

Trial Hearing

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and Judge Althea Violet
7 Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Monday, 5 June 2023
10 (The hearing starts in open session at 11.37 a.m.)
11 THE COURT USHER: [11:37:04] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [11:37:27] Yes. Good morning all.
15 Could we call the case, please.
16 THE COURT OFFICER: [11:37:32] Good morning, Madam President. Good
17 morning, your Honours.
18 This is the situation in Darfur, Sudan, in the case of The Prosecutor versus
19 Ali Muhammad Ali Abd-Al-Rahman, case reference ICC-02/05-01/20.
20 And for the record, we are in open session.
21 PRESIDING JUDGE KORNER: [11:37:48] Yes, thank you very much.
22 Could we have the appearances first for the victims representatives this morning.
23 MS VON WISTINGHAUSEN: [11:37:55] Thank you, Madam President,
24 your Honours. The victims today are represented by my associate counsel,
25 Anand Shah, sitting to my far right; by our new case manager who I would like to

1 introduce, Saif Kassis.

2 And I take the opportunity to thank our former case manager, Idriss Anbari, here
3 publicly for the work and the efforts he has put in the preparation of this victims case.

4 Thank you, Idriss.

5 We have behind me our field assistant, Oumda, he's a vital person on the team and
6 we are very happy and grateful to have him here with us today; and behind us, also
7 very important, our two interns, Nur Mahameed and Saskia Adjowa Afande; and
8 myself, Natalie von Wistinghausen. Thank you.

9 PRESIDING JUDGE KORNER: [11:38:49] Thank you.

10 Yes, sorry, Ms von Wistinghausen, I was trying to get my earphones fixed in.

11 Yes, thank you very much.

12 Yes, appearances for the Defence.

13 MR LAUCCI: [11:39:00](Interpretation) Good morning, your Honour, your Honours.

14 Good morning, dear colleagues.

15 For the -- for Mr Ali Muhammad Ali Abd-Al-Rahman, present in the courtroom today,
16 Madam Nour Ouardani, Madam Marguerite Remy, who is an intern in the team;
17 Madam Eva Kalb, the assistant responsible for evidence analysis; Madam
18 Audrey Mateo, our legal adviser; my colleague Iain Edwards, who is present at the
19 hearing through the screen at a distance; and myself, Cyril Laucci, counsel.

20 PRESIDING JUDGE KORNER: [11:39:38] Yes. Just before you sit down, Mr Laucci,

21 I understand that you have a meeting organised at 4 o'clock this afternoon with
22 the Registrar. I was proposing to sit because Mr Edwards presumably will be here.

23 MR LAUCCI: [11:40:01](Interpretation) I think that's the best solution. And if you
24 would allow me, I will discreetly come into the courtroom on my return.

25 And I take the advantage to stand. I saw that I forgot in the team our case manager,

1 last but not least, Ahmad Issa.

2 PRESIDING JUDGE KORNER: [11:40:16] Yes, I don't know how you could have
3 done that, Mr Laucci.

4 Yes, appearances for the Prosecution, please.

5 MR NICHOLLS: [11:40:24] Good morning, Madam President. Good morning,
6 your Honours. Good morning, everyone. Julian Nicholls with Claire Sabatini,
7 Alison Whitford and Edward Jeremy. Thank you.

8 PRESIDING JUDGE KORNER: [11:40:32] Thank you very much, Mr Nicholls.
9 Yes, Ms von Wistinghausen, the floor is yours.

10 MS VON WISTINGHAUSEN: [11:40:47] Thank you, Madam President.

11 So it's the victims' turn today. We've endeavoured to introduce into our opening
12 statement as many words as possible that come from them and not from us. But we
13 are very honoured and humbled, actually, to take this role today.

14 While I'm standing here today, as the Common Legal Representative of the 600
15 individuals, primarily from the Fur community, who have been granted the status of
16 participating victims in the case against Mr Abd-Al-Rahman, history sadly seems to
17 be repeating itself. It is, to say the least, distressing that almost two decades after
18 the events that are the subject of these proceedings, potential international crimes are
19 occurring in Darfur right now.

20 Conservative estimates are that thousands -- pardon, that hundreds of people have
21 lost their lives in Darfur, and across Sudan, since the outbreak of the new conflict on
22 15 April of this year. According to the latest updates on UNHCR's Data Portal as of
23 1 June, almost 1.2 million persons have been displaced within Sudan as a result of
24 the current conflict. Nearly 400,000 additional persons have fled into neighbouring
25 countries, notably Chad, Sudan, the Central African Republic, Egypt and Ethiopia.

1 Among those seeking safety abroad are refugees of other nationalities who were
2 hosted by Sudan, some of whom have now had to return to the very countries they
3 fled from, in very difficult circumstances.

4 We find parallels between the situation today and that of 2003 and 2004. Once again,
5 armed conflict in Darfur has resulted in the deaths of civilians, the looting and
6 the destruction of homes and livelihoods, and the displacement of tens of thousands
7 of persons within Darfur and across international borders.

8 But there are also important differences. As noted, the current conflict has impacted
9 Sudan as a whole. Fighting has convulsed the Sudanese capital of Khartoum and its
10 cities of Omdurman and Bahri, which previously had been spared from the many
11 conflicts that have plagued Sudan since its independence.

12 In Darfur, the violence has thus far centred on larger population centres, such as
13 Zalengei, the capital of Central Darfur State, and Al Geneina, the capital of
14 West Darfur State, including displaced person camps in these cities. These are
15 the circled areas on the map displayed on the screen.

16 And I should have said that our opening is accompanied by a PowerPoint
17 presentation.

18 PRESIDING JUDGE KORNER: [11:44:12] And I'm assuming, Ms von Wistinghausen,
19 that it can be shown on the public monitors?

20 MS VON WISTINGHAUSEN: [11:44:19] Absolutely so, yes.

21 PRESIDING JUDGE KORNER: [11:44:21] Thank you.

22 MS VON WISTINGHAUSEN: [11:44:24] While the fighting has not yet devastated
23 villages and smaller towns in the manner of the 2003 to 2005 conflict, our clients living
24 in IDP camps have reported to us that general insecurity prevails, they cannot leave
25 their homes, and that food and water are scarce.

1 Participating Victim P-5 was, as your Honours are aware, scheduled to appear before
2 you in person this week. Unfortunately, P-5 and her children are unable to leave
3 their dwelling in an IDP camp, let alone embark on the long journey to the seat of
4 the Court. When we spoke to her, she explained, and I quote:

5 "The water is not available because of the security situation. Regarding
6 food - the situation is very difficult - the prices are very high, moving between
7 the different localities is difficult, and there are no jobs available for people who work
8 to earn money to buy food. There is no medicine in hospitals. The RSF and
9 Janjaweed are currently controlling the area. Life is hard and expensive, exit is very
10 difficult. The living conditions are really very difficult [...]. I have no hope." End
11 of quote.

12 Another participating victim, I will call him Ahmed, it's not his real name, a displaced
13 person who was visiting the Bindisi area and was trapped there by the outbreak of
14 fighting, told us the following during a phone call on 5 May:

15 "Thank you for asking about us and caring about us. As to what you can do, of
16 course continuing doing the work you've already been doing in the Ali Kushayb case
17 is important for us. I have one message to convey: The situation in Bindisi is very
18 difficult, especially for pregnant women - the bad situation and living conditions
19 would even worsen the situation of pregnant women and would increase the death
20 toll amongst these women, particularly those of them who need special care to give
21 birth. They need to travel outside Bindisi to seek medical care, but because of
22 the security situation they do not do it. I also was in the hospital and saw how bad
23 the situation there is. There are a lot of issues and problems. We only pray that our
24 situation gets better." End of quote.

25 Our last direct contact with Ahmed was on 21 May, and despite regular attempts, we

1 have unfortunately been unable to reach him for the last two weeks. And we've
2 tried again last night.

3 Participating Victim P-4 has lived at the same IDP camp with his family since 2004.
4 He was also scheduled to appear before your Honours. We have spoken to P-4
5 several times since the outbreak of the current conflict, including this past Friday.
6 He explained that it would be difficult and risky for him to leave the IDP camp to
7 travel to the seat of the Court. He said that there is, and I quote, "too much
8 insecurity in the border region", and that "Janjaweed [are] roaming the area", and
9 there are "huge displacement movements in the region".

10 Participating Victims P-4 and P-5 both expressed the strong desire to appear before
11 your Honours when travel out of Darfur is safe again. On their behalf, and indeed
12 on behalf of all the participating victims, we thank your Honours for granting them
13 the flexibility to appear before the Trial Chamber later in these proceedings, whether
14 in person or through other means.

15 The participating victims who live as refugees or resettled persons outside of Sudan,
16 while physically safe, are now in constant anguish and worry over their loved ones
17 who remain in Sudan.

18 Dual Status Victim-Witness P-0129, who lives in another country in Africa, informed
19 us as follows in a recorded message, and I quote: "[O]ur people, our relatives who are
20 in Darfur and in Sudan, are suffering really, since the war broke out between
21 the Army and Rapid Support Force. A lot of people are killed. And [the RSF] in
22 the urban areas on motorcycles, on camels, and on horseback are robbing people of
23 everything they have." End of quote.

24 Dual Status Victim-Witness P-0584, who lives outside of Africa, informed us, and I
25 quote again: "I am going through a psychological crisis, it is too much for me.

1 Whenever I get a call from Sudan I expect bad news. I hope they [referring to his
2 mother, father and sisters] will be safe." End of quote.

3 Dual Status Victim-Witness P-0585, who also lives outside of Africa, explained to us
4 in a recorded message that, and I quote: "The reality is so harsh, specifically for our
5 people in Wadi Salih, Garsila, Bindisi, Deleig, Mukjar. [...] The situation is very
6 tough and catastrophic. In the area of Deleig, Bindisi, Mukjar, the RSF has
7 completely absolute control." End of quote.

8 As we heard from witnesses during the Prosecution's case, the major actors during
9 the armed conflict in Darfur that commenced in 2003 were, on the one hand,
10 the Government of Sudan military and police forces, as well as government-funded
11 and supported militias created from some of Darfur's ethnic Arab communities.
12 Mr Abd-Al-Rahman is alleged to have been a higher-level commander within these
13 militias, which the local populations referred to as "Janjaweed" or "Fursan". On
14 the other side of the conflict were the rebel Justice and Equality Movement and Sudan
15 Liberation Movement, or Army, which drew their members from non-Arab Darfuri
16 communities, primarily the Fur, Zaghawa, and Masalit.

17 Today's conflict in Sudan is between the government powers themselves,
18 the Government of Sudan army on one side, led by General Abdel Fattah Burhan, and
19 on the other the paramilitary Rapid Support Forces, or RSF, led by
20 General Mohamed Hamdan Dagalo, who is also known as Hemeti. Both of these
21 individuals were allies of former president al-Bashir of Sudan, whom they overthrew
22 to take power in 2019, in the midst of a popular uprising against the regime. As we
23 heard from witnesses during the Prosecution's case, the Janjaweed militias created
24 during the 2003 to 2005 Darfur conflict, were formalised by the Government of Sudan
25 over a number of years, culminating in the establishment of the RSF in 2013, with

1 Mr Hemeti at its head.

2 I mention the current tragic events in Sudan not only because of this factual and
3 historical connection with the Darfur conflict of 2003 to 2004, and the relevance of
4 today's events to the participating victims and their families who are living them.

5 I mention them also because today's conflict underlines in stark fashion the fallacy of
6 the longstanding debate over peace versus justice. As the interconnections between
7 the past conflict in Darfur with the current situation demonstrate, the lack of
8 accountability for alleged atrocities committed in the past is detrimental to lasting
9 peace. In other words, lasting peace requires justice to be served. Short-term
10 solutions prioritising the end of active hostilities at the cost of justice may fail to
11 deliver on the promise of long-term peace and stability, and thus fail to serve
12 the interests of the people of Darfur.

13 Many participating victims powerfully express the view that justice and
14 accountability for the alleged crimes that are the subject of the current proceedings,
15 while certainly a personal matter for them and their communities, are also central to
16 the peaceful resolution of conflict in Darfur and a preventative measure against future
17 crimes.

18 The ICC has jurisdiction over the situation in Darfur from 1 July 2002, and may
19 consider steps that reach the affected communities of the past and current conflict,
20 including the continuous gathering of evidence for further prosecutions, when
21 possible. Such measures would, we are convinced, reaffirm the commitment of
22 the ICC to deliver on its mandate to prosecute potential perpetrators. As difficult as
23 it may look for the moment, such steps may still contribute to deterrence in
24 the ongoing conflict. Furthermore and importantly, they may give those affected by
25 the current conflict within Darfur - like our clients - hope that they are not overlooked

1 and that accused perpetrators will be brought to justice.

2 Dual Status victim-Witness P-0584 expressed before your Honours that the Court
3 must, and I quote, "achieve justice. That's what they have to do. You have to hold
4 those criminals accountable so that such crimes are not repeated." End of quote.

5 Dual Status victim-Witness P-0986 similarly addressed the Trial Chamber, stating,
6 and I quote: "What I expect from this Court, I expect that justice will be served and
7 that the leaders of the regime would be prosecuted justly. [...] [A]nd that this would
8 lead to put an end to war and conflict in Darfur." End of quote.

9 I very well understand, your Honours, that my role is limited to the representation of
10 the participating victims in these proceedings, which concern Mr Abd-Al-Rahman's
11 charged responsibility for alleged war crimes and crimes against humanity primarily
12 directed at the Fur population in West Darfur State, in the villages of Kodoom and
13 Bindisi in August 2003, and in and around the towns of Deleig and Mukjar from
14 February to April 2004. However, for the reasons I have just addressed, it is
15 impossible to speak about our clients - and for your Honours, the international
16 community, and the public to properly comprehend the circumstances - without
17 mentioning the current situation they are facing and its connection to the first Darfur
18 conflict.

19 It is unfortunately no exaggeration to state that these proceedings represent the only
20 substantial and credible progress - whether in the domestic or international
21 sphere - in the prosecution of persons alleged to be responsible for crimes committed
22 during the 2003 to 2005 conflict.

23 As highlighted in the report of the expert witness Professor Alex de Waal, that first
24 Darfur conflict resulted in estimated deaths directly as a result of fighting, as well as
25 arising from hunger and disease, of at least 170,000 persons. Sexual violence against

1 women and girls, which is reflected in the charged crimes arising from the events in
2 Bindisi on 15 and 16 August 2003, was also a widespread feature of the first Darfur
3 conflict according to Professor de Waal's research.

4 Arguably, the most longstanding and fundamental impact of the 2003 to 2005 conflict
5 is that of the mass and long-term displacement of the civilian population following
6 the destruction of their home villages, which is reflected in these proceedings in
7 charges arising from the August 2003 attacks on Kodoom and Bindisi, but also as
8 relevant uncharged events preceding the alleged detention, torture, and execution of
9 Fur civilian men in and around Mukjar and Deleig in early 2004. Per the expert
10 report, between April 2003 and January 2005, more than 2 million people in Darfur
11 were forcibly displaced, with hundreds of thousands fleeing to Chad as refugees, and
12 the remainder seeking safety as internally displaced persons in camps across Darfur.

13 Violence, destruction, and displacement targeting the people of Darfur, however, has
14 never ceased, with tens of thousands more civilians having become IDPs, internally
15 displaced persons, or refugees in the years leading up to the current outbreak of
16 international conflict. The title of an October 2009 report of the African Union
17 High-Level Panel on Darfur, admitted into evidence, poignantly captures this
18 never-ending state of strife. It reads, and I quote: "Darfur: The Quest for Peace,
19 Justice and Reconciliation". It is a quest that remains sadly unfulfilled.

20 While the current proceedings are rightly focused on the alleged acts and conduct of
21 Mr Abd-Al-Rahman in respect of the 31 confirmed counts of war crimes and crimes
22 against humanity, it is also appropriate for your Honours, the Court, and indeed
23 the international community, to take cognizance of the wider resonance and
24 significance of these proceedings in light of the context I have just touched upon. It
25 is certainly a dynamic that weighs on the minds of the participating victims.

1 Dual Status Victim-Witness P-0877, who testified before your Honours 11 months ago,
2 recorded and sent the following message to us in April, and I quote:
3 "We hope that we'll meet up with you in good moments. I hope that the Sudan will
4 enjoy the democratic rule [...]. After outbreak of the current war in Khartoum,
5 the situation here got worse. The movements of RSF and Janjaweed, the rising of
6 the prices, we are succumbing into a completely lawless state. The prices of
7 necessary consumer goods are already rising dramatically due to [...] the fate of
8 the poor citizen is catastrophic. The sad news as you could have followed, on
9 26 April 2023, is the release of the ICC indicted Darfur atrocities perpetrators, at the
10 top of them, Omar al-Bashir, Ahmad Haroun and Abdulrahim Hussein, from
11 Kober Prison. We do not know where they're going to be, will they flee from
12 the country, are they going to hide among their fellow military figures, in
13 the hospitals or in their home villages or towns. That is deplorable. And it has
14 added more complexity to the situation. We pray to our Almighty lord to help us
15 for justice being done." End of quote.

16 It is unknown when Mr al-Bashir, against whom the Pre-Trial Chamber of the ICC has
17 issued arrest warrants for genocide and other alleged crimes in Darfur between 2003
18 and 2008, as well as Mr Haroun and Mr Hussein, whose ICC arrest warrants cover
19 allegations during the period of 2003 to 2004, will appear before this Court, or any
20 other judicial body. That is why the current proceedings, while limited in scope in
21 the context of the Court's jurisdiction over the Darfur situation, are an important and
22 concrete testament to the international community's commitment to peace and justice.
23 On behalf of the 600 participating victims, and the larger Darfuri community, we very
24 much hope, however, that this case does not remain the only instance of the process
25 of justice taking its course - both for past and ongoing potential international crimes

1 in Darfur.

