

The Public Prosecution versus Hisséne HABRE**SUMMARY OF THE TWENTY-THIRD HEARING HELD ON 8 OCTOBER 2015****I/ SYNOPSIS**

The day's proceedings commenced at 9:15 am and the Argentine team of forensic experts continued their testimonies. The first witness, Pierre Périch, is a forensic pathologist, the second, Pachon Mora, a ballistics expert and the third, José Luis Prieto, a forensic pathologist. They presented the results of analyses they conducted on elements found on the various exhumation sites. In other words, their work began where that of the forensic archaeologists and anthropologists, who appeared before the court on 7 October, ended.

II/ HEARING OF EXPERT WITNESS TESTIMONIES**A- HEARING OF THE FIRST EXPERT WITNESS**

Name: Perich

First Name: Pierre

Age: 62 years

Residence: Marseille

Occupation: Forensic pathologist

Prior to presenting his findings, the expert described the methodology he used.

❖ *Methodology of the forensic pathologist*

The methodology adopted by the forensic pathologist addressed the following question: How can the causes and circumstances of death be determined based on the current state of skeletal remains?

According to the expert witness, peri-mortem bone lesions are first analysed i.e. injuries which occurred at the time of death. These relate to traumatic bone injuries, transfixion and comminuted fractures (multi-fragmented). The manner in which corpses were removed will then be analysed to understand their initial layout at the sites they were found. This provides information on how the bodies were buried. Lastly, the various elements relating to the corpse will also be thoroughly examined. According to the expert, the degree to which clothing has deteriorated is taken into account at this point. This helps to confirm whether there are perforations in the clothing caused by a projectile, and hence facilitate the correlation between injuries around the entrance points found in the clothing and the bone injuries. The expert emphasized the importance of clothing in the context of this analysis, for they help to determine the trajectory of projectiles and the position of the attacker. This is in addition to other non-negligible ballistic considerations.

❖ *Conclusions of the forensic pathologist*

Based on the work conducted by the team, there were quite a number of impacts caused by projectiles. Perforations on clothing and under-garments are consistent with certain bone lesions. Sometimes, perforations on clothing and bone lesions explain and determine the trajectory of projectiles (FDDA3). The various fractures are consistent with the impact of the energy transferred by the firearm projectile, the calibre of which will be determined by the ballistics expert. The expert declared that in certain cases, it was impossible to determine whether lesions had occurred peri-mortem or post-mortem (lesions occurring after death), as in the case of the remains of KMR 31.

For graves in which skeletal remains were in a state of advanced decay, it was not possible to conduct a comparison between lesions on the body and perforations on clothing. Only indirect elements could be used to determine the cause of death. According to this forensic pathologist, these elements relate to the clothing and projectiles. This was especially the case for the Gadjira site where skeletal remains were extremely fragmented. In a bid to provide an explanation in terms of the causes of death, the expert relied on the traces of projectile found on the clothing (GDJ C12, E14, E15: impacts of projectiles noted on perforated clothing). He also underscored that there were both entrance and exit points. However, there were more entrance points on the back of clothing.

B- TESTIMONY OF THE SECOND EXPERT WITNESS

Name: PACHON MORA

First Name: Jorge Manuel

Age: 49 years

Occupation: Forensic ballistics expert

Nationality: Colombian

❖ Methodology of analysis conducted

The witness, Mr. Pachon Mora, began his testimony by presenting the methodology he used to conduct his work. He maintained that the methodology is related to the context of the present case. He hence affirmed that information gathered on the ground by the team, of which he is a member, was consistent. Items gathered were sent to the laboratory for ballistic examinations. The witness stated that the calibre was determined, and clothing and bone structures analysed and correlated with the topographic data.

The witness emphasized that there were two basic elements: the trajectory of the projectile fired and the comparison between the distance travelled by the projectile and the analysis of the clothing. In terms of microscopic physical characteristics, he asserted that the calibre of the bullet (weight, length, composition) could be determined based on the morphology and composition of certain elements. This data as well as information on the total number of points can be found on the database. The witness specified that his team used terminology such as: damage, deterioration, advanced state and decomposition of clothing.



