

**Public Prosecutor vs. Hissene HABRE****HEARING REPORT No 42 of November 18, 2015****I/ OVERVIEW**

Today's hearing, like the hearings held in the last two days, focused on the torture and inhumane acts inflicted on political opponents. In relation to that repression, Mr. Boukar returned to court to resume his hearing. However, he showed the same signs of mental disorder and the Presiding Judge decided, after consulting all the parties, to terminate his hearing. The second witness, Mr. JOSUE Doumassen Ngardiguiro, a lieutenant at the time, described the conditions of his arrest. Mr. LAKOUBOU had wrongly accused him of being one of the pamphlet distributors. In his story, he explained the conditions of his detention and torture inflicted on him with the Arbatachar technique. The third witness, Mr. Souleymane GUENGUENG, was the chairman of the first association of the Habré regime's victims. He was considered a political prisoner by the DDS. He then explained the circumstances of his arrest as well as the conditions of his detention.

**II/ HEARING OF THE WITNESSES****A- RESUMPTION OF THE HEARING OF WITNESS BOUKAR ALDOUMMGAR MBAIDJE**

When his hearing resumed, Mr. BOUKAR was still very confused in his statements as he claimed he had been tortured with the "Arbatachar" system. Considering the condition of the witness, the Judge sought the views of all the parties [about whether to continue the hearing]. The Chief Prosecutor said: "we have noticed some confusion. May it please the Chamber to terminate the hearing and proceed with the hearing of another witness".

Speaking to the Presiding Judge, the plaintiffs' representatives indicated they found the witness very confused in his statements. Therefore, they suggested that the Court read out the minutes of his hearing in Ndjamená.

One of the defense lawyers retorted: "I do not think that reading the minutes of hearing is a solution because many witnesses went before the Judge and refused to confirm certain statements in their minutes of hearing while they were sound and healthy. We propose that we stick to the prosecution case".

Finally, the Presiding Judge said: "after a quick consultation with the judges of the Chamber, we have come to the conclusion that the witness was not in a position to give testimony. We cannot ascertain the veracity of his account of the facts. Regarding the plaintiffs' request to read out his minutes of hearing, we do not think this is appropriate since we cannot assess the witness' credibility. Therefore, we have decided to discontinue his hearing and proceed with hearing the next witness".

## **A- HEARING OF THE FIRST WITNESS**

**SURNAME:** JOSUÉ

**NAME:** Doumassen Ngardiguiro

**AGE:** 60

**OCCUPATION:** Retired soldier

**RESIDENCE:** Ndjamena

### *✓ Witness' career path*

Mr. Doumassen JOSUE declared that the Chadian government sent him to the Soviet Union Army Officers' School to study the use of heavy weapons in 1977. He returned home in 1981 during the war and settled in N'Djamena. He fought alongside Goukouni Wedeye in the FAT (Chadian Armed Forces) and also took part in the Faya-Largeau war in 1983. Answering a question from the defense team, the witness said he returned to Chad with the rank of senior officer cadet and became second lieutenant 6 months later. However, with the crisis prevailing in Chad, he held the rank of second lieutenant for 14 years before becoming lieutenant, even though he was supposed to be second lieutenant for only 2 years. In 1989, the army sent him to the Bayiri technical school of agriculture. During his second year there, he was arrested by the DDS on August 15, 1990, on the suspicion of being involved in pamphlet distribution.

After being released when the MPS came to power on December 1, 1990, Mr. JOSUE said he reintegrated the army and joined Bayiri despite the suffering he endured as a result of torture. He continued to perform his duties until 2011 and retired with the rank of colonel because of a physical disability. "I served my country in the military and retired with my head held high. I was supposed to retire in 2016, but had to be content with early retirement because of my physical disability. The torture I endured has weakened me. I am no longer capable of making physical efforts. They ruined my life based on a petty lie, despite using my services so much".

### *✓ The circumstances of his arrest*

Mr. Doumassen JOSUE told the Court he was sent to the Bayiri Technical Agriculture School (located 302 km away from N'Djamena) on behalf of the army in 1989. At the time he was second lieutenant. According to him 17 members of the DDS came to arrest him on August 15, 1990 at 9 am while he was at school during a lesson break. He saw a tarped vehicle parked in front of the classroom. A man wearing a djellaba came out of the vehicle and yelled at him: "Second lieutenant Josue, may you follow us". The witness said he walked towards the man in order to talk to him. At the same time, he saw a man wearing an army uniform sitting in the car, another man holding a Kalashnikov and a driver. He then asked the person who had called him the reason why he was being arrested before accepting to follow them. The latter said nothing, but insisted he took his belongings with him and followed them. The witness said he then asked one of his classmates to bring him some luggage.