2 I turn now, your Honours, to the present proceedings. The Pre-Trial Chamber, in its
3 Confirmation of Charges Decision, found that there are substantial grounds to believe
4 that between at least August 2003 and 2004, Government of Sudan police and military
5 forces, as well as militia commonly referred to as Janjaweed, carried out a widespread
6 or systematic attack, primarily directed at the Fur civilian population of
7 the Wadi Salih and Mukjar localities of West Darfur State. These attacks were
8 conducted pursuant to a policy to target the Fur civilian population perceived as
9 being associated with the SLA or JEM rebel movements.

10 The Pre-Trial Chamber also found that a non-international armed conflict was
11 ongoing in Darfur, Sudan, at all relevant times from at least April 2003 until at least
12 April 2004. As mentioned, the parties to the armed conflict were the Government of
13 Sudan forces and Janjaweed militia on one side, and the JEM and SLA rebel armed
14 groups on the other side.

15 The charges against Mr Abd-Al-Rahman involve incidents in and around four
16 locations - the neighbouring villages of Kodoom and Bindisi, and the town of Deleig,
17 in the Wadi Salih locality of West Darfur State, and the town of Mukjar, in the Mukjar
18 locality of the same state. The widespread or systematic attacks against
19 the primarily Fur population during this same period, encompassed a much wider
20 area, impacting tens of thousands of civilians - innocent men, women, and children.

21 As your Honours will recall, during the Prosecution's case witnesses gave evidence
22 on devastating attacks conducted by Government of Sudan forces and Janjaweed
23 against villages in the Wadi Salih and Mukjar localities, such as Tendy, Waro, Fere,
24 Taringa, Ordo, Arawala, Um Jameina, Seder, Drangal, Korofota, Gaba, Burbur, Arada,
25 Kaskildo, Forgo, Abirla, Jartaga, Juguma Shargiya, Dorgola, Dembow Kabdy, Kirkaw,

1 Sindu and Mindo, amongst others. As set out in our trial brief, many of
2 the participating victims hailed from these other villages. Civilians were killed
3 during these attacks, or later died from injury or disease; homes and property,
4 including livestock and crops, were looted and destroyed; and the population
5 displaced from their ancestral lands, the majority of whom have not been able to
6 return to this day.

7 The charged attacks on Kodoom on 15 August 2003, and Bindisi on 15 and
8 16 August 2003, squarely fall within the pattern of attacks that took place during this
9 period. As Prosecution witnesses testified, the attacks against these two villages
10 took place as part of a single, continuous, and devastating assault allegedly conducted
11 by Janjaweed and Government of Sudan forces against the primarily Fur civilian
12 populations in the area between Mukjar and Bindisi, including villages such as Nyerli,
13 Tiro, Merly and Seder. It is alleged that in Kodoom, Bindisi, and their immediate
14 surrounding areas, the Janjaweed and Government of Sudan forces indiscriminately
15 directed various acts of violence against the civilian population, inflicting death,
16 injury, and destruction. Homes, property, and livestock were looted. The attacks
17 systematically targeted the Fur community in a campaign to, and I quote, "wipe out
18 and sweep away", end of quote, driving the surviving Fur population out of their
19 home villages. The attacking forces used racial slurs, and derogatory and
20 dehumanising language against the Fur population, during the attack. In Bindisi
21 and its surroundings, and as we heard from both survivors and eyewitnesses during
22 the Prosecution's case, it is further alleged that Fur women and girls were the victims
23 of sexual violence, carried out in a brutal manner, oftentimes in the open and in
24 the presence of other members of the community.

25 The charged incidents in Mukjar and Deleig between February and April 2004, while

1 undeniably part of the widespread or systematic attack against the Fur civilian
2 population, are also marked by certain differences in the nature of their facts and
3 conduct, in comparison to the armed attacks that took place in Kodoom, Bindisi, and
4 the many other primarily Fur villages in the Wadi Salih and Mukjar localities between
5 August 2003 and April 2004.

6 Between at least February and March 2004, Janjaweed and Government of Sudan
7 forces allegedly attacked several villages in the areas surrounding Mukjar, as part of
8 the armed operation to attack rebel forces in and around the mountainous Sindu area,
9 to the northeast, causing thousands of primarily Fur civilians to seek shelter in
10 Mukjar. Many thousands of Fur civilians, including participating victims, were
11 already sheltering in Mukjar in extremely difficult conditions - lacking proper food,
12 water and shelter - having fled the attacks against their villages that commenced in
13 August 2003.

14 In February 2004, Janjaweed and Government of Sudan forces allegedly set up
15 checkpoints around Mukjar and arrested hundreds of Fur males at these checkpoints,
16 but also during house-to-house searches. It is alleged that many of the arrested were
17 taken to Mukjar police station, where they were detained in inhumane conditions,
18 interrogated, tortured, and verbally abused, before being transported out of Mukjar,
19 beaten, insulted, and executed.

20 Between at least August 2003 and March 2004, Janjaweed and Government of Sudan
21 forces allegedly attacked several villages in the areas surrounding Deleig, resulting in
22 the displacement of thousands of civilians from predominantly Fur villages to Deleig,
23 Garsila, and other towns, where their living conditions were dire and they had to rely
24 on aid provided by Deleig residents, and later humanitarian organisations.

25 On or about Friday, 5 March 2004, from the early morning, Janjaweed and

1 Government of Sudan forces allegedly surrounded Deleig and prevented people from
2 entering or leaving the town, before going from house to house searching for Fur
3 males who had been displaced to Deleig from surrounding locations. Some
4 prisoners were alleged to have been subsequently detained inside the Deleig police
5 station where they were beaten and questioned.

6 The Janjaweed and Government of Sudan forces then allegedly brought between 100
7 and 200 arrested Fur males to an open area near the Deleig police station where they
8 were made to lie in the hot sun, face down on the ground, and were denied food,
9 water, and access to toilet facilities for prolonged periods of time while being
10 physically and verbally abused.

11 The Janjaweed and Government of Sudan forces proceeded to throw a number of Fur
12 males onto the backs of vehicles to be transported to different locations outside of
13 Deleig where they were allegedly shot to death. This process is said to have been
14 repeated several times on 5 March 2004.

15 THE INTERPRETER: [12:12:06] Could counsel slow down for the interpreters,
16 please. Thank you.

17 MS VON WISTINGHAUSEN: [12:12:10] Your Honours will recall the evidence of
18 dual status witness P --

19 PRESIDING JUDGE KORNER: [12:12:14](Microphone not activated)

20 MS VON WISTINGHAUSEN: [12:12:15] I was told. Okay.

21 I apologise to the interpreters. I will slow down.

22 Your Honours will recall the evidence of Dual Status Witness P-0877, who described
23 what he experienced and witnessed while detained at the Mukjar police station on
24 2 March 2004 as the, as he said, "worst day" of his life. This was notwithstanding
25 having survived and fled from a devastating attack on his home village less than

1 a week earlier, and subsequently becoming an IDP to this day.

2 P-0877 explained, and I quote:

3 "[M]yself and my family, what we have experienced before 2 March was less severe
4 because, yes, our money was taken, other people were killed, we had to escape to
5 Mukjar, we were seeking protection from the government. However, after that,
6 the government and the Janjaweed started killing everybody and we felt completely
7 helpless. And that's why, until this moment, I remember that day as the worst day
8 ever in my life and the life of the entire region." End of quote.

9 This was from trial transcript 54 -- yes, 54, pages 65 to 66.

10 As highlighted in our trial brief, this fundamental sense of helplessness arising from
11 the Mukjar and Deleig incidents was also connected to who from the Fur community
12 is alleged to have been targeted during the charged incidents in Mukjar and Deleig,
13 namely, leaders such as *umdahs* and *sheikhs*, and other prominent persons.

14 Witness-0720, who was subsequently granted the status of participating victim,
15 explained to your Honours, and I quote:

16 "People lost their sense of security and their sense of confidence and trust.

17 The people who are in charge and references for the people who have been -- are
18 references for the people who have been imprisoned and killed, so what do you think
19 will be the fate of normal people. So people felt extremely sad." End of quote.

20 This was from trial transcript 43, at page 20.

21 Your Honours have determined, based on a preliminary assessment, that 600 of
22 the individuals who have thus far submitted applications to participate as victims in
23 these proceedings have suffered harm as a result of the crimes allegedly committed in
24 and around Kodoom, Bindisi, Mukjar, and Deleig. Under the Court's jurisprudence,
25 harm may be physical, like the effects of torture or sexual violence, or having to flee

1 one's home. The harm may be psychological, meaning the mental impact of
2 the crime on the direct victim, as a result of harm to a close relation, or
3 having witnessed crimes committed against other members of the community. Or
4 material harm, of course, like the destruction, loss or theft of property.
5 It needs to be said that the participating victims we consulted find it difficult to
6 understand and to digest that - given the ICC's legal framework, the Prosecutor's
7 discretionary choices, and the Pre-Trial Chamber decision - the participation of
8 victims are limited to the scope of the confirmed charges against the accused. This
9 means that recognition by law determines which voices are heard or represented in
10 the courtroom and which are not. This legal, and perhaps also pragmatic, selection
11 of charges is nonetheless one that is a narrow view of victimhood and of the victims'
12 realities, and therefore also of the truth of the ongoing sufferings of the much larger
13 community of victims from the Darfur situation. Witness P-0001, whom
14 your Honours will hear from tomorrow, is one such member of the larger community
15 of victims of the first Darfur conflict.
16 As I touched on at the beginning of this opening statement, the 600 individuals who
17 have thus far been admitted to participate as victims in these proceedings are by no
18 measure all of the persons - undoubtedly in the millions - who have suffered grievous
19 harm from the commission of alleged crimes in Darfur over the last two decades, and
20 to this day, or even during the charged attacks on the villages of Kodoom and Bindisi,
21 and towns of Mukjar and Deleig. However, given the legal framework of this Court,
22 only those persons who suffered harm arising from specific charges confirmed in this
23 case can be recognised as participating victims. Moreover, given the current
24 circumstances in Sudan, the victim application process of course faces many
25 challenges.

1 Your Honours may appreciate that this reality causes understandable frustration, and
2 is, as we have addressed before, just a small glimpse of what has transpired in Darfur
3 since July 2002, the commencement date of the Security Council's referral of
4 the situation to the Court.

5 So it is on behalf of the 600 admitted participating victims that I am standing here
6 before you. The purpose of the presentation of this victims' case is to give
7 your Honours, the parties, and indeed the public, the international community, an
8 introduction to the lives of these 600 individuals before, during and after the charged
9 events.

10 Even though every single victim has to be seen and considered and respected as an
11 individual, their experiences are also representative of their Darfuri family and
12 friends who were victims of the same or similar crimes committed against the Fur
13 population during this period.

14 Fifty-six witnesses appeared before the Trial Chamber to give evidence during
15 the course of the Prosecution case, with an additional 25 witnesses providing
16 testimony by way of written and signed statements. Of the witnesses who appeared
17 before the Chamber, six were so-called dual status witnesses, meaning that at the time
18 of their testimony they had the status of both Prosecution witnesses and victims. An
19 additional 20 Prosecution witnesses, after the conclusion of their testimonies, applied
20 to be and were admitted by your Honours as participating victims. Of the witnesses
21 whose prior recorded testimony was admitted under Rule 68(2)(b) or (c) of the Rules
22 of Procedure and Evidence, three have also the status of participating victims.

23 Their testimonies brought to life, and I quote, "harrowing accounts", as stated by
24 Prosecutor Karim Khan during his statement to United Nations Security Council on
25 the situation in Darfur on 26 January of this year. I can only echo the Prosecutor's

1 words, when he said that he commended, and I quote, "the heroism, the perseverance,
2 the dedication of the survivors", end of quote. And he continued to say, "Their
3 courage and their perseverance really against all odds [was] something that [he found]
4 truly humbling." End of quote. On that point I cannot agree more.

5 In our view, the presentation of the case of the participating victims should be
6 a vehicle, as much as possible, for your Honours to hear from these brave survivors
7 themselves, to listen to their own words and stories - with minimum filtering by
8 us - and to put those in the context of the events in Darfur in 2003 and 2004,
9 the crimes allegedly committed by the accused, the past 20 years that elapsed since
10 then, and their lives today. The participating victims are best placed to speak about
11 their lives, their losses, their wishes, and indeed their hopes. They are best placed to
12 explain their rights before the conflict, and how and why they want those back.

13 Almost all the victims are very remote from this Court, not only physically. But still,
14 they are the ones best placed to explain what they mean when they ask for justice,
15 and what they expect from this trial, as from the Trial Chamber in particular.

16 It lies in the nature of the 2003 to 2005 conflict, the current situation of
17 the participating victims in Darfur, most of whom live as displaced persons, and all
18 those living in refugee camps in other countries and in the wider diaspora, that
19 communication and consultation with the victims is a difficult, challenging, and
20 sometimes unsatisfying undertaking for the Legal Representative of Victims.

21 However, we have endeavoured to collect as many views and concerns of
22 participating victims as possible - through consultations and obtaining written and
23 audio-video recorded communications - to have those reflected in our trial brief, but
24 also during the upcoming few days in this courtroom that are dedicated to
25 the participating victims. It is well understood that every effort can again only be

1 a small glimpse of the physical and mental reality of each and every individual who I
2 represent, and can sometimes not be more than a truly well-intentioned interpretation
3 from our side.

4 And I hand over to my associate counsel, Mr Shah.

5 MR SHAH: [12:24:50] Good morning, your Honours.

6 It is vitally important, in our view, for your Honours to understand who
7 the participating victims were in 2003 and 2004, and who they are today, in 2023. It
8 is worth briefly reminding ourselves of the history and culture of the Fur people of
9 Darfur. Expert witness Professor de Waal, during his testimony, characterised
10 the core features of historic Fur society as follows, and I quote:

11 "The Fur -- what these groups have in common is the Fur language, a tradition of
12 affection for the [...] set of values associated with the historic sultanate [of Dar Fur],
13 a very strong attachment to the land, feeling that their identity is very closely tied in
14 with their control over the land. It doesn't mean that they control -- that they wanted
15 to exclude others from the land. They have a long tradition of welcoming [...]
16 strangers who they would allow to settle, and those strangers would, over
17 the generations, become part of the community and become Fur. And of course also
18 welcoming nomads. So it is [...] a set of [...] values along with culture, language and
19 affinity to a historical past." End of quote.

20 As the majority of Fur people - certainly in the Wadi Salih and Mukjar localities - are
21 now displaced in their own country, and to neighbouring countries, and in the wider
22 diaspora, much of these traditions and practices have been immeasurably impacted.
23 In a video call with participating victims, on 13 March 2023, one victim said to us:
24 "Life now is tough and the opposite of what it was. Before the war, we lived
25 a normal life, we worked in farming, we had cattle, our children went to school, and

1 we celebrated ceremonies with our neighbours. But now life has become very
2 difficult, we are refugees and lost all of that, our traditions have been thrown away."
3 End of quote.

4 Witness P-0643, during his testimony before your Honours, provided perspective on
5 how the conflict and its aftermath have influenced the younger Fur generation's
6 perception of this welcoming tradition. He stated, and I quote:

7 "The Fur by nature are peaceful and they are the countrymen, the people of Darfur.
8 Although [...] all the people there are the inhabitants of Darfur, [...] the Fur are known
9 to be the main inhabitants [...], that Darfur is their own land. And these are good
10 people, they are welcoming people and they can welcome any guest that would come
11 to their land. That is how -- they were good natured back then. But today of course
12 we don't have the same nature, good nature. We don't have the same qualifications.
13 The young generation does not have the same qualifications as their parents when it
14 comes to welcoming others or accepting the others because they believe that this was
15 a very big mistake by their elders to welcome everybody else, because at the end they
16 sustained damages by the people that they had welcomed. So the new generation is
17 totally different from the old generation."

18 And that's at trial transcript 57, pages 59 to 60.

19 And regarding farming and livelihood, which we heard a lot about during
20 the testimony of Prosecution witnesses, one witness who was later admitted as
21 a participating victim described the general situation in the villages between and
22 surrounding Bindisi and Mukjar as follows, and I quote:

23 "Prior to the attacks, these villages were safe and were productive. They were
24 providing all nearby towns with crops and livestock. They were stable, they were
25 filled with people, and they were prosperous. Life was prosperous. [...] After

1 the events, it became nothing but rubble. All that was left was trees, and so forth,
2 but there was no life there. Everything got destroyed."

3 And that's at transcript 45, at page 33.

4 Farming, as well as caring for animals and livestock, was a family affair, with men,
5 women and older children involved in this daily work.

6 Animals were also important in the daily lives of the Fur communities of Wadi Salih
7 and Mukjar localities. In answer to a question from the common legal representative,
8 Dual Status Victim Witness P-0907 explained, and I quote:

9 "Livestock was very important for us, because we mainly relied on livestock and
10 farming for our livelihood. We used donkeys for farming activities. We relied on
11 the daily products of our cattle, also to feed our children. And when we needed
12 money, we sold one of our animals in order to get money in return."

13 And that is at transcript 95 at page 5.

14 The testimony of the Prosecution's witnesses and the applications of the participating
15 victims are replete with recollections that an almost uniform feature of the attacks on
16 their home villages in 2003 and 2004 was the pillaging and taking of that livestock,
17 which represented significant amounts of family and community wealth and
18 resources for the Fur people.

19 The pursuit of education was also an important touchstone in the Fur community,
20 including being able to pay for school fees, uniforms and supplies, and this was very
21 much evident in the testimony of the Prosecution's witnesses.

22 One witness described the current situation of persons from the Fur community who
23 were displaced by the conflict saying, and I quote:

24 "Until now, after 18 long years, people are still impacted by what happened. We still
25 have children beggars, their fathers and their mothers were killed and they can't go to

1 schools. They have no money to pay fees and they don't have any school uniforms
2 or school books."

