

Public Prosecutor vs. Hissène Habré**HEARING REPORT N°52 OF DECEMBER 9, 2015****I/ OVERVIEW**

The first two parts of today's hearing were about repression levelled against some Zaghawa people. Two witnesses testified via videoconference. Mr. Bichara Bechir SABOUNE was asked to return to the stand to complete his hearing which started during the previous session. As for the second witness, Mr. Zakaria Bachar SABOUNE, he was arrested because some members of his ethnic group (DEBY and DJAMOUS) rebelled against the regime. He was detained in difficult conditions in several prisons and dispossessed of his properties. The third witness, Choukou Sougui ISSA, was heard about incidents interpreted as crimes, torture and inhumane acts. He was arrested in Ndjamena, as he travelled back from Nigeria where he went to sell his cattle. He was also stripped of his possessions (6 million CFA F and a golden watch) and was imprisoned for 7 months.

II/ HEARING OF THE WITNESSES**A- CONTINUATION OF THE HEARING OF WITNESS BICHARA BECHIR SABOUNE****➤ Clarifications by the witness**

During his cross-questioning by the prosecution and defense lawyers, the witness repeated some of his statements and spoke again about his arrest and torture he was subjected to while in prison. "Under Hissène Habré's rule, prisoners used to be electrocuted. I myself was tied up and electrocuted. I was also forced to drink a lot of water and was tortured with a whip", he said before adding: "I was not the only one to be subjected to these atrocities. The entire Chadian population was and Hissène Habré was responsible for that". According to Mr. SABOUNE, a large number of Iriba citizens were arrested and transferred to Ndjamena because they were members of the Zaghawa ethnic group bearing kinship to DEBY and DJAMOUS. Answering a question from the prosecution, he pointed out that soldiers from Tinné and Kalhaïte he met on the plane taking him to Ndjamena were in fact fighters captured by Habré. The witness also spoke about the mass graves he saw in Iriba. He was told about some of them, but did not see the one near the airport. He added he even took part in the burial of the corpses.

One of counsels for the plaintiffs recalled what the witness said regarding the current democratic situation of the country: "for someone who experienced such tortures, the peace, quietness and freedom prevailing since the arrival of the new regime feel like paradise. The former regime and the current one are like night and day". Answering a question from the defense lawyers who accused him of trying to flatter the current president by describing his regime as the most democratic one on earth, the witness retorted: "I am not here to flatter anybody. The current president is a democrat and in Chad, people live in freedom, as the country is no longer under dictatorship". Questioned by the prosecution, about Habré's knowledge of the facts, the witness replied: "There was no way Habré could be uninformed. In fact, Habré should speak because in a trial, both the plaintiff and the defendant should speak and be confronted. If Habré speaks, I will tell him everything he did and we'll see his reaction".

Answering a question from the defense, the witness said he was not doing politics and that he only spoke about things he knew about before the Presiding Judge. Nonetheless, he added that he is an MPS member because this party stands by his rights. Still answering to defense, Mr. SABOUNE made said that Idriss Deby ITNO is the founder of MPS. He is Zaghawa like him. The Zaghawas form a family and there is no distinction between Zaghawas from one part of the country or the other. He further said that each and every Chadian is a full-fledged citizen and that their ethnic group and place of birth are immaterial.

The defense then asked the witness if it was possible for Habré to run for president. He replied that the lawyer must have seen such prospect in his dream, but that in Chad, this was impossible (laughter in the room).”I am standing before the Court’s Presiding Judge to tell the truth and you should not ask me this kind of question. No one in Chad would vote for him. Now that you are before the Court’s Presiding Judge, ask me conceivable questions and not stupid ones”. (laughter again in the room) The defense counsel insisted by asking him whether it were possible that someone else become Chadian president. The witness answered: “it’s quite possible because at an election, people can choose whoever they want. But I repeat it to you, for Habré, it’s impossible”.

➤ *Reliability and behavior of the witness*

The witness was consistent in most of his statements. However, the defense noted some contradictions between his statements and his initial hearing report. He was blunt in his statements and went as far as saying loudly that he harbors immense hatred for Hissène Habré. He was not very concise and rambled in his answers to such an extent that the parties had to repeat their questions.

