

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 International Criminal Court  
2 Trial Chamber I  
3 Situation: Darfur, Sudan  
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman  
5 ("Ali Kushayb") - ICC-02/05-01/20  
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and  
7 Judge Althea Violet Alexis-Windsor  
8 Trial Hearing - Courtroom 3  
9 Wednesday, 5 June 2024  
10 (The hearing starts in open session at 9.33 a.m.)  
11 THE COURT USHER: [9:33:51] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE KORNER: [9:34:09] Yes, good morning, all.  
15 Can we have the appearances, please, starting again with the Defence.  
16 MR LAUCCI: [9:34:19] Good morning, Madam President. Good morning, Judges.  
17 Good morning, colleagues. Good morning to the public. Same composition as  
18 yesterday, we just miss Madam Haneen Ghali who is not present.  
19 PRESIDING JUDGE KORNER: [9:34:29] Thank you very much, Mr Laucci.  
20 Prosecution.  
21 MR NICHOLLS: [9:34:34] Good morning, Madam President. Good morning,  
22 your Honours. Good morning, to everybody. Same as yesterday. Thank you.  
23 PRESIDING JUDGE KORNER: [9:34:40] Thank you very much.  
24 And the representatives of the victims.  
25 MS VON WISTINGHAUSEN: [9:34:46] Good morning, Madam President.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 Good morning, your Honours. Good morning to everyone.

2 Actually not the same composition, because yesterday I forgot to put myself on the

3 record. I am Natalie von Wistinghausen, representing the participating victims.

4 And our visiting professional, Kathryn Ravey, is not here today. Thank you.

5 PRESIDING JUDGE KORNER: [9:35:04] Yes. Thank you very much, Ms von

6 Wistinghausen. I can confirm you were definitely here yesterday.

7 Yes, good morning to you, sir. Can you hear and understand me?

8 WITNESS: DAR-D31-P-0001 (On former oath)

9 (The witness speaks Arabic)

10 (The witness gives evidence via video link)

11 THE WITNESS: [9:35:20](Interpretation) Hello.

12 PRESIDING JUDGE KORNER: [9:35:23] Your cross-examination by Mr Nicholls will

13 continue. Then the Judges will have a few questions, and, after that, you will have

14 completed your evidence, we anticipate, before the first break.

15 I hope that's -- thank you, yes, I see Mr Nicholls nodding.

16 Yes, thank you, sir.

17 Mr Nicholls.

18 MR NICHOLLS: [9:35:50] Thank you, your Honour.

19 QUESTIONED BY MR NICHOLLS: (Continuing)

20 Q. [9:35:51] Good morning, sir.

21 A. [9:35:56] Good morning.

22 Q. [9:35:59] Can I ask you now about an incident that occurred in Nyala in 2013,

23 okay? Do you understand?

24 A. [9:36:18] I don't.

25 Q. [9:36:21] Well, we'll see if you do in a minute. I'm talking about something that

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 happened in July '13, 2000 -- July 2013. I'm going to ask you some questions about  
2 when the accused, Mr Abd-Al-Rahman, was shot in Nyala.

3 Now do you remember that -- that in 2013, when Mr Abd-Al-Rahman was the CRF  
4 commander, he was in Nyala and he was shot. You remember that incident, right?

5 A. [9:37:01] No, I don't know about this.

6 Q. [9:37:07] You've never heard -- you've never heard that Mr Abd-Al-Rahman was  
7 shot and injured in Nyala in 2013?

8 A. [9:37:20] I heard he was shot, but I don't know by whom.

9 Q. [9:37:26] Okay. Well, my question wasn't by whom he was shot. My question  
10 was whether you had heard that he was shot; so please, just try to focus on the  
11 question and answer the question.

12 So we agree you knew -- you heard that he had been shot in Nyala in 2013; correct?

13 A. [9:37:47] Yes.

14 Q. [9:37:50] I'm not saying you were there or you saw it or anything like that.

15 And you also know that, unfortunately, in that shooting he was severely injured and  
16 he had to go to the hospital; right?

17 A. [9:38:09] Yes.

18 Q. [9:38:15] And this is a big deal. Commander of the CRF, the person who  
19 protects the population in Rahad Al-Berdi is shot in a criminal attack. That's a big  
20 deal; right?

21 A. [9:38:39] Yes.

22 Q. [9:38:43] Okay. Now, unfortunately, Mr Abd-Al-Rahman, the accused, was not  
23 the only person hurt in that attack. You know that CRF soldier Ahmad Yusuf  
24 al-Balul was killed in that incident. He was martyred; correct?

25 A. [9:39:15] Yes.

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 Q. [9:39:15] He was a hero because he died protecting the commander; right?

2 A. [9:39:26] Yes.

3 Q. [9:39:32] And you know a person named Ahmed Ibrahim Al-Semeh; correct?

4 A. [9:39:43] Yes.

5 Q. [9:39:46] He was an *agid al-ogada* in the Ta'aisha tribe, correct?

6 A. [9:39:52] Yes.

7 Q. [9:39:53] And he had a son named Abd-Al-Ghani Ahmed Ibrahim Al-Semeh,  
8 correct?

9 A. [9:40:05] Yes, correct.

10 Q. [9:40:06] And unfortunately his son was also killed -- was also martyred in this  
11 attack; correct?

12 A. [9:40:20] Yes.

13 Q. [9:40:22] His son was also a hero, died protecting his commander; correct?

14 A. [9:40:35] Yes.

15 Q. [9:40:35] And you heard about it. This crime was widely reported, wasn't it, in  
16 the news, in the media, in Sudan?

17 A. [9:40:46] Yes.

18 Q. [9:40:50] Okay. I just want to look at a couple of those reports with you.

19 The first one is at tab 12, that's the English version, excuse me, 00006581.

20 All right, sir, I'll just read out a couple of parts of this article to you and ask you some  
21 questions about it.

22 This is from Radio Dabanga, the date is 8 July 2013, and the headline is:

23 "Ali Kushayb suffers serious injuries in the town of Nyala and is transported to  
24 Khartoum, and his bodyguard is killed".

25 And the first part of this report on the shooting we've just discussed, states:

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 "Ali Kushayb, a government militia leader wanted by the International Criminal  
2 Court, was seriously injured and his bodyguard killed yesterday afternoon, on  
3 Sunday, when an unknown armed individual shot at him in the industrial zone in the  
4 town of Nyala."

5 And further on the article states that Ali Kushayb's bodyguard, that Mr Ahmad Yusuf  
6 al-Balul had been killed.

7 Right, so this is 2013, it's the same incident we've been talking about; correct?

8 A. [9:43:05] Yes, correct.

9 Q. [9:43:13] And Radio Dabanga is reporting to all of Sudan that the person shot in  
10 this incident, whose soldier was Yusuf al-Balul, is named Ali Kushayb wanted by this  
11 Court. You maintain that you didn't hear that name Ali Kushayb until seven years  
12 later; is that right?

13 A. [9:43:37] Correct.

14 Q. [9:43:46] Okay. One more, this is at tab 14, ERN 00006771, 8 July 2013. This is  
15 now the Sudan Tribune, a different media article source. The headline, sir, I will just  
16 read it to you: "Kushayb seriously injured in assassination attempt, his driver and  
17 bodyguard killed".

18 And it talks about how this happened in Nyala.

19 So again this is the same incident we're discussing that you heard about; correct?

20 A. [9:44:52] Yes.

21 Q. [9:44:57] And the first paragraph states:

22 "Ali Muhammad Ali Abd-Al-Rahman, known as Ali Kushayb - one of the most  
23 prominent Janjaweed militia leaders in Darfur and wanted by the International  
24 Criminal Court - was the target of an assassination attempt on Sunday in Nyala,  
25 capital of South Darfur State."

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 And it continues:

2 "Ali Kushayb, a *Musa'id*" -- and you told us he was a *musaid* -- "... in the Central  
3 Reserve Police who has been accused by the ICC of killing civilians in Darfur in 2004,  
4 was at a car repair shop in Nyala ..." and then it talks about how he was unfortunately  
5 shot.

6 Again, broadcast throughout Sudan that the commander of the CRF, a *musaid*, named  
7 Ali Muhammad Ali Abd-Al-Rahman, is also known as Ali Kushayb, and is wanted by  
8 this Court.

9 But you knew none of this for another seven years; right?

10 A. [9:46:30] Right.

11 Q. [9:46:32] And the other parts you don't know - and you didn't know - were that  
12 he'd been accused of killing civilians in Darfur in 2004. You didn't know about that  
13 till 2020 when he surrendered; right?

14 A. [9:46:59] He didn't kill -- I don't know.

15 Q. [9:47:03] You don't know. Do you know what he is charged with? Why he is  
16 in court today?

17 Let me repeat my question. Do you know what Mr Abd-Al-Rahman is charged with,  
18 why he is in court today? Do you know that or do you not know it?

19 A. [9:47:35] No.

20 Q. [9:47:39] Okay. 2020, Abd-Al-Rahman surrenders to the Court, you know  
21 about that, you find out there is a warrant for his arrest. At no time do you have  
22 somebody read that warrant to you or look at it yourself and find out what he's  
23 charged with; right?

24 A. [9:48:05] No.

25 Q. [9:48:10] What is the Janjaweed? What does that mean?

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 A. [9:48:19] I don't know the Janjaweed.

2 Q. [9:48:22] Okay, I'm not asking if you know Janjaweed, I'm asking if you know  
3 what that term means. If somebody says, "the Janjaweed militia", what is the  
4 Janjaweed militia?

5 A. [9:48:37] I don't know it.

6 Q. [9:48:39] Okay. So you've never heard the term "Janjaweed" before? You're  
7 hearing it first time today from me? That's a word you don't know?

8 A. [9:48:50] Even if I had heard it before, I don't know -- I wouldn't know the  
9 meaning of the word "Janjaweed". I don't know what it means, the word  
10 "Janjaweed".

11 Q. [9:49:02] Okay. The Fur tribe are part of the Ta'aisha community, they are part  
12 of the family; right? That's what you said yesterday.

13 A. [9:49:21] Correct.

14 Q. [9:49:28] Well, I'll let you know that -- and this may come as a surprise to you --  
15 that Mr Abd-Al-Rahman is charged here for the murder, rape, torture, forcible  
16 displacement and looting of Fur people. You never knew that, right?

17 A. [9:49:57] I don't know.

18 Q. [9:49:59] And if you knew that, he would have been excommunicated, kicked  
19 out of the tribe, right? He wouldn't have been allowed to be a member of the  
20 Ta'aisha anymore, right, for that crime?

21 A. [9:50:12] Who?

22 Q. [9:50:32] I'll ask it a different way.

23 You said yesterday that anybody who took part in the counter-insurgency, anybody  
24 who fought in an unjust war, a prohibited war - that's in your prep note from your  
25 meeting with the Defence - would be kicked out of the tribe.

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 So if you had known that Mr Abd-Al-Rahman had murdered Fur people, part of the  
2 Ta'aisha family, he would have been kicked out of the tribe, right, by the *nazir*?  
3 A. [9:51:11] Absolutely.  
4 Q. [9:51:16] Okay. One more article. This is at tab 15, 7 July 2013. This is  
5 a different news source, Alarabiya News. 000010624 -- excuse me, 00010624.  
6 If we scroll down a bit. Again, I'll keep it short, sir.  
7 Headline: "Darfur war crime suspect survives attack".  
8 "A suspect wanted by the International Criminal Court for war crimes in Sudan's  
9 Darfur survived an attack as fighting raged in the region's largest city" -- army chief of  
10 staff to discuss -- -- "on Sunday, official radio reported."  
11 "'Ali Kushayb was saved from assassination and his [body]guard and driver were  
12 killed in Nyala,' Radio Omdurman said in a brief report ..."  
13 "Kushayb is wanted by The Hague-based ICC for crimes against humanity and war  
14 crimes allegedly committed earlier during the decade-long Darfur conflict.  
15 He was a commander of the feared Janjaweed militia."  
16 So again I'm putting it to you, sir, you're not being truthful. Radio Omdurman is  
17 reporting that the person injured in this same attack was Ali Kushayb. The article is  
18 clear that this person is Ali Kushayb and is wanted by this Court for crimes in Darfur.  
19 You're still telling me you didn't know anything about any of that, right? That's  
20 your answer, correct?  
21 A. [9:53:46] Correct.  
22 Q. [9:53:49] And if you'd heard this radio broadcast and read this back in July 2013  
23 -- and it said he was commander to the feared Janjaweed militia, you, sitting in Rahad  
24 Al-Berdi would not know what that was. You would say, "Huh, that's -- commander  
25 of what? I don't know what that is."

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 It would have been puzzling, right?

2 A. [9:54:16] I don't know.

3 Q. [9:54:19] Okay. Sir, I'm finished. You can answer this question with a yes or  
4 no, if you like. You can answer however you want. You know that the accused  
5 sitting in this courtroom, Mr Abd-Al-Rahman, is Ali Kushayb. You know he  
6 committed these crimes. You have not been telling the truth to this Court because  
7 you were trying to protect him; right?

8 A. [9:55:03] I don't know what you're talking about.

9 Q. [09:55:10] Okay. Thank you.

10 PRESIDING JUDGE KORNER: [9:55:16] Thank you, Mr Nicholls.

11 Yes, re-examination, Mr Laucci?

12 MR LAUCCI: [9:55:22] Yes, Madam President, I have three issues for re-examination.  
13 Two can be done in public session, one will require private session.

14 PRESIDING JUDGE KORNER: [9:55:35] Yes. All right.

15 MR LAUCCI: [9:55:37] I start with the two in public.

16 QUESTIONED BY MR LAUCCI:

17 Q. [9:55:41] Good morning, Mr Witness.

18 A. [9:55:44] Good morning.

19 Q. [9:55:47] Can you tell us what you know about the missions of the Central  
20 Reserve Forces, generally?

21 A. [9:55:58] It is one of the military units.

22 Q. [9:56:10] And does this Central Reserve Forces -- do they -- do their mission  
23 encompass the participation in hostilities in times of armed conflict?

24 A. [9:56:33] Now, they are the ones in control of the whole of Sudan.

25 Q. [9:56:40] I'm talking about the Central Reserve Forces; is your answer related to

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 this body -- Abu Taira?

2 A. [9:56:56] Abu Taira represents the police, and the armed forces and the Rapid  
3 Support Forces are in fighting now.

4 Q. [9:57:09] Okay --

5 PRESIDING JUDGE KORNER: [9:57:13] Mr Laucci, forgive me. I meant to ask this  
6 earlier - but if I ever knew, I've forgotten - what is Abu Taira?

7 MR LAUCCI: [9:57:22] Abu Taira - and my colleagues will correct me - is the  
8 nickname for the Central Reserve Forces.

9 PRESIDING JUDGE KORNER: [9:57:29] All right. Thank you.

10 MR LAUCCI: [9:57:31]

11 Q. [9:57:31] And, yes, sorry, there was a misunderstanding, sir. My question was  
12 not about the Rapid Support Forces, it was about the Central Reserve Forces, Abu  
13 Taira.

14 So I repeat my question: What do you know about the missions of the Central  
15 Reserve Forces, Abu Taira?

16 A. [9:57:51] It was one of the regulated forces for the Central Reserve Forces.

17 Q. [9:58:00] Okay. And does that form part of their usual missions, functions, to  
18 get involved in hostilities in terms of armed conflict? I'm talking about the Abu  
19 Taira Central Reserve Forces.

