COURT USHER: [11:36:15] All rise.

22 (Recess taken at 11.36 a.m.)

23 (Upon resuming in open session at 12.09 p.m.)

24 THE COURT USHER: [12:09:13] All rise.

25 Please be seated .

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [12:09:38] Mr Edwards, it -- I was reminded -- let's  
2 say, I was told, that applications for whatever it's -- provisional release, bail, aren't,  
3 the term, automatic anymore now that the trial's started, and the only reason we'd  
4 have a hearing is if you say there were new circumstances which made it possible for  
5 us to grant him release.

6 MR EDWARDS: [12:10:11] Mr Laucci will address, your Honour.

7 MR LAUCCI: [12:10:14] Thank you.

8 Madam President, on this issue -- well, this is our understanding: That  
9 the -- the periodic review of detention actually carries on and forms part of  
10 the functions that the Trial Chamber inherits from the Pre-Trial Chamber after  
11 the confirmation of charges.  
12 Nevertheless, this is not -- we don't make it an issue. I would -- actually, our  
13 intention, and we would have made that proposal earlier before the break, but we can  
14 do it now, is that, in any case, the anniversary date of the last hearing on  
15 detention - that was before your Chamber, you remember that - comes on 25 October.  
16 Rule says "at least once a year", which does not prevent from doing it earlier.  
17 I think in order to make sure that everything is cleared on that aspect, a suitable  
18 solution, would be to have, if you agree, the hearing on detention at the earliest stage  
19 possible after the summer recess. That would be our proposal, so that we could  
20 make all our submissions during that session and your Chamber would be in  
21 a position -- to take -- to make a ruling.

22 PRESIDING JUDGE KORNER: [12:11:46] Sir, am I -- are you saying that  
23 the -- the sort of general rule that there's got to be a change of circumstances doesn't  
24 apply?

25 MR LAUCCI: [12:11:57] I'm not talking about the substantial rule. I'm just talking

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 about the rule about the periodic review.

2 PRESIDING JUDGE KORNER: [12:12:03] All right. Well, yes. Well, I mean, we'll  
3 find a suitable time, as you say, after the summer recess, if you want to make  
4 submissions about any aspect.

5 All right. Let's have -- yes.

6 MR LAUCCI: [12:12:18] Yes, Madam President. I have another issue on which I  
7 would like to -- to receive the guidance of the Chamber. We have completed  
8 the appearance of Witness P-0986 and, as you remember, in his evidence, there were  
9 new information about the conditions of the witnesses on the territory of Sudan and  
10 what happened there. So I don't know how you want to -- to proceed with that.  
11 I know that there is already a motion pending before you related to the cooperation of  
12 Sudan. If you want to -- to receive more submissions, that can be also dealt with  
13 in -- in writing or in -- orally. I'm in your hands. But you mentioned that -- we are  
14 in open session. I should not mention that now, but ... that there was no news.  
15 Actually, we have to submit to you that the evidence of that witness is providing  
16 evidence of new information that we did not have before.

17 PRESIDING JUDGE KORNER: [12:13:27] Yeah, I know. I heard what you said,  
18 and -- and I appreciated that your first hour of questions went to an issue that had  
19 nothing to do with his evidence as such.

20 Yeah, we'll discuss that over the break and get back to you on -- on that. But you're  
21 saying, either orally or in writing, you want to make further submissions, or do you  
22 want to raise again -- I may say, I've forgotten what the exact state of play is with  
23 the other application in respect of cooperation by Sudan. But I'll -- I think we'll  
24 discuss it -- we'll discuss it over the break and get back to you. All right?

25 MR LAUCCI: [12:14:16] And if I can suggest that when -- after the break, when you

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 come back to discuss that, this could be done in closed session.

2 PRESIDING JUDGE KORNER: [12:14:22] Yeah, all right. Yes, we'll do that.

3 Right. The last thing I should ask is, I'm taking it that the last witness before  
4 the break is actually already in The Hague.

5 MR JEREMY: [12:14:37] Video link.

6 PRESIDING JUDGE KORNER: [12:14:40] Oh, he's a video link, is he?

7 MR JEREMY: [12:14:46] Yeah.

8 PRESIDING JUDGE KORNER: [12:14:47] So -- I see. It's not a question of that if we  
9 decided that the risk was too great and didn't see it, that he'd been brought to The  
10 Hague.

11 MR JEREMY: [12:14:49] No. He's been gone to the vide link location, and he isn't  
12 there, but it's ... yeah.

13 PRESIDING JUDGE KORNER: [12:14:55] Yes, all right. Thank you. Yes.  
14 All right. Well, let's have the next witness in.

15 MR JEREMY: [12:15:48] Madam President, just while the witness is coming in, we  
16 anticipate that some -- some parts of this witness's testimony will need to be in private  
17 session owing to his -- the duties he was performing and how he was able to observe  
18 things in the course of those duties, but I've tried to group the questions together.  
19 But there will be some coming in, and I have to warn you. Thank you.

20 (The witness enters the courtroom)

21 PRESIDING JUDGE KORNER: [12:16:22] Yes. Good afternoon, sir. Can I just  
22 confirm that you can hear and understand me.

23 WITNESS: DAR-OTP-P-0984

24 (The witness speaks Arabic)

25 THE WITNESS: [12:16:45](Interpretation) I can hear you.

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

- 1 PRESIDING JUDGE KORNER: [12:16:49] First, thank you for coming to court to
- 2 give evidence. Your evidence will start now, but there will be breaks for
- 3 lunch -- a break for lunch, and then your evidence will continue tomorrow, when we
- 4 have other breaks.
- 5 In the breaks, please don't discuss the evidence that you're giving with anybody
- 6 who's with you.
- 7 As you know, because it's been explained to you, you'll be asked questions by
- 8 the representatives of the various parties in this case. It's very important, if you
- 9 don't understand the question that you're asked, that you say so straightaway.
- 10 In a moment, we'll ask you to -- to take the solemn declaration to tell the truth. And
- 11 if you can repeat the words after the court officer.
- 12 Do you understand all that?
- 13 THE WITNESS: [12:18:36](Interpretation) Yes, yes, I understand.
- 14 PRESIDING JUDGE KORNER: [12:18:38] Thank you. Yes, let's ...
- 15 THE COURT OFFICER: [12:18:43] Mr Witness, I will read the solemn undertaking to
- 16 you. Please follow me and repeat what I'm saying: I solemnly declare that I will
- 17 speak the truth, the whole truth and nothing but the truth.
- 18 THE INTERPRETER: [12:19:14] The witness is asking to please repeat what's just
- 19 been said because he didn't understand.
- 20 THE COURT OFFICER: [12:19:26] I will repeat: I solemnly declare that I will speak
- 21 the truth, the whole truth and nothing but the truth.
- 22 THE WITNESS: [12:19:46](Interpretation) I solemnly declare that I will tell the truth,
- 23 the whole truth and nothing but the truth.
- 24 THE COURT OFFICER: [12:19:57] Thank you, Mr Witness. You're now under
- 25 oath.

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [12:20:00] Thank you.

