

Trial Hearing  
WITNESS: DAR-OTP-P-0119

(Open Session)

ICC-02/05-01/20

1 International Criminal Court  
2 Trial Chamber I  
3 Situation: Darfur, Sudan  
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman  
5 ("Ali Kushayb") - ICC-02/05-01/20  
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and  
7 Judge Althea Violet Alexis-Windsor  
8 Trial Hearing - Courtroom 1  
9 Monday, 9 May 2022  
10 (The hearing starts in open session at 9.32 a.m.)  
11 THE COURT USHER: [9:32:55] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE KORNER: [9:33:28] Yes. Good morning, everybody.  
15 Third different court in about three weeks.  
16 First of all, the appearances from the Prosecution.  
17 MR NICHOLLS: [9:33:42] Good morning, your Honours. Good morning, everyone.  
18 Julian Nicholls with Claire Sabatini, Edward Jeremy, Diana Saba and  
19 Mohanad Elkholy. Thank you.  
20 PRESIDING JUDGE KORNER: [9:33:53] Yes, thank you very much.  
21 The Defence.  
22 MR LAUCCI: [9:33:59](Interpretation) Good morning, \*Madam President,  
23 your Honours. In addition to Mr Ali Muhammad Ali Abd-Al-Rahman, who is here  
24 in the courtroom, we have Mohammad El Rahi, \*assistant evidence reviewer;  
25 Iain Edwards, \*associate counsel; and myself, Cyril Laucci, \*lead counsel.

1 PRESIDING JUDGE KORNER: [9:34:24] Yes, thank you very much.  
2 And the representatives of the victims.

3 MR SHAH: [9:34:29] Good morning, your Honours. Good morning, colleagues.  
4 Anand Shah today for the victims. And I note for the record that  
5 Ms von Wistinghausen will be joining us for the afternoon session. Thank you.

6 PRESIDING JUDGE KORNER: [9:34:40] Yes, thank you, Mr Shah.  
7 Before the witness comes in to court, there are a few housekeeping matters that I want  
8 to deal with.

9 The first is this: As may have been noticed, Mr Amin is no longer with us as part of  
10 the team representing the victims. For reasons which are known to  
11 the representatives of the victims, the Trial Chamber decided that it was not  
12 appropriate for him to continue as part of the team. The reasons for that, and they  
13 are good reasons, will, however, remain confidential. So -- but he will no longer be  
14 taking part in this trial. That's the first thing.

15 Second thing, Mr Nicholls, really, and indeed I suppose to a certain extent Mr Laucci,  
16 I received information literally from somebody who happened to be watching last  
17 week's proceedings - the week before -- no, last -- I've now lost track, whenever it was,  
18 the week before - who pointed out that because none of the maps were being shown,  
19 he as an ordinary member of the public had no idea what anybody was talking about,  
20 what the questions were about, what the area was.

21 Now, I appreciate that sometimes where the witness has marked a map or  
22 a document, and his identity is being protected, then it's more difficult, but it does  
23 seem to me that if the public are to understand the proceedings, and I don't just mean  
24 the public generally, but also those from the region who take an interest, then they  
25 must be able to follow as much as possible.

1 So I would suggest that in future, irritating though it may be, that an unmarked copy  
2 of the document goes out on the screen which the public can see, and the marked  
3 copy will simply be put before the witness. But, as I say, I think it's more  
4 the Prosecution, but also to a certain extent the Defence. So if you could remember  
5 that.

6 And the third and final thing is this, it occurred to me that because we hadn't  
7 included, through an oversight, the question of having to put your case in  
8 the document governing the proceedings, I ought to make it plain that we don't  
9 expect that either side, or in fact any party if it comes to it, is required to put every  
10 single item on which there is disagreement. It is really only the major issues, things  
11 which are important that must be put to a witness. Taking the obvious example on  
12 the Defence case, that anybody purporting to identify Mr Al-Rahman as Ali Kushayb  
13 is mistaken, or, if it really comes to it, telling a deliberate lie, but more likely to be  
14 a mistake. But just so that's clear.

15 So it's not necessary to go through the tiniest details on which there is disagreement.

16 All right. I hope that's clear. As I say, it's because we didn't put it into the -- I  
17 forgotten what the name -- the proper name of the document is.

18 JUDGE ALEXIS-WINDSOR: [9:38:46] Conduct of proceedings.

19 PRESIDING JUDGE KORNER: [9:38:48] Conduct. Thank you very much.  
20 Conduct of proceedings.

21 Yes, all right, before the witness comes in are there any other matters that anybody  
22 needs to raise?

23 MR NICHOLLS: [9:39:00] No, your Honour. Just based on the conversation we  
24 had last time we were in court, Mr Jeremy intends to read a brief, less than 5 minute  
25 summary of the witness's evidence, as we discussed, as he's a 68(3) witness.

1 PRESIDING JUDGE KORNER: [9:39:17] Yes. Well, that's very helpful. I -- in of  
2 the presence of the witness or before he -- I suppose before he comes in?

3 MR JEREMY: [9:39:27] As your Honours wish. I think both is fine. I'm just  
4 summarising what's in his statement.

5 PRESIDING JUDGE KORNER: [9:39:34] Yes. Well, I think -- I can foresee possible  
6 problems if he leaps up and says that's not exactly it. So I think probably the best  
7 method is you do it and then the witness comes in.

8 MR LAUCCI: [9:39:48] On this, Madam President, we -- when we discussed that,  
9 including before you last time, we all agreed that whatever would be read would  
10 be -- would not be considered as evidence, so we are relaxed.

11 PRESIDING JUDGE KORNER: [9:40:00] All right. Yes, well -- yes, if you carry on  
12 then, Mr Jeremy.

13 MR JEREMY: [9:40:06] Thank you, Madam President, your Honours. And good  
14 morning, good morning to all.

15 Witness P-119 provides evidence on the background of the armed conflict in Darfur  
16 and contextual information on the various organisations involved in the conflict on  
17 the government side and the rebel side. The witness also provides evidence in  
18 relation to rebel attacks against Government of Sudan, or GoS, and the GoS  
19 counterinsurgency operation.

20 P-119 also provides evidence on the background of the Militia/Janjaweed, stating that  
21 during the 1990s the GoS enlisted the help of Arab militias to combat the rebellion in  
22 south Sudan, later employing the same tactic in Darfur.

23 The witness also provides information on the creation and role in Darfur of  
24 the Popular Defence Forces, the border intelligence unit, the Popular Police Forces  
25 and the Central Reserve Forces, and the close relationship between these

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1 organisations and the Militia/Janjaweed.

2 P-119 also states that the government funded and supported the Militia/Janjaweed,  
3 including through the Sudanese banking system and the distribution of arms and  
4 equipment.

5 In addition, P-119 states that he collected evidence of the involvement of  
6 the Militia/Janjaweed, including Ali Kushayb, in the arrest, detention and execution of  
7 individuals in Deleig in early 2004. He also provides information in relation to  
8 the numbers of persons arrested and executed during this Deleig incident.

9 Lastly, the witness provides evidence in relation to the role and identity of  
10 Ali Kushayb, including his membership of the Sudanese Armed Forces and  
11 the Popular Defence Forces, and Mr Abd-Al-Rahman's use of the nickname  
12 "Ali Kushayb".

13 That concludes the summary. And, your Honours, with the next summary, I should  
14 say, we'll provide that to the -- to the interpreters and the transcribers. I didn't do  
15 that this time and I realise I should have done.

16 PRESIDING JUDGE KORNER: [9:43:28] Yes. Thank you.

17 Yes, well, the witness can come in.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE KORNER: [9:45:09] Yes. Good morning, sir. Thank you for  
20 coming to court.

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22 (The witness speaks Arabic)

23 THE WITNESS: [9:45:19](Interpretation) Thank you very much.

24 PRESIDING JUDGE KORNER: [9:45:21] In a moment you'll be asked to read  
25 the solemn declaration, if you would be so kind.

1 THE WITNESS: [9:45:35](Interpretation) Yes, your Honour.

2 PRESIDING JUDGE KORNER: [9:45:41] If you would like to go ahead and read it, I  
3 think it's on a card in front of you.

4 THE WITNESS: [9:45:51](Interpretation) I solemnly undertake to say the truth,  
5 the whole truth and nothing but the truth.

6 PRESIDING JUDGE KORNER: [9:46:00] Yes. In a moment, as you -- as no doubt  
7 has been explained to you, you're going to be asked questions by counsel for  
8 the Prosecution, whom I imagine you have met before.

9 I just want to say two things to you. First of all that, if you at any stage feel that you  
10 need to have a break, then by all means ask for one, and obviously we'll give it to you  
11 because we know that sitting in a courtroom giving evidence can be quite a strain.

12 And the second thing is this, there will be in any event breaks during the course of  
13 your evidence. When those breaks happen, you mustn't talk about the evidence  
14 you're giving to anybody who happens to be with you. I'm sure you understand  
15 that.

16 So with that, Mr Jeremy.

17 MR JEREMY: [9:47:12] Thank you, Madam President.

18 QUESTIONED BY MR JEREMY:

19 Q. [9:47:16] Good morning, sir. Good morning, Mr Witness.

20 A. [9:47:19] Good morning.

21 Q. [9:47:20] We -- we met during the witness preparation session, but for the record  
22 my name is Edward Jeremy and I'll be asking you questions on behalf of  
23 the -- the Prosecution.

24 And, sir, if any of my questions are not clear, then please do not hesitate to ask me to  
25 clarify.

1 A. [9:47:44] Certainly.

2 Q. [9:47:45] And, sir, it's -- it's totally your -- your choice, but if you also have any  
3 difficulty with the mask covering your face, then feel free to remove it. It's totally  
4 your choice.

5 Sir, do you recall that during the witness preparation session you had the opportunity  
6 to review your witness statement and the three annexes to your statement?

7 A. [9:48:18] Yes, I do remember that.

8 Q. [9:48:20] Now, you, during that preparation session you confirmed that, with  
9 the corrections and the clarifications that you made to your statement, then that  
10 statement was true and correct to the best of your knowledge and belief, and you  
11 agreed that your statement could be submitted into evidence in this case; is that  
12 correct?

13 A. [9:48:50] That is correct, and I fully -- I'm fully in agreement with that.

14 Q. [9:48:56] Okay. Now, what we are going to do with the remainder of my time,  
15 which I -- I plan to be around 45 minutes, hopefully less, is to -- to quickly go through  
16 those corrections, and then we will also look at your clarifications which mainly focus  
17 on your evidence in relation to Ali Kushayb.

18 Your Honours, I now ask the court officer to please bring up the document that is  
19 ERN DAR-OTP-0124-0196. That's the witness statement that is tab 1 of the court  
20 binder. Not to be broadcast, please.

21 Now, sir, if you look on the screen in front of you, do you see a document on your  
22 screen?

23 A. [9:50:03] I do not. I now do. I see a document.

24 Q. [9:50:11] Okay. And if we can go to page 0209, please. And that's  
25 paragraph 76. To make a brief correction.

1 Now, sir, you wanted to correct paragraph 76 to make clear that the location Khardud,  
2 which I spell K-H-A-R-D-U-D, is located in Nyala, so that the "and" in line 1 of  
3 paragraph 76 should be corrected to say "in". Is that correct, you can confirm that  
4 Khardud is in Nyala, sir?

5 A. [9:51:17] That is correct. Khardud -- I mean Nyala is a governorate, it is  
6 the capital of South Darfur. And Khardud is a location north-west of Nyala. It is  
7 a small area.

8 Q. [9:51:41] Thank you, sir.

9 Now another -- well, a clarification, paragraph 121, can we go to page 0215, please.  
10 And, sir, in paragraph 121 you -- you refer to an organisation whose name I  
11 deliberately will not mention in -- in open court. Now, during the witness  
12 preparation session you clarified that you worked for this organisation for a few  
13 months in 2006 or 2007, correct?

14 A. [9:52:29] Yes.

15 PRESIDING JUDGE KORNER: [9:52:32] Which paragraph are you talking about?

16 MR JEREMY: [9:52:36] Paragraph 121, your Honour.

17 PRESIDING JUDGE KORNER: [9:52:43] I don't see anything about any organisation.

18 MR EDWARDS: [9:52:47] Your Honour, if I may, we've produced a list of names  
19 and places which should be with your Honours and is also on the witness's desk. If  
20 it assists, it's point 4 of that document, so that we can remain in public session for as  
21 long as possible.

22 PRESIDING JUDGE KORNER: [9:53:06](Microphone not activated).

23 THE INTERPRETER: [9:53:10] Microphone, please.

24 PRESIDING JUDGE KORNER: [9:53:12] I'm sorry, it wasn't clear to me what you  
25 were talking about, Mr Jeremy, but ...



1 MR JEREMY: [9:53:18] Yes, your Honour. It's the third line of paragraph 121.

2 Thank you.

3 Could I now ask the court officer to please bring up the document with ERN

4 DAR-OTP-0220-3927.

5 Q. [9:53:52] And, sir, while this is being brought to our screens, in paragraph 9 of

6 your statement you say that you worked in Garsila in 1992, and I deliberately won't

7 say where. During the preparation session do you recall drawing a sketch of

8 Garsila?

9 A. [9:54:20] Yes, I remember that.

10 Q. [9:54:32] And I don't have it on my screen yet, but hopefully

11 DAR-OTP-0220-3927 will shortly be coming to our screens. It's item 22 in

12 the physical binder that the Prosecution prepared.

13 And, sir, when this sketch appears on our screens I'll ask you if you can -- if you can

14 tell us if you recognise this as the sketch that you drew, signed and dated during

15 the prep session.

16 A. [9:55:24] Yes, I will respond it -- to that when it's shown.

17 Q. [9:55:53] So, sir, the sketch is now on our screen.

18 Unfortunately, your Honours, we -- we can't broadcast this one because of

19 the -- the witness's signature.

20 Sir, do you recognise this? It's the sketch that you drew, signed and dated during

21 the witness preparation session.

22 A. [9:56:20] I do.

23 PRESIDING JUDGE KORNER: [9:56:24] Does it add anything to the many sketches

24 we've already seen of Garsila? Because if it doesn't ...

25 MR JEREMY: [9:56:39] It's -- it indicates the location where the witness was working,

1 and I think in the course of the witness's testimony in his statement and today he'll  
2 refer to some locations that he marked within that sketch. So for that reason, for  
3 the completeness -- for the completeness of the understanding of the witness's  
4 evidence, we -- we included the -- the witness also marked an aerial image which we  
5 decided is not necessary to include, for various reasons.

6 PRESIDING JUDGE KORNER: [9:57:19] All right. But it does seem to be all it does  
7 is potentially create confusion. And provided -- if somebody has already done  
8 a sketch map and provided the witness says, "Yeah, that accords with my  
9 recollection," is it necessary for the witness to draw another one?

10 I mean in future. I'm just -- I'm looking at the future, Mr Jeremy. Because, I mean,  
11 the more documents you throw in the more difficult it becomes to keep track of what  
12 is what.

13 MR JEREMY: [9:57:52] That point is well taken, Madam President.

14 PRESIDING JUDGE KORNER: [9:57:54] All right.

15 MR JEREMY: [9:57:56]

16 Q. [9:57:56] And, sir, the sketch you've drawn is self-explanatory, so, for now, we  
17 don't need to go through that, so I will -- I will move on. Thank you.

18 Now I'll be, in the next part of my questioning, I'll be referring to the statement, so I  
19 think we can already bring that back to our screens. So that's DAR-OTP-0124-0196.

20 And, sir, I'll spend the remainder of my time on clarifications that you provided in  
21 relation to your knowledge of Ali Kushayb, who you refer to in paragraph 121 of your  
22 statement, which we'll look at shortly.

23 But before we do that, sir, can you tell us whether or not in your region of Darfur it  
24 was usual for a person to be known as -- to be known by a nickname instead of  
25 their -- their real given name.

1 A. [9:59:11] Yes, it is even easier to recognise someone with a nickname rather than  
2 their actual full name.

3 Q. [9:59:23] And, for example, without saying it, did you have a -- a nickname, sir?

4 A. [9:59:39] I do have a nickname, as does my father and as does my mother, and  
5 so forth. It's the common practice in Darfur, people are called by their nicknames,  
6 not by their names, regardless of whether it's a four-word name, or a three-word  
7 name, the nickname is what matters.

8 When you're looking for someone in Darfur, and you want find to find that person as  
9 quickly as possible, you have to call on that person with their nickname.

10 Q. [10:00:24] And based on what you have said and also your own nickname,  
11 would people know you only by your nickname in certain circumstances and not  
12 your full or given name?

