

Public Prosecutor v. Hissène Habré**HEARING REPORT NO. 37 OF NOVEMBER 10, 2015****I/ OVERVIEW**

Today's hearing featured two witnesses: a police commissioner called Souleymane Abdalay Taher from the Zaghawa ethnic group, who was arrested when he was only 14 years old, and Samedi Ousmane who was giving testimony in relation to repressions inflicted on people living south of the country, especially in Moïssala. These two testimonies related to two different themes already raised at previous hearings.

II/ HEARING OF THE WITNESSES**A- HEARING OF THE FIRST WITNESS**

SURNAME: ABDOULAY

NAME: Souleymane Taher

AGE: 40

OCCUPATION: Divisional Police Commissioner, Deputy Director of the General Intelligence Service

RESIDENCE: Ndjamen

✓ *Witness' arrest and detention conditions.*

Mr. Souleymane Abdoulaye Tahir started giving his testimony by explaining he was arrested on September 9, 1989 at around 10 am. At the time he was attending summer lessons in a college and his teacher informed him that his older brother needed him. When he went out of the classroom, he saw nobody, but there was a car at the corner of the street. El Djonto, Commissioner "Médaille" and another police officer asked him to go into the car. Already sitting in the car was his cousin Madina Fadoul Kitir. She was handcuffed and could not communicate with him. The police officers took him to the BSIR¹ and locked him up in a small cell where there were already two other prisoners. Answering a question from the Prosecutor, the witness said he was only 14 years old when he was arrested. He was in Secondary School 1st grade and knew nothing about politics. He added: "I did not hang out with any rebel. I was arrested because I was a Zaghawa". The witness is indeed a relative of Hassan Djamouss and Zakaria Fadoul Kitir. After a few hours in that cell, the police officers transferred him from the BSIR to the "Pool", which he described as a "basement". Once there, he was searched and detained a while at the post. Madina too was there with another inmate. At the end of the day, a guard called Toroba came to take him out of his cell and took him to a room opposite the office of Guihini Qureia where there was a chair with three chains. Guihini Qureia was present

¹ Special Rapid Response Brigade

with Mahmat Djibrine, El Djonto and a guard, Toroba. They questioned him about Hassan Charfadine, made him sit on the chair and then tied his feet, knees and chest. Guihini was gesticulating and El Djonto ordered Toroba to electrocute him. At the 4th electric shock, the witness claimed he lost consciousness. When he woke up, he found himself in a cell next to his brother, Abdoulay Assil. The latter explained to him that he had also been tortured. When the witness asked about the reasons for their arrest, his older brother told him that their cousin had escaped from prison and that they had to pray a lot. He also said to him that “one day you will know why you have been arrested”. Toroba took him out of his cell for a second time and took him near a building where there was a torture corner. In that place were El Djonto, Toroba and 2 other officers; he was asked the same questions. They had placed his head on a piece of a broken canari². They put pepper on his face and he was told: “even if you close your eyes, the pepper will go through your mouth and nose”. The witness lost consciousness and when he woke up, he once again found himself in the cell next to Youssouf Mahamat, a Zaghawa relative. After his arrest, his house was looted: “I became an adult at the age of 14-15 and I’m still psychologically affected by what happened”.

After his release, the witness had health problems. His feet were swollen all the time, which tore his pants. His relatives pooled their money to send to China for treatment (on Doctor Jaffé’s advice) and raised 26 million francs which they handed over to his elder brother. He spent a month in Beijing and the doctor advised him to go to a traditional Chinese medicine institute in Cameroon for further treatment. He was treated there for six months. On his return in 1992, he resumed his studies and graduated with a law degree. He became a police commissioner and is currently the Deputy Director of the General Intelligence Service. Answering a question of the defense lawyers, he said he worked with El Djonto for 4 years before he [El Djonto] was arrested in 2014. “El Djonto was very uncomfortable working with me because we knew each other before my arrest. I even helped him some times”. One day, the witness asked him the reason for the arrest of members of his family and El Djonto said: “We received orders and at the DDS you must execute orders”. El Djonto reminded him that even he went to prison where he suffered two broken ribs and that on the day of his release he could not walk. Mr. Abdoulay stated that he often went to visit El Djonto in prison.

✓ *Conditions of Detention*

Mr. Abdoulay described the conditions of his detention to the Court saying that he had been taken to the pool after spending a few hours at the BSIR. He claimed he was tortured twice at the pool and that it was Abba Moussa who took him to Cell 11 where there were about 30 people. However, after three days there were only 3 people left in the cell because the others had died. Some time later, there were 117 people in the cell, but there were only 20 left after 2 weeks. According to Mr. Abdoulay this situation was due to the conditions which people were subjected to in the cells. He said there were too many people and the cells lacked air. They slept in turns, but he was allowed to sleep on top of his fellow inmates, the cell being too crowded (he was 14). He claimed he was advised to lie on the bellies of dead inmates in order to enjoy some cooler temperature. « I have lived with many dead people; we could not breathe

² Clay water pot

properly and people suffocated to death ». Every morning Abba Moussa asked “how many people have died today?” and added: “What Aladji Hissein Habré does not like, God does not like it either”.