The school's Acting Director rushed to the car and asked the person wearing the djellaba: "Are you arresting one of my students without any explanation? The man replied: "That's none of your business! Get lost!" All his schoolmates were in shock.

The witness also said that, after he boarded the car, they drove to the market where they picked up an old and “tired” Muslim man also wearing a white djellaba. They handcuffed them together and drove them to N’Djamena. They arrived at the DDS at 3:47 p.m. and the Commander went down to an office in the basement.

The Commander came back and ordered his troops to bring the two arrested men into the basement office. There were two secretaries waiting for a man called Abakar TORBO. When the latter arrived, he made a phone call, using coded language. All he could understand was that Abakar TORBO “started his phone call saying: “Your Excellency, the people concerned are here”. Mr. JOSUE explained to the Court the only person he could speak to using the terms “Your Excellency” was Hissène Habré because “no one held a higher position than him during this period in Chad”.

The witness said that TORBO then ordered he be put into the “pool”. At the “pool” he found two armed guards watching over the prison. One of the guards asked him to undress and he obeyed. He also ordered him to sit on a car rim covered with blood, which he refused. The guard wanted to shoot him but the witness said he prepared himself to fight against the guard saying to himself that death is nothing to be sacred of and that he was not going to let himself be pushed around.

Finally, Abakar TORBO knocked on the door and when the guard opened it, he said, “Are you crazy? This person has been brought here because we are conducting investigations. Take him to the cell without any problem”. After he got dressed (this surprised him because the prisoners, except him, were wearing jus underpants), he was taken into Cell 3. Mr. JOSUE said he remained there until August 17 before people started torturing him.

Questioned by the parties about the circumstances of his arrest, Mr. JOSUE noted that he did nothing wrong and that even if that was the case, he should not be arrested by the DDS because he was a member of the armed forces.

He explained to the Court that this proved the DDS was superior to the armed forces because he was arrested without his superiors being informed. This is why he could not oppose them because “the DDS was at a higher level than I was and this was a time when many people had to die,” he said.

Answering a question from the prosecution, the witness said he did not know those who arrested him, but said that the person who spoke to him during the arrest had accurate information and that “the DDS had very strong intelligence networks”.

✓ *Torture and detention conditions*

The witness said he was tortured by the DDS on August, 17 1990. He informed the Court that there were two rooms people had to go through the first room before arriving in a large hall. When he arrived in this room, he heard soldiers mention some people’s names. “As I was listening, I realized there was someone the guards were calling Commander Issa and another one called Mahamat SAKER aka BIDON”. In this torture room, Issa ARWAI asked him: “Sir, you are suspected of producing pamphlets. Do you recognize this accusation?”. The witness replied: “What kind of pamphlets are you talking about?” Before he even finished his sentence, someone slapped him. “I kept talking and was slapped around all the time. Someone pressed a button and four soldiers came

in, put me face down and subjected me to the arbatachar” torture method. The witness said that if you are not used to practicing sport, you would not resist this kind of torture.

Answering a question from the prosecutor regarding the torture he suffered, he clarified “the arbatachar wires were not just any wires. They used iron wires tightened with shears so that when you moved you tore your flesh”.

The witness said he kept asking clarifications about his arrest, but the soldiers would say to him: “Shut up, dirty liar!” The witness claimed they returned his, belly up, and that one of the soldiers sat on his belly asking him to tell the truth. They kept asking him the same questions and kicking him. The witness added: “They enjoyed hitting me and some kept laughing while doing that”.

The witness claimed that BIDON said to him: “You bastard, how often have officers died in front of me and I put them in bags and before throwing them into the river?” The billet master (i.e. the person who took note of arrested people’s statements) also told him: “do you think there is any way to escape from here? “. The witness replied: “even if I am in the claws of a lion, if God has not decided that I would die, I won’t. A dead goat is not scared of a knife”. While he was giving this answer, BIDON asked the others soldiers to leave the room. He then asked him to sincerely tell him if he was involved in these pamphlets. He said he wanted to know the name of the person who told them he was making pamphlets. Because he insisted, he was told it was someone called LAKOUBOU (a witness in the previous hearing) who was brought to the DDS. LAKOUBOU told them, in front of Mr. JOSUE that he had named the wrong person and that the person he was meant to name was called Nathan.