13 A. [10:00:38] Yes, most of them know me by my nickname and not by my full  
14 name.

15 Q. [10:00:45] And would this also be the case for others in -- in the region?

16 A. [10:00:52] Yes. Yes, that applies to every single person in the region.

17 Q. [10:01:01] And, sir, would you say that this was also -- this was the case now but  
18 also in the past, in the 2003 and '04 period, for example?

19 A. [10:01:15] Yes. Since we existed in Darfur, the nickname has been a necessity.  
20 And this will go on until forever, I think. The nickname is always going to  
21 summarise the name and it would be easier to identify a person and find them.

22 Q. [10:01:43] All right. Now I want to move to your knowledge of Ali Kushayb's  
23 name, his nickname.

24 Now, in paragraph 121 of your statement, which is at 0215 of the electronic version,  
25 you refer to a lawyer called Mohammad Ali. Now, can I ask you just to tell us what

1 his full name was?

2 A. [10:02:21] Mohammad Ali Hassan Gassin.

3 Q. [10:02:31] Now, in paragraph 121 of your statement you say that Ali Kushayb is  
4 the uncle of this lawyer called Mohammad Ali.

5 Sir, can you - briefly, if you can - explain the relationship between Mohammad Ali  
6 and Ali Kushayb.

7 A. [10:03:09] Mohammad Ali and his family were born in the region of  
8 Bahr el Ghazal, they are from the region of Bahr el Ghazal in south Sudan. When  
9 Sudan was unified, his father was a soldier in the armed forces in Bahr el Ghazal  
10 region in south Sudan. And Mohammad Ali was also born in that region,  
11 Bahr el Ghazal.

12 They moved to the South Darfur region. Ali was among them. He is officially from  
13 south Sudan. And it is well known that if the child has not reached 18 years of age,  
14 to join the armed forces, he will be included in the army camps to serve and provide  
15 some services like ironing uniforms, cleaning, providing services. And Ali,  
16 Ali Kushayb was one of those who were recruited there. \*And locally we call such  
17 young people "Jana-Jaysh", those who are serving the army and working for the army.  
18 So he was recruited there serving the army.

19 And Hassan Gassin, the father of the lawyer, when he finalised his services in  
20 south Sudan and moved to the north, Ali moved with him, Ali Kushayb. And when  
21 he reached 18 years of age he was immediately inserted in the armed forces.

22 Mohammad Ali died and he has an office in Nyala. Thank you.

23 Q. [10:05:31] Thank you, sir. Just a few follow-up questions on what you've just  
24 said. So when you said that his father was a soldier in the Sudanese Armed Forces,  
25 there you're referring to the lawyer Mohammad Ali, correct?

1 A. [10:05:51] Yes. Yes.

2 Q. [10:05:56] And when you said that the family moved to the -- the north and  
3 Ali Kushayb went with them, where did they move to, if you recall?

4 A. [10:06:16] They moved from Bahr el Ghazal to north Sudan, the region of Nyala  
5 in north Sudan.

6 Q. [10:06:35] So if -- if I understand correctly then, Ali Kushayb was providing  
7 some support doing some work for the lawyer Mohammad Ali's father while he was  
8 in the military serving in south Sudan, and Ali Kushayb was a youth at that time; is  
9 that correct?

10 A. [10:07:08] That is correct.

11 PRESIDING JUDGE KORNER: [10:07:11] Well, that was very clever if you divine  
12 that, Mr Jeremy. But at the moment it's not clear, I don't think, to any of us what  
13 the connection is between Mohammad Ali, his father and the person known as  
14 Ali Kushayb.

15 MR JEREMY: [10:07:31]

16 Q. [10:07:31] So --

17 A. [10:07:37] May I? May I clarify? I can provide additional clarification.

18 Hassan Gassin is the father of lawyer Mohammad Ali. Given his position in  
19 the army he was moved to Bahr el Ghazal region in south Sudan. As usual, in  
20 the Sudanese army, there are children who work in the army barracks. They are not  
21 soldiers, but they do provide services for the army. And they are called, in Arabic,  
22 *jana jeish* and the translation would be the children of the army, the child of an army  
23 personnel.

24 When Hassan Gassin was in Bahr el Ghazal he -- Ali Kushayb was also recruited as  
25 a child of the army serving in the army camps. Hassan Gassin was later on with his

1 wife and children moved to south Sudan, and so Ali Kushayb followed him to  
2 south Sudan region. When he reached 18 years of age he was recruited as a soldier  
3 in the Sudanese army.

4 This is what I wanted to clarify. So this is the relationship between Mohammad Ali  
5 and Ali Kushayb. Thank you.

6 PRESIDING JUDGE KORNER: [10:09:07] I think there's one more missing link, if  
7 I -- if I can put it that way, sir.

8 Why did Ali Kushayb move with these people at all? What was the relationship?

9 THE WITNESS: [10:09:29](Interpretation) He became a person who is serving this  
10 family because the father, the head of the family is in the army, so they need someone  
11 to serve them, who is one of these children. So this is the type of services that these  
12 children who are under age would provide and later on would become soldiers.

13 When he moved from south Sudan to north Sudan, this person would be considered  
14 as member of the family, assisting that family whenever they move anywhere else.

15 I hope I have clarified the relationship.

16 PRESIDING JUDGE KORNER: [10:10:11] Okay. One -- one last question: What  
17 happened to Ali Kushayb's parents? Why was he moving with this family,  
18 the family of Hassan Gassin, I think? Yeah, Hassan Gassin.

19 THE WITNESS: [10:10:39](Interpretation) Gassin. We have a very big number of  
20 similar positions throughout Darfur, north-west Sudan. The -- most of these recruits  
21 came from the south. I think because of the war. Most of them had to leave their  
22 families and joined the armed forces to serve in the army camps.

23 PRESIDING JUDGE KORNER: [10:11:15] So there was no family relationship  
24 between Ali Kushayb and Mr Gassin?

25 THE WITNESS: [10:11:29](Interpretation) Yes. No, there is no such relationship, or

1 blood relationship.

2 MR JEREMY: [10:11:38]

3 Q. [10:11:39] And, sir, one clarification. You used this term *jana jeish* to refer to  
4 the underage persons providing service in the military. My understanding is that  
5 the spelling of that word is J-A-N-A J-E-I-S-H; is that correct?

6 A. [10:12:20] (Speaks English) Can you repeat again.

7 Q. [10:12:22] Yes. So I wanted to spell this term you referred to as *jana jeish*, and if  
8 you can then please confirm the spelling, because I know you also have some English,  
9 as J-A-N-A J-E-I-S-H?

10 A. [10:12:49] (Speaks English) J -- J-A-N-A.

11 Q. [10:13:00] That's *jana*, and then the next, *jeish*?

12 A. [10:13:06] *Jeish*.

13 Q. [10:13:09] Could you spell that, please?

14 A. [10:13:12] J-A ...

15 Q. [10:13:20] So I understand that second word to be spelt as J-A-I-S-H?

16 A. [10:13:30] Yes, yes.

17 Q. [10:13:32] Thank you.

18 Now, sir, in paragraph 121 of your statement you say, quote: "Ali Kushayb is  
19 a nickname and I don't know his real name." End quote.

20 Now, sir, during the preparation session, did you use a real name for Ali Kushayb?

21 A. [10:14:08] Maybe in 2018, following the events that took place, I started asking  
22 about his name and I found his real name, which is Ali Muhammad Abd-Al-Rahman,  
23 known as Ali Kushayb.

24 Can you please repeat the question one more time.

25 Q. [10:14:39] Yes. So, during the witness preparation session, what I wanted to

1 clarify with you is whether you recall using a full name for -- or a real name for

2 Ali Kushayb?

3 A. [10:14:51] Yes, yes.

4 Q. [10:14:55] And what was that full name that you used during the preparation  
5 session for Ali Kushayb?

6 PRESIDING JUDGE KORNER: [10:15:08](Microphone not activated) -- given it,  
7 Mr Jeremy, it's on the transcript.

8 MR JEREMY: [10:15:13] Okay. Thank you, Madam President.

9 Q. [10:15:14] Now, sir, do you recall during the preparation session referring to an  
10 event at which you learned this full name of Ali Kushayb?

11 A. [10:15:36] It was during a wedding ceremony for one of the sisters of  
12 Mohammad Ali Hamed Gassin in the house of Hassan Gassin. If I remember  
13 correctly, it was in 2013, because he was a lawyer and he invited us to the wedding.  
14 And this is a tradition in Sudan. So we attended the wedding, and I found that  
15 person there attending the wedding and I asked Mr Mohammed about  
16 the relationship between him and Ali, Ali Kushayb. He mentioned to me the full  
17 name then.

18 Mentioning the full name of a person means that he wants to tell me that he has no  
19 relationship with Mohammed -- or that there's no relationship between Hamed Ali  
20 Mohammad Gassin and Ali Kushayb.

21 And as I said before, he used to be the child of the army, *jana jeish*, and he attended  
22 the wedding as one of the members of the family. And he entered the room and he  
23 retreated the Sudanese nationality or ID card, and I found out that he was a Sudanese  
24 from the region in south Sudan and he, during the discussion, he mentioned to me  
25 the full name of Ali Kushayb. And this is when I understood that this person was



1 a child of the army and not the maternal uncle of Ali.

2 I hope that I have clarified the matter.

3 Q. [10:17:26] So ...

4 PRESIDING JUDGE KORNER: [10:17:28] Well, this is where I think we've all been  
5 confused, Mr Jeremy.

6 Can we take it that the statement -- that the sentence beginning "Ali Kushayb" in  
7 paragraph 121 is not right? Because that's what the witness seems to have just said.

8 MR JEREMY: [10:17:55] Your Honour, my understanding is that the witness has just  
9 told -- this statement was provided in 2007 and the witness used the nickname  
10 Ali Kushayb. And the witness has now told us that, at a wedding in 2013, he learned  
11 the full name for Ali Kushayb at that wedding.

12 PRESIDING JUDGE KORNER: [10:18:15] Yes, but he -- all right, just a moment. He  
13 just said also -- I'm going back.

14 "And this is when I understood that this person was a child of the army and not  
15 the maternal uncle of Ali." So that -- the sentence that appears, as you say rightly, in  
16 a statement made in 2007 is an error.

17 MR JEREMY: [10:18:59] Well ...

18 PRESIDING JUDGE KORNER: [10:19:07] Because I think this is certainly where  
19 I was confused, by when the witness was describing how the man known by  
20 the nickname of Ali Kushayb had entered into the army as a young boy and had no  
21 relationship. But as I understand it, and I think this -- you really need to clarify this  
22 once and for all. Well, I'll do it.

23 Sir, in your statement in 2007 you said that "Ali Kushayb is the uncle of  
24 (Redacted)", and somebody called Mohammad Ali. Is that -- was that an error, as  
25 you discovered when you went to this wedding in 2018, was it?

1 MR JEREMY: [10:20:01] Thirteen.

2 PRESIDING JUDGE KORNER: [10:20:08] Thirteen.

3 THE WITNESS: [10:20:09](Interpretation) I will clarify even more. When a person  
4 is raised in a family, even if there is no blood relationship with the family, the person  
5 would be known as the uncle, whether maternal or paternal uncle. So this is  
6 common in Sudan.

7 Even if there is no blood relationship between the persons, had Jeremy been brought  
8 up with us in our family since he was a child until he's 15 or 25 or 35, but we -- and  
9 he's still older than us, we will call him "uncle", whether maternal or paternal uncle in  
10 Arabic, and this is the tradition. So we call a person the uncle, the older person,  
11 the aunt. So out of respect this is the tradition in Sudan. This is why  
12 Mohammad Ali can call Ali Kushayb my uncle, my maternal uncle. This is quite  
13 normal in Sudan.

14 PRESIDING JUDGE KORNER: [10:21:05] Thank you very much, sir. All right, I  
15 think we've got it now.

16 I should say I've got it, which it may be that everybody else had already got it.

17 MR JEREMY: [10:21:23]

18 Q. [10:21:24] Okay, so for my clarification as well, you -- did you see Ali Kushayb  
19 at this wedding in -- in 2013?

20 A. [10:21:36] Yes, I saw him. Yes, I saw him.

21 Q. [10:21:41] And what prompted you to ask Mr Gassin about his real relationship  
22 to Ali Kushayb? Why did you do that?

23 A. [10:21:57] This is something natural. When I saw Ali Kushayb, he is -- he has  
24 a dark skin. Mohammad Ali is more a fair brown or yellowish. So you could see  
25 that the eyes, the nose, and even the ears were not similar between Mohammad Ali

1 and Ali Kushayb. This is why I asked him that question.

2 In Sudan, the child will always have some of the main features of the father or  
3 the mother or the grandparents, so something that would be seen clearly in the eyes,  
4 in the nose, in the ears, in the height, et cetera. And there was nothing similar  
5 between the features of Mr Gassin and Ali Kushayb, especially the darker skin.  
6 This is what prompt me to ask the lawyer that question and he answered me that way.  
7 Thank you.

8 Q. [10:23:08] Okay. Now, sir, you've mentioned some of the features of  
9 Ali Kushayb and you mentioned the -- the dark skin. Can you mention -- can you  
10 provide any other description of Ali Kushayb's face?

11 A. [10:23:29] Can you clarify the question more, please.

12 Q. [10:23:36] Yes. Sir, you mentioned certain features that you noticed about  
13 Ali Kushayb's appearance and you referred to his dark skin. And my question is:  
14 Did you identify any other features in relation to Ali Kushayb's face that you can  
15 describe, in relation to his appearance?

16 A. [10:24:11] I can identify him through his nose, his eyes and his skin colour.  
17 These are the three features that would help me identify him.

18 Q. [10:24:22] Okay. So you mentioned nose and eyes and skin colour.  
19 You mentioned the skin colour is dark. Can you describe his nose and eyes.

20 A. [10:24:37] Regarding the nose, it's not a small nose and it's not -- it's not my nose,  
21 it's not similar to my nose. Maybe it's more prominent, a little bit. And his eyes as  
22 well, they were a bit red. This made me believe that he was from south Sudan.  
23 The skin colour is similar to people from south Sudan and also the nose of people  
24 living in south Sudan and not people from Darfur.

25 Q. [10:25:28] Sir, you mentioned that he had red eyes. What did you -- what do

1 you mean by that?

2 A. [10:25:46] Maybe the nerve inside the eye that is heading outwards is red and  
3 not white. This is the main feature.

4 Q. [10:26:01] So, if I understand correctly, you're referring to the veins in the -- in  
5 the eye, correct?

6 A. [10:26:09] Yes, yes.

7 Q. [10:26:12] Okay. And can you estimate how -- how tall he was.

8 A. [10:26:23] About 150 to 170 centimetres.

9 Q. [10:26:39] Was he -- was he taller than you, sir?

10 A. [10:26:43] Yes, he was taller than me. Taller than me.

11 Q. [10:26:49] And do you know how tall you are?

12 A. [10:26:55] No, I don't know. I don't know.

13 Q. [10:27:02] Okay, sir, if you're not sure how tall you are, are you confident in  
14 your -- the measurements you provided?

15 A. [10:27:15] I'm not quite sure. In Sudan we're not really interested in ages and  
16 how tall we are or birth date, these are not important to us in Sudan.

17 Q. [10:27:28] Okay. That's understood.

18 Now, sir, still on paragraph 121 of your statement, you -- you mention that you -- that  
19 you met Ali Kushayb personally many times. And in witness preparation you  
20 mentioned the -- the first time that you met him. So do you recall when that was,  
21 what year that was?

22 A. [10:28:01] That was in 1992, but I don't remember the exact date.

23 Q. [10:28:09] That's fine. And you don't need to say why you were -- why you  
24 were in this location, but what was the location what -- what location did you see  
25 Ali Kushayb in 1992?

- 1 A. [10:28:33] Can you repeat the question, please.
- 2 Q. [10:28:36] Yes. Where was it that you saw Ali Kushayb in 1992?
- 3 A. [10:28:47] I saw him in Garsila.
- 4 Q. [10:28:52] And why -- what was the occasion on which you saw him? Why did  
5 you see him?
- 6 A. [10:29:05] He has a small kiosk, canteen or shop in Sudan. Used to call it  
7 canteen, it's a small shop, and usually that place would provide veterinary medication  
8 and pharmaceutical medication as well. And we were buying medication from that  
9 place, from that shop.
- 10 Q. [10:29:36] Were you buying medication for your -- for yourself, sir, or for an  
11 animal?
- 12 A. [10:29:44] No, I was buying the medication for \*myself.
- 13 Q. [10:29:57] Okay. Now, moving forward, sir, to other sightings of Ali Kushayb.  
14 In your statement at paragraph 125, and that's page 0216, you refer to seeing  
15 Ali Kushayb in Nyala in January 2007.  
16 Now my question, sir, is between 1992 when you saw Ali Kushayb in his shop in  
17 Garsila and 2007 in Nyala, were there also other occasions during which you saw  
18 Ali Kushayb?
- 19 A. [10:30:46] Can you please repeat the question.
- 20 Q. [10:30:49] Yes. So you mention that you saw Ali Kushayb in -- in his shop in  
21 Garsila in 1992. In your witness statement you refer to seeing him in Nyala in 2007.  
22 So I would like to know if you saw Ali Kushayb between 1992 and 2007.
- 23 A. [10:31:21] In 2007 I saw him in Nyala, if I understood your question.
- 24 Q. [10:31:31] And prior to that, did you see him on other occasions in Nyala, sir?
- 25 A. [10:31:45] During that time I wasn't in Nyala, I was in another region.