He further stated that variations in the trajectory are determined by means of a physical assessment (microscopic and macroscopic). In a macroscopic assessment, the size of the impact area is examined, whereas lesions on the anatomy and clothing are analysed during a microscopic assessment. He stated that the objective was to establish if the perforation was caused by a firearm and then determine the calibre. This helped establish a link between the injuries of victims and clothing elements so as to determine matches in terms of time and anatomical aspects.

According to the witness, the distance between the edge of the firearm and the anatomical region was also assessed. In this regard, the witness deemed it was necessary to define ballistics, which according to him is a science that studies the trajectory and speed of a bullet. He further indicated that forensic ballistics is the combination of technical and scientific elements for the delivery of justice. Physical and chemical evidence is obtained through ballistics. He specified that ballistics has three specialities: internal ballistics, external ballistics and terminal ballistics.

He also presented the various categories of firearms and explained the composition of bullets. Firearms are categorized per type or per calibre. Regarding the types of arms, the witness indicated that there are handguns (such as revolvers) and long guns (rifles, assault rifles, machine guns, etc.). The classification per calibre is conducted by differentiating between low velocity weapons and high velocity weapons. Mr. Pachon Mora maintained that there were two types of bullets with reference to the present case and in the light of the ballistics elements found (shells, bullets). They were of different colour, diameter, size, etc. This gives an idea on the type of ammunition used.

The form depends on the weapon and the calibre. The witness affirmed that the trajectory of the bullet should be determined based on traces left by a projectile on the impacted zone at the time of penetration. He maintained that all entrance points have clean rings if no other body stands between. The side of the clothing where a projectile has perforated and where a grey colour is observed corresponds to the entrance point. The witness averred that this can be easily confirmed through the microscope. The macroscopic assessment matches the entrance and exit points.

❖ Conclusions of the expert witness

The witness declared that all perforations identified on the clothing had distinctive physical characteristics such as clean rings and regular-shaped edges. He stated that these represent significant physical evidence. Projectile fragments correspond to the 7.62x39 and 7.62x51 calibres shot from firearms such as a rifle or a sub-machine gun.

The witness concluded that firearms used in Déli, Gadjira and Koumra were assault rifles. The 7.62x39 calibre can be fired from an AK-47 or an AKM-47, whereas the 7.62x51 calibre is used by the FN/MAG and FAL brands. The witness stated that the references of a calibre can be explained as follows: taking the 7.62x39 calibre for instance, the number 7 represents the diameter, 62 represents the length and 39 the speed.

Again, based on the conclusions of the witness, analyses of all exit points on clothing found in Gadjira revealed that they were hit by 7.62x39 calibre projectiles shot from a firearm of the same calibre.

For Deli and Koumra, the witness stated that, after analyses of clothing, they concluded that there was at least 1 shot fired and 8 at the most. In Gadjira, they concluded that there were at least 3 shots fired and 10 at the most. Based on the deterioration and decay of bone fragments and remains for the 16 cases with clothing, the witness affirmed that they reached the conclusion that there were 99 entry points and 53 exit points. Most of the shots hit areas such as the chest, abdomen, lower limbs and at times the upper limbs.

C- TESTIMONY OF THE THIRD EXPERT WITNESS

Name: Prieto



First Name: José Luis

Age: 55 years

Occupation: Forensic odontologist

❖ *Methodology of the forensic odontologist*

Dr José Luis Prieto presented his work methodology, which consisted of conducting lab tests focusing on odontology. Skeletal remains were analysed to determine the causes and circumstances of death. The witness stated that his colleagues also conducted this analysis but specified that forensic research is a multidisciplinary task. Each discipline provides part of the information required to resolve a given problem. Teamwork enables them to integrate all information from all disciplines for greater complementarity. The witness indicated that he had 2 basic objectives: identifying the cadavers and determining the causes and circumstances of death. He said that he would not go back over the identification of cadavers because the conclusions of his colleague, Dr Mercedes Salado Puerto, in this area were clear and sufficient. He thus offered some observations and his conclusions on the causes and circumstances of death. Mr. Prieto defined the notion of “cause of death”, which for the team meant the physical and pathological mechanisms that led to the death of the person and that of “circumstance of death” which relate to the natural or violent nature of death. Other elements may prove to be significant, such as the type of weapon used, the position of the attacker or the victim, the distance, the use of firearms, etc. The witness reminded that, in general, it is absolutely vital that information gathered from the site is made available for laboratory testing.