20 A. [9:58:21] Which armed conflict? You mean the one that is going on in Sudan or  
21 another one?

22 Q. [9:58:29] No, any armed conflict, whatever the time and moment. More simply,  
23 is it an armed forces --

24 A. [9:58:44] They do not participate in any armed conflict unless they have  
25 directives from the higher authorities. Armed conflicts are many.

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 Q. [9:58:57] Okay. Which higher authorities are you talking about here?

2 A. [9:59:06] Any military unit has a commander. Any military force has  
3 a commander -- high commander.

4 Q. [9:59:17] Okay. And then I will be more specific now in my question. During  
5 the conflicts of 2012-2013 with the Salamat, was the Central Reserve Forces in Rahad  
6 Al-Berdi requested to intervene in military operations?

7 A. [9:59:43] In military operations -- in military operations, but not in tribal issues.  
8 They do not intervene in civilian issues.

9 Q. [9:59:59] Were they requested to intervene in the conflict with the Salamat in  
10 2012-2013? That's my question.

11 A. [10:00:10] I don't know.

12 Q. [10:00:15] Okay. Another question on the Central Reserve Forces -- forget  
13 armed conflicts, I'm talking about peacetime now, in peacetime. Do -- when -- when  
14 in peacetime, when the members of the Central Reserve Forces have to move, let's say  
15 to another town outside where they are based, do they do usually that alone or in  
16 a group?

17 A. [10:00:55] When a military personnel is moved or deployed elsewhere, he is  
18 moved individually, by himself.

19 Q. [10:01:07] I'm not talking about deployment of an individual. I'm just saying  
20 the CRF in Rahad Al-Berdi needs, for whatever reason, to go to Nyala to do  
21 something. Will they go -- will it be only one individual of the CRF going usually, or  
22 will they go in more people -- two, three, four? I don't know.

23 A. [10:01:40] If it's an official military mission, three, four, five, six individuals  
24 would go. But if is an individual mission, one person would go.

25 Q. [10:01:50] Thank you.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 The second topic I have, Mr Witness, for you this morning, is the radio channels that  
2 you used to listen to and from which you get -- you receive the information about  
3 what is going on about the news. Which radio channel do you usually listen to?

4 A. [10:02:19] Well, TV and radio are both available and accessible.

5 Q. [10:02:30] Thank you. But I'm talking about radio, which radio station -- I'm  
6 corrected. Which radio station do you usually listen to?

7 A. [10:02:47] I don't know which station it is, it's just a TV set or a radio device is  
8 turned on and I will occasionally listen to that, but I don't know which specific  
9 channel in particular is being turned on.

10 Q. [10:03:08] Okay. Can it be -- can it be Radio Dabanga?

11 A. [10:03:14] I stand by my previous words, it's just a Sudanese radio station and  
12 that's it. I can't specify whether it was Dabanga, Omdurman or the official Sudanese  
13 TV channel. It's just a Sudanese channel of some kind.

14 Q. [10:04:01] Do you know if people usually in Sudan, or more specifically in  
15 Rahad Al-Berdi, listen to Radio Dabanga?

16 A. [10:04:21] Well, it depends on the person. I can't tell you specifically whether  
17 an individual person listens to Dabanga radio or to another radio; it depends on the  
18 person.

19 Q. [10:04:33] Thank you. And how regularly -- how often -- how regularly do you  
20 listen to the radio?

21 A. [10:04:48] Only occasionally. I don't have much time to dedicate that much  
22 time to listen to the radio, so only occasionally.

23 Q. [10:04:58] Thank you.

24 MR LAUCCI: [10:05:00] The last topic, Madam President, requires private session.

25 PRESIDING JUDGE KORNER: [10:05:03] Yes, we'll go into private session.

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Private Session)

ICC-02/05-01/20

1 (Private session at 10.05 a.m.)

2 THE COURT OFFICER: [10:05:12] We are in private session, Madam President.

3 (Redacted)

4 (Redacted)

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Trial Hearing  
WITNESS: DAR-D31-P-0001

(Private Session)

ICC-02/05-01/20

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21 (Open session at 10.09 a.m.)

22 THE COURT OFFICER: [10:09:51] We're back in open session, Madam President.

23 PRESIDING JUDGE KORNER: [10:10:04] Yes. As I was saying, two videos have

24 been entered into evidence which neither side -- in fact, none of the parties have

25 chosen to show the witness. And although various witnesses have commented on it,

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 clearly, in our view, this witness, who is native to the area, can probably assist the  
2 Judges on this.

3 Before that, however, I think I will enquire whether either of the other two judges  
4 have questions. No?

5 Judge Alexis-Windsor, no.

6 Yes, you have a question?

7 JUDGE ALAPINI-GANSOU: [10:10:45] A question --

8 PRESIDING JUDGE KORNER: [10:10:46] Yes, a question? Yes.

9 JUDGE ALAPINI-GANSOU: [10:11:02](Interpretation) Thank you,  
10 Madam President.

11 I wanted to come back to the concerns of the legal representatives of victims, and also  
12 those of the Prosecutor.

13 Witness, can you hear me? Can you hear me?

14 Yesterday, you described the role of the *nazir* in your region and I retained something  
15 specific therefrom, which is that you somewhere in the transcript, on page 28 of our  
16 transcript, that the *nazir* had a certain responsibility, firstly, at an administrative level  
17 but also with the population; is that correct?

18 THE WITNESS: [10:12:07](Interpretation) Yes.

19 JUDGE ALAPINI-GANSOU: [10:12:11](Interpretation) Now, you said that a *nazir*  
20 was like a shepherd?

21 THE WITNESS: [10:12:23](Interpretation) Yes.

22 JUDGE ALAPINI-GANSOU: [10:12:25](Interpretation) Very well. In your opinion,  
23 what should a shepherd do, particularly when he loses some of his flock?

24 THE WITNESS: [10:12:39](Interpretation) Could you please repeat the question.  
25 Could you please repeat the question.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 JUDGE ALAPINI-GANSOU: [10:13:13](Interpretation) I could perhaps explain  
2 myself further. With regard to the population in your region, whether Fur or  
3 Ta'aisha, in your opinion, who would have been displaced? There were displaced  
4 people, were there not, looking at the conflicts that have happened?

5 THE WITNESS: [10:13:53](Interpretation) Well, at the moment, we're all there like  
6 locals, we're not -- nobody is there like a displaced person. Everybody is happy  
7 where they are at the moment.

8 JUDGE ALAPINI-GANSOU: [10:14:06](Interpretation) But there were problems  
9 with internally displaced persons. You recognised yesterday that there were  
10 displaced populations, or don't you recognise such displacement?

11 THE WITNESS: [10:14:35](Interpretation) No one Fur was displaced out from my  
12 area. That has not happened.

13 JUDGE ALAPINI-GANSOU: [10:14:54](Interpretation) So what are the displaced  
14 populations, in your opinion? Which populations were displaced, in your opinion?

15 THE WITNESS: [10:15:03](Interpretation) Some people left out of their own will, not  
16 because they were displaced. People were not displaced.

17 JUDGE ALAPINI-GANSOU: [10:15:23](Interpretation) Okay. I've taken good note  
18 of that. Thank you.

19 PRESIDING JUDGE KORNER: [10:15:30] Yes, thank you very much.

20 All right, if we can turn to the videos.

21 But before we do that, I need to ask just one question -- sorry, to go back into private  
22 session for a moment.

23 (Private session at 10.15 a.m.)

24 THE COURT OFFICER: [10:15:52] We're in private session, Madam President.

25 (Redacted)

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Private Session)

ICC-02/05-01/20

- 1
- 2
- 3
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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Private Session)

ICC-02/05-01/20

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5 (Open session at 10.22 a.m.)

6 THE COURT OFFICER: [10:22:05] We're back in open session, Madam President.

7 PRESIDING JUDGE KORNER: [10:22:16] Sir, I'm going to ask you to look at the two  
8 videos that were shown to you by the lawyers for the Defence but which you haven't  
9 dealt with in open court.

10 So, hopefully, can we start with -- just a moment, just let me get the right number.

11 It's DAR-OTP-000006, I hope.

12 (Discussion between the Chamber and the court officer)

13 PRESIDING JUDGE KORNER: [10:23:49] Mr Nicholls, is --

14 MR NICHOLLS: [10:23:50] Sorry, your Honours, I overheard you. So the teachers -  
15 call it that - subtitled version is 00000236.

16 PRESIDING JUDGE KORNER: [10:24:01] Thank you very much.

17 THE COURT OFFICER: [10:24:02](Microphone not activated)

18 PRESIDING JUDGE KORNER: [10:24:04] With audio, yes, so -- otherwise he can't  
19 hear it.

20 THE COURT OFFICER: [10:24:06](Microphone not activated)

21 PRESIDING JUDGE KORNER: [10:24:07] Okay. Good. Okay, well, let's watch  
22 that subtitle then.

23 THE COURT OFFICER: [10:24:27] (Microphone not activated)

24 PRESIDING JUDGE KORNER: [10:24:30] Yes, play the full thing, please.

25 (Discussion between the Chamber and the court officer)

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [10:24:35] Just for the subtitles, yes, and the public  
2 gallery can watch it as well.

3 (Viewing of the video excerpt)

4 PRESIDING JUDGE KORNER: [10:28:18] All right, sir, do you recognise the  
5 speaker?

6 THE WITNESS: [10:28:30](Interpretation) I do. But it's the first time that I see this  
7 video.

8 PRESIDING JUDGE KORNER: [10:28:35] All right. Who is the speaker?

9 THE WITNESS: [10:28:41](Interpretation) It's Ali.

10 PRESIDING JUDGE KORNER: [10:28:45] Yes, can we have his full name, please.

11 THE WITNESS: [10:28:52](Interpretation) Ali Muhammad Ali.

12 PRESIDING JUDGE KORNER: [10:28:56] All right. Is that his full name?

13 THE WITNESS: [10:29:03](Interpretation) Ali Muhammad Ali Abd-Al-Rahman.

14 PRESIDING JUDGE KORNER: [10:29:14] Thank you. Where is he making that  
15 speech?

16 THE WITNESS: [10:29:25](Interpretation) The place where he was speaking was the  
17 locality, one of the -- one of the offices that belonged to the government, the town hall  
18 or the locality.

19 PRESIDING JUDGE KORNER: [10:29:43] Did you hear him make that speech?

20 THE WITNESS: [10:29:49](Interpretation) When he was delivering the speech, no.

21 PRESIDING JUDGE KORNER: [10:29:57] Well, sorry, what does that mean? Do  
22 you mean you heard about it afterwards?

23 THE WITNESS: [10:30:08](Interpretation) As I said, this was the first time I see this  
24 speech. This is the first time I watch this video on the screen of him delivering these  
25 remarks. I have not seen this before.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 PRESIDING JUDGE KORNER: [10:30:23] All right, well, can you give us a rough  
2 idea of the date when he was making that speech?

3 THE WITNESS: [10:30:33](Interpretation) I don't know about that.

4 PRESIDING JUDGE KORNER: [10:30:43] I'm sorry, just forgive me for one moment.  
5 This is not the video you played him then, Mr Laucci?

6 MR LAUCCI: [10:30:49] We played only the beginning of that video; it was like 15 --  
7 20 seconds, no more. Not the full one.

8 PRESIDING JUDGE KORNER: [10:30:58] I see.

9 All right, well, in fact, you've apparently seen part of it, sir. Can you tell us, please,  
10 sir, why would he have been making a speech at all about teachers?

11 THE WITNESS: [10:31:17](Interpretation) Well, I was not present and hence I'm not  
12 familiar with the reason for that.

13 PRESIDING JUDGE KORNER: [10:31:33] He doesn't appear to be wearing  
14 a uniform, so what -- can you tell us roughly what his position might have been at  
15 that stage?

16 THE WITNESS: [10:31:46](Interpretation) He was a military personnel.

17 PRESIDING JUDGE KORNER: [10:31:57] Well, yes, but in what position? Are you  
18 saying at that period, whatever it is, he would still have been the commander of the  
19 CRF in Rahad Al-Berdi?

20 THE WITNESS: [10:32:06](Interpretation) Yes, he was the commander representing  
21 the security -- the security committee. As you see, the executive director and the  
22 director of the police all were present as well in that video -- in that video.

23 PRESIDING JUDGE KORNER: [10:32:20] I see.

24 THE WITNESS: [10:32:21](Interpretation) He was in his capacity as  
25 a representative -- one of the locality, or the local administrator.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 PRESIDING JUDGE KORNER: [10:32:32] And you have no idea why he would be  
2 making the speech all about teachers?

3 THE WITNESS: [10:32:40](Interpretation) If I were present, I would have known,  
4 but I was not present.

5 PRESIDING JUDGE KORNER: [10:32:53] All right. We all heard him say near the  
6 end of that clip that -- he said something, the context isn't entirely clear, he says:

7 "...I'm with you in that Change and Freedom, I'd have stabbed and killed any  
8 individual who mocked Rehed al-Birdi or denigrated the teacher."

9 You heard him say that?

10 THE WITNESS: [10:33:34](Interpretation) I told you I don't know -- this is the first  
11 time I see this video. I haven't seen it before.

12 PRESIDING JUDGE KORNER: [10:33:47] No, I understand that, but when you were  
13 watching it, did you hear him use those words:

14 "...I'd have stabbed and killed any individual who mocked Rehed al-Birdi or  
15 denigrated the teacher"?

16 THE WITNESS: [10:34:05](Interpretation) Yes, I heard the whole thing in the video.

17 PRESIDING JUDGE KORNER: [10:34:14] You have described him as a man who  
18 helped the weak, stood by the poor, was socially engaged and the like. Were you  
19 surprised to hear him saying those words?

20 THE WITNESS: [10:34:36](Interpretation) I am not surprised. He was a popular  
21 person, helping the poor and the vulnerable, standing by them -- by their side --  
22 taking their side.

23 PRESIDING JUDGE KORNER: [10:34:51] Right. And so it didn't surprise you to  
24 hear him using the words that he would stab and kill anyone who -- I think it was to  
25 do with the teacher.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 THE WITNESS: [10:35:10](Interpretation) If I had seen it, yes, but I wouldn't know if  
2 he had done what he -- if he -- if he did what he was talking about or not. I know  
3 that he's a kind person, he's a nice man and that has been the case since I have known  
4 him.

5 PRESIDING JUDGE KORNER: [10:35:30] I see.

6 Have you ever at any stage heard him make threats like the one you just heard on the  
7 video?

8 THE WITNESS: [10:35:42](Interpretation) No, no, no, I didn't hear him.

9 PRESIDING JUDGE KORNER: [10:35:46] All right. Thank you, sir. Can we now  
10 play the other video, which I don't think is subtitled and is much longer.

11 THE COURT OFFICER: [10:35:58] Madam President, we actually have the subtitled  
12 version for that video if you wish for us to display it. It's DAR-OTP-00006452.