3 And that's at transcript 54 at page 70.

4 The witness and the participating victim who will address the Trial Chamber in
5 person will speak more to this particular issue.

6 Another important feature of the Fur community were their communal and
7 traditional leadership structures. Community leadership at the local level was
8 organised in primarily three hierarchies - *sheikhs* at the level of the village, followed
9 by *umdahs* who would be responsible for several villages, and then *shartays* as
10 a regional community authority. Community leaders were, generally speaking,
11 respected figures, and central nodes of guidance, information dissemination,
12 organisation, dispute resolution, and decision-making, including in times of crisis, for
13 the Fur people.

14 Dual Status Victim-Witness P-0877 related during his testimony before your Honours,
15 and I quote:

16 "In our community, the community leaders, starting with *shartay*, and after that, at the
17 lower level[s], *umdahs* and *sheikhs*, they assumed a social role to resolve dispute[s]
18 [...] -- intertribe or -- intertribes or intratribes. They were determining weekly
19 the family disputes. They would order people to do some action, like if there were
20 collective actions such as building houses. They were also participating in religious
21 matters and social matters."

22 And that is transcript 54, and pages 59 to 60.

23 The importance of community leaders in the fabric and functioning of Fur society,
24 including the stability and sense of safety they provided, crystallizes in
25 the testimonies of witnesses who discuss the impact of the targeting of community

1 leaders during the conflict, including in respect of the charged incidents in and
2 around Deleig and Mukjar in early 2004.

3 For example, Dual Status Victim-Witness P-0907 described the cascading effects
4 arising from the killing of Fur community leaders, and I quote:

5 "The impact was intense because [...] they were the community leaders, our
6 community leaders. They would manage our affairs and take care of us in a very
7 well manner. So their loss impacted the community, because it's like a domino effect.
8 Once it starts, everything is affected. [...] [W]hen this domino effect starts, if things get
9 scattered and chaotic, if you have a leader, for example, a communal leader, one of
10 the notables, they would be able to address the authorities, government authorities to
11 fund schools, hospitals. So say when this notable person dies, the whole society
12 suffers because [...] we don't have someone to take care of us."

13 And that is at transcript 95, pages 10 to 11.

14 One witness testified to an additional dimension of harm arising from the targeting of
15 Fur community leaders. He noted, and I quote:

16 "These were people who headed very big families. In our community, the *umdah*
17 usually has more than one wife and would have many sons and daughters. So
18 the impact was very significant for the sons and daughters of the victims in the first
19 place before talking about the impact on the community."

20 And that is at transcript 57, from pages 58 to 59.

21 Lastly, but also importantly, we would also like to give your Honours an idea of what
22 a Fur village looked like in 2003 and 2004 and how the houses are built, which also
23 helps to explain, as we heard in the testimony of the Prosecution's witnesses, how
24 easy it was for these structures to be completely destroyed by fire and other means.

25 Now, Witness P-1, who -- whom you will hear from tomorrow, will be able to address

1 the particular images you see on your screen right now, which we also included in
2 our trial brief.

3 In the Fur villages of Wadi Salih and Mukjar localities at the time of the outbreak of
4 the conflict, most houses were built from grasses and leaves, wood and earthen
5 materials. Additionally, a house often referred to a single-room structure, so
6 a family might have more than one house, perhaps clustered within a compound.
7 And, your Honours, I will now, with your leave, turn the floor back over to my
8 colleague Ms von Wistinghausen. Thank you.

9 PRESIDING JUDGE KORNER: [12:38:43] Yes, thank you, Mr Shah.

10 MS VON WISTINGHAUSEN: [12:38:54] Yes, your Honours, I would like to turn
11 now to some statistics. I know that we say *iudex non calculat*, but sometimes
12 numbers give a better idea, and we would like you to have a concrete idea of who
13 the participating victims are, if we focus for a moment on their genders and ages and
14 the localities they come from. Because when I speak about victims, it is not
15 a reference to some kind of abstraction -- "the victims", which is based on the idea of
16 victimhood, whatever that means. To the contrary, I want to stress, again, and we
17 will keep doing that, the individuality of every single person I'm representing.
18 Among the 600 participating victims, 220 are women and 380 are men, which leads us
19 to a percentage of more or less 36, 34 to 63, 64. It's also worth noting that in respect
20 to the charged crimes in and around Mukjar and Deleig, direct victims are
21 predominantly male, although women are at the very least indirect victims of these
22 events. As one victim said to us, and I quote: "I became a widow and my children
23 became orphans." End of quote.
24 Certainly, statistics cannot adequately reflect the story and suffering of each
25 individual. One of the aspects most difficult to reflect in numbers is the very specific

1 harm women have suffered through gender-based and sexual violence. In fact,
2 I believe nothing but the words of those affected that I don't want and I cannot filter
3 can represent what they lived. I will therefore share with your Honours excerpts of
4 their accounts in their victims applications regarding these events. During the attack
5 on Bindisi, which is the only charged incident in which such crimes have been alleged
6 in these proceedings, eight female victims reported being raped, in some cases
7 multiple times.

8 One of them, who I will call Khadija, which is not her real name, recounted, and I
9 quote: "Our hearts had almost stopped. They were repeating: 'catch the beautiful
10 women.' [...] The Janjaweed militias raped me as they did to a lot of other women.
11 They also raped my niece [...] who was still a teenager and killed her." End of quote.

12 Neither can the numbers fully reflect the suffering of pregnant women and those
13 caring for infants. One victim, who I refer to as Aicha, shared her difficulties finding
14 shelter with her infant, who was only 14 days old. Rejected by other people hiding
15 in the forest due to the crying infant, she reports having been discovered by
16 Janjaweed men and raped by more than five.

17 Another victim, I will call him Khaled, speaks about his wife when he recounts, and I
18 quote:

19 "When I returned to the village, I found that my wife [...] was badly injured in her
20 tummy. Her son who was only three years old and whom she was carrying on her
21 back was also injured in his leg. I tried helping them but I couldn't. She was nine
22 months pregnant and was dying. We stayed in the forest for two days and when I
23 went back to the village I found her dead." End of quote.

24 And, unfortunately, I could go on giving such examples, but I have chosen not to
25 quote even worse accounts in public.

1 Your Honours will of course recall the harrowing evidence of witnesses P-0011,
2 P-1073, and P-1074, all of whom were subsequently admitted as participating victims.
3 They courageously appeared before your Honours to describe what they suffered at
4 the hands of the attackers during the assault on Bindisi, and the physical and
5 psychological consequences of rape that continues to impact them almost two
6 decades later. The consequences of sexual and gender-based violence against Fur
7 women is part of what will be addressed by P-001 when she appears before
8 your Honours tomorrow. Because she knows, she senses it - every day - in
9 the IDP camp in Chad where she has lived now for 20 years and made her
10 observations.

11 Let's now turn our attention to children, too often overlooked in armed conflicts.
12 The approximate age range of the participating victims today is from 19 to 94 years,
13 with an average of 45 years. At the time of the charged crimes, their ages ranged
14 from four months to 74 years, with an average of 28.5 years.

15 However, I would like to draw your attention to the experience of this particularly
16 vulnerable group: It is of note that around 20 per cent of the participating victims
17 were children under the age of 18 at the time of the events. 123 children from
18 Mukjar, Deleig, Kodoom and Bindisi are participating victims in these proceedings
19 and we know that this number is far from reflecting the actual number of underaged
20 victims. Some of them, like Mr Hassan Hassan - Participating Victim P-0002 - who
21 will speak to your Honours later today in public, were younger than 10 years old and
22 Mr Hassan will explain in detail what that meant and means until today.

23 Another of those many children, originally from Bindisi, and who I will call Adam,
24 said in his victim application, and I quote:
25 "My mother was killed inside our home. I was terrorised, saddened and forced to

1 leave my home region and live in camps for displaced people. I left my home region
2 and all my childhood memories behind." End of quote.

3 Another child victim of the Bindisi attack, whom I will refer to as Fatima, writes, and I
4 quote: "I was terrorised and extremely saddened by having to leave my homeland
5 and leaving all my memories behind me." End of quote.

6 We must also not forget the many parents who lost a child during the charged
7 incidents or during their displacement.

8 A participating victim who I will call Mariam, an indirect victim of the Deleig
9 incident, says what probably many of those parents feel, and I quote: "Since the day
10 my son was killed and up to this day, I sometimes don't know which day of the week
11 I'm in. [Besides], I've been left alone without offspring or guardian." End of quote.

12 Moreover, the attacks against the Fur community were widespread. Almost all of
13 the participating victims are originally from towns or villages in Wadi Salih and
14 Mukjar localities. To date, 81 different towns and villages were identified as places
15 of origin. A majority of the victims are from the villages of Kodoom or Bindisi, or
16 the towns of Deleig or Mukjar. For 21 individuals, their place of origin remains
17 unclear at this stage.

18 The vast majority of the participating victims now reside in internally displaced
19 person camps in Darfur and in refugee camps in Chad.

20 A smaller number of participating victims live in other towns and cities in Darfur or
21 elsewhere in Sudan, including Khartoum. The remainder of the participating
22 victims live in different parts of the world, mostly as refugees, including Egypt,
23 Ghana, Canada, the United Kingdom, the Netherlands, Sweden, France, and Israel.
24 Our proposal - accepted by your Honours - to hear during the presentation of our
25 case from victims currently living in Darfur, in Chad and the wider diaspora to give

1 evidence or present views and concerns is based on several factors, including
2 the nature and content of the crime base evidence presented during the Prosecution's
3 case, the particularities of the crimes charged arising from the four incidents that are
4 the subject of this case, the passage of time since the charged events have taken place,
5 the current and past locations and living circumstances of the participating victims in
6 the five Sudanese states now comprising the Darfur region, Chad and the wider
7 diaspora, and the very personal, but we think also representative nature of
8 the evidence or views and concerns the individual is expected to provide.

9 In respect of life and living conditions in the refugee camps in eastern Chad, and
10 the long-term impact on those who have now nearly spent 20 years there, were even
11 born there, Witness P-001 and Participating Victim P-003 will speak to you from their
12 own experience and they have best placed to speak for themselves and their peers
13 and to express themselves freely and as publicly as possible in this forum.

14 As regards what it means to have to move away from your home country, to another
15 continent, to claim asylum there and how this impacts the individual and the family
16 in the long term, Participating Victim P-002 will address you later this afternoon.

17 Regarding victims still living in Darfur, our role has been frustrated by the current
18 armed conflict in Sudan. I have addressed at the beginning of this opening that very
19 unfortunately, but understandably, and also sadly, two of the participating victims
20 who had accepted to travel a long way to be here in person from Darfur to share their
21 views and concerns with your Honours, P-004 and 005, are now confined to their
22 homes in IDP camps, reliving exactly the same fears as nearly two decades ago,
23 unable to move, and in a dire situation.

24 However, we're not giving up the hope that the situation in Sudan will improve in
25 the near term, even though it doesn't look good, and that we will be able to bring

1 them both to speak here with your Honours in person, an important moment that
2 they have long, long been waiting for.

3 While I have, in the course of this opening, touched on aspects of harm for
4 the participating victims, their families, and the larger Fur community arising from
5 the charged incidents, I would like to highlight now for your Honours and the public
6 in a more structured fashion how these events have impacted the lives and futures of
7 our clients. Our brief, of course, also addresses harm to the participating victims in
8 a more expansive manner.

9 Harm can be distinguished between, on the one hand, the participating victims who
10 were detained and subjected to mistreatment and/or attempted murder, and, on
11 the other, the victims who sustained psychological harm, either because they
12 witnessed atrocities committed against members of their community or because they
13 have a family relationship with one or more of the directly impacted persons.

14 In Mukjar, a large number of arrested males were allegedly taken to the police station,
15 where they were detained in inhumane conditions and tortured. In Deleig, it is also
16 alleged that between 100 and 200 arrested Fur males were similarly detained, in an
17 open area near the police station, and also subjected to mistreatment.

18 The physical harm sustained by participating victims in this context ranges from
19 minor injuries to extensive and irreversible bodily harm, the result of severe cruelty
20 and inhumanity.

21 In Mukjar, in addition to being kept in cramped cells, with no access to toilets, and in
22 stiflingly hot temperatures, participating victims were beaten, whipped, tortured,
23 mutilated and shot at. A number of participating victims describe having been
24 tortured with a hot iron or with a plastic container that was set on fire and melted on
25 their backs. One participating victim, I will call him Ahmed, states in his victim

1 application, and I quote: "The cell was packed, dark and hot; there was no room to
2 move and no toilet. I was beaten on the head with a stick and burned on the leg
3 with an iron." End of quote.

4 Another participating victim, and I will call him Abdullah, describes how soldiers
5 opened fire on his left foot, causing him to lose the second toe, next to his big toe.

6 The description of physical harm suffered by victims in the Deleig incident is no less
7 horrific. One participating victim, I will refer to him as Yousif, describes how he was
8 severely beaten and tortured, and that one of the Janjaweed put a finger in his right
9 eye. As a result, he lost sight in that eye, and which still causes him pain today.

10 In respect of both the Mukjar and Deleig charged incidents, the long-term physical
11 impact is widespread among the direct victims of these crimes, and include serious
12 mobility impairments, mutilations, back and neck injuries and persistent pain, bullet
13 injuries and scars, and other injuries and scars from beatings and whipping.

14 The psychological harm related to the mistreatment and abuse suffered is no less
15 omnipresent among the harm described by the participating victims. They generally
16 all suffer, to this day, from distress, anxiety, depression, as well as sleeping and eating
17 disorders. Most of them never received any relevant counselling or psychological
18 support.

19 We must not overlook the indirect victims of these incidents, as well as the members
20 of the Fur community who directly witnessed some of these alleged crimes: Many
21 victims - such as dual status witnesses like P-0720, P-0994 and P-0955 - sustained
22 psychological harm because they directly witnessed atrocities committed against
23 members of their community or because they have a family relationship with one or
24 more of the detained persons.

25 One dual status witness explained, and I quote: "To this day I have psychological

1 trouble; [difficulty] eating; anxiety and stress because of what I have witnessed. I
2 lost my friends and acquaintances and I think about them very often." End of quote.
3 Material harm was suffered by almost all of the participating victims from
4 the Kodoom and Bindisi charged events. Suliman, again, not his real name, states in
5 his victim application that he lost everything he owned during the 15 August 2003
6 attack on Kodoom: His home was burned down, and all the livestock (cows, sheep,
7 camels, donkeys), the contents of his house, his agricultural material and products
8 (seeds and crops) were looted.
9 This account was one we heard from many dual status victims, like P-0012, who
10 recounted, and I quote:
11 "In Kodoom, they took all of the livestock, cows, sheep, camels, donkeys and house
12 contents. They also took our agricultural material and products, and the seeds and
13 crops we had. [...] I had to flee the farm without harvesting the crops that were ready.
14 My house was burned down." End of quote.
15 Your Honour, I note the time. I think I would need something like 15 to 20 minutes
16 to finish, and I apologise for not having been very good in anticipating how long it
17 takes.
18 PRESIDING JUDGE KORNER: [12:59:31] No, that fine. I think, in that case, if it's
19 another 15, 20 minutes, we'll break now and pick it up at 2.30. Thank you.
20 MS VON WISTINGHAUSEN: [12:59:46] Very well. Thank you.
21 THE COURT USHER: [12:59:49] All rise.
22 (Recess taken at 12.59 p.m.)
23 (Upon resuming in open session at 2.32 p.m.)
24 THE COURT USHER: [14:32:03] All rise.
25 Please be seated.

1 PRESIDING JUDGE KORNER: [14:32:27] Yes, Ms von Wistinghausen.

2 MS VON WISTINGHAUSEN: [14:32:34] Yes, good afternoon, Madam President,
3 your Honours.

4 Before the break we were talking about material harm. It lies of course in the brutal
5 nature of the charged attacks on Kodoom and Bindisi that there was widespread
6 burning and damage to the homes and the belongings of its residents. Where
7 property was not destroyed, it was looted, including crops, livestock, home
8 furnishings, currency, gold, jewellery. To this day, none of the participating victims
9 have been compensated for their immense material losses.

10 Prosecution witness P-0020 powerfully summed up what, in his view, was the impact
11 of the 2003 to 2005 conflict on the members of his community. He stated, and I
12 quote:

13 "The conflict in West Darfur impacted the Fur community economically, socially,
14 culturally, even emotionally and psychologically. [...] [T]he Fur community lost all its
15 resources. Even the fields and the agricultural lands were destroyed. The people
16 had to leave their regions, and [...] they are still living in the IDP camps, and
17 sometimes in camps outside the country. [...] We will never be able to talk about
18 their livelihoods. Their education institutions have been destroyed. Their
19 businesses have been destroyed. It is the whole cycle of life that has been destroyed.
20 They have nothing left." End of quote.

21 This is trial transcript 41, pages 77 to 78.

22 Given that all the participating victims have been subjected to and lost their current
23 circumstances, and the almost two decades that have passed since the charged events
24 in Kodoom, Bindisi, Mukjar and Deleig, it is a very pertinent and, in our view,
25 important question as to what, exactly, they expect from these proceedings, this Court,

1 and from your Honours.

2 I can offer at least a partial answer arising from the testimony of witnesses during the
3 Prosecution's case, and from our consultations with the participating victims. The
4 victims of the alleged crimes in these proceedings seek justice, accountability and of
5 course recognition on behalf of themselves, their families, and the wider Fur
6 community, but also, as I addressed earlier, as a demonstration of the international
7 community's commitment to stand against ongoing serious criminal and human
8 rights violations, and as a measure guarding against repetition of the terrible and
9 dehumanising conduct and circumstances to which the participating victims have
10 been subject. Tied to this - we heard many times from participating victims - is the
11 strong belief that the process of justice is an essential component of seeking a
12 resolution to the still ongoing instability and violence that plagues Darfur and,
13 ultimately, the possibility for them to return to their ancestral lands and their former
14 lives, traditions and communities. And that comes up over and over again, this wish
15 to return to their lands. These views were powerfully expressed, and as I quoted
16 from at the beginning of this opening statement, in the testimonies of dual status
17 victims P-0584, P-0907, and P-0986.

