

Trial Hearing

(Open Session)

ICC-02/05-01/20

1 International Criminal Court  
2 Trial Chamber I  
3 Situation: Darfur, Sudan  
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")  
5 - ICC-02/05-01/20  
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and Judge Althea Violet  
7 Alexis-Windsor  
8 Trial Hearing - Courtroom 3  
9 Tuesday, 4 June 2024  
10 (The hearing starts in open session at 9.35 a.m.)  
11 THE COURT USHER: [9:35:14] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE KORNER: [9:35:28] Good morning, all.  
15 No need to call the case this morning.  
16 Appearances for the Defence, please.  
17 MR LAUCCI: [9:36:03] Good morning, Madam President. Good morning, judges.  
18 Good morning, colleagues. Good morning to the public.  
19 In the courtroom this morning for the Defence, together with Mr Ali Muhammad Ali  
20 Abd-Al-Rahman, our intern, Madam Pénélope Foures; legal assistants Haneen Ghali  
21 and Ahmad Issa; counsel Iain Edwards; and myself, Cyril Laucci.  
22 PRESIDING JUDGE KORNER: Yes, thank you, Mr Laucci.  
23 Prosecution.  
24 MR NICHOLLS: [9:36:31] Good morning, Madam President. Good morning, your  
25 Honours. Good morning to everybody.

1 Julian Nicholls with Alison Whitford, Claire Sabatini and Edward Jeremy.

2 PRESIDING JUDGE KORNER: Thank you very much.

3 And the representatives of the victims.

4 MS VON WISTINGHAUSEN: [9:36:44] Good morning, Madam President, your

5 Honours, dear colleagues. Good morning to everyone.

6 The participating victims this morning are represented by associate counsel, Anand

7 Shah; case manager, Saif Kassis; and we have our intern, Henriette Willberg; and the

8 visiting professional, Kathryn Ravey. Thank you very much.

9 PRESIDING JUDGE KORNER: [9:37:01] Thank you very much,

10 Ms von Wistinghausen.

11 Mr Laucci, just before the witness comes in, the message was that you want to be in

12 private session all the way through and I can see absolutely no reason why it should

13 be in private session. It can be in private session for the purposes of his name and

14 the usual identifying features, but for the rest, I'm afraid I don't follow why it should

15 be in private.

16 MR LAUCCI: [9:37:26] My perception, Madam President, is that almost everything

17 that this witness is saying is identifying.

18 PRESIDING JUDGE KORNER: [9:37:34] I don't -- and that's not what was

19 recommended, either, by the VWS.

20 MR LAUCCI: [9:37:39] I will have a lot of difficulty to ask any of the questions that I

21 anticipate to ask in public session. That's for sure.

22 And I cannot provide reasons in public session.

23 PRESIDING JUDGE KORNER: [9:37:50] Yes, Mr Nicholls?

24 MR NICHOLLS: [9:37:55] I haven't received that message and I'm sorry if I missed it,

25 but we would object to that. I don't see the reason for this witness to be in private

1 session. And I didn't respond to the VWS's recommendation, but they -- I mean,  
2 they seem pretty far-reaching to me, given the witness. And certainly from what  
3 we've seen in the -- not a huge amount of material, but the prep log and the very short  
4 screening, it doesn't all need to be in private. And I would object, because I think, as  
5 the Defence has said many times, it's important for as much of this to be public as  
6 possible, of course.

7 PRESIDING JUDGE KORNER: [9:38:34] Well, that's -- I mean, that's what's  
8 concerning me. In fact, very little of the Defence case has been heard in public  
9 session. I think effectively the experts are the only two witnesses.

10 All right, Mr Laucci, we'll go into private session first to see why you say everything  
11 you say -- everything you're going to ask him might reveal his identity.

12 So, yes, we'll go into private.

13 THE INTERPRETER: [9:39:04] Message from the interpreters: Could the  
14 microphone be pointed towards Mr Nicholls. Thank you very much.

15 PRESIDING JUDGE KORNER: [9:39:19] Did you hear that, Mr Nicholls? No, you  
16 haven't got your earphones on. They'd like you to have the microphone closer if  
17 you're going to speak.

18 (Private session at 9.39 a.m.)

19 THE COURT OFFICER: [9:39:33] We are in private session, Madam President.

20 (Redacted)

21 (Redacted)

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18 (Open session at 9.46 a.m.)

19 THE COURT OFFICER: [9:46:33] We are back in open session, Madam President,  
20 and the witness is at the location.

21 PRESIDING JUDGE KORNER: [9:46:40] Yes.

22 Sir, good morning, can you hear and understand me?

23 WITNESS: DAR-D31-D-0001

24 \* (The witness speaks Arabic)

25 (The witness gives evidence via video link)

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1 THE WITNESS: [9:46:50](Interpretation) Yes. Good morning.

2 PRESIDING JUDGE KORNER: [9:46:55] Before we ask you to repeat the words of  
3 the solemn declaration, there are just one or two things that I wanted to mention to  
4 you.

5 The first is this: You will be giving evidence, it's anticipated, for most of the day,  
6 and we will have breaks in the course of your evidence. Those breaks -- the first  
7 break will be at 11 o'clock for 30 minutes and then again at lunchtime for an hour and  
8 a half.

9 However, if at any stage you need a break, then do not hesitate to say so and  
10 obviously we'll give you a break.

11 The second thing is this: Once you start giving your evidence, you can no longer  
12 talk to any of the lawyers who may be present in your location or anybody about the  
13 evidence that you are giving, which I think was explained to you.

14 And, third, because everything you say has to be translated -- interpreted, rather, into  
15 different languages, it's important that you don't speak too quickly and leave a break  
16 between the question being put and giving your answer.

17 And the same, Mr Laucci, goes for you, about the breaks.

18 So, do you understand all that?

19 THE WITNESS: [9:48:54](Interpretation) Yes.

20 PRESIDING JUDGE KORNER: [9:48:57] Thank you very much.

21 In that case, would you like, please, to repeat the words of the solemn declaration  
22 which is going to be now read to you.

23 THE COURT OFFICER: [9:49:12] I solemnly declare.

24 THE WITNESS: [9:49:16](Interpretation) I solemnly declare.

25 THE COURT OFFICER: [9:49:20] That I will speak the truth.

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- 1 THE WITNESS: [9:49:28] (Interpretation) That I will speak the truth.
- 2 THE COURT OFFICER: [9:49:29] The whole truth and nothing but the truth.
- 3 THE WITNESS: [9:49:36](Interpretation) The whole truth and nothing but the truth.
- 4 THE COURT OFFICER: [09:49:41] Thank you, Witness. You are now under oath.
- 5 PRESIDING JUDGE KORNER: [9:49:44] Yes, thank you very much, sir.
- 6 Yes, Mr Laucci.
- 7 MR LAUCCI: [9:49:48] Can we go into private session, Madam President?
- 8 PRESIDING JUDGE KORNER: [9:49:50] Yes, you can at this stage.
- 9 Yes, private session, please.
- 10 (Private session at 9.49 a.m.)
- 11 THE COURT OFFICER: [9:49:57] We are in private session, Madam President.
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19 (Open session at 10.04 a.m.)

20 THE COURT OFFICER: [10:04:38] We are back in open session, Madam President.

21 PRESIDING JUDGE KORNER: [10:04:41] Yes, thank you.

22 MR LAUCCI: [10:04:42] Thank you, Madam President.

23 Q. [10:04:43] Mr Witness, we were talking about your access to the media in

24 general and you said that you were watching TV and listening to the radio.

25 My question -- my next question is how did you -- how did you hear for the first time

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1 that Mr Ali was wanted by this Court?

2 A. [10:05:13] The radio broadcast mentioned that a person called Ali Kushayb was  
3 wanted. However, we know that person as Ali Muhammad Ali Abd-Al-Rahman.

4 Q. [10:05:39] How did you make the link between the two -- the two names, I  
5 mean?

6 A. [10:05:46] The name we know is Ali Muhammad Ali. However, the name  
7 Ali Kushayb is a name we heard from -- on the radio, TV and from the International  
8 Criminal Court. I had not known that he was referred to by Ali Kushayb before that  
9 day. The name I knew -- I knew him with was Ali Muhammad Ali.

10 Q. [10:06:18] And were both names, Ali Kushayb and Ali Muhammad Ali  
11 Abd-Al-Rahman, mentioned in these broadcasts that you heard also?

12 A. [10:06:43] Ali Kushayb.

13 PRESIDING JUDGE KORNER: [10:06:50] Sir, what you're being asked is how you  
14 linked the name Ali Kushayb, which you heard on the radio, to the man you know,  
15 you say, as Ali Muhammad Ali. How did you make the link?

16 THE WITNESS: [10:07:21](Interpretation) It was said Ali Muhammad Ali. Then it  
17 was Ali Kushayb. We did not hear this from anybody, we just heard it from the  
18 radio and from the Court. But the name we knew is Ali Muhammad Ali  
19 Abd-Al-Rahman.

20 PRESIDING JUDGE KORNER: [10:07:38] Okay. But do you mean that the radio, at  
21 the same time as calling him Ali Kushayb, also called him Ali Muhammad  
22 Abd-Al-Rahman?

23 THE WITNESS: [10:08:03](Interpretation) It is the International Criminal Court that  
24 mentioned that.

25 PRESIDING JUDGE KORNER: [10:08:11] I'm none the wiser. Do you mean the

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1 radio or the television mentioned that the International Criminal Court in the arrest  
2 warrant was calling him "Ali Muhammad Abd-Al-Rahman"?

3 THE WITNESS: [10:08:28](Interpretation) Yes.

4 MR LAUCCI: [10:08:44]

5 Q. [10:08:44] And -- thank you, Mr Witness. And outside this ICC context, or on  
6 TV and radio, did you ever hear the name "Ali Kushayb"?

7 A. [10:09:05] I had not heard that name before.

8 Q. [10:09:09] Do you know what "Kushayb" means?

9 A. [10:09:16] I do not know.

10 Q. [10:09:23] (Microphone not activated)

11 THE INTERPRETER: [10:09:38] Counsel, mic.

12 MR LAUCCI: [10:09:40]

13 Q. [10:09:40] Mr Witness, now I will ask you questions... (Counsel confers)

14 MR LAUCCI: [10:09:51] Okay, no introduction.

15 Q. [10:09:54] Mr Witness, can you present, please, the Ta'aisha tribe to the Court?

16 A. [10:10:02] The Ta'aisha tribe is a tribe that has a history. It goes back to caliph  
17 Abdullah Ta'aisha. This tribe has a long history in Sudan. It is a tribe that brings  
18 together all people. It is a social tribe open to everyone. Every person who joins  
19 the Ta'aisha tribe becomes a member of the Ta'aisha. It is not an ethnic tribe.

20 Q. [10:10:57] Is Rahad Al-Berdi the main city on the territory of the Ta'aisha?

21 A. [10:11:08] Yes.

22 Q. [10:11:16] And would you be able to say how many inhabitants live on the  
23 territory of the Ta'aisha?

24 A. [10:11:28] All the tribes that are part of the Ta'aisha, now Arab and non-Arab,  
25 live in the *dar* Al-Ta'aisha and are part of the tribe.

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1 Q. [10:11:52] Thank you. But are you able to provide an approximate number of  
2 these inhabitants?

3 A. [10:12:11] Well, at the moment, the number of the Ta'aisha is not trivial and the  
4 Arab --

5 THE INTERPRETER: [10:12:23] Correction --

6 THE WITNESS: [10:12:24](Interpretation) -- the non-Arab tribes that live with the  
7 Ta'aisha is also not a trivial number. Do you want me to give you an approximate  
8 number of all Ta'aisha or of the non-Arabs among Ta'aisha only?

9 MR LAUCCI: [10:12:35]

10 Q. [10:12:36] If you can provide both, that will be interesting.

11 A. [10:12:47] The Ta'aisha is a whole community. There are thousands of the  
12 Ta'aisha. The tribes that live with the Ta'aisha are also numerous. There are many  
13 who live among them who are not Ta'aisha. I can't give you a precise figure, but I  
14 can tell you they are as many as the universe, and this applies to both the Ta'aisha and  
15 the non-Arabs who live among the Ta'aisha.

16 It is a large tribe that has long roots in history. Arabs and non-Arabs alike attribute  
17 themselves to the Ta'aisha and fall under the administration of the Ta'aisha.

18 Q. [10:13:31] Thank you, Mr Witness. What are the other tribes that you already  
19 mentioned who are living on the territory of the Ta'aisha?

20 A. [10:13:45] The Fur, the Masalit, the Tama, the Borgo, the Zaghawa, the Sara, the  
21 Kara, the Masalit, all the aforementioned tribes are part of the *dar* Al-Ta'aisha. They  
22 belong to the Ta'aisha, they are part and parcel of the Ta'aisha.

23 Q. [10:14:20] Okay. Are the Fur community an important community in  
24 Rahad Al-Berdi?

25 A. [10:14:35] They are very important. They, in particular, are part and parcel of

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1 the Ta'aisha.

2 (Counsel confers)

3 MR LAUCCI: [10:14:50]

4 Q. [10:14:51] Can you explain better your answer why they, the Fur, in particular,  
5 are --

6 JUDGE KORNER: [10:15:03] Part and parcel.

7 MR LAUCCI: [10:15:05]

8 Q. [10:15:09] -- part and parcel - thank you - of the Ta'aisha?

9 A. [10:15:09] The Fur tribe is the only tribe whom we consider as part of the family,  
10 and this goes back to English colonisation. As I said, the Ta'aisha has a long history  
11 that goes back to our Fur fathers, our co-existence with them pre-dates the times of  
12 displacement. We are the only tribe --

13 THE INTERPRETER: [10:15:45] Correction --

14 THE WITNESS: [10:15:46](Interpretation) The only tribe that has inter-marriages  
15 with the Ta'aisha, is the Fur tribe.

16 Q. [10:16:04] And you just mentioned inter-marriages, that's the word you used,  
17 between Fur and the Ta'aisha. Do you have examples of such marriages?

18 A. [10:16:23] Yes. There are inter-marriages.

19 Q. [10:16:31] {ICR: (Redacted)}

20 A. [10:16:37] (Redacted)}

21 PRESIDING JUDGE KORNER: [10:16:51] You asked for that. That was bound to  
22 happen; so, Mr Laucci, please be careful.

