

The Public Prosecution versus Hissène HABRE

SUMMARY OF THE TWENTY-EIGHTH HEARING HELD ON 19 OCTOBER 2015

I/ SYNOPSIS

The following witnesses were called to the stand today: Abakar Adoum (who had commenced his testimony during the last court session held on 15 October), Oumar Deby Itno and Khadidja Hassan Zidane otherwise known as the "Red".

II/ HEARING OF WITNESSES

A- QUESTIONING OF ABAKAR ADOUM CONTINUED

In response to questions from lawyers of the victims and the defence, the witness elaborated on his arrest and conditions of detention. He declared that he was arrested by the deputy prefect and DDS agents on 21 April 1990 in the presence of his children at his village situated 7 kilometres from Iriba.

After 3 days in prison at Iriba, Mr. Adoum was transferred by air to Ndjamena. He affirmed that he was interrogated by DDS agents but declared he did not know the reasons for his arrest. Referring to his 8 months of detention (7 months in Cell 3 at the swimming pool and 1 month at the gendarmerie), the witness said that the conditions were very difficult. He stated that food was insufficient and the quality was bad (poorly cooked rice). He also elaborated on the lack of medical care, overcrowding of detainees in the small cell, the stifling heat and the occasional cohabitation with corpses. He maintained that he lived under these conditions until 1 December 1990 when the MPS (Patriotic Salvation Movement) took over power.

At the stand, the witness would continuously thank the MPS, which he considered as his saviour: "I was at the final stage". He indicated that he was not physically tortured but suffered mental torture because he saw people being tortured. He further declared that, at the gendarmerie, he met a teacher, a school supervisor and a school principal who had also been arrested. Carried away by the questions of the defence lawyers, the witness invited Habré to tell the Chadian people why the 40,000 deaths during his reign. In the opinion of Mr. Adoum, the orders were given by Hissène Habré as the leader and for this reason, the witness qualified him as a "criminal" and an "executioner".

➤ *Credibility of the witness*

The witness was suffering from hearing problems and this was most noticeable during questioning by the defence. He would provide further details without hesitation throughout his deposition. He was very traumatised by his health status when released from prison; he considered himself as "a living dead".

B- HEARING OF THE SECOND WITNESS

NAME: DEBY ITNO

FIRST NAME: OUMAR

AGE: 37 years

OCCUPATION: Civil servant

RESIDENCE: N'Djamena

➤ *Circumstances of the witness' escape*

The witness commenced his testimony by stating that he was providing an account of events which took place from 1 April 1989. He was then aged 11 years and was in Grade 3. He lived with his elder brother, of the same father, Idriss Deby (current President of Chad). The witness declared that around 4 am in the morning, about 400 to 500 soldiers entered their house and searched the entire place. The soldiers realized that there were only children (the witness and his three brothers) and women (the mother and wife of Idriss Deby) in the house. The witness affirmed that at 8 am, a visitor came and was executed by the soldiers and they again executed another visitor who arrived at 9 am.

The witness explained that, when he and his brothers heard the shots, they climbed the wall and jumped over to the next compound where some Americans lived. The security guard lodged them in his room for two days and they finally left to join the other members of their family. Unfortunately for them, he added, the house of Brahim Itno and that of Gaoussa Deby were also occupied by soldiers. They therefore roamed around the streets with other children who had suffered the same fate. After 10 days, members of the family found them and decided to send them back to the village to their mother at Bakhaye. They were joined by another student during their journey. Their car was stopped and searched by soldiers at Iriba and they were arrested. After 2 hours of detention at the local prison, they were released with the help of a woman who introduced herself as their mother. According to the witness, she was a relative called Khadimé Youssou and was the wife of Khamit Timin.

After their release, the car took them to Tiné. From there, they travelled to Bakhaye on camel back and the journey lasted 2 days. They arrived one evening and fled into the mountains with their mother, where they found many Zaghawas in hiding also. The witness explained that it was only after they fled that they learned that Habré was conducting mass arrests of Zaghawas. The witness affirmed that Deby and Hassan Djamouss did go to see Habré for the release of these Zaghawas.