2 Yes, Mr Jeremy.

3 MR JEREMY: [12:20:02] Thank you, Madam President, your Honours.

4 QUESTIONED BY MR JEREMY:

5 Q. [12:20:05] Good afternoon, sir.

6 Now, sir, we -- we met during the witness preparation session, but for the record, my  
7 name is Edward Jeremy, and I'll be asking you questions on behalf of the Prosecution.  
8 Can you hear me well, sir?

9 A. [12:20:34] Yes, I can hear you very well and I understand you very well.

10 Q. [12:20:39] Okay. Just a reminder to you, and also to me, to speak slowly and  
11 also to leave a pause between my question and your answer, please.

12 Now, sir, as I mentioned during the preparation session, the Trial Chamber in this  
13 case has granted you the protective measures that we discussed. But while we are in  
14 open session, as we are now, then I would remind you not to say anything which may  
15 identify you. Is that clear, sir?

16 A. [12:21:34] Yes, this is clear.

17 Q. [12:21:36] And if it's -- if it's easier, feel free to look at me while I'm asking you  
18 the questions, as you'd prefer.

19 Madam President, I'm going to ask some -- or lead some background questions. So  
20 for that, could we go into private session, please.

21 PRESIDING JUDGE KORNER: [12:21:56] Yes.

22 Private session.

23 MR JEREMY: [12:22:01] And maybe, just as we're doing that, I may enquire when  
24 we'll take the break, just for my planning.

25 PRESIDING JUDGE KORNER: [12:22:09] We'll take the break at the normal time.

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 MR JEREMY: [12:22:12] Thank you.

2 (Private session at 12.22 p.m.)

3 THE COURT OFFICER: [12:22:21] We're in private session, Madam President.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Open session at 12.30 p.m.)

21 THE COURT OFFICER: [12:30:30] We're back into open session, Madam President.

22 MR JEREMY: [12:30:34] Thank you.

23 Q. [12:30:35] Now, sir, I'm going to ask you some questions about -- some

24 background questions about the conflict. And that's paragraphs 20 to 26 of your

25 statement, which, I should put on the record, is DAR-OTP-0222-0084.

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 Now, sir, I want to take you to 2003, in Mukjar, and ask you if you recall whether  
2 there were armed government forces in Mukjar during this period?

3 A. [12:31:35] Yes, there were armed groups belonging to the government.

4 Q. [12:31:42] Okay. And if you can, can you briefly tell us which armed groups  
5 those were.

6 A. [12:32:00] The groups included troops stationed at the boys' and girls' schools,  
7 troops of different kinds, dressed in khaki. I was not at the time able to identify PDF,  
8 army, or police, but they were all in governmental uniform.

9 Q. [12:32:33] And do you know who was the - if there was one - who was  
10 the commander of these forces? Do you have any names?

11 A. [12:32:53] Yes. The top leader was called Abdullah Himeidan.

12 Q. [12:33:05] And do you know if these forces were permanently based in Mukjar,  
13 or -- or had they come from somewhere else?

14 A. [12:33:23] The forces had come from Khartoum. The joint forces, that is.

15 Q. [12:33:33] And do you know why those joint forces came from Khartoum, sir?

16 A. [12:33:52] They brought these joint forces from Khartoum. They were in  
17 numerous vehicles, and they had them stationed at the boys' and girls' school. And  
18 I don't know as regarding why.

19 Q. [12:34:10] Were you aware of any rebel forces in or around the Mukjar area, sir?

20 A. [12:34:28] Not in Mukjar. There was no rebels -- there were no rebels in Mukjar.  
21 There were citizens living normal lives. And while in Mukjar, I did not hear of any  
22 rebels.

23 Q. [12:34:46] Were you aware of any rebel attacks on Mukjar in this period, sir?

24 A. [12:35:03] Yes, there were. But I was -- when they attacked, I was home.

25 The -- those engaged in a revolution, who attacked the people in uniform, I'm not sure

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 what they did. I'm not sure whether they were rebels or revolutionaries. I did not  
2 see them.

3 Q. [12:35:34] I want to move forward now, sir, with some questions relating to  
4 paragraphs 27 to 32 of your statement.

5 And my question is: In this -- in this period in 2003, were you aware of any  
6 government officials coming from Khartoum to Mukjar?

7 A. [12:36:08] Yes. The first time that happened was when Ahmad Harun visited.  
8 He came on an aircraft, a military aircraft, that landed in the girls' school which had  
9 a big square towards the east.

10 THE INTERPRETER: [12:36:36] Correction: A big courtyard.

11 MR JEREMY: [12:36:41]

12 Q. [12:36:41] Do you recall the approximate date, sir, of this visit by Harun?

13 A. [12:37:00] He came in August 2003.

14 Q. [12:37:11] And you mentioned that he -- he came in a helicopter. Is this -- is  
15 this something you saw? Did you observe his arrival?

16 PRESIDING JUDGE KORNER: [12:37:23] (Microphone not activated)

17 MR JEREMY:

18 Q. [12:37:24] My apologies, Witness. You said that Ahmad Harun arrived in  
19 a military aircraft, and my question is: Is this something that you witnessed?

20 A. [12:37:42] Yes. It was the first time in the history of Mukjar that an aircraft  
21 would land.

22 Q. [12:37:53] And how did you know, sir, that this person was Ahmad Harun?

23 A. [12:38:11] After the aircraft landed, there was a reception for him near  
24 the locality. The Janjaweed, Musa Jalombo, Al-Dayf Samih, in addition to a leader  
25 call Garang - they were on horseback, camels and donkeys - they were waiting for

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 him to receive him, this leader, Ahmad Harun.

2 Q. [12:38:37] Okay. But -- but my question, sir, is: How did you know that that  
3 leader was Ahmad Harun? Did somebody -- did somebody tell you? Did you  
4 recognise him?

5 A. [12:39:03] Ahmad Harun was someone I saw -- we saw on TV, constantly.

6 Q. [12:39:16] Okay. And you say that there was a reception for him in the locality,  
7 and you mentioned a number of Janjaweed leaders. Can you describe what  
8 you -- well, were you able to see this meeting yourself with your own eyes, sir?

9 A. [12:39:46] Yes, I saw with my own eyes and I heard with my own ears.

10 Q. [12:39:54] Okay. And can you tell us what you could see and hear of this  
11 meeting, sir.

12 A. [12:40:14] When Ahmad Harun arrived, he was dressed in brown. He had  
13 a cane which he held with his hand. When he arrived, I was about 20 or 40 metres  
14 away from them. He arrived at the place where there was a reception. They gave  
15 him space to walk, and they shouted, "Allahu Akbar". He said --

16 THE INTERPRETER: [12:41:06] Inaudible.

17 THE WITNESS: [12:41:08](Interpretation) "You should kill them. You should chase  
18 them. Their assets are your booty." He said this twice. He spoke in his capacity  
19 as minister.

20 THE INTERPRETER: [12:41:22] Interpreter's observation: There were words in  
21 the gentleman's statement that are not recognisable in standard Arabic.

22 MR JEREMY: [12:41:35]

23 Q. [12:41:35] Sir, just to clarify one point. When you were recounting what you  
24 heard Harun say, you said that you heard him say, "You should kill them. You  
25 should chase them. Their assets are your booty."