23 MR LAUCCI: [10:17:00] Yes. And I have already requested a redaction for that.

24 Q. [10:17:04] Do the Fur have tribe representatives in the *dar* of the Ta'aisha?

25 A. [10:17:16] Yes, they do have an *umdah* and sheikhs who represent the Ta'aisha



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1 tribe.

2 Q. [10:17:38] Okay. Does the Fur *umdah* sit in the tribal council of  
3 Rahad Al-Berdi?

4 A. [10:17:47] He does, because he/they are part of the Ta'aisha.

5 Q. [10:18:01] And the Fur community in Rahad Al-Berdi, are they born there, are  
6 they -- did they come from abroad or is it a mix of both?

7 A. [10:18:16] Some are born there; others have come from elsewhere. All of them,  
8 this mix, are now living there and are part of the *dar* of the Ta'aisha.

9 Q. [10:18:39] And do you know why some of these Fur people came from  
10 elsewhere and established themselves or settled in the *dar* of the Ta'aisha?

11 A. [10:18:55] The Fur who came from elsewhere had problems. Even if they were  
12 away, we consider them part of our community and hence they belong to the Ta'aisha  
13 community.

14 Q. [10:19:22] Do the Ta'aisha have enemies, like tribes that -- with which you have  
15 problems and that you can consider your enemies?

16 A. [10:19:38] Not at the moment. There isn't at the moment.

17 MR LAUCCI: [10:19:52] Madam President, I will need to go to private session for  
18 further questions on this point, that is related to the reasons of the last postponement  
19 of the appearance.

20 (Private session at 10.20 a.m.)

21 THE COURT OFFICER: [10:20:36] We are in private session, Madam President.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Open session at 10.28 a.m.)

2 THE COURT OFFICER: [10:28:55] We're back in open session, Madam President.

3 MR LAUCCI: [10:29:03]

4 Q. [10:29:03] Mr Witness, are you aware of a conflict that must have taken place  
5 about 10 years ago, 2012-2013, between the Ta'aisha tribe and the Salamat tribe?

6 A. [10:29:25] Yes.

7 Q. [10:29:32] Can you tell us what this conflict was about?

8 A. [10:29:37] Now there is no problem between the Salamat and the Ta'aisha.

9 Q. [10:29:58] But 10 years ago, what was the problem? We understand it's  
10 resolved, but what was the problem 10 years ago?

11 A. [10:30:08] The problem was about lands.

12 Q. [10:30:26] Can you explain a little bit more, please. Was it a land dispute?  
13 What was it?

14 A. [10:30:34] Yes.

15 Q. [10:30:45] Okay. When was it resolved?

16 A. [10:30:52] I cannot remember, but it was solved during the time {ICR: (Redacted)  
17 (Redacted)}

18 Q. [10:31:08] Do you -- what do you know about the conditions of the resolution?  
19 What were the terms of the agreement that resolved the conflict?

20 A. [10:31:27] I cannot remember these conditions. I don't know them, {ICR:  
21 (Redacted)}

22 PRESIDING JUDGE KORNER: [10:31:45](Microphone not activated) asking the  
23 questions, I'm afraid, Mr Laucci. It's not -- what was the fighting, what was the  
24 argument about the land? Either he knows or he doesn't know, as opposed to how it  
25 was settled, or whatever.

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1 MR LAUCCI: [10:32:09]

2 Q. [10:32:09] Mr Witness, if you heard the question from Madam President: What  
3 was the argument about the land? Can you tell us what you know about it, please.

4 PRESIDING JUDGE KORNER: [10:32:23] What was -- not the agreement. What  
5 was the argument about? And all you've got to do is summarise it, sir.

6 THE WITNESS: [10:32:45](Interpretation) It was a tribal problem on land, but now  
7 the problem is solved and there are no problems between the Salamat and the  
8 Ta'aisha. It is true that the Salamat are not present in the *dar* of the Ta'aisha, but the  
9 problem that was there before is resolved and now there are no problems between the  
10 two tribes.

11 PRESIDING JUDGE KORNER: [10:33:07] I don't know whether it's particularly  
12 relevant, because it's more relevant as to the fighting that took place, but it's no good  
13 saying that the problem was settled. What was the argument about? Were you  
14 claiming land that the Salamat said was theirs, or was it the opposite and they were  
15 claiming land you said belonged to you? It's a simple question, sir.

16 THE WITNESS: [10:33:48](Interpretation) The Salamat did not have land of the  
17 Ta'aisha. It is true that they lived in the land of the Ta'aisha, and they were thinking  
18 that they had some ownership that is outside of the Ta'aisha. So even when they  
19 lived in the *dar* of the Ta'aisha, they felt that they were under an administration that  
20 was not the administration of the Ta'aisha. So they lived with the Ta'aisha, but the  
21 *zakat*, the taxes that were paid, as well as services that was provided in the Ta'aisha  
22 *dar*, so the Salamat did not belong to this. They said they did not recognise this.  
23 They said that they belonged to another side, or another administration, and this is  
24 why there was an argument, there was the problem, and then later on the  
25 government came and made a reconciliation between the Ta'aisha and the Salamat.

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1 Even now, a part of the Salamat live in the *dar* of the Ta'aisha, and some of them come  
2 originally from the *dar* of the Ta'aisha. So this is what I know about the problem.

3 PRESIDING JUDGE KORNER: [10:34:56] Right. Thank you very much, sir.

4 MR LAUCCI: [10:35:00]

5 Q. [10:35:00] Thank you, Mr Witness.

6 At any point had some families of the Salamat, did they have to leave the *dar* of the  
7 Ta'aisha because of this conflict?

8 A. [10:35:15] Yes.

9 Q. [10:35:23] Why did they leave?

10 A. [10:35:29] They left voluntarily.

11 Q. [10:35:37] And do you know why they took that decision?

12 A. [10:35:41] I don't know why they chose to leave. So they lived alongside  
13 people and they decided they belong under another administration, so one day they  
14 just decided to leave.

15 Q. [10:36:07] And where did they go?

16 A. [10:36:11] They went to Nyala.

17 Q. [10:36:19] Thank you. And I think you mentioned already that nowadays,  
18 today, at the time we are talking, you still have some members of the Salamat tribe in  
19 the *dar* of the Ta'aisha, right?

20 A. [10:36:37] Now there is an *umdah* who represents the Salamat in the Ta'aisha.

21 Q. [10:36:50] Okay. Is he sitting in the tribal council?

22 A. [10:36:55] Yes.

23 Q. [10:37:03] Thank you.

24 MR LAUCCI: [10:37:04] Madam President, I'm about to talk about the current  
25 occupation of the witness, so I would need to do that in private session.

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1 PRESIDING JUDGE KORNER: [10:37:11] Private session, please.

2 (Private session at 10.37 a.m.)

3 THE COURT OFFICER: [10:37:24] We're back in private session, Madam President.

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11 (Open session at 10.50 a.m.)

12 THE COURT OFFICER: [10:50:34] We are back in open session, Madam President.

13 MR LAUCCI: [10:50:49] Thank you.

14 Q. [10:50:49] Mr Witness, can you tell us who falls under the authority of the *nazir*?

15 A. [10:50:57] Can you please repeat?

16 Q. [10:51:12] Yes. Who does the *nazir* have authority?

17 PRESIDING JUDGE KORNER: [10:51:23] In other words, is it the whole tribe? Is  
18 that what you're asking?

19 MR LAUCCI: [10:51:27] I do not want to put words in the mouth, but --

20 THE WITNESS: [10:51:36](Interpretation) Yes. Yes.

21 MR LAUCCI: [10:51:40]

22 Q. [10:51:41] Okay. What about the members of other tribes who live on the *dar* of  
23 the Ta'aisha, do they also fall under the authority of the *nazir*?

24 A. [10:51:55] Yes.

25 Q. [10:51:57] And what about members of the Ta'aisha tribe who do not live on the

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1 *dar* of the Ta'aisha, but live somewhere else in Sudan or elsewhere, do they also fall  
2 under the authority of the *nazir*?

3 A. [10:52:17] All the Ta'aisha, but they would have an agent who represents the  
4 authority. {ICR: (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

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16 (Redacted)

17 (Redacted))}

18 PRESIDING JUDGE KORNER: [10:54:06] If you're going on like this, Mr Laucci --

19 THE WITNESS: [10:54:11](Interpretation) These persons will follow any  
20 administration that is present in their area.

21 PRESIDING JUDGE KORNER: [10:54:18] Yes, okay. Is that the end of this topic?

22 MR LAUCCI: [10:54:20] No.

23 PRESIDING JUDGE KORNER: [10:54:20] Right. Well, that's clearly a topic that  
24 was going to -- in the way you've asked the questions, was going to need to be done  
25 in private session, so we'll go back into private session because otherwise this whole

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1 bit is going to be part of the struck-out bit.

2 (Private session at 10.54 a.m.)

3 THE COURT OFFICER: [10:54:49] We are back in private session, Madam President.

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6 (Recess taken at 10.56 a.m.)

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

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

9 Please be seated.

10 MR LAUCCI: [11:34:48] Thank you, Madam President.

11 Q. [11:34:50] Mr Witness, we will resume your appearance. We are in public  
12 session, so just don't say anything that could identify yourself.

13 What is an *agid al-ogada*, please?

14 I will repeat the question. Can you tell the Court what is an *agid al-ogada*?

15 (Counsel confers)

16 MR LAUCCI: [11:35:42] Maybe our colleagues in Bangui can check if the  
17 microphone of the witness is on.

18 THE WITNESS: [11:36:13](No interpretation)

19 MR LAUCCI: [11:36:18]

20 Q. [11:36:18] Mr Witness, there was a technical problem. We did not  
21 (Overlapping speakers)

22 A. [11:36:32] *Agid al-ogada* is a communital representative. For example, if a  
23 dignitary is visiting the area, or if we have a major celebration, *agid al-ogada* would  
24 represent the community in such events. And also outside the area, if a dignitary is  
25 visiting the locality and we wanted to hold the major celebration to receive the

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1 dignitary, the *agid al-ogada* would, by custom, represent the community, would bring  
2 together those who are on the outskirts of the area, would bring the camels and  
3 horses, and the people, to make a respectable reception of the dignitary. So the  
4 *agid al-ogada* has a communital role within the tribe and within the area or town, as  
5 I said, for a celebration or for receiving an important dignitary.

6 Say, also, if we had a reconciliation, in celebration of the reconciliation the  
7 *agid al-ogada* would bring forth any person who has a camel or a horse in order for us  
8 to hold a respectable event in front of everyone. That is the role of *agid al-ogada*.

9 Also, if a social event takes place in town, *agid al-ogada* is the person who brings  
10 people from the villages that are outside the area and informs the villagers of a major  
11 celebration that they need to attend. Those are the duties of *agid al-ogada*.

12 Q. [11:38:15] Thank you. Does the Ta'aisha tribe have an *agid al-ogada*?

13 A. [11:38:32] It is an *agid* and not an "*aqid*".

14 Q. [11:38:39] Forgive me. I repeat my question. Does the Ta'aisha tribe have an  
15 *agid al-ogada*?

16 PRESIDING JUDGE KORNER: [11:38:52](Microphone not activated)

17 THE WITNESS: [11:38:54](Interpretation) Yes, the Ta'aisha does have an *agid*. It is  
18 an *agid* and not an "*aqid*".

19 MR LAUCCI: [11:39:03]

20 Q. [11:39:04] Thank you. And is there only one, or more than one?

21 A. [11:39:15] More than one *agid* -- three, four; say, five *agids*.

22 PRESIDING JUDGE KORNER: [11:39:23] Sorry, can I just ask: How does one  
23 become -- oh, right. Go on, Mr Laucci.

24 MR LAUCCI: [11:39:31] Oh please. In French we say "*c'est à ton tour*" -- your turn,  
25 Madam President.



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1 PRESIDING JUDGE KORNER: [11:39:36] How does one become an *agid al-ogada*?

2 Is it an election, is it chosen, what?

3 THE WITNESS: [11:39:50](Interpretation) An *agid* is not elected. As I said, it is a  
4 communital position within the tribe. Any person, any -- it's the leader of the house  
5 or the family. Each and every house and family has a person like that. But every  
6 tribe sees who is the most distinguished person to represent the tribe to play a  
7 communital role. Such person, or such persons, three or four individuals would be  
8 appointed as *agids*.

9 MR LAUCCI: [11:40:33]

10 Q. [11:40:33] To make sure that we fully understand, you just said that *agids*, or  
11 *aqids*, are appointed at the level of a small group, like a family, so is it the -- are you  
12 talking about the *agid* here or the *agid al-ogada*?

13 A. [11:41:01] I'm talking about the *agid* and not *agid al-ogada*.

14 Q. [11:41:05] Okay. Thank you. Then, now, next question: How is the  
15 *agid al-ogada* appointed?

16 A. [11:41:26] He is appointed at the level of the -- as a head of the family or at the  
17 administrative level. For example, we have *umdahs*, different *umdahs*. Every *umdah*  
18 is a head of a certain clan within the Ta'aisha.

19 An *agid* is appointed by the administration, and the administration is appointed by  
20 the *umdahs*. For example, al Falla has *umdahs* among the Ta'aisha, and also we have  
21 these heads of families within the Ta'aisha whom we refer to by Walad Saye (phon),  
22 in addition to Al Jubarat, in addition to Oulad Amar (phon) and Al Jararah (phon).  
23 These are different sub-tribal groups or clans, and these five or six different  
24 representatives together would appoint an *agid* who would play a communital role.  
25 This is how an *agid* is appointed. It is through the *umdahs*. Five -- every five or six

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1 *umdahs* would appoint an *agid* such is the representation of the *agid*.

2 PRESIDING JUDGE KORNER: [11:42:58] That brings us back to the *agid al-ogada*.

3 How does some -- is there more than one *agid al-ogada*? Not ordinary *agids*, but  
4 *al-ogada*?

5 THE WITNESS: [11:43:26](Interpretation) There's only one *agid al-ogada*, not several.  
6 And every *agid* falls under the authority of an *agid al-ogada*.

7 PRESIDING JUDGE KORNER: [11:43:38] And how does the person who is the  
8 *agid al-ogada* get to be there? Is he appointed by the *nazir* or is he appointed by the  
9 *umdahs*?