Mr. Abdoulay told the Court that at the end of 1989, he was transferred to the “premises” where he met many people including Dr. Moctar Bashar, a Malian marabout they called “Papa Malien”.

He also told the Court they used barrels as toilets which they emptied every morning. The marabout told him that three people came to see him and asked to kill Hissène Habré using his mystical powers. He asked them to buy a black cow which they had to kill and share its meat. Then the cow’s skin would be used to perform the mystical ritual that would rid them of Habré. Before the marabout even finished explaining the reason for his arrest, another inmate started shouting, alerting all the guards in the process: “My only crime is to be close to Hassan Djamouss whom I played chess with. Now they put me in a cell with someone who wanted to kill the president”.

After two months, the witness was brought to the pool, in Cell 6. “I was very sick at the time. I had beri beri³ and I could not get up on my own. It was an old man, Adam Birahim, who held me by the neck so that I could eat the stale rice ball we were served. One day a guard called Guihini Aladji brought me out in the corridor and Gorou, a person close to Habré, took me to a prison located about 150 meters from Habré’s residence. It was on June 27 June 1990 “he said. The witness said he found many people in that prison. The cells were so full that he had to stay in the corridor with the Krim Krim village chief. The latter (who died in the “premises” according to the witness) told him one evening: “Young man, look in front of you”.... “I saw Habré smoking a cigarette looking towards us. He was wearing a traditional boubou”, he said.

Mr. Abdoulay also told the Court that he saw the name of the SONASUT General Manager, Mr. Ahmat Dadji, and the date of his arrest written on a card in the prison. Later, he met his son, Nour Dadji.

After about twenty days in the presidency’s prison, the witness was taken back to the pool. He claimed he met other people, including Souleymane Guengueng, Oumar Goudja, Barnabas, etc. He stayed there until November 30, 1990 at around 3 am, when Barnabas opened the door of their cell to inform them that Habré had fled the country. His brother, Assil Abdoulay, also came out of prison on the same day, but his house was taken by El Djonto. They went to stay with a friend of his brother’s.

Talking again about the conditions of his detention, on the prosecutors’ request, Mr. Abdoulay said that they were served food only once a day around 1 pm – 2pm, a ball of stale rice. He also described all the prisons where he had stayed as “secret” prisons because “we did not receive visits from our families”, he said. Responding to the prosecution, the witness stated that the presidency’s prison, which was very close to Habré’s residence (about 150 meters), was guarded by officers of the Presidential Security (PS) force and that he could not have ignored its existence. Thus, he called it

³ Beriberi refers to a cluster of symptoms caused primarily by a nutritional deficit in vitamin B1

“the Habré prison”. He stressed that some inmates told him that Habré received records of their questioning by El Djonto.

Answering various questions, Mr. Abdoulay said he had met many detained students (about ten) who were all dead in the end. He also mentioned a lady who was detained with her one year old son whose name was Abdullah. He said that some people were sometimes taken out of their cells in order to be tortured because when they came out of the cells they walked normally, but were carried back and thrown to the floor of the cells like “rubbish” by the guards. The witness clarified that “On September 21, 1990, the prison guards brought out all the people whose name was Yacoub. These people have never been seen since”. Questioned by the defense Mr. Abdoulay did not confirm the words of witness Clement Abaifouta. He said that Cell C could not be accessed by car (although he does know where that cell was located) because the corridor of the prison called “premises” was not large enough. Responding to prosecution lawyers, the witness said that he had no contact with women in the “premises” and therefore could not know whether any woman was subjected to sexual abuse or not.

✓ *Witness’ behavior and credibility*

Throughout his testimony, Mr. Abdoulay seemed assured, quiet and composed. He never lost his temper. However, he refused to answer certain questions from the defense or refused to repeat himself if he felt he had already answered the question: “I have already answered your question Sir”, he said.

II / HEARING OF THE SECOND WITNESS

NAME: OUSMANE

FIRST NAME: Samedi

AGE: 47

OCCUPATION: Farmer

RESIDENCE: Sako

✓ *Massacres in villages*

The witness stated that people in Sako (his village) had been massacred by the FANT⁴. On October 7, 1984 at around 4-5 am, some residents of the village hearing a gunshot, came out of their houses. As they saw soldiers walking towards them, they ran into their concessions. However, his father who was the village chief, stayed in front of his house. Some of the soldiers beat his father and the others asked the rest of the family to come out. The witness said he ran away from the scene, but was followed by two soldiers. He said “a soldier fired his gun at me and the bullets hit the wall as I climbed. Two soldiers were chasing me, but I disappeared in the bush”. The others tied up his father up and other men from the village (spared the women) and took them to a place that the witness described as “slaughter place”. They soldiers put them in line and shot them. Following a question from the prosecutor, Mr. Ousmane said there were 19 dead and six survivors including his father

⁴ Chadian National Armed Forces

who was seriously injured. The FANT troops returned to the village and set the huts on fire because there was no one left in the village. Following a question from the defense team, the witness stated that on the same day (October 7) the villages of Wangteyang and Doboro suffered massacres while the village of Moïssala was treated in the same way on September 3, 1984. He said: “When I saw what happened in my village, I ran away. It later heard about the other villages. I saw the graves with my own eyes. Sometimes there were two corpses in the same hole. “I did not have three bodies to go and witness massacres in the other two villages”. (laughter in the room).

