

Trial Hearing
WITNESS: DAR-OTP-P-0883

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and
7 Judge Althea Violet Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Monday, 29 August 2022
10 (The hearing starts in open session at 9.34 a.m.)
11 THE COURT USHER: [9:34:17] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:34:41] Yes. Good morning to everybody.
15 Appearances for the Prosecution, first of all.
16 MR JEREMY: [9:34:51] Good morning, Madam President, your Honours. Good
17 morning, all. On behalf of the Prosecution today we have Alison Whitford,
18 Ester Kosova, Claire Sabatini, Mohanad Elkholy, and myself Edward Jeremy.
19 Thank you.
20 PRESIDING JUDGE KORNER: [9:35:05] Yes, thank you, Mr Jeremy.
21 Yes, the Defence, please.
22 MR LAUCCI: [9:35:13](Interpretation) Good morning, your Honour and
23 your Honours. In addition to Mr Ali Muhammad Ali Abd-Al-Rahman, present in
24 the courtroom this morning, Mrs Camille Divet, in charge of reviewing evidence;
25 Mr Ahmad Issa, our case manager; my colleague, Iain Edwards; and myself,

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1 Mr Laucci, the counsel.

2 PRESIDING JUDGE KORNER: [9:35:33] Yes. Thank you.

3 And finally, the representatives of the victims.

4 MR SHAH: [9:35:36] Good morning, Madam President. Good morning,
5 your Honours. And good morning to everyone in and around the courtroom.

6 The victims are represented in the courtroom today by our case manager

7 Idriss Anbari, and myself Anand Shah, associate counsel. Thank you.

8 PRESIDING JUDGE KORNER: [9:35:52] Yes.

9 Before I say good morning to the witness and deal with the various matters, I didn't
10 see it, but I'm told that there was an email request to switch the order of witnesses,
11 and I gather the Defence don't object. Is that right, Mr Laucci?

12 Right. Mr Laucci shook his head, for the purposes of the note.

13 So, yes, you can do that. Right.

14 Sir, first of all, good morning. Can you hear and understand me?

15 WITNESS: DAR-OTP-P-0883

16 (The witness speaks Arabic)

17 THE WITNESS: [9:36:29](Interpretation) I do.

18 PRESIDING JUDGE KORNER: [9:36:31] Yeah. As you know, you're here to give
19 evidence about what you saw and heard during the relevant period.

20 THE WITNESS: [9:36:55](Interpretation) Yes.

21 PRESIDING JUDGE KORNER: [9:36:58] Just before you take the solemn declaration,
22 a couple of things:

23 First, if you don't understand a question that you are being asked by whoever is
24 questioning you, then say so straightaway.

25 THE WITNESS: [9:37:31](Interpretation) Yes.

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1 PRESIDING JUDGE KORNER: [9:37:32] Second, as you realise, everything has to be
2 interpreted, so it would help if you try and keep your answers short, or at least keep
3 an eye on the lawyer asking you questions, who will stop you if the answers are
4 getting too long.

5 THE WITNESS: [9:38:07](Interpretation) Yes.

6 PRESIDING JUDGE KORNER: [9:38:07] And third, we will have regular breaks, but
7 if you need a break outside the regular ones, and the first one will be at 11 a.m., then
8 please don't hesitate to ask.

9 THE WITNESS: [9:38:33](Interpretation) Yes, God willing.

10 PRESIDING JUDGE KORNER: [9:38:36] By the way, what language are we in? Fur?
11 It doesn't sound like this is Arabic.

12 MS WHITFORD: [9:38:42] Arabic, your Honour.

13 PRESIDING JUDGE KORNER: [9:38:44] Oh, yes, I rather thought it was too quick
14 for Fur. Right. Yes. All right.

15 Sir, would you be kind enough then -- does he need to repeat the oath?

16 MS WHITFORD: [9:38:56] He can read the oath.

17 PRESIDING JUDGE KORNER: [9:38:59] He can read, can he?

18 MS WHITFORD: [9:39:00] Yes, he can.

19 PRESIDING JUDGE KORNER: [9:39:02] All right. Sir, would * you be kind enough,
20 then, to read the solemn declaration which is in front of you.

21 THE WITNESS: [9:39:11](Interpretation) In the name of God, most gracious, most
22 merciful, I solemnly undertake to say the truth, the whole truth and nothing but
23 the truth.

24 PRESIDING JUDGE KORNER: [9:39:23] Yes. Thank you very much, sir. And
25 now Ms Whitford's going to start.

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1 QUESTIONED BY MS WHITFORD:

2 Q. [9:39:35] Good morning, Mr Witness.

3 A. [9:39:39] (Speaks English) Good morning. (No interpretation)

4 Q. [9:39:41] We have already met. But for the record, my name is Alison Whitford
5 and I'll be asking you questions on behalf of the Prosecution.

6 Your Honour, I would ask that we go into private session. And, unfortunately,
7 given the nature of this witness's evidence, I do anticipate that most, if not all of his
8 evidence, will require private session.

9 PRESIDING JUDGE KORNER: [9:40:10] Yes, I suppose that's probably correct.

10 Right. Well, it's unfortunate, because we do have people in the public gallery. But,
11 as you say, if the nature of the evidence would identify him, then I'm afraid we will
12 have to stay in private session. Yes, just so the public gallery know.

13 Yes, all right, private session.

14 (Private session at 9.40 a.m.)

15 THE COURT OFFICER: [9:40:46] We're in private session, Madam President.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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- 25 (Open session at 10.04 a.m.)

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1 THE COURT OFFICER: [10:04:52] We're back into open session, Madam President.

2 MS WHITFORD: [10:04:59]

3 Q. [10:04:59] Mr Witness, you * mentioned that the Sudanese armed forces
4 responded to rebel attacks on some locations in Wadi Salih. Was there a broader
5 Government of Sudan response to rebel activities, in general?

6 A. [10:05:22] Yes. We saw the government's response. The government was not
7 satisfied with these attacks and, therefore, dispatched supplementary forces to
8 counter those attacks.

9 Q. [10:05:45] When you say "supplementary forces", what are you referring to?

10 A. [10:06:00] First of all, at Wadi Salih, there were forces in the form of a brigade.
11 There were a large number of rebels. They were more numerous. And when
12 the Wadi Salih forces needed reinforcements, the reinforcements were requisitioned
13 and we received those reinforcements.

14 Q. [10:06:32] And in addition to the regular Sudanese Armed Forces, were any
15 other forces used to counter the rebels?

16 A. [10:06:50] Yes. Those were the Popular Defence Forces, as well as some
17 horsemen who were known as Janjaweed/militia. Because the government needed
18 them. They needed the necessary forces to counter the enemy.

19 Q. [10:07:18] You * mentioned the term "Janjaweed". What's your understanding
20 of the word "Janjaweed"?

21 A. [10:07:35] Well, this is a name used in Darfur. The Janjaweed are basically
22 outlaws. They operate in the forests, they steal citizens' money, and the government
23 needed to call upon those people because they were in a position to assist the armed
24 forces.

25 The word "Janjaweed", well, within that word you have the letter J a number of times,

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1 so there's reference to horsemen, to horses. And the letter *jim*, so the letter J, appears
2 three times within Janjaweed, and that's why they bore that name.

3 Q. [10:08:43] And were there any other words used to describe these Janjaweed
4 forces?

5 A. [10:08:58] I don't recall other terms. We have those three Js, the J three times, to
6 refer to the weapon, the horsemen and the horse, to capture that idea of a -- an outlaw
7 who attacks a citizen in the forest, or indeed elsewhere.

8 Q. [10:09:24] You * mentioned that the Sudanese government called upon these
9 Janjaweed forces to assist them in countering the rebels. How did they call upon
10 them?

11 A. [10:09:50] It was by means of the local departments, because they knew that
12 those outlaws were out in the forest and, as a result, they would call upon the citizens
13 who were member -- members of that militia and make promises to them, promise
14 them this or that. And that is how those forces joined the Sudanese forces.

15 Q. [10:10:17] And who was involved in calling upon these citizens?

16 A. [10:10:35] * There was chief Ali Muhammad Ali * Abd-Al-Rahman amongst
17 the powerful Arabs. The Arabs assembled around * him and chose him as their
18 leader. And he went on to call upon the horsemen and the other members to join.