10 THE WITNESS: [11:44:01] (Interpretation) All *agids* are ethical people known for  
11 their leadership skills. They choose a person who would be their *agid al-ogada*. For  
12 --

13 PRESIDING JUDGE KORNER: Thank you very much, sir. That's very clear,  
14 finally.

15 THE WITNESS: [11:44:22] (Interpretation) It should be someone who understands  
16 the situation.

17 MR LAUCCI: [11:44:34]

18 Q. [11:44:35] At some point in your answer, a little bit before, sir, you refer to the  
19 administration. Just a matter of clarification, are you talking about the tribal  
20 administration or something else?

21 A. [11:45:03] Something else -- I don't quite understand your question. What do  
22 you mean a "tribal administration" or other tribe -- or "other administration"?

23 Q. [11:45:14] To be more concrete, for instance, does the governor of the state, the  
24 *wali*, or its administration play a role in the appointment of the *agid al-ogada*?

25 A. [11:45:27] No. The governor does not have a role in appointing *agid al-ogada*.

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1 It is a pure communital matter.

2 Q. [11:45:44] Okay. Are *agid al-ogada* of the Ta'aisha tribe only appointed in the  
3 *dar* of the Ta'aisha or can the Ta'aisha have *agid al-ogada* outside their territory, outside  
4 the *dar*?

5 A. [11:46:03] Only in the Ta'aisha area, or *dar*.

6 Q. [11:46:13] Who have *agid al-ogada* authority on?

7 A. [11:46:31] *Agid al-ogada* does not have an authority over a particular person. He  
8 represents the entire community, the entire Ta'aisha.

9 Q. [11:46:40] My question may not have been clear, but the answer was the one  
10 I expected.

11 Do you know a person by the name of Manzul Daoud El Madhi?

12 A. [11:47:13] Yes, he's an *agid*.

13 Q. [11:47:18] Is he an *agid* or an *agid al-ogada*?

14 A. [11:47:24] An *agid*.

15 Q. [11:47:28] Since when has he been an *agid*?

16 A. [11:47:42] I do not recall when -- since when exactly, but what I know is that he  
17 is an *agid*.

18 Q. [11:47:47] Okay. Can you tell us who is Ahmed Ibrahim Semeh?

19 A. [11:48:01] Ahmed Ibrahim Al-Semeh also was an *agid* within the Ta'aisha  
20 administration. Now he is an *umdah* who represents the Ta'aisha administration.

21 Q. [11:48:18] Do you remember who was the *agid al-ogada* of the Ta'aisha tribe  
22 20 years ago -- sorry, I was asking about 20 (Overlapping speakers) --

23 A. [11:48:40] Please proceed.

24 Q. [11:48:42] Yes. My question is: Do you remember who was the *agid al-ogada*  
25 of the Ta'aisha tribe 20 years ago in 2003-2004?

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1 A. [11:48:58] I know the *agids* Ahmed Ibrahim Al-Semeh and Al-Manzul -- about  
2 only six that I know of.

3 Q. [11:49:20] Sorry, were these two gentleman *agid* or *agid al-ogada* in 2003-2004?

4 A. [11:49:35] They are *agids* within the Ta'aisha administration.

5 Q. [11:49:45] Okay, but then I repeat another time my question. Do you know  
6 who was the *agid al-ogada* in this time?

7 THE INTERPRETER: [11:49:55] Counsel, by "this time", you mean 20 years ago?

8 THE WITNESS: [11:50:10] (Interpretation) I don't know who was *agid al-ogada*  
9 20 years ago. I -- I know the *agids* of the Ta'aisha administration. I don't know the  
10 other reference.

11 PRESIDING JUDGE KORNER: [11:50:38] Do you remember the time of the  
12 insurgency and the counter-insurgency, 2003 to '04?

13 Okay, I'll repeat the question: Do you remember the time in 2003 to '04, you were  
14 still a young man, when the conflict was going on between the Government of Sudan  
15 and the Fur?

16 THE WITNESS: [11:51:22] (Interpretation) {ICR: (Redacted)  
17 (Redacted)}

18 PRESIDING JUDGE KORNER: [11:51:30] Yes, sir, I understand that. I'm asking  
19 whether you remember that period?

20 THE WITNESS: [11:51:40] (Interpretation) I don't remember it well. {ICR: (Redacted)  
21 (Redacted)}

22 PRESIDING JUDGE KORNER: [11:51:50] Right. Okay. So, you don't remember  
23 who at that period was the *agid al-ogada*?

24 THE WITNESS: [11:52:02] (Interpretation) No, I do not remember.

25 MR LAUCCI: [11:52:09]

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1 Q. [11:52:09] To your knowledge, Mr Witness, has Mr Ali ever been an *agid al-ogada*  
2 of the Ta'aisha tribe?

3 PRESIDING JUDGE KORNER: [11:52:20] Well, sorry, Mr Laucci, you keep on  
4 saying "Mr Ali", but the only person who's referred to Mr Ali is you throughout this  
5 whole trial. He's never said that the person he knows -- I'm sorry, not the whole trial,  
6 this witness.

7 MR LAUCCI: [11:52:35] I will reformulate my question.

8 Q. [11:52:39] Mr Witness, do you know if Mr Ali Muhammad Ali Abd-Al-Rahman  
9 has ever been an *agid al-ogada* of the Ta'aisha tribe in his life?

10 A. [11:52:56] I am not aware that he was an *agid* at that time.

11 Q. [11:53:02] And could you answer that question with respect to the specific  
12 position of *agid al-ogada*, please?

13 A. [11:53:25] What I know is *agid* Ahmed Ibrahim Sameh and Manzul, those are the  
14 only *agids* I'm familiar with.

15 Q. [11:53:43] But was there an *agid al-ogada* in the Ta'aisha tribe 20 years ago, to  
16 your knowledge?

17 A. [11:54:02] Every administration has an *agid*, but an *agid* that is only within the  
18 Ta'aisha district, not anywhere else. If somebody was an *agid*, he would have been  
19 within the Ta'aisha's own district.

20 Q. [11:54:22] Mr Witness, I will ask you to concentrate one minute, please. I'm  
21 asking you questions about *agid al-ogada*, and you systematically respond by talking  
22 about the *agids*. Why that?

23 A. [11:54:50] I only respond with what I know. I don't know that Mr X or Mr Y  
24 were *agid al-ogadas*. You asked me about who was *agid* within the Ta'aisha. You  
25 asked me about two individuals whom I was able to recognise. But I'm not familiar

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1 with anyone else holding or ever holding the position of *agid*.

2 Q. [11:55:19] Okay. Thank you.

3 Madam President just asked you about the -- the events between the authorities of the  
4 government in Sudan and the Fur 20 years ago, in 2003-2004. I want to talk about  
5 that. So now we will talk about these events took place in 2003-2004, essentially in  
6 Wadi Salih, Mukjar region.

7 And my first question is: Did you hear 20 years ago that the Government of Sudan  
8 was trying to mobilise Arab militias to fight against the rebellion or against the Fur?

9 A. [11:56:43] Could you please repeat?

10 Q. [11:56:47] Do you remember hearing that 20 years ago - 2003-2004 - the  
11 Government of Sudan was trying to mobilise the Arab militias to fight against the  
12 rebellion in Wadi Salih and Mukjar?

13 A. [11:57:15] Yes, there was indeed some mobilisation related to the problems  
14 between the Arabs on the one hand and the *zurga* on the other hand, but the Ta'aisha  
15 tribe did not take part in the mobilisation, in the conflict or in the insurgency related  
16 problems.

17 Q. [11:57:41] You just used the word "*zurga*", or at least it was translated so. What  
18 do you mean by this word, please?

19 A. [11:58:03] The problems that were back then -- the government was sowing  
20 discord between Arabs on the one hand and non-Arabs on the other hand.

21 Q. [11:58:19] Okay. But what does "*zurga*" mean?

22 A. [11:58:34] Problems between Arabs and non-Arabs.

23 Q. [11:58:38] Okay. So what did you hear exactly? How did the government do  
24 to mobilise the Arab militias?

25 A. [11:59:05] This concerned the Arab militias.

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1 Q. [11:59:13] I know, but I'm asking you what you know about it.

2 A. [11:59:27] I don't know about it. What I know is that such problems existed, as  
3 I have previously mentioned.

4 Q. [11:59:42] Okay. Do you know if the Ta'aisha tribe was approached by the  
5 Government of Sudan to join against the rebellion?

6 A. [12:00:04] {ICR: (Redacted)}

7 MR LAUCCI: [12:00:12] Madam President, I think it's safer to go into private session  
8 for this topic.

9 PRESIDING JUDGE KORNER: [12:00:18] Yes, private session.

10 (Private session at 12.00 p.m.)

11 THE COURT OFFICER: [12:00:38] We are in private session, Madam President.

12 (Redacted)

13 (Redacted)

14 (Redacted)

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8 (Open session at 12.18 p.m.)

9 THE COURT OFFICER: [12:18:46] We are back in open session, Madam President.

10 PRESIDING JUDGE KORNER: [12:18:51] Sir, during the time of the conflict between  
11 the government and the Fur, did any refugees come to Rahad Al-Berdi?

12 THE WITNESS: [12:19:13] (Interpretation) Any person from the Fur who came or  
13 who is in the Ta'aisha *dar* is a member of the tribe and not a refugee.

14 PRESIDING JUDGE KORNER: [12:19:27] Forget whether they become members of  
15 the Ta'aisha tribe. The simple question which you are being asked is: During the  
16 time of the conflict in 2003 to '04, when you say the Ta'aisha tribe was not mobilised,  
17 did refugees -- did Fur refugees come to Rahad Al-Berdi?

18 That's the only question which can be answered -- yes or no.

19 THE WITNESS: [12:20:10] (Interpretation) Yes -- yes, people from the Fur came, but  
20 we do not consider them as refugees.

21 MR LAUCCI: [12:20:21]

22 Q. [12:20:21] Okay. Do you have any explanation as to why these new people  
23 came to Rahad Al-Berdi?

24 A. [12:20:47] Who came?

25 Q. [12:20:51] The -- the Fur people that we were talking about, who arrived, new

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1 arrivals in 2003-2004, do you know why they decided to come to Rahad Al-Berdi?

2 A. [12:21:08] There were problems in the places where they came from, so the  
3 problems were the reason why they came. And they came to Rahad Al-Berdi  
4 locality, and, when they arrived there, they become -- became a part of this area and a  
5 part of the Ta'aisha tribe.

6 Q. [12:21:27] When they arrived in Rahad Al-Berdi, where were they  
7 accommodated?

8 A. [12:21:40] They were accommodated inside the -- the Ta'aisha tribe-land. Each  
9 person had their house and they lived inside these houses, so they -- these were inside  
10 the land of the Ta'aisha.

11 Q. [12:21:58] Okay. If I understand correctly, inside the land, but also inside the  
12 houses of the inhabitants; right?

13 PRESIDING JUDGE KORNER: [12:22:08] (Overlapping speakers) say they were give  
14 given their own houses.

15 THE WITNESS: [12:22:13](Interpretation) Every person of these has a house. So  
16 each person who arrived was given a place or they built a house for them so they can  
17 stay in these houses. So each person had the house and had also a -- things to plant  
18 on their farm, so they all had things in the *dar* of the Ta'aisha.

19 MR LAUCCI: [12:22:38]

20 Q. [12:22:38] Okay, but these houses that were given to them, who did they belong  
21 to before?

22 A. [12:22:52] The *dar* has a *nazir* and the *nazir* has *umdahs* and sheikhs, so these give  
23 directions to the people to allocate lands -- you allocate lands for these people and  
24 each person eventually has a house that they own.

25 Q. [12:23:13] Okay. So that's -- so your answer is that the inhabitants of the *dar* are

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1 requested to allocate a -- a house or a portion of land to the newcomers; right?

2 MR NICHOLLS: [12:23:27] Your Honour, it's incredibly leading and it's not what the  
3 witness said.

4 PRESIDING JUDGE KORNER: [12:23:32] (Microphone not activated) All right.  
5 (Counsel confers)

6 MR NICHOLLS: [12:23:54] What he said -- sorry, was some land is allocated and  
7 eventually there's a house there, which is what he said earlier, they build a house. I  
8 know it --

9 PRESIDING JUDGE KORNER: [12:24:04] Yeah, it wasn't quite --

10 MR LAUCCI: [12:24:07] Page 57, lines 1 to 5:

11 The *dar* has a *nazir* and the *nazir* has *umdahs* and sheikhs, so these -- *nazir*, the *umdahs*,  
12 the sheikhs -- give instruction -- direction, sorry -- to the people to allocate lands --  
13 allocate lands for these people and each person eventually has a house.  
14 I fail to see where I'm leading, sorry.

15 PRESIDING JUDGE KORNER: [12:24:31] Okay. All right. Yes. But it -- it -- it  
16 sounded as though it was the *nazirs* and the -- who were organising the houses, not  
17 the inhabitants.

18 MR LAUCCI: [12:24:45] Okay. I will rephrase my question.

19 Q. [12:24:49] Did the *nazir*, *umdah* and sheikhs direct the inhabitants to give houses  
20 or lands?

21 PRESIDING JUDGE KORNER: [12:24:57] What does "direct the inhabitants" mean?  
22 That's the problem.

23 Look, let's go back.

24 Sir, when these people who --

25 THE WITNESS: [12:25:15] (Interpretation) The *nazir* gives directions and gives each



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1 person a house and a farm, a small land to plant things.

2 PRESIDING JUDGE KORNER: [12:25:23] Okay. And were did the -- the houses  
3 that were given, were those empty houses or were there people living in them before?

4 THE WITNESS: [12:25:35] (Interpretation) Most houses there are not empty houses.  
5 So we build the houses with the straw and we don't have these luxurious buildings.

6 PRESIDING JUDGE KORNER: [12:25:55](Overlapping speakers)

7 THE WITNESS: [12:25:56](Interpretation) So if you stay there for a long time, you  
8 can later on develop your house in the way that you want.

9 PRESIDING JUDGE KORNER: [12:26:05] Yes. Okay. But when these new people  
10 arrived, did -- were the houses then --

11 THE WITNESS: [12:26:16](Interpretation) If you arrive now to the Ta'aisha land, we  
12 give you the material to build your own house, and then if you have money, maybe  
13 you can do your own developments.