However, before October 7, the FANT come to their village 3 times. They told the villagers they were doing their patrols and asked them to inform them if they saw Codos. He added: “We were forced to give them sheep to eat. They said they would not eat goat meat”. Following a question from the Court about whether the troops paid for the sheep, the witness said they didn’t: “They ate everything and left nothing for us; they only left the heads of sheep”.

✓ *His family’s escape and his father’s predicament.*

The witness stated that after the shooting, the women returned to the scene to collect their relatives. His mother then took her father, who was not dead, to hide him in a safe place. From the nearby bush [where he was hiding], he could hear the soldiers laughing and women crying. He came closer to the village when the troops had gone to Moïssala. The witness said when he arrived back home he met her mother behind the house. She told him where she had taken his father. His mother then went to attend the funeral of his uncle and other family members. When he arrived where his father was kept, the latter asked him: “Is that you Ousmane? You’re alive?” He said yes. His father advised him to go hiding because “it was like he was dead”. His father then cried profusely, he said. He also said that he could not go and leave his father in the state he was in because he was shot in the right arm, in the mouth and had wounds in the belly. He said they could not take him to the central hospital of Moïssala because they were afraid that the FANT soldiers would go there and kill him. He explained that his father stayed in the bush for a week without any medical care. The other members of his family tied his arms with wood in order to stabilize it.

He could not eat because her mouth had three cuts on one side. According to the witness, the family then went to see Sister Jeanne (a nun) who came to take his father away from the bush. She nursed him with her own medicines. Sister Jeanne then took his father to Father Francis at the hospital of Béboro. According to the witness, Father Francis said “the arm is rotten; we must amputate it”. His father then had his right arm amputated and remained in the hospital for care. Father Francis later told them that he had received information that FANT troops were coming to the hospital of Béboro to look for injured people. He then advised those of the injured who had some strength to try and leave and took away the weakest ones by car. As for his father, the witness said Father Francis hid him at his home. When the soldiers arrived at the hospital they found no one with injuries and left. His father spent three months in hospital before Father Francis allowed him to return home. They then returned to the village but did not stay there. The witness then went away with his aunt who had lost her husband in the massacre. They were afraid that the troops would return. However, he said that they returned there to fetch water and eat (since mangoes were really abundant that year) and walked away into the bush, not far from their village.

One day while in the bush, they saw flames in their village. According to him: “the troops had returned and occupied some houses”. They even burned some huts and spared others. “After this incident, they were advised to get out of the bush to avoid being mistaken for Codos. They then left the bush and went back to the village.

Answering a question from the defense, the witness said that he did not know exactly how long they stayed hidden in the bush. Regarding his father’s health, he said they were traveling back and forth between Moïssala Hospital and the village because of pain his father complained about. He was given medicines all the time. At the hospital, they were told that the pain was due to the impact of the bullets he had received. He explained that his father died a year and a few months later; the witness himself buried him. Asked by the prosecution who he blamed for the death of his father, the witness said: “I think it is the FANT troops who killed him”. He added: “my father was already dead when we went to take him”. In turn, the defense asked the witness to produce medical certificates (that can prove said injuries) that will be added to the trial file. He replied: “I said that our house was burnt down. How do you want me to have a document?” He added that in 1992, his father was among those people whose video images were taken by the government. They filmed all the scars that my father had, but there was no follow-up.

✓ *Witness’ credibility and behavior*

The witness did not want to answer the same questions. He was motionless and silent when asked questions he did not seem he wanted to answer. Neither the prosecution nor the defense noted contradiction in his statements before the Court and his written hearing record.

III/ SIGNIFICANT PROCEDURAL ISSUES

At the end of the hearing of the first witness, the Court circulated prosecution documents on the hearing of the previous day’s witness (Clement Abaifouta) to all parties.

After the second witness was heard, the Chairman asked the Prosecutor if there were more witnesses to be heard. The Prosecutor informed the Court that he wanted to bring in a third witness who was already in the waiting room. However, the Chairman said that the Court had issues with hearing that witness because such hearing was not planned for that day. He asked the defense whether they were prepared to hear him and the defense said they were not prepared to hear that witness.

The Prosecutor suggested that the witness could be heard the next day. However, the Chairman disagreed arguing that “his name was not in the new provisional schedule and none of the parties had an obligation to hear him. Therefore, the third witness could not be heard on the next day. All the witnesses already scheduled for hearing must be heard first. To this end, the Prosecutor can change the schedule for these witnesses to be heard”.

IV/ TIME MANAGEMENT

Today’s hearing began at 9: 35. The first session ended at 11:15 and the second session was held from 11:40 to 12:34. The lunch break was from 12:34 to 14:10 mn. The session was suspended at 16:10mn.



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