1 Q. [10:31:55] Okay. Now, you -- you've mentioned the wedding that you  
2 attended in 2013 when you saw Ali Kushayb and you learned his full name. Were  
3 there any other occasions in addition to this wedding in 2013 or after the wedding in  
4 2013 that you saw Ali Kushayb?

5 A. [10:32:34] I believe - and this is the habit of the Sudanese people - every Friday  
6 there is a wedding to which are invited tribes and dignitaries. And it could be other  
7 social occasions such as the circumcision of a child or the departure of a\*bride, and so  
8 forth. In any event, every Friday there is an occasion at which you can see people  
9 you had not seen for five, six or eight years. This is the common practice in Sudan.  
10 I might have seen him, but there is nothing that triggers that I had a discussion with  
11 him or a conversation. He might have been there. He might have not been.

12 Q. [10:33:39] Okay. Now, sir, in paragraph 124 of your statement, page 0216,  
13 you -- you say that Ali Kushayb was subject to an attack on the road between Nyala  
14 and Zalingei. You say this was before the end of Ramadan in 2006. Are you aware  
15 of another assassination attempt against Ali Kushayb?

16 A. [10:34:26] Yes. If I got your question correctly, that was the first targeting.  
17 The second targeting happened in 2017, around the industrial zone at 1 p.m. He was  
18 shot at under the -- what we refer to as the *recuba* (phon), it's a -- sort of a structure of  
19 four pillars with some form of roof above where they offer a local dish called *asida*.  
20 Someone fired at him, and \*apparently he had a shield that protected him.  
21 This is what -- this is how it seems to be. He was hit in his right arm. Now, that  
22 person ran away but was gunned down by the -- by Sudanese law enforcement.  
23 This is what I remember. I came to that area one hour after what happened.  
24 Now, my analysis of what happened in the industrial zone is that he was assassinated  
25 on the road between Nyala to Zalingei, and now a second time at the industrial zone.

1 And the person who did this was a member of law enforcement in order to eliminate  
2 Ali Kushayb. He was later transported to Khartoum for treatment. Later on, he  
3 came back, and his conclusion was that he needed to travel to  
4 the southern -- southern part of the country, \*Rahad Al-Berdi, near the Central  
5 African Republic. Thank you.

6 Q. [10:36:34] Now, sir, I just -- I want to focus on what -- what you -- what you saw  
7 and what you heard in relation to this incident. So, as I understand, it was in 2017,  
8 around then. You say that it happened in an industrial zone, in which town, sir?

9 A. [10:37:00] In the city of Nyala. The town of Nyala.

10 Q. [10:37:05] Okay. And did you -- did you see Ali Kushayb on the day of this  
11 assassination attempt?

12 A. [10:37:21] Yes, I saw him at 10 a.m. And he had three Land Rovers with him,  
13 British-made Land Rovers. They had police plates that are used by  
14 the Central Reserve Force.

15 Q. [10:37:46] Okay. And where did you see him, sir? Where in Nyala? Was it  
16 in this industrial zone or at another location?

17 A. [10:38:00] In the big market in Nyala, next to the Wadi Salih taxi station;  
18 Wadi Salih, Garsila, that is.

19 Q. [10:38:14] And did you -- did you see this attack yourself or did you find out  
20 about it from another person?

21 A. [10:38:24] I learned about it over the phone. And when I learned about it I  
22 went to the industrial zone, because we had a car that we sent for maintenance in  
23 the industrial zone and that was near the location where the shooting happened.

24 Q. [10:38:41] Okay. And you learned about it over -- over the phone. Who were  
25 you speaking to on the phone who told you about this?

1 A. [10:38:54] It's the gentleman who was fixing our car, a mechanic.

2 Q. [10:39:07] Okay. Sir, was this the last time that you saw Ali Kushayb in Nyala  
3 or -- or in Darfur?

4 A. [10:39:22] No. Afterwards he was taken to Khartoum for treatment, and when  
5 he came back from Khartoum I saw him once in the -- at the same location and with  
6 the three Central Reserve Force vehicles, in the central marketplace of Nyala next to  
7 the Garsila taxi station there. Taxi/bus station.

8 Q. [10:39:55] And you say you saw him with the three Central Reserve Force  
9 vehicles. Do you know if he was a part of the Central Reserve Forces at this time?

10 A. [10:40:12] Yes, he belonged to the Central Reserve Force then. The first vehicle  
11 was his and his driver's. As to the two other vehicles, they were for the security  
12 detail.

13 Q. [10:40:30] And how did you recognise these vehicles to be Central Reserve Force  
14 vehicles, sir?

15 A. [10:40:44] Given its colour, because each colour has its signification. The police  
16 blue, Central Reserve green, and military yellow. This is --

17 THE INTERPRETER: [10:41:10] Observation from interpreters: if the gentleman  
18 could be asked to repeat his question. To repeat the answer, correction.

19 MR JEREMY: [10:41:20]

20 Q. [10:41:21] Sir, would you mind just repeating your -- your answer. So I heard  
21 you saw that the -- you refer to the green colour of the Central Reserve Force vehicles.  
22 Could you -- and then I think you referred to the colour of some other vehicles.  
23 Could you -- could you repeat your answer.

24 A. [10:41:44] Green is for the military, for military vehicles. Blue colour is for  
25 police vehicles. There's another colour which I'm -- which I find difficult to describe.



1 I'm not a colour expert, I don't know what to say in this regard.

2 It's similar to this colour. It's very close to this colour. This is when it comes to

3 Central Reserve -- Central Reserve Force vehicles. The police are just blue and

4 the military vehicles are green, like this colour, dark green. That's the -- that's how

5 to distinguish between these colours.

6 As to the security apparatus vehicles, they have no colour. They can be white, they

7 can be green, they can be anything.

8 Q. [10:42:51] And for -- for the record, when -- when referring to the colour of

9 the CRF force vehicles the witness referred to a sort of a light orange wire that was in

10 front of him, or light brown.

11 A. [10:43:17] Exactly. It's like this colour, however a little darker. It's darker

12 brown than this one.

13 Q. [10:43:28] So the expression tea with milk, does that help you?

14 A. [10:43:33] Exactly, tea with milk.

15 Q. [10:43:38] So tea with milk describes the colour of the CRF vehicle; is that right?

16 A. [10:43:47] Exactly that, yes. Tea with milk.

17 Q. [10:43:50] Okay. Thank you, Mr Witness.

18 Madam President, that that concludes my questions. Thank you.

19 PRESIDING JUDGE KORNER: [10:44:02] Yes. Well, on an equally difficult note,

20 which is -- it is milky tea, builder's tea?

21 MR JEREMY: [10:44:12] I'm not going down that road, your Honour.

22 PRESIDING JUDGE KORNER: Yes. Thank you.

23 Right. Mr Shah, do you have any questions for the witness?

24 MR SHAH: [10:44:20] Thank you, Madam President. Just a few questions, with

25 your Honour's leave.

1 PRESIDING JUDGE KORNER: [10:44:25] Yes.

2 QUESTIONED BY MR SHAH:

3 Q. [10:44:28] Good morning, Mr Witness.

4 You may recall that we met last Friday briefly in the Court. And as I explained at  
5 that time, my name is Anand Shah and I'm one of the lawyers who is representing  
6 victims in these proceedings. And on behalf of our clients I'd like to ask you just  
7 a few questions.

8 A. [10:44:54] Please go ahead.

9 Q. [10:44:56] Mr Witness, based on your experience, in 2003 and 2004, would it  
10 have been common for people living in villages in West Darfur state to keep their  
11 money at home at their -- at their house?

12 A. [10:45:25] In 2003, 2004, and this is a truth, the -- their homes were -- were  
13 the only places where they could keep their money. There was only one bank  
14 available in Garsila. There were no banks anywhere else, or any other facilities  
15 where you can store your money. So the natural thing to do was to keep money at  
16 home.

17 Second, banks in Sudan require ID documents in order to open a current account.

18 These people do not have IDs. For example, my own mother, until she passed away,  
19 never had a citizenship or a document proving her marriage. That's the nature of  
20 things when it comes to the life of those villagers.

21 Q. [10:46:32] Thank you, Mr Witness.

22 Switching to another topic. Do you know, Mr Witness, what were the main  
23 livelihoods of the Fur people in West Darfur state in 2003 and 2004?

24 A. [10:46:56] In the years 2003, 2004, most of the people were farmers. They  
25 earned their livelihoods through farming and through raising some livestock.

1 Others worked in cutting wood, also local trade from some towns, villages to other  
2 parts of the countryside. That's the nature of business in that part in West Darfur.

3 If I may, I have a question that I'd like to put to the person asking me. Are you  
4 talking about modern day West Darfur or the past West Darfur? Because  
5 West Darfur in -- now in and of itself a governorate, but it used to have Central  
6 Darfur.

7 So your question about that area in 2003, 2004, in general, that's what their business  
8 was. But Central Darfur and West Darfur used to be one governorate and it used to  
9 be called West Darfur, and their main business was livestock raising, farming, local  
10 trade. And in colloquial Arabic we call him -- *mdeworwor* (phon), meaning local  
11 merchants or peddlers, and so forth.

12 Q. [10:48:32] Thanks so much, Mr Witness. And, yes, thank you for that  
13 clarification. I did mean West Darfur state as it was in 2003, 2004.

14 Now switching to yet another topic. Mr Witness, in your statement you mention  
15 visiting various internally displaced person camps in 2003 and 2004. Are you able to  
16 tell us what were the living conditions like at that time for the people.

17 A. [10:49:14] The IDP camps, whether in west, north or central or south Darfur,  
18 these people lost everything. They lost money, money in the sense of cash or in  
19 the sense of possessions such as cows, sheep, in addition to crops which were burned.  
20 So they ended up in camps, whether in north of Nyala or in the Kalma camp, or in  
21 the Zalingei camps. They had very harsh conditions. They relied on help, in terms  
22 of corn and oil, that was provided by humanitarian organisations including  
23 WHO-affiliated organisations.

24 Is that what -- did I answer your question then?

25 Q. [10:50:33] Yes, you did. Thank you so very much, Mr Witness, that's a very

1 difficult picture that you paint.

2 Mr Witness, this is the last subject I'd like to ask you about, and that's at  
3 paragraph 127 of your statement. And you describe here interacting with a large  
4 number of rape victims, who you say were between the ages of 12 and 25 and who  
5 were all from African tribes. And when you say "African tribes", would this include  
6 members of the Fur community?

7 A. [10:51:19] It includes the Fur community, yes. Maybe this is something you  
8 wouldn't find in history books. The Fur are not present in neighbouring countries.  
9 All tribes have extensions across neighbouring countries, except the Fur. You may  
10 find Rizeigat people in Chad, Mali or in south Sudan. But the Fur do not have  
11 history in neighbouring countries.

12 In the year 1930 or '40, for example, there was no Fur in the Central African Republic,  
13 or Chad, or south Sudan, or Libya.

14 Q. [10:52:10] I'm very sorry to -- to interrupt, and I appreciate the explanation, but I  
15 did want to get back to this particular statement because it is -- it is important for  
16 our -- our clients.

17 You also mention here that these interactions with these rape victims were -- that they  
18 particularly stick in your memory, that that's the wording that you used. And could  
19 you just explain to the Court why is it that these interactions stuck in your memory.

20 A. [10:52:44] Well, it's natural, and what motivated me to interact with these people,  
21 first of all, is that a rapist intends to humiliate and to break his victim. And that's  
22 what happened. That's the conclusion I draw from -- I drew from what happened.  
23 The woman who is a rape victim always feels shattered and broken, and the children  
24 that are born have features that are dissimilar.

25 I remember a lady who had five or six children who were fair skinned. I asked her

1 what are you going to do with this, and very humbly they would say, "Well, they're  
2 just our children." So these were tough questions to come to grips with. Children  
3 with unknown fathers, children who are fair skinned, they don't look like the family.  
4 And amid such a situation the mother is forced to raise them anyway, to provide  
5 them with food, shelter and clothing because they are the children anyway. That's  
6 all I could say in that regard.

7 Q. [10:54:29] Thank you so much, Mr Witness, that's very helpful. And thank  
8 you -- thank you for explaining that to the judges. And on behalf of our clients, we  
9 appreciate your willingness and come and testify before their Honours.

10 No more questions, Madam President.

11 PRESIDING JUDGE KORNER: [10:54:46] Thank you.

12 Mr Edwards, I think we'll take the break now. There's not much point in you going  
13 for 5 minutes.

14 MR EDWARDS: [10:54:55] No. Will we come back 5 minutes early? I just want to  
15 maximise my time, at the risk of (Overlapping speakers)

16 PRESIDING JUDGE KORNER: [10:55:00] I see, you expect to take the whole day, do  
17 you?

18 MR EDWARDS: [10:55:03] I can't rule it out. But it was simply a question, it was  
19 a genuine question, will we be breaking until 25 past or until half past?

20 PRESIDING JUDGE KORNER: [10:55:15] Yes. We'll break until 25 past.

21 MR EDWARDS: Thank you.

22 PRESIDING JUDGE KORNER: [10:55:12] Yes. Sir, we're going to have a break now,  
23 give you a chance to relax. I just remind you not to discuss the evidence you're  
24 giving with anybody, and then you'll be cross-examined by the Defence.

25 Yes, 25 past 11, please.

Trial Hearing  
WITNESS: DAR-OTP-P-0119

(Open Session)

ICC-02/05-01/20

- 1 THE COURT USHER: [10:55:29] All rise.
- 2 (Recess taken at 10.55 a.m.)
- 3 (Upon resuming in open session at 11.27 a.m.)
- 4 THE COURT USHER: [11:27:00] All rise.
- 5 Please be seated.
- 6 PRESIDING JUDGE KORNER: [11:27:27] Yes, Mr Edwards.
- 7 MR EDWARDS: [11:27:31] Thank you, your Honour.
- 8 QUESTIONED BY MR EDWARDS:
- 9 Q. [11:27:40] Good morning, Mr Witness. Can you hear me?
- 10 A. [11:27:46] I can hear you clearly.
- 11 Q. [11:27:47] We met very briefly last Friday, and I introduced myself. I'll
- 12 introduce myself again. My name is Iain Edwards and I'm one of the lawyers for
- 13 Mr Ali Muhammad Ali Abd-Al-Rahman.
- 14 I'm also going to repeat something that was said by the Prosecutor, my learned friend,
- 15 earlier this morning. If during the course of my questions I ask you anything that
- 16 you don't understand or that you would like me to repeat, please don't hesitate to ask
- 17 me to repeat myself. Is that all right?
- 18 A. [11:28:37] Yes, that is clear.
- 19 However, before we start, I have some requests from the Court, if I may.
- 20 PRESIDING JUDGE KORNER: [11:28:47] Yes, by all means.
- 21 THE INTERPRETER: [11:28:57] Could we kindly ask the speaker -- the witness to sit
- 22 down. We can't hear him clearly.
- 23 PRESIDING JUDGE KORNER: [11:29:03] Sir, you must sit down, I'm afraid, because
- 24 of the translation and the microphone.
- 25 THE WITNESS: [11:29:09](Interpretation) Since I came to this city, I see many

1 requests from the different offices, but so far I have been dealt with as -- I'm not sure  
2 how to put it. For example, this morning I asked them to provide me with cigarettes,  
3 but they couldn't provide me with any cigarettes. And I was talking to them three or  
4 four days ago and I asked that. Do I have the right to smoke or not?  
5 I asked many things. I asked for many things, actually, and they neglected my  
6 requests. I don't understand.

7 PRESIDING JUDGE KORNER: [11:29:53] Right. I'm very sorry to hear that, sir.  
8 I'm afraid there's not a great deal I can do about it. I have every sympathy,  
9 personally, with your request for cigarettes. But I'm afraid you'll going to have to  
10 take that up or ask the court officials here - and I see gentleman in front of me  
11 nodding - and they'll take this up with the witness service. All right?

12 I'm sorry. Does that mean you weren't able to have a cigarette in the break?

13 THE WITNESS: [11:30:29](Interpretation) No. I asked them three or four days ago  
14 for some cigarettes. Even the psychologist, I asked that of her. But I was not able to  
15 smoke. I don't understand why.