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 Was there anything additional that you wanted to say that I haven't quoted back to  
2 you?

3 A. [12:42:10] He told them, "All the eastern parts, you should burn them. You  
4 should kill them. Their assets are your booty." He said so twice.

5 Q. [12:42:29] And did you understand what this reference to "eastern parts" was?

6 A. [12:42:46] It was -- the eastern parts were perceived as belonging to  
7 the opposition, but I'm not sure if that's indeed what he meant when he said that.

8 PRESIDING JUDGE KORNER: [12:43:03] To whom was he saying all of this?

9 THE WITNESS: [12:43:25](Interpretation) Ahmad Harun was saying this to  
10 the Janjaweed.

11 PRESIDING JUDGE KORNER: [12:43:28] (Microphone not activated) my fault.

12 Are you able to name any of the people who were there?

13 THE WITNESS: [12:43:48](Interpretation) Yes. It was him and Torshein, but  
14 the others said they were not aware. As to the Janjaweed, they included Al-Dayf  
15 Samih, Musa Jalombo and Garang. These were the colonels of the Janjaweed. They  
16 were on horseback and on camels.

17 MR JEREMY: [12:44:22]

18 Q. [12:44:24] And so the Janjaweed leaders you mentioned, those are the same  
19 leaders who you say were waiting in the -- at a reception for Harun at the locality  
20 building; is that right?

21 A. [12:44:47] Yes.

22 Q. [12:44:53] And you mention that Torshein was also present at this meeting. Do  
23 you recall the presence of anybody else, any commanders of -- of the joint forces or  
24 any other military leaders in Mukjar at this time?

25 A. [12:45:20] Yes, they had military commanders among them whom I did not

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 know.

2 Q. [12:45:30] Okay. And when you heard Harun say these words to this group,  
3 a number of whom you've named, was there any response from the group that you  
4 heard?

5 A. [12:45:53] Yes. I heard a reaction from Al-Dayf Samih. Al-Dayf Samih said,  
6 "Mr Minister, we need weapons, ammunition." And Ahmad Harun replied by  
7 saying, "I support you and I will send you weapons, ammunition, and all necessary  
8 military equipment. You should mobilise all the tribes. You should have an open  
9 camp -- establish an open camp where you train and that you should be the PDF.

10 You should belong to the PDF coordination. We will allocate you salaries and files."

11 Q. [12:46:57] Sir, you mentioned the PDF. Were any members of the PDF present,  
12 to your knowledge?

13 A. [12:47:12] They were all Janjaweed. But the PDF had an office inside  
14 the locality.

15 Q. [12:47:24] Do you recall who was the head of that office inside the locality?

16 A. [12:47:37] Yes. The PDF coordinator was Al-Sadiq Uthman.

17 Q. [12:47:48] And do you recall whether that person was present during this  
18 meeting?

19 A. [12:48:01] Yes.

20 Q. [12:48:10] If you recall, sir, how long did this -- did this meeting go on for?

21 A. [12:48:28] It did not last long. Approximately 10 to 15 minutes. Afterwards,  
22 Ahmad Harun, Torshein and others I did not know boarded the aircraft anew.

23 Q. [12:48:50] Okay. I want to move forward now, sir, to speak about some of  
24 these Janjaweed who you've mentioned in your recent answers. And that's  
25 paragraphs 35 to 38 of the statement.

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 So, sir, you mentioned the names of a number of these Janjaweed leaders. You  
2 mentioned Al-Dayf Samih, a Jalombo, and a -- a Garang. And you mentioned that  
3 Harun had suggested to them to -- to establish an open camp where they could train  
4 and that they would be the PDF.

5 Do you know whether or not that in fact happened in Mukjar?

6 A. [12:49:55] Yes. They established an open camp in Mukjar between the schools  
7 and the valley, where there were big trees. There, there was the open camp where  
8 they trained.

9 Q. [12:50:17] And is that something that you saw?

10 A. [12:50:27] Yes. And not just me. Anyone was able to see that. They were  
11 out there in the open.

12 Q. [12:50:39] Now, you mentioned the PDF coordinator Al-Sadiq. Do you know  
13 what relationship he had with the Janjaweed leaders, if any?

14 A. [12:51:00] Yes. His name -- his nickname actually is Sadiq, and he was himself  
15 a Janjaweed member.

16 Q. [12:51:24] Sir, you say, sir, that you know that they had a relationship. How  
17 did you -- how did you know that Sadiq had a relationship with the Janjaweed?  
18 Was there anything specific you observed?

19 A. [12:51:42] Yes. Because when the Janjaweed came to the locality -- would come  
20 to the locality, they would go to Al-Sadiq in his office.

21 Q. [12:51:56] And is that something that you saw, sir?

22 A. [12:52:03] Yes, I saw that myself inside the locality.

23 Q. [12:52:10] And do you know why the Janjaweed would go to the office of  
24 Al-Sadiq?

25 A. [12:52:23] Because Al-Sadiq was the coordinator, their coordinator,

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 the Janjaweed's coordinator for them to be the PDF.

2 Q. [12:52:39] And do you know what that role of coordinator required from  
3 Al-Sadiq, what he did in that role?

4 A. [12:52:55] Al-Sadiq was in charge of providing all military equipment and  
5 salaries.

6 Q. [12:53:09] And how do you know that, sir?

7 A. [12:53:24] It's because the stuff they brought, ammunition, weapons, or money,  
8 it was through the PDF coordination. He himself was distributing these things on  
9 the basis of files.

10 Q. [12:53:44] When you refer to "files", sir, what do you mean?

11 A. [12:53:55] By "files" I mean a document that would have a person's name,  
12 function, date of birth. That's what was called "files", and these included the names  
13 of the Janjaweed members.

14 Q. [12:54:16] And when you say that Al-Sadiq was distributing ammunition or -- or  
15 money on the basis of these files, is that something that you saw yourself?

16 A. [12:54:42] Yes. They brought them the salaries in person. When we were  
17 sitting in the locality, they said, "Here's the money for the Janjaweed." They would  
18 line up to get the money. They would give them the money at the locality.

19 THE INTERPRETER: [12:55:01] The last part of the gentleman's answer was not  
20 audible.

21 MR JEREMY: [12:55:07]

22 Q. [12:55:08] Sir, we missed the final part of your answer. You -- you said that,  
23 "They would line up to get the money. They would give them the money at the  
24 locality."

25 Did you say anything after that?

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 A. [12:55:33] Yes. They would come, take their salaries in the locality.

2 Sometimes they would send them the money outside, all the way to their camp.

3 They would get the money there.

4 Q. [12:55:52] Is that something that you saw yourself, sir?

5 A. [12:56:04] Yes, I saw this with my own eyes at the locality. They were giving  
6 them the salaries.

7 Q. [12:56:15] Okay. I want to move forward, sir, and the questions I'll ask now  
8 relate to paragraphs 38 to 40 of your statement.

9 So you -- you've mentioned the Janjaweed leaders who were in Mukjar -- sorry,  
10 paragraphs 54 to 59. You've mentioned the Janjaweed leaders who were in Mukjar  
11 at this time. You mentioned a Jalombo, a Garang, Al Samih.