14 PRESIDING JUDGE KORNER: [12:26:31] All right. So, is what you're saying --  
15 I think we have spent a long time on a small point. Is what you're saying that they  
16 were given the moneys or the materials to build their houses?

17 THE WITNESS: [12:26:53](Interpretation) Before them, there were Fur people who  
18 lived there, and these people were bringing the -- the wood and straw and everything  
19 for the newcomers to build their houses, and then if the newcomers decide to settle  
20 there, they can work to develop on their houses.

21 So if people come as refugees, there are organisations who help them to build their  
22 houses. But if they come to us in the *dar* of the Ta'aisha, they will -- new houses will  
23 be built on the style of the Ta'aisha tribe, and then if you decide to settle there, then  
24 you can do your own developments.

25 PRESIDING JUDGE KORNER: [12:27:41] Okay. And while the houses were being

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1 built, where did the new people live?

2 THE WITNESS: [12:27:52](Interpretation) Inside the locality, in the neighbourhoods.

3 PRESIDING JUDGE KORNER: [12:27:59] So are you saying, in other people's  
4 homes?

5 THE WITNESS: [12:28:06] (Interpretation) Each person is given -- given their house,  
6 so no -- nobody stays in somebody else's house. We have lots of land. Everybody  
7 lives inside the city and inside the house.

8 PRESIDING JUDGE KORNER: [12:28:24] All right. Thank you very much, sir.

9 MR LAUCCI: [12:28:34]

10 Q. [12:28:34] Do you know anyone from Rahad Al-Berdi who -- who welcomed  
11 some newcomers for their settlement? Do you know anyone who provided a house  
12 that was already existing to welcome people?

13 A. [12:29:05] If -- if somebody in the *dar* does not have a home, then this person  
14 would be hosted by somebody else.

15 Q. [12:29:15] Somebody else from where, a newcomer's -- another newcomer or  
16 someone from the locality?

17 Maybe not clear. I will repeat.

18 Were newcomers accommodated in houses from people of the locality?

19 A. [12:30:06] I told you that if a person has an empty house, then they would host  
20 the new people. So if you have any empty place, anybody would live in it without  
21 any objections.

22 Q. [12:30:20] Perfect. To be sure we are perfectly clear, that person who has an  
23 empty house, are you talking of someone from the locality?

24 A. [12:30:39] Whether you had an empty house or did not have such an empty  
25 house, something would be given to the person as a shelter. There is no objection to

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1 that happening.

2 Q. [12:30:53] Given by whom?

3 PRESIDING JUDGE KORNER: [12:30:56] (Microphone not activated)

4 Mr Nicholls, I mean, we're never going to get to the end of this at the rate we're going.

5 Mr Laucci, I think if you start from another angle, you may do better at what you're  
6 trying to get.

7 MR LAUCCI: [12:31:09] Okay. I will jump to the final question under this topic.

8 PRESIDING JUDGE KORNER: [12:31:13] Just try -- all you've got to do is look at it  
9 from another angle. That's what advocacy is all about.

10 MR LAUCCI: [12:31:23] Difficult to find an angle when we go in circles,

11 Madam President.

12 PRESIDING JUDGE KORNER: [12:31:29] All right.

13 MR LAUCCI: [12:31:31]

14 Q. [12:31:32] Mr Witness, do you know or do you remember if Mr Ali Muhammad  
15 Ali Abd-Al-Rahman hosted, himself, some newcomers back in this time?

16 A. [12:31:52] Ali was very much willing to provide for any poor person. He's a  
17 man of high ethics.

18 Q. [12:32:10] And do you know if he did?

19 A. [12:32:22] Yes, he did.

20 (Counsel confers)

21 MR LAUCCI: [12:32:38]

22 Q. [12:32:39] Thank you.

23 MR LAUCCI: [12:32:42] Madam President, the next topic is Mr Ali Muhammad  
24 Ali Abd-Al-Rahman and it's precisely how the witness knows him and everything, so  
25 I think private session is safer, maybe not for the full topic but at least for the first

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1 questions.

2 PRESIDING JUDGE KORNER: [12:32:58] Yeah, all right.

3 (Private session at 12.33 p.m.)

4 THE COURT OFFICER: [12:33:17] We are in private session, Madam President.

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15 (Open session at 12.37 p.m.)

16 THE COURT OFFICER: [12:37:25] We are back in open session, Madam President.

17 MR LAUCCI: [12:37:32]

18 Q. [12:37:33] What can you tell us about the general reputation of

19 Mr Ali Muhammad Ali Abd-Al-Rahman in the Ta'aisha tribe?

20 A. [12:37:52] Ali's reputation was that he helped the weak and stood by the poor.

21 He was a very socially engaged person with all the tribes that were in the territory or

22 the *dar*. He was a very respectful person. He's not a man of wealth. He had a

23 wage and he had -- and he owned a small number of animals and some plantation,

24 yet he was very generous and hospitable to the poor and the weak.

25 Q. [12:38:39] Did he ever have any specific position within the tribe, I mean official

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1 position within the tribe?

2 A. [12:38:57] He did not hold any position.

3 Q. [12:39:02] To your knowledge, was he involved in politics?

4 A. [12:39:14] No.

5 PRESIDING JUDGE KORNER: [12:39:18] Sorry, Mr Laucci. Can we establish at  
6 what period he's talking about now because he said he didn't get to know him until  
7 2010?

8 MR LAUCCI: [12:39:35] My --

9 PRESIDING JUDGE KORNER: [12:39:36] (Overlapping speakers)

10 MR LAUCCI: [12:39:38] My questions were general, but...

11 PRESIDING JUDGE KORNER: [12:39:43] Well, I think it's --

12 Sir, you told us you only met him in 2010.

13 THE WITNESS: [12:39:57](Interpretation) Yes, that's when I was acquainted with  
14 him, and I'm not aware that he has been involved in politics or anything similar.

15 PRESIDING JUDGE KORNER: [12:40:06] No, but the way you've described him as  
16 helping the weak, standing by the poor, socially engaged, not a man of wealth, is that  
17 you from your own knowledge after you got to know him or what you'd heard about  
18 him before you met him?

19 THE WITNESS: [12:40:33](Interpretation) It is based on my acquaintance with him.  
20 I've known him as a generous and brave person who helped the weak and the poor.

21 MR LAUCCI: [12:40:50]

22 Q. [12:40:50] Okay, and did -- did anybody ever make you a different description  
23 of Mr Ali, for instance -- from Mr Ali Muhammad Ali Abd-Al-Rahman, for instance,  
24 from a period before you -- you got to know him?

25 A. [12:41:23] I'm not aware of anything like that and why would anyone tell me --

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1 give me any description that is different from the description I gave? Nobody has  
2 ever given me such description.

3 PRESIDING JUDGE KORNER: [12:41:40] Okay, let's give you a hand, Mr Laucci.  
4 Before you met him in 2010, had you heard about him at all?

5 THE WITNESS: [12:41:53](Interpretation) I had not heard about him, anything.

6 MR LAUCCI: [12:42:01]

7 Q. [12:42:01] So still -- I'm still asking you about what you know and what you  
8 have -- the opinion and what you could witness about Mr Ali, so talking about 2010  
9 and after. To your knowledge, did -- was he an adherent or sympathiser to any  
10 political party?

11 A. [12:42:35] I'm not aware of that.

12 Q. [12:42:40] Was he known to be a Muslim brother?

13 A. [12:42:50] I don't know.

14 Q. [12:42:55] Did you ever hear him making discriminatory speeches against the  
15 Fur?

16 A. [12:43:10] No.

17 Q. [12:43:14] Did you ever hear members of the Fur tribe saying anything bad  
18 about Mr Ali Muhammad Ali Abd-Al-Rahman?

19 A. [12:43:28] I did not hear that.

20 Q. [12:43:39] Are you aware of any other name used by people in Rahad Al-Berdi  
21 to call Mr Ali Muhammad Ali Abd-Al-Rahman?

22 A. [12:43:56] The people of Rahad Al-Berdi, when it comes to them, no, I have not  
23 heard anyone among them referring to him with any other name.

24 Q. [12:44:09] Was Mr Ali Muhammad Ali Abd-Al-Rahman known to drink  
25 alcohol?

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1 A. [12:44:20] No.

2 Q. [12:44:32] When you met him in 2010 or so, do you know if Mr Ali Muhammad  
3 Ali Abd-Al-Rahman had been in Rahad Al-Berdi for a long time?

4 I repeat my question: In 2010, when you say you met him for the first time, had  
5 Mr Ali Muhammad Ali Abd-Al-Rahman already been in Rahad Al-Berdi for a long  
6 time or...

7 A. [12:45:50] When I was young I was not acquainted with him. But when I grew  
8 up, I was acquainted with him and he had been well-known among the Ta'aisha,  
9 and -- and there are other people that I hear about and whom I have not met myself.  
10 Among the Ta'aisha a lot of people have left the area, went to work elsewhere, were  
11 appointed by the government to work in other places, but when he returned to the  
12 territory, I was then acquainted with him. And he is part of the Ta'aisha. When  
13 I first met him, I was a graduate of the police and he was an officer of the CRF, he was  
14 a commander in the CRF and I was myself a police officer.

15 Q. [12:46:48] Okay. You say "when he returned", is that the period when you met  
16 him?

17 A. [12:47:03] When he returned, I was in town and so was he, and it was  
18 meaningful to get acquainted with all cousins or relatives. I could not have acted as  
19 if I can't -- as if I don't know him, so it was the natural thing to get acquainted with  
20 him.

21 PRESIDING JUDGE KORNER: [12:47:24] I'm sorry, is he -- he's a relative of yours, is  
22 he?

23 THE WITNESS: [12:47:37] (Interpretation) Even if he weren't your cousin, he's from  
24 town, and you wouldn't call him by his name, you would call him "uncle" and so  
25 forth out of respect. He's a member of the same tribe. He doesn't have to be a first



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1 cousin or a distant relative. He's a member of the tribe and, hence, he is considered  
2 as a cousin.

3 MR LAUCCI: [12:48:10] Does that clarify, Madam President?

4 PRESIDING JUDGE KORNER: [12:48:15] (Microphone not activated)

5 MR LAUCCI: [12:48:27]

6 Q. [12:48:27] Do you have any common blood lineage with Mr Ali Muhammad  
7 Ali Abd-Al-Rahman?

8 A. [12:48:49] We're all Ta'aisha and Ta'aisha have clans among them. If somebody  
9 didn't belong to your same clan, he would still belong to the Ta'aisha. It is as per our  
10 customs and traditions, a member of your own home territory and your tribe is one of  
11 your own. It doesn't matter if he's a direct relative or not. He would still be  
12 considered a cousin. Any senior person in town, you wouldn't call them by their  
13 first name. You can't call the person "Ali", you call them "uncle" out of respect. Yet  
14 such person is a member of the Ta'aisha and, as I said, within the Ta'aisha there are  
15 clans, subgroups, within the tribe. That applies to Ali. It doesn't matter if the  
16 person is your actual uncle or not. You would refer to the person, in any event, as  
17 "uncle" out of respect. In the case of the gentleman in question, that would be "Uncle  
18 Ali" instead of just "Ali".

19 MR LAUCCI: [12:49:59] Can I proceed?

20 PRESIDING JUDGE KORNER: [12:50:00] (Microphone not activated)

21 MR LAUCCI: [12:50:02]

22 Q. [12:50:02] I little bit earlier, Mr Witness, you mentioned that when you met him,  
23 Mr Ali Muhammad Ali Abd-Al-Rahman was a commander in the CRF. Do you  
24 know what was his actual rank?

25 A. [12:50:22] A warrant officer, *musaid*, that's what he was.

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1 Q. [12:50:29] Okay. So we establish that at some point in time, around 2010,  
2 Mr Ali Muhammad Ali Abd-Al-Rahman returned to Rahad Al-Berdi.

3 My question is: Was he welcome in Rahad Al-Berdi when he returned?

4 A. [12:50:54] Of course someone coming back to town would be welcome. Would  
5 he be instead rejected? Of course, he'd be welcomed.

6 Q. [12:51:10] So there was no reason -- according to you, there was no reason for  
7 not welcoming him; right?

8 A. [12:51:29] He is a member of the town folk. He is a member of the Ta'aisha.  
9 He is not a guest.

10 Q. [12:51:45] Do you remember anybody expressing concern about his return to  
11 Rahad Al-Berdi?

12 A. [12:51:57] Nobody was concerned about his return. Everybody welcomed him  
13 back.

14 Q. [12:52:03] Among the Fur members, the Fur population of Rahad Al-Berdi, do  
15 you remember anyone saying that he -- he should not be welcome?

16 A. [12:52:23] The Fur in Rahad Al-Berdi now are only concerned about him being  
17 back safe with them.

18 Q. [12:52:37] Okay. But back in time, in 2010, when he returned, was there any  
19 reaction in the Fur population of Rahad Al-Berdi?

20 A. [12:52:52] No. They welcomed him. Not a single Fur person rejected him.  
21 They considered him one of their own.

22 Q. [12:53:32] I repeat my question: In 2010, or so, do you remember among the  
23 Fur population people expressing concern about the return of Mr Ali Muhammad  
24 Ali Abd-Al-Rahman or saying that he should not be welcome?

25 A. [12:54:06] All the Fur who were in the Rahad Al-Berdi locality welcomed him.

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1 Not a single Fur refused to welcome him back then.

2 PRESIDING JUDGE KORNER: [12:54:30] I'm not at all clear, Mr Laucci. Came  
3 back from what, as what, and when?

4 MR LAUCCI: [12:54:37] The question is about the time when the witness met  
5 Mr Ali Muhammad Ali Abd-Al-Rahman.

6 PRESIDING JUDGE KORNER: [12:54:43] Right.

7 MR LAUCCI: [12:54:44] He said that he met him then because he was returning to  
8 the -- Mr Ali Muhammad Ali Abd-Al-Rahman was returning to Rahad Al-Berdi, and  
9 the question is precisely about how -- how did people react to his return.

10 PRESIDING JUDGE KORNER: [12:54:58] Well, I thought he met him because they  
11 were both serving in the same service, not because he was returning to  
12 Rahad Al-Berdi.

13 MR LAUCCI: [12:55:05] But he mentioned earlier, maybe we can find the page, that  
14 it was at the time when Mr Ali Muhammad Ali Abd-Al-Rahman came back to  
15 Rahad Al-Berdi.