➤ *Reprisals against close relatives of the witness and Zaghawas*

After Hassan Djamouss and Idriss Déby Itno left Chad, Zaghawas were massively arrested, including close relatives of the two. The witness affirmed that he is the brother of President Idriss Deby Itno.

He added that three of his brothers, namely Brahim Mahamat Itno, Hissein Mahamat Itno and Abdourahmane Deby Itno, were all victims of President Habré's regime. The first was the Minister of the Interior under the Habré regime and was arrested and killed. Regarding the second brother, the witness averred that persons who were with him in prison had testified that, for 3 months, he would make the call for prayer (muezzin), but no-one has seen him since. The witness stated that the third brother was arrested with 5 other people and his family has not heard from him since then.

Mr. Deby Itno Oumar hence declared that he is a plaintiff on behalf of the Deby and Itno families and has appeared before the court to testify in this capacity. The witness stated that he had heard that the wife of Idriss Déby (Hadji Anda) was arrested after they fled the house. He declared that when they were in the bush, with his brothers and mother, the Zaghawas were like "gazelles". The judge asked him to clarify what he meant by this statement. He then specified that the Zaghawas, who wore white garments, were being arrested and executed and for this reason, whenever they heard the sound of a car, they would flee. In response to the prosecution on the fate of his relatives, the witness maintained that there was a real hunt for Zaghawas.

At the request of the lawyers of victims, the witness stated his expectations of the court. Firstly, he wants the court to bring justice to the victims. Then he would like Habré to show him where his brothers are buried. He added that, in accordance with Muslim tradition, the family would like to give them a dignified burial and go and meditate at their graves every Friday.

➤ *Credibility of the witness*

The witness was very calm and consistent. He did not object to going over and providing further details on what he had already said. He insisted on stating that he was still traumatized by the events of 1 April 1989 for this was the first time he witnessed a person being killed.

C- HEARING OF THE THIRD WITNESS

FIRST NAME: ZIDANE

NAME: Khadija Hassan

OCCUPATION: Housewife

AGE: Does not know her age.

ADDRESS: Ndjamen centre, quartier Ambassade.

➤ *Arrest and detention of the witness*

The witness, Khadija Zidane, stated the reasons for her arrest. She asserted that someone called Birahim Djida came to her house to tell her that her Libyan brother, Abdalah Doubaï, arrested at Moundou, was sick and that President Habré wanted to see her. She therefore went to the President's residence at Farcha. She stated that she found Libyans, including her brother, in the living room. The agents told her that she had to prepare food for these Arabs who had been arrested. They also asked her to get a set of prayer beads, a mat and a jellaba. She thus took care of them for 15 days

before being released. She stated that on the day she was released, some men came back at night and took her to the President's Office where she was locked up. The men who arrested her were Guihini Korei, Ahmat Dadji, Ahmat Alachi, Issa Arwai, Saleh Younouss, Abakar Torbo and Abba Moussa.

She was arrested prior to a conference in Sudan which was to be attended by these men. She maintained that she spent 3 months and 15 days in prison at the President's Office before being placed in police custody. She was taken to the DDS and then the swimming pool where she was alone in a cell. The witness indicated that she spent 7 months between the DDS and the swimming pool. She was then transferred to the Camp des martyrs where she was for 20 days. Mrs. Zidane affirmed that she was later transferred to "the buildings" where she was held in detention for a year with two other women. She was then sent to Wadidoum in the desert with 8 other women to take care of the soldiers for a year. The witness declared that after their stay at Wadidoum, they were taken to Ndjaména aboard a cargo aircraft. They were taken to a place opposite the central police station where they were held for one day before being released under oath. The witness stated that she spent a total of 3 years and 15 days in detention.

Mrs. Zidane further stated that her mother and sister were also arrested. Her mother, who had come to fetch her at the DDS, was arrested and detained at "the buildings" for one year. She was released because of an illness and subsequently died.

Her sister, who was 18 years at the time, was arrested with her mother for she would follow the latter everywhere. She was released after 4 days at "the buildings". Mrs. Zidane emphasized that she was not spared by President Hissène Habré and his agents.