On August 18, he was taken out of the torture room and brought back to the “pool”. The witness said: “my ordeal had begun” since, in this prison, people were subject to difficult conditions. He said that the cell was filthy and that there were a lot of caterpillars. It was so hot at the pool, especially during the day, that they lay on the doorstep (in turn) in order to get some fresh air. Regarding food, he received a millet ball mixed with sand and a sauce made with rotten tomatoes. It was disgusting, but he had to eat. They took showers or went to the toilet in the morning. He said: “At 6 o’clock, we were taken to the bathroom, but if you don’t eat well, it’s hard to empty your bowl”. Answering a question from the prosecutor about the food, he said: “the food was filthy and they had 1 or 2 bottles of water for 6 people every day.”

On September 28, Mr. JOSUE was transferred, with his other fellow inmates, to the gendarmerie’s prison and said his ordeal continued there. In the cell they found a man called Younouss MAHADJIR. He knew Mbaidjié Aldoumngar BOUKAR and Dr. Nahor NGAWARA in prison and that he already knew LAKOUBOU.

Regarding meals, the witness informed the Court that he received a bowl of cereal. He said: “At 6 am, we would see an ox pass, but there was no sauce or meat in the meal”. He specified that inmates were given a ball meat once a week and that the guards gave them 2 boxes of “corned beef” to be shared by two inmates every 2 days. There were days when there were no meals: “We became grass and herb eaters”. This diet killed some prisoners because some plants were toxic.

Answering a question from the prosecutor, Mr. JOSUE revealed that two people, i.e. lieutenants MBAYNA and LARMA, died in prison.

✓ *Credibility of the witness*

The witness was very accurate in his descriptions. He almost gave all the details of the situations he went through. As a result, he did not like the questions that made him repeat what he had said. He made small comments to remind the prosecutor and lawyers that he had spoken several times about the same things.

**B- HEARING OF THE THIRD WITNESS**

**FIRST NAME:** GUENGUENG

**SURNAME:** Souleymane

**AGE:** 64

**OCCUPATION:** Accountant

**RESIDENCE:** New York, USA

✓ *The circumstances of his arrest*

The witness began his story by saying he was falsely accused and arrested. He informed the Court that at the time he was an accountant at the CBLT (Lake Chad Basin Commission), a sub-regional organization composed by 6 countries (Cameroon, Libya, Niger, Nigeria, Central African Republic, and Chad) officially headquartered in Chad, but was transferred to Maroua, Cameroon, because of the war.

As accountant, he regularly traveled to Cameroon. In 1984, a cousin of his called Markéteng NGALLE living in Ndjamena sent his father-in-law to Maroua to inform him that his name appeared on a list at the Office of the President. As a result, he had to stay in Maroua and not come back to Ndjamena, even if he was asked to go there on a field trip.

Markéteng NGALLE was a colonel and was President Habré's pilot. He was a regular at the Office of the President.

Between 1984 and 1985, the Cameroonian police spoke to the witness repeatedly on suspicion of trafficking arms for opponents to the regime of President Habré. In 1985, the Cameroonian authorities summoned him to a meeting. In fact, they had instructed one of their agents to shadow the witness. This agent was always with him and they even prayed together. The police also told him that their records showed he was innocent, but that they had received firm instructions from the Chadian authorities to bring the witness back to Chad.

The witness returned to Chad. He said that the CBLT Chief Executive, a Nigerian citizen called Moustapha SAM, went to Chad to discuss arrangements for the organization to return to Chad. He said that President Habré said he guaranteed the safety of the witness, adding that Yaldé Samuel told him that his name had been removed from the list for the sake of reconciliation.

On January 1, 1987, the CBLT and all its staff returned to Chad. The witness got on with his job without being disturbed. Every month he traveled across Nigeria and Cameroon to pay the salaries

of the organization's project staff. After returning to Chad, he worked for a month without any problems.

In August 1988, he suffered an infection. On March 3, 1988, he was stabbed five times during an armed robbery at his home. Upon leaving the hospital, he saw his wife coming out of a taxi. His wife informed him that an officer came to his home to arrest him. She also informed him of the arrest of his cousin Yalé. Before he could leave, a man with a rather slim physique walked to him and asked him to follow him because the head of the DDS needed to ask him questions. His wife did not want him to go with the agent, but he told her that he had done nothing wrong and had nothing to hide. He asked her to go inside the house because she was heavily pregnant.

The witness got into a car with the agent. His cousin was already sitting in the car. He knew one of the two people who arrested him - Doudé Yaladé BANG who was the son of his aunt. Once at the DDS, he was taken into an office.