12 In this period, were you aware of any additional Janjaweed forces coming to Mukjar,  
13 sir?

14 A. [12:57:12] Could you please repeat the question.

15 Q. [12:57:16] Yes. So you've mentioned the leaders of the Janjaweed forces in  
16 Mukjar at this time in August 2003, around the time of Harun's speech, the meeting  
17 with Harun. And you mentioned Jalombo, Garang and Samih. And my question,  
18 sir, is: In this period, did any additional Janjaweed forces come to Mukjar from  
19 outside Mukjar, if you recall?

20 A. [12:57:58] Yes. After Ahmad Harun's visit, a day or two days after his visit, I'm  
21 not sure, forces of Ali Kushayb came. They came from Garsila. They came from  
22 the north to Mukjar.

23 Q. [12:58:25] Can you describe these forces of Ali Kushayb, sir.

24 A. [12:58:33] Yes. They entered from the north, they came from the north of  
25 Mukjar and headed east. At the same time, the Al-Dayf Samih forces also left

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 their -- where they were and headed to the eastern villages.

2 Q. [12:59:03] And this -- this force of Ali Kushayb's, did you see that yourself?

3 A. [12:59:13] Yes, I did. They were on horseback and camels.

4 Q. [12:59:20] And why do you say that it was Ali Kushayb's force, sir?

5 A. [12:59:33] After they arrived, I learned later that they had burned villages and  
6 went back. On that same day, I did not see them, actually. They entered, they  
7 burned, they entered the eastern parts and reached Arada. The first village they  
8 went in the east was Arada, 2 kilometres away of Mukjar. Afterwards, we heard  
9 gunfire. They were shooting. And then we saw smoke arising over Arada. They  
10 targeted the people there, and people were displaced. Then they went to the  
11 mountains, then went to the creeks, and then went somewhere 4 kilometres away of  
12 Mukjar, where we also saw smoke, but we did not hear gunfire. There they burnt.  
13 Then they went to \*Dembow, Tendy, Abirla and Korofata. They burnt all of these.  
14 And this concerns the forces of Ali Kushayb and of Al-Dayf Samih. Together they  
15 did that.

16 Q. [13:00:47] Thank you, sir.

17 This is a good time, Madam President, to ...

18 PRESIDING JUDGE KORNER: [13:00:52] (Overlapping speakers) might as well ask  
19 though, how do you know what these forces did?

20 THE WITNESS: [13:01:09](Interpretation) The forces burned villages and hit people.  
21 And people got displaced to the mountains. They took away all of their belongings.  
22 Livestock, donkeys and other assets, they took them away. People ended up in  
23 the wilderness.

24 PRESIDING JUDGE KORNER: [13:01:31] Yes. I understand that. But how do you  
25 know which forces did what? Is that what you heard afterwards?

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 THE WITNESS: [13:01:51](Interpretation) They -- they targeted villages. Because  
2 two days afterwards, people from Tendy, Dimbo, Indiri got displaced to Mukjar. All  
3 those people from the burned villages got displaced to Mukjar.

4 PRESIDING JUDGE KORNER: [13:02:18] Yes, thank you, sir. Thank you, sir.

5 There's going to be the lunch break now for one and a half hours, and then you'll be  
6 brought back to court to continue your evidence. If you'd just like to leave with  
7 the court officer, please.

8 (The witness exits the courtroom)

9 PRESIDING JUDGE KORNER: [13:03:07] Sorry, Mr Jeremy, I've still got one last  
10 question about the potential witness for Friday. You say it's a video link. Does that  
11 involve complicated logistics, or is it fairly straightforward?

12 MR JEREMY: [13:03:21] I -- I think it's fairly straightforward. I mean, I think it's  
13 from the same location as the video link earlier this week.

14 PRESIDING JUDGE KORNER: [13:03:32] Oh, I see. All right, okay. Thanks very  
15 much.

16 MR JEREMY: [13:03:34] But the witness has travelled to the location for testimony.

17 PRESIDING JUDGE KORNER: [13:03:37] All right. Well, that's what I was going  
18 to -- they had to travel there.

19 MR JEREMY: [13:03:40] Yeah.

20 PRESIDING JUDGE KORNER: [13:03:41] Okay. Thanks.

21 Where are we? Five past 1. We'll say half past 2.

22 THE COURT USHER: [13:03:55] All rise.

23 (Recess taken at 1.03 p.m.)

24 (Upon resuming in open session at 2.34 p.m.)

25 THE COURT USHER: [14:34:51] All rise.

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 Please be seated.

2 PRESIDING JUDGE KORNER: [14:35:08] Just before you continue -- my brain has  
3 gone a complete blank. I still want to call you Jeffery. Anyhow, Mr Jeremy, two  
4 things. First of all, we will hear the witness, unless things tomorrow make it quite  
5 clear we can't finish. But because he's in the situation where it's video link, it's not  
6 quite the same as if he were here. So we'll assess the situation tomorrow.

7 As far -- Mr Laucci, as far as your motions are concerned, put them in writing,  
8 anything to do with review of custody provisions or anything to do with the Sudan  
9 and cooperation, if you put anything into writing, we'll deal with it.

10 MR LAUCCI: [14:36:09] Will be done.

11 PRESIDING JUDGE KORNER: [14:36:11] Yes, right. Mr Jeremy.

12 MR JEREMY: [14:36:15] Thank you, Mr President.

13 Q. [14:36:18] Good afternoon, Mr Witness.

14 A. [14:36:33] Hi.

15 Q. [14:36:34] So at the end of the session, just before lunch, you referred to  
16 Ali Kushayb's forces coming to Mukjar, and you mention certain villages that were  
17 attacked to the east of Mukjar; Tendy, \*Dembow and Indiri, for example. Just "yes"  
18 or "no" for now, do you remember that, sir?

19 A. [14:36:55] Yes.

20 Q. [14:36:56] And you -- you mentioned that displaced persons from those  
21 locations came to Mukjar; is that correct?

22 A. [14:37:16] Yes.

23 Q. [14:37:16] Now, did you know about the attacks on these villages because  
24 you -- you saw them or because you spoke to the displaced persons, or did you know  
25 about them in some other way?

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 A. [14:37:39] Can you repeat, please.

2 Q. [14:37:41] Yes. How did you know that these villages were attacked; Tendy,  
3 \*Dembow, Indiri? Did you see those attacks yourself? Were you told about those  
4 attacks by others? Or did you know in some other way?

5 A. [14:38:08] Arada is about 2 kilometres away from Mukjar, so I heard the bomb  
6 shelling myself. I heard the shooting myself. And then I saw the fire. It was easy  
7 to see the fire from Mukjar, because it's only 2 kilometres away.  
8 But in other villages --

9 THE INTERPRETER: [14:38:34] The interpreter didn't get the name of the village.

10 THE WITNESS: [14:38:37](Interpretation) -- I only saw the smoke.

11 As for Tendy, and all the other villages, we saw obviously the people, the displaced  
12 people who came to Mukjar and they told us about it. But as for Indiri, I saw  
13 the smoke myself. And Arada, I heard the shooting myself and I saw the smoke.