B- HEARING OF THE SECOND WITNESS

SURNAME: SABOUNE

FIRST NAME: Zakaria Bachar

AGE: 67

PROFESSION: Tradesman

RESIDENCE: Ndjamen

➤ *Context of the witness’ arrest*

The witness, Mr. Zakaria SABOUNE, reported that on April 1, 1989, while he was on his way to the mosque for the dawn prayer, he was informed of the presence of policemen at his house. He returned to his house where he found Mahamat BIDON, Warou, Abakar TORBO and El Djonto with 4 pick-up vehicles filled with soldiers and a Peugeot 505. They asked him to follow them because they needed to ask him questions. He followed them without any opposition.

At the DDS he found Hissène Mahamat Itno, Brahim Mahamat Itno and Daoud who informed him that Idriss DEBY and Hassan DJAMOUS had joined the resistance. The witness and the others were later placed in a cell. The prison guards had taken 6 people out of a cell and put the witness, Hissène Mahamat Itno and Daoud in their place. Bahim was separated from them. On the same day, he said, the prison was packed because they had brought in many more people. Asked by the Prosecution to

give the exact date of his arrest (the Prosecution mentioned a DDS sheet with his name and that of Brahim Itno, dated April 9), the witness said that he was definitely arrested on April 1, 1989 at around 5:30 am. Answering further questions from the Prosecution, Mr. SABOUNE said that a large number of Zaghawas were arrested. He was the only one to be arrested from his district. He also reported that if the troops came to arrest him with such an outlay of resources it's certainly not because he was of any particular importance as a person, but because they had to arrest three other people at the same time. They put each one of the three in a vehicle to drive them to the DDS.

Questioned by one of the counsels for the plaintiffs about the reasons for his arrest, the witness said: "I was told that my relatives, Idriss DEBY and Hassan DJAMOUS had joined the resistance, but I had not followed them. They also asked what the latter told me when we last met". Mr. Saboune then said he was not a rebel. This was probably due to the fact that he knew and was visited by many people. Warou, a neighbor of his, must have thought he was an important personality.

➤ *Conditions of detention*

The witness was successively jailed in the following prisons: DDS, Martyrs Camp, the "premises" and the gendarmerie. Answering a question from a prosecution lawyer about the location of these prisons, Mr. SABOUNE said: "the DDS is adjacent to the presidential palace which houses an underground prison. The Martyrs Camp is located nearby the military hospital. The "locaux" (premises) stand between the central police station and the electricity company, near the river. The gendarmerie prison is located between the gendarmerie camp and the hospital".

At DDS, he shared a cell with Hissène Itno and someone called Daoud. Answering a question from the plaintiffs concerning the cell where Itno was locked, he replied: "they took someone called Moukhtar out of his cell and locked him there". They spent one week at the DDS where the witness was tortured. The witness, answering a question from the Prosecution, said: "during the cross-questioning they were tortured by Warou, Torbo, El Jonto and Bidon". He also said that some people died in the prison and their corpses were bundled in 2 bags (one of them from the top and the other from the toes) to be taken away. According to him, the cells were overcrowded. People disappeared, but he didn't know whether they were executed or not. When the prosecution asked him how he knew people were kidnapped he replied: "we were there when they were taken away."

They were then transferred to the Martyrs Camp where M.SABOUNE spent approximately 4 months. Answering a question from the prosecution about whether the conditions of detention had changed in this prison, he replied: "throughout my detention, there was no day better than the others". Answering a question from a counsel for the plaintiff, he replied: "all the prisons were equally tough. The difference is that at the DDS and the Martyrs Camp we were physically tortured whereas at the gendarmerie prison we were tortured through food deprivation".

He was later transferred to the "premises". As for meals: "they consisted of rice served in tomato boxes every 48 hours". Four months later, he was ill for 6 months. Answering a question from the prosecution about medical care at the prison, he said: "a doctor called Bouba came, from the Martyr's camp, to give us a tablet from time to time". Answering a question from the prosecution about whether he knew nurses Saria and Alifa, he said: "I know Alifa - He is short -, but it's Bouba who treated me".