16 PRESIDING JUDGE KORNER: [11:30:43] Well, I may say, you cannot smoke inside  
17 the court. I'm afraid that is a rigid rule, in spite the fact that there are open areas,  
18 apparently, so you would have to go outside. And I don't know how difficult that is  
19 in a break. But I will certainly make it clear that you should be given cigarettes and  
20 taken somewhere where you can have one, certainly over the lunch break and any  
21 other break. All right?

22 Yes, Mr Nicholls.

23 MR NICHOLLS: [11:31:16] I'm very sorry to make this strange interjection, but I  
24 would actually like for OTP, if necessary, to be able to get some cigarettes during this  
25 break and have them handed to the witness before he goes on the next break, without

1 any communication. And I believe, without knowing that I'm right, that there may  
2 be an area \*to smoke in VWS, because victims and witnesses sometimes need to,  
3 without leaving the building.

4 So, with the Court's permission, I will ask somebody to get some cigarettes and have  
5 a court officer, or VWS or somebody, make sure he gets them during the next break.

6 PRESIDING JUDGE KORNER: [11:31:53] Well, thank you very much, Mr Nicholls.

7 And I see Mr Edwards doesn't raise any objection.

8 Sir, I -- if you feel that you would like to break earlier for lunch because you were not  
9 able to have a cigarette in the present break, then we'll do so and we'll just come back  
10 earlier.

11 Mr Edwards, I don't want the witness to, obviously, be stressed out by the fact that he  
12 hasn't been able to have a cigarette. Yes, all right.

13 Well, sir, as I say, if you feel that you really would like to have a break before 1 o'clock,  
14 which is when we normally break for lunch, say so straightaway. We'll break then  
15 and we'll just come back earlier. All right.

16 MR EDWARDS: [11:32:41]

17 Q. [11:32:43] Mr Witness, in front of you is a bundle of documents. There's  
18 a Prosecution bundle of documents, and behind tab 1 is the Arabic version of your  
19 witness statement from 2007.

20 Do you -- do you see that?

21 A. [11:33:23] I don't see anything in front of me.

22 Q. [11:33:26] Okay.

23 Well, perhaps someone from court staff can just get that out for him. Because,  
24 your Honour, I'll be taking the witness to a number of paragraphs from his witness  
25 statement, please.



- 1 Mr Witness, you're going to be helped to -- to read that document, or it will be shown  
2 to you.
- 3 Prosecution bundle, tab 1, Arabic version of the statement, please, Madam  
4 Court Officer.
- 5 Okay. And could you please turn to paragraph 135 in your witness statement.  
6 This is document DAR-OTP-0124-0196 at 0217.
- 7 And in -- in short, Mr Witness, you -- when you gave your statement, you indicated  
8 that you were aware of a public announcement from the Prosecutor of the ICC about  
9 a filing made to the Court regarding Muhammad Ahmad Harun and Ali Kushayb.  
10 Do you follow, Mr Witness?
- 11 A. [11:35:22] Could you please repeat the question.
- 12 Q. [11:35:24] Well, I'm just orienting you at the moment. I haven't asked  
13 a question.
- 14 But when you gave your statement to the Prosecution, you were aware of a filing by  
15 the Prosecutor of this Court regarding Muhammad Ahmad Harun and Ali Kushayb,  
16 correct?
- 17 A. [11:35:52] That is not correct.
- 18 Q. [11:35:57] Can you tell us what is incorrect about -- about that.
- 19 A. [11:36:17] I don't see Arabic in front of me. I see the copy in English. So  
20 I don't know exactly what was the page number or the paragraph number.
- 21 Q. [11:36:28] Mr Witness, please don't look at the screen. The -- the court officer  
22 pointed you to a hard copy document in the Arabic language. Have you got that?
- 23 A. [11:36:43] Yes, yes.
- 24 Q. [11:36:44] Could you please locate paragraph 135 in that statement. It's  
25 towards the back of the -- it's one of the last paragraphs of the whole document. 135.

1 A. [11:37:13] 135.

2 THE COURT OFFICER: [11:37:16] My apologies. Could counsel kindly refer us to  
3 the ERN, please. Thank you.

4 MR EDWARDS: [11:37:25] Oh, I'm sorry. I thought I had done it.

5 DAR-OTP-0124-0217. Yeah, it's on the screen.

6 Q. [11:37:42] All right. And you found paragraph 135, sir?

7 A. [11:37:48] No, I don't see it in front of me.

8 Q. [11:37:50] Okay.

9 Let's -- no. I think, to be fair to the witness, he is entirely literate, well-educated. It  
10 is probably fair for him to have it in front of him before I continue. I don't know  
11 what document he has. Could I ask the court officer to try again, please.

12 PRESIDING JUDGE KORNER: [11:38:10] Could the court officer go over and make  
13 sure that he's got the statement in Arabic, if possible, on the basis you don't speak  
14 Arabic. Or could somebody.

15 MR JEREMY: [11:38:25] And if it assists, so the Arabic statement should be behind  
16 the English statement in tab 1 of the Prosecution binder.

17 PRESIDING JUDGE KORNER: [11:38:34] Right. Could somebody go and have  
18 a look, please.

19 Is the numbering in Arabic the same?

20 MR JEREMY: [11:38:43] Yes.

21 PRESIDING JUDGE KORNER: [11:38:44] I mean, can you spot 135?

22 MR JEREMY: [11:38:47] Yes.

23 PRESIDING JUDGE KORNER: [11:38:48] You can. All right.

24 MR JEREMY: [11:38:51] And it's page 17 of the Arabic statement.

25 THE INTERPRETER: [11:39:01] Message from the interpreters: Your Honour,

- 1 could the ERN number of the Arabic version be provided to the interpreters, please.
- 2 PRESIDING JUDGE KORNER: [11:39:10] Did you hear that, Mr Edwards?
- 3 MR EDWARDS: [11:39:13] Yeah, I will do my best.
- 4 MR JEREMY: [11:39:15] I can do that, your Honours. It's DAR-OTP-0219-4640.
- 5 MR EDWARDS: [11:39:40]
- 6 Q. [11:39:40] Okay. Mr Witness, have you got it now?
- 7 A. [11:39:46] Yes, yes, it is in front of me.
- 8 Q. [11:39:50] Thank you very much. My thanks to the court officer.
- 9 All right. So I'm going to start again. At the time your statement was taken, you
- 10 were aware that the Prosecutor of the ICC had made a filing to the Court regarding
- 11 Muhammad Ahmad Harun and Ali Kushayb, correct?
- 12 A. [11:40:17] Could you please repeat the question one more time.
- 13 Q. [11:40:22] At the time of your -- your interview, your statement being taken by
- 14 the Prosecutor, you were aware that the Prosecutor of this Court made a filing to
- 15 the Court regarding Muhammad Ahmad Harun and Ali Kushayb; is that right?
- 16 A. [11:40:47] No, that is not correct. I did not know about that.
- 17 Q. [11:40:53] Had you been following in the media the Prosecutor's interest in
- 18 the cases of Mr Harun and Ali Kushayb?
- 19 A. [11:41:15] No, I was not following the media, and the media in the region was
- 20 not available.
- 21 Q. [11:41:22] Okay. Did you have any specific details about the case or cases
- 22 against these two men?
- 23 A. [11:41:40] No, no, I didn't know any -- of any details.
- 24 Q. [11:41:44] All right. In your -- in your statement -- you have the Arabic version
- 25 there, don't you, and paragraph 135, and you can read what paragraph 135 says, in

1 Arabic? Just read it to yourself.

2 A. [11:42:23] This is similar to what I just said to you. I did not know any details.

3 I followed what was said in the media, but I didn't know of any specific details about

4 these two persons. And I was talking here about the media in Geneva and not in

5 Sudan.

6 Q. [11:42:44] Okay. That's fine. Thank you very much.

7 But you were aware that the Prosecutor had made a filing to the Court about

8 Muhammad Harun and Ali Kushayb. Let's just be very clear about that before I

9 move on. Yes?

10 A. [11:43:05] That is not correct.

11 Q. [11:43:07] Well, that's what it says in your statement, sir, that you signed.

12 A. [11:43:21] Your interpretation of this answer and my interpretation are different.

13 In paragraph 135 I said I followed the media with a lot of interest, but I didn't know

14 any specific details when it comes to the trial or the case against these two

15 individuals.

16 Q. [11:43:38] Okay. Thank you.

17 Now, did your great interest with which you followed this case in the media continue

18 after you gave your statement to the Prosecution in 2007?

19 A. [11:44:07] Can you please clarify.

20 Q. [11:44:12] Even if you didn't have any particular -- know any particular details

21 about the case, you had followed the case with great interest in the media.

22 My question is: After your statement, did that interest continue?

23 A. [11:44:34] Yes, yes, I remained interested.

24 Q. [11:44:40] Of course, yes.

25 And there will be no dispute between the Defence and the Prosecution, because it's

1 open source material, in the public announcement from the Prosecutor of the ICC

2 a link was made between Ali Kushayb and our client, Mr Ali Muhammad Ali

3 Abd-Al-Rahman. You were aware of that link in 2007, weren't you?

4 A. [11:45:32] The question is not clear.

5 Q. [11:45:39] I'll try to be clearer.

6 At the time you gave your statement to the Prosecution, you were aware that

7 the Prosecutor alleged that Mr Abd-Al-Rahman and Ali Kushayb were the same

8 person; is that correct?

9 A. [11:46:14] I clarified to the Prosecutor who is Abd-Al-Rahman and who is

10 Ali Kushayb. I clarified it in my answers. Ali Kushayb is a nickname. Ali

11 Abd-Al-Rahman is the real name. And everyone in Sudan has a real name and

12 a nickname.

13 Q. [11:46:37] Okay. Let me just pause for a moment.

14 I'm talking about what you told the Prosecution in 2007. I'm talking about

15 your -- your understanding of the situation in 2007. All right?

16 A. [11:47:02] I said in 2007 that I didn't know his full name. I only knew

17 Ali Kushayb. This was my answer.

18 Q. [11:47:20] What I don't understand is that you say in your statement of 2007 that

19 you followed the public announcement from the Prosecutor, and in that public

20 announcement the link was made between Ali Kushayb and Abd-Al-Rahman.

21 My question is this: Why do you say that in 2007 you didn't know about that link?

22 A. [11:48:10] You mean the link between Ali Abd-Al-Rahman and Ali Kushayb?

23 What do you exactly mean? I'm not quite understanding your question.

24 Q. [11:48:25] Okay. Before I move on, I'm just going to try one more time.

25 Well, I'm going to suggest to you that in 2007 you were aware that the Prosecutor

1 made a link between Ali Kushayb and Mr Abd-Al-Rahman.

2 PRESIDING JUDGE KORNER: [11:48:41](Microphone not activated) I think,  
3 Mr Edwards, the problem is "making a link", and I'm not sure how that's been  
4 translated. But I think it's a bit vague.

5 MR EDWARDS: [11:48:53] Yes. That's -- that's a very good point, your Honour.  
6 Forgive me.

7 Q. [11:48:57] When I -- when I say "making a link", let me be very clear, you knew  
8 in 2007 that the Prosecutor of this Court was saying that Ali Kushayb and Ali  
9 Muhammad Ali Abd-Al-Rahman were the same person. Do you agree or disagree  
10 with that?

11 A. [11:49:27] I do not agree with you. I disagree.

12 Q. [11:49:36] When you followed the public announcement from the Prosecutor of  
13 this Court regarding Ali Kushayb, what media had you been following? Are we  
14 talking about TV? Are we talking about radio? Are we talking about things on  
15 the internet? Can you explain, please.

16 A. [11:50:17] The media that was available to me in my region or where exactly?  
17 What do you mean?

18 Q. [11:50:24] Well, okay, let's start with your region. What media was that?

19 A. [11:50:32] The media is the radio. Only the radio.

20 Q. [11:50:37] And I'm not going to say the place, I'm not going to name the place,  
21 but the place where you were when you gave your statement to the Prosecution, what  
22 media were you following about this announcement by the Prosecution?

23 A. [11:51:06] TV station.

24 Q. [11:51:08] And in that -- in those TV broadcasts, images were shown, weren't  
25 they, of the person that the Prosecutor says was Ali Kushayb, correct?

1 A. [11:51:32] I do not remember that.

2 Q. [11:51:35] I see. All right. I'm going to move on from that topic just for  
3 a moment.

4 Now, in the same Arabic language document you have in front of you, your  
5 statement, please turn to paragraph 11.

6 And, your Honours, this is at 0199. This is not for public broadcast.

7 PRESIDING JUDGE KORNER: [11:52:18] Are you going to ask him about that? Do  
8 you want -- because, if so, you need to go into private session, probably.

9 MR EDWARDS: [11:52:24] Well, with the assistance of this document, I'm hoping I  
10 wouldn't have to.

11 PRESIDING JUDGE KORNER: [11:52:29] All right.

12 MR EDWARDS: [11:52:30]

13 Q. [11:52:30] Mr Witness, do you see a document with -- that is entitled in English  
14 "List of Names and Places" with seven points underneath? Is that there? That  
15 should be immediately in front of you, sir.

16 A. [11:52:57] It's not in front of me.

17 Q. [11:52:59] Well, it should be.

18 But could I please ask the court officer to just hand this to the witness as -- as soon as  
19 we can, please. Thank you. To the witness, please.

20 Okay. Now, Mr Witness, do you see the -- do you see what's written at point 3 in  
21 that document that's just been handed to you?

22 A. [11:54:04] The copy is in front of me.

23 Q. [11:54:07] Okay. Thank you. What I want to know is, when in 1997 did you  
24 take up that position at point 3 in the list?

25 A. [11:54:30] In November or December. I don't remember exactly.

1 Q. [11:54:34] That's fine. Thank you very much.

2 Now, do you see the entry at point 4 in that document?

3 Yes. At paragraph 15 of your statement you say that you refused to join that  
4 institution in 1997. Can you tell us, was that before November or December 1997,  
5 when you refused to join that organisation?

6 A. [11:55:17] Which institution?

7 Q. [11:55:19] On the -- on the list of seven names and places that's just been shown  
8 to you, you see point number 4? Okay.

9 Now, you say that you refused to joint that institution at some point in 1997. Can  
10 you tell us when in 1997.

11 Well, let me put it this way: When in 1997 did you first learn that your name was on  
12 a list of persons expected to join that institution?

13 A. [11:56:12] It was a periodical issue. It starts from January until December.  
14 There was a central office where individuals who would be selected to go to  
15 south Sudan to fight would be selected. And we were amongst those who refused to  
16 go to south Sudan to fight.

17 Q. [11:56:38] Okay. In paragraph 15 of your statement you say your name was  
18 first on a list in 1997. Was it first on the list in January of 1997, then?

19 A. [11:57:02] I do not remember exactly.

20 Q. [11:57:06] But it was -- was it before you were promoted to the position at point  
21 3 on that list of names and places?

22 A. [11:57:27] Promotion is based on skill and competency and not by being  
23 a member of the Islamic movement or organisation. So paragraph 15, I talked about  
24 the orders that are issued by the jihad offices in Khartoum to join the Islamic  
25 movement and to be sent to fight in south Sudan. Once in a while there will be



1 a new list that will be published. Our names were published and we were amongst  
2 those who refused to fight in south Sudan. This is what I understand from  
3 paragraph 15.

4 Q. [11:58:05] Yes. The point I just want to be clear about is that your refusal to  
5 fight did not impact on your promotion in November or December of 2000 and -- in  
6 1997. Have I got that right?

7 A. [11:58:31] It did not impact it.

8 Q. [11:58:34] Thank you very much.

9 Now just moving down in that statement to paragraph 18, please, and you -- you refer  
10 to a presidential decree or a presidential order.

11 Do you see that in paragraph 18, sir?

12 A. [11:59:24] Yes, I can see it in front of me.

13 Q. [11:59:31] Did you ever yourself see that presidential order?

14 A. [11:59:42] And I signed it. Because this publication is sent to the public servant  
15 or the employee in a small envelope and you have to sign for the receipt of  
16 the envelope.

17 Q. [11:59:58] Okay. And did you -- did you keep that -- that presidential order?

18 A. [12:00:07] I do have it.

19 Q. [12:00:10] Did you ever give it to the Prosecution of this Court?

20 A. [12:00:19] They did not ask for it.

21 Q. [12:00:26] Well, in this statement, and more recently, you have volunteered  
22 a number of documents that the Prosecution haven't asked for.

23 Did you volunteer to give that document to the Prosecution?

24 A. [12:00:49] Had they asked me to provide that document, I would have provided  
25 them with the document.

1 Q. [12:00:53] You -- you received a letter dismissing you from your post in 2002,  
2 okay. Can you tell us, if you can, when in 2002 you were dismissed from your post,  
3 approximately.