18 The participating victims have emphasised to us the need for justice to take its course,
19 and the importance of the judicial process moving forward, since the events of 2003
20 and 2004 that have so marked their lives.

21 A victim of the Bindisi incident, for example, stated to me that for her, and I quote:
22 "Justice [..] means living with my dignity, if justice is made, my rights are back and I
23 go back to my hometown, live as before, my dignity will be restored and this is justice
24 for me." End of quote.

25 A victim of the Kodoom incident explained to me, and I quote: "If I get my rights

1 back and justice is made, maybe I will live like a human being. If I get my rights, I
2 will have freedom and live my life." End of quote.

3 Another participating victim addressed me, and indeed your Honours, as follows,
4 and I quote: "The [Legal Representative of Victims], and the Court generally, is
5 responsible for what we have been working on for so long. We have been
6 advocating, complaining, looking for justice for 20 years. Now all our work is [in
7 your] hands, it is in yours." End of quote.

8 To many of you, I'm afraid, especially those who read our trial brief submitted on
9 31 March of this year, some of this may sound redundant, and also very similar from
10 what you have heard from participating victims in other criminal trials. What we
11 wish to emphasise however, and urge your Honours to keep in mind, is that these are
12 the fundamental and solemn views and concerns of the participating victims in these
13 proceedings, as expressed individually by them, and that they can therefore not be
14 redundant by nature.

15 Very often, when we speak about violations of international criminal and
16 humanitarian law, we speak about macro-criminality and all those involved have
17 travelled a path that is not only intertwined and reaches far back into the past, but at
18 the edges of which there are also many spectators with completely different
19 preconceptions. As a rule, major social issues are debated and history is invoked.
20 There is agreement that the subject of the proceedings is always the responsibility of
21 the perpetrator, not the investigation of a historical fact and the final judgment on it.
22 So just as we focus on the individual criminal responsibility of the accused in this
23 very trial, we must also be able to look at the individual impact and consequence for
24 every participating victim, which will never be the same, independently of similar
25 and repetitive cruel external circumstances. While a community may be impacted,

1 we must be careful not to limit our understanding to notions of some kind of
2 collective suffering.

3 I therefore request your Honours to take the time and to devote the necessary
4 attention to individual accounts of victims and the concrete particularity of the
5 individual experience, rather than to look at the victims participating in the present
6 proceedings solely as a "victims group" or "victims community".

7 I would like to close this statement on behalf of the 600 participating victims in these
8 proceedings with a few of the messages we have received from some of them in
9 recent weeks. It is their voice and words that truly matter, and I accordingly give the
10 floor to them.

11 First, we have Mohamed. Of course it's not his real name. Originally from Bindisi
12 and around 70 years of age, he is a long-term refugee in Chad.

13 I apologise, your Honour, sometimes technique doesn't work as we would wish it to
14 work, so please can I ask for some patience.

15 PRESIDING JUDGE KORNER: [14:43:28] I'm noted for my patience,

16 Ms von Wistinghausen, as you know.

17 (Pause in proceedings)

18 PRESIDING JUDGE KORNER: [14:45:06] Ms von Wistinghausen, I gather that there
19 is a technical problem, so although it was tested this morning, it won't play. I mean,
20 do you want to -- do you want us to rise while they try and sort it out?

21 MS VON WISTINGHAUSEN: [14:45:22] It's not working and it won't work or it's
22 just a question of patience?

23 PRESIDING JUDGE KORNER: [14:45:32] It won't work, I think.

24 MS VON WISTINGHAUSEN: [14:45:35] It won't work.

25 PRESIDING JUDGE KORNER: [14:45:38] Unless I'm told -- if you just -- yeah, well,

1 apparently they're going to try and check in the next minute and see what's
2 happening.

3 MS VON WISTINGHAUSEN: [14:45:46] It would be unfortunate if it didn't work,
4 because the purpose is for you to hear the voices of the participating victims, rather
5 than me reading on their behalf what they want to say.

6 PRESIDING JUDGE KORNER: [14:45:57] I understand that.

7 (Pause in proceedings)

8 (Playing of the audio excerpt)

9 THE INTERPRETER: [14:46:29](Interpretation of the audio excerpt)

10 "I'm resident of Bindisi and I lost everything ..."

11 MS VON WISTINGHAUSEN: [14:46:31] I was able to hear something.

12 (Playing of the audio excerpt)

13 THE INTERPRETER: [14:46:39](Interpretation of the audio excerpt)

14 "In the name of God, I'm a resident of Bindisi locality. Since 2003 until now we have
15 been in great suffering" --

16 THE COURT OFFICER: [14:46:54] Counsel, can you confirm that we should play the
17 audio from our evidence channel.

18 MS VON WISTINGHAUSEN: [14:46:56] Yes. If you could play it from the
19 beginning, and the interpreters have the transcripts, so that they can translate to
20 English for us. So if we can play them -- well, first, the first and then I'm introducing
21 the second and then the third. Thank you.

22 (Playing of the audio excerpt)

23 THE INTERPRETER: [14:47:18](Interpretation of the audio excerpt)

24 "In the name of the God, the most gracious, the most merciful, I'm a resident of
25 Bindisi locality" --

1 MR LAUCCI: This is obviously the wrong footage.

2 PRESIDING JUDGE KORNER: [14:47:29] Sorry, Mr Laucci.

3 MR LAUCCI: [14:47:30] What I hear in my earphone is certainly not a victim from
4 Bindisi.

5 MS VON WISTINGHAUSEN: [14:47:39] I'm sorry, because I don't understand.

6 MR LAUCCI: [14:47:42] I recognise the voice and it's a voice that is very familiar to
7 me and the person is sitting in my back.

8 MS VON WISTINGHAUSEN: [14:47:51] I apologise. This is of course not what
9 (Overlapping speakers)

10 MR LAUCCI: [14:47:55] That's the voice -- that's the voice of Mr Abd-Al-Rahman
11 that we are hearing.

12 PRESIDING JUDGE KORNER: [14:48:04] Why are we hearing Mr Abd-Al-Rahman's
13 voice at all?

14 MS VON WISTINGHAUSEN: [14:48:10] No, we are not supposed to hear his voice.
15 We are supposed to hear the voice of Victim a/20670/20. He is a man from Bindisi
16 and he has a message for your Honours that he has sent for exactly that purpose.
17 And we sent it to the Court Management Section and we gave the transcription of the
18 messages, all the messages we want to play to the interpreters to make it easier for
19 them, and to Defence and Prosecution. I mean, everybody received this well in
20 advance.

21 PRESIDING JUDGE KORNER: [14:49:02] We did -- Judge Alapini-Gansou says that
22 it was clear that the first time we heard the voice he spoke about Bindisi. I don't
23 know why we've suddenly gone over to somebody else, to what Mr --

24 MR LAUCCI: [14:49:15] Exactly. The first -- the first soundtrack was right.

25 PRESIDING JUDGE KORNER: [14:49:20] Yeah. I think -- I actually think,

1 Ms von Wistinghausen, I understand why you want to play it, and I think the best
2 thing is we'll rise while they try and sort out what's going on, unless you want to
3 go -- unless you just want to go on.

4 MS VON WISTINGHAUSEN: [14:49:39] If that's all right -- if that's alright with you,
5 because as I said, this is how we want to end this opening.

6 PRESIDING JUDGE KORNER: Microphone.

7 MS VON WISTINGHAUSEN: [14:49:47] If that's a possibility, yes, because this is
8 how we want to end this opening, and it is -- it is very important for me that you hear
9 these messages in live that have been sent to us for this very purpose. So if we can
10 make it happen it would be -- I would be very grateful.

11 PRESIDING JUDGE KORNER: [14:50:07] Yes, all right. We'll rise while we try and
12 sort out what is going on here. However, given that I was told firmly that
13 everything had been checked in this court last Friday and that it was all working
14 perfectly, it's a little disappointing.

15 Yes, all right, we'll -- we'll adjourn.

16 THE COURT USHER: [14:50:31] All rise.

17 (Recess taken at 2.50 p.m.)

18 (Upon resuming in open session at 2.59 p.m.)

19 THE COURT USHER: [14:59:15] All rise.

20 Please be seated.

21 PRESIDING JUDGE KORNER: [14:59:32] Mr Laucci, I'm told you unnecessarily
22 confused matters. It wasn't your client's voice at all.

23 Yes, now we really try and play it.

24 MS VON WISTINGHAUSEN: [14:59:47] Yes. Now, maybe to give context where
25 these recordings come from, they obviously come from participating victims. It's

1 actually small videos that they sent to us with a message to your Honours. We're
2 not playing the videos for obvious reasons, and so we have chosen just to play the
3 messages so that you can only hear the voices of the participating victims.

4 So, as I had indicated before this little technical break, we first have a gentleman
5 originally from Bindisi, around 70 years of age, and he's a long-term refugee in Chad.

6 (Playing of the audio excerpt)

7 THE INTERPRETER: [15:00:41](Interpretation of the audio excerpt)

8 "In the name of God, the most gracious, the most merciful.

9 I am a resident of Bindisi locality. Since 2003 until now we have been in a great
10 suffering.

11 I solicit from the judges of the ICC, by the permission of God, to perform justice for
12 us.

13 We are still suffering until now, we have no access to education, if somebody is sick
14 there's no health care, no food, the situation in the camps is really difficult. And
15 what the NGOs offer is not enough because it barely helps 10 per cent of what we
16 need.

17 Therefore, we ask for justice to be done so we can get our rights back. We are the
18 victims inclusively and people of Darfur in general.

19 Thank you -- thanks to all of you who are working in the ICC and we want you to
20 achieve justice for us."

21 MS VON WISTINGHAUSEN: [15:01:49] Next we will hear from a participating
22 victim, who I will refer to as Idriss. Like Mohamed, he's from Bindisi and a
23 long-term refugee in Chad. He was a teenager at the time of the attack on Bindisi.

24 (Playing of the audio excerpt)

25 THE INTERPRETER: [15:02:14](Interpretation of audio excerpt)

1 "In the name of God, the most gracious, the most merciful.
2 I am from Wadi Salih area, specifically from Bindisi.
3 I was in Bindisi area and I lost everything that I had. And I suffered a lot from
4 fleeing from Bindisi to Mukjar, and then to Deleig.
5 Afterwards, I took refuge in Chad. And now I am talking to the ICC. Of course, I
6 can't give you all the details, but I can tell you briefly about what happened.
7 We are suffering a great deal, we lost lives and everything that we owned, we lost
8 everything that we had because of the war.
9 I testify that we suffer, first, from the lack of education, secondly we suffer from food
10 shortages and living in very bad conditions, we also suffer from lack of health care
11 treatment. The organisations provide only 5 per cent of what we need, which
12 doesn't cover everything that we need.
13 We lost basic needs for survival. We are missing all the basic necessities of living,
14 this video which you are watching was recorded while I am on a farm owned by
15 somebody else. I came to find my livelihood due to the suffering we have been
16 living in through the last 19 to 20 years in IDPs and refugee camps. That's the reason
17 why I came to speak to the International Criminal Court to expedite the trial, so that
18 we can recover our rights. We are dear to our homeland and our homeland is very
19 dear to us, no matter what happens. I am dear to my homeland, and my homeland
20 is better for me wherever I go, inevitably I should return to my homeland.
21 Our solicitation to the Court is justice only. Because if justice is provided, we can
22 recover our rights and the rights of all those affected. I'm speaking here in front of
23 you on behalf of those -- all of those who were affected. If the Court achieves justice,
24 we can go back our homeland.
25 This place is someone else's farm where we came to work and earn our living.

1 As you can see, I am wearing tattered clothes now, we work on people's farms very,
2 very hard.

3 We thank you very much, we thank the victim representatives very much for
4 providing this opportunity for us. I am very, very happy with the work that you did.
5 And thank you."

6 MS VON WISTINGHAUSEN: [15:05:26] Now Ibrahim will address your Honours.

7 Ibrahim was originally from Kodoom and he was a young man at the time of the
8 15 August attack 2003. Like Mohamed and Idriss, Ibrahim is a long-term refugee in
9 Chad as well.

10 (Playing of the audio excerpt)

11 THE INTERPRETER: [15:05:50](Interpretation of the audio excerpt)

12 "In the name of God, the most gracious, the most merciful. I'm a participant victim
13 in the International Criminal Court.

14 Currently I live as a refugee in Chad, I am originally from Kodoom village. Before
15 the conflict I was living a dignified life in my village Kodoom. We were working in
16 farming, merchandising, cattle breeding, and our children used to go to school, we
17 were also studying.

18 However, after the conflict we were exposed to hardship and very, very bad
19 circumstances. After the conflict erupted, I was supposed to be among the dead but
20 God saved me. And actually, a lot of family members were killed and others were
21 displaced. Some of my family members were raped.

22 Now, after so many efforts I was able to resort to Chad Republic with my family.

23 Being a refugee in Chad we are facing a lot of problems: In housing, food scarcity,
24 health issues, and security. Our houses are built of straw, which could be burned
25 down in seconds by one peg of match.

1 We cannot afford to build sustainable houses to protect ourselves from the cold or the
2 heat. The straw houses, we cannot protect ourselves from extreme cold in the winter,
3 nor extreme heat in the summer. We have no mattresses, we sleep on the rug or on
4 the soil. We cannot afford to buy sleeping materials. As for the living conditions,
5 they are really very, very bad, surviving is very difficult. The NGOs used to help us
6 with rations, but they stopped helping us now.

7 There are no factories or companies for us to go and work in so that we can afford to
8 put food on the table and cover all our needs, from living, education, and health
9 expenses. Our fate now is so ambiguous.

10 Education wise, I have eight children: three boys and five girls. Currently, four of
11 our eight left the education -- four of our eight children left the education due to lack
12 of money to pay the fees, and the other four are still studying. However, those who
13 are continuing, they will sooner or later stop because we don't have resources, and
14 here there are no job opportunities. Even if we continued and -- if they continued
15 and finished the high school, they will not have the ability to continue to university.
16 Their fate is going to be the same as their siblings."

17 MS VON WISTINGHAUSEN: [15:09:30] Next, your Honours, we'll hear from
18 a participating victim who I will refer to as Abdul. Abdul addresses you from an
19 IDP camp in Darfur. He's an elderly gentleman and was a survivor of the Deleig
20 charged incident.

21 (Playing of the audio excerpt)

22 THE INTERPRETER: [15:09:53](Interpretation of the audio excerpt)

23 "In the name of God, the most gracious, the most merciful. I am 94 years old.
24 I lived in Kalma camp now and as you can see since we were forced to leave our
25 homes we are living in agony like this.

1 We never ate enough and never drank enough water, except what white people bring.
2 They give us a bit and it's not enough.
3 My message to the Judges of the International Criminal Court is to examine what they
4 did to us. They killed our people forced us to leave and they took over our land.
5 We ask for justice, to give us some relief, we are suffering now."

6 MS VON WISTINGHAUSEN: [15:10:53] Now your Honours will be addressed by a
7 gentleman who I will refer to as Sidiq. He was a survivor of the Mukjar charged
8 incident. He's in his sixties and he's a long-term refugee in Chad.

9 (Playing of the audio excerpt)

10 THE INTERPRETER: [15:11:12](Interpretation of audio excerpt)

11 "I have been humiliated and suffer from many problems: medical treatment, food
12 scarcity, even our women and children, if any of them get sick, we cannot afford to
13 cure them, and the food is unavailable.

14 Please, please, I beg you to expedite our case, the case of Darfur, in order to resolve
15 our problems. And in order to enable me to recover my rights, and my family's
16 rights, and for all the people of Darfur regain their rights unanimously.

17 Thank you. Peace be upon you."

18 MS VON WISTINGHAUSEN: [15:12:04] Last --

19 THE INTERPRETER: [15:12:08] Note from the interpreter: Can we just observe a
20 pause, please.

21 We're ready. Thank you.

22 MS VON WISTINGHAUSEN: [15:12:32] Thank you.

23 Last, but certainly not least, Kaltuma will have the honour of addressing the Trial
24 Chamber. She is a long-term refugee in Chad, in her forties, and she's an indirect
25 victim of the Mukjar charged incident, during which her brother is alleged to have

1 been detained and killed.

2 (Playing of the audio excerpt)

3 THE INTERPRETER: [15:13:03](Interpretation of the audio excerpt)

4 "I am a victim of the conflict. I live in a camp in Chad. I ask the Court for justice.

5 I am, since 2004 to this day, suffer in a camp in Chad, 19 years in the camp suffering.

6 I suffer from many issues, especially food scarcity, medical care, and access to

7 education.

8 We receive a little aid from organisations, but it is not enough. If our children get

9 sick, we cannot afford to cure, the health care is very expensive, no money.

10 We're not able to pay the education expenses, our children are out of schools and they

11 don't learn.

12 This is a great suffering for us, our families and all the people in Darfur. We ask for

13 justice, justice to be achieved.

14 We are in the camp here, the situation is very, very difficult. There are no job

15 opportunities for us so that we can have money to pay for our children health care if

16 they get sick. There is no money. The living conditions are very difficult.

17 I ask the judges to resolve our case, to enable us to return to our homeland. No

18 matter what, we shall return to our homeland, to live in our homeland with dignity,

19 and for the people of Darfur and all our families to be relieved from suffering. We

20 shall return to our homeland. It's been 19 years of continuous suffering, the same

21 suffering since 2004 until the very day.

22 The situation has been evolving from bad to worse, suffering within suffering, no

23 change. We want the people of the Court to look at our case in order to restore our

24 rights, and we want peace and we want security.