19 Q. [10:11:00] How do you know that the Arabs chose Ali Muhammad Ali
20 Abd-Al-Rahman to be their leader?

21 A. [10:11:33] (No interpretation)

22 Q. [10:11:34] I'm sorry to stop you. I'm not receiving any translation of this.

23 A. [10:11:51] The leaders of the tribes always would meet with him in his little shop,
24 and they were with him there and chose him to be the strong man because he was
25 a person who was capable of assembling people around him and facing off

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1 the enemy.

2 Q. [10:12:19] And when you say "him" and "his little shop", who are you referring
3 to?

4 A. [10:12:35] Well, in fact, he had a small shop where he sold medicines. He
5 provided medicine to people who were ill. He provided the necessary medicine.
6 And back then people would gather around him. He was a generous man. And
7 they came to see in him -- in him the man of the moment. Somebody who had
8 leadership qualities, somebody who could lead, assemble and lead forces. They
9 chose him because he was an experienced person, he was a former military man who
10 had seen combat in the south. Thank you.

11 Q. [10:13:27] Just for absolute clarity, when you say "he" and "him", who are you
12 referring to?

13 A. [10:13:40] Ali Muhammad Ali, or indeed.

14 Q. [10:13:46] And this person Ali Muhammad Ali, did you know him by any other
15 name?

16 A. [10:13:56] Yes. He was known as Ali Kushayb. He was known in
17 the Wadi Salih region, he was very well known. Ali Kushayb.

18 Q. [10:14:14] And you mentioned he had a small shop. Where was this small shop
19 located?

20 A. [10:14:29] The shop was in the centre of the market, near the Sudanese
21 agriculture register, or registry. It was right in the centre of the market.

22 Q. [10:14:48] Just to confirm, so the Sudanese agricultural registry, what was
23 the word you used?

24 A. [10:15:08] In fact, it was the Sudanese Agricultural Bank. The bank,
25 the Sudanese Agricultural Bank.

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1 Q. [10:15:18] And you said this person, Ali Kushayb, was involved in calling upon
2 the civilians to join the Janjaweed. What did you observe yourself in relation to this,
3 if anything?

4 A. [10:15:40] In fact, he only called upon the Arab citizens, not the Fur or those of
5 any other tribe, * because they had chosen him as leader.

6 Q. [10:16:02] And do you know which Arab tribes he called upon?

7 A. [10:16:19] It was the members of the Salamat tribe. Well, a large number of
8 Arab tribes around Garsila. The Rizeigat. And he called upon all of them and they
9 came to swear allegiance to him. The citizens were very enthusiastic after that
10 because the government promised to provide many things to them.

11 Q. [10:16:57] And what about the Beni Halba tribe? Did that tribe become
12 involved in this?

13 A. [10:17:11] Yes.

14 Q. [10:17:14] And the Al Habbaniyah tribe?

15 A. [10:17:23] The Habbaniyah tribe is very far from Garsila. There may have been
16 individuals from that tribe, but the tribe itself is located very far from Garsila and so
17 did not directly participate.

18 PRESIDING JUDGE KORNER: [10:17:43] Can you just tell me which
19 paragraph you're on.

20 MS WHITFORD: [10:17:46] Apologies, your Honour. Paragraph 34.

21 PRESIDING JUDGE KORNER: [10:17:51] Thank you.

22 MS WHITFORD:

23 Q. [10:17:53] And the Al-Khozam tribe, were they involved?

24 A. [10:18:04] Yes. Yes. In a direct fashion, yes.

25 Q. [10:18:10] And the Al Masiliya tribe, were they involved?

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1 A. [10:18:26] (No interpretation)

2 Q. [10:18:30] Masiliya.

3 A. [10:18:48] It was the Masalit tribe. There is no Masiliya tribe.

4 Q. [10:18:56] And which tribe did Ali Kushayb belong to?

5 A. [10:19:16] He was part of the Ta'aisha tribe. The Ta'aisha are far from Garsila,

6 but he lived in Garsila because he came from the armed forces and had settled in

7 Garsila, but he was from the Ta'aisha tribe. But, as I said, the origins of that tribe are

8 far, far removed from Garsila.

9 Q. [10:19:43] Can you explain how is it that Ali Kushayb from the Ta'aisha tribe can
10 lead people from all these other Arab tribes. How is that possible?

11 A. [10:20:06] Ali Kushayb was a man who was known in the region and he had
12 been a soldier in the past, a member of the armed forces, and he had played a role in
13 the south of Sudan. He had also played a role in the conflict between the Ta'aisha
14 and the Salamat tribes. So he was known, he was known to be an experienced and
15 wise man.

16 Q. [10:20:39] You said he had a role in the conflict in South Sudan. Do you know
17 anything about his role there?

18 A. [10:20:54] Yes. Many people are familiar with anecdotes about him. He was
19 a member of the command. He was the officer in charge and in command of
20 the forces. He also had a disagreement with another officer and he was detained, he
21 was arrested, as was the other officer, the officer with whom he had had
22 a disagreement. Later he was transferred to the north. And so he was well known
23 also within the armed forces.

24 Q. [10:21:49] And this incident that you just described, can you tell us
25 approximately which year or even which decade that occurred?

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1 A. [10:22:05] No, no, no, I don't recall at all.

2 Q. [10:22:09] Do you know where Ali Kushayb was born?

3 A. [10:22:16] No. No, I don't know.

4 Q. [10:22:25] You said that he was formally in the Sudanese Armed Forces. Do
5 you know what his position in the armed forces was?

6 A. [10:22:43] When I knew him, he was assistant doctor in the armed forces.

7 Q. [10:22:58] And this nickname Kushayb, do you know how long he's had this
8 nickname?

9 A. [10:23:14] No, I don't know at all.

10 Q. [10:23:19] And did you know any other person in the Wadi Salih area in 2003 or
11 2004 by the name of Ali Kushayb?

12 A. [10:23:34] No. There was one in Zalingei, his friend who was called Hassan
13 Kushayb. That was his younger brother and he was with us in Zalingei.

14 MS WHITFORD: [10:23:52] Your Honour, I'd like to follow up on that, and it would
15 require private session, unfortunately.

16 PRESIDING JUDGE KORNER: [10:24:00] Yes.

17 (Private session at 10.24 a.m.)

18 THE COURT OFFICER: [10:24:14] We're in private session, Madam President.

19 (Redacted)

20 (Redacted)

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- 21 (Open session at 10.42 a.m.)
- 22 THE COURT OFFICER: [10:42:07] We're back into open session, Madam President.
- 23 THE WITNESS: [10:42:16](Interpretation) May I have some water, please?
- 24 MS WHITFORD: [10:42:20] Of course.
- 25 PRESIDING JUDGE KORNER: [10:42:20] Yes, could somebody give the witness

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1 some water please. Has he got a jug there? Oh, he has. All right.

2 MS WHITFORD: [10:42:47]

3 Q. [10:42:48] Mr Witness, I just have one point of clarification, and it may have
4 been an interpretation issue. Do you know what rank Ali Kushayb had when he
5 was in the Sudanese Armed Forces?

6 A. [10:43:08] I did not meet him when he was a service member of the SAF. What
7 I learned, however, is that he was a medical assistant within the unit where he served.

8 Q. [10:43:24] Thank you. I would like to move to a different topic now. Did
9 there ever come a time that military and security forces were withdrawn from
10 locations around Garsila?

11 A. [10:43:53] I don't remember when that happened, neither the date nor the time,
12 but forces were withdrawn from around Garsila and were -- and pulled back
13 somewhere else. They were withdrawn from the regions of Soja, Arawala, and
14 were -- and these forces joined the other forces at HQ in Garsila.

15 Q. [10:44:30] What type of security forces were withdrawn, if you recall?

16 A. [10:44:43] These were small forces in the form of battalions. They had to join
17 the larger forces because they were in danger out there alone. And they had already
18 been the target of attacks.

19 Q. [10:45:07] And what were those forces in danger of?

20 A. [10:45:20] They were facing the forces of the rebels and the Janjaweed.
21 The outlaws living in the forests.

22 MS WHITFORD: [10:45:37] Apologise, your Honour, I'm at paragraph 63.

23 THE INTERPRETER: [10:45:42] Correction from the interpreter: The reference was
24 to platoons and not battalions in the earlier answer.

25 MS WHITFORD: [10:45:51]

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1 Q. [10:45:52] And, Mr Witness, were the police withdrawn also, or only
2 the military?