4 A. [12:01:18] It was in February.

5 Q. [12:01:24] The reason given was privatisation, you say in your statement. Was  
6 that institution that you were working at in fact privatised around the time of your  
7 dismissal?

8 A. [12:01:55] Could you clarify some more.

9 Q. [12:01:59] Okay. You say that the reason that was given to you, officially, for  
10 your dismissal was that the place you were working was being privatised. I'll pause  
11 there for a moment. Are you with me?

12 A. [12:02:31] Indeed, they told me so.

13 Q. [12:02:33] Okay. So my question is this: Was the (Redacted) in fact privatised  
14 around the time when you were dismissed from your post?

15 A. [12:02:51] No. (Redacted)

16 Q. [12:02:59] Well, yes. I mean, it can be in business but still be privatised, can't it?

17 A. [12:03:13] (Redacted)

18 Q. [12:03:19] Okay. Now, you were -- you were given -- you received a payment  
19 of money, 3 million Sudanese pounds, as post-service benefit.

20 Your Honours, I'm looking at paragraph 21 of the statement now.

21 Was it standard policy at that place of work for people who were dismissed to receive  
22 a post-service benefit?

23 A. [12:04:06] It was a standard policy.

24 Q. [12:04:10] Now, the -- the mean official rate -- I don't want to give evidence, but  
25 there's been communication between the Prosecution and ourselves.

1 PRESIDING JUDGE KORNER: [12:04:26] What would you say it is?

2 MR EDWARDS: [12:04:28] Yeah. The mean official rate in 2002 was 262 Sudanese  
3 pounds to the dollar, according to UN data.

4 Q. [12:04:34] So £3 million, according to official data, sir, at the official exchange  
5 rate, makes about -- a little under 11 and a half thousand US dollars. Is that  
6 approximately the equivalent of what you received when you were dismissed?

7 A. [12:05:13] No, it was not that.

8 Q. [12:05:14] So was -- was the real term value of the Sudanese pound against  
9 the dollar different to the official rate?

10 A. [12:05:38] Yes. There are three different exchange rates. I do not remember  
11 the exchange rate of 2002. I don't remember what the exact rate was.

12 £3 million today is called 3,000s, but back then it used to be called 3 millions. Today  
13 it's called 3,000s. I don't remember what the US dollar equivalent would be, but  
14 today it might be 500 to 600 US dollars.

15 Q. [12:06:23] Well, okay, yes, but I'm interested in the situation in 2002, not  
16 the situation 20 years later in 2022. All right?

17 Let me just briefly ask you: Do you happen to remember what the dollar amount,  
18 what the dollar equivalent of your post-service benefit was in 2002?

19 A. [12:06:47] I do not know.

20 Q. [12:07:02] In any event, you were dismissed many months before the rebel  
21 attack on Al Fasher Airport in May 2003, correct?

22 A. [12:07:17] Yes, correct.

23 Q. [12:07:26] Could you please direct your attention to point 6 on this list of names  
24 and places that's in front of you.

25 Not of your statement, but of the list. You follow?

1 A. [12:07:56] The list.

2 Q. [12:07:58] Yeah, okay.

3 Now I don't want you to say that name, but at paragraph 43 you say that there came  
4 a point when he was detained on the basis that he was suspected of being a spy for  
5 the opposition. Paragraph 43 of your statement.

6 A. [12:08:30] (No interpretation) Mm-hmm.

7 Q. [12:08:35] Yeah, okay. Well, I'll take that as a "yes".

8 By "opposition", do you mean the -- the SLM/A or JEM?

9 A. [12:08:57] What is meant by "opposition" is the three groups; SLM, SLA,  
10 the Minni Minawi faction, the Khalil faction, Abd-Al-Wahid Muhammad Nur faction,  
11 and so forth.

12 Q. [12:09:15] Okay. Was he a spy for that opposition?

13 A. [12:09:21] I do not know. I don't know that.

14 Q. [12:09:27] All right. Moving to paragraph 55, I want to talk about firearms in  
15 Darfur for a moment. And we've got to go back in time a little bit to around 1996.  
16 And you explain how there was an increase in lootings and armed robberies from  
17 1996 in Darfur, and this was due to a growing amount of available weapons.

18 This is my question: By "weapons" I presume you mean firearms, do you?

19 A. [12:10:23] All types of weapons, firearms or traditional weapons, including axes,  
20 knives, AK-47s. So firearms too, yes.

21 Q. [12:10:38] And was the firearm of choice, if I could put it that way, was that  
22 the AK-47, the Kalashnikov?

23 A. [12:10:52] Exactly, indeed.

24 Q. [12:10:54] And tell us, in -- in 1996 and the years after 1996, was the border  
25 between Sudan and Chad, and the border between Sudan and the Central African

1 Republic, was it -- was it a very well-guarded border? Was it well monitored?

2 A. [12:11:27] Regarding the borders between Sudan and CAR, I don't know

3 anything about that. There was -- there wasn't even any reason to open the border

4 or close the border. These were remote locations and there was no movement.

5 As to the borders between -- with Libya and Chad, there is a tribal interchange there

6 and security is either absent or weakly present in those areas. That's what I can

7 confirm in that regard.

8 Q. [12:12:07] Thank you. So can you confirm that it was -- it was not difficult for

9 firearms to flow into Darfur from across some of these borders.

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

11 Q. [12:12:45] Apart from any firearms coming in from across the border, do you

12 know where else these armed robbers, these bandits were able to procure weapons

13 from?

14 A. [12:13:14] I do not know.

15 Q. [12:13:17] But it's right to say that farmers then - I'm just reading from your

16 paragraph 55 - "farmers started purchasing their own arms in order to defend

17 themselves."

18 Again, when you talk about arms being purchased by farmers, you're talking about

19 firearms here, are you?

20 A. [12:13:54] I'm not sure I understand what you are saying.

21 Q. [12:13:57] Okay. Just have a look at paragraph 55 of your statement.

22 This is at 0206 in the English, your Honours.

23 You talk about lootings and armed robberies. And then you say: "This led to

24 the fact that farmers started purchasing their own arms in order to defend

25 themselves."

1 Do you follow?

2 A. [12:14:30] Yes, I follow you. And it's in reference to traditional weapons, not to  
3 firearms.

4 Q. [12:14:41] So farmers -- what are these traditional weapons then?

5 A. [12:14:50] Locally manufactured weapons. Regarding traditional firearms,  
6 bayonets, spears, in addition to other locally manufactured weapons that require only  
7 one shot, one bullet.

8 Q. [12:15:15] Okay. So older-style rifles?

9 A. [12:15:25] Old style, yes. One bullet only.

10 Q. [12:15:29] All right. Thank you.

11 And the farmers that started purchasing these arms, we're talking here about farmers  
12 from non-Arab tribes, aren't we?

13 A. [12:15:50] Indeed, there were those.

14 Q. [12:15:54] Yeah. And were you ever aware that non-Arab villages would  
15 organise defence groups in order to defend themselves against robbers and bandits?

16 A. [12:16:27] Could you please explain some more.

17 Q. [12:16:31] Okay. So the farmers are arming themselves with traditional  
18 weapons and -- and some -- and older rifles. And this is to defend themselves and  
19 their families and their way of life, correct?

20 A. [12:16:51] Yes.

21 Q. [12:16:51] And to defend their villages, correct?

22 A. [12:16:56] Yes.

23 Q. [12:16:57] And so if -- if one farmer, or the family of one farmer was attacked,  
24 other farmers would naturally come to his assistance, right?

25 A. [12:17:24] No. No.

1 Q. [12:17:28] So are you telling us that there was no organised village defence  
2 groups?

3 A. [12:17:41] There were no organised groups defending villages. Everyone had  
4 to fend for himself.

5 Q. [12:17:49] I see. Okay. So -- so if you're -- if you're a farmer and your  
6 neighbour is being attacked, you just would sit in your home and you  
7 just -- the farmers would just let the attack proceed without any intervention, is that  
8 what you're saying?

9 A. [12:18:14] Yes, exactly. Arab tribes have that quality. However, the negro  
10 tribes do not have this quality. They would not have each other's back.

11 Q. [12:18:36] I see. All right.

12 PRESIDING JUDGE KORNER: [12:18:38] I don't think the answer -- sorry,  
13 Mr Edwards. The answer, because it doesn't seem to follow, just a moment, on  
14 the LiveNote.

15 I don't know -- his answer, "Yes."

16 Yes, at line 11 of page 56: "... were you ever aware that non-Arab villages would  
17 organise defence groups in order to defend themselves against robbers and bandits?"

18 MR EDWARDS: [12:19:13] Yeah. I think the gravamen of his answer is no.

19 PRESIDING JUDGE KORNER: [12:19:18] Oh, I see. No, I see, it's him actually  
20 asking you. Yeah. No. Yeah.

21 MR EDWARDS: [12:19:19] Yeah.

22 Q. [12:19:19] I see. All right. So absolutely no sense of all for one, one for all; is  
23 that your evidence?

24 A. [12:19:36] Yes, indeed, it was not one for all and all for one. It was not that.

25 Q. [12:19:47] All right. Now, at paragraph 64 -- just turn to paragraph 64, sir.

1 Tell me when you're there.

2 A. [12:20:05] I have paragraph 64 in front of me.

3 Q. [12:20:09] Excellent. So, "... constant flow of weapons [into] Darfur during  
4 the '90s ... [no] collection of weapons since the arming for the battle with Bolad in 1991  
5 and those weapons were still around."

6 Are you talking about here the collection of the Arab tribes' weapons, or are you  
7 talking about the collection of the non-Arab tribes' weapons, or are you talking about  
8 both?

9 A. [12:20:52] Regarding paragraph 64, the weapons entered from south Sudan.  
10 The neighbouring tribes, the tribes neighbouring the southern border of Sudan are  
11 Arab tribes. The rebels in Bolad were among the negroes, so naturally  
12 the government would arm the Arab tribes in order to stand up to the ones in  
13 the south.

14 THE INTERPRETER: [12:21:23] Inaudible names of tribes.

15 THE WITNESS: [12:21:27](Interpretation) When the rebellion was quenched,  
16 the weapons remained in the hands of the Arab tribes. Did I answer your question  
17 properly?

18 MR EDWARDS: [12:21:38]

19 Q. [12:21:38] Thank you.

20 Now what about the weapons held by the non-Arab tribes, for want of a better word,  
21 the African tribes? Did the government ever try to collect those weapons? To  
22 disarm those tribes?

23 A. [12:22:05] If you're referring in 1991, they did not have any weapons back then.

24 Q. [12:22:09] No, Mr Witness, Mr Witness, logically, I'm talking about after they  
25 did have the weapons. All right?



1 Did there come a time when the Sudanese government tried to disarm the non-Arab  
2 tribes?

3 A. [12:22:35] Yes, the non-Arab tribes were disarmed.

4 Q. [12:22:39] And how did that happen? Take us through that process.

5 A. [12:22:51] The villages would be surrounded, homes would be inspected and  
6 searched, and weapons taken away. That's how weapons were confiscated.

7 Q. [12:23:04] Weapons hidden outside the village would not be found, would they?

8 A. [12:23:23] What do you mean outside villages? I mean, a village is no larger  
9 than 400 metres square. How can they hide anything outside the village?

10 Q. [12:23:36] Let's just think about it for a moment, okay. You've got the village,  
11 the village might be enclosed by some sort of, you know, fencing or something like  
12 that, hedges or something like that. But outside the village, outside that perimeter,  
13 there would be scrubland, there would be *wadis*, there would be other features like  
14 that on the landscape.

15 My point is this: Arms that were hidden outside of the perimeter of a given village  
16 would not be found by the government, would they? Or at least --

17 A. [12:24:26] I don't know about that. I have no idea about that. What I know is  
18 that, when it comes to weapons, villages would be surrounded, inspected and  
19 searched for weapons to be taken away. And that's all I know about that matter.

20 Q. [12:24:42] All right.

21 Now I want to move on to your evidence about the funding of the Arab militia  
22 through the banking system. And here, sir, I'm focusing on paragraphs 82 and 83 of  
23 your statement. Can I just ask you to turn to paragraphs 82 and 83.

24 In the English, your Honour, it's at 0210.

25 Now, you -- you very much insist in these paragraphs on the government's use of

1 the National Omdurman Bank for making covert transfers, for making illegal  
2 transfers. That's what I want to explore for a moment now. Are you with me?

3 A. [12:25:43] I'm with you, yes.

4 Q. [12:25:44] Okay. So the Omdurman National Bank or the National Omdurman  
5 Bank, it chops and changes, established after the current government came to power.  
6 That's 1993. Can we agree that?

7 A. [12:26:09] Yes, we can agree on that.

8 Q. [12:26:11] And plainly, this bank was not used exclusively by the government,  
9 was it?

10 A. [12:26:28] Correct.

11 Q. [12:26:30] So let's just explore a little bit the other kind of organisations that  
12 would have had bank accounts at the National Omdurman Bank. You -- you give an  
13 example of insurance companies. Yeah?

14 A. [12:26:50] Yes.

15 Q. [12:26:51] What about -- what about other organisations like large construction  
16 companies, did they have accounts? Were they able to open accounts with  
17 the National Omdurman Bank?

18 A. [12:27:10] Yes, they did have accounts.

19 Q. [12:27:12] What about, you know, other financial institutions that offered loans,  
20 mortgages, things like that?

21 A. [12:27:25] There wasn't that.

22 Q. [12:27:29] All right. What about investment companies, would they have  
23 accounts with the National Omdurman Bank?

24 A. [12:27:43] I don't know about that.

25 Q. [12:27:44] Well, let me ask you an open question, then. You say all revenue

1 organisations were to have their accounts in this bank. You give an example. You  
2 say such as insurance companies. Can you now give us some examples of other  
3 such revenue organisations.

4 A. [12:28:17] There were army affiliated companies, they had accounts there.  
5 There were companies active in the construction field, building bridges and roads.  
6 These companies also had accounts at the National Omdurman Bank. In addition to  
7 the accounts of the military -- the armed forces and the police, they also had all of  
8 their accounts at the Omdurman National Bank.

9 Q. [12:28:56] Okay. But just to use your words in this, in your statement, you talk  
10 about all revenue organisations. You've given us an example of construction  
11 companies.

12 Apart from the army and the police, can you give us examples of other revenue  
13 organisations that had bank accounts with the National Omdurman Bank?

14 A. [12:29:27] I don't recall them.

15 Q. [12:29:29] All right.

16 And looking at paragraph 84 of your statement, yes, it's the -- it's the second half of  
17 paragraph 84, at page 0211, your Honours.

18 You say that you weren't personally involved with -- I'm going to pause for  
19 a moment.

20 Your Honour, can we -- can we go into private session for a short moment.

21 PRESIDING JUDGE KORNER: [12:30:03] Yes.

22 Private session, please.

23 (Private session at 12.30 p.m.)

24 THE COURT OFFICER: [12:30:14] We're in private session, Madam President.

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8 (Open session at 12.43 p.m.)

9 THE COURT OFFICER: [12:43:40] We're back in open session, Madam President.

10 MR EDWARDS: [12:43:44]

11 Q. [12:43:45] There was a time when Musa Hilal came to your place of work,  
12 correct?

13 A. [12:43:57] I do not remember. Can you specify the date or the year.

14 Q. [12:44:07] Okay. Well, a few moments ago you said that there was one  
15 occasion in 2007, I think, when you say you saw Mr Hilal.

16 A. [12:44:20] No, I did not say that. Please correct this information.

17 I mentioned it, where was it?

18 Q. [12:44:37] Well, Mr Witness, transcript, page 68, line 14, you - I was asking you  
19 about Musa Hilal - you said: "I spoke to him in 2007, approximately." It's not in  
20 your statement. It's something that you said just a few moments ago.

21 A. [12:44:55] In paragraph 76 -- 67? Which paragraph?

22 Q. [12:44:56] No, no. Mr Witness, just look at me for a second.

23 Forget about your witness statement. In answer to one of my questions just a few  
24 moments ago, you said that you spoke to Musa Hilal in 2007, approximately. Do  
25 you remember telling me that?

1 A. [12:45:34] No, I did not say that. I talked to Ali Kushayb and not Musa Hilal.

2 Q. [12:45:45] Right. Okay. Well, I'm focusing on Musa Hilal, okay? Did you  
3 ever speak to Musa Hilal, ever in your life?

4 A. [12:46:02] Yes, I spoke to him.

5 Q. [12:46:03] What were the circumstances of you speaking with him? Was this at  
6 your place of work?

7 A. [12:46:12] No, not at my work -- place of work.

8 Q. [12:46:35] Was there a time when you saw Musa Hilal coming into your place of  
9 work? Maybe you didn't speak to him, but you saw him because he came to your  
10 place of work.