25 I pray that our Lord will return us to our homeland in peace. Thank you very much

1 and may God bless you."

2 MS VON WISTINGHAUSEN: [15:15:58] On behalf of the (Microphone not
3 activated)

4 PRESIDING JUDGE KORNER: [15:16:04] Sorry, you broke up there.

5 MS VON WISTINGHAUSEN: [15:16:06] I just said on behalf of the participating
6 victims, I thank you for your attention.

7 PRESIDING JUDGE KORNER: [15:16:14] Yes, thank you very much,
8 Ms von Wistinghausen.

9 Is the witness ready? I'm told that he is.

10 MS VON WISTINGHAUSEN: [15:16:26] Yes, it just needs a little break to set up the
11 video link.

12 PRESIDING JUDGE KORNER: [15:16:32] I gather it won't take more than a minute
13 or so, so I think we'll just remain on the bench.

14 (Pause in proceedings)

15 PRESIDING JUDGE KORNER: [15:18:26] Ms von Wistinghausen, I'm just enquiring
16 whether the witness needs to make a solemn declaration. I don't think he does, does
17 he? I'm open to advice on this one.

18 Mr Nicholls?

19 MS VON WISTINGHAUSEN: [15:18:42] He's a participating victim, he's not a
20 witness, so --

21 PRESIDING JUDGE KORNER: [15:18:46] Well, that's what I thought, so --

22 MS VON WISTINGHAUSEN: [15:18:48] -- there's no solemn undertaking.

23 PRESIDING JUDGE KORNER: [15:18:51] Well, that's what I thought. Thank you
24 very much. Yes.

25 MS VON WISTINGHAUSEN: [15:18:56] Yes, it's all a bit less formal.

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1 WITNESS: V-0002

2 (The witness speaks English)

3 (The witness gives evidence via video link)

4 QUESTIONED BY MS VON WISTINGHAUSEN:

5 Q. [15:19:09] Good afternoon, Mr Hassan. Can you hear me?

6 A. [15:19:10] Good afternoon to you. Yes, I do. Yes.

7 Q. [15:19:11] It's very good to see you. I apologise for the delay.

8 A. [15:19:16] No problem.

9 Q. [15:19:17] The opening has taken a bit longer than anticipated.

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

11 Q. [15:19:22] So maybe I'll just briefly introduce you to the judges, who hopefully
12 you can well see on your screen.

13 So you are Hassan Hassan and you are appearing via video link from Canada, from
14 Ottawa?

15 A. [15:19:43] Yes, Canada, Ottawa, yes.

16 Q. [15:19:46] Very good. And we have spoken many times and it was your
17 decision to speak in public?

18 A. [15:19:53] Absolutely.

19 Q. [15:19:54] Through your whole account?

20 A. [15:19:57] Absolutely, yes.

21 Q. [15:19:58] And also to address your Honours under your real name?

22 A. [15:20:02] Absolutely, yes.

23 MS VON WISTINGHAUSEN: [15:20:04] Therefore, I can also say that no closed
24 session will be required, unless anything very unexpected comes up.

25 Q. [15:20:12] Mr Hassan, I've told you many times, but I'm repeating that I'm

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1 asking you to speak slowly, about the same pace as I do right now. It is very
2 important that every word you speak is understood by the judges and that the
3 interpreters who interpret to French and Arabic have the time to catch everything
4 you're saying. So let's agree --

5 A. [15:20:46] Wonderful.

6 Q. [15:20:46] -- on that. And whenever you speak too quickly, I will stop you.

7 This will mean no disrespect, but just to remind you to speak slowly.

8 And also if you can, because we have also agreed that I want to let you speak quite
9 freely and my questions will just be a way of guiding you, if necessary, please try to
10 pause after every two or three sentences to allow the interpreters to catch up. All
11 right?

12 A. [15:21:26] All right.

13 Q. [15:21:28] Okay. So maybe you want to introduce yourself yourself now, your
14 name and where you come from, when you were born.

15 A. [15:21:45] My name is Hassan Ibrahim Hussein Hassan. In Canada here they
16 go first name and last name, so Hassan Hassan. I was born in Bindisi in Wadi Salih
17 locality in Geneina. Right now it's -- because the government divided Darfur into five
18 states after I left Sudan, now my locality belongs to Zalingei state. Yes, I grew up in
19 Bindisi. I grew up also in Kalma camp in Uganda and Canada.

20 Q. [15:22:26] We will get to that.

21 In which year were you born?

22 A. [15:22:33] I was born in 1994, January 1, that's the date of birth.

23 Q. [15:22:40] And you have a wife and four-year-old child and both have --

24 A. [15:22:45] Indeed.

25 Q. [15:22:46] -- joined you in Canada only about six months ago; is that correct?

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1 A. [15:22:51] Yes, indeed.

2 Q. [15:22:56] We are going to start to speak about your life before the attack in
3 Bindisi. And I will ask you to first tell us if you have siblings and what your parents'
4 occupation was and how was your day-to-day life before the attacks.

5 A. [15:23:28] I'm too emotional to talk about my beloved home.

6 Q. [15:23:38] That's all right. Take a pause. As we have discussed as well, you
7 can ask for a break any time. And if there is something you don't want to speak
8 about or you don't feel the strength to speak about, we are the first ones who will
9 understand that. Okay?

10 A. [15:24:10] Yes, absolutely, I would like to talk about my home.

11 Darfur is great land, beautiful place, and because of the beauty of my land, that's why
12 we are dying, that's why we are suffering. That's why I came to Canada, a land
13 where I never imagined in my life to come to, but I don't regret.

14 Going to the story of Darfur, my home place Bindisi. You know, that's the place
15 where I was born. I love it very much, no matter how it looked. And my parents
16 were farmers. Darfurian people, generally they are farmers, and that's the way how
17 we -- we -- we inherited this culture of -- of agriculture. My father, basically, he used
18 to plant watermelon, hot pepper, tomatoes. Yeah, that's what I -- I knew so far about
19 my father for the period of nine years since I was born until I lost him.

20 Q. [15:25:48] Do you have siblings?

21 A. [15:25:50] Yes, I do have. I have -- from my mom, I have eight siblings, we are
22 same mother, same father, all of us. And also I have siblings from, you know,
23 from -- from other -- other -- from my aunts. I have like three aunts, right now they
24 are still alive, and one, she has about four kids and the other one has two and the
25 other one she has about five or four, I don't know, yeah. So we -- we are -- we -- we

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1 are 18, 17 people right now, yeah, still alive. And some of them they are in Uganda.
2 I have two sisters and others they are in Chad. Others are still in -- in Darfur. And
3 some of them, two of them they are in Egypt right now. And for us, we are here in
4 Canada.

5 Q. [15:27:01] And tell me, Mr Hassan, did you attend school at the time?

6 A. [15:27:09] In Sudan? Yes, I went to primary 1, primary 2, so -- and from there
7 when the war came, when we went to the Kalma camp, I went to primary 5. I did
8 not study primary 3 and 4. I went to primary 5. That was in Sudan, yeah.

9 Q. [15:27:34] And before the attacks on your home village, can you tell us little bit
10 of how life was as a child. How did you spend your free time? What were the
11 activities of children? How was the atmosphere amongst neighbours?

12 A. [15:27:55] Bindisi, every home you go, you feel like it's your mother's home. I
13 remember I used to go to my neighbour's houses, I eat food, and even our neighbour's
14 kids they used to come our home and eat food. Like, I remember I could travel
15 different distance like three hours, two hours myself without anybody, come back.
16 It's different than here in Canada where you see kids, they go to school, their parents,
17 they take them to school and again they bring them back home. I feel like these kids
18 they are -- they are kept in jails unlike us. But for us there we had freedom. We
19 used to sometime at night we go and play a play called Shell. So we play Shell, we
20 throw a battery, and then you cover your eyes with -- with rope and you run at night
21 and search for this -- for this - how do you call it -- and when you -- when you search,
22 then you say "Shell", then people run after you and -- yeah, that's -- we used to play
23 different kind of games. We had also mango trees in Bindisi there. So -- and we
24 used to go there and climb on mangoes and we eat mangos, we eat guava, we ate
25 different kind of fruits there in Bindisi.

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1 Sometimes we used to go also, you know, like to collect firewoods outside. I
2 remember my father sometimes we had -- we had a donkey at home and my father,
3 he would send me at -- in the morning hours 5, 6 a.m. to go and collect -- to
4 bring - how do you call - to -- food to the -- to the - how do you call - to our -- sorry, to
5 our donkey. And sometimes I used to go also with my mom to our garden and we
6 plant sorghum, yeah, many things. I have -- I have -- I have very good memories. I
7 have very good memories. There are many, many things I could say, but life was
8 good. It was peaceful. Darfurian people are really loving people, yeah, very loving
9 people.

10 MS VON WISTINGHAUSEN: [15:30:07] How does it go for the interpreters? Is it
11 too fast or it's okay?

12 Q. [15:30:12] Okay, I get a thumb up, so it's good, Mr Hassan. Thank you.

13 Can I ask you about specific traditions or celebrations that you remember, if you can
14 describe those to us?

15 A. [15:30:25] My favourite is circumcision. Sometimes, you know, you see -- like
16 for us Muslims, we -- normally we circumcise our -- our children, our boys normally.
17 So -- and they -- I remember in our village sometimes they will -- they will gather five
18 to six or two or three kids, then they circumcise them. Then you see people gather
19 together and share, bring things. Some people will bring animals like cows and
20 others like, you know, maize, and other things they bring together to share, contribute.
21 If there's a death, also people they come together. In happiness and in sadness
22 people all come together to share, stand together.

23 In Bindisi we have different tribal groups Masalit, Fur, Borgo, Aranga and Tama
24 people, and if there's any festival or anything, you know, people, we go there together
25 and dance. I used to speak even Masalit language, but now I forgot, I forgot, yes.

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1 So I had very good memories there in Bindisi. And I still believe people still hold
2 those sort of cultures.

3 Q. [15:31:49] And your father was a farmer, he was growing crops and he owned
4 land in south Bindisi; is that correct?

5 A. [15:32:01] Yeah, my -- yes, my father -- not only in south Bindisi, but my father
6 also, he had lands in different places. My father he was a teacher, he was a
7 well-educated person. His friend is called Ahmed Diraige, he passed away like two
8 years ago. He was governor of Darfur. And even I have my brother, his name is
9 called Ahmed. He's the one who gave him this name. They used to work together
10 when they were kids together, you say Ahmed Diraige. My father was very
11 educated person. As I said, my father, he spoke English, French, Arabic, many
12 languages. He was also a teacher. He went to Yemen, you know, like this is stories
13 people used to tell us. Sudanese people, long time ago they used to go to Arab
14 countries and they used to teach them, you know, in Arab -- in their countries in
15 order to read and write. Sudanese people, they taught Arabs about -- about life and
16 about education and many things. Even my father was one of them, he went there
17 and he came back, he spent like five years. Yeah. And even my brother, they were
18 not all been born in Bindisi. They were born in other -- other different localities
19 of -- of -- of -- sorry, of Geneina, because my father was teacher and every time he
20 will -- he moved to different places to teach. But for us, for me and my sister and the
21 other young ones, we are all -- were all born in Bindisi.

22 Q. [15:33:39] I will move on now to more difficult times, and let's speak a little bit
23 about the attack on Bindisi on 15 and 16 August 2003.

24 As you said, you were a child at the time, nine years old, if I'm correct?

25 A. [15:33:59] Yeah. Yes, of course.

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- 1 Q. [15:34:01] Do you want to describe what you saw on that very day and --
- 2 A. [15:34:07] Yes.
- 3 Q. [15:34:08] -- again, you know, feel free to tell what you want to tell, but no
- 4 obligation to go into matters that are too difficult to speak about.
- 5 A. [15:34:17] Yes.
- 6 Q. [15:34:18] It's completely up to you.
- 7 A. [15:34:20] At that time I was like nine years old. I don't know, basically, to be
- 8 honest, I don't know which day it was particularly when the war started, but I
- 9 remember it was 2003. But I asked my mom, I asked my brothers, and they tell me it
- 10 was between 15th to 16th, that's what they tell me.
- 11 The day when the war started, before the first day -- sorry, the second day before the
- 12 war started, people they -- they moved from Bindisi, not all of -- not all of them, but
- 13 some families they moved from Bindisi and one of -- my family was one of them.
- 14 We went to, you know -- in -- in -- in that time it was wet season and people planted,
- 15 so we went to the -- to the bush, we stayed there for one night. And again when you
- 16 came back, second day when you came back, I remember my uncle Dramani (phon),
- 17 he pass away, he also pass away three years ago, two years ago, I don't know exactly.
- 18 I don't remember. So he came from Kodoom and he -- he informed people, all
- 19 Bindisi people that there's a war in Kodoom and you should prepare if anything
- 20 happen. So around 8, 9 a.m., I remember - how do you call - government forces,
- 21 they came with their -- their vehicles, Land Cruisers, the army, they were army.
- 22 So -- and some of them they were police. They mix, you know. So they came with
- 23 their vehicles and they said that they want to collect what they call -- is it *zakat* or
- 24 something like that. Every year, every year they come and collect from people.
- 25 And it was unusual situation for many, many people. They said, oh, no, this is not

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1 the situation of -- you can come with your vehicles and you can say everything you
2 say, you want to collect - how do you call - *zakat* from the people and we knew that
3 war was going to erupt that time.

4 And so Bindisi, I remember like west part of Bindisi and the east side of Bindisi, it
5 was surrounded by the militia, the Janjaweed militias. These are Arabs tribal groups
6 and government give them weapons to come and fight us. And the government
7 convinced them that, you know, if you kill these people, we're going to give you this
8 land, you're going to replace these people and you take this land, then it become Arab
9 land. That's what they -- they -- they used to, you know, fool them. That's how
10 government, they used to fool the Arabs people, despite we are all people and we are
11 all Darfurians.

12 So suddenly then I was -- I was -- I was outside, I was -- I went to the, you know, like
13 we had the sugar cane plantation. So it was -- it was -- there was a house across the
14 mosque, my father -- my auntie's house. My aunty, she moved and she went to -- to
15 Zalingei. And we used to live -- my father used to live in that house. So behind
16 that, we have a backyard and there was sugar cane plantation and we used to -- we
17 used to play around that area. So for me, I went -- my neighbours -- sorry, my
18 grandfather's son, his name is called also Hassan, so we -- we went there and said we
19 were playing and suddenly we hear the gunshots. We stayed there inside, and after
20 a few minutes, like 15, 17 minutes, we came outside. And when we came outside,
21 we found dead bodies. Even my father was there also. For me, that time I was
22 confused. I didn't -- I didn't know even what I can do. And there were -- there
23 were -- there were Janjaweed, their horses and some Land Cruisers, they were
24 standing there. They didn't say anything to us. They were just staying there and
25 houses were burning. And many people they ran away. Many people they ran

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1 away. So for us, they told us we have to leave and we ran away from it -- from that
2 place.

3 We went -- at that time I was separated with my -- my siblings and my mother. So
4 we went to -- to bush. We were going -- we were just kids, we were just following
5 people where they go. We had no -- we had no -- even no plans where we can go.
6 We were just following people randomly and that -- that is it.

7 But at that time many, many people died. Many people died and all the houses
8 were -- they were -- they were abandoned in Bindisi. And Bindisi is very, very big,
9 big city, very big city, yeah.

10 Q. [15:38:52] You may think it's bit of a strange question if I ask you what impact
11 this had on you what you saw on that day and the burning of your village and having
12 to flee with your mother and your siblings, the loss of your father. Do you want to
13 talk about that?

14 A. [15:39:18] Like kids, they don't know death. Seeing your father laying ...

15 PRESIDING JUDGE KORNER: [15:39:43] Sir, we'll give you a break if that helps,
16 Mr Hassan, but I think it's probably better from your point of view if you try and
17 continue.

18 THE WITNESS: [15:39:55] Yeah. As I said, kids, they don't know death. If you
19 bring 10-year-old or 8 years old and showing a dead body, they don't know if this
20 person dead or sick, they don't know. Maybe they can think this person is sick, but
21 they don't know it's death. But for me, it was horrible moment for me to see people
22 dying and see something unusual happening to my village. It was horrible.
23 Sometimes I feel I'm the one who did these things. It's something I cannot ever
24 imagine that can happen to human beings but suddenly it happened. And it
25 happened to many people like that and I saw horrible things more than that seeing

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1 the dead body of my -- my own father. I saw horrible things happening to other
2 people even.

3 MS VON WISTINGHAUSEN: [15:40:55]

4 Q. [15:40:56] Mr Hassan, you then spent some time hiding with your family in the
5 farmland and the forest after fleeing Bindisi. Can you briefly describe what the
6 situation was there for you, your family and other people who had (Overlapping
7 speakers)

8 A. [15:41:14] Yeah, that -- that -- Yes, as I said, we were heading -- before the war
9 started, the day -- the day before the war started, we were heading in the bush there,
10 so people, they gathered together like -- because Bindisi is big, very big city, so
11 depends on family, you go with your neighbours, so with our neighbours we went to
12 the -- to the -- to the bush and we had a fireplace, so we stayed all night there. The
13 second day again we came back in Bindisi. That time the wars did not start, the day
14 before war started. So we were there inside. There was -- there was
15 nothing -- nothing happened.

16 But the second day, when the war started, for me I was separated from my -- my
17 family, I was not together with my family. I -- I went -- I was following just people,
18 and we went to a camp called -- as I said, it's a camp called Emarjadid. Emarjadid
19 means a new -- new -- new -- new -- it's Arabic term, so yeah, Emarjadid means like
20 new -- new development.

21 So that -- that place where they were, there was a camp for the Janjaweed, it was
22 between Um Dukhun and -- and Kabar. So that camp it was all -- all for the
23 Janjaweed militias. All of them they used to live there, even with their families,
24 some of them -- some of them with their family.