3 A. [10:46:06] All forces, police and military.

4 Q. [10:46:12] And were the security forces withdrawn from Deleig?

5 A. [10:46:22] No. They stayed in Deleig. They were even reinforced by other
6 forces.

7 Q. [10:46:33] Do you know why the security forces were not withdrawn from
8 Deleig?

9 A. [10:46:46] Deleig was the largest area after Garsila. The *shartay* or
10 the *mu'atamid* back then was from Deleig. That is why he was concerned with
11 protecting his own region by sending the support forces to Deleig. But it was
12 difficult because the other forces were far away and the route was not safe. There
13 was highway robbery taking place, armed highway robbery.

14 Q. [10:47:24] And what was the name of the *mu'atamid* at that time?

15 A. [10:47:35] Ja'afar Abd-Al-Hakam Ishaq. That was his name.

16 Q. [10:47:53] I think I can continue in public session, your Honour. I'll endeavour
17 to do so.

18 Did there come a time when you saw a military lorry arriving at the Garsila Sudanese
19 Armed Forces base?

20 That's paragraph 44, your Honour.

21 A. [10:48:23] Yes. This military truck came from Nyala under the leadership of
22 possibly Major Sharif. Also Master Sergeant, administrative Master
23 Sergeant Abdulkhalik. I don't remember the date, but that truck was of the ZY type.
24 It came to Wadi Salih and was loaded with a -- with a lot of weapons, military gear,
25 and attire. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [10:49:40] And these two officers, Major Al Sharif and Sergeant Abdulkhalik,
5 what forces did they belong to, if you know?

6 A. [10:49:58] They belonged to the PDF in Nyala.

7 Q. [10:50:09] And who was responsible for weapons and ammunition (Redacted)
8 (Redacted)

9 A. [10:50:23] There were storage rooms and there were the trustees of those storage
10 rooms. One of them was Farhad Mohamed Bakir (phon), he was the first trustee
11 (Redacted) for the weapons storage rooms.

12 Q. [10:50:40] And was there a person who was most responsible in terms of
13 the weapons and ammunition at the base?

14 A. [10:50:57] Yes, there was a weapons officer, whose name I don't recall. And also
15 there was the general commander, the brigade leader, Muhammad Khatir *Bakhat, he
16 was directly in charge of this. But there was also a weapons officer.

17 Q. [10:51:22] What happened to those weapons and ammunition, sir? And to be
18 clear, I'm talking about the weapons and ammunition that arrived on the lorry.

19 A. [10:51:44] They were distributed to the horsemen/knights, these were people
20 from the Arab tribes. I don't know how they were selected, but they were called to
21 come get weapons from the base. They were outside the base, under trees, and they
22 came one by one, *umdah* by *umdah*, each to get weapons.

23 Q. [10:52:14] Do you recall how long after that lorry came to Garsila that this
24 distribution occurred?

25 A. [10:52:28] Just three days. There were arrangements for the weapons to be

1 unloaded, to be handed over. That was on day one, day two. By day three
2 the weapons got distributed. And the distribution lasted two days.

3 Q. [10:52:46] Who participated in the distribution of the weapons at the base?

4 A. [10:52:58] * Ali Muhammad Ali Kushayb took part in distributing the weapons
5 because he knew who should get weapons and how much each *umdah* should get.
6 So he was directly involved, as I said, and he was a regular citizen.

7 Q. [10:53:19] How did Ali Kushayb know who should get weapons?

8 A. [10:53:31] As I said, Arabs were gathered around him and they chose him to be
9 the leader of the forces. So he knew them, knew them by name.

10 Q. [10:53:48] And when you say that Ali Kushayb took part in this distribution,
11 what exactly was his role, that you saw?

12 A. [10:54:05] His role was to organise the citizens, because these horsemen/knights
13 were regular citizens. He was organising them, he was telling each *umdah* to bring
14 a certain number of citizens with him to get the weapons, so he was organising
15 the *umdahs*. And the *umdahs*, in their turn, were organising the horsemen. And
16 that's how the distribution transpired.

17 Q. [10:54:35] And how do you know that these people receiving the weapons were
18 *umdahs* and members of Janjaweed?

19 A. [10:54:53] Most of them were not familiar people to us, or to the garrison overall.
20 But Ali and his men knew them very well. They were organising them and Ali and
21 his men were accompanied by the intelligence officer Hamdi Sharaf-Al-Din, so he
22 knew -- they knew who those people were. Some officers (Redacted) knew
23 them and were helping Ali Kushayb handing the weapons.

24 Q. [10:55:24] What type of weapons were being distributed?

25 A. [10:55:33] Kalashnikov rifles. Also Goryunofat (phon) weapons, in addition to

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1 ammunition.

2 Q. [10:55:46] Just for clarity, did you say Goryunov weapons? And what is that?

3 A. [10:56:02] These are machine guns. They were typically given to a group of 11
4 or 12 persons. A group of 11 or 12 persons would get one Goryunov. It's a large
5 machine gun.

6 Q. [10:56:27] Can you estimate how many weapons were distributed during this
7 process.

8 A. [10:56:36] A thousand rifles. A thousand rifles had arrived on board that truck.
9 Most had been distributed. A small amount was kept in the depot and later on was
10 also distributed.

11 Q. [10:57:00] Can you estimate how many members of the Janjaweed received
12 weapons on this -- during this process?

13 A. [10:57:15] I don't know their number.

14 Q. [10:57:20] You said that this process took two days. Who was present from
15 the Garsila armed forces during that process?

16 A. [10:57:38] First Lieutenant Hamdi Sharaf-Al-Din was the person first in charge
17 or directly in charge. In addition to the commander of the brigade, Muhammad
18 Khatir * Bakhat, who was overseeing this afar. But those who were handing
19 the weapons were Sharif, Abdulkhalik, these were the ones distributing the weapons.

20 PRESIDING JUDGE KORNER: [10:58:11] Are we in -- sorry, are we in public or
21 private session? I've completely lost the plot.

22 MS WHITFORD: [10:58:16] Public, your Honour.

23 PRESIDING JUDGE KORNER: [10:58:17] All right. Okay.

24 There's one question that I would like to ask, and I think probably better in private.

25 And we're nearly at the break. So let's just for a moment go into private session.

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1 And we'll take the break until 11.30.

2 Private, yeah.

3 (Private session at 10.58 a.m.)

4 THE COURT OFFICER: [10:58:49] We're in private session, Madam President.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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1 (Redacted)

2 (Upon resuming in open session at 11.33 a.m.)

3 THE COURT USHER: [11:33:52] All rise.

4 Please be seated.

5 PRESIDING JUDGE KORNER: [11:34:10] Just before you go on, Ms Whitford, as
6 you I'm sure have been told, there's a problem with the -- at the moment, you can't
7 change any of the channel -- or, rather, use any of the channels. Oh, you haven't
8 been told.

9 Well, I -- I asked for the witness -- sorry, I realised my button which brings up
10 the witness without the protective measures wasn't working, and it appears no
11 buttons are working, so you can't show any documents at the moment on the screen.
12 And I understand that you've got videos to show the witness.

13 MS WHITFORD: [11:34:54] At this stage I'm not intending to show any video,
14 your Honour.

15 PRESIDING JUDGE KORNER: [11:35:02](Overlapping speakers)

16 MS WHITFORD: [11:35:03] There are videos on the list of materials, but I don't
17 intend to use them, ultimately.

18 PRESIDING JUDGE KORNER: [11:35:08] You don't?

19 MS WHITFORD: [11:35:09] Videos, your Honour?

20 PRESIDING JUDGE KORNER: [11:35:11] You don't intend or you do?

21 MS WHITFORD: [11:35:13] No, I don't. But (Overlapping speakers)

22 PRESIDING JUDGE KORNER: [11:35:16](Overlapping speakers) Well, it's a matter
23 for you, Ms Whitford. And, all right, we'll discuss --

24 MS WHITFORD: [11:35:19](Overlapping speakers) We'll look at the matter.

25 PRESIDING JUDGE KORNER: [11:35:21] -- we'll discuss this at a later stage. But

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1 just so that you know that.

2 MS WHITFORD: [11:35:26] Okay.

3 PRESIDING JUDGE KORNER: [11:35:26] You can't show any documents on
4 the screen at the moment.

5 MS WHITFORD: [11:35:29](Overlapping speakers)

6 PRESIDING JUDGE KORNER: [11:35:31] Can we go into public session? If we
7 are -- are we in public? Yeah, can we remain in public session at the moment?