13 PRESIDING JUDGE KORNER: [10:36:09] Oh, right, well, in that case, can we play  
14 that one. Yes, please.

15 I want you to watch, sir, the next video.

16 THE WITNESS: [10:36:24] Yes.

17 MR LAUCCI: [10:36:30] And for the record, Madam President, to just say that it was  
18 not played to the witness during the (indiscernible)

19 PRESIDING JUDGE KORNER: [10:36:43] Yes. Thank you.

20 (Viewing of the video excerpt)

21 PRESIDING JUDGE KORNER: [10:38:31] Has something gone wrong?

22 (Discussion between the Chamber and the court officer)

23 PRESIDING JUDGE KORNER: [10:38:50] There's a problem with the video feed for  
24 the witness and they're calling a technician to see if it can be fixed quickly. If it can't  
25 be, well, then I'm not going to hold matters up.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 Sir, I'm sorry, there's a technical problem, we're seeing if we can fix it.

2 (Pause in proceedings)

3 (Discussion between the Chamber and the court officer)

4 PRESIDING JUDGE KORNER: [10:40:53] Now, I think what we'll do is, does

5 anyone -- it's quite -- I realise it's nine minutes, so, I think, can we move it through to

6 4 minutes.

7 Sir, we're just going to move the video on; it's quite a long one.

8 Right, and we're just going to pick it up from here.

9 Could you watch it again.

10 (Viewing of the video excerpt)

11 PRESIDING JUDGE KORNER: [10:43:18] Yes, all right. We can pause there.

12 Thank you.

13 All right, sir, first of all, again, can I ask you, do you recognise the speaker?

14 THE WITNESS: [10:43:34](Interpretation) Yes.

15 PRESIDING JUDGE KORNER: [10:43:41] And again, could you tell us the full name

16 of the speaker.

17 THE WITNESS: [10:43:48](Interpretation) Ali Muhammad Ali Abd-Al-Rahman.

18 PRESIDING JUDGE KORNER: [10:43:55] Do you know where that speech is being

19 made?

20 THE WITNESS: [10:44:04](Interpretation) This one is outside the locality.

21 PRESIDING JUDGE KORNER: [10:44:12] Yes, but do you recognise it, the area or

22 the place?

23 THE WITNESS: [10:44:21](Interpretation) This area is called Um-Sory.

24 PRESIDING JUDGE KORNER: [10:44:30] Was that an area that -- I'm sorry, I should

25 have asked, first of all, the speaker, what uniform was he wearing,

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 Mr Abd-Al-Rahman?

2 THE WITNESS: [10:44:44](Interpretation) It's the uniform of the CRF.

3 PRESIDING JUDGE KORNER: [10:44:51] And did Um-Sory come under his  
4 command, his area of responsibility?

5 THE WITNESS: [10:45:02](Interpretation) Yes, it's the home of Ta'aisha -- *dar*  
6 Al-Ta'aisha.

7 PRESIDING JUDGE KORNER: [10:45:08] Yes, all right. He's giving a speech to,  
8 again, quite a big crowd, is that a speech you were aware of or you saw yourself?

9 THE WITNESS: [10:45:27](Interpretation) I was neither present nor -- this is the first  
10 time I see it. It's the first time I see it now on this screen.

11 PRESIDING JUDGE KORNER: [10:45:41] In part of the speech, he said that he got  
12 the names of people present, and he says:

13 "I wanted 20 thousand ... and of the 20 [thousand] I got 17 thousand which I  
14 personally handed over to Omar al-Bashir..."

15 Were you aware of any connection between Mr Abd-Al-Rahman and the President of  
16 Sudan?

17 THE WITNESS: [10:46:15](Interpretation) I don't know.

18 PRESIDING JUDGE KORNER: [10:46:18] So you never knew of any connection  
19 between them?

20 THE WITNESS: [10:46:24](Interpretation) No, I didn't know.

21 PRESIDING JUDGE KORNER: [10:46:29] And then Mr Nicholls asked you  
22 a number of questions about broadcasts on Radio Dabanga, and you said although  
23 you listen to the radio, you didn't know what station you were listening to in  
24 response to Mr Laucci's questions. But you heard him say in this video:

25 "I mean what Radio Dabanga says is true because I've killed a great many people and

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 I'm still going to kill people."

2 You heard him say that?

3 THE WITNESS: [10:47:10](Interpretation) I heard him in the video, not on the radio.

4 PRESIDING JUDGE KORNER: [10:47:15] No, but you heard him say that in the  
5 video that you just watched?

6 THE WITNESS: [10:47:21](Interpretation) I just watched.

7 PRESIDING JUDGE KORNER: [10:47:29] Yes, and you remember him saying: "I've  
8 killed a great many people and I'm still going to kill people"?

9 THE WITNESS: [10:47:40](Interpretation) I heard it in this video -- I heard him say  
10 this in this video, not before.

11 PRESIDING JUDGE KORNER: [10:47:51] Did that surprise you?

12 THE WITNESS: [10:47:59](Interpretation) This is normal, it did not surprise me.  
13 When -- maybe you could have heard it from him first personally, but this one is  
14 through the video. I did not hear it from him personally. If he -- if he had said this  
15 to me, personally, I would have been surprised.

16 PRESIDING JUDGE KORNER: [10:48:21] But I'm sorry, again, how does that fit  
17 with the description of the man you have given to the Court? You said a moment  
18 ago that "This is normal".

19 What does that mean?

20 THE WITNESS: [10:48:39](Interpretation) He -- someone is talking in a video. He  
21 is not talking personally. What can I say?

22 PRESIDING JUDGE KORNER: [10:48:53](Interpretation) I'm sorry, I'll try one more  
23 time.

24 Why is it normal for someone to say in a public speech:

25 "I've killed a great many people and I'm still going to kill people"?

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0001

1 THE WITNESS: [10:49:16](Interpretation) I never saw him nor heard him. I just  
2 saw it right now, I never saw it or heard it.

3 PRESIDING JUDGE KORNER: [10:49:24] All right. Yes, thank you.  
4 Because neither side chose to show the video, does anybody want to ask any  
5 follow-up questions?

6 MR LAUCCI: [10:49:38] It's not a question, Madam President, but a rectification.  
7 We have played the document with the ERN DAR-OTP-0220-2879, and, well, it's  
8 drawn to my attention that the version of the video that has been admitted into  
9 evidence is not this one but is DAR-OTP-0202-1377.

10 PRESIDING JUDGE KORNER: [10:50:08] Yes, I think -- okay, we needn't keep -- we  
11 can discuss that --

12 MR LAUCCI: [10:50:14] Just for the record. It doesn't need to --

13 PRESIDING JUDGE KORNER: [10:50:20] No, but I think I know why this has arisen.  
14 All right, if nobody wants to ask any questions.

15 Sir, that concludes your evidence. You are now free to leave. Please, however, do  
16 not discuss any of the evidence you have given or the questions you've been asked --

17 THE WITNESS: [10:50:44](Interpretation) Certainly, certainly, God willing, certainly,  
18 I will not talk or discuss it with anyone whosoever.

19 PRESIDING JUDGE KORNER: [10:50:57] All right, yes. Well, thank you very  
20 much, sir. That concludes your evidence.

21 THE WITNESS: [10:50:59](Interpretation) Thank you, thank you.

22 PRESIDING JUDGE KORNER: [10:51:00] All right. Sorry, going -- yes, you can  
23 leave. Thank you, sir.

24 THE WITNESS: [10:51:07](Interpretation) Thank you.

25 (The witness is excused)

Trial Hearing  
WITNESS: DAR-D31-P-0001

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [10:51:16] I gather the next witness has been lined up  
2 for 11.30.

3 Just for a moment going back to that video, I think there was some discussion about  
4 whether the translation was correct over this, wasn't there? And then --

5 MR NICHOLLS: [10:51:28] Yes -- I'm sorry.

6 PRESIDING JUDGE KORNER: [10:51:29] No.

7 MR NICHOLLS: [10:51:30] I was just going to say, I mean, it's hard with all these  
8 ERNs flying around, but there was one video which we've kind of referred to as the  
9 "teachers video" where there was a reference -- no reason not to say here -- to Ali  
10 Kushayb that we agreed to take out.

11 PRESIDING JUDGE KORNER: [10:51:51] Yes.

12 MR NICHOLLS: [10:51:52] No? Okay, it is confusing. I was trying to help. I'm  
13 sorry. I'll sit down.

14 PRESIDING JUDGE KORNER: [10:51:56] All right. Well, one way or another, it  
15 makes more sense that the actual exhibits on the record are the ones which are  
16 subtitled, so could perhaps the Defence and Prosecution just try and sort that one out.  
17 Yes, thank you very much.

18 All right, we'll adjourn then, please, until 11.30.

19 THE COURT USHER: [10:52:20] All rise.

20 (Recess taken at 10.52 a.m.)

21 (Upon resuming in open session at 11.34 a.m.)

22 THE COURT USHER: [11:34:42] All rise.

23 Please be seated.

24 PRESIDING JUDGE KORNER: [11:35:02] Yes.

25 Good morning to you, sir.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Can you hear and understand me?

2 WITNESS: DAR-D31-P-0003

3 (The witness speaks Arabic)

4 (The witness gives evidence via video link)

5 THE WITNESS: [11:35:21](Interpretation) Hello. Greetings.

6 PRESIDING JUDGE KORNER: [11:35:26] Yes. I take it you can.

7 Just before you make the solemn declaration, a few administrative matters.

8 First, it's anticipated, and we hope, that your evidence will conclude today. We will  
9 sit between now and 1 o'clock, when there will be a break for lunch.

10 I'll just pause there and ask counsel.

11 If we sit the normal break, can we conclude? Otherwise I'll -- I'll shorten the lunch  
12 break slightly. Mr Jeremy?

13 Well, first of all, Mr Edwards.

14 MR EDWARDS: [11:36:17] In fact, I think it's probably in Mr Jeremy's hands. I'm  
15 going to be about a session.

16 PRESIDING JUDGE KORNER: [11:36:25] Right.

17 Mr Jeremy?

18 MR JEREMY: [11:36:27] Yeah. I mean, it -- it depends, obviously, on the direct  
19 examination, but I'm hopeful I will be able to conclude in an hour and a half, but it's  
20 probably going to be --

21 PRESIDING JUDGE KORNER: [11:36:37] All right. Well, I think, in order so that  
22 we can have a clear day for the next witness tomorrow, what I'll do is I'll shorten the  
23 luncheon adjournment slightly and we'll sit at 2.15.

24 MR EDWARDS: [11:36:55] Thank you, your Honour. Of course, it may be that --  
25 oh.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 PRESIDING JUDGE KORNER: Oh, sorry, Ms von Wistinghausen, do you have  
2 questions?

3 MS VON WISTINGHAUSEN: [11:36:58] No, it's all right. I -- I do have questions.  
4 I would like to cover the same --

5 PRESIDING JUDGE KORNER: [11:37:02] The same ground?

6 MS VON WISTINGHAUSEN: [11:37:04] Yeah, the same or similar questions as I did  
7 with the witness yesterday, because this gentleman is fairly older and may be able to  
8 give some additional useful information. But, I mean, that won't be very long,  
9 maybe 15 minutes or so.

10 MR EDWARDS: [11:37:19] Can I just reassure everyone that, whether this witness  
11 trickles into tomorrow, both this witness -- I think we're pretty confident at the Bar  
12 that both this witness and D-2 will be completed by the end of tomorrow. D-2 will  
13 be shorter than this witness.

14 PRESIDING JUDGE KORNER: [11:37:37] Yes. All right. In that case -- but I still  
15 think we'll shorten the lunch adjournment for about 15 minutes.

16 All right. Sir, sorry, I was just checking on the timing. Anyhow, there will be a  
17 break for lunch. Those who are with you will bring you back in time.

18 Just two other matters: If you need a break at any stage outside the luncheon  
19 adjournment, then please say so straight away.

20 And the other thing is, as you appreciate, the evidence you give is being interpreted,  
21 so please try and answer the questions as shortly as possible and don't speak too fast,  
22 because otherwise we have problems with the interpretation.

23 And the final thing is this: It may be, I'm told, you will have to come back tomorrow  
24 morning. If so, and indeed at any breaks, you must not discuss the evidence you're  
25 giving with anybody else. I hope all of that is clear.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 THE WITNESS: [11:39:05](Interpretation) Yes.

2 PRESIDING JUDGE KORNER: [11:39:05] Yes. Could you just then kindly repeat  
3 the words of the solemn declaration, which are going to now be read to you.

4 THE COURT OFFICER: [11:39:13] I solemnly declare.

5 THE WITNESS: [11:39:28](Interpretation) I solemnly declare.

6 THE COURT OFFICER: [11:39:39] That I will speak the truth.

7 THE WITNESS: [11:39:46](Interpretation) That I will speak the truth.

8 THE COURT OFFICER: [11:39:47] The whole truth and nothing but the truth.

9 THE WITNESS: [11:39:52](Interpretation) The whole truth and nothing but the  
10 truth.

11 THE COURT OFFICER: [11:39:59] Thank you, Witness. You are now under oath.

12 PRESIDING JUDGE KORNER: [11:40:02] Yes.

13 Mr Edwards, we'll do the same as with the last witness, where necessary, we'll go into  
14 private session, but otherwise it will be in open session.

15 MR EDWARDS: [11:40:11] Thank you. I've endeavoured to group the private  
16 session material together and the public session material so that there won't be quite  
17 so much jumping in and out.

18 PRESIDING JUDGE KORNER: [11:40:19] Right. Well, I suppose we ought to start  
19 in private if you're going to ask for his details.

20 MR EDWARDS: [11:40:28] Well, perhaps I can just do an introduction in -- in public,  
21 your Honour.

22 PRESIDING JUDGE KORNER: [11:40:31] Yeah.

23 QUESTIONED BY MR EDWARDS:

24 Q. [11:40:33] Good morning, sir. Can you -- can you see and hear me okay?

25 A. [11:40:36] Could you please repeat.

Trial Hearing

(Private Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Q. [11:40:48] Yes. Good morning, sir. Can you hear and see me all right?

2 A. [11:40:56] I do. Yes, I hear you.

3 Q. [11:41:01] We've met a couple of times already, but just to remind you, my name  
4 is Iain Edwards.

5 A. [11:41:16] Yes.

6 Q. [11:41:17] I'll be asking you questions this morning. If at any point you'd like  
7 me to repeat a question, please don't hesitate to ask. All right?

8 A. [11:41:32] Yes.

9 Q. [11:41:36] Mr Witness, we're now going to go into private session, with -- with  
10 their Honours' leave.

11 PRESIDING JUDGE KORNER: [11:41:46] Private session.

12 (Private session at 11.41 a.m.)

13 THE COURT OFFICER: [11:41:56] We're in private session, Madam President.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

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Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

- 1
- 2
- 3
- 4
- 5
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- 9
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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

- 1
- 2
- 3
- 4
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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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12 (Open session at 12.00 p.m.)

13 THE COURT OFFICER: [12:00:24] We are back in open session, Madam President.

14 MR EDWARDS: [12:00:45] Thank you.

15 Q. [12:00:45] We are in open session now, sir, so when answering my questions, do  
16 your best not to reveal any information that could identify you, okay. But I'll lead  
17 you as best I can.

18 I want to explore with you when you first met Mr Ali Muhammad Ali  
19 Abd-Al-Rahman, okay. That's what I want to ask you about now.

20 Did you meet him in the place that you deployed to in 1977?

21 A. [12:01:29] Should I answer the question or not yet?

22 Q. [12:01:41] Yes.

23 PRESIDING JUDGE KORNER: [12:01:42] Yes, answer the question.

24 Where did you meet him?

25 THE WITNESS: [12:01:49](Interpretation) He was with me in Al Fasher. We

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Open Session)

ICC-02/05-01/20

1 worked together in Al Fasher. We worked together there.