25 We went there. For me I was beaten. I have -- I have -- I have some - how do you

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1 call - scars on my body right now. We were tortured a lot. We were shoot. We
2 saw many, many things. Many things happened to us. For me, I did not die, but
3 many people but many people died there. And they used to use us like tools, we
4 will go collect firewoods and bring water and -- yeah. They -- they used to torture.
5 But young people, they didn't torture us that much, but many young -- elder people,
6 they used to torture them a lot. They killed many, many people.
7 And for us, we escaped. For me, I escaped from that place. And again -- again,
8 we -- we came back to -- to -- to Bindisi. So there's -- there's an area called, if I could
9 remember, it's called Hal Jebel (phon). So it's a mountainous area, so it is south side
10 of Bindisi. So we stayed there for three hours and then they told us, "Okay, your
11 family -- your family went to" -- I asked -- I had to ask people where is my mom,
12 where's -- where are my family. Told -- they told, "Many people, they went to
13 Mukjar."
14 I didn't know even where -- where Mukjar is. So -- but I followed people and then
15 we went to Mukjar, and suddenly I -- I found my mom there. Yeah, and I knew -- I
16 knew many, many people in Bindisi, I knew, and many people they knew -- they
17 knew me too. So they directed me where my mother was and suddenly I met my
18 mother.

19 Q. [15:44:06] So you luckily --

20 THE INTERPRETER: [15:44:09] Note from the interpreter: Can we ask the witness
21 please to enunciate the names clearly and try and make his speech clear.

22 MS VON WISTINGHAUSEN: [15:44:22]

23 Q. [15:44:23] Yes, Mr Hassan, I just got a message from the interpreters asking that
24 you pronounce the names of the locations, if I understand correctly, a bit more clearly
25 and of course that you speak a bit more slowly, please.

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- 1 A. [15:44:45] All right. The name of the place is -- the camp called
2 Emar- -- Emarjadid. It means -- in Arabic, it means new -- new development, yes.
3 It's like -- it's like -- it's a Janjaweed militia camp. Very big. The --
4 Q. [15:45:06] How did you actually --
5 A. [15:45:07] Sorry?
6 Q. [15:45:07] How did you actually manage to escape this camp?
7 A. [15:45:13] Like, for me, I was with my cousin, we were so young. So we, as I
8 said, we used -- we had -- we don't have no plans. Like, for us, even if we want to
9 run away, we didn't know where we can go. But the people whom we -- we were,
10 they used to help us. They used to direct us. And they knew us also. So -- and we
11 escaped with them. They're the ones who told us, "Please, let's -- let us run from this
12 place."
13 Even the -- some people from Janjaweed, in that area, that place, they used to tell us,
14 "Please, you have to escape. These people, they can kill you." Some -- some
15 people -- some people they have humanity. Some people, not all people, some
16 people they have humanity. And -- and they directed us how -- how we can escape,
17 and we escaped from that place.
18 Q. [15:46:01] And when you were reunited with your mother and other family
19 members in Mukjar, can you describe how -- how that was and what the situation
20 was like in Mukjar?
21 A. [15:46:15] It was something normal because my mom, my family also, they
22 suffered a lot. Even for me, I suffered. Reuniting, it was something normal and,
23 yeah, that's what I could say. All people, even when -- when we were in Mukjar
24 there, we had no place to sleep. We were just sleeping on the -- on the -- on the -- on
25 the streets, like each and everybody. And some people they help us from a village

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1 called Kirarow. They help us and tell us, "Please, come and stay at our house." So
2 we went and stayed in their -- their -- their home.
3 And my grandfather, Mohamed Tahir, and my grandmother, Mariam Kosa, they used
4 to live at -- at -- at - how do you call - at -- at the -- at the house of the -- this man is
5 called -- he's a -- he's a -- he's a -- he's a - how do you call - a local -- local -- local
6 leader of the -- of the Mukjar. His name is called -- I -- I even forgot his name. Yeah.
7 They used to live at their -- their -- at his house there.

8 Q. [15:47:29] And eventually you returned from Mukjar to Bindisi; is that right?

9 A. [15:47:37] I -- I returned, but that was after like when I spent like between
10 four -- between five to six months in Mukjar. There was war in Sindu, Sindu
11 mountain, and the Government of Sudan, they used to bring army. They used to
12 bring heavy army. Every two weeks or every week, they used to bring army with
13 different weapons. And when I say "army", I'm saying Sudanese army. They used
14 to bring Sudanese army from Kassala, from Darfur, from Kordofan. It's -- it's the
15 same thing like what happened in South Sudan. They used to bring army
16 from -- Sudanese army, they used to come and kill our people in Mukjar there. And
17 also the government, as I said, they used to use Arabs tribal groups, they used to
18 arm -- give them weapons. I remember even young kids about 14 to 16 years of
19 Arab kids, they used to give them weapons. Some of them even -- they can't even
20 carry weapons very well and they used to come and go to Mukjar -- Mukjar -- sorry,
21 in Jebel Sindu to fight there, in Sindu to fight - how do you call - how do you call - a
22 movement, a movement.
23 That time even I was young, I didn't even know what was called a movement, but
24 when I grew up, I -- I learned what -- there's something called a movement,
25 something in Darfur. That was when I was in Kalma camp. I used to -- I've come

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1 to an understanding that there's something there -- there are people who are fighting,
2 they are revolting for our -- our land and our -- our identity and our -- our -- our
3 rights and, yeah, and -- and our existence as Darfurian people, as -- as African people
4 in our territory, in our lands, as indigenous people of the -- of the -- of Darfur.
5 So the Government of Sudan, they -- they not only committed crimes against us as a
6 black people, but I can say they even committed crimes against Arabs. They
7 used -- they used them like tools, and they -- they -- many, many Arabs they died
8 because of -- because of that. They -- they became firewoods for the Government of
9 Sudan.
10 The Sudanese government, I remember they used to iron our people in -- in Mukjar.
11 They commit horrible, horrible crimes. They iron -- you know, iron, iron, the normal
12 iron. Here, in Canada, we have electric one, but in Sudan, there, we had -- we don't
13 have electric. In Khartoum, maybe other place where there's electricity, but in
14 Mukjar or Bindisi where I was, there wasn't electricity. They used firewoods. They
15 used fire -- sorry, how do you call them? Charcoal. And they used to iron on
16 people. They used to -- they used to skin people. And they used to put people
17 inside the rooms, a compact room, then they would bring, like - how do you call - a
18 frying pan, big -- in Arabic, we call it a *saj*. Then they would put it inside the room,
19 they bring - how do you call - fire -- sorry, charcoal, then they pour charcoal on
20 the -- sorry, on the -- on the -- on the frying pan. A big -- big size like this. Then
21 they would bring a hot pepper and they put inside and -- and then they tie up people,
22 for everybody, the youth especially, they just tie them. They put them in room of 10
23 to 15 people, then they close the room and they put a fire on that -- that charcoal.
24 And people they used to die like that. Many, many people died like that. Horrible,
25 horrible thing.

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1 I want to say to the world, please, we need to stop this war as soon as possible. We
2 need to stop this war as soon as possible. This is not about -- about justice. This is
3 not about bringing people -- criminals to -- to justice to make them -- prove them
4 they're criminals. No. This is about stopping the blood of the people, the life of the
5 people. Every day. Even now they kill people. What should we do? Do you
6 want for us to go and -- and fight, to become criminal like a -- like those who
7 committed genocide in Darfur? Is that what you want? Is that what -- what the
8 world wants? Is that what ICC wants? To bring individuals who have killed
9 thousands, thousands of people to prove them that they are guilty? What does that
10 mean for me? It means nothing. What it means for me is to stop the war and the
11 blood of people, to stop these people who -- who supply weapons to these terrorist
12 groups who want to displace us. And they still continue to displace our people.
13 Please, I'm begging you, we need to stop this war right now. Right now. Right
14 now. It's not about justice now. This is about human lives. It's about me being
15 alive and you being alive, all of you here. This is not about bringing UN and war
16 leaders to sit down in London or in America or in Canada or Australia or everywhere,
17 to sit down and just discuss about what's -- what's happening in Darfur. This is
18 nonsense for me. It's nonsense. We need to intervene right now to stop the blood
19 of people.
20 Darfur people now, they lost hope of -- of justice. They lost hope in ICC. They lost
21 hope in everything. But for me, I did not lose hope. And many people, they didn't
22 lost hope. Please, please, the (indiscernible) still happening right now in Sudan,
23 right now. And, you know, there's war in Sudan every day. Every day. Open
24 your WhatsApp. Open your phones right now. You'll find people dying in Sudan,
25 in Khartoum, in Kordofan, the same people.

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1 Q. [15:53:37] Mr Hassan, we will take a break now, okay?

2 A. [15:53:43] Please, please --

3 Q. [15:53:44] Yes.

4 A. [15:53:44] -- stop the war in Sudan.

5 Q. [15:53:46] We'll take a break so that you have the time to compose yourself and
6 then we will see how it goes, all right?

7 A. [15:53:54] All right.

8 Q. [15:53:55] Thank you.

9 PRESIDING JUDGE KORNER: [15:53:57] Yes, well, I was about to say just that,
10 Ms von Wistinghausen. We'll take the break now.

11 Sir, Mr Hassan, there is going to be a break now. I know this is not easy for you, but
12 you will finish what you're saying quicker if you can try and keep the emotions under
13 a little bit of control.

14 Yes, all right, we'll sit again at 4:25.

15 THE COURT USHER: [15:54:34] All rise.

16 (Recess taken at 3.54 p.m.)

17 (Upon resuming in open session at 4.27 p.m.)

18 THE COURT USHER: [16:27:24] All rise.

19 Please be seated.

20 MS VON WISTINGHAUSEN: [16:28:04]

21 Q. [16:28:05] So Mr Hassan.

22 A. [16:28:08] Yes.

23 Q. [16:28:10] I know this is not an easy journey, what we're asking you to do, so I
24 thought to make it a little bit easier for you and -- yes, actually, just to make it a little
25 bit easier for you, I will -- I will lead you through some of what you have told us, at

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1 least until we arrive -- or you arrived in Kalma camp. And then we take it from
2 there, all right?

3 A. [16:28:40] Yes.

4 Q. [16:28:41] And, again, any time you can ask for a break. And to make sure you
5 don't speak too fast, okay?

6 A. [16:28:48] Sure, yes.

7 Q. [16:28:49] We've been speaking about your -- the reunion with your family in
8 Mukjar. And you have described to us that the situation in Mukjar was actually
9 quite difficult. People's houses were filled and the health situation was not good.
10 Some diseases broke out and many died of that -- of those diseases, and that there
11 were many Fur people in the area. Is that correct?

12 A. [16:29:31] Yes. Majority of people who died in Mukjar because of cholera
13 outbreak were children and elderly people who could not be able to -- to -- to resist
14 the disease. There was lack of nutrition -- nutritious foods that -- many, many, many
15 people died. Many people died, not just by bullet, but also by the diseases due to
16 the -- to the war in Mukjar. Yes.

17 And also when there was a war in Mukjar, the war it took, like, one year in Mukjar.
18 So every week or every day we hear gunshots and sometimes, you know, the -- they
19 would -- the army -- sorry, the -- the rebel groups, they -- sometimes they used to
20 come to Mukjar, they attack the government forces, and the government also, the
21 exchange depends on who is powerful. And many, many, many, many, many,
22 many army in Sudan -- Sudan government -- government lost thousands of army,
23 thousands of them are being -- they died in Mukjar. Because, you know, the
24 government, when they bring people from other regions of Sudan and they come
25 there in Mukjar, they don't know the places. They don't know -- they -- because

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1 Darfur is -- that -- that Wadi Salih is mountainous areas and there are valleys and
2 there are, you know, small -- there's -- there's Wadi Salih, which is valley, but there
3 are also other, you know, streams, so -- and there -- there are also forests there.
4 So -- and when the -- those forces they come there, they don't know the places where
5 they go. They go and fall in the hands of the -- of the -- of the armed movements and
6 they died, many, many of them.
7 Omar Al-Bashir government has -- has -- has committed crimes not only against the
8 Darfurian people, but also against the Sudanese people. Students, many of them,
9 they died, many, many, many of them.
10 For me, I am activist, and I became activist because of this issue of Darfur. For me, I
11 cannot sit there and watch my people suffering. I also have contributed. I have 10
12 years right now fighting for the justice and the -- and the -- and the peace in Darfur
13 with the -- an extraordinary -- a lawyer who helped me a lot. Her name is called
14 Diana. She helped me a lot and, you know, I -- I get in contact with her every time.
15 She's an international lawyer and she knows much, much of what I -- what I do and
16 what I did exactly. What I -- what are my hopes, what -- what my country Sudan.
17 And the young people are like me.
18 So Sudanese government, what they did in Darfur was a genocide, was crimes against
19 humanity and crimes of - how do you call - of war crimes and crimes of aggression.
20 For me when I come to Canada, I had to also go and read more what genocide means
21 to -- and there's a university called Concordia University. I did research much about
22 it and they also teach courses about genocide. For me, I also took courses about
23 genocide. I have learned what genocide is all about, what's behind genocide.
24 What has happened in Sudan, in Darfur, it was a genocide. And the people who
25 committed genocide, they are -- they are Ahmad Harun, Musa Hilal, Ali Kushayb,

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1 Ja'afar Abd-Al-Hakam, Omar Al-Bashir, and many, many, many, many, many, many
2 people -- many, many, many, many elements of the -- of the former regime of Omar
3 Al-Bashir.

4 Q. [16:33:19] Mr Hassan?

5 A. [16:33:19] Yes.

6 Q. [16:33:21] I will take you back to 2003 and 2004 for a moment.

7 A. [16:33:28] Yes.

8 Q. [16:33:29] Because the judges would like to hear from you --

9 A. [16:33:34] Yes.

10 Q. [16:33:35] -- how your journey continued --

11 A. [16:33:37] Yes.

12 Q. [16:33:38] -- after you left --

13 A. [16:33:41] Yes.

14 Q. [16:33:42] -- well, after you had to leave your village. And, as you have
15 explained, you spent some time in Mukjar.

16 A. [16:33:49] Yes.

17 Q. [16:33:49] Many months, actually.

18 A. [16:33:51] Yeah, many months, more than nine -- nine -- was nine months in
19 Mukjar there. And it was in -- it was in those months I saw horrible crimes happen.
20 Those people -- those criminals whom I mentioned, even saw them by my naked eyes
21 there in Mukjar when they came there. And they -- maybe I -- I believe you may
22 have heard about the victims of the Darfur. They might have told you about what
23 happened. I believe I'm not the only witness or the victim of Darfur genocide. But
24 many, many people feel -- maybe have -- many of them may have, you know,
25 reported about what happened there in Mukjar.

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1 Q. [16:34:27] Yes.

2 A. [16:34:27] Mukjar -- yes. Mukjar --

3 Q. [16:34:29] And -- I apologise, Mr Hassan. I'm just taking you back to your
4 account of your journey at the time.

5 A. [16:34:40] Yes.

6 Q. [16:34:43] From Mukjar you went back with your mother to Bindisi for a short
7 period of time.

8 A. [16:34:45] Yes.

9 Q. [16:34:47] And, if I understand correctly, your mother found many displaced
10 persons living in your compound. And you stayed there for a few weeks before
11 going back to Mukjar and then starting the journey via South Sudan and Uganda until
12 you arrived in Kalma camp; is that correct?

13 A. [16:35:13] Yes. In Mukjar, for me, I returned to Bindisi alone and I -- because
14 my -- my mum she -- she -- she and my sister Nahid, they went to Bindisi. When we
15 were in Mukjar, it was my grandmother and my sister Radia, and my young siblings,
16 Najad and Noureldine.

17 And, for me, I escaped -- I went to Bindisi alone. It was a long journey. It took me,
18 like, one day. I went there. And again we came back from Bindisi to Mukjar, we
19 came back again with my family, with my sister and my mother. We came to
20 Mukjar. Again, then from there we travelled. We decided to move from Mukjar to
21 go to Nyala. So we went through -- we came back again because the road between
22 Garsila and Nyala was closed and we had to go back again from Bindisi to -- to - how
23 do you call - to Kabar and Kabuk and Um Dukhun. And when we went to
24 (indiscernible), and then we went to Nyala there, transition ...

25 Q. [16:36:11] And then you spent some time in Nyala and eventually you arrived in

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1 Kalma camp. That was, I think, in November 2004; is that possible?

2 A. [16:36:22] Yes, yes. When we were in Nyala, we had -- our neighbours whom
3 we used to live them -- with them in Bindisi, they are from Masalit people, so when
4 we were in Mukjar, we lived at their house for a couple of weeks. Then we went to
5 El Salama. It was a camp, it was a new area. The government organised it for the
6 displaced people only to live there.

7 So we lived in El Salama for a time -- some -- some few months, and then again from
8 there we moved to Kalma camp.

9 Q. [16:36:56] And you stayed in Kalma camp for about three years?

10 A. [16:37:03] Yes.

11 Q. [16:37:03] Yes?

12 A. [16:37:04] Yes, I lived there in Kalma camp, yeah.

13 Q. [16:37:07] Can you explain to the judges --

14 A. [16:37:09] Four -- four years, I think -- 2004, five, six, seven up to -- then in 2008
15 we went to Uganda. It was four years in Kalma camp, yes.

16 Q. [16:37:20] Okay. We have heard from many Prosecution witnesses about the
17 situation in Kalma camp, so we obviously know it was a very difficult time. But we
18 would be interested to know how your perspective on things was as a child, what you
19 remember from your time in Kalma camp, the schooling situation, the health situation,
20 and how did you spend there your time as a child. Can you speak about that?