16 PRESIDING JUDGE KORNER: [12:55:14] All right. Okay.

17 Did he come back to Rahad Al-Berdi as a policeman; is that what you're saying?

18 THE WITNESS: [12:55:28] (Interpretation) Yes.

19 PRESIDING JUDGE KORNER: [12:55:32] I see. Yes, all right, thank you.

20 MR LAUCCI: [12:55:36]

21 Q. [12:55:36] So I will repeat a last time my question: When he returned in 2010 --  
22 was it answered?

23 Okay, sorry, I did not get the answer. I think -- I do not get the interpretation. I do  
24 not get the interpretation. I don't know what -- why.

25 THE INTERPRETER: [12:56:02] Can you hear me, Mr Laucci?

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1 MR LAUCCI: [12:56:10] Ah, yes, now yes. Hence the reason why I'm keeping  
2 repeating.

3 Q. [12:56:26] Do you remember, sir, when you learned for the first time that  
4 Mr Ali Muhammad Ali Abd-Al-Rahman was wanted by the Court? Do you  
5 remember that time?

6 A. [12:56:48] The first time I heard that, it was something aired on radio and TV.

7 Q. [12:56:59] Okay. And what was your reaction? What did you think?

8 A. [12:57:14] What did I think about what?

9 Q. [12:57:17] About Mr Ali Muhammad Ali Abd-Al-Rahman being wanted by the  
10 Court?

11 (Counsel confers)

12 MR LAUCCI: [12:57:59] There was no response?

13 Madam President, I'm looking at the time. I still need 15 minutes, I would say, but  
14 I think it's -- we can take the break now and I will complete my examination after the  
15 lunch.

16 PRESIDING JUDGE KORNER: [12:58:16] Yes, all right. (Microphone not activated)

17 MR LAUCCI: [12:58:25] We did not show a video. We -- oh, yeah, yeah, sorry.

18 Yes. My mistake. No, I mean, we have done so many preparation in a row. No,  
19 I don't.

20 PRESIDING JUDGE KORNER: [12:58:37] (Microphone not activated)

21 Sir, we're going to take the break for lunch. That will last 90 minutes, so if you  
22 would like to be ready to start again at half past 2 this afternoon, or 90 minutes on.  
23 You may or may not complete your evidence today, but if you don't complete it today,  
24 you'll complete it tomorrow morning.

25 Yes, thank you. Yes, 2:30, please.

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- 1 THE COURT USHER: [12:59:18] All rise.
- 2 (Recess taken at 12.59 p.m.)
- 3 (Upon resuming in open session at 2.32 p.m.)
- 4 THE COURT USHER: [14:32:24] All rise.
- 5 Please be seated.
- 6 MR LAUCCI: [14:32:48] Thank you, Madam President.
- 7 Q. [14:32:50] Good afternoon, Mr Witness.
- 8 I have a few last questions to -- to ask you to complete my examination-in-chief.
- 9 From about 2010, when you met him in Rahad Al-Berdi, until his departure in 2020,
- 10 did Mr Ali Muhammad Ali Abd-Al-Rahman always stay in Rahad Al-Berdi or was he
- 11 absent in some period?
- 12 A. [14:33:34] Yes, in Rahad Al-Berdi.
- 13 Q. [14:33:39] And did he always stay in the Central Reserve Forces over that
- 14 period?
- 15 A. [14:33:51] Yes.
- 16 Q. [14:33:55] Did you -- still on that period, did you ever hear about Mr Ali being
- 17 moved to another place, another deployment for the Central Reserve Forces?
- 18 A. [14:34:18] He was moved to Nyala, but he was not moved.
- 19 Q. [14:34:28] Was he moved or was he not?
- 20 A. [14:34:31] He was not.
- 21 Q. [14:34:34] Okay. So why do you mention that he was moved to Nyala? What
- 22 happened? Can you explain.
- 23 A. [14:34:53] He was moved to Nyala for military reason -- reasons, but people
- 24 there refused. They said Ali would not fight there. So they -- they responded to
- 25 that -- to the locals.

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1 Q. [14:35:10] Who responded? Is it the people in Rahad Al-Berdi or the people in  
2 Nyala?

3 A. [14:35:24] He was a military man and the military command has the option to  
4 deploy him anywhere. But if you are a commander in a specific region, and you take  
5 care of the security of people, of the vulnerable, especially when it comes to farming,  
6 and you protect their rights, so these people, the vulnerable, the people working in  
7 farming, they requested that Ali remains because he protects their interests, especially  
8 with farming.

9 Q. [14:36:04] So you say these people "requested" that he stay. Are you talking  
10 about the people in Rahad Al-Berdi?

11 A. [14:36:16] Yes. In particular, our Fur locals, the Fur locals in this area.

12 PRESIDING JUDGE KORNER: [14:36:30] Okay. Originally, sir, when Mr Laucci  
13 asked you, he -- you -- he asked you: "Why do you mention that he was moved to  
14 Nyala? What happened?" Your answer was, and this is line 17: "He was moved to  
15 Nyala for military reasons, but the people there refused."

16 Now you say it's the people in Rahad Al-Berdi.

17 THE WITNESS: [14:37:06](Interpretation) I don't know the military reasons. If  
18 you are a military personnel, there is command in charge of your deployment, so  
19 people of this area went to the command and requested that he would remain  
20 because he takes care of our interests, so possibly the military command responded  
21 or -- and agreed to that.

22 PRESIDING JUDGE KORNER: [14:37:32] And -- I'm sorry, while we're on the topic,  
23 what was it about Mr Abd-Al-Rahman that made him, in particular, a protector of  
24 people in Rahad Al-Berdi? Why him?

25 THE WITNESS: [14:38:02](Interpretation) Could you repeat the question again.

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1 PRESIDING JUDGE KORNER: [14:38:04] I can. What was it that made the people  
2 in Rahad Al-Berdi specifically say they wanted Mr Abd-Al-Rahman to remain there?

3 THE WITNESS: [14:38:28](Interpretation) All people, when he was a commander in  
4 the CRF in Rahad Al-Berdi protecting the locals and protecting their agricultural  
5 interests and many other things.

6 PRESIDING JUDGE KORNER: [14:38:45] So what do you mean, he was the man in  
7 charge of the station, the police station, at Rahad Al-Berdi?

8 THE WITNESS: [14:38:56](Interpretation) Yes, the CRF.

9 PRESIDING JUDGE KORNER: [14:38:59] Thank you.

10 Yes.

11 MR LAUCCI: [14:39:03]

12 Q. [14:39:03] And just -- just to follow up on the question of Madam President. Is  
13 that in that position that he -- he made himself popular among the population?

14 Yes, is it because of what he -- he -- he did as a -- a leader of  
15 the Central Reserve Forces in Rahad Al-Berdi, is it because of that that the popular --  
16 that the population was liking him and didn't -- didn't want him to leave?

17 A. [14:39:55] All the people like him, all the locals liked him.

18 Q. [14:40:01] And at some point you mentioned that included the Fur population in  
19 Rahad Al-Berdi, right?

20 A. [14:40:10] Yes, our families in the Fur tribe, yes.

21 Q. [14:40:15] Okay. Thank you.

22 To your knowledge, sir, did representatives of the Office of the Prosecutor ever come  
23 to Rahad Al-Berdi to ask questions and investigate on Mr Ali Muhammad Ali  
24 Abd-Al-Rahman?

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1 A. [14:40:42] I do not recall.

2 PRESIDING JUDGE KORNER: [14:40:46] And that's something that -- that can be  
3 agreed, one way or another.

4 MR LAUCCI: [14:40:53] Thank you, Madam President.

5 Q. [14:40:55] If -- if you had met, if some people from the Office of the Prosecutor  
6 had come to Rahad Al-Berdi, would you have met with them to -- to tell them what  
7 you know about Mr Ali Muhammad Ali Abd-Al-Rahman?

8 A. [14:41:23] I told you they did not come. Nobody from the Court came.

9 Q. [14:41:31] And yourself, did you -- did you try to contact the Court to tell what  
10 you knew about Mr Ali Muhammad Ali Abd-Al-Rahman?

11 A. [14:41:51] They did not ask me. Why would I ask them?

12 PRESIDING JUDGE KORNER: [14:41:54] Fair enough.

13 MR LAUCCI: [14:41:57] Okay.

14 Q. [14:42:03] Thank you. I have a -- no. No, no need.

15 My last series of questions is about the trip, so it will be in -- in private session.

16 PRESIDING JUDGE KORNER: [14:42:19] Yeah, we'll go into private session.

17 (Private session at 2.42 p.m.)

18 THE COURT OFFICER: [14:42:38] We're in private session, Madam President.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

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11 (Open session at 2.55 p.m.)

12 THE COURT OFFICER: [14:55:29] We're back in open session, Madam President.

13 QUESTIONED BY MS VON WISTINGHAUSEN:

14 Q. [14:55:38] Mr Witness, my name is Natalie von Wistinghausen. I'm  
15 representing the participating victims in this trial. I couldn't be there for  
16 the courtesy visit. You have met my case manager, and I have a few questions for  
17 you.

18 A. [14:56:05] Okay.

19 Q. [14:56:06] What I first want to say is that we are in open session, so please, when  
20 you answer my questions, make sure that you don't reveal your identity, nor  
21 the identity of any of your family members. Do you understand that?

22 A. [14:56:30] Mmm.

23 Q. [14:56:36] Mr Witness, I have a few questions for you regarding the situation of  
24 the Fur community in your village in the years of 2003 and 2004.

25 You said this morning: "Some Fur were away from Rahad Al-Berdi" --

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1 A. [14:57:03] You're welcome to ask.

2 Q. [14:57:05] Yes. You said: "Some Fur were away from Rahad Al-Berdi and they  
3 came back because they had problems."

4 And just to make sure that we know where we situate ourselves, we are in 2003 and  
5 2004.

6 I would like to give a little bit of historical context of what you said, and you are  
7 going to tell me if you agree with me. All right?

8 So correct me if I am wrong, there was a conflict --

9 A. [14:57:56] I can hear you.

10 Q. [14:57:57] Okay. There was a conflict between the Fur tribe and the Arab tribes  
11 already in the years --

12 A. [14:58:08] Yes.

13 Q. [14:58:10] -- 1988 to 1994. You were still very young at that time. And this  
14 conflict resulted in a destruction and burning of most of the villages around  
15 Rahad Al-Berdi and the inhabitants were displaced to other places like Mukjar,  
16 Bindisi and Kodoom and they sought refuge there until the years 2003 and 2004; do  
17 you agree with me?

18 A. [14:58:49] No.

19 Q. [14:58:50] Okay. Can you elaborate why you disagree?

20 A. [14:59:02] I disagree that there were no Fur living in Rahad Al-Berdi who were  
21 murdered and burnt during the -- starting '88, 1988.

22 The Fur who came to Rahad Al-Berdi came from remote areas, not from near areas  
23 and they were not killed by the Ta'aisha. They came to the Ta'aisha and the Ta'aisha  
24 hosted them, incorporated them and now they are part of the Ta'aisha tribe.

25 Q. [14:59:43] Yes. This is not what I'm suggesting. I'm trying to give some

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1 context to the people belonging to the Fur community who came, as you said this  
2 morning, to Rahad AI-Berdi, in 2003 and 2004. And what I'm saying is that these  
3 people originally came from Rahad AI-Berdi and fled the area at the end of the '90s,  
4 beginning of the -- at the end of the '80s, beginning of the '90s and then came back to  
5 Rahad AI-Berdi when they were persecuted in Mukjar, Bindisi and Kodoom. Do  
6 you agree with me? And if you don't know, just say you don't know.

7 A. [15:00:35] In 1982, I was not born back then. I don't know anything about  
8 the eighties, I was born in 1983.

9 Q. [15:00:46] Okay. You have explained to us that the Furs that came back to  
10 Rahad AI-Berdi in 2003 and 2004 had *umdahs* who sat on the tribal council with  
11 the Ta'aishas, right?

12 A. [15:01:18] Yes.

13 Q. [15:01:21] And I agree with you -- it may have been *sheikhs* rather than *umdahs*,  
14 but that's not the point, but do you agree with me that these Fur people had no say in  
15 security or land decisions and that they only had a say in daily matters of what was  
16 going on in the village? Do you agree with me?

17 A. [15:01:56] Repeat, please.

18 Q. [15:02:01] You explained this morning that members of the Fur community who  
19 came back to Rahad AI-Berdi were allowed to sit in the tribal council, *umdahs* and  
20 *sheikhs*; is that correct?

21 A. [15:02:20] Yes, they are a part of the administration of Rahad AI-Berdi. They  
22 are a parcel, like an integral part of it.

23 Q. [15:02:32] And if I suggest to you that these Fur tribe members did not have  
24 a say in the security or land decisions, would you agree with me?

25 A. [15:02:54] Which lands?

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1 Q. [15:03:02] Rahad Al-Berdi and the surrounding villages.

2 A. [15:03:09] They have lands in Rahad Al-Berdi and they have houses. They  
3 have agricultural lands and they have houses where they live.

4 PRESIDING JUDGE KORNER: [15:03:19](Microphone not activated) to specify by  
5 what -- what do you mean by "land decisions".

6 MS VON WISTINGHAUSEN: [15:03:27] I'll make it more specific.

7 Q. [15:03:31] You described to us that the Fur who came back to Rahad Al-Berdi  
8 received a warm welcome, if I may say, and help to build new houses; do you agree  
9 with me?

10 A. [15:03:54] Yes, they have houses and they have lands.

11 Q. [15:03:58] And if I suggest to you that there were conditions upon their return to  
12 Rahad Al-Berdi, that the Fur tribe members were gathered, detained and informed of  
13 conditions set by the Ta'aisha tribe for the integration and for not being sent back, do  
14 you agree with me?

15 A. [15:04:38] I don't understand your question. Can you please be more clearer or  
16 more specific.

17 Q. [15:04:44] Okay, I will be more specific. I suggest to you that there were  
18 conditions imposed on the members of the Fur community who came back to  
19 Rahad Al-Berdi. And I'll give you examples and you can just say you agree with me  
20 or you disagree. For example --

21 PRESIDING JUDGE KORNER: [15:05:06] Well, hang on: Do you agree -- I think  
22 you will have to take this in -- step by step: Do you agree that when the Fur  
23 returned in 2003 and '04, the Ta'aisha tribe imposed conditions on them before they  
24 could stay?