14 MR JEREMY: [14:39:01]

15 Q. [14:39:02] Thank you, sir. And -- yeah.

16 Now, sir, you also said that the -- the first time that Ali Kushayb came to Mukjar  
17 shortly before these attacks, you didn't see him on that day. So when did you next  
18 see Ali Kushayb?

19 A. [14:39:35] I didn't see Ali Kushayb entering. But after they attacked and  
20 burned the villages, I saw him inside the locality building. He was trying to get food  
21 for the horses.

22 Q. [14:40:00] Okay. And can you tell us more about that, what you saw of  
23 Ali Kushayb inside the locality building.

24 A. [14:40:19] Ali Kushayb entered the locality building. He wanted to get some  
25 bread for the -- for the horses. He met Torshein, and he also had Al-Sadiq Uthman

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 with him and other people that I didn't know. And then they entered, and then they  
2 spoke to the *zakat* director. They went into the conference room, and they had  
3 a meeting. I don't know exactly what the meeting was about, but they came out.  
4 And then we went to Bindisi to get the food for the horses.  
5 Of course, there are other neighbourhoods between Bindisi and Mukjar, not that far.  
6 Maybe about 15 kilometres. But some of these villages were attacked and burnt, and  
7 I saw the smoke myself. They went to Kodoom. I didn't see the attack on Kodoom,  
8 but I heard from people that the neighbourhoods from Kodoom were burnt, and also  
9 villages also near Bindisi were attacked.

10 Q. [14:41:44] And -- and just for the -- for those who are following, we're around  
11 paragraph 59 of the witness's statement.

12 So, sir, you mentioned this -- seeing Ali Kushayb enter the locality building. Is that  
13 correct that he -- he requested bread for his horses? Is that what you said?

14 A. [14:42:23] Yes. Yes, he wanted bread for the horses. And then Torshein asked  
15 the *zakat* director to come and then they had a meeting. And then they went out and  
16 headed towards Bindisi. And on their way, they burnt a number of villages.

17 Q. [14:42:52] Okay. Sir, you mentioned this *zakat* director who was also present.  
18 Do you know his name?

19 A. [14:43:08] Yes. \*Muhammad Abd-Al-Jabbar.

20 Q. [14:43:18] And did you see him -- without going into what you were doing, but  
21 did you see him at the locality building on this day?

22 A. [14:43:28] Yes. I saw \*Muhammad Abd-Al-Jabbar and Al-Sadiq Uthman and  
23 Ali Kushayb. They all entered the conference room and had a meeting there.

24 Q. [14:43:44] And Al-Sadiq Uthman, you mentioned him earlier, he was the PDF  
25 coordinator; is that right?

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 A. [14:43:55] Yes. He is the coordinator for the PDF, yes.

2 Q. [14:44:02] And then you say they went out and headed towards Bindisi. Is this  
3 something that you saw, or were you told about it by others?

4 A. [14:44:19] I saw them getting out of the locality building, but they said that they  
5 are going to Bindisi. And I know that from there they went to Bindisi.

6 Q. [14:44:36] And you -- you mentioned that they headed towards Bindisi, and on  
7 their way, they burned a number of villages. How did you -- how did you know  
8 that, sir? Is that something you saw, or were you told by others?

9 A. [14:45:02] The people on horsebacks were in big numbers. They were on  
10 horsebacks and camelbacks, and they all went towards Bindisi. \*And when they  
11 burned Tiro, I saw the smoke myself because it's about 15 kilometres away from  
12 Mukjar. So I saw the smoke myself. And then they went to Kodoom and other  
13 villages. And the people of Tiro and the people of Kodoom came to Mukjar. They  
14 all got displaced and moved to Mukjar later.

15 Q. [14:45:41] And did you speak about these events with those persons from Tiro  
16 and Kodoom?

17 A. [14:45:55] Yes. They are known for me, and I met them before. So it's only  
18 about 15 kilometres away from Mukjar. It's not that far from Mukjar at all.

19 Q. [14:46:14] Now, you -- you say that you saw Ali Kushayb at the locality building.  
20 Can you -- can you provide a description of him, his appearance.

21 A. [14:46:39] Yes. When Ali Kushayb entered the locality building, he was  
22 dressed in brown clothing.

23 Q. [14:46:48] And can you give us an idea of his height.

24 A. [14:46:55] Yes. Ali Kushayb is a tall man. And he is dark skinned, black.

25 Q. [14:47:13] And can you describe his -- his build, his physique.

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 A. [14:47:28] You mean age? He's middle aged. Maybe 50, 60.

2 Q. [14:47:39] I meant the -- the size of his body, his -- his build.

3 A. [14:47:51] He's slim. He's quite slim and tall.

4 Q. [14:47:58] Now, when you saw Ali Kushayb at the locality building, how far  
5 away from him were you, if you can recall?

6 A. [14:48:11] Not far. It's something around 6, 7 metres.

7 Q. [14:48:19] And how long would you estimate you were in his presence for?  
8 How long were you looking at him for?

9 A. [14:48:32] Well, when they arrived, they didn't stay with us for a long time.

10 They straightaway went into a meeting with the *mu'atamid*. They didn't have that  
11 meeting for a very long time, and then they went out straightaway.

12 Q. [14:48:53] Now, sir, was this -- was this occasion the first time that you'd seen  
13 Ali Kushayb, or had you seen him at another time?

14 A. [14:49:06] Ali Kushayb, I saw him before the events in Darfur. I saw him in  
15 street number -- in December.

16 THE INTERPRETER: [14:49:18] Apologies. Correction from the interpreter: In  
17 December 2001.

18 MR JEREMY: [14:49:26]

19 Q. [14:49:28] Okay.

20 Madam President, your Honours, we'll need to go into private session for a short time,  
21 please.

22 PRESIDING JUDGE KORNER: [14:49:34] Yes, all right.

23 (Private session at 2.49 p.m.)

24 THE COURT OFFICER: [14:49:52] We're in private session, Madam President.

25 (Redacted)

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page redacted – Private session

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page redacted – Private session

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Open session at 2.59 p.m.)

23 THE COURT OFFICER: [14:59:07] We're back into open session, Madam President.

24 MR JEREMY:

25 Q. [14:59:16] Okay. Sir, I want to ask -- (Overlapping speakers)

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [14:59:30] (Microphone not activated)

2 MR JEREMY: [14:59:34]

3 Q. [14:59:34] Sir, I want to ask now some questions relating to paragraphs 45 to 53  
4 of your statement.

5 You -- you mentioned that persons were displaced from certain villages in the area  
6 surrounding Mukjar in this August 2003 period. And my question is: Do you  
7 know what happened to those persons that they were displaced to Mukjar?

8 A. [15:00:27] Regarding the displaced people who came to Mukjar, that was  
9 following the visit of Harun, 14 days later. So following the visit, all of these people  
10 were displaced. They came to the city. And there were arrests taking place by  
11 the government of the displaced people, and they were put in prisons. Part of them  
12 were forced to enter the police force and part were -- or they gave them the choice to  
13 either join the police force or enter the prison.

14 Q. [15:01:14] Okay. So you say that there were arrests taking place. Were -- were  
15 all of the displaced persons arrested in Mukjar, or were particular persons amongst  
16 those targeted for arrest?