8 MS WHITFORD: [11:35:40] Unfortunately, I have about -- less than five minutes,
9 maybe, yeah, and then we can go into public for extended period.

10 PRESIDING JUDGE KORNER: [11:35:47] All right. So just five minutes worth of
11 private?

12 MS WHITFORD: [11:35:51] Yes. Thank you, your Honour.

13 PRESIDING JUDGE KORNER: [11:35:54] All right. Okay. We'll go into private
14 session, then.

15 (Private session at 11.36 a.m.)

16 THE COURT OFFICER: [11:36:08] We're in private session, Madam President.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Open session at 11.44 a.m.)

4 THE COURT OFFICER: [11:44:03] We're back into open session, Madam President.

5 MS WHITFORD: [11:44:10]

6 Q. [11:44:10] Mr Witness, were any weapons distributed, to your knowledge, to
7 non-Arab tribes?

8 And, your Honour, we're at paragraph 56.

9 A. [11:44:30] The remaining weapons, after they had been distributed, may have
10 been distributed to other persons. But the weapons were distributed in secret, when
11 it comes to these left over weapons. The publicly distributed weapons, in front of
12 the barracks, were weapons that were distributed to the cavaliers of the Arab tribes.

13 Q. [11:45:00] Did members of the Fur tribe receive any weapons, to your
14 knowledge?

15 A. [11:45:12] No. They came with the *umdah* and the *sheikh*, but they were kept
16 aside. Hamdi Sharaf-Al-Din, in the name of the Janjaweed or the *tora bora*, put them
17 aside, kept them aside.

18 Q. [11:45:39] You said the *umdahs* and the *sheikhs* came. What do you mean?
19 Where did they come to?

20 A. [11:45:53] They came to the place where the weapons were being distributed,
21 because they believed that they were citizens and that these weapons were being
22 distributed to the citizens. They presented themselves, they came as citizens, hoping
23 to obtain weapons. However, Hamdi excluded them, put them to the side. They
24 came back -- or they went back, rather, to their homes. They were very annoyed.
25 And the weapons were -- kept being distributed.

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1 Q. [11:46:29] When you say they were very annoyed, did they complain to anyone
2 about that?

3 A. [11:46:42] They had -- they couldn't complain to anyone. This was a difficult
4 time. There was no one to complain to.

5 Q. [11:47:02] Mr Witness, in 2003, 2004, did you know who Ahmad Harun was?

6 A. [11:47:16] Yes. He was -- he worked at the interior ministry.

7 Q. [11:47:26] And would you have been able to recognise him if you saw him in
8 2003 or 2004?

9 A. [11:47:43] I think anyone would be able to recognise him. He was
10 a well-known person. He was very recognisable.

11 Q. [11:47:53] During 2003 and 2004, did Ahmad Harun ever visit the (Redacted)
12 (Redacted)

13 A. [11:48:09] Yes. He visited three times. He visited the base three times.
14 The -- he came three times and he would meet with Ali Muhammad Ali, as well as
15 with the head of the battalion. He also came to meet the officers. He came three to
16 four times to the military base.

17 Q. [11:48:46] We can begin with the first time. Was that before or after
18 the distribution of weapons?

19 A. [11:48:58] This was after the weapon distribution. This was precisely on
20 the last day. This was the first time that he came to the base. I'm talking about
21 the minister, the minister of the interior. This was after the distribution of
22 the weapons on the second day.

23 Q. [11:49:26] And by what mode of transport did he arrive at the base?

24 A. [11:49:35] He came by helicopter. He travelled by military helicopter.

25 Q. [11:49:43] And each time that he came to the base, was it by helicopter or by

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1 other modes?

2 A. [11:49:55] He came by helicopter every time.

3 Q. [11:50:01] The first time that Ahmad Harun came, was he accompanied by
4 anybody?

5 A. [11:50:12] Yes. He was accompanied by two brigadier generals, one from
6 the army -- one from the Popular Defence Forces and one from the intelligence
7 services. He was also accompanied by the head of the third division of Al Fasher.

8 Q. [11:50:46] The first time that Ahmad Harun came to the base, did you see what
9 he did while he was at the base?

10 A. [11:51:07] He left the aircraft and he gave the order to carry boxes from
11 the helicopter. And he distributed the contents of these boxes, first of all to Ali. He
12 received a full box. And the commander of the barracks also received a full box.
13 The commander of the police also received a full box, as well as the leader of
14 the internal security forces. They all received boxes.

15 Q. [11:51:50] And do you know what was contained in those boxes?

16 A. [11:52:05] When they opened the box of the commander of the barracks, I was
17 nearby. There was a large amount of money. He immediately closed the box and I
18 couldn't see anything more.

19 Q. [11:52:39] During any of Ahmad Harun's visits to (Redacted), did you see
20 him meeting with anybody?

21 A. [11:53:00] Apart from the armed forces and the *mu'atamid*, whom he also met
22 with, I do not remember him meeting anyone else.

23 Q. [11:53:19] And you said he was accompanied by a brigadier general from
24 the Popular Defence Forces. Where was that brigadier general based normally, do
25 you know?

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1 A. [11:53:39] Khartoum. This was the commander of the Popular Defence Forces
2 in Sudan.

3 Q. [11:53:57] Earlier you said that when Ahmad Harun came to the base, he would
4 meet with Ali Muhammad Ali. What do you recall about any of those meetings?

5 A. [11:54:13] I don't really remember. He would come. He would meet with him
6 privately, not publicly. I did not have the opportunity to hear what they talked
7 about.

8 Q. [11:54:37] Just one point of clarification. You said, when these boxes that you
9 say contained money were distributed, one was given to Ali. Who was Ali?

10 A. [11:54:59] This was Ali Muhammad Ali Abd-Al-Rahman. He received two to
11 three such boxes. He had the lion's share.

12 Q. [11:55:17] In 2003, 2004, were there any military operations carried out in
13 the Wadi Salih area?

14 A. [11:55:33] You mean military operations by the Popular Defence Forces?

15 Q. [11:55:41] I'm referring to any military operations that deployed from Garsila to
16 the area of Wadi Salih.

17 A. [11:55:58] Garsila is in Wadi Salih, and so the military operations that started
18 there were operations -- were military operations, without any reinforcements by
19 other forces, in order to fight against the Janjaweed, the outlaws. This was in order
20 the situation not to get out of hand.

21 Q. [11:56:34] It was interpreted that the forces were fighting against the Janjaweed,
22 the outlaws. I'm not sure I understand that answer. Could you explain.

23 A. [11:56:54] Yes. There was theft carried out by the Janjaweed who were
24 attacking villages and they would pillage these villages. They would take money
25 from the Fur, they would steal cattle. As a consequence, a unit was created by

1 the police and the army in order to fight these forces. Sometimes they could not
2 manage to arrest them.

3 Q. [11:57:31] And what about military operations launched from Garsila in relation
4 to rebels in Wadi Salih, were there any in 2003, 2004?

5 A. [11:57:49] Yes. First of all, Mr Ali Muhammad Ali Abd-Al-Rahman, as -- as
6 leader of the Arab forces, of these horsemen, he brought together these forces in
7 a region called Korto and he led them towards Drissa and Silik and Tanako. Certain
8 army forces participated in this with him under the leadership of Muhammad Khatir
9 * Bakhat, the commander, and they went to Tanako. They first attacked the rebels.
10 They were then scattered. Then they went to the region of Silik and then to Drissa.
11 The operations were concluded against the rebels in different regions and then they
12 came back victorious.

13 Q. [11:59:03] Can you recall approximately when this operation took place?

14 A. [11:59:16] This was in 2003. This I remember. I remember this operation by
15 these forces. And then when they gathered in Korto, they established a camp at
16 Al Mangaya and then they were brought to the region of Arawala -- Arawala. They
17 were deployed towards Arawala, Bindisi, Mukjar and at Arawala.
18 Afterwards, these forces were directed towards the region of Segei, Mara, Segei Maro,
19 at Arawala and Gaba. They scattered the rebel forces and then he also returned
20 victorious.

21 Q. [12:00:24] I'd first like to focus on the first military operation, the one to the area
22 of Tanako. Did that occur before or after the weapons distribution at the Garsila
23 base?

24 A. [12:00:43] Yes.

25 Q. [12:00:47] Was it before -- was that operation conducted before or after

1 the distribution at (Redacted)?

2 A. [12:01:04] After the distribution of weapons. And it was useful to boost
3 the morale of the knights so that they get the job done effectively. So it was after
4 the distribution of weapons.