11 A. [12:46:58] Yes, he came, but I did not speak to him.

12 Q. [12:47:12] Okay, I'm going to move on. I'm going to move on.

13 Paragraph 93 of your witness statement, you refer to your brother. Just read  
14 paragraph 93 to yourself, please.

15 A. [12:47:52] Could we be in private session or closed session? May I ask that we  
16 move into private session.

17 PRESIDING JUDGE KORNER: [12:48:00] Mr Edwards, are you going to ask about  
18 this?

19 MR EDWARDS: [12:48:04] I think I am, yes.

20 PRESIDING JUDGE KORNER: [12:48:07] Yes. All right. Yes, we'll go into private  
21 session again.

22 Can you -- can you try and keep the topics for private session together, if you see  
23 what I mean.

24 MR EDWARDS: [12:48:19] Yes, I'll work on the remainder over lunch.

25 PRESIDING JUDGE KORNER: [12:48:24] Right. Thank you.

- 1 (Private session at 12.48 p.m.)
- 2 THE COURT OFFICER: [12:48:28] We're in private session, Madam President.
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- 18 (Recess taken at 1.02 p.m.)
- 19 (Upon resuming in open session at 2.32 p.m.)
- 20 THE COURT USHER: [14:32:05] All rise.
- 21 Please be seated.
- 22 PRESIDING JUDGE KORNER: [14:32:36] I hope you got your cigarettes over lunch,
- 23 sir.
- 24 THE WITNESS: [14:32:46](Interpretation) I enjoyed it, yes, thank you.
- 25 PRESIDING JUDGE KORNER: [14:32:49] Yes, Mr Edwards.



1 MR EDWARDS: [14:32:51] Thank you.

2 Q. [14:32:52] Welcome back, Mr Witness.

3 As I indicated -- that's very loud.

4 As I indicated just before the break, I was now going to move on to the issue of your  
5 evidence relating to the link between Mr Abd-Al-Rahman and Ali Kushayb,  
6 according to you. Do you follow?

7 A. [14:33:21] Yes, I follow you.

8 Q. [14:33:28] The first thing I want to explore is your understanding of what  
9 the word "Kushayb" actually means. All right? You -- you gave some indication of  
10 this in your preparation interview with the Prosecution last week. Do you recall  
11 that?

12 A. [14:33:59] Yes, I remember that.

13 Q. [14:34:01] Yes. Now, Kushayb is a term that refers to a local alcoholic drink,  
14 correct? Local in Darfur.

15 A. [14:34:20] Yes.

16 Q. [14:34:20] You describe that there's a drink in Darfur called *merissa*, which is  
17 made of fermented sorghum or millet.

18 A. [14:34:38] Yes, it is made of millet and sorghum.

19 Q. [14:34:42] Have you ever heard that *merissa* can be made of dates, taking  
20 the juice of dates to make an alcoholic drink?

21 A. [14:35:01] It is possible to manufacture the drink from dates, but it is called *araqi*.  
22 When it is made of millet or sorghum, it is called *merissa*.

23 Q. [14:35:21] I see. But whether it's *merissa* or the other word you said. Sorry,  
24 I'm in a different part of the -- *araqi*, *araqi*, yeah, *kushayb* refers to the remains, the must  
25 of that fermented material after the liquid has been extracted. Does that more or less

1 summarise accurately the position?

2 A. [14:36:06] Yes.

3 Q. [14:36:07] Now you told the Prosecution that -- or you inferred that Kushayb is  
4 a -- or could be a pejorative nickname to refer to something that would usually be  
5 thrown away.

6 A. [14:36:28] Yes, yes, this is true.

7 Q. [14:36:32] Okay. Now by saying it's something that you infer, is that because  
8 you have never before encountered the nickname Kushayb, other than in this context?

9 A. [14:36:59] Yes.

10 Q. [14:37:08] Would it be reasonable also, would it be possible also to infer that it's  
11 a nickname that refers to a person who drinks local alcohol to excess?

12 A. [14:37:29] There are two meanings. A person can drink excessively and then  
13 they will be called Kushayb. And second, there are some tribes where, when a child  
14 is born, when a child is born after two children, so after the death of the first two  
15 children, the third child who is born can be called pejoratively or can get ugly names  
16 so that he doesn't die. This is what happens in Islam. If a woman gives birth to  
17 a first child and he passes away for any reason and she gives birth to another child,  
18 for example, he is Mohamed and he is dead, then the third child will be called an ugly  
19 name. For example, Kushayb, Bika, donkey or Himar in Arabic. So all these names  
20 can be given to the third child. So I think Kushayb can be referred to as such.

21 Q. [14:38:47] Okay. If Ali Kushayb had older brothers or sisters who had survived,  
22 that alternative explanation of giving a baby an ugly name, that would probably not  
23 apply, is that logical?

24 A. [14:39:19] True.

25 Q. [14:39:20] Now take up, if you wouldn't mind, please, your -- your witness

1 statement of 2007. And we're going to turn once again to paragraph 121 of that  
2 statement. Please let me know when you have it.

3 A. [14:39:46] I am at paragraph 121.

4 Q. [14:39:50] Splendid. All right. So you say in this paragraph, don't you: "I  
5 have met Ali Kushayb personally many times." Do you see that part of that  
6 paragraph?

7 A. [14:40:09] When I mentioned that Ali Kushayb was the uncle of  
8 (Redacted), I have mentioned this before.

9 Q. [14:40:18] Yes. Mr Witness --

10 A. [14:40:20] That person can be called maternal uncle or paternal uncle or brother  
11 or sister. I have mentioned this before.

12 Q. [14:40:27] Yes, you --

13 A. [14:40:31] So this does not disagree or come in disagreement with what I have  
14 said before.

15 Q. [14:40:36] I didn't ask you anything about uncles. That wasn't my question.  
16 Would you like me to repeat my question?

17 A. [14:40:48] Yes, please, ask your question again.

18 Q. [14:40:51] Okay. I'm going to repeat my question. Try and focus, please.

19 You say in this paragraph the following sentence: "I have met Ali Kushayb  
20 personally many times."

21 Do you see that in your statement?

22 A. [14:41:14] Yes, I do.

23 Q. [14:41:16] Yes. And you say in your statement 2007 that you didn't know his  
24 real name.

25 A. [14:41:27] Yes, because Kushayb is a nickname and it is not a real name.

1 Q. [14:41:32] Yeah. Now, on your evidence, have I got this right, the only time  
2 you ever spoke to Ali Kushayb in your life was at his pharmacy when you bought  
3 some medicine? Is that accurate?

4 A. [14:41:51] Yes, this is true.

5 Q. [14:41:53] In 1992?

6 A. [14:42:00] Yes.

7 Q. [14:42:01] Thirty years ago, as at this year, 2022?

8 A. [14:42:08] Yes.

9 Q. [14:42:16] Do you -- do you stand by your account in this statement that you,  
10 when you say "I have met Ali Kushayb personally many times", as at 20 -- as at 2007?

11 A. [14:42:38] Yes, I do.

12 Q. [14:42:40] All right. If you are in the market and you pass a person selling, for  
13 example, shoes, and you just pass by without stopping, without speaking, would you  
14 describe that as a meeting?

15 A. [14:43:01] He has a shop, he sells medications, veterinary medications, and meds  
16 for persons, and this is what happened. So I used to go by the market and just say  
17 "hello".

18 Q. [14:43:24] Hang on a minute, Mr Witness. You said just two or three minutes  
19 ago that the only time you had ever spoken to Ali Kushayb in your life was when you  
20 went to buy medicine at his pharmacy 30 years ago. Are you now saying that you  
21 would occasionally pop in and say hello to him? Is that now your evidence?

22 A. [14:43:54] No, no, I did not. I did not. I said I met him in his pharmacy in  
23 1992 and I met him in 2013, when there was an event in his sister's house. This is  
24 what I said.

25 Q. [14:44:19] All right. Well, we're going to come to the event in 2013 in a minute,

1 Mr Witness, but I'm focusing on 1992.

2 A. [14:44:32] I mentioned to you that in 1992 I met him in his pharmacy.

3 Q. [14:44:41] Yeah. And how long did you spend in his pharmacy buying this  
4 medicine? Was it a long transaction?

5 A. [14:44:57] Not more than 15 minutes.

6 Q. [14:45:05] Was there anyone queuing up to buy some medicine ahead of you, in  
7 1992?

8 A. [14:45:19] There were many people. I wasn't there alone.

9 Q. [14:45:26] That's something that you can remember from 30 years ago, is it?

10 A. [14:45:33] Yes, I do remember that.

11 Q. [14:45:39] Perhaps 15 minutes you're now saying. Were there people behind  
12 you waiting to purchase medicine after you had finished?

13 A. [14:46:01] There were people in front of me and not behind me. So there were  
14 people in front of me and not behind me. And we do not stand the way you do in  
15 Europe, one person behind the other, this is not what happens. You stand in  
16 the shop or in the pharmacy wherever you want at any place you want to stand.  
17 This is what happens.

18 Q. [14:46:30] Did you introduce yourself when you were buying medicine from  
19 him?

20 A. [14:46:37] No, no, I didn't introduce myself. I only asked for what I wanted.

21 Q. [14:46:43] Did he introduce himself to you?

22 A. [14:46:50] He did not introduce himself. But it was known to whom that shop  
23 belonged. For example, if you wanted to buy honey you go to a specific shop to buy  
24 honey. If you want to buy medication, you go to a specific region because the region  
25 is small and the pharmacies are very little in number, very few in number. And so

1 this is what happened.

2 Q. [14:47:22] You were -- well, okay, we know what your date of birth is. You  
3 were not a young man at the time you purchased this medicine from Ali Kushayb's  
4 shop.

5 I don't know, I'm looking -- I'm looking to my learned friend whether I can lead --

6 PRESIDING JUDGE KORNER: [14:47:44] But "young" is relative.

7 MR EDWARDS: [14:47:47] Well, I don't know if it's going to cause difficulties if I put  
8 his age.

9 PRESIDING JUDGE KORNER: [14:47:54] Well, I wouldn't have thought so.

10 MR EDWARDS: [14:47:55] No.

11 MR JEREMY: [14:47:57] Yeah, I think it's -- I mean the witness is -- yeah, I think it's  
12 fine.

13 PRESIDING JUDGE KORNER: [14:48:01] He was 30 at the time.

14 MR EDWARDS: [14:48:02] He was 30 at the time, yes.

15 PRESIDING JUDGE KORNER: [14:48:05] That's young, Mr Edwards.

16 MR EDWARDS: [14:48:07] Yes. Moving very swiftly on.

17 Q. [14:48:12] You were -- you were 30 years old at the time when you made this  
18 purchase.

19 A. [14:48:22] I was born in 1962, so we subtract 1962 from 1992 and we get  
20 the number.

21 Q. [14:48:30] And I imagine this wasn't the first time in your life that you had  
22 purchased medicine in a pharmacy?

23 A. [14:48:41] No, it wasn't the first time.

24 Q. [14:48:44] I'm sure it's not -- it wasn't the last time you'd purchased medicine in  
25 a pharmacy?

1 A. [14:48:53] This is true.

2 Q. [14:48:55] So what I'm curious to know is what is it about this particular,  
3 uneventful transaction in a pharmacy 30 years ago that so stands out in your memory  
4 now?

5 A. [14:49:21] It is one region, it is a small region. It -- it has maybe one pharmacy  
6 or two pharmacies at the most, so it is only natural to remember such an event. For  
7 example, a shop for sorghum or a shop for millet, when there are few places like these,  
8 it is only natural to remember such events.

9 Q. [14:49:53] Well, if you say so.

10 Let's just bring up again your sketch.

11 Not for public broadcast, your Honour.

12 DAR-OTP-0220-3927, which I believe it's in the Prosecution ...

13 PRESIDING JUDGE KORNER: [14:50:18] It was in their documents.

14 While that's being done, can I just clarify, sir, is that time in the pharmacy the only  
15 time in 1992 that you actually spoke to the man you knew as Ali Kushayb?

16 THE WITNESS: [14:50:47](Interpretation) Can you please repeat the question.

17 PRESIDING JUDGE KORNER: [14:50:51] Was that time that you bought medicine  
18 from the shop owned by Ali Kushayb the only time you actually spoke to him, as  
19 opposed to seeing him on other occasions?

20 THE WITNESS: [14:51:19](Interpretation) Yes.

21 PRESIDING JUDGE KORNER: [14:51:22] Thank you.

22 MR EDWARDS: [14:51:24] It's document 22 on the Prosecutor's list, your Honour.

23 PRESIDING JUDGE KORNER: [14:51:44] There seems to be some difficulty in  
24 bringing it up.

25 MR EDWARDS: [14:51:55] Item 22 on the Prosecutor's list of material,

1 DAR-OTP-0220-3927, please.

2 Q. [14:52:18] Yes, just to let you know, Mr Witness, that the document that's going  
3 to come up on your screen in just a second is the sketch of Garsila that you produced  
4 last week.

5 Thank you.

6 Do you see it now, Mr Witness?

7 A. [14:52:54] No, no, I don't see it.

8 Q. [14:52:57] Okay, look again, it might ...

9 A. [14:53:02] Yes, I can see it.

10 Q. [14:53:07] All right. Now, we see the market, the souk over on the left-hand  
11 side of the -- the sketch, right?

12 A. [14:53:18] Yes, this is true. Is this a private session?

13 THE INTERPRETER: [14:53:25] The witness is asking.

14 MR EDWARDS: [14:53:28](Overlapping speakers)

15 PRESIDING JUDGE KORNER: [14:53:30](Overlapping speakers) the document is  
16 being shown on the screen, sir. The public can't see it, so your name isn't -- isn't on it.  
17 I mean the public can't see what your name is.

18 MR EDWARDS: [14:53:41]

19 Q. [14:53:41] And do we see the Agricultural Bank just, I guess, to the north of  
20 the market as we're looking at the sketch?

21 A. [14:53:53] Yes.

22 Q. [14:53:55] And the building that you describe as Ali Kushayb's shop is right over  
23 to the east, next to the, the *wadi*, right?

24 A. [14:54:12] Yes, this is true.

25 Q. [14:54:15] To get from Ali Kushayb's shop to the market, you'd have to go past



1 a garden and the Ministry of Agricultural and the mosque and then you'd be at the  
2 market?

3 A. [14:54:29] Yes, this is true.

4 Q. [14:54:31] Okay. And how long would that take to walk, would you say, from  
5 Ali Kushayb's shop to the market?

6 A. [14:54:45] From 10 to 12 minutes.

7 Q. [14:54:49] And from Ali Kushayb's shop to the Agricultural Bank, a similar sort  
8 of time, or a longer walk, or a shorter walk, would you say?

9 A. [14:55:06] Approximately the same period, between 10 to 12 minutes.

10 Q. [14:55:13] Thank you very much.

11 That can be taken off the screen now.

12 Let's talk a little bit about Ali Kushayb's physical attributes. When you purchased  
13 this medicine from him, 1992, 30 years ago, how old would you say he was?

14 A. [14:55:44] I don't know.

15 Q. [14:55:48] Older or younger than you?

16 A. [14:55:53] He was older than I was.

17 Q. [14:55:56] Can you give us some idea of how much older than you he was in  
18 1992?

19 A. [14:56:08] I cannot give an estimate.

20 Q. [14:56:11] Notice anything about his ears, anything particular, anything  
21 noteworthy?

22 A. [14:56:25] I cannot remember.

23 Q. [14:56:29] It was thirty years ago, yeah.

24 Now you talk about a prominent nose when you were describing Ali Kushayb's  
25 features. Just help us, what do you mean by "prominent nose"?

1 A. [14:56:50] As you can see now, my nose is flat. But his nose is a little bit  
2 protruding or a little bit prominent to the front.

3 Q. [14:57:04] So a bit higher off the face, is that what you're trying to say?

4 A. [14:57:12] Yes, true.

5 Q. [14:57:14] And because of his dark skin and the shape of his nose, you infer that  
6 perhaps he was from south Sudan, have I got that right?

7 A. [14:57:32] This is what I heard.

8 Q. [14:57:35] Okay. Forget about what you heard. Based on what you saw, did  
9 you infer --

10 A. [14:57:46] Yes.

11 Q. [14:57:47] You inferred that he was maybe from the south?

12 A. [14:57:55] I heard from a lawyer who passed away, he was at the same house.

13 Q. [14:58:09] Yeah, we'll come on to that, I promise you.

14 Do the -- well, the Dinka tribe of south Sudan, they have -- they're known for having  
15 very dark skin. Are you saying that Ali Kushayb had skin similar sort of colour to  
16 that? I'm just trying to understand your evidence.

17 A. [14:58:40] I did not say he was from the Dinka tribe. There are several tribes,  
18 Dinka, Merle, and several other tribes there.