2 PRESIDING JUDGE KORNER: [12:02:08] Okay.

3 MR EDWARDS: [12:02:09]

4 Q. [12:02:10] Now, I'm going to ask you to really try your best. Were you in  
5 Al Fasher before you deployed abroad?

6 A. [12:02:25] Yes. Yes, before.

7 Q. [12:02:29] And then after you deployed abroad, when was the next time you  
8 saw or met Mr Abd-Al-Rahman?

9 A. [12:02:40] Could you repeat the question again?

10 Q. [12:02:56] After -- all right, listen carefully. After you deployed abroad, when  
11 was the next time you saw or met Mr Abd-Al-Rahman?

12 A. [12:03:09] I don't know what -- how to answer your questions. I travelled -- I  
13 was deployed twice, once to Egypt and once to Beirut, in Lebanon, so you have to be  
14 specific which one of these deployments you mean, the first or the second.

15 Q. [12:03:39] After your second deployment, when was the next time you saw  
16 Abd-Al-Rahman?

17 A. [12:03:45] And when I came back, it was January 1984.

18 Q. [12:04:03] And did you see mister -- did you meet Mr Abd-Al-Rahman again?  
19 Did you see him again in January 1984?

20 A. [12:04:13] Before. Before I finished my work, by the end of 1984, and I left  
21 Al Fasher.

22 Q. [12:04:34] Okay. All right. We may come back to that in a moment, but I'm  
23 going to move on.

24 What I want to ask you about now relates to the work of *agid al-ogada* and *agid* in  
25 Ta'aisha tribe, okay.

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Open Session)

ICC-02/05-01/20

1 How many *agid* are there in the Ta'aisha tribe?

2 A. [12:05:05] Two.

3 Q. [12:05:10] How many *agid al-ogada* are there in the Ta'aisha tribe?

4 A. [12:05:17] Approximately two.

5 Q. [12:05:21] So I just want to be clear about this. Two *agid al-ogada* and two *agid*;  
6 is that right?

7 A. [12:05:30] No. There are so many *agids*. They're numerous.

8 PRESIDING JUDGE KORNER: [12:05:38] I was going to say, I think we really need  
9 to be careful with this witness.

10 You asked -- you said you were going to talk about *agid al-ogada* and then you asked  
11 him about ordinary *agids*. I think --

12 MR EDWARDS: [12:05:49] Sorry, I thought I had indicated I was going to ask  
13 about --

14 PRESIDING JUDGE KORNER: [12:05:52] You did, but then you asked him how  
15 many *agids*.

16 MR EDWARDS: [12:05:55] Yes, all right. Okay.

17 Q. [12:06:00] Why are there numerous *agids* in the Ta'aisha tribe?

18 A. [12:06:06] Al-Ta'aisha tribe is one tribe and they have numerous or several  
19 houses.

20 Q. [12:06:27] Can you explain to us what you mean by "several houses"?

21 A. [12:06:33] I mean the Ta'aisha tribe consists of other smaller tribes, mini tribes  
22 within. For example, Jubara, (inaudible), Walad Awad, Mutera, Walad Fayed,  
23 Walad Zayan, Walad Aamel, Dagayla, and others.

24 Q. [12:07:06] Thank you. Does each smaller tribe, does each subtribe, have an  
25 *agid*?

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Open Session)

ICC-02/05-01/20

1 A. [12:07:12] Yes. Yes.

2 Q. [12:07:16] And what qualities does a person need to have to be an *agid*?

3 A. [12:07:27] His manners, he has to have good manners and should be able to  
4 solve issues and resolve issues between people, and serve humanity.

5 Q. [12:07:51] Okay. You say "he" should have good manners, can a woman ever  
6 be an *agid*?

7 A. [12:08:01] No. She could be an attributor.

8 Q. [12:08:15] So you've mentioned solving issues. Just in a couple of sentences,  
9 can you tell us what does an *agid* actually do?

10 A. [12:08:26] To regulate the young -- the youth, the affairs of the youth, serve the  
11 people, resolve issues and so on, and if there was a theft, for example, of a horse or  
12 something like that, it's also his responsibility to help restore the stolen goods.

13 Q. [12:08:57] Okay. Does an *agid* have any military role to play at all in the affairs  
14 of the tribe?

15 A. [12:09:07] Military role? No. It's just an administrative role.

16 Q. [12:09:17] And is the position of *agid*, is it a paid position?

17 A. [12:09:29] No, no.

18 Q. [12:09:32] If a tribe or a village were to come under attack, if it would need to be  
19 defended in some ways, what is an *agid* expected to do, if anything?

20 A. [12:09:47] To report to the police.

21 Q. [12:09:56] Does an *agid* of the Ta'aisha tribe have any authority over persons  
22 who live in the same *dar* but who are from a different tribe?

23 A. [12:10:16] Any person in the same *dar* falls under the administrative  
24 responsibility of that *agid*.

25 Q. [12:10:31] Now, do you know of a town called Garsila?

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Open Session)

ICC-02/05-01/20

1 A. [12:10:39] I heard about it, but I have never been to.

2 Q. [12:10:48] Was there an *agid* of the Ta'aisha tribe in Garsila?

3 A. [12:10:55] No. No, no, only in the tribe.

4 Q. [12:11:03] And why, if you can tell us, why was there no *agid* of the Ta'aisha  
5 tribe in Garsila?

6 A. [12:11:13] Because -- because an *agid* would represent his tribe and there, there  
7 were no Ta'aisha members.

8 Q. [12:11:32] What was the situation in 2003-2004, was there an *agid* of the Ta'aisha  
9 tribe in Garsila then?

10 A. [12:11:46] No.

11 Q. [12:11:50] Now, I'm going to move on from asking you questions about *agids*  
12 and I'm now going to ask you some questions about *agid al-ogada*. Is that clear to  
13 you?

14 A. [12:12:10] Yes. Yes.

15 Q. [12:12:12] A moment ago you indicated that there were two *agid al-ogada* of the  
16 Ta'aisha tribe. Do you know, in 2003-2004, how many *agid al-ogada* there were of the  
17 Ta'aisha tribe?

18 A. [12:12:27] Two.

19 Q. [12:12:33] Do you know a person called Manzul Daoud El Madhi?

20 A. [12:12:44] Yes. {ICR: (Redacted)}  
21 (Redacted)}

22 Q. [12:12:52] In 2003-2004, did Manzul Daoud El Mahdi, have any role to play, any  
23 particular position in the Ta'aisha tribe?

24 A. [12:13:12] He didn't have any, except *agid al-ogada*.

25 Q. [12:13:20] Thank you. Does one have to have been an *agid* before one becomes

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 an *agid al-ogada*? Does one need experience as an *agid* before becoming an *agid*  
2 *al-ogada*?

3 A. [12:13:35] He -- the -- usually yes, but this person started as *agid al-ogada* and not  
4 *agid*.

5 Q. [12:13:54] Sorry, are you talking here about Manzul Daoud El Mahdi?

6 A. [12:14:05] Yes.

7 Q. [12:14:06] Okay. So have I got this right, I just want to be clear: Usually one is  
8 an *agid* before one becomes an *agid al-ogada*, but not necessarily; does that accurately  
9 summarise the situation?

10 A. [12:14:22] Yes.

11 Q. [12:14:26] and what's the relationship between an *agid al-ogada* and the other *agid*  
12 of a tribe?

13 A. [12:14:46] They have mutual understanding. They have mutual  
14 understanding.

15 THE INTERPRETER: [12:14:58] Could the witness be asked to repeat the last part,  
16 please.

17 MR EDWARDS: [12:15:02] Yes.

18 Q. [12:15:02] Mr Witness, could you just repeat your last answer, please.

19 A. [12:15:09] I said, if *agid al-ogada* is present -- if *agid al-ogada* is present, the second  
20 one is responsible and he manages the work.

21 Q. [12:15:32] Okay. Let me try it a different way.

22 What does an *agid al-ogada* do that is different to what an *agid* does?

23 A. [12:15:49] An *agid* represents his *dar*, but *agid al-ogada* is responsible for the  
24 whole tribe.

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

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 MR EDWARDS: Yes.

2 PRESIDING JUDGE KORNER: [12:16:17] Does that mean, for example, if the *nazir* is  
3 not there, it would be the *agid al-ogada* who would deal with tribal matters?

4 THE WITNESS: [12:16:33](Interpretation) No, no. The *nazir* has a deputy. *Agid*  
5 *al-ogada* doesn't have anything to do with this.

6 PRESIDING JUDGE KORNER: [12:16:51] Okay. Let's say there's a big conference  
7 and both the *nazir* and the deputy are at the conference, away from the area. Who  
8 would be in charge of the tribe?

9 THE WITNESS: [12:17:06](Interpretation) Any *umdah*, any *umdah* who is in charge of  
10 the administration.

11 PRESIDING JUDGE KORNER: [12:17:15] All right. Yeah, thank you.

12 MR EDWARDS: [12:17:18]

13 Q. [12:17:19] Is an *umdah* more senior than an *agid al-ogada*, within the tribal  
14 system?

15 A. [12:17:29] Yes.

16 Q. [12:17:31] Okay. Does an *agid al-ogada* have any military role to play in the  
17 functioning of a tribe?

18 A. [12:17:45] I don't understand the question. This question has been asked to me  
19 and I said before that he doesn't have any military role, only administration.

20 Q. [12:18:02] Thank you. I don't want there to be any misunderstanding. I asked  
21 that question earlier about *agids*, okay? I'm now asking the same question about an  
22 *agid al-ogada*. Do you understand?

23 A. [12:18:22] Yes.

24 Q. [12:18:25] Okay. So, just so that the record is absolutely clear, does an *agid*  
25 *al-ogada* have any military role to play in the functioning of a tribe?

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 A. [12:18:39] No, only to report to the police, to report to the relevant security  
2 entity, whether it is the police or the army.

3 PRESIDING JUDGE KORNER: [12:18:57] Yeah, okay.

4 So that's if there's a crime, a violent crime committed, or something like that. But  
5 what happens when two tribes go to war, like your tribe and the Salamat, who's then  
6 in charge of organising the fighting, as is it were, or the conflict?

7 THE WITNESS: [12:19:27](Interpretation) *Agid al-ogada* is the one in charge.

8 PRESIDING JUDGE KORNER: [12:19:32] So if two tribes are engaged in a conflict,  
9 which is a violent conflict, it would be the *agid al-ogada* who was in charge?

10 THE WITNESS: [12:19:49](Interpretation) He is the one to organise, yes. He's the  
11 one who organises. He organises the *agids* and so on.

12 MR EDWARDS: [12:20:03]

13 Q. [12:20:03] And what would he be expected to organise? Give us a bit of detail,  
14 please.

15 A. [12:20:10] Organises or provides horses, camels, defence, popular defence, and  
16 so on.

17 Q. [12:20:22] Okay. Thank you.

18 I asked you earlier if there was an *agid* of the Ta'aisha in Garsila in 2003-2004. Again,  
19 just to be very clear, was there an *agid al-ogada* of the Ta'aisha in Garsila in 2003-2004?

20 A. [12:20:56] There is no tribe there and we don't have any *agid al-ogada* in Garsila  
21 or Wadi Salih.

22 Q. [12:21:12] Okay. Now, you told us a little earlier that you know -- that you've  
23 known Mr Ali Muhammad Ali Abd-Al-Rahman for some time. Did he ever have a  
24 position or a particular responsibility within the Ta'aisha tribe?

25 A. [12:21:34] No.

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Open Session)

ICC-02/05-01/20

1 Q. [12:21:39] Was Mr Abd-Al-Rahman ever an *agid al-ogada* of the Ta'aisha tribe?

2 A. [12:21:49] No.

3 Q. [12:21:59] Was Mr Abd-Al-Rahman ever an *agid* of the Ta'aisha tribe?

4 A. [12:22:05] No.

5 Q. [12:22:12] During the time that you have known Mr Abd-Al-Rahman, did you  
6 ever know him to discriminate between people of different tribes, different groups,  
7 different ethnicities?

8 A. [12:22:40] Ali was in the CRF.

9 Q. [12:22:54] Okay. I don't know how my question was interpreted. Just listen  
10 carefully to the question, please.

11 During -- during the time that you have known him, have you ever known -- have  
12 you ever known --

13 A. [12:23:15] Ali Muhammad Ali Abd-Al-Rahman.

14 Q. [12:23:17] Yes. Have you ever known him to discriminate between people of  
15 different tribes or different ethnicities?

16 A. [12:23:28] He provides services regardless of the colour, white or black. He  
17 serves all people.

18 Q. [12:23:45] And in what capacity does he serve all people? What job does he do  
19 which allows him to serve the people?

20 A. [12:23:59] He was in the CRF and he was a *musa'id*.

21 Q. [12:24:12] Okay. Does Ali Muhammad Ali Abd-Al-Rahman have a nickname?

22 A. [12:24:26] No.

23 Q. [12:24:32] Does Ali Muhammad Ali Abd-Al-Rahman have any sons?

24 A. [12:24:38] Yes.

25 Q. [12:24:40] Do you know the name of his eldest son?

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 A. [12:24:46] Yes. His name is Nasser, and he is called Abu Nasser.

2 Q. [12:24:56] Who is called Abu Nasser?

3 A. [12:25:00] His name is Nasser.

4 Q. [12:25:03] No --

5 A. [12:25:06] His eldest son is called Nasser Muhammad Ali. Nasser Ali

6 Muhammad Ali Abd-Al-Rahman.

7 Q. [12:25:22] Okay. Listen carefully. A moment ago --

8 A. [12:25:24] Yes, please, go ahead.

9 Q. [12:25:25] A moment ago you said "he is called Abu Nasser". My question is  
10 who is called Abu Nasser?

11 A. [12:25:37] Ali Muhammad Ali Abd-Al-Rahman.

12 Q. [12:25:48] Has Ali Muhammad Ali Abd-Al-Rahman ever referred to himself as  
13 Ali Kushayb?

14 A. [12:26:00] No.

15 Q. [12:26:06] Have you ever heard anyone call him Ali Kushayb?

16 A. [12:26:14] No, I didn't.

17 Q. [12:26:20] Have you ever heard --

18 A. [12:26:34] (Overlapping speakers)

19 Q. [12:26:35] Sorry.

20 A. [12:26:36] Yes.

21 MR EDWARDS: [12:26:38] The witness said something at the end of his last answer  
22 and we didn't get an interpretation of it.

23 THE INTERPRETER: [12:26:45] Your Honour, there was overlapping speakers and  
24 we couldn't hear what the witness said.

25 MR EDWARDS: [12:26:53] Okay. I'm going to ask the question again, if I may.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 THE WITNESS: [12:27:01](Interpretation) Please, go ahead.

2 MR EDWARDS: [12:27:02]

3 Q. [12:27:03] Have you ever heard anyone call Abd-Al-Rahman Ali Kushayb or  
4 refer to him as Ali Kushayb?

5 A. [12:27:13] Only when you ask the question, by the people of the ICC.

6 Q. [12:27:31] Okay. When was the first time a person of the ICC -- when was the  
7 first time you heard someone of the ICC refer to Mr Abd-Al-Rahman as Ali Kushayb?

8 A. [12:27:51] 2022 in Khartoum, and it was only on the phone. They asked me this  
9 question and I answered, "I don't know anything -- anyone with the name  
10 Ali Kushayb, only Ali Muhammad Ali Abd-Al-Rahman."