5 Q. [12:01:22] You mentioned a camp at Korto. What was this camp in Korto?

6 A. [12:01:36] It was not a set-up, a built camp. It's an area at the * outskirts of
7 the town. There were trees. And it used to be a pitch for horseraces and they chose
8 that location to gather them. It was useful to gather them, and from there they
9 headed out. But it was not a set-up, built camp.

10 Q. [12:02:08] And who was gathered there in Korto?

11 A. [12:02:19] Ali Muhammad Ali Abd-Al-Rahman and the knights.

12 Q. [12:02:27] Was there any involvement of the Popular Defence Forces in
13 the operation in Tanako and the areas nearby?

14 A. [12:02:40] Yes. The PDF, in essence, are the Arabs under the command of Ali,
15 Ali Muhammad Ali. So it's the PDF who joined Ali.

16 Q. [12:03:03] Do you know the name of any PDF officer who participated in that
17 operation?

18 A. [12:03:14] Well, they're not officers. They are horsemen or knights, they are
19 leaders in their respective tribes. They're not officers like the officers of the army
20 and so forth. Their commander was the PDF coordinator Abd-Al-Rahman Dawud.

21 Q. [12:03:37] And did Abd-Al-Rahman Dawud have another name that he went
22 by?

23 A. [12:03:48] Yes. Hassaballah Dawud.

24 Q. [12:03:56] Do you know the name of any Janjaweed leader who participated in
25 that operation in the area of Tanako?

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1 A. [12:04:13] As I said, in essence, these were not well recognised leaders. They
2 were tribal chiefs who gathered, like Muhammad Bonjouse who was the leader of
3 the Rizeigat tribe and whose group was the largest among those participating. There
4 were others whose names I do not recall.

5 Q. [12:04:55] To be clear, was the group of Muhammad Bonjouse participating in
6 the operation near Tanako?

7 A. [12:05:11] Correct. His group was the largest among those participating.

8 Q. [12:05:22] Did Ali Kushayb and Muhammad Bonjouse know each other?

9 A. [12:05:36] Yes, they were acquainted with each other and they were in the same
10 location. Bonjouse was from Simbi Sey, Ali Kushayb was from Garsila. They knew
11 each other and they were all leaders at that time. But eventually they disagreed.
12 Ali Muhammad Ali Abd-Al-Rahman and Muhammad Bonjouse disagreed after
13 coming back from Tanako, Drissa and Silik. They had a disagreement and,
14 consequently, Ali fired Muhammad Bonjouse from his deputy position and even took
15 away his machine gun. He called him a coward and took away his machine gun.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [12:07:08] When you say that Muhammad Bonjouse was a deputy, who was he
23 a deputy to?

24 A. [12:07:23] Deputy of Muhammad -- correction: Ali Muhammad Ali
25 Abd-Al-Rahman. He was number two after Ali Muhammad Abd-Al-Rahman.

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1 And he was the strongest force available to Ali Muhammad Ali Abd-Al-Rahman,
2 Ali Kushayb. The toughest force.

3 THE INTERPRETER: [12:07:45] Correction: The largest force.

4 PRESIDING JUDGE KORNER: [12:07:47] What does that mean?

5 MS WHITFORD: [12:07:50]

6 Q. [12:07:51] Could you explain your last answer when you say it was the largest
7 force available to Ali Kushayb. What do you mean?

8 A. [12:08:04] Yes, when they took action, when they went to Tanako, the largest
9 force that Ali Kushayb relied on was his force. And every area that Ali Kushayb
10 targeted, he relied mostly on the Nubians, the Rizeigat Arabs who lived around
11 Garsila.

12 PRESIDING JUDGE KORNER: [12:08:33] So you mean he had the -- you mean
13 Bonjouse had the largest number of men available?

14 THE WITNESS: [12:08:50](Interpretation) Yes.

15 MS WHITFORD: [12:08:55]

16 Q. [12:08:55] Can you give us any approximate estimation of how many Janjaweed
17 troops or members were involved in the Tanako operation?

18 A. [12:09:09] I don't know that. These were citizens who mobilised not in an
19 organised way. Many men from many tribes just mobilised like that. There
20 was -- they did not follow a particular system for their number to be identifiable.

21 Q. [12:09:38] How did the number of Janjaweed troops in that operation compare
22 with the number of troops of the Sudanese army, do you know?

23 A. [12:09:54] The -- the Janjaweed or the knights, that's how they were called in
24 general, they were the largest force. As to the army, it was a limited force,
25 a simple -- correction: A small force. And they only had a supporting role and they

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1 used light arms such as Dushkas and * mortars, so the army force was small.

2 Q. [12:10:31] And in terms of the mode of transport used, how did the Sudanese
3 Armed Forces move?

4 A. [12:10:46] There were three or four vehicles only. As to the Janjaweed,
5 the knights, they were on horseback, camelback, and also other means of transport.

6 Q. [12:11:03] And how did members of the Popular Defence Forces travel on
7 operations like this?

8 A. [12:11:19] They had Cruiser vehicles. They had PDF-specific Cruiser vehicles.
9 Ali Kushayb had his own Cruiser vehicle. Muhammad Bonjouse also had his own
10 vehicle.

11 Q. [12:11:45] Do you know how Ali Kushayb got his own vehicle? And what type
12 of vehicle was it?

13 A. [12:11:58] I don't know how he obtained that vehicle, but I know that it was
14 a Land Cruiser.

15 Q. [12:12:09] Do you recall what colour his vehicle was?

16 A. [12:12:18] It was a regular kind of colour. It was an *agbash* (phon) colour,
17 similar to the colour of the ground here in this courtroom.

18 MS WHITFORD: [12:12:32] For the transcript, the witness is pointing at the floor of
19 the courtroom in Courtroom 2.

20 PRESIDING JUDGE KORNER: [12:12:42] For the purposes of the record, it's
21 a light-coloured wood.

22 MS WHITFORD: [12:12:49] Thank you, your Honour.

23 Q. [12:12:55] And you said that Hassaballah also participated in this operation.
24 How would Hassaballah travel normally?

25 A. [12:13:11] He had his own vehicle, a Land Cruiser. He, along with his soldiers,

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1 took part in the process, in addition to his soldiers who had joined Ali.

2 Q. [12:13:44] And was this operation successful? Were the rebels defeated, do you
3 know?

4 A. [12:13:54] Yes. The insurgents were defeated. And were it not for this
5 operation, the insurgents would have taken over the region of Garsila, would have
6 occupied it. But Garsila's -- but Ali Kushayb's -- but Ali's operation was successful in
7 quenching the insurgency in Wadi Salih.

8 Q. [12:14:28] And were you given any information about how Ali Kushayb had
9 performed as a commander during that operation?

10 A. [12:14:43] His performance was good. His performance was characterised with
11 manhood and strength. His performance was good.

12 MS WHITFORD: [12:15:05] Your Honour, if we could just briefly move into private
13 session to get the basis of knowledge.

14 PRESIDING JUDGE KORNER: [12:15:11] Yes.

15 (Private session at 12.15 p.m.)

16 THE COURT OFFICER: [12:15:21] We are in private session, Madam President.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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6 (Open session at 12.32 p.m.)

7 THE COURT OFFICER: [12:32:16] We're back into open session, Madam President.

8 MS WHITFORD: [12:32:24]

9 Q. [12:32:24] Mr Witness, you mentioned a moment ago *Umdah* Mohamed
10 Suleiman Abdulshafa of Tanako, who you said fled and was surrendered. Could
11 you explain what occurred in relation to the *umdah*.

12 A. [12:33:00] The *umdah* Mohamed Suleiman Abdulshafa was ill. He was on
13 the run. When his region was attacked, he fled towards the mountains.
14 Afterwards, he went to see his brother in Garsila. His brother then took him to
15 the *mu'atamid* and told him, "This is the *Umdah* Abdulshafa, so the -- so you don't
16 have to go look for him. We brought him here." And the *mu'atamid* organised
17 a closed meeting and informed them that the *umdah* Abdulshafa, who had
18 escaped -- who had fled his region had come to them, and they all agreed to say that
19 this *umdah* had to be surrendered to the barracks.

20 He was considered to be a rebel. He was thus brought to the barracks. And
21 (Redacted) in the officials' prison, the civil servants' prison.