After his imprisonment in the “locaux”, he was transferred to the newly-built gendarmerie prison. According to the witness, all those imprisoned in the “locaux” were transferred there. In fact, it was from this prison that he was released when the MPS returned to Ndjamena on December 1, 1990. Asked by one of the plaintiffs’ lawyers how many of his co-inmates were released, the witness said: “Since we left the DDS, I have not seen Ibrahim Mahamat ITNO again. However, those transferred to the Martyrs Camp with me spent 15 days there. It was after that fortnight that Hissène ITNO, Yacoub FADOUL and Yacoub ADAMAREME were taken away and I have not seen them again. Maybe Hissène Habré traveled to Senegal with them” (laughter in the room).

The prosecution asked the witness if he met women in the various prisons where he was jailed. He then mentioned Anda DEBY, Fatimé HACHIM and Madina FADOUL KITIR and added: “There were other women I didn’t know”. Regarding torture these women might have endured, he told the Court: “even if they were tortured, I didn’t see it”. He also said that women were separated from men by an iron bar. There were also children in prison, including: “A young boy called Abdallah with his mom whose name I don’t know”.

➤ *Looting of property*

The witness declared that upon his arrest the DDS agents seized his possessions including CFA F 300,000 he had with him, his cars and some diesel fuel. Mr. SABOUNE said that affirmed that one of his drivers, who was also arrested and taken to the DDS, told him that DDS agents had seized his two transportation vehicles and searched his house. His second driver managed to flee. He also told him that it was Amine Doudou who drove his vehicles to the DDS. Mr. SABOUNE had to negotiate with Abakar TORBO for the driver to be released. He told him that he was just a driver and that, as his employer, he was responsible for all his activities. He was then released.

Answering a question from the prosecution, the witness said that a week after his arrest, Mahamat Bidon went to search his residence and found there a briefcase containing 27 million francs. He ransacked all his possessions and kicked his family out of the house. Abakar TORBO then occupied the house. Mr. SABOUNE estimated that the property seized at his house (furniture, clothes, etc.) at 27 million francs, excluding the money taken away. According to him, the 27 million seized at his house were insignificant compared to his two tankers containing 33.000 liters of diesel each, which were at the customs at the time of his arrest. He was informed that the fuel was loaded by soldiers into other tanker trucks and used during military operations.

Asked by the plaintiffs’ lawyers whether those who seized his property had a legal warrant to this effect, Mr. SABOUNE said that there no legal authority or Minister vested with the power to stop the DDS. He described the misappropriation of property as an “act of injustice”, which the lawyer said was qualified as “theft” by law.

However, regarding the briefcase containing the 27 million francs, one of defense counsels asked the witness to justify why he had so much cash at his house. He replied: “tradesmen always have a little amount money at hand for urgent supply”. The defense carried on with the same topic and asked the witness whether he considered 27 million francs as a little amount of money. The witness then clarified his answer saying: “I wouldn’t say that 27 million is a negligible amount of money, but it was not a colossal amount compared to the two tankers containing overall 66.000 liters of diesel fuel”.

A counsel for the plaintiff asked him if he had a deed making an inventory of his possessions seized. Mr. SABOUNE said he found no trace of his property in any record of DDS-seized properties. Addressing the court at the end of his hearing, he declared: “I urge you to help me find my properties”.

➤ *Credibility and behavior of the witness*

The witness was calm and serene in his statements. He gave precise answers. None the parties raised a contradiction in his testimony.

C- HEARING OF THE THIRD WITNESS

SURNAME: CHOUKOU SOUGUI

FIRST NAME: ISSA

AGE: 61

RESIDENCE: Ndjamenana

PROFESSION: Tradesman

➤ *Arrest and detention of the witness*

Mr. Choukou Sougui ISSA declared before the Court that he was arrested on December 27, 1982 near to the river “by Habré’s political police headed by Mr. SOUGOUNI”. He travelled to Nigeria to sell his cattle. Just after converting his money (which was in naira) into CFA, he was arrested at 4 pm and stripped of his F 6,550,000 and a golden watch he paid 20,000 Saudi rials for in 1977 in Mecca. At the defense request, he estimated the price at F 2,500,000.

M.CHOUKOU explained that, after being stripped of his possessions, he was questioned about his activity and presence there. He explained to them that he travelled to Nigeria in the normal course of his activities showed them his travel documents. However, he said, those who arrested him did not believe him, and accused him of being a pro-Libyan and a GUNT supporter recruiting fighters. He was then tied up before the chiefs left with its possessions.