11 Q. [12:28:17] So, just to be --

12 PRESIDING JUDGE KORNER: [12:28:21] It not very clear, Mr Edwards.

13 MR EDWARDS: [12:28:24] Yeah. That -- that will be clarified.

14 Q. [12:28:25] Mr Witness, in order to be very clear, is that when members of the  
15 Defence team of Mr Abd-Al-Rahman spoke to you in 2022?

16 A. [12:28:36] Yes.

17 Q. [12:28:42] Okay. And I just want to be clear, is that the first time you ever  
18 heard an association between the name Ali Kushayb and Mr Abd-Al-Rahman?

19 A. [12:28:53] Yes, it was the first time to hear about it.

20 Q. [12:29:03] Okay. Now, are you interested in news and current affairs in Sudan?

21 A. [12:29:17] Some, I am interested in some, and I am not -- I'm uninterested in  
22 others. So I -- sometimes I follow and I listen to the radio, and I don't have any TV.

23 Q. [12:29:43] Okay. But on your -- in the place where you live - don't tell us where  
24 that is - but in the place where you live, do you have a radio?

25 A. [12:29:52] I used to have a radio.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Q. [12:29:56] When was that?

2 A. [12:29:58] I have a radio -- I have had a radio, and I -- it broadcasts Nyala radio  
3 station.

4 Q. [12:30:12] Okay. Have you ever heard of a radio station called Radio Dabanga?

5 A. [12:30:18] I heard about it, but I don't listen to it.

6 Q. [12:30:27] Have you ever heard of a radio station called Radio Omdurman?

7 A. [12:30:42] I know Omdurman, but sometimes it doesn't work, it stops working  
8 in our area.

9 Q. [12:30:48] Okay. Do you use a computer, sir?

10 A. [12:30:55] No, never.

11 Q. [12:30:59] Have you ever heard of something called Facebook?

12 A. [12:31:06] I heard about it. I hear people talk about Facebook, but I don't know  
13 what it is exactly.

14 Q. [12:31:18] Did you ever learn that Ali Muhammad Ali Abd-Al-Rahman was  
15 wanted by the International Criminal Court?

16 A. [12:31:34] 2022. But could you please repeat the question, in any event?

17 Q. [12:31:48] Okay. Did you ever learn that the ICC, that the International  
18 Criminal Court, wanted Mr Ali Muhammad Ali Abd-Al-Rahman?

19 A. [12:32:01] I have not heard about that.

20 Q. [12:32:15] Okay. Right. Perhaps I can lead.

21 You know that Mr Ali Muhammad Ali Abd-Al-Rahman is now before the  
22 International Criminal Court in the Netherlands, in Europe, yes?

23 A. [12:32:31] Yes, I've heard of that.

24 Q. [12:32:40] And did you know that he surrendered to the Court?

25 A. [12:32:45] Yes.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Q. [12:32:52] And did you know that he was going to surrender to the Court before  
2 he did so, or did you learn that he surrendered to the Court after he had done so?

3 A. [12:33:08] After he had done so.

4 Q. [12:33:21] Okay. I want to move on now and ask you about some details of the  
5 events in Darfur in 2003-2004 for a few moments. Okay?

6 And this is my question: In the weeks and months after the rebel attack on -- against  
7 the airport at Al Fasher, was there a time when the Government of Sudan asked for  
8 the assistance of the Ta'aisha tribe?

9 PRESIDING JUDGE KORNER: [12:34:32] Did you hear the question, sir?

10 THE WITNESS: [12:34:38](Interpretation) Could you please repeat the question.

11 MR EDWARDS: [12:34:42]

12 Q. [12:34:42] In the weeks and months after the rebel attack on Al Fasher, was there  
13 a time when the Government of Sudan approached the Ta'aisha tribe for assistance?

14 A. [12:35:00] No, there wasn't.

15 Q. [12:35:16] Did any young men from the Ta'aisha tribe join the Government of  
16 Sudan in the counter-insurgency?

17 A. [12:35:27] No, that didn't happen, as far as we're concerned.

18 Q. [12:35:40] Do you know why that didn't happen?

19 A. [12:35:44] Because we had no involvement in that matter whatsoever, nor did  
20 we receive a communication about this matter. That is how we did not get involved.

21 Q. [12:36:17] During the war, during the violence in Darfur, was there a time when  
22 displaced Fur people arrived in Rahad Al-Berdi?

23 A. [12:36:30] Which year in particular are you asking about?

24 Q. [12:36:43] Around 2003-2004.

25 A. [12:36:50] No.

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

1 MR EDWARDS: [12:37:03] Your Honour, I've got a couple of short questions now to  
2 deal with, but I think it's probably right that that happen in private session and then  
3 I'll be done.

4 PRESIDING JUDGE KORNER: [12:37:13] (Microphone not activated)  
5 (Private session at 12.37 p.m.)

6 THE COURT OFFICER: [12:37:33] We are in private session, Madam President.

7 (Redacted)

8 (Redacted)

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Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

1 (Redacted)

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17 (Recess taken at 12.46 p.m.)

18 (Upon resuming in open session at 2.05 p.m.)

19 THE COURT USHER: [14:05:21] All rise.

20 Please be seated.

21 PRESIDING JUDGE KORNER: [14:05:40] Yes. We're back in open session,

22 Ms von Wistinghausen.

23 You needn't translate what I'm going to say now for the witness.

24 Mr Nicholls, I've had a request, a begging request that the Prosecution, given that

25 these witnesses are all short and that, effectively, the nature of their evidence is pretty

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

- 1 similar, could we possibly have the list of the Prosecution witnesses for  
2 cross-examination -- documents by 5 o'clock the previous evening, not after 5 o'clock?  
3 Is that possible? Apparently they're coming at any stage now.
- 4 MR NICHOLLS: [14:06:27] Yes, your Honour.
- 5 PRESIDING JUDGE KORNER: [14:06:28] Thank you very much, Mr Nicholls.  
6 I know that your team who are doing this will be delighted.  
7 Yes, Ms von Wistinghausen.
- 8 MS VON WISTINGHAUSEN: [14:06:47]
- 9 Q. [14:06:47] Yes, good afternoon, Mr Witness. Can you see and hear me?
- 10 THE INTERPRETER: [14:07:05] Message from the interpreter: the witness did not  
11 respond.
- 12 PRESIDING JUDGE KORNER: [14:07:14] Sir, can you hear and understand us all in  
13 court at the moment?
- 14 THE WITNESS: [14:07:22](Interpretation) I can hear you now.
- 15 PRESIDING JUDGE KORNER: Thank you very much.
- 16 MS VON WISTINGHAUSEN: [14:07:28]
- 17 Q. [14:07:29] I introduced myself shortly before the break, but I will do that again.  
18 My name is Natalie von Wistinghausen. I, together with my team, represent the  
19 participating victims in this case, and I have a few questions for you, all right.  
20 So, first of all, as Mr Edwards had said to you before, please be careful when we are in  
21 open session, right now, not to reveal your identity by giving your responses or the  
22 identity of any of your family members. Is that understood?
- 23 A. [14:08:13] It's clear.
- 24 Q. [14:08:19] I have a few questions for you regarding the situation of the Fur  
25 community in the locality of Rahad Al-Berdi and the surrounding villages in the years

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 of 2003 and 2004. But before doing so, I will go back in time a little bit, because you  
2 may be able to assist the judges with some additional information.

3 So you say that you have been living on your farm in the Rahad Al-Berdi region all  
4 your life, right, apart from the -- from the few years --

5 A. [14:09:06] Yes.

6 Q. [14:09:07] -- that you deployed professionally; correct?

7 A. [14:09:15] Yes.

8 Q. [14:09:16] And do you agree with me that many Fur families live in the  
9 Rahad Al-Berdi region, approximately 20,000 people nowadays; is that correct?

10 A. [14:09:35] I don't know the number, but they live with us in full safety. I am  
11 not sure how -- how many they are, of their number, but they live with us in safety  
12 and security.

13 Q. [14:09:57] Yes. Never mind about the numbers. But many families have been  
14 living in the region for a long time; is that correct? Even in the 1980s, for example,  
15 where you already lived in the region; do you agree?

16 A. [14:10:15] Yes.

17 Q. [14:10:18] And do you agree that there was a conflict - and I'm not yet talking  
18 about 2003 and 2004 - but there was a conflict between the Fur tribes and Arab tribes  
19 between 1988 and 1994, resulting in the destruction and burning of many villages in  
20 the Rahad Al-Berdi region, which meant that inhabitants were displaced to other  
21 regions like Mukjar, Bindisi and Kodoom; is this something that you remember?

22 A. [14:11:04] In 1988, that was in villages outside of Rahad Al-Berdi and people  
23 were displaced into Rahad Al-Berdi, so these things happened outside of  
24 Rahad Al-Berdi.

25 Q. [14:11:19] And do you agree that Fur families from the region left and resettled

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 in Mukjar, Bindisi and Kodoom, if are you familiar with these places? If are you not,  
2 just say you don't know, that's not a problem.

3 A. [14:11:43] I have heard about these areas, but I don't know them. There is no  
4 person who -- who came from these areas back then. They only came from near --  
5 closer-by villages.

6 Q. [14:11:59] If we move now to 2003 and 2004, these people who fled  
7 Rahad Al-Berdi at the end of the '80s, beginning of the '90s, and who had resettled in  
8 Mukjar, Bindisi and Kodoom, they were victims of the conflict of 2003 and 2004, and  
9 I suggest to you that some of the families decided then either to flee to Chad or to  
10 some of the IDF camps like Kalma Camp, but also some decided to come back to the  
11 Rahad Al-Berdi region, which is the region that -- where they had originally come  
12 from and where some Fur families had stayed; would you agree with me?

13 A. [14:12:59] There are no people who fled Rahad Al-Berdi and returned to  
14 Rahad Al-Berdi. I don't know about such people.

15 Q. [14:13:09] When you talked to the counsel for the Defence a few days ago, you  
16 were asked about the conflict in 2003 and 2004 that occurred in Mukjar and Wadi  
17 Salih and you said that you don't know much about it, but you said that during that  
18 time Fur refugees travelled from Bindisi to Rahad Al-Berdi, which suggests that I'm  
19 maybe not that wrong with my proposition that people came back to Rahad Al-Berdi;  
20 do you agree with this?

21 And that's paragraph 28 in the prep log.

22 A. [14:14:00] First of all, I did not see any person who came from Bindisi because  
23 I would go also to the villages nearby, so I cannot be sure during that period of time  
24 whether people came or not. In 2003 and 2004, I can say that there are no people  
25 who were displaced to the area. All the people who lived there remained there.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 PRESIDING JUDGE KORNER: [14:14:32] Sir, what you're being asked is whether  
2 Fur people, displaced from other areas outside Rahad Al-Berdi, returned to  
3 Rahad Al-Berdi or came to Rahad Al-Berdi as refugees from what had happened  
4 outside the area.

5 THE WITNESS: [14:15:01](Interpretation) I'm not sure of this because I did not see  
6 this in my own eyes.

7 MS VON WISTINGHAUSEN: [14:15:09]

8 Q. [14:15:09] So the Fur families you are talking about and who live peacefully  
9 together with members of the Ta'aisha tribe, where do they come from or have they  
10 always lived in Rahad Al-Berdi region?

11 A. [14:15:27] They live in the surroundings of Rahad Al-Berdi, such as Dumbar,  
12 Magan, Hashaba. So these areas were near Rahad Al-Berdi and they lived there in  
13 safety and security.

14 Q. [14:15:53] We heard a witness who agreed with me that there were Fur families  
15 that returned to Rahad Al-Berdi.

16 And when I say "Rahad Al-Berdi", I mean the village, but also the surrounding  
17 villages, right? And this person told us that the Furs - and I'm talking about the Furs  
18 who returned - had *umdahs* within the tribal council with the Ta'aishas. Is this  
19 something that you're aware of and that you would agree to?

20 A. [14:16:31] Please repeat the question.

21 PRESIDING JUDGE KORNER: [14:16:36] I'd limit it to the last part.

22 MS VON WISTINGHAUSEN: [14:16:41]

23 Q. [14:16:41] We heard, Mr Witness, that from the members of the Fur community  
24 who returned to Rahad Al-Berdi and the surrounding villages, some sheikhs or  
25 *umdahs* were sitting in the tribal council together with members of the Ta'aisha tribe;

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 do you agree?

2 A. [14:17:07] Do you mean the sheikhs? Yes, there were sheikhs in the  
3 administration of the Ta'aisha in Rahad Al-Berdi, but I'm not sure about the *umdahs*.

4 Q. [14:17:23] Yes, okay. This is what I thought. So you confirm that it was rather  
5 sheikhs than *umdahs*?

6 A. [14:17:32] There were the elderly, the older *umdahs* who were with us, not  
7 people who came from outside Rahad Al-Berdi, so the *umdahs* were from people who  
8 lived with us in Rahad Al-Berdi.

9 And if any came, I don't know about them because I did not see them.

10 PRESIDING JUDGE KORNER: [14:17:56] Well, I'm afraid that's not entirely clear to  
11 me. Sir, were there sheikhs who were from the Fur community on the tribal council?

12 THE WITNESS: [14:18:18](Interpretation) Yes, there were.

13 PRESIDING JUDGE KORNER: [14:18:21] Any *umdahs* from the Fur population on  
14 the tribal council?

15 THE WITNESS: [14:18:31](Interpretation) Yes. In the council of Rahad Al-Berdi.

16 PRESIDING JUDGE KORNER: [14:18:37] Yes, I think so. Yes.

17 MS VON WISTINGHAUSEN: [14:18:41]

18 Q. [14:18:41] And did you in your position - and don't mention your position, I'm  
19 not mentioning it - but did you have contacts with the tribal council? Did you know  
20 what the tribal council was doing? And don't mention your position at the time,  
21 please.

22 A. [14:19:05] Please repeat the question. I -- I'm not very sure about what you're  
23 talking about when you say the "tribal council." We have the local council for the  
24 local people, but I'm not sure what you're talking about when you say the "tribal  
25 council".

1 Q. [14:19:27] I'm merely using the term that we heard from another witness who  
2 spoke about the tribal council, but it may, I suppose, be called the local council  
3 composed of members of the Ta'aisha tribe, some Fur people who were dealing with  
4 the situation in the locality with security matters, with questions of distribution of  
5 land -- this is at least my understanding. We call it a tribal council. You may have  
6 another definition for it.

7 A. [14:20:04] Yes. Yes, there's such a council and these people are there.

8 Q. [14:20:10] Yes, and I suppose that you had contact with this council, without  
9 mentioning your position, please?

10 A. [14:20:27] Yes, yes, this has happened, such communication.

11 Q. [14:20:34] So now what I'm interested in is the -- the role and the rights of the  
12 Fur people in this council, as you have accepted that they were part of these council.  
13 And I would like to suggest a few conditions that were imposed on them to be  
14 allowed to participate in this body. And one of these --

15 MR EDWARDS: [14:21:07] Your Honour, excuse me. There are two things. The  
16 first is that the camera angle doesn't give us a view of the witness. I don't know if  
17 something can be done at the remote location so that we can see the full head -- the  
18 full face of the witness. That's the first thing.