21 A. [16:37:54] In Kalma camp, when I was in Kalma camp, at that time I had no
22 interest in going to school. Even when I used to go to school, I had no interest to
23 read or write. Sometimes I used to go in the school without shoes, shoeless. I had
24 only one pants, I have to wash it every day and go to school with it. And my mum,
25 she was also not feeling okay. Sometimes she will get sick. Sometimes she will,

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1 you know, go and work in -- in -- in Kalma camp.
2 So when we were in Kalma camp, Kalma camp was -- it belonged to the locality called
3 Bilel. So -- and we had to live there in that area, in that -- that -- in that area called
4 Kalma.
5 So when we were -- we lived there, in the beginning, when we came there -- there
6 were - how do you call - plum -- plum trees, a lot of plum trees. People had to cut
7 those plum trees. There were snakes and scorpions. They used to bite people. So
8 many mosquitoes there.
9 But the UN, they helped us a lot. There were some organisations there. They also
10 helped us a lot. They used to bring for us waters -- water with tanks. But now
11 there's infrastructure. They brought -- they brought - how do you call, how do you
12 call? They brought companies and they built infrastructure for water, water supply,
13 water for people. But in beginning there was no -- there was no any infrastructure
14 for water. But now, you know, organisations help people. And they built even
15 hospitals.
16 But in the beginning, you know, also, you know, like, because many, many people
17 lived there in that area and there were no organisation to -- in order to dig - how do
18 you call - latrines for the people. And also diseases, diseases occurred and many
19 people died because of those -- those diseases.
20 Same scenario of the -- same thing of what happened in Mukjar, there in Kalma camp,
21 because many people living together. And, you know, there's no, you know, good
22 sanitation there.
23 In Kalma camp, we have experienced terrible things also. When there was a peace
24 agreement in Doha -- sorry, in Abuja, and also Janjaweed militias and government
25 forces, they used to come to Kalma and arrest people. In Kalma, in the beginning,

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1 there used to be police stations inside Kalma, but the people of Kalma there, they
2 would get it and they removed those police stations. They used to abuse the women
3 and they used to do horrible things and spy people there, and people of Kalma, help
4 people -- Kalma people, they were very brave and they managed to remove them off
5 site.
6 And I remember also when the UN forces, they also came there, peacekeeping forces
7 in Darfur, despite there was not peace, but they said -- they called themselves
8 peacekeeping forces. They brought them in Kalma there. They were not doing
9 anything. They were just there. Despite of the -- the crimes, they didn't intervene.
10 They didn't do anything on there. They were just there in Kalma.
11 So I remember my mum, she will go and, you know, work in the - how do you
12 call - in the farms of the -- of -- of -- of Arabs. You know, the land, when they come
13 in the beginning, in Kalma camp, those lands, they used to belong to the -- to the -- to
14 the - how do you call - African black -- black tribal groups like the Daju people.
15 Those were the -- the valley is called Wadi Berili (phon) and that Wadi Berili (phon),
16 the new militia, they came and they killed people, Daju people and they displayed
17 them. And the Arabs elites who are living in Nyala, they came and they took
18 advantage of the land because they knew that there are thousand people living there
19 in Kalma, so if they plant anything, they can -- we can get cheap workers, work for
20 them for free -- for -- in a cheap price, not for free, I mean.
21 So my mum, she used to go and, you know, help and plant - how do you call, how do
22 you call - onions and tomatoes, and they used to pay them - how do you call - one
23 pound per every -- every -- every -- in our language it's called a "*dortei*" (phon).
24 *Dortei* (phon) is -- I don't know what to say in English or Arabic, but in my mother
25 language we say *dortei* (phon). *Dortei* (phon) is -- it's -- it's when you -- when you

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1 did -- when you do - how do you call - onion -- onion plantation in Sudan. In other
2 countries it's different. So there's a small, like a triangle. So we go and plant.
3 That's called *dortei* (phon). So per every *dortei* (phon), they pay you, like,
4 10 -- 10 -- sorry, one pound, Sudanese pound. My mum, she used to work -- work
5 there and get some money.
6 And for me, I had the wheelbarrow. It wasn't mine, but I have to -- I have to -- I
7 have to rent every day. Sometimes I pay 2 pounds; sometimes I pay 1 pound. And
8 I used to go and work, you know, just work, you know, any kind of a job in order to
9 get something for -- for my family. And my sisters Radia and Nahid, they used to
10 stay home. My mum -- my mum, she wouldn't allow them to go outside because the
11 Janjaweed, they would rape them. Anything can happen to them, so we had to, you
12 know, keep them at home, not to go anywhere. And if they go, they just go to school
13 and come back. Yeah, it was a school called --

14 Q. [16:42:53] Sorry.

15 A. [16:42:54] -- a school -- Salam school and a Kataru (phon) school. For me, I
16 went to Kataru (phon) school.

17 Q. [16:43:02] Two things. First, you speak about home. What kind of home,
18 what kind of house was it that you lived in Kalma camp?

19 A. [16:43:14] It's just tent. No houses. Just tent. Just tent.

20 Q. [16:43:18] Provided by the UNHCR?

21 A. [16:43:21] Yeah, by UNHCR, yeah. They used to distribute. In the beginning,
22 they used to provide for us relief, enough relief, but over time government took
23 advantage and they didn't -- they didn't -- they used to bring for us like -- they used
24 to -- per -- per every four people, they used to bring for us a sack of the -- of the -- of
25 the wheat and cooking oil and different sort of, you know, relief. They used to bring

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1 for us. But the government took advantage and then they used to bring like per
2 every -- every person they used to bring a *mulwa* (phon). *Mulwa* (phon) is like a
3 container, container, a small container, so they used to bring per every person two or
4 one container and distribute wheat to the people. So the government cut it. And
5 there were many, many organisations, but now government, there are no many
6 organisations there in Darfur because the government has to tell them and the
7 government politicians say, these organisations, oh, they are coming there to
8 investigate, they take information and they go and give to organisations, I don't know,
9 some organisations -- you know, Government of Sudan, what they do is they try to
10 politicise human rights, and when you politicise human rights, it means that you
11 bring water and you contaminate water and it become undrinkable. And that's what
12 exactly Darfur genocide case became. I was following a debate took place in
13 Columbia by the organisation called Save Darfur, and they were just politicising
14 about Darfur genocide, politicising, politicising, and they don't talk about death of the
15 women, children, burning of the villages, thousands or villages have been burned.
16 They don't talk about the millions of people who have been displaced. And I am just
17 confused.

18 Q. [16:45:01] Mr Hassan, you mentioned that eventually you went to school in
19 Kalma camp. Did I get this right?

20 A. [16:45:09] Yes, I used to go to school.

21 Q. Can you describe --

22 A. [16:45:11] Not every day.

23 Q. [16:45:12] Can you describe the school?

24 A. [16:45:15] The school was built by grass. The school, it was in -- between centre
25 1 and centre 2 and centre 3. It used to -- that area -- that area there used to live

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1 people from -- because Kalma is a big camp, people come from Wadi Salih or from
2 Wadi Kaja or from Wadi Bari or Wadi Azoum. I've learned about that from Kalma
3 camp, people from different, you know, like - how do you call - areas of Darfur or
4 regions of Darfur, they came there in Kalma camp. So we used to live with -- our
5 neighbours, they were from - how do you call - Wadi Kaja. They were from
6 Wadi Kaja. And over time then again we moved and we went to the area of where
7 Wadi Salih people, they used to live there. So but now the school is called
8 Kataru (phon) school. I used to go at Kataru (phon) school. But as I said, I
9 didn't -- I didn't -- I didn't love to go -- I didn't wanted to go to school. I -- when
10 I was younger, I didn't like the school when I was young. When I grew up, then,
11 you know, I had a passion to study, but when I was young, I used to go like rarely, I
12 didn't go to school. Sometimes my mum will beat me to go to school, but I used to
13 skip sometimes. You know, I had no passion to study that time when I was young.

14 Q. [16:46:31] It's okay, we're not going to blame you for that. I think this is
15 something you share with many children who don't want to go to the school.
16 If a child wanted to go to school in Kalma camp, was it possible for all the children to
17 go to school?

18 A. [16:46:50] Yes, of course, it was possible. School were there. Some people
19 they used to volunteer, teachers. People are passionate. Darfur people they like
20 education and I'm one of them.

21 Q. [16:47:03] And you said that your mother cultivated land, I suppose to sell it to
22 be able to feed the family. Were you dependent --

23 A. [16:47:18] In Kalma?

24 Q. [16:47:18] In Kalma, yes. Were you --

25 A. [16:47:20] The land is not -- the land is for Daju people, but the elites of the

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1 Arabs, they killed the Daju people and they took their land, Bilel, as I said, they took
2 advantage of the land and they used the Kalma people to work for them there in
3 those lands. My mum, she would go there and work for them and they paid them
4 money and they come back home. They just workers, like every -- they just go, but
5 not every day and not every season. They are some temporary season, like two
6 weeks, three weeks, they go and plant, then that is it, they come back home.

7 Q. [16:47:51] And was your mum able to feed the family with what she earned, or
8 were you dependent on some support by international organisations or NGOs?

9 A. [16:48:05] Yeah, international organisations, they provide for us relief, but
10 sometimes, you know, like we -- it's not enough, sometimes we human beings, we
11 need soap, we need cooking -- we need salt, we need -- we need -- we need many
12 things, we have many requirements, we need clothes, we need -- sometimes we need
13 happiness, we need a lot of things. Food is not enough. You know, food cannot
14 meet your all needs, you know. There is a proverb that says eat to live, but not live
15 to eat. So life is not only about eating, but the others things, also we need money to
16 do with it, you know.

17 Q. [16:48:36] Eventually, probably escaping that difficult situation, your family
18 moved on to Uganda and later on to Canada. Can you --

19 A. Yes.

20 Q. [16:48:49] -- tell us more about this how. Much time did you -- did you spend
21 in Uganda and how was the situation there for you as a refugee?

22 A. [16:49:00] When we went to Uganda, for me, you know, when I was -- when I
23 was in Kalma, I dream of when -- that I went to place and when -- the house where I
24 went, the first house -- second house where we lived in Uganda, it's exactly the house
25 I dreamed in Kalma camp, it's the same place that I dream about it when in Kalma.

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1 In the beginning when we went to Uganda, I had -- I didn't know English at all, even
2 though I had, you know, a passion to learn English. So there was an Arab man, his
3 name is called -- sorry, I call him Am (phon), like my uncle. He passed away. His
4 name is called Defala (phon). Everybody knows him in Uganda, especially
5 Sudanese people. So his is the one who help us, directed us a lot, even, you know,
6 used to pay for us school fee -- not school fee, but money for materials, to buy
7 materials for school, sometimes clothes. And he rent for us a house in beginning
8 also. Even my brother Mohamed, also he help us a lot because he was a over in
9 South Sudan.

10 So in Kampala, life was not easy in beginning because to get used to new
11 environment, new culture, new language, new people, different country, different
12 thing, different -- it was difficult for us in beginning, but over time we, the young
13 people, we had no problem because we used to go and play with every kid, you know,
14 like on the streets. We talk -- kids, you know, they -- they -- they are so friendly, so
15 I was 13 years old and I used to go and play football. Yeah, so I remember there was
16 a school. It's called Makerere Primary School. It's a -- it's a -- it's a -- I think it's a
17 Catholic school. So for me, I remember I went to -- with my sister Najad and we
18 convince a teacher -- we tried to convince a teacher -- sorry, a headteacher, and the
19 headteacher, he was not -- he was not -- he didn't believe us in the beginning. He
20 thought maybe we are like any other kids, street boys, you know, joking around.

21 For me, I went like multiple times, like three times. I talked to him, I even cried. I
22 explained to him everything I want to study and he listened to us. So he came and
23 he knew -- he learned that we have come from Sudan and, you know, we had difficult
24 many things. And there were some South Sudanese students in Uganda. I spoke to
25 them in Arabic. They used to translate for me in that same school. Then the

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1 headteacher told me, "Tomorrow you have to bring your clothes, school -- you have
2 to tell your mother to pay money -- money for the school clothes and also materials
3 and come to class."

4 So in the beginning, I used to go to class. Kids they used to laugh at me because
5 I was 13 years old and in primary 1, the kids -- some kids they are like 7, 8 years old.
6 They used to laugh at me. But for me, I had -- I didn't mind about it. So I
7 continued, I studied in Uganda there, even until I went to high school. But I didn't
8 complete my high school. I came to Canada and completed my high school in 2015,
9 yeah.

10 Q. [16:52:05] So --

11 A. [16:52:06] I had -- I had to struggle a lot -- a lot -- a lot to complete, you know,
12 because 13 years old, you know, in order to complete primary school again to go to
13 high school, you had to do a lot of homework, you had to study a lot, you have to
14 even go and buy books, other books in order to read, be independent. So I -- and
15 there were some students from Darfur, they used to also help me. I used to bring
16 from books, even Sudanese community, they used to help me a lot.
17 I was very loving boy there in Kampala. They used to call me Wadhadja (phon), it
18 means the son of the -- of the -- of the grandmother -- or mother, I don't know the
19 right Arabic. Yeah, they used to call me that. So I had to go and see these people, I
20 have to do anything in order to survive, in order to study, yeah. And thank God
21 right now I am able to speak English and I really, really love English.

22 Q. [16:52:55] Yes, your English is perfect indeed.

23 A. Thank you.

24 Q. [16:52:59] You mentioned that eventually the family moved on to Canada. Can
25 you explain to us how --

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1 A. Yes, in the beginning --

2 Q. [16:53:08] -- this decision was taken and when you arrived in Canada and who
3 from your family immigrated to Canada.

4 A. [16:53:18] Yeah. For me, in the beginning, when we went to -- sorry, when we
5 went in Kalma camp, there was my brother Salih Hassan. He came to -- he
6 also -- he came to -- to - how do you call it - to Egypt. For me, like, he left home in
7 1990, I think, or 2000, I don't know. I don't remember. I was young at that time to
8 remember. But I knew my elder brother Salih, he was not around. And my brother
9 Mohamed, they left and they went to Khartoum. That was before the war was
10 started in Darfur. So they were in Khartoum there and again the government used
11 to arrest, you know, like youth and they recruited them in army and they take them
12 to South Sudan to fight there. So my brother has to -- they have to run -- they had to
13 run. One of them, Mohamed, was arrested and he was taken -- he was taken. My
14 brother, he went and he -- that's what my brother Salih told me. So he went and
15 found my brother in Heglig so -- and he took them -- he took him to Egypt, they
16 escaped to Egypt and they sponsored him. There's an organisation called
17 Build a Village or ICC -- sorry, MCC, I don't know. It's based in Altona, Manitoba
18 there.

19 So they sponsored him and he came to Canada and when he came to Canada, he
20 came in 2006. Yeah, when he came to Canada, so he helped -- he helped -- he used to
21 help us also too. So he helped us when he came -- when he knew that we came to
22 Uganda, he sent to us money and then -- then -- then we used to also, you know, like
23 pay for rent. His situation was very difficult because he had a wife and he didn't
24 know English at all. So he had to struggle, get the money for (indiscernible) and,
25 you know, working, you know, like other jobs, you know. Yeah. That's what he

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1 told us. That's what my brother Salih, he told us. But he went to many, many
2 organisations to help him in order to bring us to Canada, but he was unable. So we
3 stayed there in Uganda for seven years.
4 But there was a church US, they -- they -- they -- for them, they offered to help us to
5 come to US, but for me, I said no, I -- me and my sister Nahid, we said no, we don't
6 want to go to US. Yeah, for me, you know, when I was in Uganda there, I used to
7 read much about US. I said no, I don't want to go to US. We want to go to Canada.
8 And then over time we got the opportunity to come to Canada. We were brought by
9 the organisation called -- I don't know whether MCC or Build a Village, I don't know.
10 Yeah, they are in Altona. So it's part of the Christian organisation and they help us
11 and we settled then in -- in -- in Altona. Altona became our home and we lived there
12 for a long time.

13 Q. [16:56:00] And if I'm well informed, you be arrived in Canada on 22 May 2013?

14 A. [16:56:08] Yeah, 22nd. Yes, indeed.

15 Q. [16:56:10] And you're now a permanent resident of Canada; is that correct?

16 A. [16:56:14] Yes, I am. I am a permanent residence of Canada, yes.

17 Q. [16:56:18] And you have around eight family members in Canada, also
18 including your mum?

19 A. [16:56:24] Yes. I have eight -- eight -- there's also my young brother, he also
20 join us. He came from Chad. Now he came here recently, came like two years ago,
21 I think. We are same father but not -- not the same mother. He's here. I have my
22 brothers right now here in Canada, with them, they are -- they are facing mental
23 problem and I tried to explain this to my -- my -- my lawyers. And once we tried
24 to -- even in Canada here it's very difficult. Canadian people, they don't know what
25 we went through there in our country. They don't know, understand what we went

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1 through. They didn't know that there in our country we used to -- we didn't -- for
2 me, I didn't have to -- we didn't have to rent a house in my country. We didn't have
3 to pay bills and utilities and everything. The system here in western country, it's
4 completely different there in our countries. Even in Canada, for me, I feel -- in
5 Canada I'm very happy. Canada is a very peaceful country. Canadian are very
6 kind people, very loving people. I love, I love Canada very much. I feel for me I'm
7 Canadian now. I describe myself as a Canadian too because this is my home. But
8 Canada, for us, it's very difficult for us to survive here. We don't have houses. We
9 rent people's houses. We struggle to pay rent. Even right now for me I'm thinking
10 of if I go back home, I think about, hey, where can I get money to pay rent, where can
11 I have money to pay my bills, where can I find money to provide food on the table to
12 my own kids?
13 And Canada is a -- I get shocked, you know, when I see Canada, a big country like
14 Canada compared to my country Sudan and they don't give us land. We thought
15 when we come to Canada, Canada government can give us land, give us house to live,
16 but here life is completely different, completely, completely different. Ten years we
17 are struggling. And we are stuck in poverty circle. And this is because of the war
18 in Sudan. I hope Canadian government will not -- I hope Canadian government,
19 when they sponsor people in Canada, they have to remember that these people are
20 not poor -- they are poor, yes, but where they come from they were not poor. Where
21 they come from they were not living in -- in hell. And this is not the decision we
22 made to come to Canada, but this is the life. The government -- this is government
23 force us. We want the Canadian government to remember that we are people and
24 we deserve every right what we deserve before the war in our country.
25 Q. [16:58:55] You were --

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1 A. [16:58:55] (Inaudible)

2 Q. [16:58:56] -- the example of a person who did a lot of things since you arrived in
3 Canada. You graduated from high school within one and a half years, I think.