19 Q. [14:58:51] Mr Witness, I'm not suggesting that you ever did say that he was from  
20 the Dinka tribe, I'm just trying to get an idea of your assessment of the -- the tone of  
21 his skin. Do you understand? Was it that sort of tone, sort of Dinka tribe darkness  
22 of tone?

23 A. [14:59:22] Yes.

24 Q. [14:59:23] And also, although you didn't say it in your evidence this morning,  
25 you told the Prosecution yesterday that your impression of Ali Kushayb was that he

1 had, and I quote, "big teeth". What did you mean by "big teeth"?

2 A. [14:59:45] Big teeth mean that these teeth can be longer or bigger than the teeth  
3 of other people. If you have five or six people who have similar teeth and  
4 the seventh person has longer teeth, then this is what I mean by saying "big teeth".

5 Q. [15:00:13] Okay. So again I just want to be very clear, you're not suggesting  
6 that he had protruding teeth, like we would say in English buck-teeth. I don't know  
7 if that translates into Arabic.

8 A. [15:00:30] Yes, this is true, I did not say protruding or prominent.

9 Q. [15:00:34] All right. Okay. When you were giving your statement in 2007, did  
10 you understand that what you were doing, speaking to the Prosecution at the ICC,  
11 was -- was something important?

12 A. [15:01:01] I am convinced of what I say and that I only say the truth.

13 Q. [15:01:09] That wasn't my question, sir. Would you like me to repeat my  
14 question?

15 A. [15:01:18] If you may, please.

16 Q. [15:01:20] My question wasn't whether you were telling the truth, my question  
17 was whether you understood that the process of giving a witness statement to  
18 the Prosecution was important?

19 A. [15:01:40] I was aware of that.

20 Q. [15:01:43] And you understood that the allegations against Ali Kushayb could  
21 not have been more serious?

22 A. [15:02:02] I am aware of that too.

23 Q. [15:02:05] When you were giving your statement to the Prosecution in 2007, you  
24 understood that it was important to be as detailed as possible in your account?

25 A. [15:02:24] Yes, I am aware of that. However, it's been so long and as a human

1 being I am prone to forget things. Seventeen years is enough to lose memory of  
2 certain things.

3 Q. [15:02:45] No, I understand -- I understand that, sir, but don't worry, I'm not  
4 going to ask you about your memory of what you told the Prosecution in 2007. Let  
5 me reassure you of that.

6 Your -- your statement was given over four days, and are you happy that you had as  
7 much time as you needed to give your full account back in 2007?

8 A. [15:03:32] It was insufficient.

9 Q. [15:03:36] Well, let me read paragraph 5 of your statement.  
10 0198, your Honours.

11 This is what you were told at the very beginning of the statement-taking process, of  
12 the interview process. I'm going to read the whole thing out to you: "I was told that  
13 at the conclusion of the interview, I would be asked to sign a written statement after  
14 having had the opportunity to review it and add any corrections or additional  
15 information."

16 Let me pause there. Let me pause there.

17 After you finished giving your statement, after the four days of interview, was  
18 the statement in fact read back to you?

19 A. [15:04:51] Yes, it was read back to me.

20 Q. [15:04:57] Were you given an opportunity to add anything to your statement or  
21 clarify anything in your statement?

22 A. [15:05:11] Are you talking about 2007 or recently?

23 Q. [15:05:17] 2007.

24 A. [15:05:24] Nothing was added at that point.

25 Q. [15:05:27] No. Paragraph 145 of your statement specifically says: "I have

1 nothing to add to the above statement nor do I have anything to clarify."

2 You see that in paragraph 145 of your statement?

3 A. [15:05:52] I see it.

4 PRESIDING JUDGE KORNER: [15:05:55] Mr Edwards, I'm really sorry to stop you, I

5 mean, but this is in your own interest as well. We're not a jury, we understand

6 the circumstances in which statements are taken. And I really think you would do

7 better just to get to the point you want to make. Because this is incredibly tortuous.

8 MR EDWARDS: [15:06:21] I'll move on, your Honour. It's in our interest to get

9 things on the record, of course.

10 PRESIDING JUDGE KORNER: [15:06:26] I fully understand that, Mr Edwards, but

11 you can do that fairly quickly.

12 MR EDWARDS: [15:06:30] Yes.

13 Q. [15:06:36] What I want to know is why -- let's go back to paragraph 121 of your

14 statement. You don't mention in paragraph 121 any visit to Ali Kushayb's shop, do

15 you?

16 A. [15:07:05] Yes. However, I mentioned that I've been there only once to buy

17 medication.

18 Q. [15:07:18] Well, Mr Witness, in 2007 you don't, in fact. You simply say, "I have

19 met Mr Ali Kushayb -- I have met Ali Kushayb personally many times." Which

20 wasn't actually true, was it? You hadn't met him personally many times when you

21 gave your statement in 2007, had you?

22 A. [15:07:53] Meeting him at the drugstore, wouldn't that count as an in-person

23 meeting?

24 Q. [15:08:03] It counts -- it may count as "a" meeting. It doesn't count as many

25 meetings, does it?

1 A. [15:08:16] Yes.

2 Q. [15:08:17] Now when you gave the Prosecution information about this wedding  
3 at the home of the father of Mohammad Ali Hassan Gassin, you gave that information  
4 for the first time last week, didn't you?

5 A. [15:08:52] I have not been in touch with the investigators since my first  
6 interviews with them. My only recent communication was in the last 10 days.

7 Q. [15:09:24] Yes. And I -- I want you to understand that I certainly don't hold it  
8 against you for not mentioning the wedding in 2007, because plainly, if the wedding  
9 took place in 2013, you know, in 2007 it hadn't happened yet. So I don't want you to  
10 think that I'm taking a bad point.

11 It's at that wedding you say that you learnt his real name, as opposed to simply his  
12 nickname Ali Kushayb, right?

13 A. [15:10:11] Yes.

14 Q. [15:10:15] And in 2013 did you appreciate that that was important evidence that  
15 the Prosecution might be interested in, as an educated man?

16 A. [15:10:36] I did not give importance to that piece of information.

17 Q. [15:10:45] Why not?

18 A. [15:10:48] Because I thought it had been too long since 2007, that is between 2007  
19 and 2013 or between 2007 and 2022. So, in my view, it was a closed case.

20 Q. [15:11:13] Last week was your first opportunity to give this information to  
21 the Prosecution?

22 A. [15:11:20] Yes.

23 Q. [15:11:22] Mr Witness, the Prosecution has disclosed to us that over the course of  
24 several telephone calls with you in January 2021, Prosecution investigators asked you  
25 a number of questions relating to documents that you might have access to; is that

1 right?

2 A. [15:11:57] Yes.

3 Q. [15:12:05] There were four telephone conversations between 22 January 2021  
4 and 18 February 2021, that's correct, isn't it?

5 A. [15:12:23] Yes.

6 Q. [15:12:30] In the first telephone conversation with you on 22 January 2021,  
7 according to this note, you were informed by the investigators that the Prosecution  
8 was interested in crimes committed by Ali Kushayb, correct?

9 A. [15:12:55] Yes.

10 Q. [15:13:00] This was some four years after the wedding, correct?

11 A. [15:13:23] Eight years afterwards.

12 Q. [15:13:26] Yes, I'm --

13 A. [15:13:28] Not four.

14 Q. [15:13:29] Yes, I'm sorry, 2013, not 2017. Yes, 2000 and -- so well after this  
15 wedding at which you have learned, you say, Ali Kushayb's full name?

16 A. [15:13:56] Yes.

17 Q. [15:13:59] Why didn't you mention that information? Because I can tell you  
18 you didn't, according to this investigator's note. Why didn't you mention to  
19 the investigators over the course of these four telephone calls in  
20 January/February 2021 that you knew what Ali Kushayb's real name was?

21 A. [15:14:30] They did not ask me about that name.

22 Q. [15:14:35] No, they made it very clear that what they were interested in, as I've  
23 just said to you, interested in the crimes committed by Ali Kushayb. It didn't cross  
24 your mind to mention, "By the way, I know what his real name is"?

25 A. [15:14:57] It did not occur to me because it was enough to refer to him by

1 "Ali Kushayb".

2 Q. [15:15:26] Who first -- at the wedding when you were speaking with (Redacted)  
3 Mohammad Ali Hassan Gassin, who first speaks the name Ali Muhammad  
4 Abd-Al-Rahman?

5 A. [15:15:49] Ali Mohammad Hassan Gassin.

6 Q. [15:15:56] And why, what's the -- what's the conversation that takes place that  
7 means that he speaks the name Ali Muhammad Abd-Al-Rahman?

8 A. [15:16:16] First of all, I knew the mother of Ali Muhammad Ali Gassin, who was  
9 of yellowish skin. As to this person, he had a darker skin and that's the reason I  
10 asked the question about him.

11 Q. [15:16:42] Okay, what I don't -- but why does that precipitate, why does that  
12 result in his name being pronounced?

13 A. [15:16:58] In order to clarify that his mother and Ali Kushayb's mother, these  
14 two mothers do not have the same name.

15 Q. [15:17:21] All right. But how does that answer my question?

16 A. [15:17:32] When I say that -- that his full name as to the -- as to his mother's full  
17 name, that of Ali Muhammad Gassin are incompatible names and back home they  
18 would call such person a maternal uncle. That's the distinction I'm referring to.  
19 Again, this uncle is a maternal uncle, which means a brother to the mother.

20 Q. [15:18:07](Microphone not activated)

21 THE INTERPRETER: [15:18:08] Microphone, please.

22 MR EDWARDS: [15:18:10] Sorry.

23 Q. [15:18:12] I'm going to repeat myself. When you and Mohammad Ali  
24 Hassan Gassin are having this conversation, are you alone? Are you in a full room?

25 A. [15:18:28] It was an occasion attended by so many people. However, we sat



1 next to each other.

2 Q. [15:18:40] You've told us that you saw Ali Kushayb at this wedding. How far  
3 away was he? When you were having -- when you were having this conversation  
4 with Mohammad Ali Hassan Gassin, how far away is Ali Kushayb?

5 A. [15:18:57] Roughly 15 metres away.

6 Q. [15:19:04] You told the Prosecutors last week that (Redacted) Mohammad  
7 Ali Hassan Gassin produced a birth certificate to prove -- was this to prove a point?  
8 Why did he -- why did he produce a birth certificate?

9 A. [15:19:38] He provided a birth certificate to prove that he was born in  
10 Bahr el Ghazal in south of Sudan and that his father worked for the Sudanese army.

11 Q. [15:19:53] (Microphone not activated) Why? Did you disbelieve him when  
12 (Redacted) told you where he had been -- where he had been born?

13 A. [15:20:11] I did not question his credibility, no.

14 Q. [15:20:18] So why does he produce a birth certificate then? Explain that to us.

15 A. [15:20:30] He wanted to prove that he's from the south of Sudan and that his  
16 father worked for the Sudanese army and they were transferred to the northern part  
17 of the country.

18 Q. [15:20:44] How does that proof establish any kind of link with Ali Kushayb?

19 A. [15:20:57] He wanted to show me that he had no blood relationship with  
20 Ali Kushayb of any kind.

21 Q. [15:21:09] Did he produce Ali Kushayb's birth certificate?

22 A. [15:21:19] He did not. He produced his own birth certificate to prove that  
23 his -- that when his father worked in the south of Sudan he worked with him in  
24 the same house.

25 Q. [15:21:39] Now, you told the Prosecution that it was explained to you that

1 Ali Kushayb did not originally belong to the Ta'aisha tribe. Do you remember  
2 telling that to the Prosecution last week?

3 A. [15:22:06] I remember.

4 Q. [15:22:08] So Mohammad Ali Hassan Gassin, having told you that Ali Kushayb  
5 didn't belong to the Ta'aisha tribe, did he say what tribe Ali Kushayb did belong to?

6 A. [15:22:30] To the tribes of south Sudan.

7 Q. [15:22:36] Did he favour you? Did he -- did he -- did he tell you which tribe in  
8 particular?

9 A. [15:22:47] No.

10 Q. [15:22:50] An Arab tribe or a non-Arab tribe?

11 A. [15:22:56] A non-Arab tribe.

12 Q. [15:23:00] Ali Kushayb, he's originally from a non-Arab tribe, that's what you're  
13 told. Okay.

14 You told us a little --

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

16 Q. [15:23:17] You told us a little while ago about the *jana jeish*, that that literally  
17 means something along the lines of an army of small people, right, in Sudanese  
18 Arabic?

19 A. [15:23:34] Yes.

20 Q. [15:23:38] Certainly boys under the age of 18?

21 A. [15:23:49] Yes.

22 Q. [15:23:51] And then 18 years old is the -- the threshold once a child -- once a boy  
23 hits the age 18, they're expected, in that context, to join the army. Have I got that  
24 right?

25 A. [15:24:07] That is the law of the armed forces. Under 18 years of age

1 you cannot be recruited in the armed forces.

2 Q. [15:24:17] No, I understand that, but my point is a little bit different. Once  
3 a young man attains the age of 18, in this context they would be expected to join  
4 the army. Have I got that right?

5 A. [15:24:39] Yes.

6 Q. [15:24:42] Now, your evidence -- actually, I can't remember if it was your  
7 evidence, but certainly what you told the Prosecutors is that Ali Kushayb worked for  
8 the family of Mohammad Ali Hassan Gassin in the '70s, correct?

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

10 Q. [15:25:16] Well, to be fair to you and taking the earliest year of the '70s, 1970  
11 itself, Mr Abd-Al-Rahman was 21 years old. Did you know that?

12 A. [15:25:44] I don't know his year of birth or date of birth.

13 Q. [15:25:50] Twenty-one years old would be too old to be *jana jeish*, wouldn't it?

14 A. [15:26:06] I don't know his date of birth.

15 Q. [15:26:11] No, even if you don't know his date of birth, my question is:  
16 A young man of the age of 21 would be too old to be *jana jeish*, correct?

17 A. [15:26:27] Correct.

18 Q. [15:26:44] Right, okay. I can take the rest of my questions fairly shortly now.  
19 I want to talk about the assassination attempts that you describe, assassination  
20 attempts against Ali Kushayb.

21 Paragraph 124 of your statement, just turn that up if you wouldn't mind.

22 So you talk about a first assassination attempt just before the end of Ramadan 2006.

23 I'm sure there won't be any dispute that the end of Ramadan in 2006 was 23 October.

24 When did you first hear of this apparent assassination attempt from 2006?

25 A. [15:27:59] I heard it from vehicle drivers who were working from -- on the road

1 from Zalingei to Nyala.

2 I do not remember the exact month or day, but it was in 2006.

3 Q. [15:28:28] Well, was it days, weeks, months after the assassination attempt at the  
4 end of Ramadan 2006? Help us with that at least.

5 A. [15:28:44] I do not remember.

6 Q. [15:28:47] Do you remember the name? Don't say the name, but do you  
7 remember the name of the person who told you about it?

8 A. [15:28:57] I don't know the person and I don't remember his name.

9 Q. [15:29:02] You can't remember, then I anticipate, whether that person saw  
10 the assassination attempt himself or heard about it from another person; is that fair?

11 A. [15:29:25] It's common among truck drivers and bus drivers on this tarmac, it is  
12 common among them when an event happens to talk about what happened, to talk  
13 about what they saw. That's how I heard about it.

14 Q. [15:29:47] Yeah, all right. And then you talk about, in your -- in your interview  
15 with the Prosecution last week, you talk about a further assassination attempt in 2017  
16 or 2018.

17 My first question is this: Do you fix that time, 2017-2018, by reference to when that  
18 attack happened prior to Ali Kushayb surrendering himself to the Court?

19 A. [15:30:53] Yes. And what I remember is that he was attacked, taken to  
20 Khartoum for treatment, then he came back to town, before leaving to the south.

21 Q. [15:31:12] (Microphone not activated) Let's just break that down. You saw him  
22 earlier that day, 10 a.m., you tell us. Where did you see him at 10 a.m.?

23 A. [15:31:27] In the main market in the city of Nyala.

24 Q. [15:31:35] In the market doing shopping, in the market eating something, in  
25 the market drinking something? Help us out a bit, please.

1 A. [15:31:50] There is one station, and when he comes, he stands. In that station  
2 there are three vehicles. A third one, which is a Land Rover, is as a personal  
3 protection for him.

4 Q. [15:32:13] What do you mean by "station"?

5 A. [15:32:21] A place where the vehicles are parked.

6 Q. [15:32:33] Okay. Just parked up at the market. And how is it that you see him?  
7 What are you doing at the market to see him?