❖ *Conclusions of the expert witness*

In his general conclusions, the expert witness testified that:

- 19 corpses (out of 21) were hit by firearm projectiles at the Deli farm;
- 2 corpses had projectile impacts at Koumra;
- Clothing and ballistics analyses were conducted on 16 corpses at Gadjira.

The expert made the following conclusions on all of these deaths:

- They were of a violent nature;
- They were caused by firearms provoking lesions of internal organs and tissue which led to bleeding and destruction of vital organs;
- They were homicides;
- Most of the corpses had more than 3 projectile impacts;
- Analysis of the state of clothing (Déli and Koumra) made it possible to identify a specific correlation between bone elements and the clothing;
- Projectiles and projectile fragments correspond to 2 types of calibres (7.62x51 and 7.62x39) shot from high velocity weapons;
- There was no specific trajectory model in any of the graves at Déli or Koumra;
- At Gadjira, a back to front trajectory was predominant.

D- QUESTIONING OF THE EXPERT WITNESSES

In response to the various questions of parties, issues discussed focused mainly on the following points:

❖ *Evidence of torture on the bodies*



Most of the bone injuries were caused by firearm projectiles. However, experts found other lesions such as those found on the sides which they did not take into consideration in their work. The experts were not sure that these could have caused death. They added that it was easier to

observe injuries caused by torture in cases where exploitable tissue was still found on the cadavers. Moreover, the bones could not reveal all abuses suffered. For instance, torture using electrical shocks, leaves no trace on the bones. The experts however stated that they found fractures which seemed to have occurred prior to death (anti-mortem lesions).

❖ *Impacts of projectiles on skeletal remains*

Following a question from the prosecution regarding the distance from which the victims (Déli and Koumra) were shot, the experts indicated that they could not determine this distance given the conditions in which they found the clothing (deteriorated due to climate conditions and time).

At Déli, they found 9 cadavers with several bullet impacts (3 to 5 bullet impacts at least) in grave C.

At Gadjira, clothing analysed revealed more entrance points at the back, in other words, the trajectory of bullets were from the back to the front.

❖ *Calibres found and related firearms.*

The firearms that mostly utilize the calibre types found (7.62X39 and 7.62x51) are the AK47 and the AKM47 which are high impact assault rifles. The expert reminded that the AK47 was manufactured in the Soviet Union and that its satellite countries, including China, produced this model with some modifications.

❖ *Layout of corpses in the graves.*

The layout of corpses provides information on the manner in which they were buried. For example, grave C at Déli shows that the corpses were buried hastily by persons who were not their relatives. However, other corpses found, particularly those in individual graves, were laid in such a manner as to suggest that they were buried by their relatives.

❖ *Saliva sampling.*

In response to a question from the defence on saliva testing, the experts responded that they collected 3 samples of saliva from each of the 23 relatives of victims, i.e. 69 samples. It is worth noting that they were able to identify 5 corpses based on these samples. Kinship was established between the corpse found in grave 2 at Koumra and a relative. In this particular case, the person buried in this grave is the grandfather of the witness, who had stated that the former was tortured and killed by soldiers on 10 October 1984 in this area.

III/ TIME MANAGEMENT

Proceedings began at 9:15 am and ended at 5:14 pm. The morning recess lasted 27 minutes (from 11:15 am to 11:42 am) and the afternoon recess 16 minutes (from 4:16 pm to 4:33 pm). Court adjourned for lunch at 12:28 pm and resumed at 2:10 pm.

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