25 THE WITNESS: [15:05:34](Interpretation) Why would it impose any conditions on



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1 them? So they are a part of them, so why would they impose any conditions on  
2 them?

3 PRESIDING JUDGE KORNER: [15:05:42] So your answer is no conditions; is that  
4 right?

5 THE WITNESS: [15:05:55](Interpretation) There were no conditions imposed on  
6 the Fur. Why would they impose condition on -- conditions on them? They are --  
7 they were a part of the community there. So these people are citizens and part of our  
8 area, so why impose conditions on them?

9 MS VON WISTINGHAUSEN:

10 Q. [15:06:15] Well, I'm not going to comment, but I will suggest that, for example,  
11 they were told to refrain from discussing the attacks on their villages and their tribe in  
12 Darfur; do you agree with me?

13 A. [15:06:40] Who told them this? So why would we tell them this?

14 PRESIDING JUDGE KORNER: [15:06:51] Mr Laucci.

15 MR LAUCCI: [15:06:54] Could the Legal Representative of Victims provide some  
16 basis for the line of questioning, because we -- well, we hear some suggestion but  
17 without any factual basis, as far as we know.

18 PRESIDING JUDGE KORNER: [15:07:07] She doesn't -- at the moment she's making  
19 suggestions to the witness which he can accept or reject.

20 MS VON WISTINGHAUSEN: [15:07:16] I can't give evidence. I mean, I'm just  
21 suggesting a few conditions and he can agree or disagree if that was the case.

22 Q. [15:07:28] I'm also suggesting, Mr Witness, that --

23 PRESIDING JUDGE KORNER: [15:07:33] He says -- he answered you with  
24 a rhetorical question.

25 You said: "Why would a condition be imposed like that?" You must answer no or

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1 yes. "No, there was no such condition", or, "Yes, there was such a condition", or "I do  
2 not know." That's the third alternative. But you cannot answer a question with  
3 another question.

4 So, would you please say whether you agree or do not agree that --

5 THE WITNESS: [15:08:09](Interpretation) I don't know about any condition.

6 MS VON WISTINGHAUSEN: [15:08:14]

7 Q. [15:08:14] Okay, I'm trying to refresh your memory by suggesting you a few  
8 conditions that I say were imposed on the members of the Fur community and you  
9 can just say, "I agree", "I disagree", or, "I don't know." Can we agree on that?

10 A. [15:08:47] You asked me and I said that I don't know about any conditions.

11 Q. [15:08:52] I'm suggesting that inquiries about their finances were made and that  
12 funds of displaced Fur people have been seized; do you agree with me, yes or no?

13 A. [15:09:16] Who seized them? I don't know.

14 Q. [15:09:20] So you don't know?

15 A. [15:09:27] I don't know.

16 Q. [15:09:30] And you said this morning that the members of the Fur community  
17 who came back to Rahad Al-Berdi got assistance to build new houses. If I suggest to  
18 you that the displaced Fur refugees were to be settled among other Fur individuals  
19 already residing in Rahad Al-Berdi, would you agree with (Overlapping speakers)

20 A. [15:10:02] The Fur in our area are not refugees. They are citizens who are free  
21 and they are considered the people of our area. They are not refugees. When they  
22 come to our area they are considered as members of our community, members of  
23 the Ta'aisha and not refugees.

24 Q. [15:10:23] Okay. It will be easier if you let me finish your question and then I  
25 listen to your answer.

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1 So I will leave out the word "refugee". When members of the Fur community came  
2 back to Rahad Al-Berdi and they got assistance to build new houses, do you agree  
3 with me that they could only resettle among other Fur families, yes or no? Or you  
4 don't know?

5 A. [15:10:59] I don't know.

6 Q. [15:11:06] Do you agree with me that those Fur people were prohibited from  
7 discussing their situation of displacement in the media?

8 A. [15:11:27] Who prohibited them from this?

9 Q. [15:11:31] I'm asking you if you know that they were prohibited from discussing  
10 their displacement with the media or, for instance, with human rights organisations?  
11 I suggest that was strictly prohibited; do you agree, yes or no? Or just say "I don't  
12 know"?

13 A. [15:11:59] I don't know anything about this. I don't know.

14 Q. [15:12:03] Do you agree with me that they were obliged to comply with all  
15 decisions issued by the Ta'aisha tribe, that was mandatory for all of them, they had no  
16 choice; do you agree?

17 A. [15:12:29] They were not compelled to do anything they didn't want to do.  
18 Each person has the freedom to decide for themselves.

19 Q. [15:12:40] And if I suggest to you that they were forbidden to return to their  
20 villages in Darfur without the permission from an overseer of the Ta'aisha tribe,  
21 would you agree with me?

22 A. [15:13:06] Can you please repeat. I don't understand.

23 Q. [15:13:10] If I suggest to you that they were forbidden to return to Darfur  
24 without the permission of an overseer, a person of authority from the Ta'aisha tribe,  
25 would you agree with me?

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1 A. [15:13:35] Nobody prohibited them from doing anything. Nobody was looking  
2 who was leaving and who was not in order to prevent them from leaving. So  
3 nobody said, "I'm leaving" and he was prevented from leaving. If -- if you are there,  
4 you are among your community.

5 Q. [15:13:58] And what about the participation in government or civil  
6 administration positions? If I suggest to you that the Fur people were prohibited in  
7 that participation, do you agree with me, yes or no? Or just say you don't know.

8 A. [15:14:25] Do you mean in our administration or in administrations that are  
9 outside of our administration? I don't understand. Were they prohibited from  
10 participating in our administration or outside of our administration?

11 So, they participated in our administration in everything.

12 Q. [15:14:46] So you disagree when I say that that was prohibited? And I -- and I  
13 indeed speak about the administration within the Ta'aisha tribe.

14 A. [15:14:59] They participated in this administration and they were not prohibited  
15 from any participation.

16 Q. [15:15:09] And do you agree or do you disagree with me when I suggest that  
17 the compliance with the conditions that I've just discussed with you ensured  
18 the security and the safety of the Fur members who integrated to your community?

19 A. [15:15:36] Excuse me?

20 PRESIDING JUDGE KORNER: [15:15:39] Ms von Wistinghausen, that wasn't exactly  
21 clear.

22 Is your suggestion that only if they complied with these conditions were they allowed  
23 to remain?

24 MS VON WISTINGHAUSEN: [15:15:52] Yes, I wanted to avoid a double negation,  
25 but maybe I wasn't very successful.

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1 PRESIDING JUDGE KORNER: [15:15:59] No, only -- no, I don't think it is double  
2 negative.

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

4 MR LAUCCI: [15:16:05] Please, Madam President, how can the witness answer  
5 that question when he says that either he didn't know about the conditions or he said  
6 there were no conditions? It's impossible.

7 PRESIDING JUDGE KORNER: [15:16:14] Well, I think the suggestion, Mr Laucci,  
8 is -- and really you started this line of what was happening with the refugees, so  
9 Ms von Wistinghausen is entitled, on behalf of the participating victims, to put  
10 whether it's wrong, or she says it's wrong. And she's entitled to say to him: "To  
11 your knowledge, sir, isn't it the case that only if you complied with the conditions --  
12 only if you, a Fur, complied with the conditions, could you stay?"

13 MR LAUCCI: [15:16:50] I maintain, Madam President, that the witness cannot be  
14 requested to answer that question because he said that either he did not know about  
15 the conditions or there was no such conditions, so how can he answer that question?

16 PRESIDING JUDGE KORNER: [15:17:02] Well, I'm -- I'm sorry, I disagree.  
17 No, Mr Nicholls, I don't think --

18 MR NICHOLLS: [15:17:08] No, I'll just, if I may, otherwise I'll sit. Some of these  
19 objections and discussions should not be in the presence of the witness, in my view.

20 PRESIDING JUDGE KORNER: [15:17:16] Yes, well, don't --

21 MR NICHOLLS: [15:17:18] Especially the one -- the recent intervention.

22 PRESIDING JUDGE KORNER: [15:17:23] Yes. All right.

23 In any event, Ms von Wistinghausen, however you phrase the question, with one or  
24 two negatives, you can put it.

25 MS VON WISTINGHAUSEN: [15:17:34]

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1 Q. [15:17:34] Okay, Mr Witness, I suggested to you a few conditions that I say - and  
2 you refused, which is your right - the members of the Fur community had to comply  
3 with. Do you agree with me that their security and safety depended -- depended on  
4 the compliance with these conditions? And just say "yes" or "no", or "I don't know."

5 A. [15:18:11] I don't know. So I -- what conditions did we impose on them? So  
6 this is why I don't understand the basis of this question. I don't understand your  
7 question.

8 Why -- so these people are a part of our society, why would we impose conditions on  
9 them? So why would we impose conditions on them so they can live with us? So  
10 I am asking you. There were no conditions.

11 PRESIDING JUDGE KORNER: [15:18:42] All right.

12 It's being put to you, sir, just so you clearly understand, that what you have been  
13 saying about the position of the Fur, that they were the people who came back in 2003  
14 and '04, was that they were welcome guests of the Ta'aisha. That that's effectively --  
15 and, indeed, they became part of the Ta'aisha tribe. What is being put to you is --

16 THE WITNESS: [15:19:11](Interpretation) Yes.

17 PRESIDING JUDGE KORNER: [15:19:12] -- what is being -- what is being suggested  
18 to you on behalf of the victims in this case is that is not in fact what happened at all.  
19 Do you understand?

20 Do you understand that, sir?

21 THE WITNESS: [15:19:48](Interpretation) I don't understand this.

22 PRESIDING JUDGE KORNER: [15:19:55] All right. Well, I think you've made your  
23 point, Ms von Wistinghausen.

24 MS VON WISTINGHAUSEN: [15:20:00] Yes.

25 Q. [15:20:08] I have one last suggestion to make, which is that the allocation of -- of

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1 a residential plot in the neighbourhood to build your house, for a member of the Fur  
2 community, depended exactly on the compliance with the conditions that we have  
3 been discussing.

4 Would you agree with me or would you say they were free to build their house and  
5 to live wherever they wanted in Rahad Al-Berdi?

6 A. [15:20:42] They were free to build their houses wherever they wanted.

7 Q. [15:20:51] Thank you, Mr Witness, for answering my questions. Those were  
8 my questions.

9 PRESIDING JUDGE KORNER: [15:20:56] Yes, thank you. Yeah.

10 THE WITNESS: [15:21:01](Interpretation) Thank you.

11 PRESIDING JUDGE KORNER: [15:21:03] Now, Mr Nicholls.

12 MR NICHOLLS: [15:21:11] Thank you very much. If it is possible to tilt the big  
13 screen a bit towards me, I would appreciate it if it is.

14 QUESTIONED BY MR NICHOLLS:

15 Q. [15:21:24] Can you hear me okay, sir, Mr Witness?

16 A. [15:21:27] Yes.

17 Q. [15:21:27] Okay. You remember my name is Julian Nicholls.

18 We met briefly on Friday.

19 A. [15:21:38] Yes.

20 Q. [15:21:39] So the first thing I want to ask you about is your first meeting with  
21 the Defence, which was in Khartoum in June 2022. Do you remember that? You  
22 met with them in person.

23 A. [15:21:56] Yes.

24 Q. [15:21:59] And you didn't provide a written statement at that time - I guess you  
25 probably didn't have time - but you would have been happy to provide a -- a fuller

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1 statement to the Defence, because what we got from that meeting was less than  
2 a page and a half.

3 Do you understand the question? Otherwise I can ask it again. You would have  
4 spent as much time as necessary with the Defence to get to the truth, right?

5 A. [15:22:55] Yes.

6 Q. [15:22:55] Right. And then you weren't able to speak to the Defence about your  
7 testimony until just very recently, right, over video link when you gave your  
8 second -- it's not even a statement, your second screening, which was on the -- just last  
9 Friday?

10 A. [15:23:17] Yes.

11 Q. [15:23:18] So my question is -- and I'm not -- I'm not criticising you in any way,  
12 is that when you met the Defence, did they tell you that they had six-month  
13 multi-entry visas for Sudan, did they tell you that in June?

14 A. [15:23:47] Yes, they told me.

15 Q. [15:23:51] Okay. So you could have met them in July, August, September,  
16 October or November of 2022 in Khartoum, correct?

17 A. [15:24:10] Yes.

18 Q. [15:24:11] Thank you. And you're here today, you're testifying. You have  
19 respect for this Court, for the Judges, don't you?

20 A. [15:24:34] Yes.

21 Q. [15:24:37] You have respect for international justice?

22 A. [15:24:42] Yes.

23 Q. [15:24:44] You think persons who commit terrible crimes like murder, torture,  
24 rape, burning houses should be punished for those crimes if they're guilty, correct?

25 A. [15:25:12] Can you repeat?



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1 Q. [15:25:14] I'll skip it.

2 You're -- when you met the Defence in June '22 for that first meeting in Khartoum,  
3 they gave us what they call a screening note.

4 Just to be clear, you met them in person, right, in a room?

5 A. [15:25:34] Yes.

6 Q. [15:25:36] Probably like some kind of conference room, right?

7 A. [15:25:46] Yes.

8 Q. [15:25:46] And you spoke with the Defence, which is the right thing to do, and  
9 they wrote down and took notes while you were speaking, right?

10 A. [15:26:00] Yes.

11 Q. [15:26:02] And they explained to you then, just like they did last Friday, that  
12 the most important thing was to tell the truth, right?

13 A. [15:26:14] Yes.

14 Q. [15:26:15] And to be accurate.

15 A. [15:26:21] Yes.

16 Q. [15:26:22] And the same thing last Friday, which is when they read back to you  
17 the notes from the Khartoum meeting and you very properly made some corrections  
18 where there were mistakes, correct?

19 A. [15:26:43] Yes.

20 Q. [15:26:57] Let me just move on and ask you a couple of quick questions. At the  
21 moment, in the area of Rahad Al-Berdi to Am Dafok, on the border with Central  
22 African Republic, the military unit in control there is the RSF, correct?

23 A. [15:27:29] In which unit, exactly?

24 Q. [15:27:32] Well, the Rapid Support Forces are the unit with control at the  
25 moment around Rahad Al-Berdi and to the CAR border.