➤ *Torture and sexual abuse suffered by the witness*

Throughout her testimony, Mrs. Zidane told the court that she was subjected to many abuses during her period of detention. When she was first detained, she was locked up in a small cell near the river where she was interrogated; they forced her to drink water for 3 days. Describing the scene, the witness stated that they inserted a tube in her mouth for the water to pass through after laying her down on a tyre. When arrested for the second time, she was interrogated six times on the escape of the Libyans, of which she had no knowledge. She indicated that President Habré had interrogated her on 3 occasions. Mrs. Zidane stated that during the 3 months and 15 days she was detained at the President's Office, President Habré raped her 4 times in the living room and she still has scars on her private parts from an injury that the latter inflicted on her with a pen.

Mrs. Zidane added that DDS agents also raped her. At the swimming pool, Djibrine El Jonto tortured her twice by electrocuting her. She added that the latter also raped her twice. The first time was when she was unconscious after a torture session (she realized this when she regained consciousness) and the second time he had a gun pointed at her. Mrs. Zidane avowed that, after she was transferred to Wadidoum with 8 other women (9 women in total including 7 married women and 2 young girls), they would do the laundry for the soldiers and at night would serve as their "whores" (this is the term employed by the witness).

The witness stated that she fell ill while in detention but never saw a doctor. She maintained that she saw many people die as a result of torture. According to the witness, her younger sister now walks with a device which helps her to remain upright following a violent gun butt she received on

her back. Her mother was tortured (electrocution). In response to a question from the lawyers of victims, Mrs. Zidane affirmed that she absolutely recognized President Habré, even with his turban.

➤ *Kinship with Habré*

Mrs. Zidane stated before the court that she knew Habré prior to her arrest. They are related and belong to the same Anakaza tribe. They share a grandfather. She however declared that she had never been to his house before.

III/ IMPORTANT PROCEDURAL MATTERS

Following a question from the defence regarding the witness' brother, the Minister of the Interior who had allegedly signed the release papers, the court invited the defence to remain within the facts of the case before the court. The defence however maintained that exculpatory investigation was not conducted and this was therefore the opportunity it had to ask certain questions. The court specified that the opportunity had been given for the defence to submit exculpatory evidence but this opportunity had not been seized.

At the end of Mrs. Zidane's questioning by the prosecution, the third assistant prosecutor requested the judge to allow the witness to show her physical scars to the court. Mr. Gning, defence lawyer, made an observation before the lawyers of victims could take the floor. He declared that, following the serious accusations made by Mrs. Zidane against President Habré, the defence would like the court to order a closed session for the witness to show the injury on her private parts. Mr. Balaal, also a defence lawyer, added that this closed session should be supported by a medical examination (performed preferably by a midwife) to verify Mrs. Zidane's supposed scar. The presiding judge decided that proceedings would continue and that the court will rule on this matter at a later stage.

At the start of the interrogation by the lawyers of victims, Mrs. Moudeina informed the court that she would like to add to the file, the documents relating to the transfer of 9 prisoners to Wadidoum and others to Kalayite. The prosecution told the court that these documents were already on file and that proceedings were adversarial. All documents were therefore collated during the investigation phase. The defence indicated that it had no objection to the request of Mrs. Moudeina, a lawyer for the victims. The judge however reminded the prosecution that it was not its place to tell the court which procedure to follow. He further stated that the court would rule on this matter after discussion.

NB:

At the start of the day's proceedings, trial observers were informed that the cables of the Senegalese TV station (RTS) in charge of filming and broadcasting the trial were "sabotaged". The RTS was therefore not able to ensure a live broadcast of the morning session. This was confirmed by one of the RTS technicians who assured that they would find an alternative means of broadcasting.

We also noticed the presence of Judge Baltasar Garzon in the courtroom. He is known for having arrested the former Chilean dictator Augusto Pinochet in 1998 in London on the basis of universal jurisdiction.



A minor incident occurred during the last afternoon session. A woman stood up and walked towards the witness. She did not seem to be in full possession of all her mental faculties. The gendarmes removed her from the courtroom.

IV/ TIME MANAGEMENT

The court session commenced at 9:18 am and a break was observed at the end of the questioning of the first witness at 10:55 am. The second witness was called to the stand at 11:22 am and proceedings were suspended for lunch at 1:00 pm. The afternoon session began at 2:34 pm and ended at 5:34 pm with a break from 3:55 pm to 4:21 pm.

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