19 But the second thing is just a question in relation to how my learned friend is starting  
20 to put her questions. Of course there's no objection to my learned friend asking  
21 questions in cross-examination, for want of a better word, of the witness. But the  
22 way that the last question started to be asked was that she was putting a  
23 proposition -- she was about to put a proposition to the witness and I'm afraid I don't  
24 accept that that is a proper way of asking a question of this witness unless there's  
25 some sort of foundation -- evidential foundation for it or unless it is suggested that

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 some evidence will -- that there is some evidence for what she is putting -- putting

2 suggests a positive case. She's got -- she's got every right to ask a question, but I'm

3 afraid not to put something as a proposition of -- of fact unless she can back it up.

4 PRESIDING JUDGE KORNER: [14:22:34] Okay. I mean, this raises an interesting

5 proposition, which we may have to discuss at a later stage, about rebuttal evidence.

6 At -- with the exception of "we've heard from a witness", which

7 Ms von Wistinghausen ought to have known I disapprove of as a way of starting a

8 question. In -- what is the difficulty in her putting suggestions to the witness, as she

9 did to the previous witness, and unless the witness agrees, of course, they just remain

10 suggestions?

11 MR EDWARDS: [14:23:16] It's more than that, your Honour, with respect. When

12 counsel of whichever stripe prefates a question by "I put" or "I suggest", the -- what

13 is -- what is understood by that is "I have evidence, there is evidence that the

14 proposition I'm about to make is -- is the truth". There's no problem with asking a

15 question, but when one starts to say "I put", "I suggest", the suggestion is that it's a

16 positive case based on some -- based on something, based on the material.

17 PRESIDING JUDGE KORNER: [14:24:05] Well, yes -- but it -- no. But, as you know,

18 it cannot be just invented by counsel, but if counsel has instructions to -- on which to

19 base the questions that they are put, then that's one matter. It doesn't make it

20 evidence. But there is a basis for counsel putting it. But it -- there's no difficulty in

21 simply putting or prefacing the question "Isn't it right that." I mean, if you object to

22 the word "I suggest" -- but one way or another if counsel has instructions, the fact that

23 it's not in evidence at this stage doesn't prevent the putting of the question. How it's

24 phrased is another matter. But I -- I must say I find it difficult to see what's wrong

25 with "I suggest to you".

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 MS VON WISTINGHAUSEN: [14:25:06] Well, that's actually, as you know, quite a  
2 strange technique of cross-examination that's imposed on me because if I-- you know,  
3 if I wasn't asked to cross-examine, I would -- I would just ask open questions. That  
4 would be fine for me as well. But, obviously, I'm not asking these questions out of  
5 the blue. Obviously, I've got information supporting -- supporting these questions  
6 and I don't see why I wouldn't be allowed to challenge the witness's testimony saying,  
7 "The Fur lived in peace and security with us", or even what your client suggested in  
8 his unsworn statement right at the beginning of this trial where he said the Ta'aisha  
9 tribe is a tribe of peace and harmony. I think that I'm entitled, as I'm representing  
10 participating victims of the Fur community, to make suggestions to this witness that  
11 challenge this proposition which is, we suggest, maybe an aspiration but not --  
12 doesn't reflect the realities at the time.

13 PRESIDING JUDGE KORNER: [14:26:17] I don't think Mr Edwards, as he says, is  
14 preventing you from putting these matters, it's the way you put it.  
15 But it seems to me, Mr Edwards, that provided she has instructions, then I suggest to  
16 you it is not an improper way of doing it, although she could simply do it by saying,  
17 "Isn't it right that". But one way or another she's entitled to put that. What then  
18 happens about all this is -- is something else.

19 MS VON WISTINGHAUSEN: [14:26:46] I'm happy to start my questions with "Isn't  
20 it right that."

21 MR EDWARDS: [14:26:52] That -- no, I mean we're now -- this isn't a deep dive into  
22 semantics. I don't want my learned friend to think that that's the basis on which I'm  
23 making an objection. The basis of the objection is quite right, is this on instruction?

24 PRESIDING JUDGE KORNER: [14:27:07] Well, I have no doubt at all that when  
25 Ms von Wistinghausen began this yesterday she has instructions to this effect. As

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 I say, at the moment the suggestions she made to the witness yesterday remain  
2 suggestions, and that's -- and not evidence.

3 MR EDWARDS: [14:27:24] Yes.

4 PRESIDING JUDGE KORNER: [14:27:24] So it seems to me, Mr Edwards, that rather  
5 than -- one way or another she's entitled to put this, in our view. Thank you.

6 Yes, all right. Carry on, Ms von Wistinghausen, after this lecture in adversarial  
7 advocacy.

8 MS VON WISTINGHAUSEN: [14:27:41]

9 Q. [14:27:42] Mr Witness, sorry for this interruption. I have just a few more  
10 questions.

11 So isn't it right, and I suggest to you, that upon their return to Rahad Al-Berdi and the  
12 surrounding villages, the Fur tribe members were first gathered, detained and  
13 informed of the conditions set by the Ta'aisha tribe for integration and for not sending  
14 them back? Is this something you're aware of -- yes or no, or you may just not  
15 know?

16 A. [14:28:24] No.

17 PRESIDING JUDGE KORNER: [14:28:30] (Microphone not activated) You had so  
18 many questions rolled up into one it's not clear what his "no" is saying.

19 MS VON WISTINGHAUSEN: [14:28:40] Well, I think he just disagrees with me.

20 PRESIDING JUDGE KORNER: [14:28:42] Well, I know that, but disagrees with what  
21 exactly? Whether he heard it -- because what you asked him, you asked him three  
22 questions: Did you hear about it, or did you see it, or did you know it? And he  
23 said, "No".

24 MS VON WISTINGHAUSEN: [14:28:56] So, for me, I take it he didn't see it, he  
25 didn't hear about it, he didn't know about it.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 PRESIDING JUDGE KORNER: [14:29:02] All right.

2 Sir, is that -- is that right?

3 THE WITNESS: [14:29:11](Interpretation) Your Honour, what -- this is not very clear  
4 to me.

5 PRESIDING JUDGE KORNER: [14:29:18] Okay, well, let's try again.

6 It is put to you that refugees, or people who fled from the areas which had been  
7 attacked, to Rahad Al-Berdi, first of all, before anything else happened, they were  
8 gathered together in the village -- presumably somewhere in Rahad Al-Berdi. Did  
9 you know anything about that?

10 THE WITNESS: [14:29:50](Interpretation) I don't know anything about this. So  
11 these people are Muslims and part of our community, they lived with us as an  
12 integral part of our community.

13 PRESIDING JUDGE KORNER: [14:30:06] Okay, so did you -- were you aware of --  
14 that they were detained and then given conditions if they wanted to remain? Did  
15 you know anything about any of that?

16 THE WITNESS: [14:30:22](Interpretation) Nothing at all. I don't know anything.  
17 I don't know anything about this.

18 PRESIDING JUDGE KORNER: [14:30:29] Was there any discussion in any of the  
19 council meetings that you attended about what was to happen to those members of  
20 the Fur community who came back to Rahad Al-Berdi in 2003 and in 2003 and '04?

21 THE WITNESS: [14:31:03](Interpretation) I am not aware of the Fur returning in  
22 2003 and 2004.

23 PRESIDING JUDGE KORNER: [14:31:21] Yes. In that case --

24 MS VON WISTINGHAUSEN: [14:31:24] Yes, in that case I'm not -- it won't take me  
25 any further. It, of course, contradicts what he said on his prep log, but that's on the

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 record already.

2 PRESIDING JUDGE KORNER: [14:31:34] You've put that on the record.

3 MS VON WISTINGHAUSEN: [14:31:37]

4 Q. [14:31:38] Thank you, Mr Witness. If that's the case, I won't ask you any more  
5 questions. Thank you.

6 PRESIDING JUDGE KORNER: [14:31:42] Yes. Thank you, Ms von Wistinghausen.  
7 Yes, Mr Jeremy.

8 MR JEREMY: [14:31:46] Thank you, Madam President, your Honours.

9 QUESTIONED BY MR JEREMY:

10 Q. [14:31:53] Good afternoon, Mr Witness. Can you hear me well and see me  
11 well?

12 A. [14:32:04] I see a gentleman wearing glasses. I'm not sure who's speaking.  
13 I see a person on the screen, I'm not sure if it's the speaker.

14 Q. [14:32:18] Okay. I see myself on the screen, sir, so I assume that you can see me,  
15 although I'm not wearing glasses.

16 PRESIDING JUDGE KORNER: [14:32:24] But the usher is -- I mean, the court officer.

17 MR JEREMY: [14:32:34]

18 Q. [14:32:34] That's me there, sir. I think you can see me now.

19 A. [14:32:38] I see you. The person smiling, aren't you? Yes, I can confirm that.

20 Q. [14:32:44] That's right, sir. So we met briefly on Monday, but, for the record,  
21 my name is Edward Jeremy, counsel for the Prosecution, and I'll be asking you some  
22 questions in cross-examination this afternoon.

23 So, sir, to begin, you were -- you were first met, interviewed, by the Defence over the  
24 telephone on 5 October 2022; correct?

25 A. [14:33:20] Yes.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Q. [14:33:23] And to be clear, was this your -- was it the first time that you spoke to  
2 the Defence team?

3 A. [14:33:37] Yes, it was.

4 Q. [14:33:40] Okay. And you knew that this was the Defence team of  
5 Mr Abd-Al-Rahman, I take it?

6 A. [14:33:54] Yes.

7 Q. [14:33:56] And you knew that they were a defence team of the International  
8 Criminal Court?

9 A. [14:34:09] Yes. Well, I couldn't tell it myself, but there was a person holding a  
10 phone device who showed me what you've just said. The person holding the phone  
11 showed me what meant that they were from the institution you mentioned.

12 Q. [14:34:27] Okay. You, therefore, knew the -- the importance of providing true  
13 and correct and accurate information, yes?

14 A. [14:34:41] Yes.

15 Q. [14:34:45] And I take it that you -- you respect this Court, you have the respect  
16 for -- for the Judges; is that right?

17 A. [14:34:59] Yes.

18 Q. [14:35:02] All right. So, moving forward, on 31 May and Monday, 3 June, just a  
19 couple of days ago, you -- you again met the Defence team; correct?

20 A. [14:35:24] Yes.

21 Q. [14:35:26] This was a meeting over the two days that lasted around four and a  
22 half hours; yes?

23 A. [14:35:40] Yes.

24 Q. [14:35:43] Okay. And during that meeting the Defence read back to you the  
25 notes of the first telephone conversation they had with you in October 2022; correct?

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Open Session)

ICC-02/05-01/20

1 A. [14:36:04] Yes.

2 Q. [14:36:07] Yes. And you were then given -- as is right, you were given an  
3 opportunity to correct anything that was noted down from that first conversation;  
4 yes?

5 A. [14:36:25] Yes.

6 Q. [14:36:28] And you did make some corrections. For example, you -- you  
7 corrected the dates that {ICR: (Redacted)} do you recall that?

8 A. [14:36:48] Yes.

9 Q. [14:36:51] Okay. And during this witness preparation session, the -- the  
10 Defence took the opportunity to explain to you the importance of telling this Court  
11 the truth; yes?

12 A. [14:37:09] Yes.

13 Q. [14:37:12] All right. So I mentioned, sir, that you made some corrections, and I  
14 want to -- I want to focus on another correction now that you made. I'm going to call  
15 up, firstly, the -- the summary of the -- your first telephone conversation from  
16 October 2022.

17 It's tab 5 of the Defence binder, DAR-D31-00000301. And that's not to be broadcast.

18 MR EDWARDS: [14:37:50] Yes, thank you. Can I just, with great respect, remind  
19 my friend that we're in public session. Yes.

20 MR JEREMY: [14:38:01] Thank you.

21 (Trial Chamber confers)

22 MR JEREMY: [14:38:48] Madam President --

23 PRESIDING JUDGE KORNER: (Microphone not activated)

24 MR JEREMY: [14:38:49] Out of an abundance --

25 PRESIDING JUDGE KORNER: (Microphone not activated)

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

1 MR JEREMY: [14:38:50] Yeah, I think, out of an abundance of caution, we should go  
2 into private session for this part.

3 PRESIDING JUDGE KORNER: [14:39:05] Yes, private session. Yes.

4 (Private session at 2.39 p.m.)

5 THE COURT OFFICER: [14:39:21] We are in private session, Madam President.

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Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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19 (Open session at 2.47 p.m.)

20 THE COURT OFFICER: [14:47:07] We're back in open session, Madam President.

21 MR JEREMY: [14:47:10]

22 Q. [14:47:11] Okay, sir, so, we've looked at your first conversation with the Defence  
23 in October 2022; you remembered that Mr Abd-Al-Rahman was an *agid*. We've  
24 looked at your most recent conversation with the Defence on Monday; you  
25 remembered that he was in fact an *agid al-ogada*.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Today, just now, and earlier in court, you said the following, transcript page 53, lines  
2 20 to 25:

3 Question: "Was Mr Abd-Al-Rahman ever an *agid al-ogada* of the Ta'aisha tribe?"

4 Your answer: "No."

5 Question: "Was Mr Abd-Al-Rahman ever an *agid* of the Ta'aisha tribe?"

6 Answer: "No."

7 So not an *agid al-ogada* and not an *agid*.

8 So, sir, two days after you told the Defence that Mr Abd-Al-Rahman was an  
9 *agid al-ogada*, you remembered that, in fact, he wasn't an *agid al-ogada* at all and he  
10 wasn't an *agid* at all; that's correct, isn't it?

11 A. [14:48:45] Yes.

12 Q. [14:48:50] And what I'm going to suggest to you, sir, is that between Monday  
13 and today, somehow, you've realised that it's not helpful for you to describe  
14 Mr Abd-Al-Rahman as an *agid* or as an *agid al-ogada*, so you're now retracting your  
15 previous evidence on that point and you're not telling the truth.

16 A. [14:49:32] I am telling you the truth.

17 Q. [14:49:39] Okay. We'll move on, sir.

18 PRESIDING JUDGE KORNER: [14:49:42] Just before you do.

19 What made you suddenly realise, sir, two days after you told the Defence that he was  
20 an *agid al-ogada* that actually he wasn't? When did you realise that and what made  
21 you think of it?

22 THE WITNESS: [14:50:28](Interpretation) Would you like me to answer that  
23 question?

24 PRESIDING JUDGE KORNER: [14:50:33] Yes, please.

25 THE WITNESS: [14:50:41](Interpretation) Could you please repeat the question?

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 PRESIDING JUDGE KORNER: [14:50:48] Two days ago when you talked to  
2 Mr Laucci or Mr Edwards, you told them that you had made a mistake when you said  
3 that Mr Abd-Al-Rahman was an *agid* for a number of years, and you told them that, in  
4 fact, he was an *agid al-ogada* from about 2009.

5 Mr Edwards just put -- reminded you that this morning. You told us that he was  
6 never either an *agid* nor was he an *agid al-ogada*. And what we would like to know is  
7 what made you suddenly remember, or realise, in between two days ago, or three  
8 days ago, and today that you'd made a mistake?

9 THE WITNESS: [14:52:09](Interpretation) Well, my words are actually correct.  
10 There are, in fact, two *agids*. Ali, indeed, did come. I actually checked my diary  
11 and I remembered that the person in question was Manzul. He was the overseer and,  
12 by that, he was an *agid al-ogada*.