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1 PRESIDING JUDGE KORNER: [15:27:40](Microphone not activated)

2 MR NICHOLLS:

3 Q. [15:27:45] Yes, sorry, the Rapid Support Forces.

4 A. [15:27:50] So the RSF is the one in control of the area of the borders with  
5 the Central African Republic.

6 Q. [15:28:11] Yes. Thank you.

7 And you know who the person is named - and forgive me if I pronounce it wrong -  
8 Abdallah al-Jazuli Husayn. He's the RSF commander in that area, right?

9 A. [15:28:30] Yes.

10 Q. [15:28:31] And he's a member of the Ta'aisha tribe, correct?

11 A. [15:28:41] Yes.

12 Q. [15:28:42] Okay. Thank you. I'll move on to another topic now.

13 One thing that you said is that you first learned about the accusations against this  
14 person Ali Kushayb from the media, from the radio and TV, right, and that there was  
15 an ICC warrant for him?

16 A. [15:29:20] Yes.

17 Q. [15:29:22] Now, the Defence didn't ask you when that was, but I'm just going to  
18 read you something from your screening note that was provided to us. This is from  
19 the meeting in Khartoum, okay, just so you understand. I'm going to read you  
20 something from that, okay?

21 A. [15:29:43] Yes.

22 Q. [15:29:47] Okay. This is you, I won't say your name:

23 "... does not remember when he heard about that arrest warrant for the first time [for  
24 Mr Abd-Al-Rahman]. He remembered feeling surprised that the ICC was looking  
25 for [Mr Abd-Al-Rahman], but he agreed that the best thing to do was for

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1 [Mr Abd-Al-Rahman] to go and face justice, to clear his name. It is

2 [Mr Abd-Al-Rahman] who took the decision to surrender ..."

3 Do you remember saying that to the Defence; is that correct?

4 A. [15:30:34] Yes.

5 Q. [15:30:36] Okay. So when was it that you first heard that Mr Abd-Al-Rahman,  
6 also known as Ali Kushayb, was wanted by this Court? Was it shortly before he  
7 surrendered or was it some other time?

8 A. [15:31:05] Can you please repeat.

9 Q. [15:31:06] When was it that you first heard on the TV or the radio about  
10 the warrant for Mr Abd-Al-Rahman that also called him Ali Kushayb? When was it  
11 that you heard that? Because from your screening note it looks like it was just before  
12 he surrendered.

13 A. [15:31:35] Yes.

14 Q. [15:31:36] Okay. So that means around 2020, because he surrendered in  
15 June 2020; is that right?

16 A. [15:31:50] Yes.

17 Q. [15:31:52] And so that's the first time ever that you saw this link between  
18 a wanted person named Ali Kushayb and Mr Abd-Al-Rahman, correct?

19 A. [15:32:11] Yes, correct.

20 Q. [15:32:13] Thank you.

21 And one thing you corrected -- are you okay, do you need a break? I saw you  
22 looking at your watch.

23 PRESIDING JUDGE KORNER: [15:32:39] We'll be completing this afternoon in  
24 about half an hour or so.

25 MR NICHOLLS: [15:32:44] Okay.

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1 Q. [15:32:45] So you met the accused --

2 A. [15:32:50] I am ready.

3 Q. [15:32:51] Good. Thank you. You met the accused in 2010 in Rahad Al-Berdi,  
4 right? You said that today.

5 A. [15:33:02] Yes.

6 Q. [15:33:04] And for 10 years you didn't know that he was wanted as Ali Kushayb,  
7 right?

8 A. [15:33:16] Yes.

9 Q. [15:33:30] Okay.

10 Now, another thing that you said earlier today that I want to ask you about is you  
11 were asked by my colleague about the conflict with the Salamat tribe in 2013. We  
12 talked about -- you talked about that today, remember?

13 A. [15:34:00] Yes.

14 Q. [15:34:02] And you remembered that a large group of families of the Salamat left  
15 Rahad Al-Berdi for Nyala in 2013, right?

16 A. [15:34:19] Yes.

17 Q. [15:34:20] Yeah. And I'm -- I'm looking at page 27, your Honours. Line 13,  
18 you were asked: "Why did they leave?"

19 And your answer was: "They left voluntarily."

20 Question: "Do you know why they took that decision?"

21 Answer: "I don't know why they chose to leave. So they lived alongside other  
22 people and [they] decided they belong under another administration, so one day they  
23 just decided to leave."

24 Do you remember saying that?

25 A. [15:35:00] Yes.

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1 Q. [15:35:01] And that's the truth, is it, that one day 250 families decide to leave  
2 their homes where they've been living - all at once 250 families, not people - and move  
3 to Nyala, for no reason?

4 A. [15:35:23] Yes.

5 Q. [15:35:24] Okay. Now, at that time, you knew the accused Mr Abd-Al-Rahman  
6 and you knew he was commander of the Central Reserve Forces or Abu Taira,  
7 correct?

8 A. [15:35:45] Yes.

9 Q. [15:35:46] And he was involved in this conflict, episode, whatever you want to  
10 call it, with the Salamat at that time because of his position as commander of the CRF,  
11 right?

12 A. [15:36:09] He was -- he was the commander but he never participated in the war.

13 Q. [15:36:15] Okay. So the conflict with the Salamat was a war? There was a war  
14 with the Salamat in 2013?

15 A. [15:36:26] Yes.

16 Q. [15:36:28] Okay.

17 A. [15:36:30] Conflict.

18 Q. [15:36:33] Conflict.

19 PRESIDING JUDGE KORNER: [15:36:40] At that stage, in 2013, {ICR: (Redacted)}  
20 (Redacted)}

21 THE WITNESS: [15:36:52](Interpretation) {ICR: (Redacted)}

22 PRESIDING JUDGE KORNER: [15:36:54] So directly under -- under his command?

23 THE WITNESS: [15:37:08](Interpretation) Command of whom? Under  
24 the command of whom?

25 PRESIDING JUDGE KORNER: [15:37:12] Mr Abd-Al-Rahman.

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1 THE WITNESS: [15:37:16](Interpretation) The CRF is an administration {ICR:  
2 (Redacted)}

3 he was a musa'id or an officer {ICR: (Redacted)}

4 PRESIDING JUDGE KORNER: [15:37:36] Oh, I see, I'm sorry. So you were not in  
5 the CRF, {ICR: (Redacted)}

6 (Redacted)}

7 THE WITNESS: [15:37:46](Interpretation) Yes, {ICR: (Redacted)}

8 (Redacted)} he was in the police of the CRF. It was a different

9 institution separate from the one I was in.

10 PRESIDING JUDGE KORNER: [15:37:59] I see.

11 In that case, I'm not quite clear, I understood you met him because he was your  
12 superior.

13 THE WITNESS: [15:38:11](Interpretation) No.

14 PRESIDING JUDGE KORNER: [15:38:17] So it was just, what, by chance that you  
15 met him?

16 I'm sorry, Mr Nicholls, but I have obviously completely misunderstood.

17 THE WITNESS: [15:38:34](Interpretation) He was a military and I was a military  
18 man. He was a personnel and I was a personnel, but we were in different  
19 institutions.

20 PRESIDING JUDGE KORNER: [15:38:41] But in the same place? In other words, in  
21 Rahad Al-Berdi?

22 THE WITNESS: [15:38:50](Interpretation) Yes, in the same area of Rahad Al-Berdi  
23 and he is the son of Rahad Al-Berdi.

24 PRESIDING JUDGE KORNER: [15:38:55] Yes, all right.

25 Sorry, yes. I'm sorry, Mr Nicholls, I completely misunderstood. Thank you.

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1 MR NICHOLLS: [15:39:00] Thank you, your Honour.

2 Q. [15:39:01] And let's just recap: 2013, you've known him for three years now, not  
3 for another 10 years do you know that he's also known as Ali Kushayb, right?  
4 Seven years.

5 A. [15:39:26] Yes.

6 Q. [15:39:28] All right. I'm going to show you now, read to you some press  
7 reports about that conflict or war with the Salamat and ask you some questions about  
8 them.

9 The first one is at tab 17. I think we can just bring up the English. This is ERN  
10 00006585.

11 Now, this is from Radio Dabanga, sir, dated 13 April 2013, and the headline is, I'll  
12 read it while it's coming up: "Clashes between the Salamat and the Misseriya shift to  
13 Rehed al-Birdi in South Darfur and to Mukjar in West Darfur".

14 And if we go to the bottom of the page:

15 "In the town ..." -- I'm going to read to you what it says:

16 "In the town of Rehed al-Birdi, the *nazir* of the Ta'aisha, *Nazir 'Abd-Al-Rahman*  
17 *Basharah*, told Radio Dabanga ..."

18 So the *nazir* is speaking on Radio Dabanga:

19 "... about the clashes between the Misseriya and Salamat in the Rehed al-Birdi  
20 neighbourhood. Over Radio Dabanga, *Nazir Basharah* urged all parties to listen to  
21 the voice of reason, reject violence and infighting and to strive for the sort of peaceful  
22 and harmonious coexistence there had been previously."

23 Now, that, that's a good statement. Do you remember that statement being read  
24 over -- do you remember hearing that on Radio Dabanga or knowing about that from  
25 the *nazir* on Radio Dabanga, calling for peace?

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1 A. [15:41:48] I did not hear this on Radio Dabanga, but my family, since my  
2 ancestors, my grandparents, nobody calls for war. We call for peace. We call for  
3 peace between Ta'aisha, Salamat, or any other tribe. We only call for peace.

4 Q. [15:42:11] Okay. And if we -- if we go to the bottom of this article, which is  
5 about that clash that the *nazir* made that statement for peace about, states at the  
6 bottom -- next page, sorry:

7 "Meanwhile, witnesses in Rehed al-Birdi stated that two members of the Salamat tribe  
8 had been [killed], on Thursday in Rehed al-Birdi, by Abu-Tirah Forces under  
9 Ali Kushayb's command. They also stated that Kushayb's Abu-Tirah Forces had  
10 attacked them yesterday during a funeral procession for the deceased and that there  
11 had been an exchange of fire."

12 Now, you and I agree there's no dispute the commander of the CRF in  
13 Rahad Al-Berdi at this time, as you've said, was the accused, Mr Abd-Al-Rahman,  
14 right?

15 A. [15:43:27] No.

16 Q. [15:43:29] Okay. You're now telling me that Mr Abd-Al-Rahman was not  
17 commander of the CRF in 2013 in Rahad Al-Berdi; is that what you're saying?

18 A. [15:43:40] He was the commander, but he never participated in any tribal  
19 conflict. He was the -- the commander.

20 Q. [15:43:49] And in the news --

21 A. [15:43:55] In 2013, not 2003, these -- the trouble was in 2013, not 2003. He was  
22 the commander in the CRF.

23 Q. [15:44:09] Yes. There may have been a mistranslation. I'm talking about  
24 2013, you're talking about 2013, we're only talking about 2013. In the news, which is  
25 where you said at page 14 and 15 today, you got all your information, it states that



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1 the commander of the CRF is Ali Kushayb, right?

2 A. [15:44:40] Yes.

3 Q. [15:44:44] Right. So are you the only person in Rahad Al-Berdi who didn't  
4 know that the commander of the CRF was called Ali Kushayb in 2013, even though  
5 you followed the news, even though you knew important people?

6 A. [15:45:06] Repeat. I don't understand.

7 Q. [15:45:09] Are you telling me -- you followed the news, you're in Rahad Al-Berdi,  
8 you know important people in Rahad Al-Berdi. Are you telling me you're the only  
9 person there who doesn't know that the commander of the CRF has a nickname  
10 Ali Kushayb?

11 A. [15:45:30] I don't know.

12 Q. [15:45:40] I'll take you to another press article.

13 This is at tab 19, 00006582, 16 April 2013, Radio Dabanga.

14 PRESIDING JUDGE KORNER: [15:46:06] Just before that, I want to make sure that --  
15 because I think he misunderstood the date.

16 Are you saying that when the conflict took place between the Salamat, the Misseriya  
17 and the Ta'aisha, at no stage did Mr Al-Rahman, as commander of the CRF, take part  
18 in any of the hostilities, any of the fighting?

19 THE WITNESS: [15:46:35](Interpretation) He did not participate.

20 PRESIDING JUDGE KORNER: [15:46:37] Okay, thank you.

21 MR NICHOLLS: [15:46:41]

22 Q. [15:46:41] All right, well, before I show you this next article, that's a bit funny,  
23 because you said earlier today that his whole job as commander of the CRF was to  
24 protect people, to protect the civilians, to protect the Fur and everybody else who  
25 lived in Rahad Al-Berdi. Now you're telling -- now you're saying there's a clash with

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1 the Salamat, you called it a war before, the commander of the CRF, whose job it is to  
2 protect the people, sits back and does nothing, is that your testimony?

3 A. [15:47:17] He didn't know any -- he didn't do anything. This is the truth. He  
4 protects civilians. How would he protect the citizens and then attack the citizens?

5 Q. [15:47:34] Well, because he would protect them from the Salamat where  
6 the fighting had spread to Rahad Al-Berdi. Now, if he didn't do that, did he desert?  
7 Was he scared? Did he run away? Did he disobey his duty or did he do what he  
8 was supposed to do and defend the population from the Salamat fighters?

9 A. [15:48:09] A commander would preserve security, but he would not go and fight  
10 citizens.

11 Q. [15:48:15] (Overlapping speakers) did he fight Salamat fighters then? I'm not  
12 saying -- just tell me that. Did he just stand by during this conflict or war, or did he  
13 protect the civilians, which would mean fighting the Salamat fighters?

14 A. [15:48:39] He did not fight. He didn't do anything. He didn't fight. He  
15 didn't do anything.

16 Q. [15:48:44] Okay. So I'll move on. But your testimony is commander of  
17 the CRF, in Rahad Al-Berdi, during a violent conflict with another tribe, does nothing  
18 to protect the people of Rahad Al-Berdi, that's what you're saying, right?

19 A. [15:49:03] Yes.

20 Q. [15:49:06] Yes, the article is up. Thank you.

21 16 April 2013. Again, Radio Dabanga. And this headline is:

22 "Within hours, Ali Kushayb shatters the agreement to end hostilities signed between  
23 the Ta'aisha and the Salamat in Rehed al-Birdi".