22 Q. [12:34:28] When you refer to the *mu'atamid*, are you referring to
23 Ja'afar Abd-Al-Hakam again?

24 A. [12:34:38] Yes.

25 Q. [12:34:43] Your Honour, we're at paragraph 74 now.

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1 This meeting that you said was convened. What kind of meeting was that?

2 A. [12:35:04] It was a meeting for the leaders in the region that were members of
3 the local security committee. These were officers of the internal security. There
4 was the rapporteur, there was the police chief. The head of the military barracks was
5 also present. There was also the commander of the interior security forces. They
6 met in order to discuss the situation of Mohamed Abdulshafa, because according to
7 the information that they had, he was helping the rebels by providing them with
8 training and everything that they needed. So they discussed his case in order to take
9 a decision. They discussed this issue and then he was placed in the barracks.

10 Q. [12:35:56] And how do you know what was decided by this security committee
11 in this case?

12 A. [12:36:12] The security committee was a closed committee. And as for
13 Mohamed Abdulshafa, the *umdah*, what we could glean in the end was that he had
14 been detained by the armed forces within the barracks.

15 Q. [12:36:40] Was the *umdah* interrogated?

16 A. [12:36:48] Yes. He was first questioned (Redacted), and it was
17 the intelligence officer in charge who interrogated him. I don't know what
18 happened afterwards, but in the following days he underwent questioning by two
19 officers. First of all, by an intelligence officer at the (Redacted) barracks, and also by
20 an officer from Zalingei. I am not aware of the details.

21 Afterwards, when we went there the next day, we saw that he was ill and that his
22 situation had gotten worse. We thought of perhaps sending him to hospital.

23 Q. [12:37:59] You say that the intelligence officer in charge interrogated him. Are
24 you referring to Hamdi?

25 A. [12:38:10] Yes.

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- 1 Q. [12:38:13] And do you recall the -- sorry. Do you recall the name of
2 the intelligence officer from Zalingei who was involved in interrogating the *umdah*?
- 3 A. [12:38:28] Yes. This was a first lieutenant whose name was Seif-Al-Din Ahmad
4 Bakhit.
- 5 Q. [12:38:41] Just for the transcript, was the name Seif-Al-Din Ali Bakhit?
- 6 A. [12:38:52] It was Seif-Al-Din Ahmad Ali Bakhit. Seif-Al-Din Ahmad Ali Bakhit.
- 7 Q. [12:39:03] Do you recall if anyone else was involved in interrogating the *umdah*?
- 8 A. [12:39:30] Yes. We came the next day and we saw that the situation had gotten
9 worse because he was already sick.
- 10 Q. [12:39:41] Do you recall if any other civilian was arrested and brought to
11 the Garsila base at around this same time?
- 12 A. [12:39:59] Yes. All the civil servants were not members of the military,
13 including the civil servant who was in charge of the Garsila area. They were not
14 members of the military. They were interrogated and then they were released,
15 because we found that they -- they were found innocent.
- 16 Q. [12:40:35] Do you know a man by the name of Hassan Adam Musa?
- 17 A. [12:40:47] Yes. Hassan Adam Musa was the immediate neighbour of
18 Ali Kushayb. Hassan Adam Musa was a vet -- a veterinary doctor, and he was
19 called, together with the leader of the western district. He was summoned to
20 the barracks.
- 21 Q. [12:41:21] Who brought Hassan Adam Musa to the barracks?
- 22 A. [12:41:35] Ali Muhammad Ali, of course. It was his next door neighbour. It
23 was his neighbour and he brought him together with the *sheikh*, the *sheikh* of
24 the western neighbourhood. He could have protected them. He was the *sheikh*
25 (Redacted), whose name was Ismail Abdulaziz, but he was known as Ismail Dikobi.

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1 They were detained within the barracks.

2 Q. [12:42:14] Do you know on whose order Hassan Adam Musa and *Sheikh* Ismail
3 Dikobi were arrested?

4 A. [12:42:31] This was -- these instructions were given by Ali Muhammad Ali
5 Abd-Al-Rahman.

6 Q. [12:42:41] How do you know that?

7 A. [12:42:56] They were brought to the barracks. And when we asked them
8 the question to see why they had been summoned there, we were told that this was
9 because of instructions issued by Ali Kushayb.

10 Q. [12:43:17] Did Hassan Adam Musa and Ali Kushayb know each other, to your
11 knowledge?

12 A. [12:43:30] Yes, they were neighbours. The two houses are adjacent to each
13 other.

14 Q. [12:43:39] And do you know anything about the relationship between the two
15 men?

16 A. [12:43:54] I am not really aware of the relationship, but I know that one is from
17 the Fur tribe and the other one is from the Al Ta'aisha tribe. They had neighbourly
18 relations.

19 PRESIDING JUDGE KORNER: [12:44:12] I think the question was meant to be how
20 did they, the two men get on with each other.

21 THE WITNESS: [12:44:26](Interpretation) No, no. Hassan one day went to
22 complain about Ali Kushayb to the Dikobi -- to Chief Dikobi. He went to complain
23 about Ali Kushayb and said that Ali would -- was harassing him in his home. And
24 so the leader brought the two men together and asked Ali to stop going to his
25 neighbour's house. And in the end Ali stopped going to this house, but maybe after

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1 the beginning of the conflict this may have been an opportunity for him to seek
2 revenge.

3 MS WHITFORD: [12:45:27]

4 Q. [12:45:29] When you say Ali Kushayb was harassing Hassan Adam Musa in his
5 home, what did you mean by that?

6 A. [12:45:52] These were actually rumours in the village. According to these, Ali
7 was harassing his wife. And Garsila is a small village. These rumours spread
8 quickly. We heard rumours that stated that Ali was harassing Hassan Musa's wife,
9 and Hassan Musa went to Dikobi, to the chief Dikobi to complain. The chief brought
10 the two men together. And after that, each of the men went back to their own homes
11 and they stopped in a certain way being enemies.

12 Q. [12:46:49] Just for clarity, when you say the word "harassing", what do you
13 mean?

14 A. [12:47:15] The meaning is well known. He would go and dishonour
15 the -- the man's wife when the man wasn't there. These were the rumours that were
16 spreading around the village.

17 Q. [12:47:32] Did anybody in the Garsila base approve the detention of Hassan
18 Adam Musa and *Sheikh* Ismail?

19 A. [12:47:47] No, nobody agreed with this. (Redacted)
20 (Redacted)

21 (Redacted) And no one agreed with this order.

22 Q. [12:48:12] Can you explain how is it that Ali Kushayb, a Janjaweed leader, can
23 have people arrested and detained at the armed forces base. How is that possible?

24 A. [12:48:36] Ali Muhammad Ali didn't have a special place to detain the people
25 who were arrested. He would use his vehicle to move around the village. As

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1 a consequence, everyone who was arrested by him was then detained at the barracks,
2 because within the barracks there was a place for detaining people.

3 PRESIDING JUDGE KORNER: [12:49:14] Well, now you've returned to that, there
4 was something I wanted clarification on.

5 You said earlier, sir, and this is at page 56 of LiveNote, that Ali Kushayb did
6 investigations and eventually took over the process.

7 What do you mean by, first of all, he did the investigations?

8 THE WITNESS: [12:50:07](Interpretation) I didn't really understand the question.
9 Could you please explain this to me again.

10 PRESIDING JUDGE KORNER: [12:50:13] Yeah, I'll read you your exact answer, sir.
11 I just made a note.

12 Oh, sorry, did I say page 56?

13 Yes. Right at the bottom. You said, sir, that -- you were talking about the arrest of
14 Mohamed Suleiman Abdulshafa, and you said: "His brother surrendered him to
15 the local security committee [who] handed him (Redacted)."

16 And you said this: "... at the end Ali Kushayb took over this. He did a lot of
17 investigations and he took over the process."

18 And I wondered if you could explain that, what you mean by that.

19 THE WITNESS: [12:52:05](Interpretation) When it comes to Mohamed Suleiman
20 Abdulshafa, after he had been brought to the barracks, and of course Ali came to visit
21 him there because he had fled from Tanako and Ali was responsible, was in charge of
22 operations at Tanako. And since he'd fled in Tanako, he came to visit him. And
23 then he left. He had asked the security committee, he asked that the *umdah* be
24 delivered to him. But the *umdah* was not delivered to him. He was brought to the
25 barracks. He was detained there (Redacted). But then Ali came and got him

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1 (Redacted). He retrieved him from there.

2 PRESIDING JUDGE KORNER: [12:53:04] Yes. What I'm trying to understand, sir,
3 is this: Is it your evidence that Ali Kushayb actually conducted interrogations
4 generally?