8 A. [15:32:50] (Redacted)

9 Q. [15:32:58] How far away was Ali Kushayb in or near the vehicle from you when  
10 you saw him that morning?

11 A. [15:33:11] Five metres.

12 Q. [15:33:19] And how long did you have him under observation?

13 A. [15:33:30] More than a quarter of an hour, more than 15 minutes.

14 Q. [15:33:35] And then at some point he leaves. You don't actually see  
15 the assassination attempt, correct?

16 A. [15:33:50] True, I did not see it.

17 Q. [15:33:52] You hear of the assassination attempt from a mechanic whose  
18 nickname means "wasted", as in worse for wear from alcohol, right?

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

20 Q. [15:34:15] A person whose real name you don't know.

21 A. [15:34:22] True.

22 Q. [15:34:23] You hear this by telephone.

23 A. [15:34:29] Yes, I heard it by telephone.

24 Q. [15:34:33] Did the mechanic tell you that he had seen the assassination attempt  
25 with his own eyes?

- 1 A. [15:34:47] Yes. Yes, he told me so. Because the region where the assassination  
2 attack happened is not far, maybe 10 to 15 metres.
- 3 Q. [15:35:06] No, I mean I accept that, what I'm saying is do you know for a fact  
4 that this mechanic actually saw it with his own eyes?
- 5 A. [15:35:21] Yes, I am sure.
- 6 Q. [15:35:33] And then earlier this morning you -- earlier this morning you say that  
7 you saw Ali Kushayb once again after this assassination attempt. Have I got that  
8 right?
- 9 A. [15:35:50] Yes.
- 10 Q. [15:36:08] How soon after?
- 11 A. [15:36:20] Could you please repeat the question, sir.
- 12 Q. [15:36:25] How soon after this attack did you later see Ali Kushayb again?
- 13 A. [15:36:36] Three months later, approximately.
- 14 Q. [15:36:40] Did he tell you that he had been taken to hospital in Khartoum?
- 15 A. [15:36:50] What do you mean by "did he tell you"? Do you mean the mechanic  
16 or Ali Kushayb?
- 17 Q. [15:36:58] Ali Kushayb.
- 18 A. [15:37:01] He didn't tell me that. I heard that he was transferred to Khartoum  
19 for treatment.
- 20 Q. [15:37:09] Okay, but -- but by whom?
- 21 A. [15:37:17] He was transferred by the authorities. I do not know them.
- 22 Q. [15:37:22] Sorry, who told you this?
- 23 A. [15:37:30] The people. You could hear this in the city, you could hear that he  
24 was transferred to Khartoum for treatment after he was hit.
- 25 Q. [15:37:41] So it's another example of it was just common knowledge; is that

1 right?

2 A. [15:37:58] Yes.

3 Q. [15:38:05] All right. And you are absolutely sure, are you, that this was in 2017,  
4 2018? No room for error in your mind?

5 A. [15:38:24] I am not sure. I do not remember the day exactly.

6 Q. [15:38:29] I'm not asking you for the day, I'm giving you a period of between  
7 two years, sir, 2017, 2018, you're sure about that, are you?

8 A. [15:38:44] Yes, I am sure about that period.

9 Q. [15:38:52] Mr Witness, I'm going to put to you, very, very briefly, that your  
10 account to the Prosecution and to the Court about this wedding in 2013 when you  
11 heard that Ali Kushayb's name was Abd-Al-Rahman is not true.

12 A. [15:39:28] Can you please repeat the question.

13 Q. [15:39:31] Well, it's not true, is it, this story of a wedding at which you heard  
14 that Ali Kushayb's real name is Abd-Al-Rahman?

15 A. [15:39:51] Yes.

16 Q. And that --

17 PRESIDING JUDGE KORNER: [15:39:58] You mean "yes" -- sorry, I mean it sounds  
18 as though he is saying yes, it's not true.

19 Are you saying that the account you gave is the truth about the wedding, or is it not  
20 true?

21 THE INTERPRETER: [15:40:23] The witness is kindly requested to repeat  
22 the answer.

23 MR EDWARDS: [15:40:27]

24 Q. [15:40:28] Could you please -- can you please repeat what you just said.

25 A. [15:40:40] The wedding was in 2013. And while I was talking with Mohammad

1 Ali Hassan Gassin I knew that Ali Kushayb is only a nickname. The real name was  
2 Ali Muhammad Abd-Al-Rahman. This is what I said. This is what I mentioned.

3 Q. (Overlapping speakers)

4 PRESIDING JUDGE KORNER: [15:40:59] Yes, and was -- sorry, Mr Edwards.

5 Was he at the wedding or was he not at the wedding in 2013, Ali Kushayb?

6 THE WITNESS: [15:41:13](Interpretation) He was at the wedding. He was there.

7 MR EDWARDS: [15:41:20]

8 Q. [15:41:20] It's not true that you visited Ali Kushayb's pharmacy in 1992. What  
9 do you say about that?

10 A. [15:41:40] I visited him. I visited him in 1992, yes, I visited him to buy  
11 medication.

12 Q. [15:41:54] You knew since 2007 that the Prosecution suggest that Ali Kushayb  
13 and Abd-Al-Rahman are the same man, and you had never confirmed that to  
14 the Prosecution before last week?

15 A. [15:42:23] I would like to clarify to you, we call each other by nicknames and not  
16 by real names. Whether we're talking about the sons or great sons or fathers or  
17 mothers, we talk to each other with nicknames. This is what I want to clarify.

18 Q. [15:42:43] Thank you, Mr Witness.

19 Those are my questions.

20 PRESIDING JUDGE KORNER: [15:42:45] Thank you, Mr Edwards.

21 Re-examination, Mr Jeremy?

22 MR JEREMY: [15:42:52] No, Madam President. Thank you.

23 PRESIDING JUDGE KORNER: [15:42:56] Any questions?

24 (Trial Chamber confer)

25 THE INTERPRETER: [15:43:23] We cannot hear her Honour the judge.



1 JUDGE ALAPINI-GANSOU: [15:43:33](Interpretation) Yes, that's fine. I would like  
2 to ask a few questions for clarification, please.

3 This morning during your testimony you mentioned one of your friends, the one you  
4 call Mohammad Ali, who left, whose uncle was posted to the north of Sudan. But  
5 you didn't say exactly where this was. You didn't say where he was posted to. Do  
6 you know where that was?

7 THE WITNESS: [15:44:25](Interpretation) He used to work in the army in  
8 Bahr el Ghazal in the south of Sudan. And after that he was transferred to north  
9 Sudan in the region of Nyala.

10 JUDGE ALAPINI-GANSOU: [15:44:46](Interpretation) Thank you.  
11 Another question. This morning again while testifying you said that the villages in  
12 Sudan were not very big, about 400 square metres. Would you like to say that again,  
13 that they are 400 square metres? Could you clarify that. That's what's in this  
14 morning's transcript.

15 THE WITNESS: [15:45:23](Interpretation) Not -- it's not 400 square metres, but I'm  
16 talking about 400 houses, or units. I was saying 400 households, more precisely.

17 JUDGE ALAPINI-GANSOU: [15:45:43](Interpretation) Thank you very much.  
18 (Trial Chamber confer)

19 JUDGE ALEXIS-WINDSOR: [15:46:02] Thank you, Madam President.  
20 Witness, I just have some questions on the conditions in the IDP camp in 2004. I'm  
21 not going to mention the capacity in which you were there, but I would like to know  
22 an approximate, very approximate number of persons in that camp when you went in  
23 2004.

24 THE WITNESS: [15:46:36](Interpretation) I went to more than four IDP camps.  
25 The average number of IDPs in every camp is 4,000 to 6,000. That was in 2004.

1 And I remember that the IDPs were in the western part of the city and we transferred  
2 them to Kalma camp. They were 4,500. But after each period there used to be an  
3 increase in the number of the IDPs as a result of burning down the villages, so they  
4 would move to safe areas, i.e., in the city. In the northern part of the city has more  
5 than seven or eight camps and every camp has between 2,000 to 4,000 people.  
6 The conditions in the camps are difficult. They only receive assistance from  
7 international organisations. They do not have shelter, they do not have food and  
8 they do not have clothes. In addition to this, women and -- used to work and there  
9 were some protection -- there was some protection given to the women for them to go  
10 get some firewood.

11 JUDGE ALEXIS-WINDSOR: [15:48:23] Thank you, Witness.

12 Did they have -- well, it stands to reason, but I will still ask, did they have access to  
13 running water?

14 THE WITNESS: [15:48:41](Overlapping speakers)

15 JUDGE ALEXIS-WINDSOR: [15:48:39] Or did they have to go and collect the water?  
16 Did they have pipes with plumbing and that sort of thing or did they have to go and  
17 collect water at distances?

18 THE WITNESS: [15:49:00](Interpretation) At the beginning in 2014 they used to  
19 cross large distances to collect firewood and to collect water to cook the food. Then  
20 there were cases of rape, and after the African Union forces came, they provided for  
21 them the protection to collect firewood and water and they started to dig wells in  
22 the camps or in the areas that are close to the camps so that women would not be  
23 subject to rape again.

24 JUDGE ALEXIS-WINDSOR: [15:49:38] Thank you, Witness.

25 Thank you, Madam President.

1 JUDGE ALAPINI-GANSOU: [15:49:55](Interpretation) Mr Witness, I would like to  
2 come back to this. I would like you to talk -- you to talk to me -- us a bit about  
3 the rebels and the Janjaweed, because the Janjaweed militia \*engaged in certain acts  
4 and the rebels engaged in certain acts. You've mentioned this in your statement.  
5 Could you tell us a little about the -- your position of the rebels of the Janjaweed in  
6 the area and how they were implicated in this conflict.

7 THE WITNESS: [15:50:55](Interpretation) Thank you so much for this very  
8 important question. Of course, there were some group of rebels, there was the group  
9 of Khalid Ibrahim and the Justice and Equality Movement. However, their presence  
10 was very weak. They used to come to the villages but they used to be attacked and  
11 then they fled and then they would leave the villagers with the Janjaweed and  
12 the Janjaweed are supported or are helped by the state. So the victim is usually  
13 the villager or the inhabitants of the villages, these are the people who would die or  
14 who would be displaced. So this is the nature of the conflict, because the Janjaweed  
15 are helped and supported by the government and they are provided by arms which  
16 are distributed to them. And this is exactly what happened.

17 Regarding the start of the Janjaweed, I will go back to what I mentioned before.  
18 After the rebellion of Daud Yahya Bolad, before that Sudan was one country. He  
19 went to a part of Sudan and then he came to Darfur and then the government  
20 mobilised all tribes based on the fact that it was a religious war between different  
21 confessions. And then the idea started with the mobilisation of the Arab tribes  
22 against other tribes. So this is the idea in general.

23 JUDGE ALAPINI-GANSOU: [15:52:59](Interpretation) Thank you very much.

24 PRESIDING JUDGE KORNER: [15:53:03] Sir, just a couple of questions, one of  
25 which is linked to the answer you've just given about rebels coming to the villages.

1 You were asked earlier about the defence forces in villages and their -- the type of  
2 arms that they had, and you've described them. Who were they defending  
3 themselves against, as you understood it?

4 THE WITNESS: [15:53:49](Interpretation) Against those who come to loot, to kill  
5 and to burn. Those would pillage and loot the cattle and the livestock, as happened  
6 in Kirindi, they came at four in the morning and they used heavy artillery against  
7 the city and they have killed more than 165 people. They looted all the cattle and  
8 they killed the women and children. So the aim or the objective was to impoverish,  
9 impoverish the local communities. This was the concept adopted by the militias.

10 PRESIDING JUDGE KORNER: Right.

11 THE WITNESS: [15:54:35](Interpretation) Now at --

12 PRESIDING JUDGE KORNER: [15:54:40] Sorry, yes.

13 THE WITNESS: [15:54:42](Interpretation) Now regarding the armed movements,  
14 they didn't have any role to play. They used to come to the villages and when they  
15 were faced with the armed forces they used to flee and leave the inhabitants of  
16 the villages with -- or against the government and then the government would  
17 consider them as rebels.

18 PRESIDING JUDGE KORNER: [15:55:09] Yes. Thank you.

19 The second matter is this question of nicknames about which you were asked very  
20 early this morning, and you said that it's common for, or was at the time and may still  
21 be, for people in Sudan to be known by a nickname. And you said that it's easier to  
22 identify a person by the nickname.

23 Can you -- why is that?

24 I mean is it just custom or is there a good reason for it?

25 THE WITNESS: [15:56:14](Interpretation) These are the customs and traditions that

1 exist in the region. When you name someone by Musa Hilal or Ada or Hemeti, these  
2 are nicknames and these are not real names. When you need someone by the name  
3 of Muhammad Hamdan, for example, you have to mention the nickname which is  
4 Hemeti. And if you need to know my real name, you have to mention my nickname.  
5 This is what helps people find each other. So this is the reason behind this and this  
6 is the customs and traditions in Sudan. I really don't know why or the reason  
7 behind this.

8 For example, there was an English governor who had a large or long moustache.  
9 When he used to come, they used to whisper -- people used to whisper and say  
10 the sad person is here. So they used to say the angry man is around. So  
11 the nickname would be "angry man" and they would not mention the real name of  
12 the governor.

13 PRESIDING JUDGE KORNER: [15:57:46] I don't think I'm going to ask who  
14 the Englishman was in real life. But it's not -- no, the only reason I was asking is  
15 I was wondering whether it was -- whether it was because a number of people have  
16 exactly the same name and so the nickname is used to differentiate between people  
17 who have the same name. But you think it's more custom than that?

18 THE WITNESS: [15:58:13](Interpretation) Yes. As you mention, this is one of  
19 the reasons. Most of the Sudanese are called Adam, Mohammed and Ali. All  
20 the Sudanese are called either Ali or Mohammed or Ali. There would be 5 million  
21 people by the name of Mohammed and 10 million by the name of Adam. So I think  
22 this is also one of the reasons behind having nicknames.

23 PRESIDING JUDGE KORNER: [15:58:42] Yes, well thank you, sir, very much for  
24 coming to court to give your evidence. We appreciate the giving of -- sorry,  
25 Mr Edwards, yes.

1 MR EDWARDS: [15:58:52] I'm very sorry. Mr Laucci has -- has pointed something  
2 to me, pointed something out to me about the nickname of Kushayb, which may be  
3 unclear on the record. And with --

4 PRESIDING JUDGE KORNER: [15:59:10](Microphone not activated)

5 MR EDWARDS: [15:59:12] No, whether -- the question that I'd want to ask is  
6 the example of Kushayb being something dregs or an ugly name. Yeah.

7 PRESIDING JUDGE KORNER: [15:59:28](Microphone not activated) Mr Edwards.

8 MR EDWARDS: [15:59:30] Thank you.

9 QUESTIONED BY MR EDWARDS:

10 Q. [15:59:30] Just a follow-up, Mr Witness, if I may. Earlier you told us that  
11 Kushayb could be a name given to a baby whose older siblings had died. If  
12 the name Kushayb is given to such a child, is that a nickname or is it a real name?

13 A. [15:59:57] It would be a nickname. It would be a nickname. Not a real name,  
14 only a nickname. For example, *tibin* (phon) which means dirty water under the tree,  
15 so this is -- Tibin, would be also a nickname. And Cyril (phon) also is another  
16 nickname.

17 Q. [16:00:25] Yes, thank you very much, sir.

18 Thank you.

19 PRESIDING JUDGE KORNER: [16:00:26] Well, I just have some -- one follow-up  
20 question. Would more than one person have the same nickname?

21 THE WITNESS: [16:00:39](Interpretation) Yes. (Redacted)

22 (Redacted), Adam and Adam. So three children by the name of

23 Adam. All the three of them. One of them was Adam Juu (phon), the second

24 Adam Jerse (phon), and the third one with a different nickname.

25 PRESIDING JUDGE KORNER: [16:01:07] Yes, sorry, I think you misunderstand, sir,

- 1    though that must be very complicated.
- 2    Is it possible that two different people would have exactly the same nickname?
- 3    THE WITNESS: [16:01:28](Interpretation) Yes.
- 4    PRESIDING JUDGE KORNER: [16:01:31] Right. Well, I go back to where I was
- 5    before, to thank you, sir, very much for coming. Your evidence was, as you will
- 6    appreciate, very helpful to all. And we wish you a safe journey back to your home.
- 7    So thank you very much again.
- 8    THE WITNESS: [16:01:55](Interpretation) Thank you very much. I appreciate your
- 9    interest in the case of Darfur. And I believe that, with the start of the trial, a lot of
- 10   trouble had already been addressed or stopped. So thank you very much.
- 11   PRESIDING JUDGE KORNER: [16:02:18] Thank you, sir, again.
- 12   (The witness is excused)
- 13   PRESIDING JUDGE KORNER: [16:02:17] Unless there are any other matters, we'll
- 14   adjourn until tomorrow morning.
- 15   Yes, thank you very much.
- 16   THE COURT USHER: [16:02:26] All rise.
- 17   (The hearing ends in open session at 4.02 p.m.)