24 And if we can -- yeah, we're okay there.

25 "Local-administration dignitaries and notables have managed to contain the incidents

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1 between the Salamat and the Ta'aisha in Rehed al-Birdi, which erupted on Friday and  
2 Saturday, and resulted in the killing and injuring of tribal members on both sides and  
3 the burning of stores in the town's market, closing the market until yesterday ..."

4 And then it goes on to talk about a peace agreement signed between the Salamat and  
5 the Ta'aisha.

6 Now, do you remember that peace agreement being signed following this fighting in  
7 Rahad Al-Berdi?

8 A. [15:50:33] Not in Rahad Al-Berdi.

9 Q. [15:50:35] Okay. Do you remember -- we heard the previous news report from  
10 Radio Dabanga talked about the *nazir* calling for peace. Do you remember that in  
11 fact a peace agreement was concluded between the Ta'aisha and the Salamat at this  
12 time?

13 A. [15:51:01] Yes, in -- in South Darfur state, the governing authority there was  
14 informed, was reported to.

15 Q. [15:51:11] And that stopped the fighting between the Salamat and the Ta'aisha  
16 in Rahad Al-Berdi; is that right?

17 A. [15:51:25] Yes.

18 Q. [15:51:25] Okay. Let's go to the next page, please.

19 Now, the bottom here, the article from Radio Dabanga, you got your news from  
20 the media, tells what happened next.

21 It states:

22 "Alternatively, Musa al-Bashir Musa, a member of the Legislative Council for  
23 the South Darfur state and a notable Salamat, revealed that the hostilities perpetrated  
24 by the militia leader wanted by the International Criminal Court, Ali Kushayb, had  
25 restarted yesterday in the [Fandug] area in the district of Rehed al-Birdi, and that they

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1 constituted a clear breach of the two agreements of Um Dukhun (between the Salamat  
2 and the Misseriya) and of Rehed al-Birdi (between the Ta'aisha and the Salamat) to  
3 end the hostilities before the ink had dried on either. On Radio Dabanga, Musa  
4 announced that Ali Kushayb, who commands the Abu-Tirah Forces, attacked the area  
5 and the surrounding villages with 15 armoured Land Cruiser, reinforced by Military  
6 Intelligence Services' troops under the Sudanese army."

7 Now, are you again telling me that you didn't know that the CRF commander  
8 Abd-AI-Rahman was known as Ali Kushayb at this time?

9 A. [15:53:44] Repeat. I didn't hear that.

10 Q. [15:53:47] You knew -- I'll put it this way. You knew -- you are not being  
11 truthful. You knew this 2013 that CRF Commander Abd-AI-Rahman was wanted by  
12 the ICC under the name Ali Kushayb, didn't you?

13 A. [15:54:10] Which year?

14 Q. [15:54:12] 2013.

15 A. [15:54:15] I didn't know.

16 Q. [15:54:22] And if you'd listened to Radio Dabanga, you would have known,  
17 right? Just like anybody who listened to Radio Dabanga, then you would have  
18 known, right?

19 A. [15:54:37] I don't listen.

20 Q. [15:54:39] Well, you told us earlier today that you get your news from the TV  
21 and the radio and that's how you find out what's going on in Sudan, and it's  
22 obviously important for responsible people like you to know what's going on. You  
23 told us you listened to the radio. Now you're telling me you didn't listen to  
24 the radio.

25 A. [15:55:15] Sometimes, not always.

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1 PRESIDING JUDGE KORNER: [15:55:21] Nobody else in the area of Rahad Al-Berdi  
2 happened to mention to you that -- in this period, that Mr Abd-Al-Rahman, the head  
3 of the CRF in the area, apparently was also known as Ali Kushayb and -- and wanted  
4 by the International Criminal Court? Nobody ever said that to you?

5 THE WITNESS: [15:55:56](Interpretation) No.

6 MR NICHOLLS: [15:55:58] Okay.

7 Q. [15:56:01] So thank you. I'll show you one more article, but then make sure I  
8 understand you correctly.

9 In other parts of Sudan, throughout Sudan, it was known by everybody that Ali  
10 Muhammad Ali Abd-Al-Rahman was known as Ali Kushayb and was wanted by this  
11 Court, you didn't know that because you didn't follow the news; that's right, right?  
12 That's where we're at?

13 A. [15:56:31] No.

14 PRESIDING JUDGE KORNER: [15:56:38] If you're moving to a different topic,  
15 Mr Nicholls, then we probably might as well break.

16 MR NICHOLLS: [15:56:43] I have one more, I could do one last article and then I  
17 would -- I can finish this topic in (Overlapping speakers)

18 PRESIDING JUDGE KORNER: [15:56:51] Oh, I see, okay, yeah.

19 MR NICHOLLS: [15:56:54]

20 Q. [15:56:54] Okay, I want to show you one more source from the same period,  
21 the time of the conflict in 2013 with the Salamat.

22 This is at tab 21, 00006587 and this is about those 250 families who all decided one day,  
23 voluntarily, to leave their homes for Nyala.

24 The headline here is: "250 Salamat notable families from Rehed al-Birdi are relocated  
25 to the town of Nyala in search of safety and Ta'aisha *nazir* denies the harassment".

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1 And if we scroll down a little bit, please.

2 And I'll be quick.

3 It starts off: "Yesterday afternoon, 250 families, consisting of Salamat notables, leaders  
4 and activists arrived in the town of Nyala from the town of Rehed al-Birdi after  
5 the local authorities, in coordination with the state government, had ordered their  
6 relocation from Rehed al-Birdi for protection from attack and killing."

7 And then it states:

8 "However, the ... *nazir* ... for the Ta'aisha tribe rejected accounts that their relocation  
9 was due to the absence of protection or the harassment against them. He said that  
10 their relocation was their request and their will, not the will of the authorities."

11 So you remember this at that time, right? 250 families, that's probably over a  
12 thousand people, move in one day from Rahad Al-Berdi to Nyala. They said it was  
13 because they were scared, because they'd been attacked and there was killing.

14 The *nazir* said, no, that's not true, it was voluntary. You were there at the time, you  
15 were a policeman, tell me what other time you can ever even think of that a thousand  
16 people just decide for no reason on one day to uproot themselves and move a very  
17 long distance to another town? Can you think of any other time that has happened?

18 This is a question, sir. Those people moved because they were frightened because  
19 they'd been attacked, didn't they?

20 A. [16:00:34] I cannot tell you whether they were afraid or not. So I couldn't  
21 know -- I wouldn't know that. So they, the Salamat, asked to leave. I don't know  
22 whether they were afraid or not. I don't know what they were -- I don't know what  
23 they would be afraid of. So the Salamat wanted to leave the area and so they left.

24 Q. [16:00:55] Okay. Well, we'll just finish up quickly, but I'll read you a part that  
25 might remind you what they'd be afraid of that you might have known about at the

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1 time as a policeman in that town.

2 If we go to the next page, please.

3 "In the same location, Khalid revealed that [the] attacks by the Ta'aisha against

4 the Salamat had been happening since Friday in the town of Rehed al-Birdi. They

5 included the burning of 45 shops of the Salamat, after the looting of their merchandise,

6 and the pillaging and burning of 70 Salamat homes in Rehed [al-Birdi]. Further,

7 Khalid confirmed that Ali Kushayb, the individual wanted by the International

8 Criminal Court in the Hague, [here] had participated in the incidents and that an

9 additional 250 Salamat families who had been relocated from Rehed al-Birdi could

10 reach Nyala at any time."

11 Does that help you remember what they were afraid of, their shops being burned,

12 looted, in your town?

13 Do you have an answer, sir?

14 A. [16:02:50] I don't have any answer.

15 Q. [16:02:53] Okay. Once again, we see in the news at the time, broadcast over

16 the entire Sudan because it's Radio Dabanga, person responsible, Ali Kushayb,

17 wanted by this court. You didn't know that at that time, right, unless maybe you

18 remember better now? You didn't know, right?

19 PRESIDING JUDGE KORNER: [16:03:20](Microphone not activated) a comment.

20 But, sir, you -- you were actually in Rahad Al-Berdi when all this was going on,

21 weren't you?

22 THE WITNESS: [16:03:39](Interpretation) What happened? Where?

23 PRESIDING JUDGE KORNER: [16:03:43] The conflict between the -- your tribe and

24 the Salamat.

25 THE WITNESS: [16:03:51](Interpretation) Yes, I was there.

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1 PRESIDING JUDGE KORNER: [16:03:54] Do you recall the burning of their shops  
2 and the looting and the burning of their homes? Do you remember that happening  
3 whilst you were there?

4 THE WITNESS: [16:04:11](Interpretation) I didn't know about burning their things.  
5 They were moved with their things. So -- so if anybody wants to burn something,  
6 they would not differentiate between the Salamat or anything, they would burn  
7 everything.

8 PRESIDING JUDGE KORNER: [16:04:32] Just a moment.

9 Do you agree that the conflict, the fighting, was between the Ta'aisha tribe and  
10 the Salamat tribe?

11 THE WITNESS: [16:04:48](Interpretation) Yes, it was between the Ta'aisha and  
12 the Salamat tribes.

13 PRESIDING JUDGE KORNER: At any stage --

14 THE WITNESS: [16:04:50](Interpretation) It started with the Misseriya and then it  
15 spread.

16 PRESIDING JUDGE KORNER: [16:04:58] Yeah. At any stage during the course of  
17 2013 and '14 do you recall shops belonging to the Salamat being burnt and looted?  
18 Do you remember that happening, leaving aside who was responsible?

19 THE WITNESS: [16:05:28](Interpretation) I did not see or know anything about this.  
20 The souk or the market is not only for the Salamat, it is not only for the Ta'aisha. But  
21 I don't know who has this issue, whether it's the Ta'aisha or the Salamat.

22 PRESIDING JUDGE KORNER: [16:05:45] Okay. So, one finally, you have no  
23 recollection of Salamat houses being burnt and looted and Salamat shops being burnt  
24 and looted?

25 THE WITNESS: [16:06:05](Interpretation) I never saw a Salamat member --



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1 member's house or property being taken or burned.

2 PRESIDING JUDGE KORNER: [16:06:17] All right. Yeah.

3 Have you got anything else you want? You can finish this topic, Mr Nicholls.

4 MR NICHOLLS: [16:06:24] No, just quickly.

5 Q. [16:06:30] But it was only the Salamat who left, right? Not 250 Ta'aisha families?

6 Correct?

7 A. [16:06:46] Yes. Where would the Ta'aisha leave -- go to?

8 Q. [16:06:52] Maybe Nyala. But -- and you said earlier today, you changed it later,

9 but you said earlier today when you were asked about this, this is on page 26, lines 3

10 to 6, you said: "It's true that the Salamat are not present in the *dar* of the Ta'aisha."

11 They left and they didn't come back, those 250 families, right?

12 A. [16:07:26] Can you please clarify this question, I'm unable to understand it.

13 Can you please clarify it. So you are asking the question twice and three times --

14 Q. (Overlapping speakers)

15 A. [16:07:32] So you are asking me about the Salamat and if they left, what

16 happened to them. And I told you.

17 Q. [16:07:42] You said earlier today on a question from my friend, Mr Laucci, that --

18 when you were talking about this conflict, you said, "It is true that the Salamat are not

19 present in the *dar* of the Ta'aisha, but the problem that was there before is resolved

20 and now there are no problems between the two tribes."

21 You said earlier today that there were not --

22 A. [16:08:15] Yes, that's true, back then. So there was a problem in the past, but

23 now in Rahad Al-Berdi there are no problems. And there are no Salamats either.

24 But in the other areas surrounding the area, yes there are Salamats.

25 Q. [16:08:33] Okay, that's what I was asking you about, no Salamats now. Okay,

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1 thank you.

2 That's it for today, if it please, your Honour.

3 PRESIDING JUDGE KORNER: [16:08:41] Yeah, just one last question on this, sir:

4 Do you remember the Salamat tribe calling for the arrest of Ali Kushayb on the basis  
5 that he had committed crimes against them during the conflict with your tribe?

6 THE WITNESS: [16:09:13](Interpretation) I did not hear this and he did not commit  
7 any crimes against them.

8 PRESIDING JUDGE KORNER: [16:09:18] All right. Yes, thank you. Yes, thank  
9 you very much, sir.

10 I'm sorry, I thought you might complete your evidence today, but it's going to be  
11 tomorrow.

12 Is it going to be more than one session, Mr Nicholls, do you think? No.

13 So if you could be back here, please, ready to start again at 9.30. You must not  
14 discuss the evidence that you are giving with anybody else overnight, in particular  
15 you may not discuss it with any of the witnesses with whom I think you are staying,  
16 who are about to give evidence. Do you understand that?

17 THE WITNESS: [16:10:01](Interpretation) Yes.

18 PRESIDING JUDGE KORNER: [16:10:02] Yeah. All right. Very well.  
19 Yes, Mr Laucci.

20 MR LAUCCI: [16:10:12] Sorry, Madam President. I went too fast.

21 If my learned friend has, let's say, one session, when do you think we can start with  
22 the next witness tomorrow so that we can be sure that everything is ready?

23 PRESIDING JUDGE KORNER: [16:10:41] Just a moment.

24 Well, apparently they've been warned for 11.30.

25 I just want to make one thing clear, Mr Nicholls. I don't know if you're intending to

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- 1 show the videos, I asked Mr Laucci the same, as part of your cross-examination.
- 2 MR NICHOLLS: [16:10:56] I was not.
- 3 PRESIDING JUDGE KORNER: [16:10:58] Okay. Well, I'm pretty certain that we  
4 the Judges will be doing that, so just to -- I mean, it's not going to take very long, but  
5 if you're going to take the whole of the session.
- 6 MR NICHOLLS: [16:11:08] I'll see how it goes. I mean, I don't -- I think I'm going  
7 to -- I think I'm going to be less than an hour.
- 8 PRESIDING JUDGE KORNER: [16:11:15] All right. All right.  
9 Well, then give or take 11.30, Mr Laucci. Yeah.  
10 Yes, thank you very much.
- 11 MR LAUCCI: [16:11:20](Overlapping speakers)
- 12 PRESIDING JUDGE KORNER: [16:11:21] Yes, thank you. We'll adjourn until  
13 tomorrow morning.
- 14 THE COURT USHER: [16:11:25] All rise.  
15 (The hearing ends in open session at 4.11 p.m.)