13 THE INTERPRETER: [14:52:43] Interpreter's observation: The first part of the  
14 witness's answer was not clear.

15 PRESIDING JUDGE KORNER: [14:52:52] All right. I'll leave it. I don't think it's  
16 worth it. Sorry, Mr Jeremy, I think this is getting too complicated and wasting time.

17 MR JEREMY: [14:53:04] At the risk of complicating it further, I'm going to follow up  
18 on one point.

19 Q. [14:53:11] Sir, during your witness preparation session two days ago, we read in  
20 paragraph 14 that you do refer to Manzul Daoud Al Mahdi as an *agid al-ogada*, so I'm  
21 going to suggest to you, you already had him in mind?

22 A. [14:53:31] That is indeed what I remembered. I -- I-- I thought that he was  
23 *agid al-ogada*, but when I checked my diary, it turned out that he was an overseer.

24 Q. [14:53:57] What you said, sir, is that there are two or three *agid al-ogada* in the  
25 Ta'aisha tribe. {ICR: (Redacted)}, you refer to Manzul Daoud Al Mahdi and you also

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 referred to Mr Abd-Al-Rahman, and you did so because he is, in fact, an *agid al-ogada*  
2 in the Ta'aisha tribe; you know that, don't you?

3 A. [14:54:25] Correct; indeed, I said those words. But momentarily I was able to  
4 recall from my diary that he was the overseer in fact.

5 PRESIDING JUDGE KORNER: [14:54:41] This is what I don't understand. Who  
6 was the overseer and what is an overseer?

7 THE WITNESS: [14:54:51](Interpretation) It's a position within the hierarchy of the  
8 *agids*.

9 PRESIDING JUDGE KORNER: [14:55:00] And who are you saying was an overseer?

10 THE WITNESS: [14:55:07](Interpretation) It was Ali Muhammad  
11 Ali Abd-Al-Rahman.

12 PRESIDING JUDGE KORNER: [14:55:14] All right. And for how long was he an  
13 overseer?

14 THE WITNESS: [14:55:25](Interpretation) Until 2015, that's when he joined the CRF  
15 and he was no longer overseeing us, he was overseeing the public.

16 PRESIDING JUDGE KORNER: [14:55:44] Are you saying, in your view, he joined  
17 the CRF in 2015?

18 THE WITNESS: [14:55:55](Interpretation) He started overseeing us since -- in 2012,  
19 2013 and until 2015, until he actually surrendered himself.

20 PRESIDING JUDGE KORNER: [14:56:18] Well, that was 2020.

21 THE WITNESS: [14:56:28](No interpretation)

22 THE INTERPRETER: [14:56:34] Interpreter's observation: The words of the witness  
23 are not clear.

24 PRESIDING JUDGE KORNER: [14:56:39] All right. In any event, I don't propose  
25 to -- but Judge Alexis-Windsor has a question.

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

1 JUDGE ALEXIS-WINDSOR: [14:56:49] Good day. So sorry to belabour this point,  
2 but just one issue.

3 On page 83 of today's provisional transcript, it says that the witness made an  
4 assumption. Was that closed session or open session, before I go on with my  
5 question? It was?

6 (Discussion between the Chamber and the court officer)

7 PRESIDING JUDGE KORNER: [14:57:25] Private.

8 JUDGE ALEXIS-WINDSOR: [14:57:26] It was open?

9 MR JEREMY: [14:57:27] I think it was closed, your Honour.

10 JUDGE ALEXIS-WINDSOR: [14:57:31] All right, thank you.

11 All right. So, for that reason, can we go into a very short closed session just for that  
12 question.

13 (Private session at 2.57 p.m.)

14 THE COURT OFFICER: [14:57:50] We are in private session, Madam President.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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21 (Redacted)

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Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing  
WITNESS: DAR-D31-P-0003

(Open Session)

ICC-02/05-01/20

1 (Redacted)

2 (Open session at 3.11 p.m.)

3 THE COURT OFFICER: [15:11:58] We are back in open session, Madam President.

4 MR JEREMY: [15:12:02] I can say for the record those questions were based on ICMP  
5 requests 1020, so I don't know if there's an issue with the information contained  
6 within there.

7 Q. [15:12:15] All right, sir, I want to talk now about your relationship with  
8 Mr Abd-Al-Rahman.

9 Now, you said during your preparation session a couple of days ago that you were  
10 not in contact with Mr Abd-Al-Rahman between 1977 and 2009; is that correct, sir?

11 A. [15:12:45] Yes.

12 Q. [15:12:48] Okay. And you also said that you don't know where  
13 Mr Abd-Al-Rahman was in 2003 and 2004; is that correct?

14 A. [15:13:03] Yes.

15 Q. [15:13:05] And you've got no idea what he was doing in that period; is that  
16 right?

17 A. [15:13:14] Yes, I don't know.

18 Q. [15:13:18] All right. Then -- so you meet Mr Abd-Al-Rahman in -- again in 2009  
19 in Khartoum; correct?

20 A. [15:13:38] In Khartoum.

21 Q. [15:13:41] Yes, is that correct; did you meet him in Khartoum for the first time  
22 since 1977, in 2009?

23 A. [15:13:54] When I went to Khartoum I met him.

24 Q. [15:14:04] All right. And that was in 2009; correct?

25 A. [15:14:09] Yes.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Q. [15:14:11] Okay. And by this time, 2009, you know -- you knew that

2 Mr Abd-Al-Rahman was a member of the Central Reserve Forces, yes?

3 A. [15:14:30] After that.

4 Q. [15:14:34] You're saying he joined the Central Reserve Forces after 2009?

5 A. [15:14:45] Yes, after that.

6 Q. [15:14:48] Okay. When -- when did he join the Central Reserve Forces

7 according to you, sir?

8 A. [15:15:02] Excuse me, can you repeat.

9 Q. [15:15:05] Yes. When did Mr Abd-Al-Rahman join the Central Reserve Forces

10 to your recollection?

11 A. [15:15:19] Since the time that I talked to you about. So he entered until 2013

12 until -- and then until 2015, until he surrendered.

13 Q. [15:15:36] All right, so you think he entered in 2013.

14 Now another name for Central Reserve Forces was Abu Taira, yes?

15 A. [15:15:52] Abu Taira. Yes, it's called Abu Taira.

16 Q. [15:16:02] And Mr Abd-Al-Rahman's rank within the CRF or the Abu Taira was

17 a warrant officer; correct?

18 A. [15:16:10] Yes.

19 Q. [15:16:15] Okay. Now you told us earlier this morning, and I want to be very

20 clear on this, the -- the first time you ever heard the name Ali Kushayb, Kushayb, was

21 when you spoke to the Defence team in October 2022; correct?

22 A. [15:16:46] Correct.

23 Q. [15:16:47] Okay. You'd never heard that name before that time?

24 A. [15:16:55] No, I haven't heard it.

25 Q. [15:16:57] Okay. I want to talk now, sir, briefly, about events in Darfur in 2003

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 and '04.

2 Sir, you know that there was a rebellion against the government in Darfur in 2003 and  
3 '04, yes?

4 A. [15:17:21] Yes, there were problems in the north of Darfur, but we had nothing  
5 to do with that at all.

6 Q. [15:17:29] Okay. Sir, I'm not asking you if you had anything to do with these  
7 problems. If you'd just listen carefully to my question. Sir, you've confirmed that  
8 you do know that there were problems.

9 A. (No interpretation)

10 Q. [15:17:44] You know that the government of Sudan organised a  
11 counter-insurgency against rebel forces in Darfur in 2003 and '04, yes?

12 A. [15:17:59] I -- I heard about that, but I don't really know much about it. I -- like,  
13 I don't know, it's another area, because I'm in South Darfur.

14 Q. [15:18:10] Okay. You heard about it. But you've got a -- you've got a military  
15 background, correct, sir?

16 A. [15:18:24] What do you mean by "military background"? So what do you want  
17 to say?

18 Q. [15:18:31] Were you in the military?

19 A. [15:18:36] Yes, I was in the army. I told you that. I was in the army for  
20 19 years.

21 Q. [15:18:42] Right. So I imagine you had colleagues who were fighting in the  
22 counter-insurgency in Darfur; correct?

23 A. [15:18:56] No, I don't have any colleagues.

24 Q. [15:18:58] Okay. But you know that the army were fighting in the  
25 counter-insurgency, yes?

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 A. [15:19:07] Yes, that's correct. I heard that.

2 Q. [15:19:10] Okay. The -- the police were also involved in the counter-insurgency,  
3 yes?

4 A. [15:19:19] Yes.

5 Q. [15:19:20] Okay. And the Arab militia forces were also involved on the  
6 government side in the counter-insurgency, yes?

7 A. [15:19:34] I heard about that, but we did not have this in the south of Darfur.  
8 We did not have this --

9 Q. [15:19:40] Okay. I am not asking you --

10 A. [15:19:40] -- in the south and the north of Darfur.

11 Q. [15:19:45] Okay. If you just listen carefully to my question, sir, I'm not asking  
12 you if you had it in the south of Darfur, I'm asking you your knowledge about the  
13 forces who were involved in the conflict.

14 A. (No interpretation)

15 Q. [15:19:50] Okay. So you know that the Arab militia were also known by the  
16 name Janjaweed, yes?

17 A. [15:20:05] Yes, they called them Janjaweed.

18 Q. [15:20:10] All right. Now, you, in your previous discussions with the Defence,  
19 you -- you mention the Wadi Salih, Saleh and Mukjar localities. You know those  
20 localities, yes?

21 A. [15:20:29] I have heard about them, but I have never been there. So I know  
22 them, I have heard of them. I've heard of Wadi Salih, Mukjar and Bindisi.

23 Q. [15:20:38] All right. Thank you, sir.

24 A. [15:20:39] And for Baranga as well.

25 Q. [15:20:47] All right. So the answer to my question is yes.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 You -- you also heard about attacks on those localities, the Wadi Salih and Mukjar  
2 localities, in 2003 and '04, I take it?

3 A. [15:21:03] I don't know. I didn't hear.

4 Q. [15:21:05] Okay. You mentioned --

5 A. [15:21:06] I heard only about the Al Fasher attack.

6 Q. [15:21:12] Okay. You mentioned Bindisi. So you didn't hear that in  
7 August 2003 Janjaweed militia forces attacked Bindisi, people were murdered, raped,  
8 homes destroyed, thousands of people displaced. You didn't hear about that? You  
9 didn't hear about any of that?

10 A. [15:21:39] I did not hear about that.

11 Q. [15:21:40] Okay. And in Mukjar in February 2004, I take it you didn't hear that  
12 over a hundred men were taken out of a police station by Arab militia and CRF forces  
13 and executed in the nearby area? You didn't hear about that?

14 A. [15:22:05] I did not hear that. I'm swearing -- I swear that I did not hear that.

15 Q. [15:22:11] Okay. And I take it you didn't hear that the same thing happened  
16 in -- in Deleig in March 2004?

17 A. [15:22:21] Can you please repeat the question.

18 Q. [15:22:23] Yes. So, I take it you also didn't hear that the same thing happened,  
19 that over a hundred people were taken from the police station in Deleig in  
20 March 2004 and executed. Did you hear about that?

21 A. [15:22:44] I did not hear that.

22 Q. [15:22:47] Okay. And I was going to suggest to you that a man named Ali  
23 Kushayb was at the centre of all these events. But, as you told us, you never heard  
24 that name until 2022, so you wouldn't know about any of that; correct?

25 A. [15:23:06] Yes.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Q. [15:23:15] All right. So you met Mr Abd-Al-Rahman in Khartoum in 2009, and  
2 after that he moved back to Rahad Al-Berdi; is that right?

3 A. [15:23:31] Yes.

4 Q. [15:23:33] Okay. So, this is 2009. Now, you told us this morning, or if  
5 I understand correctly, that you -- you only heard that Mr Abd-Al-Rahman was  
6 wanted by the ICC after he surrendered; is that correct?

7 A. [15:24:02] Yes.

8 Q. [15:24:03] All right. So if I told you he was surrendered in June 2020, you only  
9 heard that there was an ICC arrest warrant for him after June 2020; is that right?

10 A. [15:24:22] Yes.

11 Q. [15:24:24] Okay. That's -- that's the truth; correct?

12 A. [15:24:30] Excuse me? Yes. Yes, all this is the truth.

13 Q. [15:24:38] All right. Sir, if I told you that the ICC arrest warrant came out for  
14 Mr Abd-Al-Rahman, Ali Kushayb, in 2007, you would say you know nothing about  
15 that; is that right?

16 A. [15:24:57] Where would I know this? Can you please repeat the question?  
17 Please repeat the question.

18 Q. [15:25:04] Okay. I'll do it a different way.

19 When -- when you met Mr Abd-Al-Rahman in Khartoum in 2009 and then he came  
20 back to Rahad Al-Berdi when you were -- when you were reunited,  
21 Mr Abd-Al-Rahman must have told you at that point that he was being investigated  
22 by the Sudanese authorities for his role in events in Deleig. He must have told you  
23 that.

24 A. [15:25:38] He did not tell me that.

25 Q. [15:25:41] Okay. So he didn't tell you that the prosecutor general of Sudan in

Trial Hearing

(Private Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 2007 issued a summons, first by the name Ali Kushayb and then by the name  
2 Abd-Al-Rahman, for him to be questioned in relation to events in Deleig? He didn't  
3 tell you that?

4 A. [15:26:08] No.

5 Q. [15:26:10] Okay.

6 MR JEREMY: [15:26:16] Madam President, we'll need to go into private session  
7 briefly, please.

8 PRESIDING JUDGE KORNER: [15:26:23] Yes, private session.

9 (Private session at 3.26 p.m.)

10 THE COURT OFFICER: [15:26:35] We're in private session, Madam President.

11 (Redacted)

12 (Redacted)

13 (Redacted)

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Trial Hearing  
WITNESS: DAR-D31-P-0003

(Private Session)

ICC-02/05-01/20

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18 (Open session at 3.30 p.m.)

19 THE COURT OFFICER: [15:30:19] We're back in open session, Madam President.

20 MR JEREMY: [15:30:21] Okay.

21 Q. [15:30:22] So, sir, I want to talk now about a conflict in 2013 between the Salamat  
22 and the Ta'aisha tribes. Now, you know about that, you've previously spoken about  
23 it with the Defence, yes?

24 A. [15:30:42] Yes.

25 Q. [15:30:46] Okay. It was a conflict that had the Ta'aisha and the Misseriya tribes

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 on the one side, and the Salamat tribe on the

2 other side, correct?

3 A. [15:30:57] Yes.

4 Q. [15:30:58] Okay. And you -- you previously told the Defence during your  
5 witness preparation session that you know that around 250 Salamat families in the  
6 context of this conflict left Rahad Al-Berdi for Nyala, yes?

7 A. [15:31:32] Yes.

8 Q. [15:31:35] And you said that Mr Abd-Al-Rahman helped these people travel to  
9 Nyala, yes?

10 A. [15:31:43] Yes.

11 Q. [15:31:46] Okay. This was a -- this was a violent conflict between the Ta'aisha,  
12 the Misseriya and the Salamat, yes?

13 A. [15:32:02] Yes.

14 Q. [15:32:02] And you said that these families from Rahad Al-Berdi, they went to  
15 Nyala for their own protection, yes?

16 A. [15:32:13] Yes.

17 Q. [15:32:14] Okay. Sir, these Salamat families in Rahad Al-Berdi, they needed  
18 protection from the Ta'aisha in Rahad Al-Berdi, yes?