17 A. [15:01:42] Some individuals were detained. I mean the IDPs. And those were  
18 the young men. They weren't elderly. They were all of them young men. They  
19 were arresting young men, and they were registering some into the police force.  
20 They gave them the choice. They can either join the police force or then -- otherwise,  
21 they will be sent to prison. Some of people from Mukjar were also detained.

22 Q. [15:02:19] And do you recall the -- the tribe of these persons who were arrested?  
23 Were they from a particular tribe or from different tribes?

24 A. [15:02:36] All of the displaced, all of them were Fur. Not from any other tribe.  
25 And all those who were detained from -- were from the Fur tribe, not from any other

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 tribe.

2 Q. [15:02:50] Now, you say that there were arrests taking place by the government.

3 Do you know which forces were conducting these arrests in Mukjar?

4 A. [15:03:07] Yes. The -- these were the forces of Abdullah Himeidan who were  
5 arresting people in 2003.

6 Q. [15:03:23] You mentioned that some were taken to prison. Do you know more  
7 specifically where they were taken, sir?

8 A. [15:03:37] Yes. Part of them were detained in prison in the girls' and boys'  
9 school. It was the director or the principal's office that was turned into a prison. So  
10 part of them were in the boys' school and part of them were in the girls' school.

11 Q. [15:03:57] And how did you know this, sir?

12 A. [15:04:07] (Redacted)

13 (Redacted)

14 Q. [15:04:21] And, sir, do you know how these men were -- were treated in prison?

15 A. [15:04:37] The prisoners who were in the boys' school in the principal's office  
16 were badly treated. Some were ironed with the iron, and some were also ironed in  
17 different parts of their bodies. (Redacted) Some were burned in the leg,  
18 and I (Redacted) who was burned in the leg.

19 The way they were treated was really, really bad. Some people had their arms  
20 broken. (Redacted) with a broken arm, but I did hear of someone who  
21 was kicked and some who was burnt with the iron in the back, in the leg and on  
22 the arm.

23 Q. [15:05:48] (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 (Redacted)

2 Q. [15:06:14] And can you give us the -- the names, if you can remember, of  
3 the persons (Redacted).

4 A. [15:06:28] I recognised Suleiman Musa, Yassin Nahid, *Umdah* Yahya, and  
5 someone called Hassan. I didn't know his father, but I knew him and his first name  
6 was Hassan.

7 THE INTERPRETER: [15:06:52] And the interpreter missed the name of the village.

8 MR JEREMY: [15:06:56]

9 Q. [15:06:57] Sir, which village was Hassan from?

10 A. [15:07:08] Korofata. I'm not quite sure. I think -- I think so.

11 Q. [15:07:17] Did you say Korofata?

12 A. [15:07:24] Korofata.

13 Q. [15:07:34] Sir, you -- you also mentioned that some of these detained persons  
14 were forced to join -- or given the option of joining a police force, given the choice to  
15 either join the police force or enter the prison. Can you explain what you mean by  
16 given the option to join the police force.

17 A. [15:08:13] It was a decision by Abdullah Himeidan and Torshein. They said,  
18 "You need to train those to become soldiers because later on you can deploy them  
19 around the locality," because they are -- the area, sorry, because they are from that  
20 region. And so they gave them the choice, "Either you will be part of the popular  
21 police, or you can go to prison."

22 Q. [15:08:42] And how did you know that, sir?

23 A. [15:08:50] I knew that from a policeman who was in the popular police.

24 Q. [15:09:11] I'm going to move forward in your statement now to paragraphs 63 to  
25 71.

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 Now, sir, you've said earlier that Ahmad Harun visited Mukjar in August 2003. Do  
2 you know if he visited Mukjar again in 2004?

3 A. [15:09:42] Yes, he came for a second time in Mukjar -- to Mukjar, but I'm not  
4 sure whether it was in December 2003 or January 2001. I am not -- sorry, 2004. I am  
5 not quite sure of the date.

6 Q. [15:10:04] And what did you observe in relation to this visit by Harun, sir?

7 A. [15:10:18] The second visit -- before the visit took place, Ja'afar Abd-Al-Hakam  
8 was there. Ja'afar Abd-Al-Hakam came before him on the same day, and then  
9 Ahmad Harun came on his helicopter. Ja'afar and Torshein went inside the locality  
10 with him. They met together, Ja'afar and Torshein, as well Ahmad Harun, in a part  
11 of the locality, and the meeting went late. Then they left the meeting.  
12 On the same day, there was an aircraft or helicopter that bombed a mountainous area  
13 to the north of the village, the north of Mukjar. It was about 500 metres away from  
14 the village. And it was the first time that we see that aircraft in Mukjar.  
15 The following day, early, there were also two other helicopters who went above  
16 the same mountainous area and they bombed the same area. That was the following  
17 day.

18 Q. [15:12:07] Now, sir, you -- you mentioned that Ja'afar Abd-Al-Hakam was  
19 present at this meeting with Harun. Who was he?

20 A. [15:12:24] Ja'afar Abd-Al-Hakam was the *wali* of Darfur, West Darfur.

21 Q. [15:12:36] Now, sir, you've -- you've said that you saw Ali Kushayb in Mukjar in  
22 August 2003. Did you see him again in Mukjar in 2004?

23 A. [15:13:00] Yes. In Mukjar in 2004, Ali Kushayb came again. It was after  
24 Ahmad Harun's visit. I think it was two months later. And the way he came was  
25 different from the first time. He was in military vehicles, very big and small vehicles

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 with -- filled with military equipment, fully equipped. And the men, the soldiers  
2 were wearing a different uniform, a khaki uniform, and they had bigger cars. They  
3 also had smaller cars equipped with weapons.

4 Q. [15:13:59] And on this occasion, do you -- do you recall where you first saw  
5 Ali Kushayb in Mukjar?

6 A. [15:14:13] The first time was at the locality.

7 Q. [15:14:21] And is it possible for you to estimate the size of the force that he was  
8 with.

9 A. [15:14:36] There were so many, I cannot estimate the number. But there were  
10 too many. There were about 60 or 70 vehicles, but I don't know the exact number of  
11 men. There were so many. There were so many.

12 Q. [15:14:58] And if you can recall, when you saw Ali Kushayb on this occasion,  
13 how far away from him were you?

14 A. [15:15:16] He was very close to me. It wasn't a far distance. He was close to  
15 me.

16 Q. [15:15:25] You say that on this occasion he was wearing a different uniform,  
17 a khaki uniform. Do you recall if he was -- if he was carrying anything, any  
18 weapons or anything else?

19 A. [15:15:44] Yes. Ali was -- had a Kalashnikov, and he had -- he was holding an  
20 axe. And there was a Dushka on the -- loaded on the vehicle he was in.

21 As for the other soldiers, they all had Kalashnikovs and machine guns, as well as  
22 Dushkas, and different kinds of weapons.

23 Q. [15:16:24] Now, you say there was a -- a Dushka on Ali Kushayb's vehicle. Can  
24 you tell us what a Dushka is.

25 A. [15:16:35] The Dushka is a gun that is stabled or fixed on the vehicle. It's fixed

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 in the back side of the vehicle.