The 5 soldiers who stayed with him (1 in uniform and 4 in plain clothes but all armed) took him near the river and tied his feet and hands on his back. They asked him: “Can you see this river? Either you tell the truth or we will throw you into it”. The witness said that they threw him into the water and that when they took him out his “belly was filled with water and I vomited. They continued to threaten me because I did not want to own up to what they were saying. They soaked me in the water three times in a row”. At dusk, M.CHOUKOU explained that the soldiers started arguing, saying: “our chiefs asked us to make him speak or throw him into the water. They went downtown with the money. Now where is our share?” “Then, the one in uniform and another one got angry and left. The other three decided to take me to the police station rather than throw me into the river. I understood the language in which they communicated because I am Gorane like them”, he added.



After that, they untied his feet, but not his hands, and took him to the police station. They said to the duty police officer: “we have a prisoner”. However, Mr. CHOUKOU said that he told the police officer that those soldiers stripped him of his possessions and that they were highway robbers. He asked the police officer not to let them leave at all, but the 3 soldiers ran away and he could not follow them because they were armed.

Taken to the Police Commissioner, the witness said he explained everything to him and he expedited an investigation. Finally, at around 2 am, “the soldiers in question were arrested and the money found but, they the witness was informed that one who took away his watch had not been found yet. Mr. CHOUKOU said that people arrested told the Commissioner that he had been wanted for a long time because he was “a Libyan fighter”. They told the Commissioner they were State agents and that, therefore, he should not defend the witness. He also specified that the commander of those who arrested him was a member of Habré’s family.

Later on, they counted his money and 2 soldiers took him to the “locaux”. The witness said: “SOUGOUNI always came to take me out of the cell in order to torture me”. One day, the witness was brought in an office where he found Mahamat BIDON, Mahamat ALACHI, Issa HARWAI and other people (7 in total). He underwent a cross-questioning during which he was again accused of being a Libyan.

They then took him to the “locaux” but, after some time, he was presented to Mr. Mahamat FADIL who was the director of National Security and his money was handed over to the latter. He was then taken back into the prison which he described as a “tough and harsh place”, before being summoned, a week later before KETE Moise, his agents and DDS officers. They showed him a file concerning him before sending him back to prison.

A few days later, he was taken before a commission. He said he was told about this commission that he did not know of before. They threatened him in these words: “either you tell the truth, or you die”, but he maintained what he had said all along.

When he was summoned again before this commission, 4 people introduced themselves to him as journalists from Tele Chad and Radio Chad. These journalists called him by a Libyan name which he refused to answer by. They told him that it was Mr. SOUGOUNI who changed his name and his parents’ into Libyan names. He also made President Habré believe he was a Libyan fighter. The journalists then told him: “We know that you are Chadian of the Gorane ethnic group but, you have to say what we want you to. After SOUGOUNI called him, the President informed the French and US ambassadors that they arrested one of the Libyans who were undermined his regime. The President’s words cannot be meaningless. Repeat what we read to you to save your life” the journalists said. “I refused and they left. So, I returned to prison”. Mr. CHOUKOU also declared that, a short time later, KETE Moise had him stand in front of the soldiers and said: “This person has nothing in his file. I showed his file 3 times to the President but he made no decision”. Nonetheless, he sent him back to prison where he stayed until August 1, 1983 before being presented by KETE Moise to President Habré in his office at the presidential palace.

Answering a question from the prosecution, the witness declared that they were served “a little cereal at around 4 pm”. Questioned by the plaintiffs on the reasons for his arrest, he said: “I had a very bright complexion at that time; now my skin has got darker. Everyone knows there was a

problem between KHADAFFI and Habré and that this is why people were accused of being Libyans supporters and eliminated”.

➤ *Release of the witness*

The witness said that, after 7 months in prison, he was taken to Habré, at the presidential palace. The guards said that he had to be presented to Habré because his file was sent to the President three times with no feedback. “Many soldiers came to pick me up”.