Yaldé Samuel entered the office where he was sitting and asked him if he knew why he was there. He replied loudly: "How do you want me to know?" (The witness is naturally loud when he speaks). In reaction to his behavior, an agent standing behind him struck him on the head with his gun. The witness pointed his finger to a hump caused by the gun. He said he did everything that was medically possible to remove the hump, but to no avail. The witness said he gathered his spirits and was asked the same question again. When he said he didn't know why he was there, Yaldé Samuel asked him what his religion was. He said he was a Christian like him. Yalde Samuel then advised him to tell the truth, if he didn't want the electrical equipment in the room to make him talk.

Yaldé told him he was suspected of being a supporter of the GUNT and that President Habré had been ousted from power. The witness replied there was nothing that could suggest that he was opposed to the regime. He was just helping by welcoming people in his home in Maroua. He welcomed people who worked with Habré and needed help, as well as people from the other side, for the same reasons.

Yaldé then called Abba Moussa and ordered him to take the witness away. The latter asked him to board a tarped car with a 1247 plate number and was driven by Sambo to the r. The witness clarified that the same car was used to transport prisoners, meals and executives. He was put in a cell flooded with water and where the concrete on the floor pricked his feet. According to the witness, the next day, Abba Moussa came to pick him up and took him back to the DDS. At the DDS Yaldé asked him if he had anything to add and he said no. On this occasion, he informed Yalde he had an appointment at the hospital the next day for an operation he had to undergo because of his injury. When he was being taken back to the Martyrs Camp, Yaldé mockingly said: "Yes! Tomorrow you'll go to the hospital".

#### ✓ **Conditions of detention in various centers**

The witness said before the Court that he was detained at the Martyrs Camp, the "premises" and at the gendarmerie. He described the condition of the cells, the food he was given and the general atmosphere of all the centers where he had to stay.

Regarding the condition of the cells, M.GUENGUENG said that after his arrest he was taken to the Martyrs Camp where he was imprisoned in Cell 9 which was full of water and had a floor with sharp

concrete that was tearing his feet. When he sat down, he said, his clothes were torn. He would then cling to the window, but the cell was infested with mosquitoes and it was impossible to keep this position for long. “Mosquitoes had bitten me so much that you would have thought that I was suffering from chicken pox,” he added.

He was imprisoned in four cells in the Martyrs Camp (9, 7, 11, and 3). After three days in Cell 9, he was transferred to Cell 7. Describing Cell 7, the witness stressed it was really narrow. It measured 2.48 m<sup>2</sup> and there were 8 people there. It was so crowded that it was impossible to stretch legs or lie down. To show the position he adopted when he wanted to sleep, Mr. GUENGUENG asked ABEIFOUTA to come out of the audience and help him illustrate this, which was not accepted by the Presiding Judge. The witness then explained to the Court that to lie down, a prisoner had to stretch his feet on the shoulders of another one and they would do it in turns. They could neither lie down nor stretch their legs, and those left standing could touch the ceiling. This uncomfortable position affected the inmates’ legs, hence the disease known as “hand brake”, as pointed out by the oldest of the detainees, M .GAMBIER.

According to the witness, those who spent two weeks in the cell could not walk at all, which was not his case because after three days there, he was transferred to the “premises”. On his arrival he was unconscious and only started to regain consciousness when Aba Musa yelled: “Sabadet, come and pick up your brother” (Sabadet was one of the gravediggers and cooks, along with ABEIFOUTA).

The witness insisted on giving the Court a description of Cell C. Unlike the others, Cell C was at ground level and Aba Musa sometimes parked his car in front of it. One day, the witness said, Aba Musa came to measure the space to be occupied by each prisoner, using strings. He wanted to add prisoners.

The cell was so full that when an inmate stood up to go to the toilet, everyone had to stand up. “This was a real box of sardines”. In addition, answering a question from the prosecutor, he insisted that the cell was not located in a corridor and that a vehicle could access it. He also said that Cell D was reserved for sick inmates and that he was put there upon his arrival. This cell was close to that of prisoners from Gukini Wedeye’s family who, because they were Goranes, had more privileges than other prisoners.

In fact, it is in this prison center that during this detention he received tablets and was able to regain some strength. M.GUENGUENG said he had been detained at the gendarmerie station where he was locked up in a “cell that was larger than the others”, he said. This Cell was characterized by the presence of the bright light of a lamp that made it very hot.

The same light was burning their skin. “Our skins were like lizard skins and would come off”. After being transferred from the “premises” to the Martyrs Camp, the witness was imprisoned with other people in a dark cell. They could not even see if it was day or night. One day, he said, the moonlight illuminated the cell through a small hole in the roof and this gave them a great deal of hope. At the police station, he noticed a smell of fresh paint because the cells had been renovated.