2 Q. [15:16:50] And can you describe Ali Kushayb's vehicle. You've mentioned that  
3 there was a Dushka on the back, but can you provide any other description of  
4 the type of vehicle it was.

5 THE INTERPRETER: [15:17:11] A note from the interpreter: I didn't understand  
6 the word used by the witness.

7 MR JEREMY: [15:17:20]

8 Q. [15:17:21] Sir, can I ask you to -- to provide some -- some description of -- of  
9 the vehicle, the type of vehicle.

10 A. [15:17:34] It was a military vehicle.

11 THE INTERPRETER: [15:17:37] Note from the interpreter: I believe he is saying it  
12 was camouflaged.

13 MR JEREMY: [15:17:50]

14 Q. [15:17:50] Now, sir, do you recall how long Ali Kushayb stayed in -- in Mukjar  
15 when you saw him on this occasion?

16 A. [15:18:09] Five to six days.

17 Q. [15:18:15] And how do you know that the -- that he stayed in Mukjar for five to  
18 six days? How do you know he -- he left after that?

19 A. [15:18:37] When he came from Mukjar to Garsila, is that -- is that what you're  
20 asking me about?

21 Q. [15:18:48] So I'm -- I want to understand how -- how you knew that Ali Kushayb  
22 was in Mukjar for five or six days during this time. Did you see him leave? Did  
23 others tell you he had left? How did you know?

24 A. [15:19:14] When he came, he stayed for a while, and then he joined the men of  
25 Al-Dayf Samih and they headed to the east, to Arada. And they were also

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 organising the same attacks, looting. And we could hear the firing and we could see  
2 the smoke. Then they went to Indiri, and they displaced people. A lot of people  
3 died. Many of them fled to the mountains and many moved to Indiri. Then they  
4 went to \*Dembow and Tiro and Tendy and Sindu. So all of these villagers had to  
5 leave, and they were displaced.

6 Q. [15:20:17] At this time, sir, what did you understand Kushayb's position to be?  
7 What -- what role was he performing?

8 A. [15:20:34] Ali Kushayb, I didn't quite know, but he was important in Wadi Salih.  
9 And he was the direct commander of all the Janjaweed and of the men in Bindisi and  
10 other areas.

11 Q. [15:21:05] And why -- what's the reason why you had that understanding of his  
12 role?

13 A. [15:21:16] Because all the Janjaweed were following his orders. He would issue  
14 the instructions, and they would implement them. Whether the orders were from  
15 Musa Jalombo, from Al-Dayf Samih, all of those would receive orders from him -- or  
16 instructions from him.

17 Q. [15:21:43] And is that something you saw, or is that something you -- you heard  
18 or -- or were told by others? How do you know that?

19 A. [15:21:57] Because he was the direct commander and he had his own vehicle.  
20 He had a private vehicle, and he was giving them instructions.

21 Q. [15:22:12] Now, you mentioned --

22 PRESIDING JUDGE KORNER: [15:22:14] No, before you move on then, that's not  
23 quite an answer to your question, is it?

24 The question, sir, was: How do you know that he gave the instructions and they  
25 would implement them? Were you present when he did so, (Redacted)

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 (Redacted) that this is what happened?

2 THE WITNESS: [15:22:53](Interpretation) Because Ali Kushayb had personal guards  
3 and a private vehicle, and a regular person in charge would not need guards. So he  
4 had his own vehicle. He had his own guards. And this is what I knew of.

5 PRESIDING JUDGE KORNER: [15:23:15] Yes, but I understand that from his own  
6 vehicle and his own guards he was a man of importance, but how do you -- how does  
7 that lead you to say that he would issue instructions and the Janjaweed would carry  
8 them out? How do you know that specific thing?

9 THE WITNESS: [15:23:54](Interpretation) Because Ali Kushayb was known as *agid*  
10 *al-ogada*. The Janjaweed used to call Ali Kushayb *agid al-ogada*, which means, if you  
11 want to explain that, that he's like the prime minister.

12 PRESIDING JUDGE KORNER: [15:24:18] It depends on the prime minister of which  
13 country, it has to be said.

14 Yes, thank you, sir.

15 Sorry, Mr Jeremy, but I really didn't think he'd answered your question.

16 MR JEREMY: [15:24:30]

17 Q. [15:24:31] Sir, you mention that Ali Kushayb was the *agid al-ogada*. Can you  
18 just explain a little bit more about what that position was.

19 A. [15:24:46] *Agid al-ogada* means that he was in charge of all the *agids*, and the *agid*  
20 would have his own men and he would be in charge of them. So one *agid*, one  
21 colonel, would be in charge of 300 or 400 soldiers. The same for other colonels.  
22 And the *agid al-ogada* would be in charge of all the *agids*.

23 Q. [15:25:11] And how did you know that, sir?

24 A. [15:25:19] Because at the locality, everybody used to call him *agid al-ogada*.

25 They would say, "*Agid al-ogada* is Ali Kushayb. *Agid al-ogada* is that person." It was

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 well known.

2 Q. [15:25:37] And was that something that you heard yourself?

3 A. [15:25:44] Yes, I heard that myself.

4 Q. [15:25:51] Now, in relation to the operation of the Janjaweed to the east of  
5 Mukjar, you mention a series of villages that were attacked; \*Dembow, Tiro, Tendy.

6 What was the majority ethnic or tribal group in these villages, if you know?

7 A. [15:26:27] In Tendy, in Indiri, in Tiro, in \*Dembow, in Sindu, all of these regions  
8 were inhabited by the Fur tribe. No other tribe. Only Fur tribe.

9 Q. [15:26:47] And do you know where persons who were displaced from these  
10 villages during these attacks went to?

11 A. [15:27:10] The people who were displaced went to Hiran (phon), to Hiran, to  
12 Juba, to the mountains. Some of them died, and some of them fled to the mountains.

13 Q. [15:27:34] Now, during this operation, you were in Mukjar; is that right?

14 A. [15:27:42] Yes, I was in Mukjar.

15 Q. [15:27:46] And do you recall whether or not any displaced persons came to  
16 Mukjar during these attacks?

17 A. [15:28:01] Of course, some of them came. Mukjar is in the same direction.  
18 Mukjar is to the east, and to the south was surrounded by gates, and there were a lot  
19 of checkpoints. So people who went by the checkpoints, they were searched, and  
20 some were detained and brought to prison.

21 Q. [15:28:47] Okay. So you've mentioned these gates or checkpoints. Were those  
22 permanent checkpoints, or were they -- were they temporary, if you know?

23 A. [15:29:09] When people fled, these checkpoints were positioned there night and  
24 day. So there were shifts around the clock on these checkpoints.

25 Q. [15:29:23] And do you recall the -- where within Mukjar these checkpoints were

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 located? The north or the east or the south or the west?

2 A. [15:29:43] The checkpoints were to the east and to the north.

3 Q. [15:29:56] And how do you have this information about these checkpoints?

4 Were you able to see them yourself?

5 A. [15:30:11] Yes, I went there myself and I saw them. I saw these checkpoints  
6 with my own eyes.

7 Q. [15:30:23] Now, you say that at these checkpoints some were searched and  
8 detained and brought to prison. Were there particular groups of persons who were  
9 being searched and arrested and detained at these checkpoints?