Once in the President’s office, the soldiers ordered him to sit down and he crouched down. Moise KETE was there with the 4 other soldiers who arrested him. Then Moise asked him: “Is there a greater personality than this man in Chad (referring to Habré)?” Mr. CHOUKOU replied: “no, because he is the President of Chad”. Moise told him: “So, you should tell the truth, you just have to say that you are Libyan so everyone hears it; we all know that you are a Chadian but you must serve your country because the President’s statements should not be challenged”.

This conversation followed on the interview Mr. CHOUKOU had with the journalists who came to ask him to make a statement in which he admitted being a Libyan.

In front of the President, Moise tried to talk Mr. CHOUKOU into making that statement, but he refused. He said: “After that, I kept silent because I knew I was going to be killed, anyway”. Moise crouched down near the President and consulted him.

Questioned by the prosecution over the presence of Habré, the witness said the latter was dressed in white (with a boubou and a hat on his head. The witness put on his white hat to show how Habré was dressed (laughter in the room).

Answering a question from the plaintiffs, Mr. CHOUKOU said that he easily recognized Habré, because he was the sub-prefect of Moussoro (place of birth of the witness) before becoming an important politician. “Afterwards, I was picked up from the floor by the guards and taken back to the BSIR where I spent two other days before being released”.

On the day of his release, one of the guards said: “this man was freed by Hissène Habré; he should refrain from any comment”. One of the defense counsels pointed out that in his hearing report the witness did not mention the name of Habré and wondered why he did it before the Court. M.CHOUKOU replied: “if I didn’t talk about Habré, what is the point filing a suit? I have always talked about Habré in my testimonies”.

After that, a counsel for the plaintiffs handed a document to the defense counsel who made this remark. The latter told to the Court that there were some pages missing from the report he received; his colleague gave him another one in which the witness did talk about the President Habré.

The witness stated that, a few days after his release, he went to Mahamat FADIL’s house, the National Security Director, to ask for his 6,555,000 francs. Since he was ill and was about to be evacuated to France the latter had handed the money to another person. He also asked the witness to go and find a paper from the President, since it him who ordered his release, in order to get his money back. Infuriated, Mr. CHOUKOU scuffled against the bodyguard of Mahamat FADIL. He was thus taken to the police station where he spent a whole day. At night, he was taken to Mahamat FADIL’s house along with a number of police commissioners. They told him that the witness was

released by Habré and that he should not be arrested again. Finally, he did not manage to get his money back.

He declared: “I have been suffering from the sequelae of my imprisonment ever since. I am easily tired and my nose keeps bleeding”, he said. Removing his sunglasses, the witness said that his sight has weakened since then and he even had eye surgery. Addressing the Court, the witness said: “I want my watch and my money back. We all are Chadians, and all Chadians have the same rights. Regarding the controversy related to Habré’s responsibility, I would like to ask him where the 74 people of the yellow truck are now”. At the prosecution’s request, the witness explained that when Habré wanted to take control of Moussoro, he circled the town, picked 74 people who were taken to the gendarmerie prison. These people have not been seen ever since. At the time Habré was already in power. Answering a question from the defense, the witness added he has never been interested in Libya.

Mr. CHOUKOU finally told the Court that he bought his golden watch in Medina for 18,000 Saudi rials in 1977. Questioned by the defense, he stated that, at that time, the watch cost more than 2 million CFA francs. It was a valuable watch but he no longer remembers the brand (laughter in the audience). As for his oxen, they were about thirty and he sold them for an overall amount of 6,555,000 francs CFA.

➤ *Credibility and Behavior of the Witness*

The witness told a long story. He repeated the same answers and used quite long sentences. As a result, the defense lawyer did not manage to ask him all their questions.

III/ TIME MANAGEMENT

Today’s hearing began at 9:15 am and was interrupted at 10:14 am after the hearing of the first witness. A break was observed earlier in order to enable technicians to set up the videoconference system for the hearing of the second witness who was speaking from Ndjamen. The hearing started again at 10:50 and the Presiding Judge ordered a lunch break at 12:49 pm. The session of the afternoon began at 2:12 pm and was suspended at 4:07 pm. It resumed at 4:20 pm and was suspended at 5:32 pm. Due to a meeting of the steering committee of African Extraordinary Chambers, the Presiding Judge announced that the hearing of Thursday, December 10 would begin at 11:30 am.

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