5 THE WITNESS: [12:53:31](Interpretation) No. He did not interrogate anyone
6 (Redacted). He came to visit this person who had fled from Tanako, the *umdah*
7 Abdulshafa, and then he left. He would have wanted to arrest him in Tanako in the
8 forest.

9 PRESIDING JUDGE KORNER: [12:53:57] So this was a single occasion when he
10 intervened?

11 THE WITNESS: [12:54:17](Interpretation) You mean that Ali intervened one single
12 time, is that what you mean?

13 PRESIDING JUDGE KORNER: [12:54:22] Yes. Are you saying this is the only time
14 he intervened in the -- the process of arrest and interrogation?

15 THE WITNESS: [12:54:41](Interpretation) Yes, because he was not in fact
16 responsible for interrogations. He was in charge of operations, the horsemen's
17 operations at Tanako and Drissa. And he was chasing the *umdah* Abdulshafa
18 because he considered this *umdah* to be a forming -- to be training rebels in the forest.
19 He'd worked hard to try and stop him in that region, but he couldn't arrest him since
20 the *umdah* had fled. So * he came to visit him and found him at the barracks where
21 he was being detained. He came to visit him and then spoke to the person in charge
22 of the barracks, the person who's responsible for security, and asked him to be
23 delivered to him.

24 PRESIDING JUDGE KORNER: [12:55:41] All right.

25 So, finally, to go back to where Ms Whitford started this off, it wasn't that he had

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1 the power generally to have people arrested and detained?

2 THE WITNESS: [12:56:16](Interpretation) Even if he had wanted to, if he had had
3 the power to detain people, he didn't have a place to detain them, because he was on
4 the move and did not have a permanent place of detention in order to be able to
5 detain people.

6 PRESIDING JUDGE KORNER: [12:56:31] All right. I don't know, Ms Whitford, I
7 think we've gone around in a circle somewhat, but it doesn't sound as though
8 the question that you asked is based on what he's really saying. That's why I was
9 trying to work it out.

10 THE WITNESS: [12:57:07](No interpretation)

11 PRESIDING JUDGE KORNER: [12:57:08] Did you want water?

12 THE WITNESS: [12:57:10](Speaks English) Yes.

13 PRESIDING JUDGE KORNER: [12:57:10] Okay. I'll tell you what, sir. It's nearly
14 1 o'clock. We'll take the break at this stage. So we've got a much longer break now
15 until 2.30. And again, if you just remember not to discuss the evidence with
16 anybody.

17 Yes, very well. 2.30, please.

18 THE COURT USHER: [12:57:34] All rise.

19 (Recess taken at 12.57 p.m.)

20 (Upon resuming in open session at 2.40 p.m.)

21 THE COURT USHER: [14:40:43] All rise.

22 Please be seated.

23 PRESIDING JUDGE KORNER: [14:41:14] Yeah.

24 We are in public session at the moment, Ms Whitford. Can we stay there? All
25 right.

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1 MS WHITFORD: [14:41:23] Yes, your Honour.

2 PRESIDING JUDGE KORNER: [14:41:24] Sir, welcome back. I'm afraid we had to
3 move courts because there are technical problems. All right.

4 Yes, Ms Whitford.

5 MS WHITFORD: [14:41:41]

6 Q. [14:41:43] Good afternoon, Mr Witness.

7 In your evidence this morning you mentioned a military operation in the area of
8 Bindisi and Mukjar. Do you recall that?

9 A. [14:42:01] No, I do not remember that at all. When it was, I don't know. But
10 there was an attack on Bindisi and on Mukjar, but I do not recall when exactly that
11 was.

12 Q. [14:42:18] And what forces participated in that operation, to your knowledge?

13 A. [14:42:29] The rebels. Abd-Al-Wahid was a rebel, and his forces attacked these
14 cities. They attacked the forces that protected these two areas.

15 Q. [14:42:53] And following those rebel attacks, was there any response, militarily,
16 from the Government of Sudan?

17 A. [14:43:04] Yes. What matters is the forces that were there, they managed to
18 repel the attack, but there was no support from Zalingei or Garsila.

19 Q. [14:43:24] Sometime after that event, was there any other military operation in
20 the area of Bindisi and Mukjar?

21 A. [14:43:37] No.

22 Q. [14:43:49] In your evidence this morning, you also mentioned military operation
23 occurring in Segei, Segei Mara, Arawala and Gaba. I'd like to ask you about that
24 operation now.

25 Which forces carried out that military operation?

1 A. [14:44:26] The forces * of Muhammad Ali ... Kushayb.

2 Q. [14:44:36] And did you receive any information about what happened during
3 that military operation?

4 A. [14:44:52] The Ali's forces defeated the rebellion in this area, then returned to
5 Garsila.

6 Q. [14:45:11] In relation to Arawala, did you have any information about whether
7 there was a rebel --

8 A. [14:45:18] Arawala too. They reached Arawala and even further, and they
9 burned down all villages, people were forced to escape to the mountains.

10 Q. [14:45:37] Did you receive any information about whether there was any rebel
11 presence in Arawala at that time?

12 A. [14:45:52] Yes. After the government forces withdrew, Arawala had some
13 remaining rebels. And the rebels were all children of that area. They grew up in
14 that area. They were attacked, the villages were burned down, and people fled to
15 the mountains for fear for their lives.

16 Q. [14:46:27] And do you recall whether after Arawala those forces went to any
17 other village?

18 A. [14:46:39] Yes. They went to Deleig. And some of them went all the way to
19 Nyala, * went as far as Kalma.

20 Q. [14:46:58] For your reference, your Honour, I'm at paragraph 112 now.
21 Did you know the *shartay* of Arawala in 2003, 2004?

22 A. [14:47:16] *Shartay* Bashar. His name was Bashar.

23 Q. [14:47:21] Do you know what happened to *Shartay* Bashar after the attack on
24 Arawala?

25 A. [14:47:33] Yes, he fled with the citizens. They went to the mountains. After

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1 that, he came to Garsila.

2 Q. [14:47:50] Were there any other community leaders from that area that were
3 displaced to Garsila at that time?

4 A. [14:48:04] Yes. The *umdahs*, the *umdah* of Gaba and Forgo. No, not Forgo.
5 Yes, Forgo. And all these *umdahs*, they went to Garsila.

6 Q. [14:48:29] Do you recall the name of the *umdah* of Forgo?

7 A. [14:48:38] Yes. Adam Adam Kindiri. Adam Adam Kindiri.

8 Q. [14:48:48] And do you recall the name of the *umdah* of Gaba at that time?

9 A. [14:48:55] Yes. His name was *Umdah* Jiddo Khamis. Jiddo Khamis.

10 Q. [14:49:16] Was there a PDF commander in Garsila?

11 A. [14:49:26] Yes. There was a coordinator, and this coordinator may be even
12 higher than the commander, and he was positioned in Garsila.

13 Q. [14:49:41] Do you remember the name of that PDF coordinator?

14 A. [14:49:48] Yes. Hassaballah Dawud. Hassaballah Dawud.

15 PRESIDING JUDGE KORNER: [14:50:05] Sorry, when you say "coordinator",
16 coordinator between whom, sir?

17 THE WITNESS: [14:50:17](Interpretation) He coordinated between the Popular
18 Defence Force and the citizens. And the name of coordinator was given to
19 the coordinator, but he mainly, in addition to leading, he coordinated between
20 the government and the civilian forces.

21 MS WHITFORD: [14:51:08]

22 Q. [14:51:08] Was the -- was there a difference between a PDF commander and
23 a PDF coordinator? Are there two different positions?

24 A. [14:51:24] Yes. First, a commander leads the Popular Defence and leads them
25 in military operations. However, the coordinator arranges the ammunition, food

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1 and water. So a coordinator has a bigger role. The leader or the commander leads
2 military operations, but the coordinator liaises with the government.

3 Q. [14:52:03] Is the person occupying the coordinator role a civilian or military?

4 A. [14:52:14] He is a civilian. Hassaballah Dawud was a civilian, not a military
5 person.

6 Q. [14:52:33] Did you know anyone else in Garsila who had a role in the PDF?

7 A. [14:52:46] The *mu'atamid*. The *mu'atamid* was in charge of them all. But when
8 Ali Kushayb started playing his role, he was in charge of all of them.