10 A. [15:30:51] Yes. The young people. They focused on young men. And  
11 sometimes very young people got detained, such as 13 or 14 years old people. And  
12 some -- some people got arrested straightaway, such as the *umdahs*, without any  
13 questioning.

14 Q. [15:31:28] And were those arrested -- or did those arrested belong to a particular  
15 tribe, or were people from different tribes being arrested?

16 A. [15:31:43] All the people who were arrested were from the Fur tribe. No other  
17 tribe. Just the Fur tribe.

18 Q. [15:32:03] And you say that you could see what was happening at these  
19 checkpoints with your own eyes. How were you able to -- to see that? Why were  
20 you close enough to these checkpoints to see what was happening there?

21 A. [15:32:25] Because they were very close. They were on the edge of  
22 the neighbourhood. Anyone can go there and stand there and see what's happening.  
23 You can see people entering.

24 Q. [15:32:51] Now, after this attack on -- or after this operation that you say ended  
25 in Sindu, do you know if Ali Kushayb and his forces then returned to Mukjar?

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Open Session)

ICC-02/05-01/20

1 A. [15:33:06] Yes, I know that.

2 Q. [15:33:13] Did you see them return?

3 A. [15:33:19] Can you repeat, please.

4 Q. [15:33:21] Yes. Did you -- did you see Kushayb's forces return to Mukjar?

5 Did you see that yourself?

6 A. [15:33:33] Yes. When they returned from Sindu, they went back to Mukjar.

7 On their arrival, all the people in Mukjar, all of them, every one, they left their houses  
8 and went into the locality. No one stayed in their house. Everyone left their houses  
9 and went to the locality building.

10 Q. [15:34:11] Why did people go to the locality building, sir?

11 A. [15:34:19] Because when they entered -- people got very scared because they  
12 entered people's houses. And if they find anyone inside the house, they would beat  
13 them up. And that's why people got scared and ran to the locality building.

14 Q. [15:34:52] And how did you know this, sir? Is this something you could  
15 observe yourself, or were you told by others? How did you know?

16 A. [15:35:01] I saw that with my own eyes. I left my house, and I escaped. And I  
17 saw what happened in the neighbourhood. After they entered the neighbourhood,  
18 they went towards the south, near the valley.

19 Q. [15:35:27] Now, sir, I'm going to move to a different topic now, which will  
20 require a private session. My apologies.

21 It's paragraphs 75 to 77.

22 PRESIDING JUDGE KORNER: [15:35:53] Private session then, please.

23 (Private session at 3.35 p.m.)

24 THE COURT OFFICER: [15:35:59] We're in private session, Madam President.

25 (Redacted)

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 (Redacted)  
2 (Redacted)  
3 (Redacted)  
4 (Redacted)  
5 (Redacted)  
6 (Redacted)  
7 (Redacted)  
8 (Redacted)  
9 (Redacted)  
10 (Redacted)  
11 (Redacted)  
12 (Redacted)  
13 (Redacted)  
14 (Redacted)  
15 (Redacted)  
16 (Redacted)  
17 (Redacted)  
18 (Redacted)  
19 (Redacted)  
20 (Redacted)  
21 (Redacted)  
22 (Redacted)  
23 (Redacted)  
24 (Redacted)

25 A. [15:39:20] Well, this term *tora bora*, especially in our areas, any person from

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 the Fur tribe is called *tora bora*.

2 Q. [15:39:39] And does that term relate to -- is it a -- is it a positive way to refer to  
3 someone, or a negative way or a neutral way? Does it refer to any particular groups?

4 A. [15:40:02] Tora bora means someone who's part of the opposition, opposing  
5 the government. And that's why all the Fur are called tora bora.

6 Q. [15:40:17] And by "opposition", what do you mean?

7 A. [15:40:26] I don't know. But this is what they said. Any Fur person was called  
8 a *tora bora*.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 MR JEREMY: [15:43:25]

12 Q. [15:43:26] Sir, you mentioned that persons arrested at checkpoints, you

13 mentioned that some of them were detained. My question is: Do you know where

14 they were detained?

15 A. [15:43:58] They used to detain them in the prison, in the police presidency or

16 headquarters.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [15:44:58] Now, we're in the period, you've explained, after this -- the Sindu

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 operation, after the second wave of attacks. Do you recall what forces were present  
2 at this time at the police station?

3 A. [15:45:39] (No interpretation)

4 Q. [15:45:41] Perhaps I'll repeat my question.

5 Sir, in this period following the Sindu operation, do you know which forces, which  
6 military forces were located at the police station? Which armed forces, I should say.

7 A. [15:46:08] It was the joint forces that were brought in from Khartoum. They  
8 were positioned at the headquarters, the police headquarters.

9 Q. [15:46:24] And in this period, do you recall who was the commander of those  
10 joint forces?

11 A. [15:46:35] I don't know his name. I know his nickname, but not his name.

12 Q. [15:46:44] Can you tell us his nickname.

13 A. [15:46:53] Girentia (phon). They used to nickname him Girentia (phon).

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1

2

3

4

5

6

7

8

9

10

11 Page redacted – Private session

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page redacted – Private session

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1

2

3

4

5

6

7

8

9

10

11 Page redacted – Private session

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 MR JEREMY: [16:00:47] Madam P resident, this section will still take a little bit of  
11 time.

12 PRESIDING JUDGE KORNER: [16:00:53] (Microphone not activated) tomorrow  
13 morning.

14 MR JEREMY: [16:00:56] Yeah, that's fine.

15 PRESIDING JUDGE KORNER: [16:00:57] (Microphone not activated)

16 THE INTERPRETER: [16:01:01] Mic, please, your Honour.

17 PRESIDING JUDGE KORNER: [16:01:06] Are you going to take a full session first  
18 thing? Probably not.

19 MR JEREMY: [16:01:12] No, I don't think so. I -- I'll probably take the best part of  
20 an hour, I would estimate.

21 PRESIDING JUDGE KORNER: [16:01:26] And, Mr Laucci, you're crossing, so is your  
22 estimate still much the same?

23 MR LAUCCI: [16:01:35] I'm still under two sessions. But if one hour of the first  
24 session is -- is taken by the Prosecution, I don't know if there will be questions from  
25 the victims representatives, which means that the first session will -- I will barely have

Trial Hearing  
WITNESS: DAR-OTP-P-0984

(Private Session)

ICC-02/05-01/20

1 time to do anything. So that may well -- I will try to finish before lunchtime, but

2 I cannot guarantee.

3 PRESIDING JUDGE KORNER: [16:02:02] All right. I think we'll review the overall

4 position at lunchtime tomorrow and make a final decision then.

5 Yes. Sir, we're going to stop now, but, please, would be back tomorrow morning for

6 9.30. Somebody will bring you, as before, and your evidence will be completed

7 tomorrow some time. So don't think about the evidence overnight. Put the case

8 out of your mind.

9 Yes, very well. 9.30 tomorrow morning, please.

10 THE COURT USHER: [16:02:36] All rise.

11 (The hearing ends in private session at 4.02 p.m.)