4 A. [16:59:08] Yes, I --

5 Q. [16:59:09] You studied at the university of Manitoba.

6 A. [16:59:13] Yes, one year. And even when --

7 Q. [16:59:14] (Overlapping speakers)

8 A. [16:59:15] -- I came here, also I had to -- I had to struggle a lot in order to pay
9 my - how do you call - my student loan, I had to take courses. I had to struggle a lot.
10 Like each and every student.

11 Q. [16:59:28] And how did you do that?

12 A. [16:59:32] For me I worked. There's a company, organisation called Farmboy.
13 I used to work with them. I used to work also cleaning company at Carlton
14 University, same university, I used to work there, a cleaning company for three years
15 there I used to work.

16 Q. [16:59:45] And you founded a family?

17 A. [16:59:49] What was that?

18 Q. [16:59:50] And you founded a family? You have a wife, you got married?

19 A. [16:59:54] Yes. Yes, I am very happy. This is our culture. For us we marry
20 when you are young. And this is good. It teaches personal responsibility and
21 control yourself, not to become a street boy and to know who you are and what you
22 are doing in your life, to have a purpose in life. And this is what I did. And I hope
23 to many people, many young people like me, I feel -- I feel I'm lucky, very lucky, by
24 the way. There are many, many young people my age and I can't imagine how
25 people are suffering in my country. I'm saying Sudan all, not only Darfur. People,

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1 they have no opportunity there. Even there are some students who graduated from
2 university they don't -- they don't find jobs, not -- no jobs. Sudan is become a loyalist
3 country. Sudan became a law -- a country whereby somebody like Hemedti,
4 Janjaweed militia, he never went to school and he became a very challenging person
5 in Sudan right now. In Sudan he took advantage of Darfur and he -- he -- he took
6 advantage of our land and he's mining - how do you call - gold worth billions of
7 dollars. That money should come to us, should come to the people Darfur. I don't
8 understand -- I don't understand why the world is silent and letting terrorists,
9 criminals, war criminals to take advantage of the land, of the people, of the
10 indigenous people, take their own land and kill millions of people and sell to
11 the -- gold to the -- to the countries that -- that support terrorism like Imarak and
12 Qatar. I don't -- for me I don't understand at all. I don't understand at all. I am
13 confused, by the way. And I feel this is not something I could talk about it, but this
14 is what we need to talk about it. We need to talk about what's behind the -- the
15 genocide in Darfur. We really need to talk about that in order to stop this thing.
16 Q. [17:01:52] In this forum, Mr Hassan, I'm afraid we won't be able to solve politics,
17 but everything you are explaining to the judges is very important to -- for them to
18 understand the impact that the crimes that you have witnessed have had on you as a
19 child at the time but also on your family. And we think it is probably a different
20 experience to be displaced in your own country or in a neighbouring country, or in
21 country very far away like you, like Canada. This is actually how we started the
22 whole conversation when we first met. And I think you've very well described
23 what's the impact and especially of being displaced into a completely different world.
24 And it's important for the judges to hear about your very personal experience, not
25 about a group of people, because I think you all feel --

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1 A. Yes.

2 Q. [17:03:13] -- differently, all your lives are different, all of you have developed
3 differently.

4 A. [17:03:19] Yes.

5 Q. [17:03:20] And this is why I always come back to ask you very specific questions
6 about you.

7 A. [17:03:24] Yes.

8 Q. [17:03:24] And this is why I would also like to ask you if you would say that you
9 have suffered any specific injuries. I think psychological injuries it's obvious and I
10 don't want to -- I don't want to, you know, trigger too many difficult memories, but if
11 we talk about physical injuries first, you have mentioned that you have suffered
12 physical injuries and that you have some scars. Can you explain to us where these
13 come from?

14 A. [17:04:12] For me I'm happy that I'm still alive. And there's this movie about
15 walking dead. For me I'm one of -- I feel like I'm walking dead. I am dead but
16 spiritually I am still alive. But for me I'm dead psychologically, emotionally,
17 mentally. But I still cope, I still struggle, I still -- it's difficult, by the way. It's very
18 difficult for a person to experience what I went through and I don't hope -- I don't
19 wish for any human being to feel what is -- what I went through in my life. There
20 are many, many people, there are thousands of people, I believe, there are millions of
21 people who have went through what I went, many, many countries, not only in my
22 country Sudan. And for me, I have -- I have scarification in my body right now, but
23 thank God I'm still strong right now. I can work, I can do anything, but getting
24 wounded is not about just physically, also emotionally wounded, spiritually
25 wounded, psychologically wounded. Wounds is not just only to see somebody

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1 amputate or -- or anything. Wounds they have different shapes and different
2 colours and different symbols and different meaning.

3 Q. [17:05:37] Can you say something about your brothers, and I would ask you not
4 to mention their names because they may not want that, but three of your brothers I
5 think are with you in Canada.

6 A. Yeah, I have --

7 Q. [17:05:50] Can you tell us how they are?

8 A. [17:05:52] I have -- I have two of my brothers, even I can't talk to them right now.
9 One I have for six years, I can't -- five years, six years, I don't know, since 2016 I can't
10 talk to them because police they told us, if you call them, if you talk to this person,
11 we're going to arrest you. The police they think maybe we want to harm them, but
12 we don't want to harm them. And police, they don't know what -- these people, they
13 don't the story of these people. They don't know what these people want. They
14 don't know the background of these people. They treat us like -- in Canada here we
15 are all equal, they treat us equally, everybody, we are all -- in Canada here we are
16 equal. And Canadian government is -- sorry, police, they are just trying to, you
17 know, keep this person safe and, you know, to make sure that this person is not
18 getting harmed from anybody, but they don't know. Police -- people like me and
19 everybody, some of them they went to high school and they go and work -- they go
20 and apply and they become police -- policemen to protect law and order in Canada,
21 like each and every country. But I want the Canadian government to know that my
22 brothers are suffering a lot and they really need to do something to help them, three
23 of them right now, because of the war in Sudan there. I'm lucky to not become -- not
24 become like them. Also me, I try to -- I try anything to make myself happy. I read
25 books, I do anything in my life to make myself happy. Sometimes when I'm sad, I

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1 just smile to make sure that I am not sad. Even I just pretend that I'm not sad. I
2 just -- I just laugh to make myself happy. But inside I know I am -- I am hurt, I
3 am -- I'm in pain, I am -- I'm confused.

4 Q. [17:07:36] One of your brothers, Mr Hassan, is also a participating victim in
5 this -- in these proceedings?

6 A. [17:07:42] Yes, yes.

7 Q. [17:07:43] Is that correct? Yes.

8 A. [17:07:44] My brother, yes, of course. I can't mention their name, as you said,
9 because of their personal safety and privacy. We live in completely different world,
10 but for me, what I would like to say, I just say it's not -- when I'm here, I'm not only
11 just about -- it's about myself, yes, as a genocide victim, but it's not about me, it's
12 about Darfur. For me, I worth nothing. I worth nothing, my life.

13 Q. [17:08:16] When we spoke for the first time, I think it was last year, and you
14 decided or you accepted, actually, to address the judges in these proceedings, can you
15 explain to us why you took this decision? Because it's not easy. And maybe -- I
16 know that it's difficult, but maybe try to remember how you felt at the time, which is
17 before the new outbreak of the conflict about two months ago. If that is possible at
18 all.

19 A. [17:09:03] Yes. The war is not new in Sudan and it is continuous every day.
20 Maybe you didn't see on media, but when you -- whenever you see something on
21 media, people think it's new, but it's not new. It's happening every time, every day
22 in Sudan in different means.

23 For me, why I'm seeking justice, for me, I believe in justice. And justice -- justice,
24 what I would like to say about justice is not justice only, but I think when you use
25 violence, people, they -- we know all violence can begot violence. Once you go and

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1 use violence, you -- you will -- you will begot more violence. Even right now, like,
2 many people of my age, even when I was younger, I feel like when I grow up, I will
3 go and fight the militias, I will do anything to go and confront them, I will go and
4 take revenge. But now when I grow up, I read and I explore things and I change my
5 mind. I understand more, I said no. What I don't wish to myself I can't wish to any
6 human being, even my own enemy.

7 And I've learned also from Rwandan students home where we were, in school in
8 beginning in Manitoba university, I asked them, you know, why -- what happened,
9 can you explain to me genocide in Rwanda there. And they used to tell a lot. I said,
10 "Why do you forgive each other?" They said because of the peace. And for me,
11 because of peace, peace is for not my own personal safety but it's for the safety of
12 everybody. Because of peace I'm ready to forgive my enemy, I'm ready to forgive
13 anybody who did harm to me, not only me but -- sorry, not to other people, but also
14 my own self, I'm able to -- I'm ready to forgive everybody because we need peace.

15 And peace cannot come. It's through justice. And justice is about truth. Justice is
16 about delivering truth to the people. It's about reflecting what happened in Sudan
17 and in Darfur and even to educate the other enemy that, you know, what you're
18 doing is not good. We are all human beings above -- above the law, above anything,
19 above God, we are all human beings and we have to do anything to stop this war.

20 This war is not going to benefit us. That's what I want to prove to the world. I
21 want to prove that the people of Darfur -- and the Janjaweed militia -- and the
22 Darfurian people are victims like me, means that we are all equal. And we have to
23 overcome our pains. We have to overcome our agony that we have inside. We
24 have to overcome the -- the -- the hate we have in our hearts. This war, as I said, has
25 created hatred. And some people it's very difficult to reconcile them because in their

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1 mind they see the solution is just violence. Confront these people with every tool
2 and every means they possess in order to stop this war. But for me, I believe justice
3 is the tool to stop the war.

4 And why I'm here running after justice, because I believe the world needs peace.
5 The world cannot -- it's not run by violence. And as I read the European history,
6 Europeans they fought for years and millions of people, they died in Europe, in
7 America, in Canada, in UK, in many countries. I read about an issue of famine
8 where people died because of the -- of the famine in -- in Ireland, many, many people
9 in -- sorry, in UK many people died. And now you see this developed world, they
10 developed because of peace. They developed because they stopped war. That's
11 what they need in Sudan.

12 Q. [17:12:27] Mr Hassan, I thank you very much for accepting to appear before the
13 judges.

14 MS VON WISTINGHAUSEN: [17:12:34] I don't know if Your Honours have
15 questions to Mr Hassan.

16 PRESIDING JUDGE KORNER: [17:12:43] No. Thank you very much,
17 Ms von Wistinghausen, we don't.

18 I don't know, I believe neither of the parties want to ask questions either. No.
19 Mr Laucci.

20 MR LAUCCI: [17:12:54] If you allow me just to thank Mr Hassan for appearing and
21 to deliver this very dignified statement, very much precious to this Court, I'm sure,
22 and very much appreciated.

23 PRESIDING JUDGE KORNER: [17:13:13] Yes. Thank you.

24 You've nothing else for the witness then?

25 MS VON WISTINGHAUSEN: [17:13:21] Well, I don't -- I mean, of course, if there is

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1 anything else he wants to tell you, this is the moment to do so, but I think that we
2 have covered all the -- well, all his personal history that we thought was important for
3 you to hear.

4 Thank you, Mr Hassan.

5 PRESIDING JUDGE KORNER: [17:13:40] Mr Hassan, I think you have made very
6 clear to the three judges what you and obviously your people underwent and are still
7 undergoing as a result of what is happening in Sudan at the moment. We're very
8 grateful to you for taking the time to give us all this information, which at the
9 appropriate time will be taken into account. So thank you very much indeed for
10 coming.

11 THE WITNESS: [17:14:14] Thank you. Thank you.

12 PRESIDING JUDGE KORNER: [17:14:17] Yes, very well. Thank you very much.

13 THE WITNESS: [17:14:20] I'm allowed to say something else or?

14 PRESIDING JUDGE KORNER: [17:14:23] Yes, certainly, if you want to say, of course
15 you may.

16 THE WITNESS: [17:14:26] Thank you, Ms President and judges, the legal
17 representatives, the Defence team, thank you very much, the witnesses, the Office of
18 the Prosecutor, and the international community and all the countries that are part of
19 the States of parties of the Rome Statute, the Sudanese people, Darfurian people, my
20 hope is to stop the war, please. Let us do everything to stop this war.

21 I have much to say, but I feel so much pain and we need to stop this pain. I believe
22 all of us we are in pain and every -- I think pain has medication, and medication is
23 you and me and every -- us, medication is good words, it's loving words, it's unity.

24 And above all, don't forget we are human beings. And in this land, billions of
25 people live in this land. They went -- our ancestors, they lived in the land, they went,

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1 they died. And we're going to die one day also, we're going to leave this land to the
2 generation to come. Let's do something. Let's do peace. Let us stop war in Sudan.
3 And again, lastly, don't forget we are not victims. I'm victim, yes, of course, but we
4 are now not victims, we are change-makers, we are leaders, we are activists, we are
5 politicians, we are lawyers, we are anything, we are teachers. We are the generation
6 that tomorrow will build this world and our communities and our people. And Kofi
7 Annan, he convinced us when -- one year one conference in Ottawa when I met with
8 Diana, he said, we the millennial generation, we are the -- we are the future for this
9 world. That's not -- I don't think he -- what said is absolutely true, but he wants to
10 convince us that we have to do more, that we have responsibility that we bear in our
11 heart, in our hands. And I want to -- that world to empower us, to not just say -- you
12 know, see us as victims, but also see us as people who can bring this change. And
13 I believe we can do something with the victims of genocide to stop this war. We can
14 be part of the solution, not part of the problem. And I want the world to empower
15 them.

16 They are -- also there are many, many Darfurian youth like me and they -- they
17 want -- they have their messages, and they told me, "Hassan, please, do anything."
18 Please, if there is any organisation, any world, any country, anything, please try to
19 help Darfurian people. Students mainly, we need scholarship opportunities, we
20 need education more than anything. I need for us to see that there are countries that
21 can offer, even if they take 500 students, every country, or 1,000 students, every
22 country, to give the scholarship opportunities to Darfurian people, please do that.
23 Please do this. Please. This war has destroyed people, and education is -- I believe
24 in education. Without education there will never be development at all. So
25 education can -- can bring us for us change. I believe. You can teach people

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1 their -- their rights and what life means or justice means to them. Please empower
2 Darfur people, please. Please.
3 And we are here to help anytime, anything, we have question, anything we have.
4 Darfurian people or everywhere, even in Holland, in Netherlands, they are there, in
5 UK, in France, in Germany, in Canada, in America, everywhere Darfurian are there.
6 Darfurian people are not only my people but also they are your own people. They
7 have -- they have UK citizenship, they have France citizenship, they have Canadian
8 citizenship, they have Holland citizenship. They have citizens of many, many
9 countries. Europeans. They are part of you. Please help Darfurian people.
10 Even those who are there in Uganda, in Kenya, in Chad, in Egypt, I have networkers,
11 many, many of them, they said, "Please, we need education more than ever." Please
12 help them. Please. I'm asking you. And I want that the war in Sudan to stop.
13 And I have message to the -- to the army of Sudan, Hemedti and Burhan: Could you
14 just stop the war in Sudan. Just stop the war. Just stop the war, please. If you
15 need power, you don't want power. We need to live in peace. Sudanese people,
16 they want peace only.
17 PRESIDING JUDGE KORNER: [17:19:18] Yes, well, thank you very much,
18 Mr Hassan. I don't think anybody would dissent from the wish you just expressed.
19 So thank you very much again for attending the court to help the Court.
20 Yes, that concludes the witness's views and concerns. Yes, thank you.
21 Can we ...
22 THE WITNESS: [17:19:50] I'm sorry.
23 PRESIDING JUDGE KORNER: [17:19:53] No, don't worry. Thank you. As I say,
24 I think you've said everything that you could possibly have said.
25 And that concludes your evidence. Thank you, sir.

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- 1 THE WITNESS: [17:20:07] Sure.
- 2 (The witness is excused)
- 3 PRESIDING JUDGE KORNER: [17:20:20] Yes, tomorrow, Ms von Wistinghausen,
4 I think you've got two witnesses, is that right? Are you likely to conclude such
5 evidence as you can call tomorrow, or is it likely to go into Wednesday? It's simply
6 from the point of view of timetabling.
- 7 MS VON WISTINGHAUSEN: [17:20:41] I think, I think we can finish tomorrow, but
8 I also don't want to rush the witness and participating victim. So it's difficult to tell.
9 And there's going to be real interpretation. I mean, it's not that there wasn't any
10 interpretation today, but they will speak -- they will both speak in Arabic.
- 11 PRESIDING JUDGE KORNER: [17:21:00] In Arabic rather than Fur.
- 12 MS VON WISTINGHAUSEN: [17:21:04] Yes.
- 13 PRESIDING JUDGE KORNER: [17:21:06] Well, that's at least helpful.
14 Yes, all right. Then we'll deal with the planning, such as we can, for the remainder
15 of your case after you've concluded tomorrow. All right.
- 16 MS VON WISTINGHAUSEN: Very well.
- 17 PRESIDING JUDGE KORNER: [17:21:16] Mr Laucci, I'm also going to deal with
18 your request after.
19 Yes, thank you. So it's 9:30 tomorrow morning then, please. Yes, 9:30.
- 20 THE COURT USHER: [17:21:33] All rise.
21 (The hearing ends in open session at 5.21 p.m.)