19 A. [15:32:37] True. In the beginning they declared war, then the governor  
20 intervened, and then after declaring war and leaving Rahad Al-Berdi, they attacked  
21 Rahad Al-Berdi. There -- they wanted to burn homes but they were not able to take  
22 over or to win over us.

23 Q. [15:33:12] Okay. And you've -- in the context of this conflict, sir, you've  
24 previously said that you know that Salamat houses and shops were burned, yes?

25 A. [15:33:33] On both sides, actually, were burned during -- the homes and so forth

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 were burned, the Salamat and the Ta'aisha, during the warfare.

2 Q. [15:33:43] Okay. So you said it's on -- it's on both sides and that was clear to  
3 see for everyone, right, that the Salamat houses and shops were burned?

4 A. [15:34:01] Yes.

5 Q. [15:34:04] Okay. So you mentioned that there were efforts to -- to reconcile the  
6 tribes; is that correct?

7 A. [15:34:18] Yes.

8 Q. [15:34:19] {ICR: (Redacted)} I take it that you were also involved in those  
9 reconciliation efforts.

10 A. [15:34:32] When I and others intervened, the war stopped and by that time they  
11 had travelled.

12 Q. [15:34:46] Okay. I want to go to an exhibit now, sir, if I may.

13 If we can please go to tab 5 of the OTP binder. It's DAR-OTP-00006585.

14 Sir, I want to briefly discuss with you a -- a media report about this conflict between  
15 the Salamat at the Misseriya, and the Ta'aisha in Rahad Al-Berdi that we've just been  
16 discussing.

17 This is a report titled "Clashes between the Salamat and the Misseriya shift to  
18 Rehed al-Birdi in South Darfur and to Mukjar in West Darfur."

19 And it's dated 13 April 2013.

20 If I take you to paragraph 3, sir, I'll read you a part of paragraph 3.

21 The article discusses the clashes and in the second sentence of paragraph 3 it states,  
22 quote:

23 "Further, Nazir Ahmed al-Bashir explained to Radio Dabanga that his information  
24 was based on hearsay and gleaned from the area's *umdahs* [...] and dignitaries since he  
25 was in Um Dukhn to resolve the situation in the region."

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 It goes on to say:

2 "In the town of Rehed al-Birdi, the *nazir* of the Ta'aisha, [...] 'Abd-al-Rahman Basharah,  
3 told Radio Dabanga about the clashes between the Misseriya and Salamat in a  
4 Rehed al-Birdi neighbourhood."

5 Now, firstly, sir, this *nazir* Abd-al-Rahman Bishara, he was known to you, yes, he is  
6 the father of the current *nazir* of Rahad Al-Berdi?

7 A. [15:37:39] Yes.

8 Q. [15:37:41] And this is referring to the violent clashes that we've just been  
9 discussing; correct?

10 A. [15:37:53] Yes.

11 Q. [15:37:56] Okay. It goes on to say that:

12 "Over Radio Dabanga, *Nazir* Bishara urged all parties to listen to the voice of reason,  
13 reject violence and infighting and to strive for the sort of peaceful and harmonious  
14 coexistence that had been previously."

15 Sir, you knew *nazir* Bishara, is this the sort of thing he would say, sir?

16 A. [15:38:34] Do you mean Bishara or Abd-Al-Rahman? Can you please be  
17 specific as to who the person in question is. Could you please repeat the question?

18 Q. [15:38:45] Yes. Yes.

19 A. [15:38:47] Is it *nazir* Bishara Abd-al-Rahman Al Senussi or *nazir* Abd-al-Rahman  
20 Bishara Al Senussi?

21 Q. [15:38:54] I will repeat the question.

22 So, I asked you if -- if this urging to reject violence and infighting, to live in peace and  
23 harmony -- I'm just suggesting to you that that's the sort of thing that the *nazir*,  
24 Abd-Al-Rahman Bishara, would say, according to your knowledge of him; is that  
25 right?

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 A. [15:39:22] Yes, yes.

2 Q. [15:39:23] So he's trying to resolve the situation. He's encouraging peace and  
3 he's trying to publicly spread that message; you'd agree with that?

4 A. [15:39:33] Yes, correct.

5 Q. [15:39:35] Okay. All right. And an obvious way to do that is over Radio  
6 Dabanga, a popular radio station in your area across Sudan, yes?

7 A. [15:39:48] Yes.

8 Q. [15:39:50] All right. I want to go to the next page, sir. I'm just going to read  
9 the final four sentences. They read, quote:

10 "Meanwhile witnesses in Rehed al-Birdi stated that two members of the Salamat tribe  
11 had been [killed], on Thursday in Rehed al-Birdi, by Abu-Tirah Forces under Ali  
12 Kushayb's command. They also stated that Kushayb's Abu-Tirah Forces had  
13 attacked them yesterday during a funeral procession for the deceased and that there  
14 had been an exchange of fire."

15 So, firstly, sir, you have confirmed that Abu Tirah forces is a reference to the Central  
16 Reserve Forces, yes?

17 A. [15:41:02] The CRF indeed.

18 Q. [15:41:05] Yes. And the --

19 A. [15:41:07] However, that did not happen.

20 Q. [15:41:09] Well, you've confirmed, sir, that the commander of the Central  
21 Reserve Forces was Mr Abd-Al-Rahman; correct?

22 A. [15:41:24] Yes, I did, he was the commander there.

23 Q. [15:41:28] Okay. And you would agree that here Mr Abd-Al-Rahman is being  
24 referred to by the name "Ali Kushayb"?

25 A. [15:41:46] Yes.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Q. [15:41:47] Yes. And the reason he's being referred to by the name "Ali  
2 Kushayb" is because that was another name, that was another way that people knew  
3 Abd-Al-Rahman at this time, yes?

4 A. [15:42:04] No. They wouldn't recognise him as such.

5 Q. [15:42:11] Okay. But we -- we see on this popular radio station that that is how  
6 he's being identified, but it's your evidence, if I understand correctly, sir, that this  
7 name "Ali Kushayb", which is being reported in April 2013, it would be more than  
8 another nine years before you would ever hear this name for the first time, in  
9 October 2022; is that right? Do I understand your evidence correctly?

10 A. [15:42:52] Yes.

11 Q. [15:42:56] All right. Thank you, sir.

12 I want to look at one more article now, sir, if I may. If we can look, please, at tab 11  
13 of the OTP binder, DAR-OTP-00006766.

14 All right, sir, so I'm going to read you some parts of this article to hear your answers.  
15 The title is "Looting and robbery [operations] take over Umm Duckhun; Ali Kushayb  
16 flees scene of the fighting".

17 In the third paragraph it refers to clashes between the Misseriya and Salamat tribes  
18 which took place in Um Dukhun. You are aware of those clashes, yes, sir?

19 A. [15:44:35] That is not correct. I was not present.

20 Q. [15:44:37] Okay. But you -- I'm not suggesting that you were present, sir, I'm  
21 suggesting to you that you know that there were clashes in Um Dukhun between the  
22 Salamat and Misseriya tribes?

23 A. [15:44:55] Yes, such things did happen in Um Dukhun.

24 Q. [15:45:03] Okay. Now, we see that an official spokesman of the Salamat *shura*  
25 authority spoke to Radio Dabanga and:

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 "He accused 'unseen' hands of being [...] what he described as a 'proxy' war launched  
2 against them", referring to the Salamat.

3 He stated that, quote:

4 "[...] 'we confirm that we have been victorious on the ground and that we have  
5 inflicted uncountable human and material losses on Ali Kushayb in Abugaradil'. He  
6 then continued, 'Now Ali Kushayb's closest supporters are detained, and we are on  
7 his tail. Our forces may attack him towards Um Dafug so we can win a victory for  
8 the [International] Criminal [Court] and for Darfur's historic victims'. He said that  
9 Ali Kushayb, who is wanted by the International Criminal Court, is the commander  
10 of the Abu-Tayrah forces and that he has fled the battlefield, leaving the bodies of 16  
11 of his men lying on the ground in Abugaradil."

12 Okay. So here, sir, we have the official spokesman of the Salamat *shura* authority, so  
13 he knew in 2013 that the commander of the CRF was also known by the name of Ali  
14 Kushayb. That's something that he knew but it's something that you didn't know; is  
15 that right?

16 A. [15:47:17] The person I know as Ali Muhammad Ali Abd-Al-Rahman. That he  
17 was involved in these problems is a lie. This is completely untrue. And I'm telling  
18 you the truth. I swear by almighty god that I am telling the truth. These are mere  
19 allegations. They are untrue.

20 PRESIDING JUDGE KORNER: [15:47:47] By these "problems" do you mean the  
21 conflict between the two tribes -- or three tribes, actually?

22 THE WITNESS: [15:48:03](Interpretation) He was not involved in that. All he did  
23 was to provide protection as they were leaving. However, what the gentleman was  
24 quoting is nothing but lies.

25 MR JEREMY: [15:48:24]

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 Q. [15:48:25] My question, sir, I was suggesting to you that the official  
2 spokesperson of the Salamat *shura* authority, he knew that the head of the CRF was  
3 known by the name "Ali Kushayb". He knew that in 2013, but you're saying that you  
4 only knew that nine years later; is that correct?

5 A. [15:48:59] Yes. The name I know is that of Ali Muhammad  
6 Ali Abd-Al-Rahman. However, the words you are quoting are untrue. All of the  
7 things you said about Um Dukhun and so forth, Ali Muhammad Ali Abd-Al-Rahman  
8 was not involved in any of that.

9 PRESIDING JUDGE KORNER: [15:49:22] How do you know -- how do you know  
10 that, sir? Leaving aside for the moment whether he was known as Ali Kushayb, how  
11 do you know that Mr Abd-Al-Rahman was not involved in this?

12 THE WITNESS: [15:49:44](Interpretation) He was inside Rahad Al-Berdi. As I said,  
13 I lived 57 kilometres away from Rahad Al-Berdi. Anyone who was going to  
14 Um Dukhun would have passed by where I was and that is how I know that he was  
15 not involved in those things.

16 PRESIDING JUDGE KORNER: [15:50:21] Sorry. Judge Alapini would like to ask a  
17 question.

18 JUDGE ALAPINI-GANSOU: [15:50:28](Interpretation) I have one little concern.  
19 What period are you talking about when you say Ali Muhammad Ali was not  
20 involved in these activities? What is the time frame that you are locating -- you are  
21 referring to?

22 THE WITNESS: [15:50:58](Interpretation) This concerns the problems in question, in  
23 2013. I don't know which specific month, but I mean the problems until they ended.  
24 These people, when they gathered in the manner that was just described, Ali  
25 provided protection for these people as they were travelling. This was a tribal

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 dispute that included the three tribes. The government was neutral and did not get  
2 involved, did not take anyone's side.

3 JUDGE ALAPINI-GANSOU: [15:51:47](Interpretation) You are referring to 2013; is  
4 that correct?

5 THE WITNESS: [15:52:03](Interpretation) Yes.

6 MR JEREMY: [15:52:07]

7 Q. [15:52:08] All right, sir, not only did the official spokesman of the Salamat Shura  
8 authority know that the head of the CRF was called Ali Kushayb, he also knew that  
9 Ali Kushayb was wanted by the International Criminal Court, here in this public  
10 article in 2013. But according to you, sir, you wouldn't know this until more than  
11 seven years later; is that right?

12 A. [15:52:52] Could you please repeat.

13 MR EDWARDS: [15:52:56] Your Honour, this question has been asked.

14 PRESIDING JUDGE KORNER: [15:52:59] (Microphone not activated)

15 Mr Jeremy, it's pure comment. You have asked this question and it is in my view a  
16 comment.

17 MR JEREMY: [15:53:15]

18 Q. [15:53:15] Sir, given your roles, and I won't go into them now, but you had  
19 positions of responsibility, in various different contexts. {ICR: (Redacted)  
20 (Redacted)} Is it your evidence that in  
21 that capacity no one at any point between Mr Abd-Al-Rahman's return to  
22 Rahad Al-Berdi in 2009 and his surrender to this Court in 2020 approached you and  
23 said, "Sir, you will never believe who we have in our territory. Ali Kushayb is here.  
24 He's alleged to be responsible for crimes in Wadi Salih, Mukjar localities." No one  
25 ever said anything like that to you?

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 A. [15:54:17] I was not told that. The person I know is Ali Muhammad  
2 Ali Abd-Al-Rahman. This is how I have known him in my lifetime until this senior  
3 age and he had a son called Nasser and hence his name was Abu Nasser.

4 Q. [15:54:43] And Mr Ali Muhammad Ali Abd-Al-Rahman, Abu Nasser, he never  
5 came to you and said, "My friend, you won't believe what people are calling me.  
6 They're calling me Ali Kushayb. I can't understand why they're calling me Ali  
7 Kushayb. There's a warrant from the international court -- International Criminal  
8 Court for me. Can you believe that?" He never said anything like that to you?

9 A. [15:55:20] I swear that he did not at all.

10 Q. [15:55:26] Okay. So at no point in the 11 years you spent together, that you  
11 worked closely together, that you had familial ties, at no point did he ever mention  
12 that to you?

13 MR EDWARDS: [15:55:37] Asked and answered.

14 THE WITNESS: [15:55:42](Interpretation) Never at all.

15 MR JEREMY: [15:55:48] Madam President, I'm moving to a new topic. I'm not  
16 going to finish today. I can do the next topic. It's in private session.

17 PRESIDING JUDGE KORNER: [15:56:02] (Microphone not activated)

18 THE INTERPRETER: [15:56:05] Microphone.

19 PRESIDING JUDGE KORNER: [15:56:07] I may say I thought you had completed  
20 your cross-examination.

21 MR JEREMY: [15:56:12] I'm sorry to disappoint you, Madam President, but not  
22 quite.

23 PRESIDING JUDGE KORNER: [15:56:17] All right. The interpreters have actually  
24 sat for two hours which is longer than normal, so I suppose -- how long is the topic  
25 tomorrow morning going to take?

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0003

1 MR JEREMY: [15:56:27] Well, I would say -- I have another topic after that, but

2 I would say, I will hope to conclude within 30 minutes.

3 PRESIDING JUDGE KORNER: [15:56:37] Right.

4 MR JEREMY: [15:56:38] 30, 45.

5 PRESIDING JUDGE KORNER: [15:56:41] All right.

6 Sir, I'm sorry, I thought you would complete your evidence today, but I'm afraid I'm

7 going to have to ask you to come back tomorrow morning. Please, overnight,

8 I know you and the other witnesses are all staying together, do not discuss the

9 evidence you're giving.

10 They're not all staying together?

11 MR EDWARDS: [15:57:03] No. During -- our understanding is that during their

12 testimony, VWU has quite properly taken steps to keep (Overlapping speakers) --

13 PRESIDING JUDGE KORNER: [15:57:11] Oh, all right.

14 Well, one way or another, sir, don't discuss the evidence you've been giving with

15 anybody over the overnight adjournment.

16 Yes, so we'll sit at 9:30 tomorrow morning.

17 So does there have to be a delay between the next witness or can we go straight on?

18 Because if mister -- okay. All right. Yes. Thank you very much. 9:30 tomorrow

19 morning.

20 THE COURT USHER: [15:57:38] All rise.

21 (The hearing ends in open session at 3.57 p.m.)