Speaking about the food Mr. Guengueng said that there was no difference between the detention centers. Sometimes they were served some reddish rice mixed with sand whose smell made the witness “even a well-fed dog would not eat it”.

The continuous consumption of this rice caused diseases like edema, swelling of the gums, teeth loss. To illustrate what he said, he added: “One day, one of my fellow prisoners lost a tooth while coughing”. The witness added that they sometimes ate rats: “it was some form of luxury, but when the others realized that there were no more rats”, he added. They were also served pots of “corned beef”. However, the witness said that it was only at the “premises” that he drank some hot porridge for the first time during his detention.

The witness spoke about the case of a marabout who died of hunger. In addition to the condition of the cells and the food, the witness described the climate prevailing in various detention centers, which was marked by a collection of corpses by fellow inmates on the orders of Abacar TORBO. One day, the witness said, “a big man with a big belly (Saker BIDON) ordered the guards that the cells be open from 9am to lunchtime. Religious activities for Catholics and Protestants were led by Mr. GUENGUENG (prayer and fasting, confession, praise, etc.) because “everyone was hoping for God’s help”, he added.

Besides, no one had compassion for his fellow inmates. All the prisoners were on their nerves. In relation to that the witness spoke of Abourahmane KORDE, a major road haulage operator and millionaire who was beginning to lose hope and passed away three days after he confided in him. The witness said that one day Abacar TORBO came to distribute mats and blankets to the prisoners. At the “premises”, he saw women like Fatima Hashmi SALEH and another woman (who was Deby’s wife), but never shared a prison with.

Similarly, at the gendarmerie, he was touched by the presence of a woman whose name he cannot remember. This woman had a two-year old son who liked to mimic Aba MOUSSA’s gestures. One day when Aba MOUSSA called out the names of the prisoners, the witness said he could count 438 detainees at the gendarmerie’s station. The witness said that he “he liked speaking French, but did not speak it well. One day he gave us a speech in which he said : “*vous serez libérés à partir de bientôt jusqu’à maintenant*”<sup>1</sup>. “Since all prisoners burst into laughter, he locked us up and deprived us of food (they only gave us green tea with a little bit of sugar) until the arrival of the MPS. Speaking about this party, the witness added that their prisoners were deprived of water: “the soldiers poured watered on the roof of their cell and they licked the drops of water falling on their bodies”.

Creation of the Victims’ Association: After describing the circumstances of his arrest and detention conditions, the witness gave a brief reminder of the reason why he wanted the first association. He was interrupted by the Presiding Judge when he wanted to talk about his various trips abroad. During his detention, the witness was determined to fight for justice if he ever had the chance to come out of jail alive. With the arrival of AVRE (Association providing medical assistance to victims), he said, “it was an opportunity to organize and fight for justice”. At the beginning, there was only a 5-member committee” which nobody wanted to lead for fear of having their head chopped off”, he added. His companions approached him and asked him to chair the association. As a result, he was the first one to be heard by the National Investigation Commission.

### **III/ IMPORTANT PROCEDURAL ISSUES**

---

<sup>1</sup> Hardly translatable. Aba Moussa was telling the prisoners, in terrible French, that they would soon be released (Translator’s note)





During Mr. JOSUE's hearing, one of the defense lawyers said that a witness named Mr. LAKOUBOU told the Court that Mr. JOSUE was the main man behind the pamphlets, which was denied by the witness. Then the lawyer asked the Court to arrange a confrontation between Mr. JOSUE and Mr. LAKOUBOU. The Court, however, informed the lawyer that confrontation was not part of its methods and that it has to content itself with the statements made in order to assess the credibility of the witnesses. The Court also added that it did not have the resources needed to broadcast the other hearings on a screen during the questioning.

In addition, the witness filed, with court's clerk, copies of first aid medical certificates he received just after his release. The Presiding Judge stated that a scanned copy of these certificates would be emailed to each party.

#### **IV/ TIME MANAGEMENT**

The hearing of Wednesday, November 18, 2015 started at 9:15 am with the resumption of the hearing of Mr. BOUKAR. As usual, a break was observed at 11:05 am and the hearing resumed at 11:25 am. The second morning session ended with the lunch break at 12:55. The afternoon session started at 2:17 pm and a break was observed at 4:14 pm. The second session of the afternoon, meanwhile, began at 4:39 and the hearing was suspended later than usual at 6:06 pm.

*Attribution Policy: TrustAfrica should be acknowledged in all reproductions of this report and use of its contents. A statement similar to the following will be acceptable: **"The production of this report has been made possible by TrustAfrica."***