9 Q. [14:53:11] Did somebody occupy the role of coordinator before Hassaballah?

10 A. [14:53:20] Yes. There was a coordinator whose name was -- I cannot remember
11 his name, but there was a coordinator. * Khalaf Hassaballah. No. Jenif. Jenif
12 was the coordinator of Garsila, and he was removed from office and Hassaballah took
13 over.

14 Q. [14:53:55] What tribe did Jenif belong to?

15 A. [14:54:04] To the Fur tribe.

16 Q. [14:54:09] Do you know where Jenif was originally from?

17 A. [14:54:20] I do not know his exact origin. He was a Fur person and he came as
18 an employee to Garsila. He worked in agriculture, but due to his position in Garsila
19 he was appointed as -- he was appointed to the PDF. Jenif was an educated person
20 and he was able to coordinate and speak on behalf of the Popular Defence Force.

21 Q. [14:55:07] Was Jenif appointed to the PDF before or after the conflict began?

22 A. [14:55:18] Before the conflict started.

23 Q. [14:55:26] You said that *Shartay* Bashar, *Umdah* Adam Adam Kindiri and *Umdah*
24 Jiddo Khamis were displaced to Garsila. Do you know what happened to them
25 when they arrived in Garsila?

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1 A. [14:55:49] They arrived and the *mu'atamid* was informed, and the *mu'atamid*
2 brought Adam Adam Kindiri and the *umdah* Jiddo Khamis to the police station. But
3 the *shartay* stayed with him at the *mu'atamid* office because he was sick.

4 Q. [14:56:19] And why did the *mu'atamid* bring Adam Kindiri and *Umdah* Jiddo and
5 the *shartay*? What was -- what was his role, the *mu'atamid*?

6 A. [14:56:43] As a *mu'atamid*, he took them away. And those who were brought to
7 the police station, they were released because they did not participate in the events.

8 Q. [14:57:10] Do you know what occurred at the police station prior to their release?
9 Was there any meeting?

10 A. [14:57:30] After they were released, they went to Deleig, because their families
11 left Arawala after the attack and went to Deleig. So they joined their families in
12 Deleig.

13 Q. [14:57:51] I'm not sure if there's a misunderstanding of terminology here.
14 You're talking about the police station. What police station are you talking about?

15 A. [14:58:14] Police.

16 PRESIDING JUDGE KORNER: [14:58:23] I think you need to ask the question again,
17 Ms Whitford, as to where they were taken when they were brought to Garsila and see
18 where we get to.

19 MS WHITFORD: [14:58:32] Yes.

20 Q. [14:58:33] Mr Witness, when *Shartay* Bashar, *Umdah* Kindiri and *Umdah*
21 Jiddo Khamis came to Garsila, where were they brought?

22 A. [14:58:49] They were brought to the house of the *mu'atamid*. And there, there
23 was a meeting regarding them. *Umdah* Kindiri and Jiddo Khamis were brought to
24 the * garrison, to the guards. And he kept *Umdah* Bashar with him -- he kept
25 the *umdah* with him because he was sick.

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1 Q. [14:59:27] Do I understand correctly then that *Shartay* Bashar was released and
2 not detained?

3 A. [14:59:42] Yes. He was sick, and when he was released his children brought
4 him to Khartoum, where he passed away.

5 Q. [14:59:55] And in relation to *Umdah* Kindiri and *Umdah* Khamis, were they
6 detained?

7 A. [15:00:05] No, they were released. And they went to Deleig and they were
8 arrested in Deleig.

9 Q. [15:00:16] Before they were released and went to Deleig, did you see them in
10 Garsila?

11 A. [15:00:28] Yes. When they were released, I took them to the house of one of my
12 relatives who is an in-law of theirs. They had a meal there, they had breakfast, and I
13 told them, "Now you are targeted. It is your country, but you are targeted here. So
14 it is better that you leave this place and that you come back after things calm down."
15 And they had with them the coordinator and he said that "We left Arawala with
16 nothing. We had nothing except for the clothes that we had on our bodies, so
17 we cannot really leave this area. Our children are in a bad state." So I left them and
18 went on my way.

19 Q. [15:01:31] When you say they had with them the coordinator, are you referring
20 to Jenif?

21 A. [15:01:39] Yes, Jenif.

22 Q. [15:01:43] And you said you took them to the house of a relative. Where did
23 you bring them from to that house?

24 A. [15:02:00] (Redacted), from the *hamia* (phon). After
25 the directions came to release them, they were released. I picked them up and I took

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1 them with me. Because they were in a very bad state.

2 Q. [15:02:21] I'm sorry to ask many questions about this, but just to be really clear.

3 You said *hamia* or the prison. Which prison, where?

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE KORNER: [15:04:47] Ms Whitford, we are getting a bit buried

19 in this, for what I take it is just paragraph 118 that you're trying to get out. If not, I

20 think we really should move on.

21 MS WHITFORD: [15:05:02] I'll move on, your Honour.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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25 MS WHITFORD: [15:08:43] Mr Witness, I just stop you there, because I think we

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1 should be in private session, your Honour.

2 PRESIDING JUDGE KORNER: [15:08:48] Yes. And we're still -- we're still -- we
3 haven't really moved much over these questions.

4 MS WHITFORD: [15:08:54] I think with this answer we have, your Honour. Yes,
5 we're moving along now.

6 PRESIDING JUDGE KORNER: [15:08:59] All right.

7 Yes. All right, private session.

8 (Private session at 3.09 p.m.)

9 THE COURT OFFICER: [15:09:16] We're in private session, Madam President.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

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7 (Open session at 4.00 p.m.)

8 THE COURT OFFICER: [16:00:43] We're back into open session, Madam President.

9 PRESIDING JUDGE KORNER: [16:00:46] Ms Whitford, how much longer? About
10 an hour?

11 MS WHITFORD: [16:00:49] It could go into a second session tomorrow, your
12 Honour. There is still quite some relevant information that this witness can give.

13 PRESIDING JUDGE KORNER: [16:00:57] Well, that hasn't been covered -- I thought
14 we were getting pretty near the end of his --

15 MS WHITFORD: [16:01:04] We are, your Honour. It could be finished possibly in
16 one session, but --

17 PRESIDING JUDGE KORNER: [16:01:08] Yeah, all right.

18 MS WHITFORD: [16:01:10] -- perhaps a second.

19 PRESIDING JUDGE KORNER: [16:01:13] And just so that I understand it, although
20 you've listed some videos, it's not your intention to show any?

21 MS WHITFORD: [16:01:21] In fact, your Honour, upon reviewing the list of material,
22 the videos that your Honour may have had in mind are not on the list.

23 PRESIDING JUDGE KORNER: [16:01:32] Oh, they're not. Okay.

24 MS WHITFORD: [16:01:34] And on reflection, that may have been an omission on
25 our part.

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- 1 PRESIDING JUDGE KORNER: [16:01:38] It seemed to me that if anybody was in
2 a position to tell us about it, it would be this witness, because he was there for so long.
3 When did he say he left? 2015 or something. Anyway.
- 4 MS WHITFORD: [16:01:49] Yes.
- 5 PRESIDING JUDGE KORNER: [16:01:49] All right. Well, I mean, I'm not going to
6 tell the Prosecution how to do its job.
- 7 MS WHITFORD: [16:01:58] We may -- we may have an application in relation to
8 that, your Honour.
- 9 PRESIDING JUDGE KORNER: [16:02:02] Well, I'll listen to it.
10 All right. Mr Shah, do you have any questions? I don't think this witness is
11 a victim at all, is he?
- 12 MR SHAH: [16:02:11] We don't anticipate any questions for this witness. Thank
13 you.
- 14 PRESIDING JUDGE KORNER: [16:02:14] No, that's what I thought.
15 Mr Laucci, roughly how long do you think you're going to be?
- 16 MR LAUCCI: [16:02:17] I would say minimum of four sessions. No more, in
17 the worst-case scenario, no more than five.
- 18 PRESIDING JUDGE KORNER: [16:02:28] But anyhow, we're definitely talking about
19 not finishing before Wednesday, at the earliest.
- 20 MR LAUCCI: [16:02:35] Yeah -- no, definitely not.
- 21 PRESIDING JUDGE KORNER: [16:02:37] All right. Yeah. Well, there we go.
22 Yes. Thank you.
- 23 THE COURT USHER: [16:02:44] All rise.
- 24 PRESIDING JUDGE KORNER: [16:02:47] Oh, we'll just wait and see what happens
25 tomorrow.

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